Revealing the Multiculturalist's Illusion:

A Liberal Critique

By

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Submitted in fulfillment of the requirements for the degree of

Doctor of Philosophy (PhD) in Philosophy

School of Humanities

College of Arts

University of Glasgow

May 2015

Abstract

Multiculturalism has become a hot topic in political philosophy. This thesis investigates the philosophical foundations of multicultural theories through examining the key concepts commonly relied upon. A careful examination of each concept and the way in which they are interconnected, reveals an interesting strategy that the multiculturalist employs. It is my contention that the multiculturalist relies on a complex web of nebulous concepts which fools the reader into thinking that their theory rests on strong foundations. However, when we clear away the fog of confusion, we can see that the multiculturalist has presented us with an illusion, and none of the concepts remain strong enough to hold any of the normative weight they need them to. Multiculturalism relies on grandiloquent rhetoric and muddled thinking, and will ultimately fail to achieve the liberal goals it purports to.

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Acknowledgements

Author's Declaration

I declare that, except where explicit reference is made to the contribution of others, that this dissertation is the result of my own work and has not been submitted for any other degree at the University of Glasgow or any other institution.

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Introduction

Multiculturalism is a topic which has received much attention recently, in the media, in politics, and in academia. Debates focusing on multicultural issues, from Islamic hate preachers, to ethnic-specific educational curriculum, religious fundamentalism, terrorism, national separatism and immigration, feature prominently in the news. Many states that have at one time held official multicultural policies have now withdrawn their support for multiculturalism.[1] One writer for *The Economist* goes as far as to claim that

> Even more than they agree about most other things, the main political parties are united in their convictions that multiculturalism is a perniciously naïve idea whose time has gone, or ought never to have come at all.
>
> (Bagehot 2007)

The subject is clearly very politically relevant. In order to assess the effectiveness of multiculturalism in dealing with our diverse societies we must go back to basics and examine the philosophical foundations of these theories. My conviction is that the reason multiculturalism is faring the way it is in our current political climate is due to the spurious nature of its philosophical underpinnings.

Frustratingly, there is no general consensus as to what constitutes a multicultural state, or to what counts as a multicultural theory. As we shall see, political philosophers define multiculturalism differently, leading some to include more groups than others (for example, should groups such as gay people, or disabled people be included for special consideration?) and to justify different types of rights than others (for example, rights to restrict the freedoms of fellow group members). This lack of consensus leaves the academic discussion on the topic looking confused. "Even some of the most ardent defenders of multiculturalism admit that the term is so broadly and generally applied that it easily lends itself to misunderstanding and confusion" (Murphy 2012, p. 12).[2] We need to gain a clear understanding of what multiculturalism is, and how it might be justified. This

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[1] See further Murphy (2012, ch. 1), and Vertovec and Wessendorf (2010).
[2] For example, Kymlicka admits that it lends itself to misunderstanding (1998, p. 59).

will put us in a better position to determine whether or not it is suited to represent the liberal values that we espouse in our contemporary societies.

This thesis investigates what multiculturalism is through examining the key concepts it relies upon. Multiculturalists often appeal to 'culture', 'recognition', 'nations', 'race' and 'ethnicity'. This project could initially be seen as a modest, but useful, clarification of the concepts, and a road-map to how they are used in multiculturalist arguments. Actually, though, clarifying the terms and setting out how they are deployed by the multiculturalist is vital to revealing an important pattern.

Most writings on multiculturalism (whether supportive or critical) focus either on one of these concepts individually, or on even more specific topics, such as identity politics, immigration, race culture, or gender and multiculturalism.[3] Multicultural arguments are then discussed in detail in relation to that one concept or topic. Because this thesis examines a number of different concepts, I am able to reveal that multiculturalist arguments fail for one of three reasons:

a) the concept is simply unsuitable for achieving the aims of multiculturalism. Usually this occurs because the arguments put forth simply fall apart. For example, if we hold an accurate understanding of 'culture', we can see that the concept does not lead us to endorse multicultural goals;

b) the concept is important, but valuing it does not lead us to support multiculturalism but some other liberal theory. For example, recognition is important, but leads us to support cosmopolitanism (so I shall argue); or

c) the multiculturalist has either misunderstood or misrepresented the concept, and the arguments actually rely on a different concept altogether.

This last case is perhaps the most interesting. In the case of (c), it is not clear that the multicultural argument has *failed*. The reader is just pointed in the direction of yet another concept with the promise that *that* concept supports the argument just fine. Other theorists focusing on specific concepts, at this point, will admit that the argument has extended beyond their remit. In so doing they let the multiculturalist off the hook – the multiculturalist is always able to respond to the critic who refutes their use of a specific concept by saying that the work is done by something else which is beyond the critics remit. So, nobody who focuses on specifics is able to land a killer blow. However, by examining a number of these different concepts, I am able to show that multiculturalists sometimes rely on a very deceptive pattern: they will phrase their argument in terms of one

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[3] For examples, see further Murphy (2012, p. 5).

concept (say, 'culture'), but an analysis of the role of that concept in their theory shows that what they are really drawing on is some other concept (say, 'nationality'). If we examine that next concept we find that that argument either (a) fails to establish their desired conclusions, (b) actually supports some other theory, or (c) leads us to yet another concept (say, 'ethnicity'), or we may even be led back to the concept we began with. This buck-passing strategy creates a maze of confusion, leading us around in circles. When we can see the whole pattern laid in front of us, it becomes clear that the multiculturalist is guilty of creating an illusion, an elaborate show which tricks the reader into believing that these important concepts are acting as the foundations of their theory, when in fact they are not. The reader is led to believe that the concepts *must* being doing the work the multiculturalist insists they do.

Cosmopolitanism

Recognition

(b)

Culture

Nationality

(a)

(c)

Ethnicity

Race

_____
Argument fails
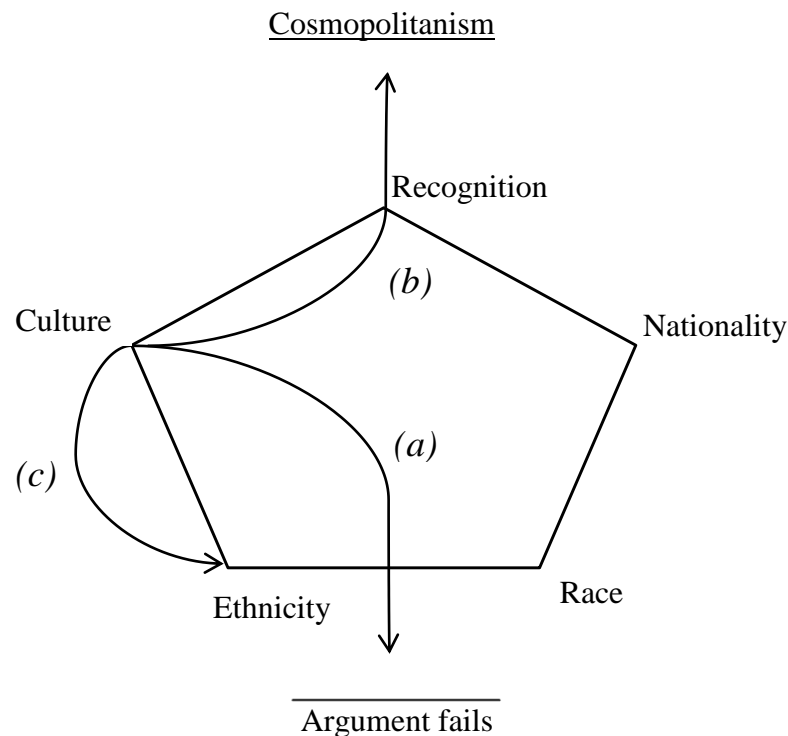
Only once we see this pattern can we diagnose the problem. We now have a more complete, holistic view of why multiculturalism fails – it depends upon an elaborate web of confusion to misdirect the reader. The conceptual grounds that multiculturalism must rest upon are weak compared to its rival theories. The strategy that I have taken in this thesis is unlike the strategy undertaken by any other critics in that it provides an internal

critique to reveal that, even if we give the multiculturalist the best chance at succeeding, liberals will not have reason to support their theory.[4]

Multiculturalists are not, I am sure, ill-intentioned, and may not even realise the illusion they are creating. As Brian Barry puts it, they are "intellectual magpies, picking up attractive ideas and incorporating them into their theories without worrying too much about how they might fit together" (2001, p. 252). But the problem is that implementing multicultural policies has a detrimental effect for the worst-off members of society. The focus on groups ends up failing the individuals. Empowering ethnic, cultural or religious groups, whose leaders are often powerful males, can often mean failing the poor, weak, old, young, and female individuals within that group. While multiculturalists might genuinely believe that their theory best supports the liberal values of freedom, equality, and autonomy, I think it fails to ensure these things for the most vulnerable members of society.[5]

As this overview makes clear, the arguments I present here are critical and pejorative. They are negative in that they deconstruct multicultural arguments. It follows, what Raymond Geuss describes, as 'ideology in the pejorative sense'.

> This research program is initiated by the observation that agents in the society are deluded about themselves, their position, their society, or their interests. The aim of the project is to demonstrate to them *that* they are so deluded.
>
> (1981, p. 12)

My aim is to reveal to those supporters of multiculturalism that they have been deceived. I want to show that once we strip away the glamour of the multiculturalist rhetoric, and examine the core foundations of the theory, multiculturalism is found wanting.

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[4] I consider this an internal critique because I am not, like Brian Barry, attacking multiculturalism from an outsider's position for being inconsistent with my liberal egalitarian values. I am placing myself inside the multiculturalist's domain, considering the most plausible routes of justification, and exposing the failures of these arguments from a liberal perspective. I show that the type of thinking the multiculturalist engages in results in problematic conclusions. (My focus is on those versions of multiculturalism that purport to be liberal - by far the most influential of the multicultural theories.) See further Barry (2001).

[5] As Yasmin Alibhai-Brown puts it, multiculturalism "encourages the conservatives within groups who want to 'preserve' and punish, and not permit the members of their communities to dissent or evolve. It simply fails to protect the human rights of many citizens who can be oppressed under the banner of laissez-faire multicultural diversity. Some women and children become victims and leave the communities or are destroyed by them" (2000, p. 71). Susan Moller Okin also warns of the dangers of group rights. "Because attention to the rights of minority cultural groups, if it is to be consistent with the fundamentals of liberalism, must ultimately be aimed at furthering the well-being of the members of these groups, there can be no justification for assuming that the groups' self-proclaimed leaders - invariably composed mainly of their older and their male members - represent the interests of all of the groups' members. Unless women... are fully represented in negotiations about group rights, their interests may be harmed rather than promoted by the granting of such rights" (1999, p. 24).

I do, however, hint at a positive solution. When faced with the prospect of abandoning multiculturalism, we must question what comes after multiculturalism. The positive contribution I put forth is to argue that there is a preferable theory: cosmopolitanism. Throughout, I hint that this theory escapes the problems that arise for multiculturalism, and that it is well-equipped to deal with contemporary issues concerning diversity and liberalism. Cosmopolitanism, as I understand it, is a theory which encourages every person to consider themselves citizens of the world.[6] The core idea shared by cosmopolitans "is the idea that all human beings... belong to a single community, and that this community should be cultivated" (Kleingeld and Brown 2002).

> To be cosmopolitan is generally understood as being capable of taking a critical distance from one's habits or assumptions, willing to engage positively with those who are different, and able to adopt an attitude of reflective openness that frees you from the tyranny of the pure.
>
> (Phillips 2009, p. 70)

There are many varieties of cosmopolitanism, some of which value cultural affiliations more than others. As David Hollinger puts it, "[c]osmopolitanism promotes multiple identities, emphasizes the dynamic and changing character of many groups, and is responsive to the potential for creating new cultural combinations" (2000, pp. 3-4). While there are different types of cosmopolitans, they all share the thought that "no local loyalty can ever justify forgetting that each human being has responsibilities to every other" (Appiah 2006, p. xvi). I consider myself a cosmopolitan, and throughout this work I point out that, where multiculturalism falls flat, cosmopolitanism remains a promising and preferable alternative which responds to some of the concerns that led people to support multiculturalism in the first place.[7]

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[6] See, for example, Appiah (2006), Beitz (1979), Brock and Brighouse (2005), Caney (2005), Held (2010), Kant (1939 [1795]), Nussbaum (1996), O'Neill (2000), Pogge (1992), Waldron (1992).

[7] I realise that I might understand cosmopolitanism differently than other political philosophers. Sometimes cosmopolitanism is used exclusively to describe a position that relates to distributive justice. A cosmopolitan, in this sense, is someone who emphasises the distributive obligations we have to people in other countries. It is a political position that advocates a global distributive perspective on, primarily, wealth. However, I think the term can be applied more broadly, and I am in good company with using the term in this way. For example, it is used this way by Appiah (2006), Brock (2009) and Waldron (1992).

Samuel Scheffler draws what might be a helpful distinction between, what he calls, cosmopolitanism about justice, and cosmopolitanism about culture. He thinks that cosmopolitans about justice are "opposed to any view that posits principled restrictions on the scope of an adequate conception of justice" whereas cosmopolitans about culture are "opposed to any suggestion that individuals' well-being or their identity or their capacity for effective human agency normally depends on their membership in a determinate cultural group whose boundaries are reasonably clear and whose stability and cohesion are reasonably secure (2001,

However, the reader does not have to support cosmopolitanism in order to see positive alternatives to multiculturalism. Most liberal theories escape the problems that multiculturalism faces, and I try to point out, when I can, that any of these stand as stronger theories in comparison to multiculturalism. So whether we choose cosmopolitanism, or liberal egalitarianism (Barry 2001) (Dworkin 1978b), (Rawls 1966), or an autonomy-minded liberalism (Colburn 2010), we will see that abandoning multiculturalism does not leave us stuck accepting a strident nationalism, opposed to diversity and willing to abandon foreigners.[8]

The first task is to try and provide some definition of multiculturalism. Chapter 1 explores the different understandings of multiculturalism and clarifies what understanding I will be arguing against throughout this work. It will be impossible to capture *all* theories of multiculturalism in one definition. However, I think that most multicultural political theories can be understood as holding an interestingly distinct position by focusing on, and prioritising, groups. This group focus, as opposed to the typical individual focus you would find in liberal theories, is expressed through granting groups special treatment and group rights. All of the most prominent multicultural theories are captured by this definition.[9] After discussing the different understandings of multiculturalism, I look at why we naturally categorise people into groups and why we feel a sense of togetherness with other members of our social groups. Finally, this chapter will give a detailed account of legal group rights. Distinguishing between different types of legal group rights will help us understand what the multiculturalist needs to justify. In order to have a clear understanding of rights, it is helpful to have the tools necessary to analyse and understand them. For this reason, the chapter also includes an overview of the Hohfeldian analysis of rights, and an overview of the different theories regarding the function of rights.

Chapter 1 provides the set-up for the thesis: it outlines the aim of my criticism, and gives the reader the tools necessary to evaluate multiculturalist arguments. Chapter 2 is the first chapter to investigate arguments that seek to justify group rights. It focuses on arguments that appeal to moral group rights in order to ground legal group rights. Some of the most important legal rights that we have derive their justification from the fact that

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p. 112). The former would be concerned with distributive justice issues, whereas I suppose my concerns in this thesis would mostly fall under the latter. I would, however, defend both types of cosmopolitanism.

[8] As Anne Phillips claims, "the strident assertions of national identity that have characterised the post-September 11 world make the case [for addressing power inequalities] more urgent than ever" (2009, p. 8). Nationalism is seen by Phillips as pre-dating multiculturalism, cosmopolitanism as following it. She ultimately argues for a revised multiculturalism (see Ch. 3.4).

[9] For example, Kukathas (2007), Kymlicka (1995), Parekh (2006), Taylor (1994), and Young (1990).

there is a pre-existing moral right. For example, we might think that some legal human rights (for example, our right to bodily integrity) derive their justification from pre-existing moral rights. The chapter considers arguments for moral rights from the perspective of both the interest theory and the will theory - the two most prominent theories concerning the function of rights. I present what I think would be the strongest argument that the multiculturalist could make from each perspective, and show that they will not succeed in satisfying the multiculturalist's goals. So, a justification for group legal rights will have to be found elsewhere.

Chapter 3 examines the concept of 'culture'. Multiculturalists argue that cultural groups are important, and some need special treatment in the form of group rights. However, we need to be clear on what we *mean* by 'culture'. I argue that the multiculturalist relies on an understanding of culture that is flawed. I first consider Will Kymlicka's account of culture. This serves as an example of how multiculturalists confuse the reader by holding strange understandings of the concept. I then outline five errors made regarding culture, errors which the multiculturalist typically adopts: viewing cultures as fixed and unchanging; reifying the group; giving culture explanatory force; giving culture determinist force; and giving culture normative force. I conclude that if we hold a clear and correct understanding of culture, then we can see that cultural groups cannot ground group rights.

Chapter 4 examines the concept of 'recognition'. Cultural, religious, ethnic and national groups are increasingly making demands for recognition, and multiculturalists argue that correctly recognising groups requires granting them group rights. In this chapter, I start by examining Hegel's account - an influential, historical account of recognition. I show that his account cannot support multiculturalism, but could instead support cosmopolitanism. I then consider more contemporary accounts of multiculturalism. I argue that recognition can be understood in three ways: as love, respect or esteem. I consider three reasons for thinking that recognition might be important: for identity formation, psychological well-being, and for achieving justice. I argue that while all three types of recognition might be important for all three reasons, valuing recognition does not lead us to support multicultural group rights unless we hold a prior commitment to groups. The multiculturalist must provide separate arguments to justify this commitment.

Chapter 5 looks at the concept of a 'nation'. Some multiculturalists want to grant nations group rights in the form of, for example, self-government rights. I start by questioning what we understand a nation to be. There are five common themes to definitions of a nation: a nation is a decent group, or somehow linked to race or ethnicity;

has a common set of beliefs; is territorially located; seeks self-government if they have not already acquired it; and provides individuals with a sense of belonging, or is important to identity. With an understanding of all of these themes, I then determine what definition of nation (or combination of themes) the multiculturalist must hold. Unfortunately for the multiculturalist, they must hold a different understanding of nation than nationalists do. As a result, the definition of a nation that they must adopt is essentially no more than the definition of culture, and the reader is led back again to Ch. 3 where we saw that the concept of culture cannot ground multiculturalism.

Chapter 6 looks at the concept of 'ethnicity', as many multiculturalists focus on granting group rights to ethnic groups. Ethnicity and race are commonly thought to be similar or connected. I examine the concept of race, and explain the problems associated with using it to support a form of multiculturalism. I then consider two possible ways of understanding ethnicity. On the first understanding, ethnicity is ontologically the same as race, but different for sociopolitical reasons. I look at the possibility of race being associated with hierarchical power relations, while ethnicity is not. However, I argue that this is not an appealing understanding of ethnicity, and any understanding should be disassociated with the concept of race. The second understanding of ethnicity I consider is one in which ethnicity is separate from race. This leaves it to act as a catch-all term for a variety of groups. However, I argue that this understanding fails to justify group rights in the way the multiculturalist needs the concept to.

By closely examining all of these concepts, and showing that none of them are able to do the work the multiculturalist claims they do, I am able to expose the sleight-of-hand the multiculturalist relies upon. These concepts are rich with political, historical and psychological importance, and for this reason have thick and complex meaning. Merely using them as a basis for their argument lends that argument a sense of credibility. But once we strip the argument down, shedding the mystique, we can bring to light the conjuring act that lies at the heart of the multiculturalist agenda.

Ultimately, this thesis shows that multiculturalism is not well-suited to achieving liberal goals. The policies that result from its implementation will end up failing the most vulnerable people in society. The time has come to accept that multiculturalism is ill-suited to our needs, and we must now shift our focus onto deciding what comes after multiculturalism.

1. What is Multiculturalism?

1.1 Introduction

In this chapter I will set out what I understand 'multiculturalism' to mean. It is important to define this central term from the beginning in order to make it clear to the reader precisely the position I am arguing against. Defining the term will also reveal how varied understandings of multiculturalism are, even when focusing just on the work of political philosophers. As a result of this variation, a lot of the arguments concerning multiculturalism appear more complex or incomprehensible than they need to be, and I hope that by offering clear definitions I will be able to dispel some of this confusion.

In the first section of this chapter I will outline three different understandings of what we might take multiculturalism to be. The understanding of multiculturalism I will be arguing against in this thesis, which I have labelled theoretical multiculturalism, is one that focuses on and prioritises groups in the politics domain, designing laws and public policy to favour groups. As a result of this concern for groups, multiculturalism grants certain groups in society legal group rights. In the second section, I will draw on psychological literature to explain why we have a tendency to categorise people into groups, and why we form a sense of belonging with members of our own group. In the third section, I will define 'group rights' and outline the different types of rights that I think are useful for discussions of multiculturalism. People typically use the term 'group rights' to refer to all group-specific rights found in multicultural societies, but I think this masks the diversity of rights being employed. In order to provide the tools needed for a discussion of rights, I will also outline both the Hohfeldian analysis of rights, and two prominent theories concerning the function of rights. This will provide the reader with a basis for evaluating arguments seeking to justify rights, a task I undertake in all of the subsequent chapters.

This chapter will, then, make clear to the reader the position that I am arguing against, and it will give them the tools necessary to evaluate multicultural arguments.

1.2 Different Understandings of Multiculturalism

The word 'multiculturalism' can be used to mean different things. It may be used differently in conversations with friends than in political discourse. In the academic setting, it if often used differently by philosophers than it is by anthropologists or sociologists. Even in the more precise area of political philosophy it is used differently by different people. There are some theories of multiculturalism that are multicultural only in name; they are actually theories of cosmopolitanism on my view.[10] Not only has the term been used differently by different people, it is often not defined, even by people who make it the focus of their work. Outlining the different understandings of multiculturalism will help clarify the debate on multiculturalism, and it will also prevent others from misunderstanding me. We cannot have fruitful debate if we are talking past each other.

I will outline three different understandings of multiculturalism: sociological, attitudinal, and theoretical. Of these, the sociological understanding is completely descriptive, whereas attitudinal and theoretical forms of multiculturalism can be understood both descriptively and normatively.

The sociological understanding refers to the demographics of a society. When we claim 'the UK is a multicultural country' from the sociological perspective, we are referring solely to the fact that there are multiple groups in the UK. The attitudinal understanding refers specifically to the attitudes that people have, or ought to have, towards the fact of diversity within society. 'The UK is a multicultural country' could then be taken to mean that people in the UK typically hold 'multicultural' attitudes towards people of different ethnicities, religions or nationalities whom they regularly encounter in their diverse communities. What attitude should be considered *multicultural* will of course be debatable, but it could be an attitude of tolerance, welcoming, or inclusivity, for example. The theoretical understanding refers to a political theory that focuses on groups. This group-focus, as opposed to the standard liberal focus on individuals, entails that groups should be prioritised. This priority is expressed through granting groups special treatment or group rights. States that subscribe to such a theory often hold an official multiculturalism policy. 'The UK is a multicultural country', from the theoretical perspective, means that the state focuses on and prioritises groups, or that it ought to do so.[11]

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[10] For example, Phillips argues for a theory of multiculturalism which, on my account, would be classified as a theory of cosmopolitanism (2007). She has pragmatic reasons for wanting to call it 'multiculturalism', but I think she is mistaken about the benefits this will have. I discuss this further in Ch. 3.4.

[11] Note that the group must *want* differential treatment, otherwise this treatment might constitute discrimination. For example, apartheid South Africa should not count as a multicultural country.

Before proceeding, I should clarify what I mean by 'groups'. Here, I will draw on Miller's distinction between 'groups' and 'categories of persons'. A category is "understood to mean all those people who fit a particular description..." (2002a, p. 178). For example, this could include 'all people with brown hair', or 'all people over six feet tall', or 'all people that own an iPhone'. A group, on the other hand, is "understood to mean a set of people who by virtue of their shared characteristics think of themselves as forming a distinct group" (2002a, p. 178). It is a condition of being part of the group that members identify themselves as *belonging* to that group, and to this extent, are "conscious of their membership" (2002a, pp. 178-179). "[G]roups may be formed on the basis of their members' physical features (such as a disability), on the basis of shared beliefs (such as a religious creed), or on some other basis" (2002a, p. 179).[12] All three understandings of multiculturalism refer to groups - such as cultural, national, and religious groups - as opposed to categories, because groups hold a certain sense of 'togetherness'; they identify with each other as sharing something in common.[13]

In what follows, I will outline the three understandings of multiculturalism in more detail. My central target in this thesis is the theoretical understanding because it is the meaning of multiculturalism that political and philosophical discussion is concerned with. Decisions made concerning theoretical multiculturalism go on to influence domestic and international policy, and thus have wide-ranging effects. Once we have a clear understanding of theoretical multiculturalism we can see that implementing multicultural policy will lead to a failure to protect the rights and freedoms of the most vulnerable members of society.

I do not address the other understandings of multiculturalism further on in my thesis because they are not the main concern of philosophical discussion, but also, in most cases I do not think they are objectionable. As a cosmopolitan, I think we should not object to the fact that there are people of diverse backgrounds in our society. Diversity is something we must accept (or welcome) and learn how best to react to. We should think about the attitudes that we hold (and ought to hold) towards others.

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[12] Furthermore, he tells us that "the line that divides categories from groups is not always clear, and may be crossed in either direction, as categories of people become more aware of their common interests and common concerns, or on the other hand as group consciousness fades. Very often what turns a category of people into a group proper is the experience of oppression or discrimination: smokers will remain a category until forced by draconian anti-smoking laws to take political action, for example" (Miller 2002a, p. 179).

[13] Iris Marion Young also defines a social group as being one which not only has shared characteristics, but also a sense of belonging or identity: "A social group is defined not primarily by a set of shared attributes, but by a sense of identity... Though sometimes objective attributes are a necessary condition for classifying oneself or others as belonging to a certain social group, it is identification with a certain social status, the common history that social status produces, and self-identification that define the group as a group" (1990, p. 44)

1.2.1 Sociological Multiculturalism

Sometimes the word 'multicultural' is simply used to describe a society in which there are a 'multitude of cultures'. It is this understanding that the Oxford English Dictionary draws upon, telling us the term 'multicultural' means "relating to or containing several cultural or ethnic groups within a society" (Oxford Dictionaries 2012). This understanding describes the demographics of the society. And while 'multi*cultural*' implies a multitude of *cultural* groups, it is more widely understood to refer to a multitude of groups such as cultural, ethnic, religious or national groups. As Sarah Song explains,

> While multiculturalism has been used as an umbrella term to characterize the moral and political claims of a wide range of disadvantaged groups, including African Americans, women, gays and lesbians, and the disabled, most theorists of multiculturalism tend to focus their arguments on immigrants who are ethnic and religious minorities (e.g. Latinos in the U.S., Muslims in Western Europe), minority nations (e.g. Catalans, Basque, Welsh, Québécois), and indigenous peoples (e.g. Native peoples in North America, Maori in New Zealand).
>
> (2010)

The question of which groups can be considered to make up a multicultural society is open for debate. Iris Marion Young takes a rather broad scope, including social movements and marginalised groups such as women, gays and lesbians, the disabled, African Americans and Marxists in her account (Young 1990, p. 196). Kymlicka takes a slightly narrower scope, choosing to focus on multicultural societies comprised of national and indigenous groups, or in other places he says ethnocultural and ethnoreligious groups (2002, pp. 329-330, 335).[14] He does, however, discuss the issues raised by groups individuated in a variety of ways: national minorities (the Catalans in Spain, or the Quebecois in Canada), indigenous groups (Native Americans), immigrant groups (those who voluntarily immigrate), religious groups (Amish in the United States, or the Hutterites in Canada), 'metics' which refers to involuntary migrants (refugees) and temporary migrants (Turkish guest-workers in Germany), and African-Americans (2002, pp. 349-362). He recognises that "[t]he term 'multiculturalism' is potentially misleading" due to this fact that different people focus on different ways of grouping individuals (2002, p. 373 n. 8).

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[14] I consider the terms 'ethnocultural' and 'ethnoreligious' further in Ch. 6.4.

> [I]n some countries (like Canada and Australia) it [multiculturalism] is typically used to refer only to the accommodation of immigrant groups, not for other ethnocultural groups, like Aboriginals. Conversely, in some other countries (like the United States) 'multiculturalism' is often used to refer to all forms of 'identity politics', including not only ethnocultural groups, but also women, gays and lesbians, people with disabilities, and so on.
>
> (Kymlicka 2002, p. 373 n. 8)

Ali Rattansi and Tariq Modood both focus on very specific groups. For Rattansi, the only groups that multiculturalism really refers to are ethnic or racial groups, while for Modood, a multicultural society is one that includes immigrant groups that have migrated to "western countries from outside the prosperous West" (2010, p. 5).[15]

So multiculturalism, understood in this sociological sense, can be used to describe the diversity within society. For a society to qualify as multicultural, on this understanding, it will have to contain a number of different groups.[16] With such a broad definition, it seems that almost all societies today will be considered multicultural in this sense.

1.2.2 Attitudinal Multiculturalism

The second understanding of multiculturalism that we might hold is one which refers to certain attitudes that we have, or ought to have, towards others in a diverse (sociologically multicultural) society. Sometimes a society is described as multicultural where this means that the people in that society hold, for example, positive, tolerant, or welcoming attitudes towards groups or individuals of different religions, nationalities or races. This seems to be the type of multiculturalism that Fons Van de Vijver et al. describe: "Multiculturalism as a psychological concept is an attitude related to the political ideology, which refers to the acceptance of, and support for, the culturally heterogeneous composition of the population of a society" (2008, p. 93).[17] Attitudinal multiculturalism can be understood both descriptively and normatively. In the descriptive sense, it simply describes the attitudes that people in sociologically multicultural societies hold in relation to diverse groups or

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[15] For more on Rattansi's account of multiculturalism, see Ch. 6.3.

[16] It is unclear how much diversity, or how many groups would be required for a society to count as multicultural on this sociological understanding. Perhaps as few as two groups would be enough.

[17] It is important to keep distinct two ideas at play here. I want to focus on what could be called, or described as, 'multicultural' attitudes; specific attitudes that people in a multicultural society hold. Much of the literature relating to attitudes surrounding multiculturalism focuses instead on attitudes *towards* multiculturalism. That is, attitudes that people may hold towards theoretical multiculturalism, or specific multicultural policies. Although there will be some overlap between these two ideas, it seems important to maintain the distinction.

individuals. In the normative sense, it points to the attitudes that people *ought* to hold in such societies.

We might, for example, say that Toronto can be considered multicultural in this sense because various religious, ethnic and cultural groups live side by side and Torontonians (typically) hold an attitude of toleration towards each other. For the most part, they live peacefully together, and have the opportunity to learn and engage with many different cultures. Many cultural traditions are celebrated, and visitors and immigrants are warmly welcomed to the city.[18] This understanding is descriptive in the sense that it describes the attitudes that people in Toronto hold towards others in a diverse society. It can also be understood normatively - for example, if we were to claim that people ought to hold multicultural attitudes, like those held by the people of Toronto.

It is not clear exactly *what* attitudes we expect to find in a multicultural society. Perhaps a multicultural society is one in which people are simply tolerant of other groups. On this understanding, we could call the millet system of the Ottoman Empire multicultural. Modood considers the Ottoman Empire a multicultural society for this reason.

> There have been many multicultural societies in the past... for example, in the Ottoman Empire, where the levels of religious tolerance and accommodation (shown by Muslim rulers towards Jews and Christians) were much greater than those found in western Europe till recent times.
>
> (2010, p. 5)

Toleration can be understood to mean "accepting - or at least putting up with - practices and conducts that one finds objectionable..." (Galeotti 2008, p. 127). Many people might think that multicultural attitudes should be more positive than this; it is not about merely putting up with others, it is about welcoming or including them. It is debatable, then, as to what attitudes should be considered multicultural.

Attitudinal multiculturalism outlines how we do and ought to react to the fact of *sociological* multiculturalism. While examining the attitudes of social interaction is important, it is the theoretical understanding of multiculturalism that is philosophically

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[18] Depending on how we choose to define a multicultural attitude, we might also wonder how a *multicultural* attitude differs from a *cosmopolitan* one. Toronto could also be described as cosmopolitan because of its demographic makeup and attitudes of inclusivity and accommodation. These attitudes, then, should perhaps not be considered uniquely multicultural. For more on cosmopolitan attitudes, see Mau (2008).

interesting. In fact, theoretical multiculturalism may even need to be justified prior to attitudinal multiculturalism in order for us to figure out what attitudes we ought to hold.

1.2.3 Theoretical Multiculturalism

Multiculturalism, on this understanding, is a political theory that focuses on and prioritises groups. This politics developed in response to problems that have arisen for liberals, and particularly in response to communitarian challenges to liberalism. Communitarian critics argue that liberalism fails to take into account the importance of groups. One strand of communitarian criticism concerns how the liberal understands the relationship between the person and their community.[19] The complaint is that liberals pre-suppose a conception of the person that is formed independently from the community they have been brought up in, and who can form conceptions of the good on their own. But according to the communitarian, we actually come to understand who we are and what we value through our community.

The communitarian argues that the liberal "misunderstands the relation between the individual and her society or community, and, more specifically, ignores the extent to which it is the societies in which people live that shape who they are and the values that they have" (Mulhall and Swift 1992, p. 13). There is a sociological point they are making, that people only come to understand what values they hold through their community. The communitarian wants liberals to recognise the "communal *origins* of the individual's self-understanding and conception of how she should lead her life..." (Mulhall and Swift 1992, p. 15). Further, there is a substantive point, that the way that liberals neglect the importance of community encourages a harmful understanding of a person's relationship with her community. The worry is that people in a liberal society will fail to understand the value of community, and their relationships with others. Liberalism fosters 'asocial individualism' which can be detrimental both to society and to the individual.[20]

One way to respond to these criticisms is to come up with a theory that places more emphasis on the community, and shifts the focus away from *individuals* and onto *groups*. This is what a multicultural theory does. It can take into account the importance of groups, and it does this by granting group rights and implementing policies which allow

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[19] For the most part, communitarians particularly focused their criticisms on John Rawl's liberalism, as outlined in *A Theory of Justice* (1971). The most notable communitarians are Michael Sandel (1982), Michael Walzer (1983), Charles Taylor (1990) and Alasdair MacIntyre (1981). However, it is worth pointing out that many communitarian philosophers will dislike being labelled communitarians.

[20] This is a very brief mention of some communitarian criticisms. For further reading, see Mulhall and Swift's clear overview of the debate (1992).

differential treatment of certain groups within society. Multiculturalists find groups important for a variety of reasons, many of which I address throughout the thesis. This theory will clearly be at odds with cosmopolitanism, which focuses on and prioritises individuals.

Group rights are of central importance to my understanding of multiculturalism, then. I will explain group rights in more detail, and differentiate between the different types of rights in § 1.4. It is important that the multiculturalist is able to justify group rights, otherwise their position is untenable. Any supposed theory of multiculturalism that does *not* allow for group rights (such as Phillips's or Patrick Loobuyck's accounts) will not count as multicultural on my understanding (2007, 2005). These theorists may have reasons for wanting their accounts to be labelled as multicultural, however I think it is important to maintain that a multicultural theory *must* be one that is committed to group rights. This is what makes it stand out as a different and unique theory. Other liberal theories have room to say that certain groups can be considered important, and they can grant group rights if doing so is the best way to aid individuals. Multiculturalism goes one step further by focusing on groups instead of, or addition to, individuals.[21]

In the next section I will give an account of why we think that certain groups are important. It might strike us as strange that some groups are considered important by the multiculturalist (for example, cultural, ethnic and national groups) and not others (for example, women and the working class). We might even think that it is odd that we think in terms of groups in the first place. The next section will explain the psychological reasons for why we categorise people, and why we might form groups as opposed to categories.

1.3 Why are groups important?

As we established in the previous section, theoretical multiculturalism prioritises groups and grants certain groups group rights. We might wonder why people have a tendency to sort themselves and others into categories and groups in the first place. Here I will look at the psychological reasons we have for categorising people. I will then look at why we form

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[21] I should make clear that cosmopolitans, and other liberals, can grant group rights. However, they will only do so when granting rights to groups is beneficial to individuals. Individuals are of primary concern to the cosmopolitan, so this will most often mean that they concentrate on ensuring individual rights are protected and promoted. However, in certain (rare) cases, it will appear that the interests of individuals are best protected by group right (see further explanation in Ch. 2.2.2). Multiculturalists, on the other hand, focus on groups and will grant rights to groups regardless of whether or not this is the best way to promote the interests of the individual members.

groups instead of merely categories. This will involve looking into the reasons we have for developing a sense of belonging to a group. With this understanding of group formation, we can then look at group rights and ask if groups can and should have rights.

1.3.1 Categorising people

We might wonder why we categorise people into groups instead of viewing every person as a unique and complex individual. We even categorise *ourselves* into groups. As Amartya Sen puts it,

> In our normal lives, we see ourselves as members of a variety of groups - we belong to all of them. The same person can be, without any contradiction, an American citizen, of Caribbean origin, with African ancestry, a Christian, a liberal, a woman, a vegetarian, a long-distance runner, a historian, a schoolteacher, a novelist, a feminist, a heterosexual, a believer in gay and lesbian rights, a theater lover, an environmental activist, a tennis fan, a jazz musician, and someone who is deeply committed to the view that there are intelligent beings in outer space with whom it is extremely urgent to talk (preferably in English).
>
> <div align="center">(2006, pp. xii-xiii)</div>

If we take a look at the psychological literature, we can see that there are some explanations for why we categorise people into social groups. According to one theory - social cognition theory - categorisation is an important part of storing and processing information (Howard 2000). We naturally and subconsciously categorise the information we receive. We receive so much incoming information on a daily basis that we have to categorise things in order to process the information quickly. As social psychologist, Judith Howard explains,

> Several central assumptions underlie social cognitive theories of identity: that human cognitive capacities are limited; that, therefore, we process information as cognitive misers, streamlining information to manage the demands of everyday interaction; that, following from this need for cognitive efficiency, we categorize information about people, objects, and situations before we engage memory and inferential processes.
>
> <div align="center">(2000, p. 368)</div>

The wealth of social stimuli may well "overwhelm the brain were it not for our inherent tendency to categorize our perceptions of the world and draw inferences from the classes that result" (Mitnick 2006, p. 60).[22] Pre-deliberative categorisation of information is natural, helpful, and necessary for our everyday functioning.

However, this process of categorisation does introduce social problems. Firstly, studies have shown that people exhibit biases towards the groups they consider themselves to belong to. For example, Albert Hastorf and Hadley Cantril conducted an experiment in which they questioned university students about a well-publicised American football game, Princeton versus Dartmouth (1954). The star of the Princeton team was taken off with a broken nose, and soon afterwards a Dartmouth player was taken off with a broken leg. Penalties were given to both teams, and newspapers were quick to place blame depending on which team they supported. When questioned about the game, Princeton students blamed Dartmouth for initiating the rough play (1954, p. 130). Even when viewing video footage of the game, the students claimed to have seen the Dartmouth team make twice as many infractions as the Dartmouth students claim to have seen. While the Dartmouth students thought that rough play was initiated equally by both teams, they felt the penalties were unfair, and resulted in Princeton's concern for its star player (1954, pp. 131-132). These results show that the university students were biased towards their own teams. Even when presented with video evidence their responses tended to favour their teams. One of the effects of our categorisation process is that we are inherently biased towards the group we think we belong to. This may become problematic in cases where blame is placed on non-members, or when non-members are seen as not deserving of help because they are not part of the group.

Secondly, this categorisation process can often lead us to form harmful stereotypes. When the categories we form are inaccurate, the assumptions that we make about people, and the way we treat them on the basis of those assumptions, can be harmful. "If we are mistaken, either in our classification of a particular person, or in ascribing a characteristic to an entire category of people, the result may be undeserved social stigma or harmful stereotypes" (Mitnick 2006, p. 64). People are only capable of consciously and attentively interpreting a certain amount of incoming data. In order to cope with the vast amounts of

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[22] See also Moskowitz (2005). 'Cognitive miser' is a term used in social psychology. Fiske and Taylor tells us that "[t]he idea is that people are limited in their capacity to process information, so they take shortcuts whenever they can... People adopt strategies that simplify complex problems; the strategies may not be normatively correct or produce normatively correct answers, but they emphasize efficiency... Consequently, errors and biases stem from inherent features of the cognitive system..." (1991, p. 13).

information we receive, we have learned to use short-cuts to process this information. Much of this information we perceive is subconsciously categorised, stored, or simply forgotten. People often use memories and draw on systems of categorisation to make assumptions about people and 'fill-in' the rest of the information for any given situation. As a result, we constantly make generalisations and inferences that, Eric Mitnick suggests, are an economic way of conserving our cognitive faculties (2006, p. 62). Of course, it could be the case that we are sometimes just being lazy and choosing to make generalisations when it is possible to act in a mindful, deliberate fashion (Mitnick 2006, p. 62).

Due to our habits of generalising and making assumptions, we form stereotypes about people. We label people, in terms of their gender, sexuality, race, ethnicity or nationality, for example (Hacking 1986, p. 236). The way we treat people on the basis of these labels is, for the most part, unproblematic. However, some labels can be discriminatory and harmful; "gender, sexuality, and racial and ethnic identity have all been profoundly shaped (even, in a sense, produced) by histories of sexism, homophobia, racism, and ethnic hatred" (Appiah 2005, p. 69).[23]

Of course, it seems impractical to suggest that we try to fight against this natural method of categorising people. However, I think we should be aware that there are these problems associated with categorising, labeling and stereotyping. We should try not to be lazy cognitive misers, but instead be mindful of our assumptions, and question our treatment of others on the basis of our categories. Perhaps one of the first steps to breaking down barriers between groups is to acknowledge and criticise social stereotypes, and question the foundations of them.

A worry with multiculturalism is that it might make too much of these categorical distinctions. By focusing on groups, it emphasises the group distinctions instead of encouraging us to question the boundaries we perceive; boundaries between groups are not as fixed and definite as the multicultural rhetoric often implies.[24] Multiculturalism has the potential to encourage membership bias and stereotyping. In the case of membership bias, this will result in some groups overlooking the wrongs that their fellow group members have caused, and feel less compassionate towards outsiders. In the case of stereotyping, this could lead to inaccurate stereotypes, which can perpetuate discrimination. This might encourage us to opt instead for a theory that *doesn't* focus on groups, but on individuals (for example, cosmopolitanism or any universal liberal theory, as within these theories it is

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[23] I discuss discrimination again in Ch. 4.4.
[24] I discuss problems concerning the boundaries of groups in Ch. 3.4**.**

easier to counteract potential biases). Adopting this perspective could help us avoid some of the more harmful outcomes of this natural process of categorisation.

1.3.2 Creating groups

We might wonder why we consider some groups more important than others. As I mentioned, multiculturalists tend to consider ethnic, national, linguistic, and religious groups for differential treatment. Those working on identity politics also consider groups relating to gender, sexuality and class important. We might begin by asking, though, why it is that people constitute *groups*, rather than just *categories*. Remember that according to Miller's distinction, a group is differentiated from a category by the fact that members of a group feel a sense of belonging by virtue of their shared characteristics, a feeling that the members of a category do not necessarily have (2002a, p. 178-9). We should ask why groups are formed in the first place. It seems like groups could either be formed (by gaining a sense of belonging) from within, or from outside. Let us take a look at how this might occur.

Young suggests people can get a sense of togetherness from shared experiences, history or practices. "Members of a group have a specific affinity with one another because of their similar experience or way of life, which prompts them to associate with one another more than with those not identified with the group..." (1990, p. 43). As people interact, they learn that they share certain experiences or features in common, and come to form bonds over that. A group forms, and is strengthened by contrasting itself with other groups - by realising what they are *not* like. "Group identification arises... in the encounter and interaction between social collectivities that experience some differences in their way of life and forms of association..." (1990, p. 43). Recognising shared experiences, history, values and features, then, can lead to a sense of identity and belonging that is necessary for a group. In this sense, a group form organically, or from within.

Groups are not always created and shaped by the relations of people within the group; there seem to be many cases of groups being formed because of outside influence. As Young explains, "[s]ometimes a group comes to exist only because one group excludes and labels a category of persons, and those labeled come to understand themselves as group members only slowly, on the basis of their shared oppression" (1990, p. 46). For example, Native Americans before European settlement might not have identified themselves as one group, but were labelled as such by the settlers. Gradually, the members of this category begin to form bonds and feel a sense of togetherness because of their

shared oppression. Young provides another example, explaining that in Vichy France, "Jews who had been so assimilated that they had no specifically Jewish identity were marked as Jews by others and given a specific social status by them. These people 'discovered' themselves as Jews, and then formed a group identity and affinity with one another" (1990, p. 46).[25]

It seems important to recognise that groups are often created and moulded by external factors. It is likely that relations of power and oppression have a large part to play in the formation of many groups, including racial and ethnic groups,[26] religious groups,[27] and national groups.[28] [29] We can see that groups are not always formed freely or for good reasons, and it is worth bearing this in mind when we are considering granting these groups rights. When social groups are recognised through law, their existence as an important and separate group is affirmed. Legally recognising group differences vastly reinforces and entrenches those differences, affecting the way people understand themselves and how others treat them.

> If informal ethnic categories and meanings can shape the everyday experiences of minority groups, formal or official ethnic labels are all the more powerful sources of identity and social experience because they carry the imprimatur of the state. When mandatory ethnicity is official, the power of the ethnic ascription is vastly reinforced.
>
> (Nagel 1997, pp. 27-28)[30]

Perhaps we should work on breaking down barriers and encouraging cooperation, rather than enforcing group boundaries and encouraging people to focus on what makes them and their group different. As we will see, this focus on difference is characteristic of

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[25] See further Sartre (1948).

[26] We could consider African Americans to be an example a group formed as a result of outside influence. Originally a diverse collection of people from varying regions of Africa were forcefully relocated and categorised together as slaves. Their shared oppression may have provided a sense of belonging that resulted in them forming a group.

[27] We might think that there are many religions that combine traditional African religions with Christianity, Haitian Vodou for example. Some of these religious groups could be the result of oppressed people or slaves being forced together, and then building connections with each other and forming groups. As a result they merge to form new religious groups. "Haitian Vodou was born from the interaction of groups of people brought to Haiti to work as slaves, people who had been taken from several areas in West and Central Africa... Over time, these people blended spiritual insights and practices from a dozen or more traditional African religions... Catholicism was included in this African religious mix, as was Free Masonry..." (Brown 2006, p. 546).

[28] Any nation that has been brought about through war or conquest could count as an example of a national group that has been created or moulded by external factors.

[29] Mitnick also urges us to consider the role of power-arrangements throughout history in forming social groups (2006, p. 100).

[30] Mitnick also argues this point, especially in Ch. 4 (2006).

multiculturalism, while a focus on commonalities and overcoming boundaries is common to cosmopolitanism. We should keep in mind that granting group rights that highlight boundaries may reinforce arbitrary boundaries, or boundaries that represent injustices.

In this section we have seen that there are psychological reasons for categorising people into groups. In order to process the wealth of information that we receive on a daily basis, we create categories to sort and store it quickly. However, we should recognise that problems arise from this process. Firstly, people are biased towards groups they belong to. This can become problematic when blame is placed on non-members, or when non-members are seen as not deserving of help. Secondly, we generalise and make assumptions based on memories and what we know about certain categories, and as a result form stereotypes. For the most part these stereotypes are helpful, but when they are incorrect they can be harmful and lead to discrimination. As a result of these problems, we should aim not to be too reliant on the group categories and stereotypes that we form. The worry with multiculturalism is that its group focus emphasises group distinctions instead.

We also saw that there are a number of reasons for which groups are formed (as opposed to categories of people). A social group is a collection of people who feel a sense of belonging to the group. They might form the bonds necessary to create this feeling from within, by recognising shared history or characteristics for example. However, groups might also be formed through outside influence. People may be forced together and find a sense of togetherness through their shared oppression. Knowing this, we should be wary of measures that might reinforce group boundaries. Again, multiculturalism, in granting legal group rights, risks entrenching these boundaries and highlighting differences rather than breaking down boundaries and highlighting commonalities.

1.4 Legal Group Rights

The success of the multicultural project relies on the plausibility of legal group rights. Multicultural societies grant many legal rights, including exemptions (from helmet laws, dress codes or slaughter practices, for example), language rights, or limited self-government rights. However, there are a variety of rights that the multiculturalist often labels 'group rights', and it is important to distinguish between them. In what follows, I start out by giving a taxonomy of the different rights. I then discuss what we mean when we talk about rights (using Hohfeld's analysis of rights), before considering why we might think they are important (using the distinction between will and interest theories). This will

provide the groundwork for legal rights and allow me to go on to analyse the plausibility of group legal rights.

Our standard legal framework is liberal and individualistic. It cannot account for group rights easily. Crucially, the multiculturalist, or proponent of group rights, must provide some justification for thinking that groups should be legal right holders. There are a number of ways they might do this, and I consider these routes in succeeding chapters.

1.4.1 Group-differentiated rights

The rights characteristically found in multicultural societies are commonly called 'group rights'. However, strictly speaking, it is imprecise to refer to all of these rights as group rights as this masks the diversity of rights being utilised. I will refer to all of these group-specific rights commonly found in multicultural societies as 'group-differentiated rights'. This will be an overarching term encompassing rights relating to groups and special group membership. This term, coined by Kymlicka, is used "to describe a right that is accorded to a particular group but not to the larger society within which the group exists" (Jones 2008).

Group-differentiated rights can then be broken into two subsets; these rights can be held and exercised either by the group itself, or by the individual members of the group. Rights that can be held and exercised by the group *qua* group I will call 'group rights'. For example, a Native American group might hold a right to collective self-determination, which can only be exercised by the group as a whole. The group must *together* determine what political future they want for themselves, they cannot do this individually.[31] Or, a religious community (such as the Hutterites in Canada) may hold a right to collective ownership of property. "Rights such as these are group rights because they can only logically be asserted by groups" (Mitnick 2006, p. 30).[32]

In contrast, rights that are held and exercised by individuals *in virtue* of their membership in a particular group, I will call 'individual group-differentiated rights' (IGD rights for short).[33] For example, members of an Aboriginal band may be granted special fishing rights. These rights are held and exercised by the individual members of the group -

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[31] I will give a brief description of self-determination: Avishai Margalit and Joseph Raz tell us that "[t]he core content of the claim [to national self-determination]... is that there is a right to determine whether a certain territory shall become, or remain, a separate state (and possibly also whether it should enjoy autonomy within a larger state)" (1990, p. 440). I discuss self-determination further in Ch. 5.6.

[32] Allen Buchanan calls these 'nonindividual group rights' (1994).

[33] Mitnick also uses this terminology (2006). Bhikhu Parekh uses the term 'individually exercised collective rights' for what I call IGD rights (2006, p. 216). I prefer the latter term because I think it is important to convey that it is not only that the individual exercises the right, but also that she holds the right.

it is the individual that is allowed to catch a given number of fish at specified times of the year - in virtue of his or her membership in an Aboriginal band.[34] Similarly, in the Canadian province of British Columbia, Sikh men are permitted to wear a turban instead of a helmet when riding a motorbike. Each Sikh man holds this right (exemption from the helmet law) by virtue of his membership in a religious group. This is an individual right rather than a group right, however the individual holds the right *because* he is a member of a certain group.

Within the category of group rights we can make a further distinction: between collective and corporate rights. We can talk of a right being held by a group where we are imagining the 'group' to be a collection of group members; the right is held by these members severally. I will refer to rights held by a group understood in this way as collective rights. Alternatively, it seems like we can imagine the 'group' acting as if it is an individual agent. This is the way groups are often treated by the law when they are treated as corporations. Corporations hold corporate rights and this is sometimes referred to as the traditional conception of a group right.[35]

A corporation, or corporate entity, is a legal construct. It is treated as an individual person for legal reasons.[36] It is often vested with many of the rights that individuals hold. Its rights-holdings cannot be explained in terms of the rights or interests of the individual members of the group. It is seen to have a legal standing that is not reducible to the legal standing of its members. It may be that a corporation is *comprised* of more than one person, and so in this demographic sense is considered a group (that is, *if* it is comprised of more than one person), but in the legal sense it is considered an individual instead of a group.[37] Interestingly, the same group of people can be viewed both as a collective and as a corporation. As Michael Hartney notes, "[I]f an Indian band has corporate status, then we must distinguish between the band as a community of persons and the legal corporation

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[34] In Canada, an 'Aboriginal band' or 'Indian band' is a group of Aboriginal peoples that form a community.

[35] Vernon Van Dyke overlooks this distinction. He tells us that "[i]n some cases the rights that groups exercise are perhaps reducible to individual rights... but in other cases the rights belong to groups as corporate units" (1977, p. 344). Margalit and Raz also appear not to recognise this distinction, for they tell us that "[g]roup interests cannot be reduced to individual interests" (1990, p. 449). While Peter Jones recognises the distinction in his 2008 article (section 4), in other places he makes contradictory statements. In the same article he states that "[a] group right is a right possessed by a group qua group rather than by its members severally" (2008). In an earlier article he makes this same point, more strongly: "There is little about group rights that is uncontroversial but there is at least this much agreement upon the basic concept: a right is a group right only if it is a right held by a group rather than by its members severally" (1999, p. 354).

[36] Corporation: "A body corporate legally authorized to act as a single individual; an artificial person created by royal charter, prescription, or act of the legislature, and having authority to preserve certain rights in perpetual succession" (OED 2013a).

[37] While in the majority of cases a corporation will be comprised of a group of people, it is possible to create a corporation with one person, sometimes referred to as a 'sole corporation' or 'corporation sole' (see Maitland 1990).

which bears the same name" (1991, p. 306). The band could logically hold both collective rights and corporate rights.

A collective group right, as opposed to a corporate group right, is a right held by a collection of individuals. It is *their* right as opposed to *its* (the corporation's) right. For example, if an Indian band has a right to self-determination, this right might be best described as a collective group right because it is their right, exercised by them as a group of people, but not held by any individual member separately.[38] The group might elect representatives to decide how to exercise this right, but regardless, the right to self-determination is shared by the group members severally; the representatives are elected to exercise that right on behalf of the remaining group members.

Because collective rights cannot be possessed by any of the members separately, they are not simply individual, or IGD rights. Yet there seems to be an important difference between the collective right held by all, and a corporate right in which the group is seen as an individual. We should keep these three types of rights distinct.

Philosophical objections to the rights distinctive of multiculturalism are often objections to group rights as opposed to IGD rights. These objections in many cases center around ontological concerns. They might, for example, question whether a group is an entity that can hold rights, or question the conditions it must satisfy to be a rights holder (Jones 2008). Rejection of group rights does not entail a rejection of IGD rights. IGD rights, because they are individual rights, are easier to account for on a liberal framework of rights. Group rights, on the other hand, are not so easy to account for, and the multiculturalist (or any defender of group rights) needs to explain why groups should hold rights as well as individuals. This is not to say that IGD rights are uncontentious; primarily critics question why individuals should receive rights solely on the basis of their membership in a socially or politically defined group, and why certain groups are considered socially salient (ethnic, national, or cultural groups for example). While it is important for multiculturalists to justify these IGD rights, it is a separate challenge for them to justify giving groups rights. In this thesis I will focus on groups rights and largely set aside questions relating to IGD rights, as these are rights that any liberal theory (multicultural or otherwise) can justify.

Multiculturalists are particularly concerned with justifying collective rights. This may be because corporate rights are found in any society, multiculturalist or not, and will fit more easily into an individualist legal theory than collective rights *because* they treat

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[38] On Raz's definition of a collective right, the right is an aggregate of individual rights. He tells us "[t]he right rests on the cumulative interests of many individuals" (1986, p. 209). He is therefore talking about a different type of right than the rights I discuss.

groups as if they are individuals. Multiculturalists must think that corporate rights are unable to do the work they want them to do. Perhaps corporate rights are simply not appropriate for resolving the group-specific problems faced in multicultural societies. Religious groups or national minorities, for example, might not want to be given corporate rights and treated as if the group is an individual. When minority or marginalised groups complain that they are not receiving proper recognition for their distinct ways of life, or for their valuable traditions, the correct way to respond probably does not involve fitting them into the mould of a corporation and treating them in the same way we treat businesses in capitalist societies. The groups that want rights are likely to be unsatisfied with corporate rights. Whether or not this is indeed the case, multiculturalists are generally not interested in justifying corporate rights, but in establishing a politics that allows for *collective* rights. When I discuss multicultural group rights in what follows, I typically have collective rights in mind.

1.4.2 Hohfeldian analysis

Before considering proposed justifications for group rights, it will help to set out a basic understanding of legal rights. This will help us get clear about the many things we could mean when talking about rights. Perhaps the most influential analysis of rights was provided by Wesley Hohfeld.[39] Hohfeld proposed four categories of rights, or more precisely, four ways of interpreting what we mean when we talk of rights. He says "the term 'rights' tends to be used indiscriminately to cover what in a given case may be a privilege, a power, or an immunity, rather than a right in the strictest sense..." (1913-1914, p. 30). When talking of rights, we can distinguish between four incidents: privileges, claims, powers and immunities.

First, we have 'privileges', which are sometimes called 'liberties'.[40] When an agent has a privilege he is free to perform a certain action if he so chooses. He has an *exemption* from performing the action, or he has *discretion* over whether or not he chooses to perform a certain action (Wenar 2005, pp. 226-228).

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[39] Although his analysis is explicitly aimed at legal rights, it can be applied equally to moral rights As Matthew Kramer asserts, "Hohfeld wrote about legal relations, as opposed to strictly moral relations... None the less, virtually every aspect of Hohfeld's analytical scheme applies as well, *mutatis mutandis*, to the structuring of moral relationships" (2000, p. 8). Rowan Cruft also agrees with this interpretation (2004, p. 349).

[40] Kramer calls these incidents 'rights', however I think this is confusing as it is not immediately clear whether the term 'right' is being used to refer to any (or any combination of) Hohfeldian incident(s), or whether it is specifically referring to this incident (2000, p. 8).

> A has a privilege to φ if and only if A has no duty to not-φ, but also no duty to φ.

For example, "you have a right to pick up a shell that you find on the beach" (Wenar, 2011). When we hold a privilege, it means that we are free to pick up the shell if we would like to; we have *no duty* to pick it up or not to pick it up, this is left to the right holder's discretion (Wenar 2011). A police officer's right to break down my door is also a privilege. He is exempt from the general duty not to break down my door or otherwise damage my property (Wenar 2005, p. 225).

Second, we have 'claims'. Claims can have three different functions. When someone holds a claim, the corresponding duty-bearer is required to protect, provide, or perform some agreed upon action. Holding a claim means that the right-holder exercises some control over the duty-holder's behaviour. As Leif Wenar explains, "[a] claim-right can entitle its bearer to *protection* against harm or paternalism, or to *provision* in the case of need, or to specific *performance* of some agreed-upon, compensatory, or legally or conventionally specified action..." (2005, p. 229).

> A has a claim that B φ if and only if B has a duty to A to φ.

For example, a child holds a claim-right to not be abused. All other people have a duty not to act in a certain way - i.e. to abuse the child (Wenar 2011). Often claim-rights are voluntary, such as those that have been entered into by contract. If I sign a contract to perform work for someone, the employer then holds a claim-right that I perform my duty to carry out the work.

These first two types of rights - privileges and claims - are referred to by H.L.A. Hart as 'primary rules'. They regulate people's behaviour by making clear what actions are required or prohibited by the agent, and what the agent is free to do.

The following rights - powers and immunities - are 'secondary rules'. These allow people to change the primary rules (Wenar 2011, Hart 1961). They are higher-order rules which, when held by an agent, allow them to modify or alter the primary rules.[41]

> Primary rules are those that grant rights or impose obligations upon members of the community... Secondary rules are those that stipulate how, and by whom, such primary rules may be formed, recognized, modified or extinguished.
>
> (Dworkin 1978b, p. 19)

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[41] It is important to note that it is debatable whether this is the correct interpretation of Hart's primary and secondary rules. See Bayes (1992, pp. 58-60).

The third type of incidents we have are 'powers'. Powers allow the right-holder the authority to change claims and privileges and, sometimes, other secondary rules. It allows the right-holder "the ability within a set of rules to create, waive, or annul some lower-order incident(s)" (Wenar 2005, p. 231).

> *A* has a power if and only if *A* has the ability within a set of rules to alter her own or another's Hohfeldian incidents.

A boss has a power-right over her employees because she can order them to perform work-related tasks. "Ordering, promising, waiving, sentencing, buying, selling, and abandoning are all examples of acts by which a right-holder exercises a power to change his own Hohfeldian incidents or those of another" (Wenar 2011). Powers can alter primary rules, but sometimes can also alter secondary rules.[42] For example, an admiral has the power to relieve a captain of his power to command a ship because the captain is of lower rank (Wenar 2011). The right-holder is always in a position of authority which allows her to change the rules for herself or others.

Finally, we have 'immunities'. An immunity is a right that consists in the absence of a power held by another party. Immunities provide the holder with protection against some harm (Wenar 2005, p. 232).

> *B* has an immunity if and only if *A* lacks the ability within a set of rules to alter *B*'s Hohfeldian incidents.

For example, the government lacks the power to command all citizens to be members of the Church of Scotland. Due to this lack of power, citizens have an immunity concerning religious matters. This immunity is an important part of religious freedom (Wenar 2011). To take another example, a tenured professor at a university "has the right that her university not annul her rights to teach and research" (Wenar 2005, p. 232). This right of tenure is an immunity-right.

Each Hohfeldian incident can be seen as an atomic right. The atomic rights often fit together to create molecular rights of varying complexity (Wenar 2005, p. 234). Take my right over my car as an example. I hold a privilege-right over it because I am free to use my car, or not use it as I wish. It is at my discretion whether or not I take the car for a drive. I hold a claim-right over the car because others hold a duty not to drive, damage, or

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[42] Wenar calls these 'third-order' powers and immunities. He also uses the term 'second-order' for the standard powers and immunities (what I have instead called the secondary rules) (2005, p. 230 fn. 8).

interfere with my car. I have a power-right which allows me to change my privileges and claims. I might decide to waive my claim, allowing others to drive my car. I also hold an immunity-right. No one else has power over my car, which protects me from other people interfering with my car and the rights I have over it. No one else has the power to authorise others to drive my car. These four incidents make up a molecular right that I have over my car. Most rights are molecular, which explains the complexity inherent in rights talk.

With this Hohfeldian framework, any right can be clearly explicated; all rights consist of one or more Hohfeldian incidents. To claim that groups should have legal rights is to claim that they should be at the focus of nexuses of duties like this. Whether we think a person or group should actually possess such a right will also depend on what we think the function of rights is.

1.4.3 Function of rights

We believe that people hold rights because these rights serve certain functions. Some protect us from harm, some give us authority over our possessions, some ensure that vital resources are provided to us, others exempt us, allow us discretion, or require performance.[43] What is it that draws all of these things together to explain the overall function of rights? There are two dominant schools of thought on this matter. The interest theorists argue that the function of rights is to further the agent's interests; they are "defenders of well-being" (Wenar 2005, p. 223). Specifically, rights are those incidents which protect and advance the individual's interests (Wenar 2005, pp. 240-241). The will theorists argue that the function of rights "is to allocate domains of freedom" (Wenar 2005, p. 223). As Hart tells us, "[t]he individual who has the right is a small scale sovereign to whom the duty is owed" (1982, p. 183). Rights give the holder some control over the choices that she makes and in this sense express her freedom.[44]

I will outline these two theories, without taking a stance on which one I find most convincing. Both positions face problems which more developed versions seek to answer. In the next chapter, I will be considering arguments from the multiculturalist who seeks to justify legal group rights on the basis of moral group rights. There I will argue that regardless of whether she subscribes to the interest theory or the will theory of rights, these arguments will not be successful.

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[43] The six specific functions of rights: "exemption, discretion, authorization, protection, provision, performance" (Wenar 2005, p. 235).

[44] The will theory can also be called the 'choice theory', and the interest theory can also be called the 'benefit theory' (Kramer 2000, p. 7).

The interest theory maintains that rights aim to protect the right holder's interests, and in this way protect his or her well-being. Interest theorists subscribe to two main theses: 1) the right must preserve one or more of the right holder's interests; and 2) the right holder does not necessarily have to be competent to demand or waive the enforcement of the right (Kramer 2000, p. 62). Because of this second thesis, the interest theory can maintain that children and the infirm or incompetent, and even animals, can hold rights. This is something we will shortly see that the will theorist struggles to establish. Furthermore, the interest theory can account for many of the most pressing rights that we think people hold. For example, we could explain the human rights that we have (as outlined in the UDHR) not to be subject to torture or to be enslaved as legal rights that function to protect our interests - not to be harmed, or to our bodily integrity. Having our vital interests protected undeniably makes our lives go better.

The problem with this theory is that it risks being too inclusive. We do not think that *all* of our interests should be protected by rights. Some interests do not seem important enough to be protected, and some do not seem good and worthy of protection at all. I may have an interest in using my friend's money to pay for my holiday. Yet just because I have an interest in someone else's money should not mean I gain rights over it. I may have an interest in harming innocent people, but this is not the sort of interest that we mean to have protected by rights. The interest theory must explain why some interests receive legal protection while others do not (Kramer 2000, p. 79).

There also seem to be many rights which do not protect any interests that the right-holder has. This is true particularly with regard to positions of authority; people in positions of authority hold powers and immunities that allow them control over others' behaviour, but they are unconnected to the right holder's interests. For example, a supervisor in an office can delegate work to lower ranking employees, but the power he has to do this is not protecting his interests nor is it intended to. Similarly, a judge has the power to sentence a criminal to life in prison, or in some countries, even sentence him to death. Yet this is not a right that is protecting the judge's interests. As Wenar explains, "the right is ascribed in order to benefit parties beside the rightholder" (2005, p. 242). The interest theorist must find a way of explaining why some people hold rights even when those rights do not serve to protect their interests.

For the will theorist, rights are interconnected with freedom, "[t]he connection between rights and freedom, so powerful in modern politics, is for will theorists a matter of definition" (Wenar 2005, pp. 238-239). They believe that rights, properly speaking, are only those combinations of Hohfeldian incidents that give the right-holder discretion over

the duty of another (Wenar 2005, p. 238). For example, I have a right over my computer because I have discretion over the duties of others. As part of my molecular right, I hold a claim that others not use my computer - a duty on their part. I have a power-right which allows me to waive this claim, removing other people's duties (or more likely, removing a specific person's duty) not to use my computer. To have discretion over the duties of others, however, means that the right-holder must hold a power-right. As Kramer explains,

> Unlike Hohfeld, they [will theorists] apply the label of 'rights' only to claims that are coupled with genuine powers of enforcement/waiver on the part of the claim-holders; they do not attach the label of 'rights' to claims that are unaccompanied by genuine powers of enforcement/waiver on the part of the claim-holder.
>
> (Kramer 2000, p. 64)

This means that the will theorist does not call privileges or claims 'rights' because neither of these primary rules give the right-holder the ability to change another's duty.

However, this seems counterintuitive. There are many rights that we have which do not include power-rights. For example, our rights not to be subject to torture or enslaved are inalienable rights that we do not have the power to waive or annul. It appears that the will theorist cannot recognise "that you have a legal right against being enslaved, or against being tortured to death" (Wenar 2005, p. 239). Will theorists might respond to this by insisting that there is *someone* that holds a power that controls people's duties not to torture or enslave you. However, on this alternative, it is not the subject (of potential torture or slavery) that holds the right, it is the state, or some authoritative figure who can change the law or punish an offender. While this might avoid the problem, it does not match up with the way we typically speak of rights.[45]

Another concern for the will theorist is that the right-holder must have the capacity for choice.[46] This makes it difficult to account for the rights of children and those incapable of exercising their rights, as well as animals. While it might be a current topic of debate whether or not animal have (or should have) rights, it is an uncontentious point that children and incompetents holds rights.

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[45] Kramer believes that this is simply a terminological dispute and that the sophisticated will theorist is capable of explaining away this difficulty (2000, pp. 64-65). "If the Will Theorists deserve rebukes, the justification... does not lie in the general fact that those theorists have declined to adhere sedulously to Hohfeld's set of labels..." (2000, p. 65). The will theorist chooses instead to refer to the rights against slavery and torture as 'claims'. However, this is still at odds with the way we commonly speak of rights.
[46] I consider what a capacity for choice entails in Ch. 2.3.

> Because infants and mentally infirm people are both factually and legally
> incompetent to choose between enforcing and waiving their claims against others...
> they hold no powers to make such decisions. Now, given that the Will Theory insists
> that claims must be enforceable and waivable by claim-holders if the claims are to
> count as rights, it leads to the conclusion that the young and the mad do not have
> any rights.

<div align="center">(Kramer 2000, p. 69)</div>

The objection, as Hillel Steiner puts it, is that "foetuses, minors, the comatose, the mentally disabled, and also... the dead and members of future generations - to say nothing of members of virtually all other known species - must all lack Will Theory rights" (Steiner 2000, p. 259).[47] One way the will theorist has chosen to respond, is to claim that such persons do have rights, but that they must be exercised by representatives. Hart took this position: "[w]here infants or other persons not *sui juris* have rights, such powers [i.e., powers of enforcement/waiver]... are exercised on their behalf by appointed representatives and their exercise may be subject to approval by a court" (1982, p. 184 n. 86). With this provision, the will theorist can then account for the rights of children and incompetents.

However, as Kramer points out, there are many rights that we commonly think individuals hold but have no power over. These rights are enforced or waived by an authority. For example, every citizen has a right to be free from unprovoked assaults. While we might think that the individual holds this right, he or she does not have a power-right. The individual is not able to enforce or waive the right; the state or a legal authority holds this power. The will theorist must either claim that the right does not exist, or that that right is held by the authoritative party and that the individual only holds a claim (Kramer 2000, pp. 70-71).

As we can see, neither of these theories are free from objections. Supporters of both theories have responded to concerns, creating variations of greater complexity and sophistication. This ongoing debate between the two accounts has encouraged the development of alternative theories.[48] An understanding of these different schools of thought will help us determine whether there can be any *group* rights, a discussion I will return to in Chapter 2. Importantly, we can question what the function of such rights would be if they were held and exercised by groups.

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[47] I should note that Steiner defends the will theory and attempts to provide a solution to this problem. He does realise that this is a problem for the will theorist though. "How morally damaging is this fact? *Very* damaging..." (Steiner 2000, p. 259).

[48] For example, see Wenar (2005) and Cruft (2004).

1.5 Conclusion

In this chapter, I have explained what I understand multiculturalism to be. While there are different understandings of multiculturalism, the understanding I will be arguing against in this thesis is one that focuses on and prioritises groups. The way these multiculturalists express their focus on groups is by granting groups rights.

We have good reasons for categorising people in the first place. In order to cope with the wealth of information we receive on a daily basis, we sort this information into categories. People are categorised into certain groups so that we can make assumptions and decide how to act quickly. However, making assumptions about people leads us to form stereotypes. Sometimes these stereotypes are harmful, so we should be careful not to rely on them too much. The worry is that multiculturalism risks reinforcing stereotypes by legally defining and granting rights to the groups. This is one reason why we may immediately be wary of adopting a multicultural theory.

Multiculturalists typically focus on national, ethnic, religious, cultural and linguistic groups. One might wonder why we form groups as opposed to categories. I have argued that the sense of belonging and togetherness that characterises a group can be formed from within. Alternatively, a group can be formed through outside influence when people are forced together, and come to share a sense of togetherness as a result of their shared oppression. This goes to show that groups are often not formed for good reasons and boundaries are often arbitrarily drawn. The worry with multiculturalism is that by legally enforcing the boundaries of groups, we will be reinforcing these boundaries rather than working to break them down.

In the third section I outlined the different types of group-differentiated rights we can find. In particular, multiculturalists aim to justify collective group rights. I also outlined the Hohfeldian analysis of rights, and the will and interest theories of the function of rights. These will act as helpful tools for evaluating arguments concerning group rights.

In the following chapter I will consider justifications for legal group rights on the basis of moral group rights, as oftentimes the former are grounded on the latter. This strategy is appealing, as it provides a clear and simple way to ground legal rights, although as I will argue it is ultimately unsuccessful. Assessing these arguments will require putting into practice the tools we acquired in the latter part of this chapter.

2. Moral group rights

2.1 Introduction

The last chapter provided us with a background understanding of groups, group rights, and how rights work. In this chapter, we will put this knowledge to use by evaluating arguments that seek to justify legal collective group rights. Legal group rights are of crucial importance to multiculturalism; the multiculturalist must be able to justify granting legal group rights or their position will face serious (if not fatal) problems. The most simple and straightforward way to justify a legal right is to argue that that right is based on a pre-existing moral right. If we recognise the moral right, there may be good reason to provide it with some legal basing. At first glance this appears to be a route that the multiculturalist could take to ground legal group rights. However, I will argue that this route will not be successful in garnering support for multiculturalism, regardless of whether the multiculturalist argues from the standpoint of an interest theorist or a will theorist. Either justification for legal group rights cannot rest on pre-existing moral group rights, or multiculturalism ends up looking like an unappealing option. There may be cases in which we think that moral group rights are justified, and the odd case in which we think legal group rights can be justified on the basis of these moral group rights. However, these cases are ones that cosmopolitans can account for, meaning we do not need a multicultural framework to deal with them.

It could be argued that some of our most important individual legal rights are underpinned by moral rights. Examples include my right not be subjected to torture, or my right not to be held in slavery. If the multiculturalist can show that groups hold moral rights, then this might give us some grounds for thinking that groups should hold legal rights. Of course, even if they can establish that there are moral group rights, we are not necessarily led to endorse legal group rights. There are two reasons for this: first, it might be that the best way to protect the moral right of the group is to empower individual members with legal rights. The multiculturalist would have to provide further argument to show why it is necessary for the group to hold the corresponding legal rights as opposed to the individual. Second, there are many moral rights that it would be unhelpful or inappropriate to have

recognised by law. For example, we might think a child has a moral right to be treated as equal with his other siblings, but this is not to say that it should become a legal right (Brandt 1983, p. 29). Nevertheless, there are many moral rights that are recognised by law; human rights might be a good example. If the multiculturalist can establish that there *is* a moral right, they are in a good position to argue further that there should be legal rights to protect it.[49] The first step for them, then, is to determine whether groups can be moral rights holders, and if so, whether there are in fact any moral group rights.

It is commonly accepted that *individuals* are capable of holding moral rights. We believe this because we can show that individuals either have interests that need protecting (following the interest theory), or that they have the capacity for choice (following the will theory).[50] If we take the approach of the interest theorist, we will endorse rights that protect and advance the individual's interest. If we take the approach of the will theorist, we can see that because individuals have the capacity for choice, rights can help them protect and exercise this capacity. The multiculturalist would have to claim that groups are capable of being moral rights holders, and I will question this claim. I will take it in turn to consider whether groups can be right-holders on the interest and will theories.

2.2 Arguments from the interest theory

For someone or something to be a rights-holder on the interest theory of rights, the person or group (or animal) must have interests that rights can serve to protect.[51] It is necessary for them to hold interests; however this is not a sufficient condition for them to be right-holders. On this account, remember, the right-holder does not necessarily have to be either competent to demand or waive the right, as they only need to hold interests whether they are aware that they hold them or not.

If someone claims that groups have moral rights, it seems there might be two ways we can understand them. First, we could understand them to be saying that the moral right is held by 'the group' where it is understood as a separate entity, wholly independent of the

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[49] The existence of a moral right can provide reasons, in some cases, for thinking that there should be legal rights to protect it. I would not think that this can work the other way round - the existence of a legal right does not provide us reason for thinking that there should be a corresponding moral duty. Parekh suggests that this can be the case, but does not substantiate this claim. "[I]t is a mistake to think that [legal] rights are ways of recognizing and respecting a preexisting moral status. They are also ways of conferring it, and hence the question is not whether human collectivities have a moral status but whether they should have it" (Parekh 2006, p. 215).

[50] There may be different reasons for thinking that individuals are rights-holders, but because I will only be discussing the interest and will theories of rights, I will only consider whether individuals hold the requirements to satisfy them (interests, and the capacity for choice respectively).

[51] For a detailed account of the interest theory see Ch. 1.4.3.

individuals that make it up, like the way in which we understand a corporation. This could make sense of the following sorts of claims: 'the group has interests independently of the interests the individual members might have', and 'we can protect the interests of the group even if doing so might harm the interests of the individual members.'[52] Secondly, we could interpret them as saying that the group holds interests where, by 'group', we are simply referring to a collection of individuals, or collective; the group's interests are completely explained by and reducible to the interests of the members of the group severally. On this understanding, when we say that the group has interests, we mean that all the individual members of the group hold that interest together. For example, we might say that a group has an interest in setting up a new school curriculum, where by this we just mean that the collective hold an interest in setting up a new curriculum. I think this second understanding is probably more in line with what we normally mean when we speak about groups, but I will consider both types of groups in this discussion.[53]

2.2.1 Rights held by 'the group'

If we take the first understanding of a group then we need to question whether they are the sorts of things that can hold interests. Could a group, considered as something existing independently of its members, hold any interests? It seems difficult, if not impossible, to think of any way that they could. This way of understanding groups makes them seem like metaphysically strange entities - what could a group be, considered independently of the individuals that make it up? Surely all a group *is* is a collection of individuals of which it cannot exist without. Of course, I do not deny that the members of a group can change; group members can enter and exit the group without destroying or creating a new group every time. The point is more that the group must be reliant on its members.

Perhaps one way we might try to determine whether there could be such a group is to question whether it makes sense to speak of an empty group. Consider a religious group for example. After all the members leave the group or pass away, would it makes sense to think that the group itself still exists? I do not think so. The *group* does not exist - strictly speaking the group existed in the past. When someone enters back into the group, perhaps by converting to the religion, then the group is alive or revived once again. Surely, though,

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[52] As I will discuss shortly, Taylor makes the former sort of claims.

[53] It has been suggested that there may be an understanding of 'group' which sits somewhere between the two understandings outlined here. On this understanding, a group is not *simply* a collection of individuals; it has something over and above the members which somehow binds them together. However, I fail to grasp what this 'something' might be, and to what extent it influences the members. Until a more comprehensive account of such a 'group' is presented to me, I will opt to rely on these two understandings.

it cannot exist without any actual members.[54] If we do not think that empty groups can exist, then we should not think that groups can exist independently of individual members. Groups are, then, dependent on and comprised of their individual members.

However, some multiculturalists do seem to talk about groups using this first understanding. Furthermore, they also think these groups can hold interests that can ground moral rights. Charles Taylor appears to hold this view in places (as I will show below). So I should give these arguments consideration despite my concerns about whether we can speak about groups in this way. Let us grant for the moment that there *can* be groups that exist independently of their individual members. The next question we might ask is, 'can these groups hold interests that might be protected by moral rights?' It has been suggested that there are (at least) two interests a group might hold independently of the individual group members: the interest in survival, and the interest in growing in numbers.

Taylor believes that survival, or 'survivance' as he calls it, is an interest that groups hold.[55] He tells us that "[i]t is axiomatic for Quebec governments that the survival and flourishing of French culture in Quebec is a good... It might be argued that one could after all capture a goal like *survivance...*" (1994, p. 58).[56] He also appears to think of groups as something existing independently of individuals, as the following passage indicates. Here, Taylor explains that the French language in Quebec can be seen as a collective resource. He thinks we should preserve the language not only for already existing people, but also to ensure that there will be French speaking people in the future, thereby securing the survival of the Quebec culture.

> It is not just a matter of having the French language available for those who might
> choose it... But it [the goal of cultural survival] also involves making sure that there

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[54] An alternative example was suggested to me in which an Aboriginal band has moral rights over sacred land. Imagine that all of the group members die or exit the group (perhaps by relocating, or by not claiming Indian Status). It seems that if someone were to return and re-enter the group, reviving it, they would come to hold the moral right to that sacred ground. Perhaps this suggests that the right was held by the *group* all along, whether there were people in it or not. Even when the band has no members, we still think it would be wrong to dig up or build upon the sacred land. Surely this is because we think *someone* or *something* still has a moral right to it. However, I think it is not that the group, when empty, holds the right; while the group is dormant there is no moral right over the sacred land. We just recognise that we have other reasons for wanting to protect the land. Perhaps we think it would be disrespectful to build on the land, or we might be concerned that someone could enter back into the group and revive it, and we think they should have a moral right to the land. Ultimately we can explain the intuition that the sacred land should be protected without saying that the empty group holds a right to it. Thanks to Ross Hetherington and Stephanie Rennick.

[55] Taylor actually says that these are *goals* that groups hold as opposed to interests. But for the present purposes I will take goals and interests to be the same thing.

[56] 'Flourishing', I take to be similar to 'growing'. While the word 'flourishing' may imply that the individuals themselves flourish and prosper, we should not be thinking about the impact that this has on individuals on this first understanding of groups. For the *group* to flourish would, as far as I can tell, mean that the group would grow.

is a community of people here in the future that will want to avail itself of the opportunity to use the French language... Policies aimed at survival actively seek to *create* members of the community, for instance, in their assuring that future generations continue to identify as French-speakers. There is no way that these policies should be seen as just providing a facility to already existing people.

(1994, pp. 58-59)

This implies that we should not pursue group interests for the benefit of the individual members, but for the benefit of the group itself regardless of the members. It is for the good of the group to ensure its survival (by "making sure that there is a community of people here in the future..." (1994, p. 58)) and its growth (by "actively [seeking] to *create* members of the community..." (1994, pp. 58-59)).

Hartney also considers survival and growth as the interests that a group could potentially hold. Upon considering these interests, he concludes that "... there seems to be no way in which there could be a collective interest which is morally relevant..." (1991, p. 294, p. 300). He, rightly, argues that we should reject the first understanding of a group as an entity existing independently of its individual members. While it might seem plausible to think that a group has interests in surviving and growing, these interests do not seem to be morally relevant. Similarly, we may think that it is in a car's interest to be serviced regularly, however, we would not think this is a morally relevant interest, or an interest to be protected by rights. To draw out this point, let us consider a case in which the pursuit of a group's interest conflicts with the individual members' interests.

Imagine a case in which there is an isolated community that has maintained its traditional ways of life and remained unaffected by outside influences. The group, considered independently of the group members, has an interest in surviving. However, individual members wish to leave the group. Perhaps the group members struggle to make a living without an outside education or without the help of outside technology and communication. Perhaps they do not value the culture and its traditional ways of life. They may find the cultural beliefs outdated. In this case, if the group's interest is protected by a moral right - a right to survival - the individual members will need to remain members of the group or more members will need to be recruited. The group's interest conflicts with the interests of the individual members, and if we are to protect the group's interests, we will do so at the expense of the individual members' interests. There is surely no benefit in doing this. While it preserves the group's interest - in ensuring its survival - it is damaging to the well-being of the members of the group.

The reason we might typically believe that the survival of a group is a *good* thing is that generally it contributes to the well-being of the members of the group. We might want an isolated community to survive because we believe that it provides something beneficial to the members of the group; that it promotes their interests and well-being. Cases in which the pursuit of the group's interests is in conflict with individual interests shows us that what we find fundamentally important are the interests of individuals. As Hartney explains, "the view that a collective entity can have value independently of its contribution to the well-being of individual human beings... is counter-intuitive..." (1991, p. 297). Bhikhu Parekh, although a proponent of group rights, also agrees that the interests of groups are derived from the interests of the group members: "All rights derive their justification from their contribution to human well-being..." (Parekh 2006, p. 214).[57] What we ultimately find morally important, and what we think moral rights should protect, are the interests of individuals.

So far we have seen that groups should not be considered as entities independent of the individual members that comprise them with respect to their interests. This is because it is difficult, if not impossible, to imagine what they might be like. If we do not think that empty groups can exist, then we should not think that 'groups' can exist independently of individual members. Furthermore, even if we grant that such groups could exist and hold interests, we still would have no reason to think that groups can hold moral rights. The group interests that have been proposed - survival and growth - are not morally relevant interests. The reason we may at first glance think these interests morally relevant is that, generally, the pursuit of group interests contributes to the individual group members' interests. Ultimately, however, it is the interests of the individuals that we wish to promote. It is worth pointing out that this focus on individual well-being is a classical liberal focus. Multiculturalists want to focus on groups, but in this case we can see that that focus is misplaced. I will expand on this worry in the next section.

2.2.2 Rights held by the group members severally

We must, then, hold the second understanding of groups, where 'group' refers to a collective. On this understanding, the group's interests are completely explained by and reducible to the interests of the members of the group severally. There may be interests that a group on this understanding holds that we find morally relevant. For example,

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[57] Of course, it is possible that there are some people that think that the interests of a group (to survive or to grow) should be pursued even if it is detrimental to the interests and well-being of the individual members. However, I cannot understand what justification would be given for such a position.

Vernon Van Dyke describes the Amish right to bring their children out of school early as a moral group right - a "right to maintain the religious community" (1982, pp. 27-28). We can imagine that all of the individuals in the community have an interest in maintaining the community. Similarly, an indigenous tribe in the Amazon may have an interest in remaining uncontacted by the outside world. They might have a right to maintain their traditional ways of life and interaction with the outside world would make this impossible. Also, a national group might have an interest in governing themselves, and we might think that they have a moral right to self-governance that protects this interest.

So here it looks like we actually have examples of groups, which have interests (held by the group members severally), which are also morally relevant. Some groups hold interests. The multiculturalist could argue that because these interests need to be protected or advanced, we should think the group has a moral right. Furthermore, they might say, this moral right should be protected by a legal right. In this way they could successfully justify legal group rights on the basis of moral group rights. For example, take the case of the Amish schoolchildren. We might think, as Van Dyke does, that the Amish hold a collective interest in bringing their children out of school early in order to maintain their religious community. This collective interest forms the basis of a moral group right. One might argue that this moral group right should be protected by a legal group right. This means that the state should grant them a legal group right exempting them from the general law requiring students to remain in school until a certain age. This is a collective legal group right of the type that the multiculturalist wants to justify.

However, while this route is possible, I do not think we should see multiculturalism as an attractive option. We only have reason to accept multiculturalism if it is a possibility that cosmopolitanism (or some other liberal theory) cannot adequately accommodate these rights. It needs to be shown either that multiculturalism is unique in that it can allow for legal group rights, where other theories cannot; or that multiculturalism is particularly good at accommodating or granting these rights where other theories are in some way inadequate at doing this. The problem for the multiculturalist at this point is that cosmopolitanism can allow for legal group rights in the right sorts of cases.

Remember, the cosmopolitan is concerned with protecting and promoting the interests of individuals. If it turns out that the best way to do this is to give rights to *groups*, then the cosmopolitan will grant groups rights. Take the examples given above of the Amish community and the Amazon tribe. It seems like the reason we find these interests morally relevant is that we think that protecting these interests is the best way to protect the *individuals'* interests. It is the individuals' interests that lie at the heart of our concerns, and

if the best way to protect them is by protecting the interests of the group, then we should aim to protect the interests of the group.

If we accept that the reason we find these cases compelling is because they promote individual interests, then there are three things to notice. First of all, we have no reason to choose a group-focused account over an individual-focused account. If the individuals are of primary concern then we will not want a group-focused multicultural theory.

Secondly, we have no particular motivation to choose multiculturalism over cosmopolitanism because cosmopolitans can admit group rights in the right sort of cases - that is, cases in which individuals' interests are best served by groups holding rights. Of course, the cosmopolitan will only be supportive of such group rights if it turns out that they actually *do* protect and promote the interests of the members, and this will be difficult, if not impossible in many cases to determine. For example, a group might make the case that it has a moral right to self-government which should be protected by legal rights, and claim that holding this legal right is the best way to promote the interests of the individuals. We might question, though, whether the interests of *all* the members are best served by granting such rights, or just the interests of the leading elite.

Susan Moller Okin criticises multiculturalism on these grounds from a feminist perspective.

> [P]olicies designed to respond to the needs and claims of cultural minority groups must take seriously the urgency of adequately representing less powerful members of such groups. Because attention to the rights of minority cultural groups, if it is to be consistent with the fundamentals of liberalism, must ultimately be aimed at furthering the well-being of the members of these groups, there can be no justification for assuming that the groups' self-proclaimed leaders - invariably composed mainly of their older and their male members - represent the interests of all the groups' members. Unless women... are fully represented in negotiations about group rights their interests may be harmed rather than promoted by the granting of such rights.
>
> (1999, pp. 23-24)

We may worry that the weak or less powerful group members - often women, children, the elderly, and the poor - are persuaded to believe that self-government is the best way to promote their interests, when in reality it will further entrench the power relations of the group and benefit a select few. Even if we do believe that self-government rights (granted

to groups) *will* best promote the interests of individuals, we will have to feel confident that these rights not only protect those individual interests now, but also in the future, and for future generations. Cases in which we think the best way to protect the interests of individuals is to give the *group* the legal right are unlikely to arise very frequently.

This leads to the third point: given the rarity of such cases, it seems unadvisable to hold a politics centered on granting such rights. We should not want a political structure based on such infrequently occurring circumstances. What is supposed to be the unique selling point for multiculturalism is that it focuses on groups instead of individuals, and because it focuses on groups it supports legal group rights. First of all, such a politics is unnecessary, as we will rarely find cases in which groups should be granted such rights, and in those rare cases cosmopolitanism can account for them. Secondly, this politics might actually be dangerous because a politics that grants groups rights too easily risks sacrificing the rights of individuals. There is a worry that endorsing a political theory of which the defining characteristic is granting legal group rights might result in us granting them more often than is strictly necessary. We might be encouraged to give groups rights, even when we are unsure of whether it is a good idea to do so, in order to justify the political system we are employing. But there are risks to granting group rights in cases where we are unsure; sometimes granting groups rights can lead to the disadvantaged being further suppressed. This fear then makes multiculturalism appear a very unattractive political theory.

The multiculturalist will not want to justify legal group rights on the basis of moral group rights from the interest theory. These arguments will either be unsuccessful (as is the case with thinking that groups have interests independently of the interests of individual members), or will not encourage us to support multiculturalism (as is the case with thinking that groups are a collection of individuals and have interests). Perhaps one might think that the multiculturalist will have more success in arguing from the position of the will theorist.

2.3 Arguments from the will theory

For the will theorist, rights function to allocate domains of freedom and help the rights-holder express her freedom (Wenar 2005).[58] On this account, the rights-holder has

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[58] For more on the will theory, see Ch. 1.4.3.

discretion over the duties of others, meaning that they must hold power-rights and have the ability to exercise these rights.

In this section, I will first look in more detail at what it must mean to be a right-holder. Because the will theory requires that the right-holder can act to exercise his right, the right-holder must be an agent. It might be argued that the will theory demands a robust sense of agency that makes it impossible for groups to hold rights outright. However, I will explore the possibility of holding a limited sense of agency on the will theory, drawing from a recent article by Adina Preda (2012). The will theorist and the multiculturalist would both be better to adopt a limited sense of agency if they want a better chance of justifying legal group rights. I will argue that with limited agency it *could* be possible to argue for moral group rights. However, the only groups that could qualify as right-holding agents are groups that are organised and have clear collective decision-making procedures. The types of groups the multiculturalist typically wants to seek group rights for do not fit this criteria, so even if we allow for limited agency and grant that groups can be right-holders, the multiculturalist will still not be able to establish the sorts of rights she wants on the will theory.

2.3.1 Robust or limited agency

The first step to determining whether a person or group can be a right-holding agent is to determine what criteria a right-holder must satisfy on this account. There are many different criteria that we might expect an agent to meet. We might question whether the agent can be held morally responsible, whether we think the agent can act intentionally, or has a capacity for choice, for example. We might require that the agent be rational or autonomous. We can require more or less of these criteria to be met by an agent depending on what theory we are working with and what we expect the agent to do. As a consequence, we can have more robust and more limited senses of agency. For example, Carl Wellman, Philip Pettit and James Griffin all demand what we can call a robust sense of agency. Wellman requires that the agent is morally responsible, which presupposes the "capacity to become aware of the relevant facts, to appreciate their moral relevance, to be motivated by them, and to act in some broad nonmoral sense of doing something or other" (p. 1995, p. 113). Pettit requires that the agent is rational (2009, pp. 68-69). Griffin requires that the agent is autonomous; she must be able to choose her course in life (Griffin 2001, p. 311). On Preda's account, a robust or "full-blown agent needs to be able to choose one's goals, after careful deliberation and reflection and be able to revise them in the light of moral

reasons. Autonomous agency thus requires certain capacities that only a conscious, reflective being is capable of" (2012, p. 233).

Those arguing against group rights on the will theory often assume a robust sense of agency. While it may be easier for me to follow in their footsteps, I will instead argue that on the will theory of rights, an agent does *not* need to have a robust sense of agency. This gives the multiculturalists the benefit of the doubt. I will nevertheless show that they still cannot succeed in justifying legal group rights even with this concession.

Some will theorists may nevertheless choose to take a robust sense of agency. However, there are two reasons for why they should prefer limited agency where possible. First of all, if they opt for a robust sense of agency then it will be more difficult to argue that groups can be considered agents, as it will need to be shown that they can meet *more* criteria than would be required for a limited sense of agency. For example, suppose that to hold a robust sense of agency, one must be an autonomous agent. Such an agent would have to have a mind, the capacity for intentional action, a capacity for choice, the capacity for rational thought, and the capacity to act autonomously. To hold a limited sense of agency, on the other hand, an agent must only have a capacity for intentional action and a capacity for choice (so I will argue). Clearly the criteria for robust agency, on this account, are more demanding.

Secondly, limited agency may allow the will theorist to avoid a damaging line of criticism. The most pressing criticism that the will theory faces is that it cannot account for the rights of certain sets of people - children and the mentally infirm, for example. These people are not capable of exercising a power-right, and as a result it appears that they are immediately excluded from holding rights on the will theory. If these sets of people are excluded from holding rights outright, then so too are groups. The will theorist needs to be able to respond to this criticism in order to explain how children and the mentally infirm (and perhaps even groups) can hold rights.[59]

If the will theorist opts to hold a limited sense of agency, then he will be able to attribute rights to more people because limited agency has fewer criteria for potential agents to meet. Many children or people suffering from mental disabilities may lack a capacity for autonomy, yet still possess the capacities for intentional action and a capacity for choice. Adopting a limited sense of agency, then, allows the will theorist to attribute rights to more people rather than less, and avoid this criticism to a certain extent.

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[59] Of course, the will theorist can choose to bite the bullet and maintain that these people *do not* hold rights. The rights might, for example, be held by other people who care for them. However, this thought runs contrary to how we normally understand rights, and the onus is on the will theorist to convince us that, although counterintuitive, this account can work. For more on this problem, see Ch. 1.4.3.

For these reasons, I will assume that it is in the will theorist's and the multiculturalist's best interest to assume a limited sense of agency where possible.

2.3.2 What does limited agency require?

On the will theory, all rights are Hohfeldian power-rights. They give the right-holder discretion over the duty of another. In order to be able to make use of this right, the agent must be able to enforce or waive the right. Typically we would think that for a person to be able to do this, she would have to be able to deliberate and decide whether she wants to waive or enforce the duty. Making choices and decisions means that she can control the performance of the duty. She would also need to have the ability to act on those decisions, and in this way act intentionally or purposely. For this reason, an agent must at the very least have the capacity to *act,* to act *intentionally*, and to make *choices*. I will consider the capacities for intentional action and choice in the next section. Here, I will consider whether or not the will theory further requires agents to be *morally responsible*, and have a *mind*.

Some accounts of agency would require agents to be morally responsible. We commonly think that people should be held morally responsible for their actions, however we do not want to hold people morally responsible when it is apparent that they cannot weigh up options and make their choices rationally and autonomously. For example, we do not hold children morally responsible to the same extent that we do adults because we might think that they lack the knowledge and maturity to consider their options properly and make autonomous decisions. Of course, we might think that this responsibility can be held by someone other than the agent; for example, parents may hold responsibility for a child's actions. Perhaps, then, we might think that a third party can hold responsibility for a group's actions, but this would not be a case of the *group* having moral responsibility; someone else would have it. However, I doubt that one would want to take this route; holding one person responsible for an entire group's actions would be grossly unfair. If we are to take a limited sense of agency though, the group itself should not be held morally responsible. Moral responsibility is something we would expect of someone holding a rather robust sense of agency. They should be able to deliberate and understand the weight of their action. As the will theory of rights does not specify that an agent must make choices rationally or autonomously, or that they must in any sense be *moral* agents, we can conclude that moral responsibility is not required by the will theory of rights.

There are theorists that argue that groups can be held morally responsible (termed collective responsibility). For example, Peter French argues for a robust sense of agency upon which we can hold corporations responsible (1984). Farid Abdel-Nour (2003) and Christopher Kurtz (2000) both argue that nations can be held responsible for injustices committed by past generations. While it might be the case that we *can* hold groups responsible, I do not find it strictly *required* by the will theory.

Does agency require that the subject have a mind? If an agent can act intentionally, then it may be the case that he must have a mind. Intentions are generally considered to be mental states, and to have mental states one must have a mind. If all intentions are mental states, then the ability to act intentionally should mean that the subject has a mind. In the case of collective intentions, this leads us to the rather strange conclusion that we can have shared minds; a conclusion that many philosophers prefer to resist. As Brook Sadler explains,

> If intentions are mental states, states which play a fundamental role in an agent's practical deliberation and volition, the prospect of a *shared* intention introduces the specter of shared mental states and hence of shared minds.
>
> (2006, p. 115)

John Searle also highlights the reluctance of philosophers to accept the idea of group minds. "I find this talk [of group minds] at best mysterious and at worst incoherent. Most empirically minded philosophers think that such phenomena must reduce to individual intentionality..." (1990, p. 404).

It may indeed seem odd to think that a group of people can have a shared mind. In order to hold this view, it might mean that we have to go as far as to accept the extended mind hypothesis (Clark and Chalmers 1998). According to this theory, minds are not only located in the brain or even the individual's body, but they also extend into the environment. To accept the idea of shared minds, we might also have to accept that our minds are accessible by other minds. Locating the mind, and explaining what it actually is would be very challenging if we accept this.

However, I think that the plausibility of a group mind depends on what understanding of 'group' we hold. It seems particularly strange if we take the first understanding of a group, as something with its own ontological status, existing over and above all the individual members. Surely a group, on this understanding, cannot have a mind. It does not seem metaphysically possible for a mind to exist independently of *any* physical body.

On the other hand, if we take the second understanding of 'group' as a collection of group members, then the idea of a group mind could perhaps be more plausible. Maybe a group mind can simply be understood as a collection of individual minds, not as a metaphysically strange property existing somewhere outside of any brain or body.[60] This is what David Sosa argues.

> [A] group has a mind only in a derivative sense: the persons that are members of the group have minds, and the group's mind (in whatever sense it has one, its beliefs and desires) is some sort of construct from those minds.
>
> (2009, p. 215)[61]

The idea of group minds seems too problematic for some, and certain philosophers have taken the route of arguing that the presence of shared intentions does not entail that groups have minds. David Velleman for example argues that intentions do not need to be considered mental states. While he does believe that there are intentions that *are* mental states and must be held in the mind (for example, thoughts that we have), some intentions can be written or oral, and *these* intentions should not be seen as mental. If we consider oral and written intentions, the idea of shared intentions might also seem more plausible. Velleman argues that we can make decisions through discussion and we can make commitments in writing. If I can commit myself to act in a certain way through speaking or writing then there is a sense in which I can come to hold an oral or written intention (1997, p. 37). A shared (non-mental) intention must simply be something that is made public - an "utterance, inscription, or depiction of some kind" (1997, p. 38).

It is an open question as to whether a subject must have a mind in order to hold intentions, then. For this reason, I will not consider it a requirement that a subject have a mind in order to be considered an agent on the will theory. To meet the criteria for limited agency, it is both necessary and sufficient that the subject has both a capacity for intentional action and a capacity for choice. Demanding that the subject has a mind and can be held morally responsible is unnecessary. However, these criteria may be required if one is to seek a robust sense of agency.

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[60] It could also be argued that *individuals* have more than one mind. Glen Weyl draws on psychological studies to argue that an individual can have multiple selves (2009). Preda takes Weyl to mean "that individuals themselves have more than one mind..." (2012, p. 244).

[61] Sadler (2006) and Pettit (2003) also argues that there can be group minds.

2.3.3 The capacities for intentional action and choice

So far, I have simply stated that to be a right-holding agent on the will theory, the subject only needs to hold a capacity for intentional action and a capacity for choice. Before examining whether or not we think groups *can* be right-holders, we should get clear as to what we mean by these terms. First, let us ask what is meant by 'intentional action'. I will be largely relying on a theory of intention proposed by Michael Bratman.[62]

We can distinguish between actions that are performed intentionally, and actions performed unintentionally. If I trip down the stairs accidentally, that is an action, but I had no *intention* of tripping down the stairs. We need to figure out what makes certain actions intentional.[63] According to Bratman's 'planning theory of intention', for someone to have an intention to act in a certain way, they must have some future-directed plans. People are constantly making and revising plans for the future, whether these are plans for the immediate or distant future. The plans we make guide our later conduct (Bratman 1987, p. 2). Agents that act intentionally, on this view, both have the capacity to act purposively and the capacity to formulate and execute plans. On this account, intentions are not reducible to an agent's desires and beliefs, but can be connected to them (1987, p. 10).

Bratman argues that we are the type of beings that like to plan. His view is appealing for two reasons. It allows agents to deliberate and rationally reflect on future actions. It also allows agents to co-ordinate their actions. If I want to succeed in some of my goals, I will need to co-ordinate my actions between now and the time of completion. For example, if I want to give a talk at a seminar, I will need to co-ordinate my commitments and allocate time towards working on the talk before the date I am to present. I require *intrapersonal* co-ordination. I also need to co-ordinate with others in some cases. If I am to successfully meet my fellow postgraduates for a seminar, we will need to organise a time and a place to meet. In this sense, I also require *interpersonal* co-ordination (1987, p. 2).

It is important to point out that it is not *necessary* for an agent to have any prior deliberation or decision-making procedure in order to formulate intentions. This would demand that intentions are something stronger than they need to be. For example, I could hold the intention to stop at the bookstore on my way home. However, I might not necessarily have gone through any in depth decision-making procedure, or deliberated, or even come to hold a belief that I *will* stop at the bookstore on my way home. I may realise

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[62] I have chosen to adopt Bratman's theory of intention because I think it is intuitive, but the will theory could be modified to fit other accounts of intention, such as G. E. M. Anscombe's desire-belief theory for example (1963).

[63] Here I will understand 'intentional action' and 'acting with intention' synonymously, although I understand that some theorists understand them to mean different things. For instance, Carlos Moya talks about the difference between these terms. See Moya (1991).

that I am rather absentminded and if I go into autopilot I will likely fail to stop at the store. Bratman explains that in this case, I might not believe that I will *fail* to stop, but I also might not believe that I *will* stop (1999, p. 31). Despite my beliefs, I can still hold an *intention* to stop at the store.[64]

A capacity for choice means, simply, that the agent must be able to make choices. The agent must have the ability to select between two or more options.[65] Choosing, unlike holding intentions, necessarily requires making a decision. "Making a choice means forming an intention to act after a process of selection among alternatives, which should be accompanied by a degree of awareness on the part of the decision maker" (Preda 2012, p. 247). This criterion is more demanding than the capacity for intentional action because it *does* require the agent to deliberate to come to some conclusion on how she will act. So we can consider the capacity for choice to require the capacity for intentional action, plus some awareness that allows the agent to have meaningful deliberation between options. For a subject to have this capacity, she would need to be competent, be able to deliberate, weigh up her options, and come to a decision on how to act.

2.3.4 Can groups meet the criteria for agency?

Now that we have a basic understanding of what we mean by intentional action and a capacity for choice, we can ask if we can attribute these to groups. If groups can be said to have a capacity for choice and act intentionally, then they can be considered agents on the will theory. If they are agents then they are capable of holding rights. If the multiculturalist can show that they have moral group rights, then they might be able to argue that they should have legal group rights.

In this section we can again distinguish between the two ways of understanding a 'group'. Firstly, we can understand a group as an entity existing independently of its individual members. Taking this understanding, we can question whether such a group can act intentionally. Immediately it seems implausible that such a group could have intentions. It is too unclear what a group even is on this understanding. It does not have a body and we cannot locate it. It is simply unhelpful to try to understand a group in this way. Many critics of group rights point to the fact that groups cannot have an ontological status

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[64] Donald Davidson also makes this point. "Someone may intend to build a squirrel house without having decided to do it, deliberated about it, formed an intention to do it or reasoned about it" (1980, p. 83).

[65] Minimally, the agent must have epistemic access to options even if those options are not metaphysically real.

independently of their members and so therefore cannot be right-holders. For example, Jan Narveson asks

> [H]ow could a collectivity as such ever either impose or release one from any such obligations? Since collectivities do not have minds and cannot act, that would seem not to make any sense... The collectivity would become some sort of metaphysical slave-master to whom members were bound without recourse.
>
> (1991, p. 332)

It does not make sense to think of groups as existing distinct from the individual members that make it up. So talk of rights does not even get off the ground for groups on this understanding.

However, I think that if we take the second understanding of a group, we will have a better chance of finding that groups can be considered agents. On this understanding, a group is a collective. First we need to determine if such a group can act intentionally, and it seems likely that it can. A collective of individuals can certainly *act.* They can play a game of football together, walk together and dance together. We can also say that they act *intentionally,* because a collection of individuals can formulate plans and act on them. They do this through discussion and deliberation. This process can be seen as similar to the formulation of intentions on an individual level. We might view intentions as the result of an internal dialogue between competing desires, beliefs and goals that we hold. "Just like an individual needs to engage in an internal dialogue in order to make a decision, the group members will need to engage in a dialogue in order to reach a single, collective intention" (Preda 2012, p. 245). The only difference is that in the group, the deliberation is done out loud.

A group of university students organising a protest can stand as an example of a group acting intentionally. Imagine that the students plan, through meetings and social media, to protest against a university decision. They not only plan the protest, they also carry out their intended action. In this case they have both planned and acted collectively, so we can say that group has the capacity for intentional action. Of course, groups do not need to formulate their plan beforehand; they can act intentionally without prior deliberation. Image a group of people are walking towards the beach when they come across a fallen tree that has blocked the path. They all spontaneously grab hold of the tree to remove it from the path. They acted intentionally in moving the tree, and it was a step that was

necessary to complete in order to follow through with their plan (to get to the beach). But they did not need to deliberate and discuss their intention to move the tree.

So groups can act intentionally, but for groups to be considered right-holders, the will theorist also needs to show that they can have a capacity for choice. This is a more demanding criterion, for while many groups can jointly hold intentions and act on them, not all of them can collectively make choices.

For a collection of people to be able to make choices together, they will need to have some sort of procedure for arriving at a decision. Without a certain level of organisation the group may act, but not be able to collectively decide on how to act. Consider the example of an angry mob. We might think that an angry mob is capable of acting intentionally despite lacking a procedure to decide on how to act. A mob may storm the parliament buildings and attack police. They do this spontaneously, getting caught up in the fervor of the crowd. The individuals of the group may act through imitation, drawing on a sense of solidarity. Larry May analyses Sartre's account of the storming of the Bastille. He comments that,

> Solidarity turned the crowd in the Paris streets into a mob. It is the relationship of solidarity that makes the difference, and that makes it possible for the actions of these individuals to be treated as if they were the actions of a single entity.
>
> (May 1987, p. 37)

The angry mob presents an interesting example because this collective is able to act intentionally when looting, rioting and attacking, however they are unorganised and lack a decision-making procedure. Their actions "were not structured; there was no formal organizational structure through which decisions were made by the members of this mob of Parisian citizens" (May 1987, p. 35).

Because the mob lacks a decision-making procedure it cannot be said to have made collective choices. I will follow Preda in arguing that only organised groups can have this capacity for choice.[66] In order to be considered an organised group, the group must have a collective decision-making procedure (CDMP).[67] This decision-making procedure must be

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[66] French makes a similar argument, claiming that corporations can have group rights because they have 'Corporate Internal Decision Structures' (CID Structures) (1984).

[67] This is a term coined by Preda (2012, p. 248).

public, as the people participating in it must be aware of how the group comes to make decisions and endorse it.[68]

A CDMP is any procedure that can be used to come to a collective decision. For example, the most common form of CDMP will likely be a democratic voting system. Information on candidates and parties is made publicly available, and each citizen has one ballot with which they can choose to register their preference. The procedure does not have to be legally enforced or outlined in any formal documents, however. A smaller collective may hold a CDMP that asks members to vote by raising their hands. A count of hands is enough to determine what the majority of the group wants to do, and it is understood that the group will abide by a majority decision. Alternatively, there may be elected representatives that are invested with the power to make decisions on behalf of the group. While it is not the case that every member actively participates in making the decision, it is understood that the decision-making procedure does not require that; it merely requires that the representative act on citizens' behalf. On the other hand, certain CDMPs may require that all members of the group actively endorse the decision. For example, a jury may be required to come to a unanimous decision on whether an offender is guilty or innocent of the charges pressed against him. The jury will discuss and deliberate the case until the final verdict is unanimously endorsed; otherwise the trial results in a hung jury, indicating no decision has been made.

Importantly, the CDMP must be public. This requirement ensures that the members of the group are aware of how the collective reaches decisions. It can be divided into two requirements: first that the group members are *aware* of the decision-making procedure, and second that they *endorse* it. We should require that group members must be aware of the CDMP because if group members do not hold a certain degree of awareness regarding the way choices are made then they cannot be said to be playing a role in the decision making process (or, if they are playing a role, they are doing so unknowingly or under a false understanding). As a result, the group cannot be said to be organised to the extent required to make a truly collective choice. For example, imagine a religious community in which a select group of individuals secretly hold meetings to make decisions for the community as a whole. They have a way of determining how they will reach their decisions, but they do not share this knowledge with others in the community. As the decision-making procedure is kept secret and few members of the community are aware of it, it cannot be said to be an organised group in the sense we require.

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[68] Here, I mean public in the sense of being known to all group members, but it does not necessarily have to be known to outsiders.

We should also require that group members endorse the CDMP to a certain degree. This means that group members should not only understand how the decision-making procedure works, but also support the procedure. The members must feel confident, to a certain extent, that it is a fair way of coming to a collective decision. The CDMP should not face substantial criticism or rejection by many. In most cases, tacit endorsement seems sufficient (particularly with larger groups in which explicit endorsement could be an overly demanding requirement). There is a normative point to be made here: as liberals, we believe that a fair system for decision-making should ensure that every member has an equal opportunity of participation in the political decisions that will affect the group. However, I do not here wish to rely on this normative point (for which I am unlikely to garner support from non-liberals) but instead on a more basic point: a procedure that is not endorsed by its members cannot count as a *collective* decision-making procedure.

Let us consider an example to illustrate why this is so. Imagine we are in a strongly patriarchal community in which the men, together, make all the decisions. Women may be aware of the decision-making procedure, but they do not endorse it. They do not necessarily have to make vocal their dislike of the procedure. It may not even cross their minds that there could be a different system, one that took their opinions into consideration. However, by *not* taking women's opinions into consideration, the male decision-makers are making it clear that their opinions do not count. Women are helpless to do anything that improves their position, and have no control over decisions that impact on their lives. The decisions made by the men will be enforced regardless of the beliefs of the women in the group, however strong. Whether or not women voice discontent, or whether or not they remain silent and withdrawn regarding political decisions, it is clear that they do not play any role whatsoever in the decision-making process. Not only do they not actively participate (for example, by voting), their views are also not represented and they remain politically invisible. Surely, then, such decisions cannot count as collective decisions when the beliefs and attitudes of a section of the community are not taken into consideration at all.

For this reason, it is important that the group members endorse the CDMP. Perhaps we can have a patriarchal community in which all of the women endorse the CDMP in which men make all of the decision. However, if at any point they *do not* endorse it because they are not being represented, then the decision-making procedure should no longer be considered 'collective', and as a result, the choices made will not be collective choices.

To recap, then, it is possible to have groups that have the capacity for choice. These groups will be organised groups. Organised groups hold a CDMP that is public, meaning

that group members must be both aware of how the procedure works and they must endorse it. This means that it is conceptually possible that some groups - which are capable of intentional action and are organised - could be considered agents on the will theory. As a result, these groups could be moral right-holders. The most likely candidates for agency on this view are states, nations and corporations. However, universities, armies, governments and other groups which hold a degree of organisation could also be considered (Miller 2002b, p. 275). Corporations, for example, have the capacity for intentional action because they clearly plan their future actions. They also have the capacity for collective choice because they have a CDMP that all group members (such as employees, CEOs, and shareholders) are aware of, and endorse.

Unorganised groups will not be considered agents on this account. This means that it is unlikely that ethnic groups, immigrants, women, the working class, linguistic groups and cultural groups will meet the requirements of agency (Preda 2012, p. 251). Linguistic groups, for example, are unlikely to have a capacity for intentional action. They do not typically plan their future action together. However, even if they do have a capacity for intentional action, they are unlikely to hold a CDMP and thus a capacity for choice.

There are two important things to note about this conclusion. First of all, this is in line with the way most legal systems currently ascribe rights. Rights are usually only granted to organisations with clear structures and decision-making procedures such as corporations and states (Preda 2012 p. 252). This account can explain why it is that we think it might make sense to grant organised groups rights - because they have clear CDMPs - and why we are reluctant to grant unorganised cultural groups rights.

The second point to note is that multiculturalists will not be satisfied with this conclusion. While this account shows that it is conceptually possible for groups to have moral rights by giving them a limited sense of agency, it does not allow room to grant unorganised ethnic, cultural or linguistic groups rights. This falls far below the goals of the multiculturalist, who wants a system for granting group rights even to ethnic and cultural groups.

On the other hand, the multiculturalist may choose to accept this account, and only grant group rights to organised collectives. However, if she chooses to do so, she faces another problem: her account becomes indistinguishable from any other liberal account. The multiculturalist will then fail to say anything interesting. To reiterate a point made in the last section, what makes multiculturalism a unique theory, different from cosmopolitanism, is that it is able to prioritise groups and grant them legal rights. Most liberal theories will already accept that we can grant rights to organised groups with

CDMPs, in the rare cases in which such rights might be appropriate. For the multiculturalist to hold a distinct position, she will want to extend group rights even to those groups that lack CDMPs.

Given that we cannot extend group rights to unorganised groups, we lose any incentive to choose a theory of multiculturalism over a cosmopolitan theory. As mentioned earlier, we may even have an incentive *not* to employ a multicultural theory. This is because doing so could encourage us to grant group rights more often than is strictly necessary just in order to justify employing the theory in the first place. So not only do we have no reason to choose multiculturalism over cosmopolitanism, we have reason *not* to choose multiculturalism, as it might lead us to grant group rights in unwarranted cases.

In this section I looked at whether it was possible for groups to hold moral rights on the will theory. It could be argued that a robust sense of agency is required, thereby ruling out groups as agents outright, but I argued that there may be room for the will theorist to adopt a limited sense of agency. Multiculturalists would, then, have a better chance of grounding group rights with limited agency.

There are two basic criteria that an agent on the limited sense of agency is required to meet: they must have the capacity to act intentionally and the capacity for choice. To have a capacity to act intentionally requires that the subject is able to formulate plans to guide her future actions. To hold a capacity for choice requires that the subject is able to deliberate and decide in the face of competing options, how she will act.

A group, understood as a separate entity, cannot act, act intentionally, or have a capacity for choice, so cannot be considered a right-holding agent. A group understood as a collective, though, could be considered an agent. Some groups can have a capacity to act intentionally, and have a capacity for choice. They can only have a capacity for choice, though, if the group is organised. This means they must have a CDMP, which must be public (meaning group members must be publicly *aware* of the workings of the decision-making procedure, and they must, to a certain extent, *endorse* the procedure). Without such a procedure in place, the decisions reached cannot be truly collective choices. Therefore, organised groups like corporations or states might fit the criteria for limited agency and thus be considered right-holders. However, unorganised groups will not be considered agents. This means that cultural, ethnic, racial and linguistic groups are unlikely to be considered agents on the will theory. This conclusion will be unsatisfactory for the multiculturalist, as she will want an account to allow rights to be granted even to these unorganised groups.

The will theorist multiculturalist has run out of possible avenues of justification for moral group rights. If she opts for a robust sense of agency, group rights are ruled out straightaway. If she opts for a limited sense of agency then she will still be unsuccessful in grounding the group rights she needs because group rights can only be justified for organised groups. She could choose to bite the bullet and accept that only organised groups can be rights-holders. However, if she concedes this, then her position will no longer be in any way unique or different from cosmopolitanism. Furthermore, we even have reasons *not* to endorse a theory of multiculturalism, as doing so will likely encourage the granting of group rights more often than is warranted.

2.4 Conclusion

In this chapter I considered the possibility of multiculturalists grounding legal group rights on moral group rights. The multiculturalist could either argue from the position of the interest theorist, or that of the will theorist.

It could be possible to argue that groups have moral rights on the interest theory. For example, we might think that a nation can have an interest in governing itself, or that a tribe has an interest in remaining uncontacted by outsiders. These interests are morally relevant, and they might be enough to ground legal rights. However, the reason why we think these groups might have moral rights is because we think that the group having rights will be the best way to protect the interests of the individual members of that group. Surely we would not want to protect the interests of the group if doing so was harmful to the interests of the individuals; we only want to protect the interests of the group if doing so benefits them.

This conclusion is problematic for multiculturalists for a few reasons. First, it shows that what we are really concerned with are individuals, so we have no need for a group-focused account like multiculturalism. Second, cosmopolitans can also accept these grounds for granting groups rights, so multiculturalism is not unique in that it can ascribe rights to groups in these cases. Third, multiculturalism could actually be seen as an unappealing option. Holding a multicultural politics may lead us to grant group rights more often than is necessary, and this can have damaging consequences for individuals. So, although following the interest theory can lead us to think that groups can have moral rights, moral rights that might suitably ground legal rights, we do not need multiculturalism to grant these group rights. In fact, we have reason not to choose multiculturalism.

The second section looked at whether the will theory can provide the multiculturalist with a better chance of justifying group rights. To give the multiculturalist the benefit of the doubt, I accepted that the will theory only strictly requires a limited sense of agency. (A robust sense of agency would rule out group rights from the start). If the group is able to act intentionally and if it has a CDMP, then the group can be considered a right-holding agent. This will be unsatisfying for multiculturalists, though, because the groups they want to establish rights for are typically not organised in the sense of having a CDMP. The multiculturalist could choose to accept that only organised groups can hold rights. However, other theories, such as cosmopolitanism, already allow for these types of groups to be right-holders. For the multiculturalist to hold a unique position she has to claim that her theory is better at granting group rights than rival theories, otherwise we have no reason for choosing multiculturalism over cosmopolitanism. The multiculturalist will have to look for other ways to justify legal group rights, as basing them on moral group rights will not be fruitful.

There are other ways in which the multiculturalist might justify legal group rights. For example, they may appeal to the importance of culture, nationality or ethnicity and argue that these types of groups must be protected by legal group rights. I go on to address such arguments in Chapters 3, 5 and 6 and find that they are unsuccessful. However, these justifications, if plausible, would not be as appealing as a justification based on a pre-existing moral right. Because multiculturalists cannot rely on a justification derived from moral rights, they will have to resort to arguments that are not as straightforward and uncomplicated as they would have hoped. As a result, the arguments we will face from the multiculturalists in the succeeding chapters will be open to more criticism as they look for ever more complex arguments to justify their position.

3. Culture

3.1 Introduction

In this chapter, I will examine the concept of 'culture', and how it is used to lend support to multicultural theories. As I outlined in Chapter 1, multiculturalists focus on groups, and grant certain groups group rights. Some multiculturalists focus on giving *cultural* groups rights. As the name suggests, multi*culturalists*, of all varieties, share a common concern for cultural groups. Here, I want to consider why they think that cultural groups are important units of concern.

In order to figure out whether the concept of culture can be helpful to the multiculturalist, we must first try to understand what we mean by 'culture'. Not only does the academic usage of the term differ from the common usage, there are also many different understandings of culture in the literature on multiculturalism. The fact that this concept is ill-defined leads to confusion. Of greater concern, it seems that multiculturalists use the term in a misleading way. As I will show throughout this thesis, the multiculturalist relies on some very nebulous concepts in order to give their arguments normative weight. A lot of the reason behind why we think that these concepts are important has to do with the history and political usage of the terms. (For example, perhaps we are using 'culture' to refer to people of a different race, but choose to speak in terms of culture because in order to avoid charges of racism.)[69] So it is not enough for me to simply provide a definition of the term then move on to examine the role it plays in the multiculturalist's argument; I must provide a more comprehensive understanding of the concept in order to draw out the reasoning behind why the multiculturalist relies on it.

After examining the concept, I will take a careful look at how it is used by a well-known multiculturalist in order to highlight the differences between the multiculturalist's use of culture, and our common understanding of the term. I will then provide a critique of the concept of culture. Drawing on anthropological literature, and the work of Anne Phillips, I will argue that there are (at least) five errors about culture that people commonly

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[69] This argument has been put forward, for example, by Gill Seidel (1986). As Ralph Grillo explains, "it was no longer possible to speak publicly of perceived difference through the language of the 'old racism' which events of the 20th century had so discredited. Thus new/cultural racism was a subterfuge, veiled speech, hiding old racism from the public gaze" (2003, p. 163).

make, and that multiculturalists rely upon.[70] Namely, they often: assume that cultures are fixed and unchanging; reify cultures; give cultures explanatory force; give culture determinist force; and give culture normative force. I will argue that the multiculturalist commits some, or all, of these errors, leading them to hold a problematic understanding of culture. However, if we hold an accurate understanding of culture, we will come to see that cultural groups are not as tangible as the multiculturalist makes out. Because of this, cultural groups are not the sorts of groups that can ground group rights of the type that the multiculturalist is after.

The result of this analysis will not leave us thinking that cultures or cultural groups are unimportant, but it will make it clear that cultural groups are not suitable rights-holding entities of the type multiculturalism requires. The multiculturalist will have to look to other types of groups (for example, national groups or ethnic groups) to find a basis for group rights.

3.2 The meaning of 'culture'

In this section I will look at our common understanding of culture, and the etymology of the word. This should give us a general feel for the use of the term.[71] I will then look at how the multiculturalist uses the word, in this case focusing specifically on Kymlicka's work. This will show that multiculturalists use the word differently from the way we commonly do, and will draw out why their unique usage of the concept is problematic.

In everyday language we use the word 'culture' to refer to a number of things. In one sense, we can speak of culture as the cultivation of the arts - plays, music, books, paintings for example - topics often found in the 'culture' section of the newspapers. In another sense, we can speak of a culture as a group of people sharing something in common - a way of life, or a set of beliefs. A person may be part of many different cultures. For example, I might consider myself to be part of a British culture, a Scottish culture, and an academic culture. People might feel that they are part of a certain religious culture (a Hindu culture), national culture (American culture), political culture (Marxist culture) or social culture (Hip hop culture). There may be various reasons for thinking that

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[70] Phillips herself does not highlight five distinct errors but I think we can identify (at least) five errors about culture in her critique.

[71] To be clear, I am not looking for a strict definition that will give us necessary and sufficient conditions for a group to be considered a cultural group, I am merely looking for a reasonably clear definition in order to grasp the way in which we commonly speak of 'culture'. This will help us to compare it with the way the word is used by multiculturalists.

membership in any of these groups is important, and membership in some groups will be more important to us than our membership in others.

Culture is etymologically connected with the words 'cultivate', 'cultivation', 'agriculture' and 'horticulture'. This sense of the word allows us to speak of 'cultivating' something, and in seventeenth century English it was used as a metaphor for human growth and development. Thus, a 'cultured' man meant a good specimen of the English man (Barnard and Spencer 2010, p. 168). In the eighteenth century the term was used more generally to apply to a plurality of cultures, of "humanity being divided into a number of separate, distinct *cultures*" (Barnard and Spencer 2010, p. 168).

The present meaning of the word is often traced back to a definition provided by the anthropologist Sir Edward Burnett Tylor:

> Culture or civilization, taken in its wide ethnographic sense, is that complex whole which includes knowledge, belief, art, morals, law, custom, and any other capabilities and habits acquired by man as a member of society.
>
> (1871, p. 1)

Of course, the word 'culture' back in those days would have been used differently than it is today. It would have more commonly meant "[t]he cultivation or development of the mind, faculties, manners, etc.; improvement by education and training," or "[r]efinement of mind, taste, and manners; artistic and intellectual development. Hence: the arts and other manifestations of human intellectual achievement regarded collectively" (OED 2014).[72] We have since abandoned this hierarchical meaning (of some people being considered more 'cultured' than others), and adopted a more neutral understanding of the term, as outlined by the *The Oxford English Dictionary* definition:

> The distinctive ideas, customs, social behaviour, products, or way of life of a particular society, people, or period. Hence: a society or group characterized by such customs, etc.
>
> (OED 2014)

We might want to ask how cultural groups differ from other groups. For example, how does this definition of 'culture' differ from definitions of 'nation', 'ethnic group', or

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[72] As illustrated by Samuel von Pufendorf: "Men of any tolerable Culture and Civility must needs abhor the entring into any such Compact..." (Barbeyrac. et. al 2011, p. 93).

'religion'? Anthropologists have been debating whether or not cultures are something that we can say even exist (Rapport and Overing 2003, p. 93). To elaborate: when culture is constantly linked to race, ethnicity, and nationality, it is unclear what the idea of culture itself is really meant to do. Riva Kastoryano, for example, describes culture as "an ambiguous concept referring to an identity that is sometimes national and sometimes religious or class-linked," and as "analytically impotent" (2002, p. 35). Adam Kuper argues that "the more one considers the best modern work on culture by anthropologists, the more advisable it must appear to avoid the hyper-referential word altogether... There are fundamental epistemological problems, and these cannot be solved by tiptoeing around the notion of culture, or by refining definitions" (1999, pp. x-xi).

Culture may, for example, be a new and less controversial term for race or ethnicity. Perhaps speaking of cultural differences is a less-controversial way of talking about racial or ethnic differences. Tzvetan Todorov sees the debates in France concerning ethnic difference and political recognition as framed in the language of culture for this very reason.

> The term 'race', having already outlived its usefulness, will be replaced by the much more appropriate term 'culture'... In our day, racist behaviors have clearly not disappeared, or even changed; but the discourse that legitimizes them is no longer the same; rather than appealing to racialism, it appeals to nationalist or culturalist doctrine, or to the 'right to difference'.
>
> (1993, pp. 156-157)[73]

On the other hand, cultures may be a new category that people conform to in order to gain benefits such as public funding. As Barry notes, "[i]n Canada... governments at all levels provide financial support for ethnically based cultural manifestations. This means that people have a financial incentive to identify with their ethnic [or perhaps cultural] community" (2001, p. 314). Or perhaps, as feminist writers argue, the defining features of a culture only represent the traditions of society. Cultural traditions are simply the traditions chosen and enforced by powerful, conservative, dominant men in society, and rarely reflect the interests of women and other marginalised groups. Okin provides

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[73] Now if these arguments are indeed correct, and by culture we really *do* mean race or ethnicity, then here we will be witnessing one of three main strategies that the multiculturalist employs - the buck-passing strategy. They draw on one concept to ground their argument (here culture) but it is actually another concept that is doing the work (race or ethnicity). I would then direct the reader to Ch. 6 where I explain the problems with grounding a theory of multiculturalism on these concepts.

numerous examples of cultures in which there are "fairly clear disparities in power between the sexes, such that the more powerful, male members are those who are generally in a position to determine and articulate the group's beliefs, practices, and interests" (1999, p. 12). What we are told are the defining features and traditions of a culture may, then, actually just be the rules enforced by the male leaders in order to entrench their position.

What we can see from these examples is that recent writings on culture are sceptical of what 'culture' is being deployed to do (Phillips 2009, p. 18). We need to hold a clear understanding of culture to see how it is different from race and ethnicity, and important in its own right. I will examine one account of culture before considering some errors that are commonly made concerning culture, which, altogether, should give us a clearer understanding of the concept.

3.3 A multiculturalist's account of 'culture'

Let us look, then, at what culture means in the multiculturalist literature. I will focus on the work of Kymlicka, who is arguably the most influential writer on multiculturalism. Kymlicka, as a Canadian, has witnessed the problems that arise within a multinational country. The Québécois have fought to protect their unique culture and language, at times considering secession. Aboriginal peoples have also tried to maintain their way of life, frequently clashing with the government over land rights, and fishing and hunting laws amongst other things. These groups feel that in order to preserve their culture they need to be granted special rights.[74] Kymlicka argues that multicultural group rights are compatible with liberalism.

He makes it clear that he does not intend to speak of 'culture' in the wide sense of the word, which encompasses many social groups:

> Some people use 'multicultural'... to encompass a wide range of non-ethnic social
> groups which have, for various reasons, been excluded or marginalized from the
> mainstream of society. This usage is particularly common in the United States,
> where advocates of a 'multicultural' curriculum [in state education] are often

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[74] For Kymlicka, group rights (which he also calls minority rights) may take the form of "self-government rights (the delegation of powers to national minorities, often through some form of federalism); polyethnic rights (financial support and legal protection for certain practices associated with particular ethnic or religious groups); and special representation rights (guaranteed seats for ethnic or national groups within the central institutions of the larger state)" (1995, pp. 6-7).

referring to efforts to reverse the historical exclusion of groups such as the disabled, gays and lesbians, women, the working class, atheists, and Communists.

(1996, pp.17-18)[75]

He explains that he will instead focus on "the sort of 'multiculturalism' which arises from national and ethnic differences... using 'a culture' as synonymous with 'a nation' or 'a people'..." (1996, p. 18). He focuses his attention on what he calls, 'societal cultures'. These are groups which

> ... [provide their] members with meaningful ways of life across the full range of human activities, including social, educational, religious, recreational, and economic life, encompassing both public and private spheres. These cultures tend to be territorially concentrated, and based on a shared language.
>
> (1996, p. 76)[76]

We can see that the societal cultures Kymlicka focuses on are quite different from 'cultures' as we commonly speak of them. Once a society is so well-structured as to be able to provide meaningful ways of life, encompassing both public and private spheres, and especially if it is territorially concentrated, it will most likely be a nation. As Phillips notes, "[t]he definition conjures up a group of considerable solidity. It has its own institutions, territories, language and history, and by implication, its own potentially extensive claims on the loyalty of its members" (2009, p. 19). Kymlicka specifies that he focuses on "national minorities (distinct and potentially self-governing societies incorporated into a larger state) [and] ethnic groups (immigrants who have left their national community to enter another society)" (1995, p. 19). On Kymlicka's view, immigrant ethnic groups have voluntarily relocated, and this means that they must, to a certain degree, accept the local norms of their new countries. For this reason, policies should not be put into place to protect cultures brought by immigrants.[77] National minorities, on the other hand, have faced conquest, colonization, federation, and forced

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[75] Young, for example, includes these marginalised social groups in her theory. She says that "if 'cultural minority' is interpreted to mean any group subject to cultural imperialism, then this statement applies to women, old people, disabled people, gay men and lesbians, and working-class people as much as it applies to ethnic or national groups" (Young 1990, p. 196).

[76] In his earlier work, *Liberalism, Community and Culture*, he refers to 'cultural communities', which were essentially equivalent to 'societal cultures' (1991).

[77] "So while there are many aspects of their heritage that immigrants will maintain and cherish, this will take the form not of re-creating a separate societal culture, but rather of contributing new options and perspectives to the larger... culture, making it richer and more diverse" (1996, pp. 78-79).

assimilation. "These groups fought to retain their existence as distinct societal cultures", so "[s]ocietal cultures, then, tend to be national cultures" (1996, p. 80).

Kymlicka essentially uses 'societal culture' to refer almost wholly to national groups. I am surprised that he does not want to address immigrant groups. It is certainly not true that all members of immigrant groups have voluntarily relocated. Many refugees, asylum seekers and slaves did not voluntarily relocate, so it is not clear that they have consented in a way that is enough to show that they must conform. As Seyla Benhabib says, "Kymlicka concedes that many groups fit neither model very well. Guestworkers, refugees, African American slaves, and descendants of colonizing and conquering powers are given as examples" (2002, p. 63). Furthermore, we might think that immigrant groups *do* provide members with meaningful ways of life across the full range of human activities.

> The institutions and cultural practices that immigrant communities routinely create and sustain in their new countries have social, educational, religious, recreational, and economic dimensions and exist in the public as well as the private sphere, but, in Kymlicka's view, these are not of sufficient scope or depth to count as a 'societal culture'.
>
> (Carens 2000, p. 62)

This distinction becomes problematic when he gives it normative force. To explain why he thinks that societal cultures are important, he argues that *cultures* are important. However, he slips in the additional contention that *national* groups are important. Let us have a look at his argument in more detail to spot this move.

Following John Rawls and Ronald Dworkin, Kymlicka believes that citizens in a liberal society should have a variety of ways of life to choose from.[78] The freedom to choose one's path in life contributes to that person's life going well. Providing people with this freedom of choice is a defining feature of liberalism (1995, p. 80). We should have the freedom to frame, review and revise our life plans.

Kymlicka believes that there are certain preconditions for leading a good life, and our societal culture is important because it provides us with some of these preconditions. Firstly, it is important that we lead our lives autonomously and according to our deep-set values and beliefs. This requires certain resources and liberties, and freedom from fear of discrimination or punishment (1995, p. 81). Secondly, we must be free to question our beliefs and values, to examine them in light of whatever new information, knowledge or

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[78] Rawls (1971, 1996), Dworkin (2000).

arguments our culture provides. This ensures that individuals have the freedom to evaluate their conception of the good, and change it when necessary without fear of persecution. "Individuals must therefore have the conditions necessary to acquire an awareness of different views about the good life, and an ability to examine these views intelligently" (1996, p. 81). Kymlicka argues that our societal culture provides us with these conditions. It provides us not only with the various options to choose from, but it also makes these options meaningful to us (1995, p. 83).

It appears to me that the societal culture is doing a few things here. Firstly, it is providing its members with the beliefs and values necessary to assess and evaluate their own and other people's values. Secondly, it provides a secure environment for that reflection and evaluation to take place in. Thirdly, it provides its members with a range of options, or ways of life, which they might decide to choose from. These options are meaningful insofar as, and to the degree that, they represent the beliefs and values instilled in members of that societal culture. Kymlicka says

> Liberals should be concerned with the fate of cultural structures, not because they have some moral status of their own, but because it's only through having a rich and secure cultural structure that people can become aware, in a vivid way, of the options available to them, and intelligently examine their value.
>
> (1989, p. 165)

It is in this sense that cultures provide us with a meaningful context of choice.

Now we can see why Kymlicka thinks societal cultures are so important to preserve. Because the culture that we are raised in provides us with values, beliefs, and meaningful paths of life, it must be very difficult to leave that culture. It would mean leaving the ways of life that have meaning to you, and entering a culture in which all the new options may appear entirely meaningless. Kymlicka maintains that it is very difficult for members of a 'decaying culture' to integrate into another culture.[79] Cultural groups, then, should be granted group rights to protect and preserve them. He thinks this is necessary in a liberal society because expecting individuals to switch cultures is unreasonable, as it limits their freedom to choose meaningful ways of life.

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[79] I think Kymlicka might overstate this point. I am inclined to believe that there is considerable overlap between different cultures on values and beliefs. Because of this, moving from one culture into another would not render the individual completely void of meaningful ways of life; there will likely be some (or a lot of) options that she still sees as valuable. Furthermore, she might not find it terribly difficult to adopt the values and beliefs of the new culture. It is just important to bear in mind that Kymlicka may be making out that it is more onerous than it actually is to change societal cultures.

I disagree with Kymlicka that membership within a cultural group is quite as important as he makes out, but let us assume for the sake of argument that cultures are so important. The problem with accepting this view is that it should surely lead us to support group rights for *all* cultural groups. It is not only national groups that provide the conditions that Kymlicka outlines. Immigrant groups and ethnic groups could also provide the values and meaningful paths in life that Kymlicka focuses on.

> [O]bjectively, there is no basis for the theorist to privilege national cultures over immigrant ones, or the cultures of religious groups over those of social movements. Suppose we grant that the value of culture for political liberalism is in its being *an enabling condition for individual choice*. To proceed from this premise to the conclusion that only in societal cultures can such a value be realized for the individual is to reify ontology.
>
> (Benhabib 2002, p. 66)

Kymlicka does not justify favouring national groups, or nation-states, over other cultural groups. In order to establish the conclusion that we should be particularly concerned with national groups, he will have to provide further arguments to this extent. Arguments of this sort are examined (and ultimately rejected) in Chapter 5. In that chapter, we see that the understanding of a nation that the multiculturalist must rely upon is one which reduces a 'nation' to no more than a 'culture'. The understanding of nation that Kymlicka wants to adopt in order to ground group rights such as self-government rights is simply not one the multiculturalist can hold whilst at the same time remaining consistent with the overall goals of multiculturalism.

My more pressing worry with the argument Kymlicka presents is that he has chosen to speak of national groups as societal *cultures* in a way that looks like it is meant to deceive the reader. It might be easier to convince people that cultural groups are important, than to argue that we should focus specifically on national groups. So by disguising the national groups he wants to speak of under the name of 'societal cultures', he leads the reader to find the arguments more convincing, and more benign, than they actually are. In this sense, Kymlicka is relying on these imprecise and confusing concepts to make it appear to the reader that his multicultural conclusions fall out of a liberal concern for culture.

Yet another problem with this account, as raised by Benhabib, is that these groups as outlined by Kymlicka might not even exist. "Kymlicka has conflated institutionalized forms of collective public identities with the concept of culture..." (Benhabib 2002, p. 60).

We can have *states* with organised institutions and territories. Kymlicka claims that a societal culture must have "some political body or political unit which they substantially control" (1997, p. 54). States are political units, not cultures. Cultures are overlapping and interacting. They are not fixed; they do not have definite boundaries. They can cross boundaries and exist on either side of a state line. For example, Muslim culture does not appear to be territorially bound, but exists worldwide. "There is never a single culture, one coherent system of beliefs, significations, symbolizations, and practices, that would extend 'across the full range of human activities'" as Kymlicka insists there is (Benhabib 2002, p. 60).

Kymlicka jumps between 'cultures' in the more common sense of the word, and 'societal cultures' which are essentially nations. The concept of culture that he uses as his foundation, to convince the reader that cultures are important, is different from the kind of group - the 'societal culture' - that he ends up defending.

> [I]f one acknowledges that the cultural context of choice for people within the same society are multiple, variable, and overlapping, then it becomes less obvious that it is appropriate to provide public support for all these different contexts of choice...
> (Carens 2000, pp. 72-73)

Kymlicka relies on a problematic understanding of culture. In what follows, I will outline five errors that people commonly make regarding culture, and I think that Kymlicka's understanding relies on these errors. Committing these errors can lead us to think that cultures are more fixed, concrete, and internally homogeneous than they actually are. When we see them as fixed, concrete, and homogenous units - like the societal cultures that Kymlicka outlines - then we are tempted to think that they are suitable units for possessing group rights. However, once we hold a correct understanding of culture we can see that they are not suitable right-holding units.[80]

3.4 Five pernicious postulates concerning culture

In his influential essay concerning the social sciences, Charles Tilly outlines what he refers to as a number of 'pernicious postulates', or false principles concerning sociology (1983). These postulates are held and relayed by many working in the field, and spread

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[80] National groups might be suitable right-holding units, but the reasons we might think this lead us to support a theory of nationalism as opposed to multiculturalism. See further Ch. 5.

misinformation throughout the subject area.[81] I would like to make a similar claim concerning culture. I believe there are five pernicious postulates, or errors, held by multiculturalists. Multiculturalists are guilty of relying on one or more (often all) of these, leading them to adopt a problematic understanding of culture. It is my belief that the multiculturalist can only think that cultural groups should have group rights if they hold a problematic understanding of culture.

Interestingly, others working directly with culture - predominantly anthropologists - have warned that those working in political fields must be careful not to hold mistaken conceptions of culture. While they have long understood that people commonly make these errors, multiculturalists have ignored their warnings and continued to rely on them.[82] The anthropologist Terence Turner, for example, warns that the way multiculturalists portray 'culture'

> risks essentializing the idea of culture as the property of an ethnic group or race; it risks reifying cultures as separate entities by overemphasizing their boundedness and mutual distinctness; it risks overemphasizing the internal homogeneity of cultures in terms that potentially legitimize repressive demands for communal conformity; and by treating cultures as badges of group identity, it tends to fetishize them in ways that put them beyond the reach of critical analysis...
>
> (1993, p. 412)

I would like to draw largely on the work of anthropologists, and on the political philosophy of Phillips, to highlight five errors that I think multiculturalists rely upon. These allow them to think that cultures are suitable groups for holding group rights. With an accurate understanding of culture, the multiculturalist cannot argue for group rights for cultural groups, and an appeal to culture will end up being unhelpful for them.

I have chosen to draw on the work of Phillips because she provides a particularly helpful critique of culture. In *Multiculturalism Without Culture,* she argues for a version of multiculturalism that dispenses with problematic notions of culture (2009). She argues that leading theories of multiculturalism are seriously weakened by flawed understandings of culture, and she aims to provide a modified multiculturalism based on "a more careful

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[81] Rogers Brubaker also borrows Tilly's phrase (1998).
[82] For example, Terence Turner tells us that "[a]nthropologists have been doing a lot of complaining that they are being ignored by the new academic specializations in 'culture', such as cultural studies, and by both academic and extra-academic manifestations of 'multiculturalism'" (1993, p. 411). See also Grillo (2003).

understanding of culture" (2009, p. 9). She thinks that multiculturalists hold an overly strong conception of culture, and this leads them to think culture can justify special treatment even if this trumps individual rights and liberties. She argues for what she describes as a 'multiculturalism without culture'; one which holds a 'weak' conception of culture.

While I welcome her focus on emphasising the importance of liberal ideals, I disagree that an attempt to resuscitate multiculturalism will be useful. Where Phillips thinks that we can salvage multiculturalism, I think that dispensing with problematic understandings of culture leaves us with a theory that is no longer multicultural. Phillips's resultant theory does not fit into my classification of multiculturalism (see Ch. 1) because it is not group focused, and it does not seek to grant group rights. As she explains,

> The multiculturalism I have defended in this book is grounded in the rights of individuals rather than those of groups. None of what I have argued implies that cultures have rights - to respect, funding, or survival - only that individuals do... I do not see multiculturalism as a way of distributing power and authority between different cultural groups.
>
> (Phillips 2009, p. 162)[83]

While I do not want to focus on concerns about her overall theory here, I do want to draw on her critique to show how cultue is misrepresented and misunderstood by many multiculturalists.

3.4.1 Cultures are fixed and stable

The first error that one might make is to think of cultures as fixed or stable. We might assume that cultures are fixed in time, when, in reality, they are constantly changing. Some critics of multiculturalism contend that multicultural policy is aimed at preserving traditional ways of life, a nostalgic return to the way things 'used to be'. As Jeremy Waldron writes,

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[83] As it happens, I would actually consider Phillips's view a theory of cosmopolitanism. The reader may think this disagreement over the labeling of her view is merely a terminological dispute. However, there is more to it than that. Phillips recognises the similarities between her multiculturalism and cosmopolitanism - which she believes to be the most "obvious alternative" (2009, pp. 9-10). However, she rejects cosmopolitanism, claiming it to be 'inadequate' in all forms (2009, p. 15). She chooses to stick with multiculturalism for pragmatic political reasons. I disagree with her criticisms of cosmopolitanism, but I also disagree that labelling it as multiculturalism can achieve the pragmatic goals she thinks it can. It is for this reason more than anything that I think it is inadvisable to try and revive multiculturalism.

> To *preserve* a culture is often to take a favored 'snapshot' version of it, and insist that this version must persist at all costs, in its defined purity, irrespective of the surrounding social, economic, and political circumstances...
>
> (1992, pp. 787-8)

People react to social and environmental changes, and adapt to outside influences. As a result, cultures are constantly changing. For example, until very recently the country of Bhutan tried to resist the introduction of technology. Television and internet were banned in order to preserve cultural identity (Coleman 2010, p. 9).[84] The state attempted to keep Bhutanese 'culture' fixed in time, yet later realised that this was not in its citizens' best interests.

Those cultures *least* likely to experience change are those found in relatively isolated parts of the world. We may, for example, think that some remote tribes in the Amazon have managed to remain 'timeless' to a certain degree. With relatively little exposure to outsiders and global media, very few foreign behaviours, customs, and ideologies are adopted by the tribe. In this way, the tribe maintains its traditional ways of life. However, cases of societies living in relative isolation are uncommon. As Phillips notes, "[t]rade, migration, the forcible removal of millions from one continent to another, and the more peaceful exchange of literatures and ideas (all long predating what is currently labelled globalisation) mean that there are few societies left in the world that can be described as insulated from contact with outside groups" (2009, p. 33).

We might want to argue, further, that cultures that wish to remain fixed and unchanging are in fact the most fragile. "[I]t is those extremely rare cultures whose populations are isolated from all others and which therefore exist like museum pieces, protected against the normal rough-and-tumble jostling of intercultural exchange, which are the likeliest to be brittle, fragile, and unable to perpetuate themselves when change comes, as, inevitably, it must do" (Scheffler 2001, pp. 112-113).

Change does not only occur from outside influence, it can also occur from within the group. Instead of feeling forced to either accept the way things are in a culture, or leave it altogether, we should recognise the dynamism and malleability of cultures in order to encourage internal reform (Phillips 2009, p. 28). It is easy to think that all the members of a group accept uncritically the practices and traditions of that group, otherwise they would choose to leave. Yet this is not necessarily true; many people push for change from within

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[84] This ban was lifted in 1996 (Coleman 2010, p. 9).

their cultural group. For example, the organisation Women Living Under Muslim Laws educates people on different interpretations of Muslim law in different Muslim countries, "and uses this to encourage women to press for more progressive interpretations" (Phillips 2009, p. 134).[85]

This is even true in places where advocating different views is very dangerous. Gay rights activists in Africa, for example, risk their lives to change cultural perceptions of same-sex relationships. David Kato, an LGBT activist in Uganda, pushed for reforms on homosexuality laws (BBC News 2011). Zackie Achmat, a gay, HIV positive South African activist, has worked to challenge local views on HIV/AIDS and homosexuality despite strong political opposition (Nolen 2007, pp. 173-186). People have differing opinions within groups, and they are often eager to encourage others in the culture to change their views. As Phillips says (here referring specifically to gender inequality),

> Instead of having to choose between accepting or denouncing a culture - between staying in or getting out - it becomes possible to think of working within the contours of one's own culture to promote more sexually egalitarian practices. This rejects the notion of cultures as static or unified... Cultures are malleable, and with the right kind of incentive structure in place, there is a good chance of them changing in directions that are more favourable to women.
>
> (2009, p. 28)

On a correct understanding, culture is fluid and changing. If the multiculturalist is guilty of representing cultures as fixed and unchanging, then they will fail to encourage reform of unequal treatment and outdated beliefs, and they risk making out that such reform is impossible to accomplish.

3.4.2 Reified cultures

The second error that we might make is to reify cultures, to think of them as concrete and well-defined groups. (This error is connected with the first error I outlined, but is importantly different.) James Tully argues against reified notions of culture, referring to this as the "billiard-ball conception of culture" (1995, p. 10). Holding this mistaken view of cultures treats cultural groups as "separate, bounded and internally uniform" when in

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[85] See www.wluml.org

fact they are not (1995, p. 10).[86] Unfortunately, much of the literature on multiculturalism "exaggerates the internal unity of cultures" and represents culture as a "falsely homogenising reification," forcing people into certain cultural moulds (Phillips 2009, p. 14). By this, Phillips means that we hold a certain idea of how a person from a specific culture might look or behave, and in this sense have a 'cultural mould' in mind. This is problematic because the mould is only going to be, at best, an estimation (not *all* people from that culture fit that mould), and because it has the effect of forcing people within that culture to conform to the mould.

This is where the problem of stereotyping comes in. An overly concrete, overly simplified representation of culture encourages people to hold stereotypes in mind, and encourages people to conform to their stereotype (Hacking 1986). This can be detrimental, as it will limit individuals' beliefs about who they can become and what they can achieve in life. It can work to adapt their preferences, in a way that limits the number of options they see for themselves (Elster 1983). For example, as a woman, I might feel the pressure to conform to the stereotype of becoming a housewife, even if I want to pursue a different path in life. Even worse, if I am led to believe that the only option really open to me is to become a housewife, then the culture I am part of has played a role in adapting my preferences such that I might actually *want* to become a housewife.[87] Martha Nussbaum provides many helpful examples to illustrate adaptive preference formation. One example tells the story of Jayamma, who was

> very acquiescent in a discriminatory wage structure and a discriminatory system of family income sharing. When women got paid less for heavier work in the brick kiln and denied chances of promotion, Jayamma did not complain or protest... [T]his did not strike her as wrong or bad, it was just the way things were, and she did not waste time yearning for another way.
>
> (2001, p. 69)

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[86] Interestingly, Tully is also accused (by Barry (2001)) of holding an essentialist notion of culture. See further Crowder (2013, pp. 115-117).

[87] Betty Friedan describes the adaptive preference formation of American women in the 1950s who were expected to become housewives. "Some women, in their forties and fifties, still remembered painfully giving up [their] dreams, but most of the younger women no longer even thought about them. A thousand expert voices applauded their femininity, their adjustment, their new maturity. All they had to do was devote their lives from earliest girlhood to finding a husband and bearing children" (2010 [1963], pp. 5-6). However, despite *wanting* to become housewives (the only real option available to them), they were still not satisfied. "A mother of four who left college at nineteen to get married told me: 'I've tried everything women are supposed to do - hobbies gardening, pickling, canning... I can do it all, and I like it, but it doesn't leave you anything to think about - any feeling of who you are. I never had any career ambitions. All I wanted was to get married and have four children... There's no problem you can even put a name to. But I'm desperate. I begin to feel I have no personality'" (2010 [1963], p. 10).

A culture working to adapt our preferences in such a way is problematic from a liberal perspective because instead of helping expand the options individuals see available to them, it restricts them. It can force people to see only very few options in life, thereby trapping them in their culture instead of expanding their horizon of possibilities.

Uma Narayan also attacks reified notions of culture. She calls this the 'Package Picture of Cultures.'

> This view understands cultures on the model of neatly wrapped packages, sealed off from each other, possessing sharply defined edges or contours, and having distinctive contents that differ from those of other 'cultural packages.' I believe that these packages are more badly wrapped and their contents more jumbled than is often assumed and that there is a variety of political agendas that determine who and what are assigned places inside and outside a particular cultural package.
>
> (2000, p. 1084)

Those characteristics, norms and values that are said to be essential to any culture may actually be the norms and values enforced, or held by, the dominant elite. They may not represent the beliefs of everyone, or even the majority of the group. Furthermore, if outsiders accept the practices and values proposed by the dominant group as being representative of the group as a whole, then any internal challenge to these norms and values is seen as rebellion.

> [This] picture of cultures poses serious problems for feminist agendas in third-world contexts, since it often depicts culturally dominant norms of femininity, along with practices that adversely affect women, as central components of cultural identity and casts feminist challenges to norms and practices affecting women as cultural betrayals.
>
> (Narayan 2000, pp. 1085-6)

Instead of emphasising commonalities, a reified picture of culture will serve to highlight and entrench differences. This will likely work to push people apart instead of bringing people together to tackle common issues, such as discrimination, economic inequality, the spread of disease, and climate change. As Phillips puts it, mistaking cultures to be more concrete than they actually are contributes to a "radical otherness that

represents people as profoundly different in their practices, values, and beliefs," when, in fact, people are not so very different the world over (2009, p. 24). The worry is that, by encouraging this mistaken understanding of culture, multiculturalism has the effect of encouraging us to view people from different cultures as more systematically different than they are; it fails to emphasise the beliefs and values that we share (Phillips 2009, p. 25). Instead of reifying culture - encouraging the belief there is a 'fact' of cultural difference, entrenching stereotypes, and suggesting defining characteristics of cultural groups - we should realise that cultural difference is not as great as many writing on the topic suggest (Phillips 2009, pp. 31).

3.4.3 Cultures have explanatory force

Third, we might make the error of thinking that culture has significant explanatory force. Oftentimes culture is used to explain people's behaviour, but we must remember that "cultures are produced by people, rather than being things that explain why they behave the way they do" (Phillips 2009, p. 45). Cultures should not be used simply to explain any sort of behaviour or beliefs that differ from our own. It may be more convenient to explain people's behaviour as a result of their culture, even when this may not be correct. We should not rely on, or overemphasise, the explanatory role that culture has.

To illustrate this problematic use of culture, Phillips refers to research conducted by Didier Fassin, examining a high maternal mortality rate in Ecuador during the 1980s (Fassin 2001). It was believed that the mortality rate could be explained by the reluctance of rural Indian women to attend maternity clinics for examinations and supervised deliveries.

> A study commissioned by the Ministry of Public Health concluded that the problem was largely cultural; that 'cultural aspects relating to their sense of modesty' inhibited the women from attending the clinics, and that there was too big a gap between their own symbolic world and the more formal cultural system of the health service.
>
> (Phillips 2009, p. 47)

However, upon further examination, Fassin thought it was clear that women were giving birth at home for very common reasons: they faced practical difficulties in travelling to clinics, they had well-grounded fears that they would be treated with disdain upon arrival,

and they were afraid that they would end up having a cesarian birth (another well-grounded fear, Fassin believes, as there was a high reliance on cesarians at the time) (Phillips 2009, p. 47). We can take this case to show that people are too ready to jump to the conclusion that differences are the result of 'culture'. In the Ecuador case, this explanation led to the real problems being left unresolved.

Samuel Huntington is one political theorist guilty of relying on culture to explain behaviour. He says,

> ... I happened to come across economic data on Ghana and South Korea in the early 1960s, and I was astonished to see how similar their economies were then... Thirty years later, South Korea had become an industrial giant with the fourteenth largest economy in the world, multinational corporations, major exports... No such changes had occurred in Ghana... How could this extraordinary difference in development be explained? Undoubtedly, many factors played a role, but it seemed to me that culture had to be a large part of the explanation. South Koreans valued thrift, investment, hard work, education, organization, and discipline. Ghanaians had different values.
>
> (2000, p. xiii)

This is to oversimplify the problem, though. Huntington neglects to take into account various other factors at the time that likely contributed to these differences. Sen points out that South Korea was structured more towards favouring business, and was more eager than Ghana to motivate and initiate economic development. Furthermore, South Korea had close relationships both with Japan and the United States, which would be greatly beneficial for them both politically and economically. Finally, South Korea had a much higher literacy rate than Ghana in the 1960s (Sen 2006, pp. 107-108). This is not to say that culture did not play *any* role in explaining the difference in economic development between the two cultures, but we should be careful not to let the cultural explanation obscure other factors. Huntington was too willing to ignore social, economic and political influences.[88]

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[88] Huntington is most famous for writing *The Clash of Civiliztions* (1996) in which he claimed that the world was comprised of up to eight civilizations - (Sinic, Japanese, Hindu, Islamic, and Western, with, arguably, Orthodox Russian civilization, Latin American, and perhaps African to be included in the list). Civilization, on his understanding, is the broadest 'cultural' entity. He predicted that these civilizations would inevitably clash. This work stands as a good example of reified cultures, the second problematic notion of cultures that I outlined. It is clearly over-simplistic to maintain that there are a small number of separate and distinct cultural groups.

Multiculturalists must be careful not to overemphasise the role that culture plays in explaining differences in behaviour. As Kuper, an anthropologist, warns,

> The difficulties [with this understanding of culture] become most acute when (after all the protestations to the contrary have been made) culture shifts from something to be described, interpreted, even perhaps explained, and is treated instead as a source of explanation in itself. This is not to deny that some form of cultural explanation may be useful enough, in its place, but appeals to culture can offer only a partial explanation of why people think and behave as they do...
>
> (1999, p. xi)

If multiculturalists become too reliant on using culture to explain behaviour, then they will make it seem as if the members of different cultural groups are more incompatible than they actually are. This will only hinder interaction and collaboration between groups. If multiculturalists make this error about culture, they are likely to think that cultural groups are more important than they are (because people's behaviour can only be *explained* by reference to their culture), and are then led to believe that cultural groups need group rights to protect them.

3.4.4 Cultures have determinist force

We can also make the mistake of thinking that culture has determinist force. This thought is intertwined with the idea that culture has explanatory force, and one would be likely to make both errors together. Where thinking culture has *explanatory* force means that we can use culture to explain behaviour, thinking that culture has *determinist* force means thinking that culture determines behaviour. This assumes that the agent is not fully responsible for his or her actions (depending on the extent to which culture plays a determining role), and thereby denies human agency. On multicultural accounts, culture is often said to play such a large role in determining a person's behaviour, that the individual is no longer seen as acting freely or defining their own life. Multiculturalism, then, "appears not as a cultural liberator but as a cultural straightjacket..." (Phillips 2009, p. 14). Or, to put it at greater length,

> one of the biggest problems with culture [is] the tendency to represent individuals from minority or non-Western groups as driven by their culture and compelled by

cultural dictates to behave in particular ways. Culture is now widely employed in a discourse that denies human agency, defining individuals through their culture, and treating culture as the explanation for virtually everything they say or do.

(Phillips 2009, p. 9)[89]

Many examples of this type of thinking can be seen when a 'cultural defence' is used in court. In these cases, culture is used as a way of explaining, and to some degree justifying, a defendant's behaviour. Phillips refers to a particularly good example, a Canadian case from 1998, *R v. Lucien* (Fournier 2002, p. 88). Two men in their twenties, both black men originally from Haiti, were convicted of sexually assaulting an eighteen year old girl. Generally, a conviction for gang rape results in a prison sentence of anywhere between four and fourteen years, however, these men were only given an eighteen-month curfew and one hundred hours of community service each. The judge explained that the men "behaved like two young roosters craving for sexual pleasure without any regard for the young woman", but explained that he felt that "[i]n this case, the absence of remorse of the two accused seems to me to arise more from a particular cultural context with regard to relations with women than to a real problem of a sexual nature..." (Fournier 2002, pp. 91, 93). This paints a picture of Haitian culture as one in which it is normal or acceptable to disrespect women, act in a sexually aggressive way, and not be in full control of one's behaviour. This insulting perception of Haitian men likely arises from stereotypes and serves to entrench them. The ruling implies that these men should not be held fully responsible for their behaviour because of their cultural background; their culture determined that they would act in a sexually aggressive way.

Worryingly, Okin argues that "the overwhelming majority of 'cultural defenses'... involving members of cultural minorities are connected with gender - in particular with male control over women and children" (1999, p. 18). Particularly, the arguments presented stress that, "in the defendant's cultural group, women are not human beings of equal worth but rather subordinates whose primary (if not only) function is to serve men sexually and domestically" (1999, p. 18).

Phillips points out that cases which rely on a cultural defence show that its use "inappropriately elevates cultural membership above other features, lends itself to

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[89] Anthropologist Gerd Baumann observes that British academics have frequently been guilty of denying agency to members of minority groups. "Whatever any 'Asian' informant was reported to have said or done was interpreted with stunning regularity as a consequence of their 'Asianness', their 'ethnic identity', or the 'culture' of their 'community'. All agency seemed to be absent, and culture an imprisoning cocoon or a determining force" (1996, p. 1).

opportunistic defences, sustains and legitimates patriarchal practices, and encourages stereotypical representations" (2009, p. 82). We might not think that this means we should disallow the use of a cultural defence in court, but we should be sceptical of what it is being used to do. This is especially important in a multicultural society, as the emphasis on the determinist force of culture, and the role culture is thought to play in identity formation, means that cultural defences are more prevalent. Particularly, we should question how much we are willing to allow culture to limit an agent's responsibility and free choice. "The point I am stressing is that it has proved difficult in the debates around multiculturalism to allow for the *relevance* of culture without making culture a *determinant* of action..." (2009, p. 131). The fact that we still view culture as a determinant of action is particularly frustrating considering we have recently managed to differentiate influence and determination with regard to gender and social class.

Instead of making the mistake of thinking that culture plays a rather substantial role in determining a person's behaviour, we should be careful to treat agents as free, responsible individuals. Our behaviour is not entirely dictated by the norms of our culture; we are not "robots programmed with 'cultural' rules," instead we make informed decisions about how we choose to act (Abu-Lughod 1991, p. 158).

3.4.5 Cultures have normative force

The fifth error about culture I will draw attention to is the thought that cultures have very strong *normative* force. To believe that cultures provide normative force means believing that a person's culture provides compelling reasons for action. The idea is that people ought to act in accordance with cultural norms and values, and that they should choose these even if they also hold conflicting values. Cultural values are expected to trump universal ones, or deny that there are universal ones. This has led Paul Scheffer to claim that multiculturalism "represents a continuation of cultural relativism by other means" (2011, p. 197).

This way of thinking relies on the idea that every cultural group has different values that pull them to act in certain ways. Instead of focusing on what universal norms and values there might be, and what overlap there is between cultures, this understanding of culture makes out that cultural values are widely divergent. It exaggerates the extent to which cultures clash on fundamental values. Furthermore, it overemphasises the weight of cultural norms, and the strength that cultural reasons have in guiding our actions.

We can see why this is problematic in an argument provided by Barry. Barry outlines the problem with the cultural defence by pointing to the fact that you should still be expected to provide moral justification for your actions; it is not simply enough to say 'but it's part of my culture'. If you are asked to justify your behaviour, you might explain why you think your behaviour was right in the given circumstances. Now, an outside observer might say that you are appealing to your culture, "in the rather banal sense that you have made use of your stock of ideas about what makes actions right or wrong, that you almost certainly share them with some other people, and that you were quite probably brought up with at least some of them" (2001, p. 253). However, this observation

> has no bearing on the logical structure of your defence of your action. What you are saying is that your action was right for such-and-such reasons. Since you have offered reasons, the person who challenged you to justify yourself can argue with you about whether they are good reasons or not. You can attempt to rebut his objections, of course, but what you cannot do... is fall back on the claim that doing the action was part of your culture... [When you say this,] you have ceased to engage in moral discourse...
>
> (2001, p. 253)

The idea is that your culture might provide you with *prima facie* reasons for action. But you may be pressed on your reasoning, and you can reasonably be expected to provide good justification for accepting this as good reason for action. While culture may provide reasons for action, they are not overall reasons that cannot, and should not ever be, trumped. You should still be expected to engage in moral discourse about the behaviour in question because there are moral norms that stretch beyond any particular culture.

Perhaps a good example here might be provided by cases of female genital mutilation (FGM). It might be claimed, as a cultural defence, that it is part of one's culture for young women to get circumcised. However, we might think that while your culture has provided you with a *reason* to circumcise a young woman, there are stronger reasons not to do what your culture says in this case. An article from The New York Times makes this point clear. "Cutting a girl's genitals is now banned in Kenya... 'No person shall subject a child,' says a recent bill approved by Kenya's Parliament, 'to cultural rites, customs or traditional practices likely to affect negatively a child's life, health, social welfare, dignity or physical or psychological development.'" (Lacey 2002). "Mrs. Kemunto laments... that she may be the last one in the family to devote her life to what she calls the circumcision of young

girls... 'We're losing our culture', she told a visitor..." (Lacey 2002). While Mrs. Kemunto may believe that culture provides reasons to get girls circumcised, the Kenyan government has provided strong reasons against abiding by cultural norms in this case; cutting may negatively affect the child's life in the various ways listed. The reasons against FGM may come from one's own culture (in which case it looks as if your culture is providing you with conflicting reasons for action), or the reasons may transcend cultures. Regardless of where the reasons come from, they are thought to be strong enough to trump the cultural reason in favour of circumcision.

Thinking of culture as providing overly strong normative reasons for action appears to be most common in reference to minority cultures. Phillips argues that the way that multiculturalism "starts from the unquestioned 'fact' of cultural difference...", and the way it classifies and stereotypes people, "intentionally promotes a view of individuals from minority and non-Western cultural groups as guided by different norms and values..." (2009, p. 31). Those writing on multiculturalism have exaggerated "the intractability of value conflict" and have "misrecognised highly contextual political dilemmas as if these [reflect] deep value disagreement" (Phillips 2009, p. 8).

I agree that cultural differences are often exaggerated, and it is unhelpful to assume that we cannot come to some sort of agreement on moral or political dilemmas because we are from different cultures. If we engage with people from different cultures, we will actually find that we have much in common, rarely holding intrinsically incompatible beliefs.

> Though there are important areas of cultural disagreement, most do not involve a deep diversity with respect to ethical principles and norms, and many are more comparable to the disputes that take place *within* cultural groups.
>
> (Phillips 2009, p. 8)

Through dialogue and discussion we can find solutions to the problems that arise in diverse societies. These discussions should bring people from different cultural backgrounds together to voice their opinions, negotiate, compromise, and find common ground. Phillips argues that,

> Too often... societies fall into the trap of thinking that this means a negotiation between clearly delineated groups, differentiated by extraordinarily different values and perspectives, led by spokespeople who will articulate 'their' community's point

of view. It is that group-based version of multiculturalism that I have primarily taken issue with here.

<div style="text-align: center;">(2009, p. 180)</div>

People from different cultures do not hold radically different values and beliefs, so we should not take the perspective of thinking that disagreements are irresolvable. This mistaken understanding of culture is compounded by the other mistaken understandings. So, when the multiculturalist reifies culture, thinks that they are more fixed and concrete than they really are, then it is easier to think that each separate, distinct, homogeneous culture has independent and uniquely different values. As a result, though, it allows people to think that there will be no common normative grounds.

All of these notions of culture which Phillips challenges are interconnected. For example, without believing that cultures have a determining force, then we are less likely to use culture to explain a person's behaviour. Also, reified and fixed notions of culture feed the belief that cultures have normative force. By rejecting these notions of culture, we can come to hold a more accurate, and unproblematic understanding of culture.

It is because multiculturalists hold these mistaken understandings of culture that they are led to believe that culture provides reasons for treating cultural groups differently. Multiculturalists come to think that cultural groups need group rights to protect them because they think that cultural groups are stable units that do not change much with time, that they are internally homogeneous and inflexible, that they explain and determine people's behaviours (and thus restrict the courses of action possible for individuals), and that they provide people with good normative reasons for action. If we buy this whole package about cultures we can easily be led to believe that group rights are a good idea, or even necessary. However, Phillips's critique makes clear that these notions of culture are incorrect. If we hold a clear understanding of cultures as flexible, changing, and not as different from each other as commonly thought, then it will be evident that cultures are not the kinds of things that can hold rights, or need to hold rights. Granting rights to groups with unclear and constantly changing boundaries would only serve to reinforce problematic notions of culture, and tighten the cultural straightjacket.

3.5 Conclusion

In the first half of this chapter, I examined the meaning of 'culture'. I began by looking at common understandings of the concept, before looking at the use of culture in the multiculturalist literature, focusing specifically on Kymlicka's account. Comparing these two understandings revealed that the way the multiculturalists use the term differs from the way we commonly use it.

The worry is that the multiculturalist is playing the 'culture card' because they recognise that there are genuinely good reasons to think that cultures are valuable. Really, though, they are trying to provide arguments to justify granting group rights to *other* sorts of groups altogether. For example, we saw that Kymlicka was trying to justify group rights for national groups by appealing to arguments that support cultural groups. But if he wants to justify group rights for some other type of group, then he should be transparent about it. In my chapter on nationality I take a charitable reading and assume that he *is* talking about national groups, but in the end show that these arguments also fail (see Ch. 5). However, I suspect that Kymlicka realises that arguments for national group rights are unsuccessful in accomplishing multicultural goals, and so purposely frames the debate in terms of 'culture'. Ultimately, though, his arguments for cultural rights cannot defend the national group rights he seeks.

Remember that my overall argument in this thesis maintains that multicultural arguments fail for one of three reasons. This discussion of Kymlicka illustrates the third way in which they can fail; it relies on a buck-passing strategy. Here, Kymlicka is misrepresenting the concept, or the way that the concept is supposed to support his argument, because his argument actually relies on a different concept altogether (nationality). The reader is then led to examine the concept of nationality to determine whether or not it can provide support for the arguments, because culture cannot. What we will see in Chapter 5, however, is that this route also fails for the multiculturalist, and the reader is led around to yet another concept. Instead of a real justification for group rights, we get an elaborate sense of misdirection.

In the second half of this chapter, I outlined some problematic errors concerning culture. These errors - thinking of cultures as fixed, reified, providing strong explanatory, determinist and normative force - are used and deployed by multiculturalists. Because they hold these incorrect understandings of culture, they are able to see cultural groups as the type of groups that need group rights, and indeed are suitable for holding rights. The critique I provided makes clear that it is harmful and stifling to hold a false understanding

of culture. However, if we are to hold an *accurate* understanding, then we will see that cultural groups do not merit the type of concern that justifies group rights, and that cultural groups are too flexible and changing to act as good rights-holding units.

This highlights the first way in which multicultural arguments might fail. I maintained that multicultural arguments might fail because the concept is simply unsuitable for achieving the goals of multiculturalism. As I argued in this taxonomy of errors, the concept of culture is simply unsuitable for achieving the goals of multiculturalism (establishing group rights). Once we have an accurate understanding of culture, the multiculturalist's arguments simply fall apart.

This is not to say that culture is unimportant. Those liberal theories which are not multicultural do not *ignore* culture and the issues associated with it. For example, Dworkin, defending liberal egalitarianism, emphasises the value of culture:

> [People] need a common culture and particularly a common language even to have personalities, and culture and language are social phenomena. We can have only the thoughts, ambitions, and convictions that are possible within the vocabulary that language and culture provide, so we are all, in a patent and deep way, the creatures of the community as a whole.
>
> (2000, p. 219)

Rawls also believes that culture must be taken into account if it is one of the factors that affects inequalities.[90]

Many cosmopolitans emphasise the importance of culture. Kwame Anthony Appiah argues for a 'rooted cosmopolitanism': one in which people do not simply roam the world with no connection to any particular culture, but are instead "attached to a home of one's own, with its own cultural particularities, [taking] pleasure from the presence of other, different places that are home to other, different people" (1997, p. 618). Hollinger argues that "[c]osmopolitanism promotes multiple identities, emphasizes the dynamic and changing character of many groups, and is responsive to the potential for creating new cultural combinations" (Hollinger 2000, pp. 3-4). To provide one more example, Samuel Scheffler outlines a strand of cosmopolitanism concerned with culture and the self (2001, p. 111). He describes this position as,

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[90] This is best seen in context. See, in particular, Rawls (1999, pp. 84-85).

... opposed to any suggestion that individuals' well-being or their identity or their capacity for effective human agency normally depends on their membership in a determinate cultural group whose boundaries are reasonably clear and whose stability and cohesion are reasonably secure. Cosmopolitans see these ideas as involving a distorted understanding of culture and unduly restrictive conceptions of individual identity, agency, and well-being.

(2001, p. 112)

Cosmopolitans do not deny that cultures are important, they just hold a more realistic understanding of culture. They see cultures as "constantly in flux, constantly changing, constantly being modified, updated, altered, supplemented, recast, and reconceived" and they see this continual change as normal (Scheffler 2001, p. 113).

This provides an example of the second, and final, way in which multicultural arguments might fail. Here I maintained that the concept might be important, but valuing it does not lead us to support multiculturalism but some other liberal theory. As I have just argued, once we hold an accurate understanding of culture, we will still think that it is important, but it can be used to lend support to cosmopolitanism instead of multiculturalism. All three of the ways in which multicultural arguments might fail can be found in this examination of the concept of culture.

An appeal to the concept of culture, then, cannot help the multiculturalist ground group rights and justify differential treatment. This may be somewhat surprising, for one might immediately think multi*culturalists* focus on *cultural* groups, and could surely justify differential treatment for *them*, at the minimum. However, cultural groups are not the right sort of groups to hold and justify multicultural group rights. The multiculturalist will have to look to other concepts for this.

4. Recognition

4.1 Introduction

Some multiculturalists appeal to the concept of 'recognition' to argue for multicultural group rights. Increasingly, minority or marginalised groups have been framing their demands in the language of recognition. For example, in Libya, it is reported that the Amazigh, or Berber, minority are demanding recognition of their unique language, demanding that it be constitutionally recognised (Logan 2011). The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) uses the language of recognition throughout. For example, Article 27 tells us,

> States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due *recognition* to indigenous peoples' laws, traditions, customs and land tenure systems, to *recognize* and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources...
>
> (UNDRIP, emphasis added)

Multiculturalists argue that recognition is important, for various reasons. They focus on the value of recognition in highlighting difference; it is okay to be different, and we value diverse ways of life. People should not feel that they need to conform to the majority culture. Multiculturalists argue that the best way to recognise difference is to focus on groups, and grant them group rights. These rights typically aim to give the group more freedom to determine its future, and have more control over the members and internal running of the group, and over external influences on the group. From the multiculturalist's perspective, then, a proper appreciation of recognition will require granting groups group rights, something which they think other liberal theories are unsuitably designed to do.

It is not clear to me, however, that appreciating the importance of recognition leads us to focus on groups, and on difference. On my understanding, recognition does not require treating groups differently and granting group rights. In order to evaluate the multiculturalist's claims, we will need to understand what is meant by 'recognition', and why we might think it is important. I have examined the literature on recognition, and

conclude that we can break recognition down into three types: love; respect; and esteem. Furthermore, I have identified three main reasons for thinking that recognition is important.[91] Recognition might be important for our identity formation, our psychological well-being, and for achieving justice. I will argue that recognition, of all three types, *is* important for these three reasons. However, valuing recognition does not lead us to think that differential treatment achieved through group rights is the way forward *unless* we hold a prior commitment to groups. Typically, liberals focus on individuals. So if the multiculturalist *does* hold a prior commitment to groups, then the onus is on them to explain why. They might try to argue for a focus on groups by appealing, for example, to the importance of cultural groups, national groups or ethnic groups, however I deal with these arguments in other chapters and find them unsuccessful.

Here we should notice that this is another instance of the multiculturalist utilising the strategy that I have identified. One of my general claims is that the multiculturalist uses a buck-passing strategy. They appeal to one concept (recognition), but actually it is a different concept altogether that must be doing the work. In this case, there must be some other concept that is justifying a prior commitment to groups (culture, nationality, or ethnicity perhaps) so as to explain why *these*, rather than individuals, are recognition's proper objects. However, when we examine these other concepts, as I do in other chapters, we see that they are also unable to support multiculturalism. So we are led through a maze of concepts, and this thesis shows that none of the concepts can provide the foundations that the multiculturalist is after.

This chapter will be broken down into three sections. In the first section, I will examine Hegel's account of recognition to provide a key historical insight into the development of recognition theory. Although ideas on recognition can be traced back to Rousseau and Fichte, it is Hegel's account that gains the most attention, and is commonly thought to have sparked philosophical interest in the concept. I will show that a careful reading of Hegel reveals that his theory has been misappropriated by the multiculturalists, as it does not support their theory. In the second section, I will look at more contemporary understandings of recognition. Here I will outline the three forms I think recognition can take. In the third section, I will outline three reasons we might have for thinking that recognition is important. I will then conclude that valuing recognition can lead us to support *cosmopolitanism*, but it can only lead us to support multiculturalism if we already

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[91] I do not mean for this to be an exhaustive list. I have simply looked at the four leading theories on recognition, and compiled a list of the reasons they suggest that recognition is important.

hold a commitment to groups over individuals. The real justificatory work for the recognition-based multiculturalist must be done by something else altogether.

4.2 Hegel

When considering Hegel's ideas on recognition, people largely focus on the *Phenomenology of Spirit*.[92] In this text, Hegel presents us with a theoretical history of the development of consciousness, self-consciousness, and reason. He describes how humans would gain knowledge of themselves and the world around them, and how they would develop into rational, independent beings. His account of recognition is found in the 'master-slave dialectic' (also translated as 'lordship-bondage'), so I will focus my attention on this passage. The master-slave dialectic records the process of recognition that leads towards self-consciousness. On his account, recognition is vitally important; without it, we would be unable to gain knowledge of who we are, and without this self-awareness, we would fail to develop as persons. Recognition, then, is essential to the development of the Self.[93]

I will summarise the dialectic, however this is not a straightforward task, as Hegel's style of writing is notoriously obscure. Even this relatively short passage has been interpreted in many different ways. My aim is to provide what I believe is the most accurate and philosophically strong reading of the dialectic. I will argue that Hegel could be understood as supporting individual rights, but provides no support for group rights. Hegel is not concerned with the development of *identity* (which I will consider in more detail in § 4.4.1), but of *self-consciousness* - an importantly different concept. Proponents of identity politics (and multiculturalists, to the extent that they also make this error) are mistaken to interpret Hegel as claiming that recognition is essential to the development of identity. Hegel understands recognition simply as acknowledgement of another human

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[92] Taylor is clearly influenced by Hegel's account of recognition in the *Phenomenology of Spirit* (1994, p. 50). It seems that Axel Honneth draws, instead, on Hegel's earlier works (Thompson 2006, p. 11).

[93] The dichotomy between Self and Other is one found mostly in continental philosophical writings, and can be found in Hegel amongst others (1807 [1977]). The idea is that one's self-identity, or understanding of who and what they are, is formed in relation to what is divergent, different, or opposite. As Zygmunt Bauman explains, "[i]n dichotomies crucial for the practice and the vision of social order the differentiating power hides as a rule behind one of the members of the opposition. The second member is but *the other* of the first, the opposite (degraded, suppressed, exiled) side of the first and its creation. Thus abnormality is the other of the norm, deviation the other of law-abiding, illness the other of health, barbarity the other of civilization, animal the other of the human, woman the other of man, stranger the other of the native, enemy the other of the friend, 'them' the other of 'us', insanity the other of reason, foreigner the other of the state subject, lay public the other of the expert" (1991, p. 14). I understand the Other to be the different, opposite subject that exists outside of one's self. We use these opposites to come to understand who we are, but doing this requires seeing the Other as not like us, and so often leads to seeing the Other as something to fear or to hate. It creates boundaries that make different people seem worlds apart from us.

being (or 'self-consciousness' to use his terminology) as an equal. This amounts to the claim that we should all be acknowledged and respected as equal human beings. It makes no reference to group differences, and provides no support for group rights. So it does not look as though Hegel's account of recognition supports multiculturalism. I will now show this in what follows.

4.2.1 Recognition in the master-slave dialectic

Up to this point in the *Phenomenology*, Hegel has discussed the development of consciousness by focusing on the intellectual development of a purely generic subject. His subject has gained a limited understanding of the world through interaction with other objects in his environment, and he has gained very basic knowledge of himself. For example, he has learned that he has desires that he is driven to satisfy, and that he has a certain degree of control over objects in the world. However, he has not yet encountered another person, and this has prevented him from gaining knowledge of himself. Up to this point, the subject has only existed as a consciousness looking out onto the world, but unable to look in and gain knowledge of what he is on the inside. To become aware of himself - to look in - he must first become aware of another self-conscious being, and see Himself in the Other. This can mean that he sees himself, as a human being, reflected in the other person. In other words, he can see that they are both the same type of thing. "*Self-consciousness achieves its satisfaction only in another self-consciousness*" (Hegel 1807 [1977], p. 110, original emphasis).

When the subject meets another being like him for the first time, he initially reacts with fear. He tries to extend his will over the other subject, or to conquer him, as he does with the objects of his desire. Yet this leads to the two subjects trying to conquer each other, and they enter a life-and-death struggle. It is important that both opponents are willing to stake their lives in this struggle, because "it is only through staking one's life that freedom is won" (Hegel 1807 [1977], p. 114). In order to realise the importance of his being, and realise true freedom, the subject must be prepared to sacrifice everything. By doing this, he is able to act free from his fears and desires. As Patchen Markell states, "[w]hat better demonstration of self-sovereignty, after all, than the decision to risk self-destruction?" (2003, p. 105). If one opponent was *not* prepared to fight to the death, and instead fled the fight, then neither opponent would be able to develop their knowledge and their consciousness further. Likewise, if one of the opponents dies in the fight, then neither subject can further develop their self-consciousness. It is important that both opponents

survive the fight so they can learn from each other. As a result, we must end up with a situation in which one subject surrenders at the last minute, and becomes slave to the winner - the master.

The life-or-death struggle signals the beginning of a search for 'mutual recognition'. In order to gain understanding of one's self, and to develop one's self-consciousness, it is vital that the two subjects gain recognition from each other, in the sense that they must acknowledge each other as *equal* self-consciousnesses, worthy of respect. Initially, mutual recognition seems impossible for the master and slave. The master demands continuous recognition from the slave, and relies on the slave to affirm his self-awareness. However, the slave fears the master, and cannot give him the meaningful recognition that he demands.[94] "[T]his one-sided aspiration is... self-frustrating, since the recognition one receives from a pale reflex of oneself can be no true recognition, and will in fact impoverish the receiver..." (Findlay 1977, p. xvii). The slave, on the other hand, lives free from this dependence. Of course, his existence as a slave, under the command of another, is very frightening. However, over time he comes to learn more about the environment around him, and about himself. He is forced to labour and craft objects out of materials in the environment to satisfy the desires of his master. This leads him to understand himself through his work on the world. All the while, the master learns nothing of the environment, or of himself, because he does not seek out the objects of his desires, or work with objects in the environment. By getting the slave to do all this work for him, the master has failed to develop knowledge of the world, or of himself. Furthermore, he feels unsatisfied by the recognition he receives from the slave because the slave is less than equal.

Without mutual recognition, neither subject is satisfied. It is only once the master and slave reject their roles, and see each other as equals, that mutual recognition is possible. They will then be able to see themselves as the same type of thing as the other, and can begin to make progress in the development of their self-consciousness. Mutual recognition is only satisfied when

> each is for itself, and for the other, an immediate being on its own account, which at the same time is such only through this mediation. They *recognize* themselves as *mutually recognizing* one another.
>
> (Hegel 1807 [1977], p. 112)

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[94] As I will explain in § 2, recognition can take the form of love, respect or esteem. I understand the master to be seeking recognition as respect from the slave, however the slave obeys the master out of fear, not out of respect. For this reason, he cannot accord the master the recognition that he desires.

What is important is that the Subject acknowledges the Other as a person, and sees himself in the Other. It is recognising that both subjects are, essentially, the same and equal that matters. Eventually, "*every* subject recognizes and promotes active universality in *every* subject, where all men equally recognize and co-operate with one another" (Findlay 1977, p. xvii).

As we can see, for Hegel, recognition means acknowledging someone as an equal. What we are aiming for, and *need*, is mutual recognition. For me to recognise someone, is for me to realise that the other person is like me; I can see myself - as a human being - in the other person. Once I am able to see this plain fact, I should be compelled to treat the other person as my equal.

4.2.2 Recognition and multiculturalism

Remember, the multiculturalist wants to argue for group rights, and differential treatment of certain groups. So the question, then, is whether or not there is anything in Hegel's account of recognition that can support these conclusions. From what I can see, there is not. While I will neither endorse nor reject Hegel's account of recognition, I will argue that endorsing it would lend support not to multiculturalism but instead to an individual-focused egalitarian liberalism such as cosmopolitanism, for example.

For Hegel, recognition means the acknowledgement of another being as a self-consciousness. This means that there must be mutual acknowledgement between subjects that they are all human beings with certain capacities and knowledge of the world, and are in this sense equal *as individuals*. We could possibly develop this argument further by saying something like the following: realising that the Other is my equal means admitting that they have a certain moral status, perhaps as 'persons', that can place restrictions on my behaviour towards them.[95] Persons, as equals, have rights and liberties that must be respected. To give people due recognition, then, would mean acknowledging and obeying these moral rules. For example, we might say that there are moral human rights which are basic rights every person possesses. If these rights are not respected, then the victim of the rights violations is being denied recognition as a person.

For Hegel's account to support multiculturalism, it would need to highlight the importance of groups, group membership, or group identity. Yet in the master-slave dialectic, Hegel outlines the development of self-consciousness between individuals, and

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[95] This line of thought has become popular in contemporary ethics. For example, see Stephen Darwall (2006) and Christine Korsgaard (2007) on the second-personal standpoint.

makes no reference to group membership. He does not tell us that individuals need acknowledgement of their membership within certain groups (for example, race, religion, or nationality). Richard Rorty agrees with this reading, saying

> [T]he idea that we need recognition as members of a particular community, rather than as individuals is not prominent in Hegel, and is not intuitively evident. The Hegelian dialectic of master and slave, a dialectic easily rewritten as that of husband and wife, does not take place between cultures but between individuals.
>
> (2000, p. 14)

Hegel is certainly not proposing any sort of group rights, and does not engage with the problems of discrimination and unequal treatment that multiculturalists today are trying to address.

It might be argued that in the dialectic, what Hegel thinks the Subjects really require is recognition of each other's *identities.* Each Subject requires recognition of their full identity from the Other. As we will see in § 4.4.1, 'identity' is a rather nebulous concept. But generally, we think of one's identity as being rather robust, it incorporates characteristics such as group membership, nationality, religion, ethnicity, and so on. We might think that being homosexual, or being black, or Jewish, is part of a person's identity. If Hegel means that the Subject needs recognition of his *identity*, then it might be the case that he needs his membership in each group recognised. The multiculturalist might argue that his membership in each group is best recognised by recognising the group, and this is achieved through granting the group group rights.

However, this strays far from the Hegelian dialectic. Remember, this is meant to be the first time either of them have ever met a human being. The subjects are developing their self-consciousness. They have a basic understanding of what they are, and an acknowledgment, and acceptance, that there are others like them. The formation of one's identity will be a further, more advanced development. Understanding that we are part of a certain ethnic group, and affiliating ourselves with cultures and religions are social processes which are highly complex. In order to understand such group-related patterns, we need to have a high level of intelligence and social understanding. However, in Hegel's master-slave dialectic, the subjects only have very basic knowledge. They have radically limited knowledge of what they are, and it seems unlikely that any social patterns have begun to form. Hegel's account clearly does not focus on the development of identity.

The Hegelian account of recognition is an individualist account, and focuses on self-consciousness as opposed to identity. For these reasons, it does not support multiculturalism. This analysis of the Hegelian account of recognition illustrates one of three routes that I think multiculturalists' arguments take.[96] In this case, the concept that the multiculturalist is drawing on *is* important, but valuing it would lead us to support cosmopolitanism (or some other liberal theory) as opposed to multiculturalism. This is because Hegel's account of recognition focuses on understanding each individual as an equal, instead of focusing on difference and group identification.

I do not, however, want to appear to be ignoring Hegel's more political writings. He did think membership within communities was important, and he is often thought to be a great influence on modern-day communitarian writers (Bell 2011).[97] Perhaps justification for group rights can be found in some of Hegel's communitarian writings, such as the *Philosophy of Right*. However, a communitarian justification would not be a liberal justification. As I explained in Chapter 1, my targets here are those forms of multiculturalism that purport to be liberal. If the only route available to the multiculturalist requires an appeal to communitarianism, then their theory collapses into communitarianism, showing that *liberal* multiculturalism is not an option. Neither Hegel's communitarian writings, nor his discussion of recognition, can provide the liberal justification of group rights that the multiculturalist is after.

4.3 What is recognition?

While there is much discussion of why recognition might be important, there is less consensus on what recognition actually *is*. As we saw with Hegel's account, recognition was an awareness of the Other as a self-consciousness. However, this is not what recognition means in more contemporary, multicultural discussions. There are various suggestions as to what recognition is, and I think that we can, on the whole, understand there to be three types of recognition: love, respect and esteem. Honneth was the first to distinguish these three types of recognition as: love/affectionate recognition, law/legal respect and achievement/social esteem (1995) (2003, pp. 138-144). Others writing on recognition have since picked up these distinctions, adapting them and interpreting each one slightly differently. As we will see in this section my understandings of the three types

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[96] In the Introduction, I explain that this is this is the second (b) reason that multicultural arguments fail.
[97] As I mentioned in Ch. 1.2.3, communitarian writers include MacIntyre (1981), Sandel (1982), Taylor (1990), and Walzer (1983).

of recognition differ somewhat from Honneth's, influenced by the other recognition theorists and feminist and cosmopolitan perspectives. I understand these categories to not be completely separate, but instead somewhat interconnected. We might find that each type is used in a different domain. For example, love may be a type of recognition reserved for the personal domain, esteem for the professional, whereas respect should be universal. When we have a grasp of these different types of recognition, we can look at why recognition (of any of these types) might be important.

4.3.1 Recognition as love

The first type of recognition that we might receive is affectionate recognition, or love. This refers to the intimate, personal, caring affection that we give and receive from those close to us. Those who know us well and care about us, interact with us in a loving way. This interaction may take the form of discussion, but also body language, physical interaction, or other modes of expression. Taylor and Honneth both emphasise the importance of this type of recognition.

We receive this recognition through interaction. For Taylor, it occurs through dialogue with those people we have intimate relationships with. This most often takes the form of spoken language, but it can occur more generally through the overall language we use, which includes body language, gestures, art and love (1994, p. 32). He tells us that recognition occurs though the "rich human languages of expression" (1994, p. 32).

I understand affectionate recognition to involve caring for both physical and psychological needs. Honneth's account of recognition highlights both physical and psychological aspects. He tells us that "[t]he recognition that individuals reciprocally bring to this kind of relationship is loving care for the other's well-being in light of his or her individual needs" (2003, p. 139). I suggest that here he is likely referring to psychological needs such as social interaction, emotional support, concern for one and other, or caring, for example. However, he also tells us that this affective recognition allows "growing individuals [to] acquire trust in the value of their own bodily needs" (2003, p. 139). Physical humiliation, such as torture or sexual violence, "could be classed as the most fundamental type of human degradation because they strip a person of what has become a physical autonomy in interaction with self and thus destroy part of his basic trust in the world" (2003, p. 193). This suggests that when Honneth refers to 'bodily needs', he may mean something like each individual's need for bodily security and respectful physical interaction with others. Violation of this need denies us the ability to respect ourselves,

gain self-confidence, and trust others. I understand affectionate recognition, then, to involve caring interaction that focuses both on one's psychological needs and on one's basic bodily needs.

We would usually receive this recognition through interaction with family, close friends, mentors or partners. I would argue that we could also receive it from teachers, counsellors, social workers, or others with whom we have close personal relationships which are characterised by care. Honneth might disagree with this. Influenced by the work of pediatrician and psychoanalyst Donald Winnicott (1965), Honneth maintains that recognition as love is exemplified by the family unit, and in particular, the relationship between mother and child (1995, p. 98). Focusing on the importance of love in child development, Honneth might think that people outside of the parent-child relationship would be unable to provide much meaningful recognition.

The problem is that Honneth also stresses that this type of recognition must be *positive.*

> Love involves a 'strong emotional attachment' between the parties concerned. In some formulations, Honneth stresses that this is 'positive' affect - that is to say, it is a matter of love, not hate; care, not cruelty; friendship, not enmity.
>
> (Thompson 2006, p. 25)[98]

Unfortunately, family units are not always caring, and are sometimes not based on love. This fact has formed the basis of a strong line of criticism from feminists. Lois McNay argues that Honneth ignores the extent to which the modern family unit has been "shaped by the forces of money and social control" (2008, p. 135). As Nancy Fraser points out,

> marriage has never been regulated by the principle of care. For most of history, rather, it has been a legally regulated economic relation, concerned more with property accumulation, labor organization, and resource distribution than with care. In fact, what Honneth calls affective care is actually women's labor, ideologically mystified and rendered invisible.
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> (2003, p. 220)

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[98] I understand that loving family relationships do not *only* include interactions that can be classified as positive; they sometimes involve negative interactions. For example, relationships between parents and children will likely involve discipline and rebellion. I think the types of relationships Honneth wants to focus on though, are ones where, overall, we would consider them positive and affective.

Families are often not centered around care at all, they "are thoroughly permeated with... the media of money and power. They are... sites, frequently, of coercion and violence" (Fraser 1994, p. 211). Honneth's focus on the family as the site of affectionate recognition, then, could be seen to simply reinforce oppressive power relations.

However, I think we can take a more favourable reading of Honneth. In *The Struggle for Recognition*, the translator is careful to point out that Honneth's use of the word 'mother' can be interpreted more loosely as referring to any primary caregiver. "[F]ollowing Winnicott, Jessica Benjamin, and others, Honneth uses the term 'mother' to designate a role that can be fulfilled by persons other than the biological mother..." (Anderson 1995, p. xiii). Furthermore, he seems to be focusing his attention more specifically on the dependence an infant has on its primary caregiver. "Initially, the child is dependent upon the responsiveness of primary care-givers... and their ability to empathically intuit the needs of the inarticulate infant" (Anderson 1995, p. xiii). Undoubtedly, infants are completely dependent on caregivers to attend to their needs, although it is not clear to me that this care needs to be given by one person; there are examples of societies in which children are raised communally.[99] I think that all Honneth needs to do is make clear that recognition as love is not only, or always, to be found in traditional nuclear family relationships. I would maintain that we can gain this recognition through relationships with friends, partners, teachers or mentors, or anyone we have a close bond with.

It is important to note that we can only have these sorts of close relationships with a limited number of people. As Simon Thompson points out, this might seem strange; other accounts might not limit the number of people that love can extend to. For example, "the Christian doctrine of brotherly love - seen in the injunction to love one's neighbour - suggests that love should not be limited to our significant others" (2006, p. 189 n. 7). But the kinds of relationships that we gain this type of recognition from require that the people know each other intimately, and care about helping each other satisfy their needs. By definition then, one can only really hold such relationships with a limited number of people.

4.3.2 Recognition as respect
The second type of recognition we might receive is respect as an equal. In some cases where people demand recognition, it seems like what they are really wanting is respect

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[99] For example, some traditional communities in Israel (kibbutzim) raised children communally from infancy (Sagi et al. 1995). Even European families, until very recently, were often large enough to require siblings to help with childcare.

(from others, from society at large, or from the state perhaps). For example, we might think that Martin Luther King fought for recognition for African Americans where that meant respect as equal citizens, and simply as equal human beings. Women who protested for the vote, likewise, sought recognition as fully capable citizens of a political community. Aboriginal peoples might demand recognition for their ways of life, where this simply means that they want respect, and to be seen as equals in a society where they feel disenfranchised. I understand recognition in this sense to be the acknowledgement of someone as an equal human being, of equal status precisely because we are all human beings.

Taylor believes that we need this type of recognition to take place on the 'social plane' (a term I take to be synonymous with the public domain). It refers to how we are viewed and treated as members in society.[100] He believes that in a democratic society, it is important that we gain recognition as equals, as not receiving this recognition can be damaging (1994, p. 36). As I understand it, Taylor is arguing that people should be respected as equals, and not be discriminated against or treated as second-class citizens. Treating people as equals in society reflects our democratic values.

Honneth also focuses on how the state should treat citizens with respect. He argues that respect is conveyed through the acknowledgment of our legal status as persons. To be recognised in this legal sense is to be "respected as a legal person with the same rights as all other members of society..." (2003, p. 140). It is important for assuring that all members of society are respected equally "for their dignity and autonomy as legal persons..." (2003, pp. 141, 142).

For Honneth, legal recognition is guided by an appeal to the basic idea of equality, formally called a 'principle of equality' (2003, p. 144). This principle represents a normative perspective "with reference to which subjects can reasonably argue that existing forms of recognition are inadequate or insufficient..." (2003, p. 143). People that believe they are not being respected as an equal member of society, or that they are being excluded by society, can appeal to this principle (2003, p. 144). He says frustratingly little about this principle, however it seems that he means that if a person is not being treated as an equal, then they can complain that the principle of equality is being violated. For example, if a woman is not allowed to vote in her country, then she can complain that the principle of

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[100] One may want to raise concern about the plausibility of distinguishing between a public and private domain (or for Taylor, the 'social' and 'intimate' planes). For example, Mary Wollstonecraft questions the distinction in *A Vindication of the Rights of Man* (1790 [1995]). She argued, "on the one hand that only good private character can create good public character and, on the other, that good private character is unlikely to result from anything other than a life with a full civic existence" (Sapiro 1992, p. 216). The two domains are not as separate as the distinction might imply.

equality is being violated because men and women should have equal voting rights. This principle of equality appeals to a universal norm of equality "which promises all members of society equal respect for their individual autonomy" (2003, p. 152).

The fact that Honneth chooses to emphasise the importance of legal rights might seem strange, but we can trace this to the influence Joel Feinberg has had on his theory. Feinberg argues that "what is called 'human dignity' may simply be the recognizable capacity to assert claims" (1980, p. 151). As Joel Anderson puts it, "[t]he object of respect (including self-respect) is an agent's capacity to raise and defend claims discursively... [R]ights ensure the real opportunity to exercise the universal capacities constitutive of personhood" (1995, p. xv). So granting all citizens the same basic rights is a way of respecting the capacities they hold as persons.

I think we can understand Honneth, more loosely, to be emphasising legal rights because being treated as equals under the law helps people understand their relationships with others, and their status in society. It is important for individuals to understand that they all hold rights and liberties that must be respected by others, and that they also have corresponding duties and responsibilities. Christopher Zurn interprets Honneth as saying that "self-respect... is realized through legal relations which recognize one as equally deserving of rights to negative liberty, access to political processes, and the burdens of legal responsibility" (2000, p. 116). In this sense, the possession of formal rights and liberties help us to understand the relation between ourselves and others. This relationship is one of respect - we must respect the rights and liberties of others. Coming to understand that we are all equal under the law, in the sense that we all hold rights, liberties, duties and obligations, will help us to understand that we all hold equal status as human beings.

I agree that it is important for us to receive equal legal respect from the state in the form of holding rights. I would argue that some of these rights should extend beyond the state. For example, I think that all human beings should be accorded basic legal rights (our human rights as outlined in the UDHR for example) to emphasise the fact that we are all, in a sense, equal, regardless of our nationality, race, or religion. However, I do not think this respect can *only* be conveyed through legal rights. We can also respect people by giving them equal opportunities, giving them a platform to have their opinions represented equally, or by not discriminating against people on the basis of their race, gender or nationality. Furthermore, I would emphasise the fact that this recognition is not only given by the state; I think we should receive recognition as respect from everyone. It is surely important that we are treated with respect by other citizens, and those living in other

societies. This respect is an acknowledgement that we are equal human beings, and so should ideally characterise all relationships. As Rorty puts it,

> 'Recognition'... is a term which works equally well to describe what blacks need from whites, gays need from straights, and women need from men. They all need to be recognised as full members of the species, sharing in the common humanity that straight white males, within a given local community, typically take for granted in their dealings with one another.
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> (2000, p. 10)

4.3.3 Recognition as esteem

Recognition can also take the form of esteem. Here, people are recognised for their achievements. Unlike recognition as respect, this type of recognition is not given out equally to all, but must be earned. As Honneth describes it, this type of recognition refers to "[t]he esteem the individual legitimately [deserves] within society..." (2003, p. 140). It can also be understood as 'merit', or 'social esteem'.

Because esteem is something that must be earned, each society holds a "hierarchical scale of values" to determine who is deserving (Honneth 2003, p. 140). When someone excels in some aspect that their society deems valuable, they are esteemed for their contribution. For example, we can see this at work on a smaller scale in philosophy. There is an evaluative framework that those working in philosophy hold in order to determine what counts as good philosophy, and what makes a good talk. When someone gives a philosophy talk, then, we can evaluate how good it is by assessing it on this evaluative framework, and esteem the speaker when it is due. This can be a way of conveying to the speaker how highly we value her talk and how it compares to other talks.

When people demand recognition of this type, they might want to be esteemed for achievements where they feel they have previously been overlooked. For example, perhaps someone has made a meaningful contribution to philosophy, but others have failed to notice or appreciate it. Here, the individual would want recognition for this contribution (for example, this may take the form of informal congratulations, official acknowledgement, or monetary reward). On the other hand, demands for recognition of this type may be calls for the evaluative framework to be reconsidered, or as Honneth puts it, for "hitherto neglected or underappreciated activities and capacities" to be revalued (2003, p. 144). For example, perhaps a society highly values contemporary art, or

European art, but values Aboriginal art very lowly. Aboriginal people might demand recognition, meaning that they want their underappreciated activities and capacities - their unique artwork and craftsmanship - to be revalued.

Honneth's account maintains that we can appeal to a 'principle of achievement'. This is a principle which ensures that we esteem "particular contributions to society as 'achievements'" in as fair a way as possible (2003, p. 167). I understand this to mean that if someone is unhappy with the way certain achievements are valued (or disvalued) in their society, they can appeal to the principle of achievement to call for the evaluative framework to be reassessed. By doing this, they would hope to achieve a fairer framework. For example, many patriarchal societies do not esteem women for the activities of housewives and mothers. Their work is not considered productive work worthy of recognition. Women might appeal to the achievement principle to call for society to reconsider the evaluative framework that neglects to value their contributions. The hope would be for women's contributions in the home, and in raising children, to be seen as important work. The evaluative framework would be restructured so as to value women's roles more highly, and grant them esteem for their contributions to society (Honneth 2003, p. 148, Thompson 2006, p. 77).[101]

This principle does not, however, amount to a principle which ensures the positive valuation of all achievements, for that would render evaluative judgements meaningless. It is not the claim that everyone deserves equal esteem, or even that we should positively value every person's contributions. Esteem is something that must be given voluntarily. As Honneth tells us, "there is no possibility of normatively demanding the positive evaluation of cultural ways of life. At best, we can here speak only of the readiness to take note of the specific qualities of other cultures such that their value can then be examined" (2003, p. 168). Or as Taylor puts it,

> It makes sense to demand as a matter of right that we approach the study of certain cultures with a presumption of their value... But it can't make sense to demand as a matter of right that we come up with a final concluding judgment that their value is great, or equal to others'.
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> (1994, pp. 68-69)

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[101] Honneth thinks that the aims of the principle of achievement and the principle of equality have significant overlap, but may come apart. They may prescribe different courses of action in some cases. However, I am unconvinced that they will lead to different outcomes.

The reason we cannot demand recognition is because each society holds an evaluative framework which is used to determine who is deserving of esteem, and which contributions are valuable and should be rewarded. A demand for esteem would be a demand to ignore this framework altogether. Believing that one should be considered outside of the framework that assesses contributions to society would require a special kind of arrogance; it would require thinking that one is *above* the ordinary norms that others in society are evaluated by. If one wants to receive meaningful esteem, then one must earn it by being assessed on the same standards as everyone else.

In addition, Taylor rightly points out that being given esteem on demand would be patronising; "[a] favourable judgment on demand is nonsense... the giving of such a judgment on demand is an act of breathtaking condescension" (1994, p. 70). To give esteem in this way would be for the esteem-er to decide to exercise his superiority and grant esteem whenever he wants to, regardless of whether it is deserved. In the sense that this is an expression of his superiority, granting esteem in this way is patronising (Thompson 2006, p. 72). The most a person can do if they feel they are deserving of esteem is call for a re-assessment of the framework.

So this type of recognition takes the form of esteem for achievements or valuable contributions. Each society holds an evaluative structure to determine which contributions are to be esteemed, and who is deserving of merit. Of course, this framework may be biased towards some rather than others, and if so people can call for it to be reassessed in order to esteem people for their achievements in as fair a way as possible.

4.4 Why might recognition be important?

With this account of the different types of recognition, we can explore the various ways in which recognition might be important. The multiculturalist who wants to rely on recognition will argue that recognition is important, and that properly valuing it will require giving groups group rights and differential treatment. When we understand why recognition is important (for psychological well-being for example), then we will make it a priority to give recognition to those demanding it. The best way to do this, the multiculturalist would maintain, is through group rights.

In order to see if this line of thought is plausible, we will have to determine what recognition, of any type (love, respect and esteem) might be important for. I will look at three suggestions for thinking recognition is important, all of which are alluded to or argued for explicitly in the recognition literature. First, recognition could be important for

identity formation. Second, it could be important for achieving or maintaining psychological well-being. Third, it could be important for achieving justice. It seems true to me that recognition, of all three types, is important. For example, love and respect seem vital for our identity formation, while esteem plays a less prominent role. On the other hand, esteem and respect are of foremost importance when it comes to achieving justice.[102]

I will argue that even if we value recognition, it is not enough to establish group rights. We would need to have a prior commitment to groups to reach this conclusion, in the following sense: to justify that commitment to *groups*, the reader would be pointed to one of the other chapters in which arguments that focus on the importance of certain groups (cultures, ethnic groups, nations) are considered (see Ch. 3, 6 and 5). In those chapters, however, I show that multicultural group rights cannot be established. So, the recognition-based justification of multiculturalism rests on an illusory promise.

Notice that here we will see the multiculturalist's buck-passing strategy: they rely on the importance of one concept (recognition), which upon examination does not establish the conclusion they desire. We are then led to consider other concepts (culture, nationality, ethnicity) which are also unable to reach the desired conclusion. As a result we are stuck in a maze in which the multiculturalist assures us that some concept or other can do the work they need it to, but it appears they just run into dead-ends.[103]

4.4.1 Identity formation

Some argue that recognition is crucial for our identity formation. Our personal identity is formed in constant dialogue with others, and this helps us understand who we are and how we fit in with others in our society. We only come to understand ourselves through this interaction, whether it is loving interaction with those close to us, respectful interaction with others in society, or being esteemed for our achievements and valuable contributions. I considered whether it was plausible to interpret Hegel as arguing for recognition of our

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[102] It was difficult to decide how to structure this chapter. The arguments for recognition are multiple and overlapping. The only other book I have found that attempts to break down the different types of recognition in a similar way is Thompson's *The Political Theory of Recognition* (2006). He has arranged the chapters as follows: recognition as love, recognition as respect, recognition as esteem, recognition as redistribution, recognition as democracy, and struggles for recognition. I chose not to follow this layout because I understand the discussion of recognition to be operating on two levels: on the first level, recognition can *mean* love, respect or esteem (it is not taken to mean democracy or redistribution, and in fact is often seen to be the opposite side of the coin to redistribution). On the second level, recognition can be *important for* identity formation, psychological well-being, and achieving justice. All of the topics I discuss are found within Thompson's book, but his layout fails to convey the two levels that recognition theorists are arguing on, and so, I feel, fails to convey to the reader the overlapping nature of the recognition literature.

[103] In the Introduction, I refer to this as the third (c) way in which the multiculturalist's argument might fail.

unique identities, and found that it was not (see § 4.2.2). This line of thought might stand a better chance grounding multiculturalism though. Taylor presents what I think is the best argument for recognition and identity formation (as a justification for multiculturalism), and so for this reason I will focus on his account.[104]

'Personal identity' has come to be understood in discussions of identity politics and multiculturalism as a robust concept, encompassing all those aspects of our personality we take to be our defining features. It is, as Taylor describes it, "something like a person's understanding of who they are, of their fundamental defining characteristics" (1994, p. 25). For example, a person might see their defining characteristics as Jewish, black, female or liberal for example. "The use of the term reflects the conviction that each person's identity - in the older sense of who he or she truly is - is deeply inflected by [these] social features" (Appiah 2005, p. 65). It is thought that the way that we behave and the goals and projects we pursue in life are affected by these aspects of our identity.

> Once these labels are applied to people, ideas about people who fit the label come to have social and psychological effects. In particular, these ideas shape the ways people conceive of themselves and their projects. So the labels operate to mold what we may call *identification*, the process through which individuals shape their projects - including their plans for their own lives and their conceptions of the good life - by reference to available labels, available identities.
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> (Appiah 2005, p. 66)

Our identity can shape the goals we pursue in life, the way people treat us and the way that we behave. For this reason Taylor argues that it is important that we receive accurate recognition from others.

Taylor believes that our identity is "partly shaped by recognition or its absence..." (1994, p. 25). Unfortunately, it is often shaped through the *mis*recognition, or inaccurate recognition, that we receive from others (1994, p. 25). He tells us that "a person or group of people can suffer real damage, real distortion, if the people or society around them mirror back to them a confining or demeaning or contemptible picture of themselves" (1994, p. 25). The idea here seems to be that recognition takes the form of dialogue that we have with others, and as part of that dialogue, the other person reflects back to us an image

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[104] Honneth argues that recognition, of all three types, is crucial for identity formation. However, he does not present an argument for deriving group rights from this fact, so it will not be of any use to multiculturalists. Taylor, on the other hand, does try to argue that because recognition is important for identity formation we should grant group rights.

that they hold of us. We are receptive to this, and the image that others project of us influences how we understand ourselves. In this sense, our identity is formed in dialogue with others. The problem is that if the Other projects an inaccurate image of us, then we can form an identity that will be harmful to us. By this, Taylor likely means that it could hinder us in our future goals in ways which seem unfair. For example, he tells us that

> [S]ome feminists have argued that women in patriarchal societies have been induced to adopt a depreciatory image of themselves. They have internalized a picture of their own inferiority, so that even when some of the objective obstacles to their advancement fall away, they may be incapable of taking advantage of the new opportunities.
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> (1994, p. 25)

Similarly, he argues that black people have had a demeaning image of themselves projected back onto them for so long that they eventually adopt this image, and assume the roles expected of them (1994, p. 26).

The problem seems like it would be hard, if not impossible, to know if we are holding an 'accurate' image of someone. How am I to know whether the image I am projecting onto others is accurate or demeaning? If we look at Taylor's case of the patriarchal society, all individuals will be raised with the same harmful views of women; it seems unlikely that they would know they are unfairly hampering women's future opportunities.

I would suggest that the best way to interpret Taylor's call for accurate recognition is to understand him as wanting us to be mindful of the images that we hold of others. This would involve being careful that we do not hold stereotypes of people that are discriminatory or disadvantage people's future prospects in life. In this sense, the demand for accurate recognition is essentially a demand for nondiscrimination. This is important because discrimination can affect our identity in a way that will hinder our future goals and social interactions.

We could even combine this with Honneth's principles of equality and achievement. If one felt that they were not being respected as an equal under the law, then they could appeal to the principle of equality to call for society to reevaluate the distribution of rights and liberties. If one felt they were not receiving the esteem that they deserve for their accomplishments, or that their society is discriminating against them in the way that it values achievements, then they can appeal to the achievement principle to call for society to reassess its evaluative framework. In both of Taylor's examples - that of women in a

patriarchal society, and black people in a racist society - disadvantaged individuals could appeal to these principles. This could help them gain equal rights and liberties, and call for the society to value more highly their contributions. By gaining equal rights and liberties, these individuals would gain more respect, and by having their contributions valued they would gain esteem. This should help ensure they receive more positive and accurate recognition, and as a result help them form identities that will not hinder their future goals.

I do not think it is a stretch to interpret Taylor's demand for accurate recognition as a demand for nondiscrimination. Indeed, Taylor goes on to outline different ways to tackle discrimination. If we look at these options, we can see that Taylor supports multiculturalism because it employs his preferred approach to preventing discrimination. So if we value recognition, we should want to prevent discrimination, and if we take Taylor's preferred approach to preventing discrimination, we have reason to support multiculturalism. However, if we take the alternate approach to preventing discrimination, then we will end up supporting some other form of liberalism (which, it seems, still recognises citizens, but perhaps not as effectively as Taylor thinks a political theory could). Let us look more closely at these approaches.

Taylor argues that there are two approaches we could take to prevent discrimination; the first, he calls a politics of universal dignity. This is a politics that has grown out of liberalism of the type developed by Rawls, Dworkin and Bruce Ackerman amongst others, and focuses on equal rights and liberties for all (1994, pp. 56-61). On this view, "individual rights must always come first, and, along with nondiscrimination provisions, must take precedence over collective goals..." (1994, p. 56). A society that adopts such a politics "adopts no particular substantive view about the ends of life. The society is, rather, united around a strong procedural commitment to treat people with equal respect" (1994, p. 56). It is sceptical of collective goals (or what I call group rights) because they violate these procedural commitments by promoting a particular substantive view.[105]

The second approach to preventing discrimination, Taylor calls a politics of difference. This politics, he tells us, has come about through "the development of the modern notion of identity..." (1994, p. 38). It asks us to recognise the "unique identity of this individual or group, their distinctness from everyone else" (1994, p. 38). A politics of difference

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[105] As Taylor explains further, "Dworkin makes a distinction between two kinds of moral commitment. We all have views about the ends of life, about what constitutes a good life, which we and others ought to strive for. But we also acknowledge a commitment to deal fairly and equally with each other, regardless of how we conceive our ends. We might call this latter commitment 'procedural', while commitments concerning the ends of life are 'substantive'. Dworkin claims that a liberal society is one that as a society adopts no particular substantive view about the ends of life. The society is, rather, united around a strong procedural commitment to treat people with equal respect" (1994, p. 56). See further Dworkin (1978a).

addresses discrimination by making "distinctions the basis of differential treatment" (1994, p. 39). For example, he says it would support the special rights and liberties enjoyed by Aboriginal Canadians and not other Canadians, where a politics of universal dignity would be unsupportive of them. He aligns the politics of difference with multiculturalism, as he believes that multiculturalism focuses on groups and differential treatment (1994, p. 61).

We might ask, then, whether Taylor is right to opt for a politics of difference (and hence multiculturalism) if we want to value recognition effectively. The problem is that Taylor seems to present us with a false dichotomy; it does not seem to me that a politics of dignity, which focuses on equal rights and liberties, is entirely in contradiction with the aims of a politics of difference. For example, I would argue that cosmopolitanism has developed out of classical liberalism. It *is* sceptical of collective goals or group rights because they promote a particular substantive view, and because cosmopolitans prioritise individual rights over group rights. However, cosmopolitanism is not, as Taylor charges, 'blind to difference'. It can recognise people's unique identities. If, for example, an immigrant group feels that they are not getting the recognition they deserve, they can push for more equal rights and liberties, and call for their cultural traditions and achievements to be valued more highly. In this regard, the group could gain more funding for cultural festivals, have their artwork displayed more prominently, get more media coverage, receive funding for cultural specific studies, secure a more prominent platform in political debates, or have their language more widely displayed on signs and government documents. Individual group-differentiated rights might even be introduced (for example, Sikhs may be allowed to wear their turbans instead of a helmet while riding motorbikes). None of these policies are inconsistent with cosmopolitanism.

I agree with Taylor, however, that the limits of cosmopolitanism are usually exceeded by group rights (cosmopolitanism can support group rights only if it is the best way to meet the needs of individuals). But it does not seem as though appreciating a person's identity requires giving the group that they identify with group rights. If what we are concerned about is ensuring that the individual forms an identity that is accurate, and does not unnecessarily hinder their future goals in life, then we are merely looking to ensure that the person does not suffer discrimination. Cosmopolitanism seems well-equipped to help individuals achieve this. I can only see Taylor favouring a politics of difference because he thinks that the identity of *groups* is important. Ensuring that we recognise the identity of individuals does not seem to require granting group rights to the group which allows them

to revoke or restrict the liberties of its members (1994, p. 59).[106] Granting group rights in this way also risks treating groups as separate and bounded, which ignores the extent to which individual identities are multiple and overlapping.[107] It seems we could only think that we need group rights if we already had a commitment to groups over individuals, or at least independent of our commitment to individuals. It might be the case that Taylor thinks that we *should* prioritise groups over individuals, but this is not typical of liberal theories. We would need to separately establish that groups are important and deserving of recognition.

We can accept that recognition is important for identity formation, and that concern for identity formation requires taking care to give people accurate recognition. This basically means that we should be careful not to discriminate against individuals because this could have the effect of unfairly limiting the future goals that they pursue. People might demand recognition of their unique identities in society, and we can resolve to value more highly their contributions, and equally respect the groups they affiliate themselves with. For example, this might involve giving their group a more prominent public platform, more funding, or more say in political matters. However, consideration for identities in a liberal society will be consideration for individual identities (any aid to *groups* will be justified by the positive effect it will have on the individual group members). But the multiculturalist seeks group rights that aim to secure and protect the identities of *groups*. We will only want to prioritise group identities if we already have a prior commitment to groups. This must be established by a separate argument, and I argue in other chapters that liberals should not favour a focus on groups. Without this, even accepting the importance of recognition for the formation of identity, there is no support for multiculturalism to be found here.

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[106] He does stipulate that group rights could only be granted to those groups that ensure that fundamental rights and liberties are respected, though. These rights are "those that should never be infringed and therefore ought to be unassailably entrenched..." such as "rights to life, liberty, due process, free speech, free practice of religion, and so on" (1994, p. 59).

[107] The literature on intersectionality might be useful in developing this point further. 'Intersectionality' refers to the study of overlapping forms of oppression and discrimination. People could face discrimination for many identifications, including race, ethnicity, nationality, sexual orientation, gender, or religion for example. Originally the term was used to refer to the overlapping forms of discrimination that black women face. Kimberle Crenshaw argues that "... Black women are sometimes excluded from feminist theory and antiracist policy discourse because both are predicated on a discrete set of experiences that often does not accurately reflect the interaction of race and gender... Because the intersectional experience is greater than the sum of racism and sexism, any analysis that does not take intersectionality into account cannot sufficiently address the particular manner in which Black women are subordinated" (1989, p. 140). See further Crenshaw (1989, 1991), hooks (1981) and Yuval-Davis (2006).

4.4.2 Psychological well-being

Recognition could be important for our psychological well-being. Much of the language used by Taylor and Honneth points to the 'harm' that misrecognition or lack of recognition can cause. This harm is most likely an emotional or psychological harm, so accurate or positive recognition is something that is important for individuals to receive from society in order to maintain a healthy mental well-being.

Taylor argues that failure to gain accurate recognition can cause us to hold an inferior self-image, and (as well as being harmful for our identity formation) this can result in low self-esteem and crippling self-hatred (1994, pp. 25-26). He tells us that misrecognition is 'damaging' as it "can inflict a grievous wound, saddling its victims with a crippling self-hatred" (1994, pp. 25, 26). As we can see, the language Taylor uses shows that he believes misrecognition can cause great psychological harm.

Remember that for Taylor, recognition consists of a dialogue between people. During this interaction, the image one person has of the other is projected onto him. This constant projection of how one views the other is important, because it is how we come to learn who we are. If a person has a negative or inaccurate picture of himself projected onto him, he could internalise this image, and this could damage his self-esteem or lead to self-hatred. So the idea is that if we care about people's psychological well-being, we should be mindful to give positive and accurate recognition. Taylor goes as far as saying that misrecognition can even be considered a form of oppression for the damage it can cause (1994, p. 25).

It is important to point out that while it is beneficial to receive positive recognition, it is important that this is *due* recognition. We should not give positive recognition simply as a means to buoy someone's self-esteem when that recognition is based on a false image. For example, there may be some people that we hold a negative image of - perhaps a wealthy investment banker who we perceive to be making money through immoral means. Projecting a positive image onto him may boost his self-esteem and have beneficial psychological effects, yet we would be portraying a false or inaccurate image onto him. Taylor would also count this as a form of misrecognition because, although it is *positive* interaction, it is a portrayal of an inaccurate or false image of the person.

Honneth also believes that recognition is important for our psychological well-being. It is largely affectionate recognition, which we receive during our formative years, that has the greatest impact on our psychological well-being. He argues that this recognition allows us to develop our self-confidence, and it allows us to understand that we are individuals with needs (Thompson 2006, p. 20). By this, I understand Honneth to mean that we have

psychological needs such as needs for social interaction, emotional support, and caring for example. However, he also tells us that this affective recognition allows "growing individuals [to] acquire trust in the value of their own bodily needs" (2003, p. 139). Physical humiliation, such as torture or rape, could be classed as the most fundamental type of human degradation "because every attempt to gain control of a person's body against his or her will... causes a degree of humiliation that impacts more destructively than other forms of respect on a person's practical relation-to-self" (1995, p. 32). It "does lasting damage to one's basic confidence" and it results in "the loss of trust in oneself and the world..." (pp. 132-133).[108] This suggests that when Honneth refers to 'bodily needs', he may mean something like each individual's need for bodily security and respectful physical interaction with others. Violation of this need denies us the ability to respect ourselves, gain self-confidence, and trust others.

So we might have various reasons for thinking that recognition is important for maintaining a healthy psychological state. It helps us become self-confident, have self-respect, trust others, as well as feel secure in our own body. However, we should be careful not to think that psychological harm can capture *all* that is wrong with misrecognition. Fraser is wary of Taylor and Honneth's accounts because they focus on the psychological harm that misrecognition can cause, without giving enough attention to the types of misrecognition that do not seem to cause obvious psychological harm. She criticises them for, what she calls, the 'psychologization' of recognition (2003, p. 31). As we will see in the next section, on her account misrecognition is an *injustice*, not a psychological harm. She denies that the wrongness of misrecognition depends on the presence of ethical-psychological effects. To be clear, Fraser is not implying that misrecognition *does not* cause psychological harm. Her point is that there may be an injustice even if there are no signs of psychological harm: insisting that the wrongness of misrecognition is always psychological will lead either to ignoring some problems or to stretching the notion of psychological harm beyond breaking point.

For example, consider the case of a paternalistic society in which women have images reflected onto them as inferior to men. The people in this society have projected images onto women that are negative or inaccurate. Fraser's point is that regardless of whether this is psychologically damaging to these women, we still want to say that an injustice has taken place. Even if the women are happy, confident and have self-respect (so not *seem* to have suffered psychological harm), an injustice has occurred because the mechanisms of paternalism are used as a form of oppression, or as a way of confining women to

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[108] Here, Honneth's seems to draw largely on Elaine Scarry's account of torture (1985).

subservient roles. If we characterise misrecognition as only that which causes psychological harm, then we will fail to capture cases like this. What we don't want, is for someone to be able to say that if you cannot identify a particular psychological harm that someone is suffering, then that means that there is nothing problematic taking place. Psychological harm might be sufficient for wrongness, but it is not necessary.

Taylor might respond by saying that whether or not the women in this example realise it, they *are* being psychologically harmed; having society portray an inaccurate image onto them is psychologically damaging whether they recognise it or not. This might seem like an odd thing to say, though. To maintain this position, Taylor would either have to claim that injustice is itself a psychological harm, or that it causes psychological harm which is not conscious, or obvious to those around her. If he takes the first option, then he will not be in disagreement with Fraser (or me), but he will be using a rather strange definition of 'psychological harm'; it is not clear that holding such an understanding of psychological harm will be in any way helpful. If he takes the second option, then the burden of proof lies with him to convince us that a psychological harm occurs even if we are not conscious of it. As it stands, he does not provide any of the empirical proof that would be required, but this is presumably because it is the first option that is correct. Of course, if he takes the first option, then Fraser is correct, and Taylor is using an odd and unhelpful understanding of psychological harm.

So, the claim is that misrecognition sometimes (but not always) causes psychological harm, and that is one of the reasons that it is wrong. It seems true that there could be some obvious cases in which misrecognition causes psychological harm. There will likely be cases where it is indisputable that misrecognition is harmful to a person's confidence and self-respect for example. I agree (with Taylor and Honneth) that misrecognition is bad if it causes these effects, and that we should be careful to prevent this type of harm. However, I do not think that this concern for preventing psychological harm leads us to think that we should focus on *groups*. Here, I am restating the point I made in the previous section. There I argued that we should only want to focus on groups and grant group rights if we think that the important part of a person's identity is their membership within a group. Likewise, it seems like we should only want to focus on groups and grant group rights if we think that what is important for maintaining a person's mental well-being is that they are recognised for their membership within a certain group. It is only if you start out by thinking that it is people's membership in groups that is especially important, that you are going to think that the really dangerous psychological harms are the ones that have to do with their group identities being undermined.

I am tempted to think that what is *really* important for mental well-being is being recognised for the individual that you are, and not being discriminated against for your multiple and overlapping identities. You should be loved, respected, and esteemed for the person that you are. However, the multiculturalist needs to maintain that you should be recognised primarily for your membership within a group. You should be loved, respected, and esteemed as part of a group that you identify with; you should be recognised *as a Christian*, or *as a Latino*, or *as a Quebecker*. You should be identified by the group that you belong to. It is standard for liberals to focus on individuals, though. The group focus that multiculturalists assume is uncharacteristic of liberal theories. They could only think that we ought to focus on groups to prevent psychological harm if they have a prior commitment to groups. Of course, one can provide arguments for thinking that groups are important, and for thinking that we need a focus on groups. One might argue that cultures are important, or that nations are important, or that ethnic groups are important. I explore some of these arguments in other parts of my thesis (Chs. 3, 5 and 6) and find that they are unsuccessful. I suspect the multiculturalist will be unable to justify a focus on groups (that is consistent with liberalism).

We ought to be concerned about the psychological impact of misrecognition, but this concern will not lead us to support multicultural group rights unless we have a prior commitment to groups. The multiculturalist will have to provide separate arguments to establish this, but I argue elsewhere that such arguments are doomed to fail.

4.4.3 Achieving justice

Earlier I stated that Fraser chooses not to frame the problem of misrecognition in terms of psychological well-being. Instead, she argues that recognition is important for achieving justice. On her account, injustices can fall into two categories: injustices concerning redistribution, and those concerning recognition. Redistribution claims are thought to focus solely on economic injustices, they "seek a more just distribution of resources and wealth...", whereas recognition claims focus on cultural injustices which are thought to be "rooted in social patterns of representation, interpretation, and communication" (2003, p. 7, p. 13). She tells us that only with the recent introduction of identity politics (and, I would add, multiculturalism) have we begun to see claims for recognition. She believes that the aims of redistribution do not oppose those of recognition, as people often claim, and instead should be pursued together. "[J]ustice today requires *both* redistribution and recognition", with nearly every injustice having both a redistribution and a recognition

element (2003, p. 9).[109] She tells us, for example, that the concept of race is a "two-dimensional social division, a compound of status and class" (2003, p. 22). On the one hand, it is a problem of recognition because Eurocentric norms privilege white Europeans and view other races as inferior. On the other hand, race is a problem of redistribution because white Europeans statistically occupy higher paid jobs and are generally much wealthier than other races (2003, pp. 22-23). "Racialized immigrants and/or ethnic minorities suffer disproportionately high rates of unemployment and poverty and over-representation in low-paying menial work" (2003, pp. 22-23). Fraser believes that because nearly all cases of social injustice hold both a redistribution claim and a recognition claim, we should adopt a two-dimensional conception of justice, which she calls 'perspectival dualism'.[110] [111] According to this conception, we should look at injustices from both perspectives (of recognition and redistribution) to try to resolve the issues.

Fraser's approach is appealing because, unlike Taylor's approach, it highlights the fact that problems of recognition are only some of the problems that we face; economic concerns should not be ignored. I see her account of recognition as the most plausible, because on her account, recognition is important for helping us reach equality of some sort. For Fraser, the goal of a politics of recognition, "in its most plausible form, is a difference-friendly world, where assimilation to majority or dominant cultural norms is no longer the price of equal respect" (2003, p. 7). Misrecognition is wrong on her account because it denies some individuals and groups status as full partners in social interaction (2003, pp. 28-29). In this way, misrecognition leads to status subordination.

> On the status model, misrecognition... constitutes an institutionalized relation of *subordination* and a violation of justice. To be misrecognized, accordingly, is not to suffer distorted identity or impaired subjectivity as a result of being depreciated by others. It is rather to be constituted by *institutionalized patterns of cultural value* in

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[109] Fraser tells us that "virtually all real-world axes of subordination can be treated as two-dimensional. Virtually all implicate both maldistribution and misrecognition in forms where each of those injustices has some independent weight, whatever its ultimate roots" (2003, p. 25). However, she does leave open the possibility that some cases might be solely concerned with either redistribution or recognition.

[110] Thompson suggests that labeling this approach 'perspectival dualism' might lead to confusion. As he points out, it could be understood as meaning that we can choose to use *either* perspective (that of redistribution or recognition) to understand *either* social domain. However, what she means is that every case of injustice requires using both perspectives at the same time. Thompson suggests that she should "recommend the adoption of a single 'binocular' vision, rather than a choice of one of two 'monocles' at a time" (2006, p. 194 n. 2). Although I agree with Thompson that this might be a good suggestion, I think Fraser does manage to make her position explicit in the text.

[111] I should point out that critics have questioned whether there are only two dimensions of justice. For example, Barry claims that this is a "crude dichotomy", and both Young and Thompson suggest that there is a third, 'political' dimension (Barry 2001, p. 275, Young 1997, p. 151, Thompson 2006, p. 115, see also Feldman 2002).

> ways that prevent one from participating as a peer in social life.
>
> (2003, p. 29)[112]

The problem with suffering status subordination is that it impedes a person's ability to achieve 'parity of participation'. According to the norm of parity of participation, "justice requires social arrangements that permit all (adult) members of society to interact with one another as peers" (2003, p. 36).

Although she does not make this distinction explicit in her work, I understand Fraser to be saying that it is important that people are able to achieve parity of participation for two reasons: one to do with respect, and one to do with esteem. First, it is a matter of respect that we ensure that everyone is able to interact as equals in society simply because we should respect every person's equal status as human beings. This is a universalist claim in two senses: i) "it encompasses all (adult) partners to interaction" and ii) "it presupposes the equal worth of all human beings" (Fraser 2003, p. 45). Second, every member of society deserves "an equal right to pursue social esteem under fair conditions of equal opportunity" (2003, p. 32). We should not impede people's "equal opportunity for achieving social esteem..." (2003, p. 36).[113]

Here we can see that Fraser thinks that justice is important for ensuring equality - as having equal status as human beings - and for ensuring that people are not disadvantaged in their pursuits on the basis of characteristics such as gender, sexual orientation, or race. This latter reason, I take to be a claim that people should not be discriminated against unfairly. As I explained in the section on identity formation, it would be unjust if people were to have their options in life and their future opportunities limited because of certain aspects of their identity. Society might be biased towards white, straight males, and have its evaluative framework set up to favour them more than others. This means that individuals with these characteristics will face fewer impediments in achieving their future opportunities than others. Like Honneth's achievement principle, I think we can

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[112] It is worth pointing out that Fraser only describes misrecognition as resulting in status *subordination*. It seems to me that people could also be misrecognised in a positive way. Such people would, presumably, enjoy a more superior status than they are due. We might think that certain people or groups that have been idolised have had their status elevated unduly. For example, we might think that the Brahmin caste in the Indian caste system has been misrecognised and has consequently enjoyed an elevated status. It is common amongst those writing on the politics of recognition to only focus on the victims of subordination, and not mentioning the wrongness of holding elevated status.

[113] Thompson agrees with this reading, arguing that Fraser "would be well advised to make the distinction between these two modes of recognition a central part of [her] political [theory]" (Thompson 2006, p. 82).

understand Fraser to be claiming that people should be able to push for such an evaluative framework to be reassessed so that the contributions of disadvantaged people are more highly valued. Individuals can push for this by making clear that the framework of society impedes parity of participation, or one's ability to participate as an equal in society, and this is unjust.

As Lawrence Blum points out, the groups that Fraser is focusing on are devalued groups (1998, p. 63). She wants to achieve justice for those who are not treated as equals, or who are discriminated against by the current structure of society. It is clear that the focus, for Fraser, is on the "desire, need, or demand to be *treated as an equal*" not treated as different (as many writing on the politics of recognition would rather emphasise) (Blum 1998, p. 64). Unlike other theorists, she makes clear that she does not want to value difference if it means elevating those individuals or groups above the level of equality, because she is concerned with achieving parity of participation.

However, the multiculturalist does not want group rights that simply take the individuals up to a level of equality. Multiculturalists are not concerned about parity of participation, but about demanding differential treatment for groups regardless of how this positions them relative to other groups in society. They would hold that we ought to give groups rights because recognising *difference* is important. Groups should get differential treatment so as to appreciate this difference, not to bring the individuals of society back to a level playing field. Not only would Fraser's theory not allow this (as she would not support policies which allow groups or individuals to obtain more privileged positions), it also seems like something that groups cannot demand. As I argued in § 4.3.3, recognition as a positive valuation is not something that one can demand. *Meaningful* recognition must come voluntarily; it must be earned. The most one can ask is for the evaluative structure their society uses to be reassessed. The multiculturalist cannot demand that groups be given group rights as a means of giving them positive recognition.

The multiculturalist may, at this point, say that I am wrong; this is not what they are aiming for. They may tell us that instead of demanding positive recognition, they are looking to elevate the status of the group to the level of equality, and they mean to do this by granting disadvantaged groups rights. This would be allowed on Fraser's account because the rights are not aiming to raise group members *above* the level of parity of participation, but only to help them reach it.

However, cosmopolitanism (and other liberal theories) can grant rights that aim to bring disadvantaged individuals up to the level of parity of participation. They can even grant these rights to groups provided that granting group rights is the best way to aid the

individual members of those groups. Cosmopolitans can support temporary corrective measures as a means of dealing with injustice. Affirmative action policies may be considered an example of these types of measures (I explain in further detail in Chapter 6.2 the ways in which affirmative action policies fit into a cosmopolitan framework). If these measures are easily accommodated in a cosmopolitan framework, then there is no need to opt instead for multiculturalism. If all that multiculturalism is aiming to achieve through granting group rights is parity of participation, then their theory does not occupy any unique theoretical ground. To stand out as an independent political theory, they will have to aim to achieve more than rival liberal theories. So this response is not helpful for them.

I agree with Fraser that recognition can be important for achieving justice, if what we mean by this is achieving equal opportunity to participate as peers in society. We should be both treated as equal citizens and human beings, and not face discrimination on the basis of certain characteristics or group identification.[114] Valuing equality means more than just ensuring just distribution, it also means ensuring fair opportunity to pursue future goals. Recognition can help us achieve this latter goal. A cosmopolitan can agree with all this, as would most liberals. Recognition of the type that Fraser outlines can be valued by cosmopolitans, as long as it is used to achieve parity of participation for individuals. Multiculturalists will either be aiming to achieve positive recognition regardless of parity of participation - which I argued is not possible - or they will be aiming to achieve positive recognition only up to the level of parity of participation - which I argued does not give them a distinctive position. A recognition-focused multiculturalist will find no grounds for group rights in arguments for justice.

4.5 Conclusion

In this chapter, I asked whether or not multiculturalists could appeal to the concept of recognition to find support for multiculturalism. I examined the concept, first by considering a historical account (that provided by Hegel) and then more contemporary accounts (those provided by Taylor, Fraser and Honneth). An examination of Hegel's historical account of recognition showed that it cannot be used to support multiculturalism, and could instead be used to motivate cosmopolitanism. The most influential theory of recognition, then, cannot be appealed to as support for multiculturalism.

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[114] I say we should not be discriminated against on the basis of identification with *certain* groups, because while we should perhaps not be discriminated against if we identify with ethnic groups or national groups, we might justifiably be discriminated against for identification with the Ku Klux Klan, or neo-Nazi parties.

Looking at more contemporary accounts, I argued that recognition could be understood to mean three different things: love, respect and esteem. Recognition, of any type, could be important for a number of reasons. Here, I considered whether recognition was important for identity formation, psychological well-being, and achieving justice.

I argued that it is likely that recognition is important for identity formation. However, as liberals, we will focus on the individual and recognise her as a complex person with multiple and overlapping identities. The multiculturalist, on the other hand, focuses on groups. They want to argue that valuing identify formation requires recognising groups, and granting them group rights. However, this focus on groups will require a prior commitment to groups, and the multiculturalist will have to provide a separate argument to establish this. As I explained, the multiculturalist could argue that *cultural groups*, or *national groups*, or *ethnic groups* are important for example. I consider arguments of these types in other chapters though (Chs. 3, 5 and 6), and find them unsuccessful. So the multiculturalist will not be able to ground group rights solely in arguments focusing on recognition and identity-formation.

I also agreed that recognition is likely important for psychological well-being. This might be a very difficult route for the multiculturalist to take, as it will involve showing that misrecognition causes psychological harm. Measuring this type of harm, and providing empirical evidence to support the claims needed, will be challenging. However, even if we allow that misrecognition *does* cause psychological harm (I expect there will be cases in which it is clear that it does), the multiculturalist will still not find grounds for group rights. Again, this focus on groups surely only comes about because the multiculturalist has a prior commitment to groups. The cosmopolitan can agree that accurate recognition is important for psychological well-being, and that we ought to be careful to prevent misrecognition, but this does not require us to focus on groups. The multiculturalist must think that recognition of the individual's membership in a specific *group* is what is important to her psychological well-being; she must be recognised as a member of that group. However, this choice to focus on groups is not typical of liberalism, and so it is up to the multiculturalist to argue that groups are important. Again, I consider such arguments in other chapters and find them inadequate.

What I take to be the most convincing argument for the importance of recognition, is Fraser's argument concerning justice. On her theory, recognition is important for achieving justice. Recognition should be used in conjunction with redistribution to achieve a level of equality, or parity of participation. I agree that recognition should be used to achieve this end. However, it is important to notice that Fraser will only support policies which aim to

bring individuals and groups up to the level of equality. The multiculturalist can be understood to take one of two positions at this point. On the one hand, they could be seeking to grant groups rights for certain groups as way of giving positive recognition, and they want to do this regardless of that group's position relative to others. This is basically a demand for positive valuation. This, I explained, is something that cannot be demanded; groups must work within the evaluative framework of their society, and this means *earning* positive recognition. On the other hand, the multiculturalist could be seeking to grant group rights to groups merely to bring them up to the level of parity of participation. But if this is the case, then the multiculturalist is not holding a distinctive political position. Cosmopolitanism (or any universal liberal theory) can support temporary measures to bring groups up to a level playing field. The multiculturalist cannot choose this option either, if they are to maintain that multiculturalism is unique in its political aims.

At the beginning of this thesis, I claimed that there are three reasons that the multicultural arguments under consideration fail. In this chapter, we can see examples of two of these cases. First, the multiculturalist relies on a concept (recognition) to ground group rights. However, upon closer examination, we see that the concept is important, but it leads us to support cosmopolitanism as opposed to multiculturalism. We saw this happen in our discussion of Hegel's account of recognition, which I argued could be developed to support a cosmopolitan account. We could also see this in Fraser's account, which argued that recognition is important for achieving justice. Here, Fraser was concerned with using recognition to help achieve a level of equality, and as long as the goal is to achieve parity of participation for individuals, the cosmopolitan can support this aim.

Second, the multiculturalist has misunderstood or misrepresented the concept that they appeal to, and the argument actually relies on another concept altogether. We could see this in the discussion of identity formation and of psychological well-being. In the section on identity formation, Taylor argued that valuing recognition led us to a politics of difference, and thus, multiculturalism. However, I argued that valuing recognition does not necessarily lead us to support a politics of difference. In fact, we are only tempted to choose this group-focused politics over an individual-focused one if we already have a prior commitment to groups. Similarly, in the section on psychological well-being, it was argued that we need accurate recognition, as misrecognition causes harm. The multiculturalist argued that granting group rights was the best way to prevent misrecognition, however this group focus will require a prior commitment to groups. At this point, the reader is then led to arguments for considering groups important. I consider

such arguments in other chapter (arguments for thinking that cultures, nations and ethnic groups are important) and find that they fail. This elusive strategy creates confusion and gives the impression that multiculturalism must have strong roots somewhere, when in fact it does not. Ultimately, an appeal to recognition will not be helpful as a potential foundation for multiculturalism.

5. Nationality

5.1 Introduction

Multiculturalists often seek group rights for national groups within multinational societies. For example, Quebec is usually considered a national group within Canada. It is a group which holds special language rights, and which has, at times, sought to secede from Canada. Similarly, Scotland and Wales view themselves as separate nations that form part of Great Britain, Catalonia as a nation forming part of Spain, and the Maori people might be seen as a national minority in New Zealand. Nations, it is argued, create special obligations for their group members (both towards the nation, and towards each other). In multicultural societies, national groups most often seek rights to self-determination or self-government, language rights, and special representation rights. They may desire recognition, limited autonomy, or complete independence.

In this chapter I examine the concept of nationality, and question whether arguments that focus on the importance of nationality can be used in support of multiculturalism. In order for an appeal to nationality to be helpful for the multiculturalist, they will need to establish that nations are suitable units for holding group rights, and are important enough to warrant them. First I examine what a 'nation' is. As we shall see, it is notoriously difficult to define (like many of the other concepts I consider in this thesis).[115] I then argue that there are a number of different ideas, or themes, which tend to be found in definitions of nationality. It is often claimed that (1) there is some link between nationality and race or ethnicity, (2) a national group has a common set of beliefs, (3) a nation is territorially located, (4) a nation seeks self-determination or self-government, and/or (5) one's nationality provides them with a sense of belonging, or is an important part of their identity. This is not an exhaustive list, and other themes may be suggested, these are just the themes I have found to be most common. I consider each theme in turn in order to determine what definition - or combination of themes - will provide the *multiculturalist* with the best chance of success. While one definition might be best suited for purely *nationalist*

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[115] The difficulty of providing definitions of 'nation' and 'nationality' are discussed by Weber (1994), Connor (1994) and Tamir (1993) amongst others. Yael Tamir tells us that "all attempts to single out a particular set of objective features - be it a common history, collective destiny, language, religion, territory, climate, race, ethnicity - as necessary and sufficient for the definition of a nation have ended in failure..." (1993, p. 65).

arguments (which I take to be arguments in support of single nation-states), multiculturalists wanting to rely on the concept of nationality might well need a different definition.

The problem is that, on the only credible theory of nationality, a nation must be understood as a group which has, or seeks, self-government. However, the multiculturalist cannot understand a nation to be self-governing because he wants to maintain *multi-national* states, not encourage a collection of independent nation-states. Multiculturalists must, then, deny that nations are deserving of self-government rights. As a result, the definition of 'nation' that they must hold, then, is reduced to nothing more than a 'culture'. And as we have seen in Chapter 3, an appeal to the concept of culture is also unhelpful for multiculturalists. So if one wants to argue that nations are important enough to ground group rights, they must take the route of the nationalist and understand nations to be self-governing (or which *should* be self-governing), but unfortunately for the multiculturalist, he cannot defend this position and remain consistent with his overall objective.

5.1 What is a 'nation'?

It will be helpful to first clarify what we consider a nation to be. There are many different ways we might choose to define a nation. I will argue that there are five themes to the various definitions of a nation. Before considering these, though, I want to clarify the distinction between a 'nation' and a 'state'.

In ordinary speech, we often use the words nation and state interchangeably. For example, when we talk about the 'United Nations', or when we use the terms 'international relations' and the 'national interest', we are using the term 'nation' to mean the same thing as a 'state'; we are using them to designate a political unit (Caney 2005, p. 14). The *Oxford English Dictionary* defines a nation as follows:

> A large aggregate of communities and individuals united by factors such as common descent, language, culture, history, or occupation of the same territory, so as to form a distinct people. Now also: such a people forming a political state; a political state.
>
> (OED 2013b)

The latter part of this entry highlights the way in which it is now common to use the word 'nation' to mean the same as 'state'. However, this usage is unhelpful when we are talking about national groups in the multicultural context, because the multiculturalists believe that

we can have *multinational* states. For this reason, we will want to be able to make clear distinctions between nations (or national minorities, or national groups) and states. Distinguishing between the two terms allows us to coherently speak of 'nation-states', 'multinational states' and 'national minorities'. Without the distinction, it would appear that we are talking about state-states, multistate-states and state minorities - meaningless terms. We are not aiming to talk about states within states, we are aiming to talk about specific kinds of groups or communities which are not (or not *yet*) internationally recognised political units. Defining what nations are in *this* sense is the challenge.

Roughly, in debates about nationality and multiculturalism, we should understand a 'nation' to be a group of people who share something in common. Often people suggest that this commonality is shared descent, language, culture, history or ethnicity.[116] A 'state', on the other hand, is a political unit. To use Max Weber's definition, "a state is a human community that (successfully) claims the *monopoly of the legitimate use of physical force within a given territory*" (2009, p. 78). A state often comprises a number of different cultural, ethnic, religious or national groups, whose members might not share anything in common (or might not *feel* they share anything in common) apart from being citizens of the same state, residing within the same borders. For example, the members of the USSR (being such a large state) may not have felt that they had anything in common apart from being citizens of the same state.

This distinction is helpful for explaining the ways that these two groups can overlap and come apart. We can find examples of nation-states, which are nations which map neatly onto state borders - Iceland, for example. We can also have multination states, which are states with more than one nation within its borders. For example, Canada can be seen as holding three national groups - French-Canadians, First Nations aboriginal peoples, and the English-speaking rest of Canada (ROC). Also, the United Kingdom is constituted by four nations: Scotland, Wales, Northern Ireland and England. Alternatively, we can have cases of nations which cross the borders of more than one state, examples include: the Basque people whose nation straddles Spain and France; the Kurdish people who span Turkey, Iran, Iraq and Syria; and the Romani people, who are dispersed worldwide.

We can now ask specifically how we should understand a *nation*. There are many different understandings of nationality. Perhaps the most prominent writers on nationalism

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[116] It cannot, of course, be enough for the group to share just *anything* in common. A community of Star Wars fans will not be considered a national group, nor will a gay community or a group of people with disabilities. Which commonalities *are* important must be specified. This is a job for the nationalist or multiculturalist, and I believe it will be very difficult to give an account which explains why certain groups sharing common beliefs are considered national groups, while others are not. I consider this in more detail in § 5.4.

are David Miller, Yael Tamir, Benedict Anderson, and especially in reference to multiculturalism, Kymlicka. Miller defines a nation as:

> a community (1) constituted by shared belief and mutual commitment, (2) extended in history, (3) active in character, (4) connected to a particular territory, and (5) marked off from other communities by its distinct public culture...
>
> (1995, p. 27)

He also tells us that it is a "community of people with an *aspiration* to be politically self-determining..." (1995, p. 19). Anderson argues that a nation is 'an imagined political community'. "It is imagined because the members of even the smallest nation will never know most of their fellow-members, meet them, or even hear of them, yet in the minds of each lives the image of their communion" (2006, p. 6). While Tamir endorses Anderson's point, she stipulates that "rather than implying false beliefs or misrepresentations of reality, 'imaginary' implies that, unlike the family, the tribe, or the people, the nation exists only when its members consciously conceive themselves as distinct from members of other groups" (1993, p. 8). At the end of the day, "[o]nly one factor is necessary, although not sufficient, for a group to be defined as a nation - the existence of national consciousness" (1993, p. 65). For Kymlicka, a nation is "a historical community, more or less institutionally complete, occupying a given territory or homeland, sharing a distinct language and culture" (1995, p. 11).[117]

Five central themes seem to run through the various definitions of a nation, and most definitions incorporate a number of these themes.

1) Race and ethnicity: I will also consider common descent and ancestry to fall under this category. The word 'race', here, is used to refer to "[a] group of people... connected by common descent or origin" (OED 2013c). While race is not reflected in the definitions above, it *is* present in historical understandings of 'nation', and it is a common theme throughout much writing on nationalism that co-nationals share common ancestry. It is thought that the members of a nation share the same origin or are connected by blood-relations.

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[117] There is a distinction which is worth a footnote mention: that between Eastern and Western forms of nationality, as outlined by Hans Kohn and John Plamenatz for example (1967, 1976). This distinction typically depicts Eastern forms of nationalism as backwards-looking, primitive and tribal, while portraying Western forms of nationalism as forward-looking, progressive, rational and liberal. These views are outdated and derogatory, and for this reason not worth discussion in the larger text of the chapter.

2) A common set of beliefs: Most definitions insist that members of the group share a common set of beliefs. However, we need to determine what these beliefs are supposed to be. They might be moral, conventional, or traditional beliefs, or beliefs about the history of the nation. For example, Japanese people hold a set of beliefs about their history, and share certain traditions and customs which they believe are nationally formed and held. However, Miller maintains that many of the beliefs that national groups hold are 'myths', and others, such as Eric Hobsbawm, claim that "nationalism requires too much belief in what is patently not so" (1990, p. 12). For example, stories of bravery or success in battle might be historically inaccurate, but serve to garner national support.

3) Territory: Some nationalists believe that a nation must be a territorially concentrated group. It is vital to Miller and Kymlicka's understandings of a nation that it is fixed to a certain territory (Miller 1995, p. 27, Kymlicka 1995, p. 11). However, there are a number of ways of understanding what it means to be 'fixed' or 'connected' to a territory. Perhaps all of the members of the national group must reside within the territory. Or perhaps the national group must simply have a certain territory as a focal point, regardless of whether or not any of the members of the group reside there. For example, regardless of whether many Jewish people lived in Jerusalem, this city was a focal point for them.

4) Self-government: Some understandings of nationality stipulate that a nation is a group that seeks self-government or self-determination. However, it is important to determine what these terms mean. National groups might seek secession, independence or limited self-government. I understand a group to be self-governing if it has the power to make political decisions concerning the group, or as Weber puts it, if it "claims the *monopoly of the legitimate use of physical force* within a given territory" (2009, p. 78). States are, by definition, self-governing, but it might be possible for there to be degrees of self-government (limited or partial self-government). A group is self-*determining* if it has the power to determine the level of independence the group will enjoy.

5) Identity and belonging: Often it is claimed that a nation is a community to which members feel a sense of belonging, or that one's being a member of a certain nation is constitutive of their identity. Here I will consider Kymlicka's arguments for granting 'societal cultures' (most often national groups) rights.[118] For him, nations are important for providing group members with a framework for determining which paths in life are

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[118] For more on Kymlicka's societal cultures, see Ch. 3.

meaningful. We must protect this framework (which means protecting the nation) because losing this framework is damaging to members' identities.

I will consider each theme in turn, and provide arguments for thinking that some of these themes are important for defining a nation, while others are not. I will then consider which themes the multiculturalist can, and should, incorporate into their definition of a nation, with the aim of giving them the best chance possible to establish multicultural group rights.

5.3 Race and Ethnicity

Here I will consider the idea that the members of a nation form a race, are ethnically homogeneous, have common ancestry or common descent, form a kinship group, or are tied by blood. Many definitions of a nation incorporate some variation of this idea, and some theories of nationality rely on it. This is particularly true of theories which are referred to as 'primordialist' or 'essentialist' theories. Best represented by Anthony Smith, John Armstrong and Pierre van den Berghe, these theories essentially argue that nations, at the core, are ethnic groups, or that they grew out of ethnic groups (Harris 2009, pp. 46-47).[119] More commonly, nationalists might claim that a nation is a community with common ancestry or common descent. However, this claim is inaccurate, and potentially quite problematic. If we understand a nation to be a group of people with shared ancestry, then we are essentially making the claim that a nation is a racial group. While multiculturalists might vaguely allude to ideas of common descent or kinship groups, they will not be happy to align nations with racial groups. They may want to claim that *ethnic* groups have rights, but if they understand a nation to be an ethnic group, then they should rely on the concept of ethnicity outright to defend group rights, rather than nationality; it would be a more direct approach. (I will examine this approach in the next chapter.)

While most definitions of nationality allude to common ancestry or descent, some, perhaps older definitions, connect nationality directly with 'race'. In the nineteenth and early twentieth centuries, 'race' could be used as a synonym for 'nation'. For example, writers might refer to 'the German race' or 'the English race', whereas now it might be more common to speak of 'the German people' or 'the English people' (Connor 1994, p.

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[119] These theories are contrasted with what are called 'modernist', 'instrumentalist' or 'constructivist' theories, represented by Anderson (2006), John Breuilly (1993), Ernest Gellner (1994) and Hobsbawm (1990). These theories argue that the idea of the nation has been constructed. I discuss these theories in § 5.4.

37). The choice of wording gives the impression that all Germans (or all Englishmen) are ultimately descended from the same family. It evokes the idea that, if we trace our heritage far enough back, we will find common ancestors, and in this way the members of each national group have blood-ties. As Walker Connor explains,

> An unstated presumption of a Chinese (or German) nation is that there existed in some hazy, prerecorded era a Chinese (or German) Adam and Eve, and that the couple's progeny has evolved in essentially unadulterated form down to the present.
>
> (Connor 1994, p. 37)

For example, we can see this connection between race and nation in the writings of Herder. "Herder developed the idea of *Volk*, translated into English as the 'people' or the 'nation'. According to Herder, a *Volk* was a community bound together by blood-ties..." (Musgrove 2002, p. 5). He used the German '*blutsgemeinschaft*' which translates as 'community of blood' (Mustgrove 2002, p. 5).

When we look at the definitions and etymologies of the words, it is not so strange to find that they have been used synonymously. The words 'race', 'ethnicity' and 'nation' are all interconnected, sharing common root words. The word 'nation' is "derived from the past participle of the verb *nasci*, meaning to be born. And hence the Latin noun, *nationem*, connoting *breed* or *race*" (Connor 1994, p. 38). Other etymological accounts of 'nation' make reference to birth, family, lineage and descendants (OED 2013b).[120] The root of the word 'ethnic' is the Greek *ethnos.* This word refers to the "modern English usage of nation, peoples, especially foreign peoples, or tribes and castes plus the adjectival national and foreign" (Fenton 2010, p. 14). Finally, 'race' means "[a] group of people... connected by common descent or origin" (OED 2013c). It derives from the French *race* and the earlier French *rasse*. "Its earliest uses... have a sense of 'breeding', persons of the same family or bred from the same ancestors..." (Fenton 2010, p. 17). All of these words share the same ideas of ancestry, descent, breed and origin.

Throughout history, though, these terms have come to take on slightly divergent meanings. At the end of the eighteenth century scientists began to inquire as to whether there might exist a number of distinct 'races' which divided humankind. Initially this

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[120] Steve Fenton tells us that '[t]he word 'nation' came into English via French from the Latin root *natio*, which has provided the word for 'nation' in virtually all Romance languages. It... has an original meaning of a 'breed' or 'stock' of people who share a common descent or were regarded as so doing" (2010, p. 16).

project sought to distinguish different taxonomies.[121] Then in the early twentieth century, scientists sought to make race a *biological* concept. They thought each race could be defined by its physical characteristics, and that race could explain temperament and ability (Fenton 2010, pp. 17, 52). Different races could be determined by observational physical features such as hair texture and colour, skin colour, and cranial shape and size. Racial categories were hierarchically ranked, with whites or Caucasians being considered the superior race.

The theory that there are distinct biological races has now been debunked. There are two primary reasons for this. Firstly, there has been too much interbreeding between human populations for it to be meaningful to discuss a limited number of distinct biological racial categories. Secondly, the physical traits that scientists identified do not follow clear boundaries; there is great genetic variation *within* 'racial' groups (Erikson 2010, p. 6). As Steve Fenton explains,

> The idea that has been in retreat in academic usage for more than a century is the proposition that there are a quite small number of 'stocks' of the human race who share physical features, are genuinely members of an ancestral 'family' grouping and, in race theory, are predicated to have common *nonphysical* characteristics such as temperament and ability.
>
> (Fenton 2010, p. 53)

It is now understood by scientists and anthropologists that 'race' is a socially constructed concept, and is not based in biological fact.[122]

Our understanding of 'race' today has been shaped by these (failed) theories of taxonomic and biological classification, as well as by many historical periods and events. For example, our understanding of 'race' is influenced by the slave trade, the treatment of black people in the USA, the treatment of Asian people in WW II and the Vietnam War, the treatment of colonised native peoples on various continents, and the civil rights movements in the 1950s and 1960s. So while the word 'race' itself simply means "[a] group of people... connected by common descent or origin", our understanding of race has come to incorporate all of these connected historical events and ideas (OED 2013c). It has been influenced by our understanding of history and politics. This 'baggage' explains the current, popular understanding of the term.

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[121] See the works of Georges Cuvier (2012 [1800]), James Prichard (1973 [1813]), Louis Agassiz (2010 [1854]) and Charles Pickering (2004 [1848]).

[122] For more on the concept of race, see Ch. 6.2.

With this more comprehensive understanding of race, it becomes clear why we should want to keep the concepts of 'race' and 'nation' apart. We have a negative understanding of race which highlights innumerable injustices and an unquantifiable amount of suffering. First of all, it is empirically false that all of the members of a nation will, in some sense, constitute a racial group. Secondly, it is problematic for practical reasons. If we are to understand a nation to be a race of people, we encourage people to think of each other as more different than they actually are. We also risk promoting these negative classifications, and encouraging racist thinking and discrimination. So if we are looking for a modern, useful definition of 'nation', we should not want race to form part of it. Any theory that proposes that our understanding of nations is reliant on races opens itself to criticism.

The multiculturalist might instead want to claim that a national group is synonymous with an *ethnic* group. Perhaps the thought is that the concept of ethnicity does not suffer such a complicated history as race; our idea of ethnicity is not influenced by such a negative history.[123] Let us, for a moment, understand ethnic groups to be ontologically the same as race in that they pick out groups of people connected by common descent, but different in that they do not suffer a negative and complicated history. The question, then, is whether or not it is problematic to understand nations as *ethnic* groups.

There *are* people out there that maintain that nations are ethnic groups. For example, Ioan Lewis maintains that there is no distinction between 'tribe', 'ethnic group' and 'nation' other than size.[124] While not believing that nations and ethnic groups are synonymous, Smith argues that nations *arise out of* ethnic groups; national groups are politicised ethnic groups. "[N]ationalism extends the scope of ethnic community from purely cultural and social to economic and political spheres..." (1981, pp. 19). If ethnic groups want their demands to be heard, then they must motivate themselves politically, they must "stake their claims in political and economic terms as well as cultural ones..." (Smith 1981, pp. 19-20). Van den Berghe also takes this view, stating that a "nation is an ethnic group that aspires to political autonomy and legitimizes its political demands on ethnic grounds" (1975, p. 243).

However, this simply seems inaccurate. First of all, it is empirically false; there are many groups that we consider 'nations' which have not arisen out of ethnic groups, or which are not ethnically homogeneous. For example, the American nation is ethnically diverse, as well as the French nation and the South African nation. The idea that national

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[123] I dispute this in Ch. 6.3. Ethnic group have also suffered greatly (although its unclear whether we can quantify and compare how much ethnic and racial groups have suffered).

[124] "Are these smaller segments significantly different? My answer is that they are not: that they are simply smaller units of the same kind..." (Lewis 1985, p. 358).

groups are kinship groups with shared genetics is implausible. Secondly, using 'nation' and 'ethnic group' synonymously does not comply with our common usage of the words. Immigrant nations such as Canada and Australia could not be considered nations. The people who call themselves 'Canadian' would be merely co-citizens (members of a state) as opposed to co-nationals. This is not only a problem for immigrant nations, but all nations. Scotland, Catalonia and Quebec are not homogeneous, they have members from all different parts of the world. Understanding nations to be ethnic groups would mean that many of the groups we currently consider to be nations no longer would be.

If it was the case that all members of a nation shared common descent, then no one would be able to enter, or exit, the national group. People would not be able to immigrate and become part of that nation. Likewise, once a person emigrates, they will still retain their original 'nationality'. For example, if a person immigrates to Canada, they cannot be considered a 'Canadian' national, they will still retain their original nationality. This is not in keeping with current or common understandings of what a nation is. We should reserve the term 'ethnic' for groups bound by kinship. It makes sense to think that a person cannot exit or enter an *ethnic* group or change their ethnicity, but surely we want to be able to say that a *nation* allows for people to enter and exit the group, and change their nationality. We should, then, aim to keep the two terms apart.[125]

Of course, as Connor points out, "what ultimately matters is not *what is* but *what people believe is.* And a subconscious belief in the group's separate origin and evolution is an important ingredient of national psychology" (1994, p. 37). Encouraging the *belief* that all members of a nation are part of the same family can be a useful tool to encourage national sentiment and strengthen national loyalties regardless of whether it is true. "A nation is a group of people who *feel* themselves to be a community bound together by ties of history, culture and common ancestry" (Kellas 1998, p. 3, my emphasis).

However, encouraging such a belief could be dangerous. It has the potential to encourage members of one nation to see themselves as more different from members of other nations than they actually are. It can encourage a hatred of the Other, leading to racist or xenophobic beliefs. Nationalist propaganda could be used to motivate the belief that members of a nation are tied by blood, and used to disastrous effect. These beliefs have too much potential for encouraging harmful views. The members of a nation are *not* tied by blood, and the possible results of perpetuating such a falsity are not worth the risk.

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[125] In Ch. 6.2 I argue that we should not understand ethnic groups to be connected with the idea of kinship or descent at all.

Any definition of a nation, then, should not incorporate the idea of common descent. We should not want to link 'nation' with 'race', as this concept is historically problematic and there is no biological basis for the idea that there are distinct races. We should also not link 'nation' with 'ethnic group' for two reasons. First, it is empirically inaccurate that all nations are ethnic groups, and second, it is not in keeping with the commonly accepted understandings of the words. Regardless of whether or not it is correct, a nation might want to encourage the *belief* that all members share a common descent. However, doing this has the potential to result in xenophobic and racist beliefs.[126] These beliefs are so damaging and dangerous that it is clearly not worth encouraging them.

It might be that the multiculturalist thinks that we should support group rights for *ethnic* groups. However, if they want to argue for this, then they should make their arguments directly relate to ethnic groups, instead of defining nations as ethnic groups, and arguing for the rights of nations. This latter option is unnecessarily indirect, and confuses the meanings of both nation and ethnicity. At this point the multiculturalist might claim that I am misrepresenting them; they only define a nation as a group of individuals that share common *descent*, and this is not the same as claiming that they are an ethnic group. However, I have shown here that by common descent, we must either be making a connection to race (which I am sure the multiculturalist would shy away from) or ethnicity. If the connection is to the latter, then I encourage a direct approach - an approach I show, in the next chapter, will not work for the multiculturalist.[127]

In general, we should be sceptical of *any* modern definition of nation that incorporates the idea of shared ancestry, common descent, race or ethnicity. Any understanding of nationality that relies on these ideas will not lend support to a defensible theory of multiculturalism.

5.4 A common set of beliefs

Many definitions of a nation claim that it is a community in which the members hold a common set of beliefs. It is not clear, though, what these beliefs are meant to be. They might be beliefs about the history of the group, beliefs about acceptable behaviour, customs and traditions, or beliefs about what is morally right or wrong. At a more basic

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[126] Another reason not to encourage such beliefs is that liberal societies are committed to transparency, and so should not aim to deceive their members. See further §5.4.

[127] Chandran Kukathas recognises that multiculturalists should abandon the connection to race and ethnicity altogether. "The nationalisms resting on doctrines of racial superiority or arguments for ethnic purity may perhaps be discounted as ill-founded (to put it mildly)" (2009, p. 196).

level, it might even be that a nation cannot exist without the members of the group *believing* that they form a cohesive national group.

Miller is a nationalist writer who maintains that "national communities are constituted by belief" (1995, p. 22). He tells us that "nations exist when their members recognize one another as compatriots, and believe that they share characteristics of the relevant kind..." (1995, p. 22). It appears that there are two sets of beliefs that he thinks members of a nation must have. First, they must have a belief that they form a nation. A nation is not something that exists concretely, it exists only because the members of the group believe that it exists and that they form a part of it, seeing themselves as co-nationals. If there is no belief that nations exist, or that any person belongs to a nation, then nations simply do not exist. The second type of beliefs that co-nationals may hold, are beliefs *about* the nation or beliefs that co-nationals share in common. For example, these might be beliefs that compatriots share certain characteristics in common, or that nations are ethical communities with all members holding a common understanding of what they believe is right and wrong (Miller 1995, pp. 22, 49). I will consider each type of belief in turn.

The first type of beliefs are needed for nations to exist. They "depend for their existence on collective acts of imagining..." (Miller 1995, p. 32). As Anderson tells us, a nation is an 'imagined' community. It is imagined because, despite the fact that the members of the nation will likely never know all their co-nationals, they still feel that they know each other and hold a sense of togetherness. There is a feeling of fraternity and comradeship amongst the members of a nation. "Ultimately, it is this fraternity that makes it possible, over the past two centuries, for so many millions of people, not so much to kill, as willingly to die for such limited imaginings" (Anderson 2006, p. 7). There are no physical barriers or obvious signs that mark one group off as constituting a distinct national community. It is only that they *think* of themselves as forming a national community. As Ernest Renan tells us, "[t]he existence of a nation is... a daily plebiscite..." (1939 [1882], p. 203). "As soon as people ceased to think of themselves as members of the nation, the nation would cease to exist" (Breuilly 1993, p. 6). Nations, in this sense, are 'mythical'; their members need to believe that they together form a national community (Miller 1995, pp. 32-33).

This seems to be right. A nation cannot exist without the members of that group believing it does. In this way, it is a socially constructed concept. We should ask, though, *who* has constructed this imagined community? We might see problems arising if the nation is constructed by the powerful elite, and is formed in such a way as to allow them to maintain their power and control the group members. In this way, the idea of a community

can be created by the powerful in order demand allegiance and further entrench power relations.

In *Discipline and Punish*, Michel Foucault introduces the idea of 'normalising judgement' (1977). Society forms 'norms' or standards of behaviour, and individual group members are judged according to them. Anyone who does not act according to the norms is not normal, and must receive help to become normal. For example, if a member of society breaks the law, they are breaking a societal norm, and their reformative punishment is aimed at correcting them. Similarly, if a person is ill, they are to receive medical or psychiatric treatment to help them return to normal health again. Children are taught these norms in school, and throughout society the standards are enforced. There is also, however, a hierarchical ranking, "a whole range of degrees of normality indicating membership of a homogeneous social body" (1977, p. 184). Those who are judged closer to the ideal norm are rewarded (for example, schoolchildren who receive the best grades are rewarded the highest), whilst those who are further away are punished. This provides people with incentives to reach the ideal (1977, pp. 177-184).

In addition, there is a system of self-discipline. People are taught that they could be under constant observation and surveillance. They quickly discover that there is no place where they are safe from examination by an authoritative figure.[128] Instilling this fear in people trains them to discipline themselves, and constantly question whether they are adhering to the norms of society (Foucault 1977, pp. 170-177). Through observation, the creation of norms, and examination, the powerful are able to train and control members of society.[129]

Drawing on Foucault's ideas, we can see that there are ways in which the powerful elite can make people believe that they belong to a homogeneous community. They can *create* the nation; a practice called 'nation-building'. The sense that one belongs to, or is a member of a certain nation, may be a feeling that a few powerful members of the society are responsible for inducing. By constructing the idea of a national community, and specifying the norms and standards of that society, the powerful members of the group are able to make each member believe that a nation exists, that they are a part of it, and that they share something in common. Furthermore, members have been trained not to question why they have a sense of commonality despite not sharing any obvious characteristics, and

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[128] Foucault refers to the new form of observation introduced by Jeremey Bentham's Panopticon, but CCTV cameras in Britain can act as a modern day example.

[129] See also Foucault's discussion of power-relations in 'The Subject of Power' (1982).

they have been trained not to question the norms and standards of society. If they do, they risk being seen as abnormal.[130] [131]

The idea of a national community can be used to demand control and allegiance from group members. The powerful elite can compel co-nationals to sacrifice all for the nation. For example, Miller asks "why shouldn't I regard myself as having been thrown together with my fellow-citizens in the same random way as the occupants of a lifeboat have been thrown together?" (1995, p. 41). He wants to establish why people feel a sense of community, or allegiance to their nation. He tells us that if a person decides to jump from the lifeboat and attempt to swim, we would not judge him; he must make the decision which he thinks is best for himself. However, if a person deserts their nation "in its hour of need" in the pursuit of a more comfortable life, then we would surely disapprove of him (1995, p. 42 fn. 50).[132] Now, it is not obvious that we would all share Miller's intuitions on this, and as it happens, I do not. However, these intuitions are precisely the type of intuitions the powerful elite would be aiming to draw out. They want members of the nation to feel that they are specially tied to the nation and owe it their allegiance.

When the socially constructed notion of a nation is used in *this* way, it is problematic because individuals are being manipulated. As liberals, we value autonomy; we want to allow people to make choices for themselves. Encouraging the belief that we all form a nation in order to keep the elites in power undermines autonomy. If we are looking to define a 'nation', it seems important and relevant that they point out that members of any nation must hold these first types of beliefs; they must *believe* that the nation exists and that they form part of it. Without these beliefs the nation would not exist at all. However, the background worry that Foucault's criticism introduces is that the whole *concept* of a nation might be socially constructed by a powerful few individuals who aim to control and manipulate. If Foucault is correct, then there might not be any way of knowing if we have escaped manipulation. Yet being aware of this worry is important, and the best one can do is ensure they live in a liberal society that values transparency, autonomy, and democratic

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[130] This relates to an interesting discussion regarding authenticity in Tamir's *Liberal Nationalism* (1993). Group members that wish to question or change certain aspects of the national culture will be seen as abnormal, and their attempts will be seen as betraying the authentic version of the nation. In this way, "[t]he term 'authentic' could... serve as an instrument of conservatism and social oppression" (1993, p. 50).

[131] I certainly do not want to claim that *all* nation-building will be conducted by powerful elites with self-interested motives. I merely want to draw attention to the fact that we should be mindful, and question the motives of those in power.

[132] It is unclear what Miller means by a nation's 'hour of need', but I assume he is imagining a nation which is dying out because group members are leaving to join other nations, or because traditional ways of life are becoming impractical and more difficult to follow in modern times. Alternatively, he could be imagining a nation at war. Any of these understandings will suffice for the point I am making.

values, as well as being open to dialogue with other societies. Liberal democratic societies will provide the best chances to escape this manipulation.

The second type of beliefs better allow members to think that they *are* tied together by some common features or characteristics. These beliefs influence national psychology and character. Members of a nation may be taught - through school, the media, family, the state, or storytelling - that they have a shared history, that they form an ethical community, or that all members of the group share certain characteristics (for example, they are passionate, or they are the only people that use a specific language or dialect).[133] While some of the national beliefs people hold will be true, some might not be. For example, historical tales may be exaggerated or told inaccurately, and tales of national heroes may be fabricated. Worryingly, certain historical events may be left out completely. As Renan notes, "[t]o forget and - I will venture to say - to get one's history wrong, are essential factors in the making of a nation..." (1939 [1882], p. 190). More often than not, national communities and states are shaped through histories of violence. These events might be regrettable or shameful, and are wiped from the national history books. Renan explains,

> Now, it is of the essence of a nation that all individuals should have much in common, and further that they should all have forgotten much. No French citizen knows whether he is a Burgundian, an Alan, a Taifal or a Visigoth, while every French citizen must have forgotten the massacre of St. Bartholomew's and the massacres in the South in the thirteenth century.
>
> (1939 [1882], p. 191)

Miller describes this as 'veil-drawing'. This forced forgetting, or re-writing of history, gives the members of the nation a false understanding of their history, but he believes it is justified. "States have been created by force, and over time their subject peoples have come to think of themselves as compatriots. But no one wants to think of himself as roped together to a set of people merely because the territorial ambitions of some dynastic lord in the thirteenth century ran thus far and no further" (Miller 1995, p. 34).

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[133] Anderson and Miller both specifically emphasise the role that the media plays in the formation of national identity (Anderson 2006, Miller 1995). "What holds nations together are beliefs... [which] cannot be transmitted except through cultural artefacts which are available to everyone who belongs - books, newspapers, pamphlets, and more recently the electronic media. This is the basis of Benedict Anderson's claim that nations are 'imagined communities', by which he means not that they are wholly spurious inventions, but that they depend for their existence on collective acts of imagining which find their expression through such media" (Miller 1995, p. 32).

Miller argues that these myths can be justified on consequentialist grounds. As long as they contribute to the support of valuable social relations, then it is irrational to discard even false beliefs (Miller 1995, p. 36).[134] However, it is simply unclear that such veil-drawing *would* provide beneficial results. It could, equally, be detrimental to social relations. Advancing myths and forgetting or re-writing history might benefit the social bonds between members within nation, but it will likely have a damaging effect on social relationships group members have with outsiders. For example, we may hold the belief that that we are hard-working in Britain, and feel proud of this. But this image we form of ourselves is framed in relation to the image we hold of others. We might believe we are hardworking *in comparison to* (for example) Italians. While we might think social bonds are strengthened between Brits, the bonds between Brits and Italians are surely worsened. These general beliefs that we form (and which are often baseless) become stereotypes, and create a gap between 'us' and the 'other'. As Armstrong puts it,

> All national or ethnic groups define themselves, at least in part, through their boundaries, that is, by reference to those outside the group. Because the definition ordinarily glorifies the in-group, some un-favorable comparison of outsiders occurs... Stereotyping is a relatively minor part of the myth of national identity, which may contain factual observations but more often consists of legend.
>
> (1996, p. 1)

A more worrying concern is the armchair style of theorising that Miller has chosen to rely on. He does not provide evidence to suggest that this way of national identity building *does* in fact strengthen relationships. Yes, it may be the case that national myths and veil-drawing strengthens social bonds, but it could just as easily be the case that it does *not* strengthen them. There does not seem to be an obvious answer, or any conclusive evidence to say how it will affect relationships either way. Given that it is unclear, it seems puzzling that Miller so clearly thinks that we ought to take the path of constructed myth instead of true beliefs.

In fact, we have good reason not to deceive group members. It would be wrong to perpetuate false national beliefs in a liberal society regardless of whether or not it produces

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[134] He likens these false beliefs to a "happy and loving family which is supported by the (false) belief that all the children are the biological offspring of the parents..." (1995, p. 36 n. 39). This seems like an odd analogy to draw. It is certainly not clear that it *is* better for the children, or parents, to falsely believe that they are a biologically-related family. It may be better to hold true beliefs even if these beliefs do not benefit the holder (for example, they do not contribute to her overall happiness). For a defence of the value of true beliefs, see Kvanvig (2008).

good consequences. This is because liberal societies are committed to transparency and public awareness. This commitment stems from liberalism's commitment to autonomy. Here I return to the discussion I raised in § 5.4 regarding autonomy. Rawls, one of the most prominent liberal theorists, argues that we must hold a conception of persons as free and equal. They are free and equal in virtue of possessing two moral powers: "'a capacity for a sense of justice and a capacity for a conception of the good. A sense of justice is the capacity to understand, to apply, and to act from the public conception of justice... the capacity for a conception of the good is the capacity to form, to revise, and rationally to pursue a conception of one's rational advantage or good" (Rawls 1996, p. 19).[135] We should respect people because they have these capacities.

If, in the name of nation-building, we cause individuals to hold false beliefs about their nation, then we are not respecting them as free and equal persons. It seems that there may be two different motivations for imparting false beliefs on the members of a nation: to secure and strengthen one's own position of power, and to guide those individuals in the right direction. Foucault focuses on this first motivation. It is clear that such outwardly manipulative behaviour is not respectful of individuals as free and equal, and would be considered illiberal. I think that Miller holds the second motivation. We can understand him as proposing something akin to Plato's Noble Lie: a "grand lie which will be believed by everybody..." with the aim of making them feel "responsible for defending the country in which they live against any attack - just as they would defend their mother or nurse - and to regard the rest of the citizens as their brothers..." (Ferrari 2009, p. 107 § 414c, p. 108 § 414e). Plato believes that the state is acting so as to protect citizens' own best interests by telling them a fabricated story about their national identity. Miller, likewise, thinks it is beneficial for the members of the group to hold myths about the nation in order to encourage a sense of solidarity. We can understand this as a *paternalistic* motivation.[136]

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[135] To be more specific, Rawls actually says that they are *free* in virtue of the two moral powers plus "the powers of reason (of judgment, thought, and inference...)..." (1996, p. 19). They are *equal* in in virtue of "having these powers to the requisite minimum degree to be fully cooperating members of society..." (1996, p. 19).

[136] A widely accepted definition of paternalism is provided by Gerald Dworkin. He tells us that paternalism is "the interference with a person's liberty of action justified by reasons referring exclusively to the welfare, good, happiness, needs, interests or values of the person being coerced" (1983, p. 62). However, this definition does not capture the cases in which the paternalizee's liberty is not limited. For example, cases in which the paternaliser provides an *incentive* for the paternalisee to act in a certain way. For this reason, I prefer Quong's definition: "paternalism is defined as any act where: 1. Agent A attempts to improve the welfare, good, happiness, needs, interests, or values of agent B with regard to a particular decision or situation that B faces; 2. A's act is motivated by a *negative judgment* about B's ability (assuming B has the relevant information) to make the right decision or manage the particular situation in a way that will effectively advance B's welfare, good, happiness, needs, interests, or values" (2011, p. 80).

However, even lying to citizens (or group members) for paternalistic reasons is wrong on a liberal account. This is because paternalistic actions do not respect the second of the moral powers: people's capacity to form, revise and rationally pursue a conception of the good. To treat someone paternalistically to is treat them as if they lack the capacity to make the right choices regarding how their life should go. Jonathan Quong argues that paternalistic action is *prima facie* wrong for two reasons. First, it involves treating the individual as having inferior status, as opposed to equal status. This is because "the paternalizer frequently believes the paternalizee lacks the requisite judgements or willpower to make the right choice, but the paternalizer holds no such view about himself or herself" (2011, p. 101). Second, it involves treating the person as though they lack "the ability to rationally pursue his or her own good. In treating adult persons in this way their moral status is demeaned or diminished..." (2011, p. 101). Paternalistic action treats the individual as if he is inferior, and lacks the ability to judge what is best to do for himself.

Even if we create myths about national identity with a *paternalistic* motivation, we would still be failing to respect the members of the nation as free and equal persons. So creating myths and veil-drawing are not liberal actions.[137] Liberals should not, then, defend such actions, and if they want to hold a defensible definition of nations, should not allow false beliefs, veil-drawing, or nation-building myths to be part of it.

To summarise, the multiculturalist will likely want to maintain that a nation is a group with a common set of beliefs of this second type: that members of the nation are tied together by some common features or characteristics. To the extent that these shared features or characteristics are *true,* this fact is unproblematic. It does become problematic from a liberal perspective when people have been fed *false* beliefs. If group members are intentionally led to hold false beliefs about their nation, then they are not being respected as free and equal individuals. We should just be cautious not to support or encourage nation-building that involves this illiberal behaviour.

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[137] This is not to say that liberal societies *never* act paternalistically. Most societies which we consider to be liberal act paternalistically, for example by requiring citizens to wear seat belts and helmets. There may be strong reasons for a liberal state to act paternalistically sometimes. For example, the benefits of making seat belts compulsory far outweigh the infringement on personal liberty. So even though requiring people to wear seat belts is *prima facie* wrong on a liberal account, the state decides that such legislation is justified. "Even if a paternalistic policy is justified, all things considered, it remains true that this sort of policy involve a *prima facie* wrongness" (Quong 2011, p. 102).

5.5 Territory

Many definitions of a nation maintain that it is a community which is territorially or geographically located. As we saw, Miller told us that a nation is "connected to a particular territory," and Kymlicka told us that a nation occupies "a given territory or homeland" (Miller 1995, p. 27, Kymlicka 1995, p. 11). The idea seems to be that when we think of any particular nation, we tend to have in mind a *location* for it. For example, when we think of the Basque nation, we locate it in northern Spain and southern France. When we think of the Quebec nation, we locate it in the province of Quebec in Canada. It is not clear that it is necessary for a national group to permanently occupy a specific territory though; it seems plausible that national groups may be nomadic or diasporic.

First, we might ask what one *means* when they say that a nation is 'connected to' or that it 'occupies' a particular territory? It seems like there are three things that could be meant. The first, and strongest version, is that the members of that nation must inhabit the particular territory and make up, at least, the majority of the population. Furthermore, the majority of the population of the nation must reside within the territory. For example, on this reading, Quebec would be considered a nation only if the majority of the people residing within the province of Quebec identify as Québécois. Also, while not *all* people that identify as Québécois would have to live in the province of Quebec, the majority of them would have to. David Copp takes this strong understanding of territory: "[a]s I use the terms, the territory 'of a society' is a territory such that virtually all of the members of the society reside permanently within it and virtually all of the permanent residents of the territory are members of the society" (1997, p. 294).

However, many nations do not constitute the majority of the population of a given territory. For example, the Māori would not fit into this category because, while they are territorially located in New Zealand, they do not make up the majority population (they are outnumbered by other New Zealanders).[138] Also, many nations do not have the majority of their members residing within a specified territory. If it is the case that the majority of the people that identify as Scottish reside *outside* of the Scottish territory (for example expatriates living in Canada and Australia), then Scotland would not be considered a nation. This would be true even if the majority of the people within the Scottish territory identify as Scottish. This understanding of 'territorially concentrated' might fail to capture many groups that we do consider national groups. However, the upshot to holding this

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[138] As of the 2013 New Zealand census, 14.9% of the population identify as Māori (Statistics New Zealand 2013).

understanding is that it seems to capture the intuition that a nation occupies a territory if the majority of the population lives there.

The second, moderate version, holds that the nation is a community which holds a particular connection to a given territory and has *some* members residing within that territory. It is not clear what this connection must be, but it might be a historical or religious connection. For example, people may have historically resided within a specific territory and wish to fully reclaim it. Or the territory may have religious significance to them. On this account, both the Māori peoples in New Zealand, and Scotland would count as nations. This understanding might seem to capture more of the groups that we commonly consider to be nations. However, any nation without members residing in the specified territory, or which do not *have* a particular territory, will not count as nations. For example, the Jewish people before the creation of the state of Israel might not count as a nation on this version. Although they had a religious focus aimed at residing in Jerusalem, if there was not a significant number of them living there, then it would not have counted as a nation. This version would also rule out the Romani people, because they are not connected to a particular territory; they are not connected to a certain place, and do not want to be (Fosztó 2003).[139]

The third, weak version, is even more inclusive. It holds that the nation does not need to have any people residing within the territory, it simply has to have *some connection* to a territory. This version would accommodate the example of the pre-Israelite Jews as a nation. Even if there hadn't been many, or any, Jews living in Jerusalem, they would still have counted as a nation because they had a cultural connection to the area. This version would still rule out counting the Romani people as a nation, though, because they are not connected to a territory.

Why would one want to add a territorial element to a definition of 'nation'? It might be because it seems like a good way to narrow down the types of groups we think constitute nations. If we are worried that our definition of a nation allows too many groups in (for example social groups), then specifying that there must be a territorial element narrows the possible candidates. 'The working class', 'gay people', and 'disabled people' are not typically considered nations, and while they may share some of the other themes on this list, one thing they lack is a territory. I would say that specifying the territorial constraint is a convenient way to rule these groups out of the category 'nation'. However, this will also

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[139] Of course, this is a general claim. It is surely the case that there are some people who identify as Romani and have settled in a specific area. However, the Romani *people* considered as a whole do not hold a particular attachment to an area.

rule out some other groups that we *do* think are nations. The Romani people might serve as an example (if we do indeed consider them to form a nation).[140]

What is it that motivates nationalists to think that a territory is important to their understanding of a nation? One reason is that the nationalist might hold a Westphalian mindset, thinking that the most stable arrangement is a world of single, sovereign nation-states.[141] According to this perspective, we ought to divide the world into independent nation-states. Miller seems to be holding such an idea, as can be seen from the following quotation.

> A nation... must have a homeland... [and] must be (in aspiration if not yet in fact) a political community... [T]he actions they aspire to perform must include that of controlling a chunk of the earth's surface. It is this territorial element that has forged the connection between nations and states, since as we have already noted a state is precisely a body that claims legitimate authority over a geographical area.
>
> (Miller 1995, pp. 24-25)

However, it is problematic to present nations as if they are, or should be, nation-states. First of all, it is not factually true that all, or many, nations map onto the boundaries of states, and it does not seem like we should force them to conform to these (often arbitrarily) drawn political boundaries. "[T]here are almost no nationally homogeneous states today. Irrespective of the fact that nations may attempt to establish states, and states may prefer to present themselves as representing nations, the two no longer overlap" (Tamir 1993, p. 63). Secondly, with globalisation, migration, and the rise of international organisations, complete sovereignty is now impossible to realise.

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[140] László Fosztó argues that the Romani people should be considered a nation despite not having a territorial connection, because it will be politically beneficial for them. "For elite [Roma] leaders, the *nation*, as social formation, seems a viable solution on the one hand to fight against stigmatization and marginalization of their people and on the other hand a way to handle social and cultural problems they face... [T]hey... expect solutions to domestic problems by considering Roma as *national minorities.* At the supra-state level, international bodies, Roma and non-Roma NGOs, are looking forward to solutions to problems of human rights, refugees and migration within the classification of national minorities" (2003, p. 102). So there do seem to be benefits to being officially considered a nation.

[141] This refers to the Peace of Westphalia (1648), a series of peace treaties which ended the Thirty Years War in the Holy Roman Empire. The treaties divided most of Europe into sovereign nation-states, and underwrites much of our current thoughts about sovereignty. At the time, dividing Europe into nation-states was instrumental in securing peace. However, this model is outdated and is certainly not one that we can, or should, apply to the world today. Interestingly, a detailed analysis of the treaties by Derek Croxton raises questions as to how sovereign the resultant nation-states actually were, and casts doubt on the commonly held belief that the Peace of Westphalia provides us with the origins of sovereignty (1999).

> The territorial and social demarcations that characterized nation-states are rapidly
> disappearing; this is reflected not only in new forms of governance and economic
> globalization, but in transnational social integration, mobility, affiliations, and
> networks. Social relationships and interactions have expanded across physical space,
> leading to lives that are more transnational and mobile than ever.
>
> (Mau 2010, p. 1)

It is becoming increasingly clear that the achievement of a world of independent nation-states is unrealistic.[142]

If, though, some nationalist *would* still want to cling to this idea, then they would want to have a territorial element to their definition of a nation. They would understand a nation as a group that aims to have legitimate control over a specific territory or 'chunk of the earth's surface' if it is to have any chance of becoming a state. However, it is unclear why the *multiculturalist* might want their definition of a nation to have a territorial element. Unlike the nationalist, they will not (at least they *should* not) hold a Westphalian mindset. The multiculturalist does not want to push for independent nation-states because their aim is to secure a *multi*national state; they want to accommodate more than one nation within the boundaries of a state. If they do think it is important to understand nations as being connected to a territory, then it will be for other reasons. (For example, they might think that this is a handy way to rule out certain groups - social or political groups.)

5.6 Self-government

Many theorists understand nations to be groups which seek self-government. It might be claimed that a nation is a group which seeks self-government, self-determination, autonomy, independence, sovereignty, or secession. For example, Van Dyke defines a nation as a community with strong "implications for political autonomy or independence" (1977, p. 344). John Breuilly understands nationalism to be a political doctrine which seeks as much independence for the nation as possible. "This usually requires at least the attainment of political sovereignty" (1993, p. 2). Copp also believes that nations desire independence, and for this reason does not count the Protestants of Northern Ireland as a nation: "... I would not count them as a nation because even though they have political aspirations, they do not aspire to constitute a state" (1997, p. 288).

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[142] Erika Harris believes that the persistence of the Westphalian mindset has been "to the detriment of our understanding of processes connected to nationalism." (Harris 2009, p. 9).

Avishai Margalit and Joseph Raz provide a helpful distinction between self-determination and self-government. In their article, 'National Self-Determination', they tell us that a right to self-determination is a right for a group to "determine whether a certain territory shall become, or remain, a separate state (and possibly whether it should enjoy autonomy within a large state)" (1990, p. 440). Likewise, Thomas Musgrave tells us that self-determination is "understood to occur whenever a people freely determines its own political status" (2002, p. 2).[143] Margalit and Raz understand the idea of self-government to be more encompassing. "The value of national self-government is the value of entrusting the general political power over a group and its members to the group" (1990, p. 440). Whenever there is a political decision to be made, it is the members of the group that should have the right to make the decision together.

I will understand self-determination, then, to be the right of a group to decide whether or not it becomes a separate state, remains within the state it is already part of, or takes on limited self-government rights (partial autonomy). It means having the power to decide the level of independence the group will enjoy. For a group to be self-governing means that they have the power to make political decisions concerning the group. It is usually assumed that the powers of self-government can come in degrees; groups could have limited(/partial) or complete self-government. For a group to have limited self-government, they would have the power to make some decisions, but not all. For example, a national minority might have the power to make decisions concerning education and healthcare, yet not have power over military decisions. Aboriginal peoples in Canada have limited self-government rights - they are responsible for the distribution of resources on their land, and have certain freedom regarding the education and policing of their group. Scotland within the United Kingdom can be taken as another example. They have their own devolved parliament in which they make certain political decisions, but they are still bound by the overarching laws of the United Kingdom and the decisions of Westminster.

It is unclear what could be meant by *complete* self-government though. If a group were to have complete authority over its members, and an unrestricted government, then it would surely be a separate state. Complete self-government seems to be something that can only be achieved by an independent state. Once a group secedes, it has become free from the authority of the state that it was previously part of. So I will take complete self-government to be present only in an independent state, while limited self-government can be held by a group that resides within another state. The multiculturalist will have to argue

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[143] Margaret Moore relies on a somewhat different understanding of self-determination, in which it means "the right of the majority within an accepted political unit to exercise power" (1998a, p. 3).

for limited self-government, as they are looking to justify multi-nation states. If a nation gets complete self-government then it will become independent, and will no longer contribute to a multinational state.

With this understanding, we can then ask why we might think that rights to self-government or self-determination are important. For ease of discussion, I will just focus on self-government as opposed to self-determination, however many of the arguments for both overlap.

A number of different arguments are put forward in support of self-government. In the interest of keeping this section brief, I will discuss two types of arguments here: instrumental arguments, and intrinsic arguments.[144] I want to find out whether these arguments can be helpful for the multiculturalist. If the multiculturalist wants to adopt a definition of a nation that incorporates some desire for self-government, then he will have to provide an argument along one of these lines that can convince us that we can justify self-government rights for these groups.

First let's look at instrumental arguments for self-government. These arguments will claim that rights to self-government will be beneficial for the group in obtaining some good. Margalit and Raz argue that "[s]ometimes the prosperity of the group and its self-respect are aided by, sometimes they may be impossible to secure without, the group's enjoying political sovereignty over its own affairs" (1990, p. 450).[145] Allen Buchanan supports secession only if it is the "last resort for serious injustices perpetrated against them by the state" (1998, p. 15). The sorts of injustices capable of justifying secession are "persistent violations of human rights... and the unjust taking of the territory in question..." (1998, p. 25). Gaining freedom from these types of situations would undoubtedly make the lives of the members of those groups go better, and is perhaps the *only* way of making their lives go better.

Sometimes the prosperity of the group is aided by gaining sovereignty over their own affairs, but sometimes it might not be. Many warn against secession because they fear the situation of group members will be made *worse off*. As Buchanan points out, "[a]ll too often, ethnic minorities have won their independence only to subject their own minorities to the same persecutions they formerly suffered" (1998, p. 14). Donald Howowitz thinks that secession does not "reduce conflict, violence, or minority oppression once successor

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[144] For more on this topic see Moore (1998b). Moore divides the arguments into choice theories, just-cause theories, and national self-determination theories (1998a, p. 5). Buchanan, on the other hand, separates them into remedial right only theories, and primary right theories. The latter can then be subdivided into ascriptive or 'ascriptive group' theories, and associative group or plebiscitary theories (1997, 2003).

[145] Rather unhelpfully, they do not expand on this, and tell us that there is "no need to elaborate the point" (Margalit and Raz 1990, p. 450).

states are established" (2003, p. 50). It is almost never the answer to conflict and violence, and is likely to make problems worse (2003, p. 50). Brubaker is also sceptical that secession can be beneficial. He argues that the "belief that the right 'grand architecture', the right territorial and institutional framework, can satisfy nationalist demands, quench nationalist passions, and thereby resolve national conflict" is misguided (1998, pp. 233-234). "[N]ationalist conflicts are in principle, by their very nature, irresolvable..." (1998, p. 234).

Let us take an example of a current situation in Canada in which there is concern about extending self-government rights. Here, Aboriginal peoples have limited self-government rights which they have, at various points in time, tried to extend. But women within the communities have expressed concern that their individual rights will not be protected if this occurs. During the Charlottetown Accord (1992), Aboriginal political organisations sought to amend the constitution to gain greater autonomy and self-government rights.[146] While they would have still been bound by the Canadian Charter of Rights and Freedoms, they sought access to the notwithstanding clause.[147] This clause allows a province or territory power to override parts of the Charter. Aboriginal women (whose concerns are largely voiced by the Native Women's Association of Canada (NWAC)), worried that their rights and freedoms would not be protected if these amendments had been passed (see Chiste 1994). There is already much concern about the treatment of Aboriginal women in Canada, so these concerns are not unwarranted. Recently, a United Nations review called for Canada to review violence against Aboriginal women. Many countries criticised Canada for its human-rights record concerning the issue. As a result the UN is sending a special rapporteur to conduct an inquiry into the matter (Globe and Mail 2013). Amnesty International has also expressed concern (Amnesty International 2013). I suppose the important question is whether or not stronger self-government rights would be beneficial to all the members of Aboriginal groups, including the *female* members.[148] The main point is

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[146] These organisations included the Assembly of First Nations (AFN), the Native Council of Canada (NCC), the Métis National Council (MNC) and the Inuit Tapirisat of Canada (ITC).

[147] This is section 33 of the Canadian Charter of Rights and Freedoms. It has commonly come to be known as the 'notwithstanding clause'. It allows provinces the power to push through a particular action or law in spite of the rights and freedoms found in the Charter. These include fundamental freedoms, legal rights, and equality rights.

[148] Horowitz highlights a number of cases of nations which have successfully become independent, but now have members within them that face violent hostility. "There are many examples: the fate of Serbs and Roma in Kosovo, of Biharis in Bangladesh, of Sikhs and Hindus in Pakistan at the time of partition, of Muslims in India at the same time, and of Georgians in Abkhazia..." (2003, p. 54).

that we want to be confident that all the members of a national group would benefit from self-government.[149]

Kymlicka himself focuses on the rights of Aboriginal peoples in Canada. He argues in favour of self-government rights, but concentrates on rights to control who lives on the reserves.[150] Until recently, it was the case that if an Indian woman married a non-Indian man, then she lost her status, and she would no longer be entitled to live on the reserve, or participate in band politics. If an Indian woman married an Indian man from a different band, she would lose her Indian status in her own band, and become a member of her husband's band. She would be forced to leave the family and the community in which she was raised if she chose to marry someone from outside the community, and in this way the band leaders (often all male) were able to control exit from the community by restricting women's rights. Kymlicka of course understands that these rules are discriminatory. He says "[t]here is an obvious trade-off here - sexual equality for family integrity" (1989, p. 149). The granting of these group rights (part of the rights that they have due to limited self-government) has been detrimental to women. Kymlicka endorses these rights "even at the expense of violating certain individual rights" (Tamir 1993, p. 48). Tamir rightly argues that "[t]his is a clear example of how males, who presently rule the community, link the right to culture with the preservation of their dominant status, by depriving women who have chosen to marry outsiders of the right to make a cultural choice" (1993, pp. 48-49). This is an example of how multiculturalist support of self-government rights can make some members of the group *worse* off.

Saying this, there may be cases in which self-government rights or secession will be beneficial. The cases in which Buchanan points out - cases in which certain groups suffer human rights abuses, discrimination, and other forms of injustice over a period of time, might see secession as their only option. It seems clear that secession will, then, improve well-being for these group members, showing that there are instrumental reasons for complete self-government. It might be worth pointing out, though, that if a group faces

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[149] By this I do not mean that every individual would have to benefit, but more that there should not be any sub-group that would suffer (for example, women, the poor, the young, ethnic minorities, religious minorities or the gay community).

[150] In Canada, the land that is set aside for is Aboriginal peoples through the Indian Act are called 'reserves' (or Indian reserves or First Nations reserves). In the United States, these are called 'reservations'. The band(s) that live on the reserve are in control of many affairs such as schooling, burials, health projects, and general welfare of the band members (Indian Act §18). 'Band' refers to the Indian band, or group of Aboriginal peoples that form a community.
In Canada, people that meet certain requirements can apply for Indian status. Indian status refers to the legal identity of an Aboriginal person. If you are legally considered Indian (registered as a Status Indian), then you are entitled to certain rights that non-Indian and or non-Status Indians are not. The discriminatory practices regarding marriage and a woman's status were made illegal by Bill C-31, an amendment to the Indian Act, in 1985 (UBC 2009).

these problems, then the larger society in which they are located has failed them. In a liberal democratic society, no minority group should face such persecution. As Buchanan argues, where secession is the only option, democracy has failed.

Can such injustices justify *limited* self-government, though? Remember, the multiculturalist needs to justify limited self-government because if they grant complete self-government to nations, then they will break up the multi-nation states they are looking to accommodate. It seems strange to think that if a group is unhappy with their current situation, and is suffering injustices at the hands of the state, that they would want to remain within the state and accept limited self-government rights (instead of exiting the state with complete self-government rights). Here, limited self-government would look like an unhappy compromise. If the group members are treated so badly that they feel they must take power into their own hands, then surely they should want to leave altogether. A situation in which there is limited self-government will result in endless compromises between the state and the nation, with neither party being fully content with the results of the decision.

Perhaps the national group might have some reasons for actually preferring limited self-government rights. For example, perhaps they are concerned that they are too small a nation, or that they are not powerful enough to become an independent state. It might be the case that some nations would want limited self-government rights for pragmatic reasons. The multiculturalist, then, might want to claim that they can represent exactly this type of case. National minority groups, they could maintain, are groups which seek limited self-government rights, and multiculturalism is perfectly suited to granting these rights.

But if the only justification for giving national minority groups rights is that the group is being treated badly by the state, and cannot separate completely for pragmatic reasons, then this is not exactly a ringing endorsement for state multiculturalism. This amounts to saying that the multicultural state will deal with injustice and discrimination by giving victimised groups a bit of a longer leash (limited self-government rights) but not let them go completely (secession). Surely the correct answer to these problems is to resolve them or part ways. So I do not think the multiculturalist will want to rely on instrumental arguments for complete self-government, *or* limited self-government. While some groups might seek limited self-government, they will do so because they are unhappy with how the state is treating them. Multiculturalists want to appear as if they are more sympathetic than anyone else to the concerns of national minorities, however granting them limited self-government rights because the group is unsatisfied with how they are being treated by

the state does not seem sympathetic; it seems like the state multiculturalist is avoiding dealing with the real problems.

Other theorists choose to rely on intrinsic arguments to support rights to self-government. These arguments aim to establish that there is something inherently valuable, which can only be supported or encouraged by the national group having self-government rights. Margalit and Raz put forward such an argument in terms of 'encompassing groups' (these are groups which they believe meet six criteria to be considered for self-government rights, but for the present purposes we can understand them to be national groups).[151] They formulate their argument as follows:

1. people's membership of encompassing groups is an important aspect of their personality, and their well-being depends on giving it full expression;

2. expression of membership essentially includes manifestation of membership in the open, public life of the community;

3. this requires expressing one's membership in political activities within the community. The political is an essential arena of community life, and consequently of individual well-being;

4. therefore, self-government is inherently valuable, it is required to provide the group with a political dimension

<div align="center">(1990, p. 451)</div>

I understand this argument to mean the following. The first claim asserts that a person's national membership might be considered by them to be an important aspect of their personality. It is important to the individual's well-being that they be able to express these aspects of their personality, and not be made to hide them, or face discrimination because of them. The second claim maintains that it is important to be able to express these aspects of their personality not just in their private life, but also in their public life within the community. The third claim holds that the way in which we express ourselves in our public life is through political activity and participation. The conclusion asserts that self-government is inherently valuable because it is required to give the group a political dimension.

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[151] They put together these six criteria in an attempt to define which groups can reasonably hold a right to self-determination. While they are clearly aiming to define some parameters for 'peoples' and 'nations', their criteria are not precise enough. They would let in social groups such as gay people, or the working class. They feel they might have 'cast the net too wide' and tell us "[i]t is not really surprising that they are all vague matters of degree, admitting of many variants and many nuances. One is tempted to say 'that's life'" (2000, p. 86). I, on the other hand, believe this problem of vagueness goes to show that such groups are perhaps impossible to define in a way that is necessary to ground rights.

While I may want to challenge some (or all) of these premises, the problem I will focus on here, is that this argument seems to be missing a step. The conclusion does not appear to follow from the first three premises. If we accept that it is important for people to be able to express aspects of their personality publicly, and that this public expression must be done through political activity, we do not necessarily end up needing a right to self-determination. There is nothing preventing an individual who is a member of a minority group from being publicly open about their identity, and being politically active. For example, an Australian Aborigine can feel that her nationality is important to her, she can express this aspect of her personality publicly, and she can she can express it through political activity, say by running for office (regardless of whether or not she believes she will be successful in gaining the most votes). There is still no reason to think that we need any rights to self-government to achieve this. So we have not established that there is an 'inherently valuable' right to self-government for that group. There is no reason to think that this aspect of a person's identity cannot be realised through cosmopolitan or universal liberal theories.

Perhaps we can make sense of this argument by inserting another claim, which I will call the 'democratic premise':

> members of minority groups struggle to express themselves, and act politically within a democratic community. This is because their voices are outnumbered by the majority group in a democratic society. The members of the encompassing group must make up the majority within a community in order to be able to properly express themselves through political action.

This might give the group a reason to have a right to self-government. If it can govern itself and control the boundaries so that the group members make up the majority, the members of the group will have a better chance, presumably, to express themselves politically.[152]

However, this is problematic for a number of reasons. First of all, it is highly unlikely that the group seeking rights to self-government will be homogeneous. There will still be minority groups even *within* this group. For example, if a Catholic national group makes up a minority within a Protestant state, it may decide to secede. However, it is unlikely that every resident of this new Catholic state will be Catholic. The few Protestant, Muslim, Jewish, or other citizens, will become the minorities, and could themselves then face

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[152] Daniel Philpott also provides an argument for self-government based on the values of democracy (1998).

persecution. Perhaps *they too* should seek self-government rights (and so the regress begins). Furthermore, if we value freedom of religion (which liberals should), we cannot ask that all citizens of a certain state identify as, for example, Catholic or Protestant. So, far from creating pockets of homogenous unitary nation-states, we will be creating separate states that will still have minority groups within them.

Secondly, there are reasons to think that democracy points against secession. Democracies value diversity of opinion. As Buchanan says:

> if one assumes that the best political society is the most homogeneous one - a society in which everybody agrees - then one will be tempted to think that the existence of political divisions is an imperfection to be remedied by an adjustment of political boundaries. But of course the democratic tradition emerges from a quite different picture of the conditions that make political institutions necessary in the first place - a vision of a world in which no one can or should expect to be governed by people like themselves.
>
> (Buchanan 1998, p. 23)

One of the values of a democratic society is that it manages diversity. When we live in a democracy we do not, and *cannot*, expect to get our way all or most of the time. People share differing views, and invest their time and energy into persuading and educating the majority on the causes they believe are important. We try to help others see our point of view. It is not clear that a smaller, more homogeneous community will be better at providing this arena of political debate, and at encouraging political activity and personal expression of identity. "[L]arger states... may in fact provide more opportunities for participation or for a greater variety of meaningful opportunities for participation" (Buchanan 1998, p. 19). Political units should not be units in which every member shares all and only the same preferences and aims to pursue the same limited number of opportunities.[153] Self-government rights that seek to make more homogeneous national units miss out on the benefits of this diversity of public opinion.

Furthermore, there is a (third) worry with this proposed premise: if the opportunity for secession is easily available, the national minority could use the threat of secession as a bargaining tool (Buchanan 1998, p. 21). If the majority group believed that secession of the minority would be detrimental or costly to them, then this minority group "would in effect wield a veto over majority decisions" (1998, p. 21).

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[153] See also Hirschman (1970).

So, this democratic premise will not help save Margalit and Raz's argument. This is because (1) we will never be creating entirely homogeneous groups, (2) diversity is important for democracy, (3) secession could be used as a bargaining tool. If we reject the premise, then I am unconvinced that the argument for intrinsic self-government provided by Margalit and Raz is workable.

While I am sceptical that there can be any plausible intrinsic arguments for self-government, I agree that there are groups that might want to appeal to instrumental arguments. Following Buchanan, I think that these groups are ones which face discrimination or persecution in the larger society within which they reside. Self-government could be the only option for them, and it would be unfortunate that they would have to resort to that. In a properly functional liberal society I would hope that groups would not have to resort to this.

Notice the recurring connection between self-government and territory. Discussions of self-government often assume there is a territory under dispute, or understand that it is necessary that there is a territory for self-government rights to be granted. For example, Margaret Moore tells us that one of the main questions raised by the principle of self-determination is "[w]hat is the relevant territorial unit in which they should exercise self-determination?" (1998a, p. 2). She tells us that "national self-determination is unproblematic only in the ideal case that the administrative boundary coincides with the ethnic or national group..." (1998, p. 3). For Miller, "people who form a national community in a particular territory have a good claim to political self-determination..." (1995, p. 11).[154] James Kellas tells us that "[n]ationalism focuses on 'national self-determination', or home rule in a national territory" (1998, p. 6). Margalit and Raz ask "[w]hat is it that makes peoples particularly suited to self-determination? The right concerns determination whether a certain territory shall be self-governing or not" (199, p. 443).

Now, we might not be able to understand self-*determination* without reference a territory. Groups that are seeking self-determination are usually questioning whether or not they should secede. To secede and become a separate state will require gaining rights over a certain territory; "[s]ecessionist claims involve, first and foremost, disputed claims to territory" (Brilmayer 1991, p. 178). So self-determination will be connected with territory, but does self-government have to be?

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[154] Miller does, however, outline three cases in which limited self-government would be preferable to secession (1995, pp. 116-7).

One might think that a group could be territorially dispersed, yet still be politically connected and active. For example, Australian Aborigines and Canadian Aboriginals are not territorially concentrated, but located throughout their state. So in these cases, the group seeking self-government rights would not need to be located in some specific territory. However, this does not seem to be right; even they have (sometimes disputed) territories. Both Australian Aborigines and Canadian Aboriginal peoples have secured various land right and settlements within their countries. In both countries there are ongoing debates regarding land rights as compensation for colonial appropriation of territories. In Canada, Aboriginals exercise their self-government rights on their territory (the reserves). If self-government rights consist in administering local affairs, schooling, policing, or other official responsibilities, then surely self-government must be granted to a certain region. So although some groups might not go as far as to seek secession, there will always be a territorial element connected with demands for self-government. The population wants to be able to govern their community over a certain territory, or certain pockets of territory, even if they are dispersed throughout a state.[155]

This creates a problem for the multiculturalist that wants to focus on nations. Multiculturalism seeks to gather diverse groups (or more than one nation) peacefully within one state. However, nations that seek self-*determination*, seek to become independent unitary nation-states. Nations that seek limited self-*government* seek to gain partial control of a particular territory within the state. A multinational state would not exist if all of the nations which sought independence succeeded. It seems possible that a multinational state *can* exist in which some of the nations which comprise it only aim for *limited* self-government. I want to argue that this is not a promising route for the multiculturalist, though.

This is because it seems like national groups are either a) seeking *full* self-government, and hence wish to become a separate nation-state; or b) they are seeking *limited* self-government, an uncomfortable middle-ground which seems to be the only compromise the state and the national group can come to. A multicultural state in which there are nations with limited self-government, will be an unhappy, and potentially short-lived, middle-ground. As Breuilly argues, any case in which a nation settles for less than full

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[155] This seems, then, to rule out the Romani people from being suitable groups for self-government rights because they are not connected to a particular territory. They present quite a unique case. Perhaps it would depend on what sorts of self-government rights they were after. For example, if they wanted rights to educate their children themselves, then maybe this is something that would not require a specific territory. However, my inclination is to say that it is probably right that the Romani people (who may or may not count as a nation) cannot have self-government rights unless they have a territory.

independence, they do so "because they recognise that full independence is either unattainable or liable to be dangerously short-lived..." (1993, p. 15 n. 3).

Perhaps some groups really do only seek limited self-government, and are happy with this arrangement. I do not doubt that this is a possibility, but such cases will rarely arise.[156] Due to the rarity of such cases, we might not want to adopt a political theory which holds, as its main focus, the granting of limited self-government rights to national groups. National groups will, in most (or all) cases, want full independence, which is not helpful for the multiculturalist because they are seeking to maintain multi-national states. There may arise a case in which a national group actually just wants limited self-government, but these cases will arise so rarely that they cannot justify implementing a multicultural political system.

In summary then, arguments for self-government can be split into instrumental or intrinsic arguments. There may be some good instrumental arguments for self-government, but these will not help the multiculturalist. I am unpersuaded that there are any good intrinsic arguments for self-government. This assertion may seem too strong, given that I have only analysed the argument put forward by Margalit and Raz. However, many intrinsic arguments follow this pattern, and Margalit and Raz are taken to be the leading theorists on the subject. They are often drawn on by, for example, Miller, Kymlicka and Chandran Kukathas.

There is a strong connection between self-government and territory. This is an uncomfortable fact for multiculturalists. Where nations seek full self-government, they seek secession. This means that they wish to be a unitary nation-state, which would leave us no use for multiculturalism. On the other hand, they might just seek limited self-government. It is likely, though, that this will be an unhappy compromise for them, in which case multiculturalism merely secures a *modus vivendi*; a conclusion I am sure multiculturalists would not want to accept. It is entirely possible that the group seeking limited self-government *could* be happy with this arrangement, however I think cases like this will be very rare indeed. Adopting a theory which aims to structure our political system around these rare situations seems unadvisable. So the multiculturalist will not want to understand nations as being groups which seek self-government.

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[156] There are some examples in which limited self-government has been successful. For example: Puerto Rico and the Northern Marianas Islands, which have Commonwealth status with the United States; the Faroe Islands as part of Denmark; and the Cook Islands which are aligned with New Zealand. These have likely been quite successful due to the fact that the national group is located on an island. However, it is not clear that these nations only wanted *limited* self-government. If possible, they might have wanted complete sovereignty.

5.7 Identity and belonging

It is sometimes claimed that a nation is a community which makes its members feel a sense of belonging, or that nationality constitutes a significant part of a person's identity. For example, Jeff McMahan says "most adult members of a nation must share a sense that together they constitute a distinct group and that belonging to this group is a constitutive element of each member's individual identity" (1997, p. 107). While identity and belonging are often discussed together, I think that we can consider them separately.

Much of the discussion of *belonging* is connected with the idea that there is a common set of beliefs. It seems like when we talk about having a sense of belonging to a nation, we feel like we belong because we share a common set of beliefs with other members of that nation. These common beliefs might be beliefs about what is right or wrong, or simply the belief that we belong to the particular nation. Holding even *this* belief in common is enough to make one feel like one belongs. As I have already considered shared beliefs earlier in this chapter, I will point the reader to § 5.4 for more on the topic.

It may be that people's nationality constitutes a significant part of their *identity*. (I also discuss identity in Chapter 4 where I consider the importance of recognition to identity formation.) The multiculturalist may argue that because of this fact, the nation is very important for individuals, so nations should be protected by group rights. I will consider an argument of this sort presented by Kymlicka, and raise two problems. First, it seems that liberals should not place so much importance on parts of our identity that are unchosen. Secondly, it seems that the multiculturalist can only justify such group rights if they hold that it is more important to protect the interests of older group members than younger group members. The multiculturalist is unlikely to gain much support if they defend this position.

Miller and Kymlicka both think that it is important to protect national groups, and that we are justified in giving them group rights because the group's existence is important to members' identities. Kymlicka makes this argument well, so I will focus on what he says What I am about to talk about here is something that has come up before in discussion of identity (Ch. 3.3). There we saw that the arguments for considering cultures important because of their role in identity formation did not work well. Perhaps, however, they might hold a better chance at explaining why nations are important, so I will consider them again. Kymlicka believes that "the national culture provides a meaningful context of choice for

people..." (1995, pp. 92-93).[157] This means that the national culture one is raised in and belongs to gives that person the structure necessary for understanding what paths in life are meaningful and what is valuable. The group, as Dworkin puts it, "provides the spectacles through which we identify experiences as valuable..." (2001, p. 228). The individual "acts so as to achieve certain goals or purposes, based on beliefs she has about what is worth having, doing, or achieving. These beliefs give meaning to our lives, they make sense of why we do what we do..." and we gain these beliefs from our community (Kymlicka 1989, p. 163). We come to understand which paths are important through growing up in, and participating in, our national community. We see what roles there are to play within the community, and value some more than others. We should decide which path to take on our own, but "this decision is always a matter of selecting what we believe to be most valuable from the various options available, selecting from a context of choice which provides us with different ways of life" (1991, p. 164).

So national groups provide us with the range of options from which we can choose from. "In deciding how to lead our lives, we do not start *de novo*," but rather we examine forms of life that have been tested for many years (1991, p. 164). For this reason our membership in a national group is a vital part of our identity; what we choose to *be* and what we choose to *do*, is constrained by the limits of our national community. Kymlicka argues that these communities should, then, be protected, and that group rights provide the best means for doing this.[158] If the group is, for example, forced to assimilate into another national culture, the members will struggle because they will lose their context of choice. It will be damaging to the individual's self-respect, emotional security and personal strength because "[i]f we thought that our goals in life weren't worth pursuing, then there would be no point to our activities" (1991, p. 164). It is not *impossible* to become members of a different group, say by migrating, but it is very difficult. He tells us that "[w]e can't just transplant people from one culture to another... Someone's upbringing isn't something that can just be erased; it is, and will remain, a constitutive part of who that person is" (1991, p. 175).

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[157] As discussed in Ch. 3, Kymlicka's 'societal cultures' might be interpreted as cultural groups, or national groups. Kymlicka presents arguments which rely on the importance of culture, and if the reader is interested in this topic I refer them to Ch. 3.3. However, it seems more likely that he is using societal cultures to refer to national groups. When trying to define the groups he wants to focus on, he tells us that "all attempts to stipulate necessary and sufficient conditions have been notoriously unsuccessful (1989, p. 179, n. 2)." His definition is so vague that he "is inclined to agree with Seton-Watson that we are 'driven to the conclusion that no 'scientific definition' of a nation can be devised...'" (Kymlicka 1989, p. 179, n. 2; Seton-Watson 1977, p. 5). I gather from this that he is wanting to focus on national groups.

[158] He goes as far as to argue that our 'cultural community' or national group, should be considered a primary good. He thinks that, had Rawls and Dworkin ever considered a plural society (and not just homogenous societies), they would come to this conclusion too (1991, p. 178).

While I agree that our membership within a national group might be important to our identity, I do not think it is *as* important as Kymlicka makes out. I think that he overemphasises how onerous it is to adopt a different national identity. It is certainly not clear that people struggle to adopt a new context of choice; many people migrate to new countries and thrive in their new community. Even people who do not make this choice voluntarily, and are forced to flee war torn nations as refugees, manage to adapt to their new national communities. Furthermore, the predominance of communication and global media means that we are able now, more than ever, to learn about the various ways of life in different national communities. This understanding surely helps ease the transition.

More importantly, however, I do not think that it is right for liberals to think that individuals are *constrained* by the possibilities available to them within their nation. We are born into a nation, and it may be true that we learn what paths are valuable from our national community. However, we can choose, and many people *do* choose, to leave that national community. Kymlicka underestimates how adaptable people are, and because of this gives the impression that we are trapped in the national group within which we were born. We will only see roles within our national community as possible options. This overly restrictive view can be damaging and oppressive. Liberals should not only recognise that it is possible for people to adapt to a new context of choice, they should *encourage* individuals to see options outwith their community as real, possible, options, thereby broadening their range of choices in life.

We *should* think, as Miller suggests, "that a person's identity should be something that he works out for himself..." (Miller 1995, pp. 42-43). There are some parts of our identity that we simply cannot control. For example, I had no control over where I was born in the world or the upbringing I had. But as an adult, I can reflect on and evaluate the ethical and political views that I hold. I can consider a wide array of differing conceptions of the good and various paths in life, and make an autonomous, well-informed decision on which ones to accept and reject. I can choose to make *these* autonomously endorsed aspects of my identity the ones that define me. I can choose to let them play a larger role in my identity than my unchosen associations. If our nationality is an unchosen association which we do not independently endorse, then perhaps liberals should not encourage people to value it too highly. Of course we do not start out in life with a blank sheet and have the opportunity to choose all of our identifying characteristics, but perhaps we should encourage an understanding of identity in which the important aspects are those ones which we *do* choose to endorse. If we choose to move in this liberal direction, then we will be unpersuaded that membership in a national community is quite so important to identity.

When we take this view of identity, we have little reason to support group rights for nations. If, contrary to Kymlicka, we believe that people are more versatile and adaptable to new contexts of choice, then we will not think that we need group rights to protect national groups. On rare occasions, individuals may have to change national groups unwillingly. For example, a national minority might lose support because its members choose to pursue lives that are tied to a different nation, and so leave, or fail to take up roles vital to maintaining the national minority. If that nation does die out, all members will have to assimilate into other national cultures. But if we focus too much on the supposed importance of membership within a national group, then as a result we will make people feel as if it is more difficult to escape the boundaries of their nation than it needs to be. As liberals, we should be happy for individuals to recognise and choose paths in life that are offered in different groups, instead of feeling constrained by the boundaries of their nation. Overemphasising the importance of national membership to one's identity could erect unnecessary barriers to an individuals' ability to realise and pursue options available to her outside of her group. Liberals will not want to create barriers, so they should not support group rights for nations on the basis that national identity might be important. So, like the discussion of identity and culture in Chapter 3, these arguments appealing to identity in order to explain the importance of nations are unhelpful for the multiculturalist.

One may present the following objection: what I have said only applies to younger members of the group; those individuals who are leaving home, going out into the world, and choosing what path they want to take in life. However, older members of the group have already chosen their path and travelled happily down it for many years. If the national group dies out (perhaps because all the younger people choose lives outside of the national culture), then these older members of the group will suffer. They will have their context of choice, their whole structure denoting what is valuable, disappear. This could damage their self-respect, emotional security and personal strength. So group rights would help protect the context of choice for the benefit of the older members of the community.

While I am sympathetic to the suffering these older members will endure, I find this argument unfavourable because it relies on prioritising the interests of the older members over those of the younger ones. As Ben Colburn puts it, "the argument really boils down to the interests of those older generations: to preserve their context of meaningful choice, we must (according to Kymlicka) preserve their culture" (2010, p. 115). If it is the case that the older members of the group will be harmed by losing their context of choice, and this

harm cannot be compensated for, then we face a dilemma (2010, p. 115).[159] Either we protect the group through group rights, thereby securing the context of choice for the benefit of the older members of the group; or we encourage younger members to view paths of life in different groups as possible options, thereby widening the range of options available for them. If we take the former option, the group rights necessary would be ones which encourage the younger members to remain in the group, or make it difficult for them to leave. If we take the latter option, we will not be persuaded that there is any need for group rights. While some may prefer to favour the interests of the older members of the group, I would think that most would not. It seems clear to me that prioritising the freedom and autonomy of the younger members of society is the right thing to do in this case. The multiculturalist *can* choose to side with the few, and protect the structure of national groups for the sake of the older members. However, I do not think they will be successful in gaining much support from liberals for such a position.

An appeal to the importance of national identity to individuals will not be a successful route for arguing for group rights for nations. The multiculturalist *can* include, in their definition of a nation, that individuals feel that their membership within the group is important to their identity. However, this will merely be an observational fact that might be true in many cases, but provides no reason to think that national groups are especially worthy of maintaining.

It should also be pointed out that there does not seem to be anything particularly unique about the importance of national membership to one's identity, as compared to cultural or ethnic membership. So arguments for group rights that appeal to the importance of group membership to personal identity will all roughly follow the same pattern.

5.8 What themes should the multiculturalist use to define a 'nation'?

In the last section, we looked at some of the most common themes that can be found in definitions of a nation:

1. Race and ethnicity
2. A common set of beliefs
3. Territory
4. Self-government
5. Identity and belonging

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[159] As Colburn points out, it is not clear that this loss *cannot* be compensated for (2010, p. 115).

This has given us some understanding of the complexity of the concept, and the various ideas that have contributed to the way the term is used today. With this background, we can now ask what definition of nation the multiculturalist might use. First, though, let me outline what definition I think *nationalists* might employ.

The nationalist is someone who favours unitary nation-states. He can include in his definition the idea that a nation is a community that is self-governing (4). If he does this, he will also stipulate that it has a territory (3). He will surely want to say something about the members of the group sharing a common set of beliefs (2), but will have to be careful about what these beliefs are. Stipulating what, precisely, these beliefs are will be difficult. The nationalist's definition may make reference to the idea of membership or belonging (5). I have argued, though, that no definition should incorporate the idea of race or ethnicity (1).

The multiculturalist must hold a different understanding of a nation, though, if it is to ground multiculturalism. I have argued that it will not be useful for her to understand a nation as aiming for self-government (4). This is because if a group wants to be self-governing, in most (if not all) cases, they will be seeking autonomy, as opposed to limited self-government. If national groups aim to become sovereign nation-states, then there is no need for multiculturalism, which aims to incorporate a number of national groups in one state. If it is part of the definition of a nation that it seeks autonomy, then a multicultural state will be an unhappy compromise for its constituent nations. The multiculturalist does not, then, want to define a nation as seeking or having self-government. But if she includes the idea of self-government in her definition, then there is little reason for her to include a territorial aspect to the definition (3). Unless we believe that nations should be unitary nation-states, then it might not seem important for a nation to have its own territory. To stipulate that a nation must have a territory could rule out some groups we might think *should* constitute a nation, like the Romani perhaps. On the other hand, though, there may be some benefit to defining a nation as having a territory. For example, it might help us capture the groups that we commonly tend to think of as nations, and rule out various social groups. So, the multiculturalist may or may not build into her definition of a nation that it is somehow connected to a particular territory. Again, I do not think that a definition of a nation can incorporate the idea of race or ethnicity (1). To bring this all together, then, the multiculturalist must rely on a definition of 'nation' in which it is a group which (a) holds a common set of beliefs (where these beliefs are not intended to manipulate or mislead members); and (b) which its members feel a sense of belonging to or feel that their

membership in forms part of their identity; and possibly (c) which is somehow connected to a particular territory (but is not self-governing, or seeking self-government).

The problem for the multiculturalist is that this does not seem to be saying much. If a nation is merely a group with shared beliefs, and in which members feel a sense of belonging or identify with the community, then a nation basically ends up being the same thing as a cultural group. There seems to be nothing that makes a *nation* anything unique on the definition that the multiculturalist must use. I have argued elsewhere (Ch. 3) that the multiculturalist cannot appeal to the concept of culture to ground group rights. Arguing for group rights for nations, then, is not helpful for the multiculturalist, as the understanding of 'nation' that they must adopt is not different from cultural groups, and cultural groups are not able to ground group rights.

5.9 Conclusion

In this chapter, I identified five themes found in definitions of a nation. This was not intended to be an exhaustive list, but was meant to highlight what I have found to be the most common themes. The overall purpose of examining these themes was to identify which ones the multiculturalists could incorporate into their definition of a nation. This was a helpful strategy because it revealed that the multiculturalist is using a different understanding of 'nation' than we might have originally assumed. They do not, and cannot, hold the same understanding of nation that the nationalist holds. What they really mean by 'nation' is something closer to 'cultural group'. It is important to point out that this mix-up of the terms is confusing and illusory. There may be reasons to think that national groups - as *nationalists* understand them - are important enough to ground rights. (As a matter of fact, I do not think there are, and there are a number of cosmopolitan writers that deal with this problem directly, but showing this is immaterial for my present purposes.)[160] National groups as *multiculturalists* must understand them cannot ground group rights. With a clearer understanding of the multiculturalist's definition of a nation, the reader is redirected to Chapter 3, where I argued that cultural groups cannot ground multicultural group rights.

It is important to point out that I have used the same technique in this chapter that I have used throughout my thesis. I have identified a concept that is heavily relied upon by multiculturalists and analysed it. I asked what a nation is, and pointed out that the way the multiculturalist uses the term is problematic. Oftentimes the multiculturalist relies on

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[160] See, for example, Barry (1999), Caney (2005), and Pogge (2008).

imprecise wording or points to unclear ideas which do not stand up to scrutiny. For example, when one claims that part of the definition of a nation is that it is a community based on common ancestry, I point out that we must, by common ancestry, mean that a nation is a genetically or biologically connected group of individuals. This amounts to classifying a 'nation' as a 'race'. First of all, this is entirely implausible from an empirical standpoint. But secondly, I doubt that any multiculturalist would want to promote the idea that there are distinct racial groups which should be supported, given the context that we understand race in. Similarly, the multiculturalist might claim that it is part of the definition of a nation that the members hold a common set of beliefs. This, too, is a suitably vague idea. Yes, members of a nation will hold *some* set of beliefs, but what are they? They might be myths which the powerful elite encourage in order to maintain their position of authority. Surely the multiculturalist does not want to support nations that are centered around promoting *these* types of beliefs. This vagueness and confusion is common to all of the concepts that the multiculturalist draws upon.

We should also notice that the multiculturalist is using one of the three strategies that I have identified. They are employing a certain concept (here, 'nation') to establish multicultural group rights, but they are understanding the concept in an unconventional way. The reader may immediately be convinced by the multicultural arguments. However, when they realise that a nation has been reduced to nothing more than a *culture,* they are redirected back to Chapter 3 to examine that concept in more detail, and see that that concept cannot succeed in doing the work that the multiculturalist needs it to do either. By this point, if the reader has, for example, followed the arguments presented by Kymlicka, they will have already been sent on what seems like a wild goose chase. Kymlicka focuses on 'societal cultures' which are essentially national groups. However, he uses the importance of culture to support his arguments. So in Chapter 3 we looked at whether or not his arguments from culture could support group rights for the national groups he focused on, and saw that they could not. The reader was then directed to this chapter on nationality to see if arguments that rely on the concept of a *nation* could support Kymlicka's multiculturalism. But here we saw that they could not, because a multiculturalist must understand a nation to be no more, essentially, than a cultural group. Neither route, then, can be successful for justifying Kymlicka's multiculturalism. The reader has had to shuffle back and forth to find out what concept is really doing the foundational work the multiculturalist needs it to, but finally finds out that none of the concepts do. Even if the concept of a nation can only really be used to support nationalist arguments, it provides no help for the multiculturalist.

6. Ethnicity

6.1 Introduction

Some argue that multiculturalism is aimed at accommodating ethnic groups, or is well-suited to dealing with issues that arise through the treatment of different racial groups residing within one territory. For example, Rattansi tells us that multiculturalism involves "the creation of structures in which the incorporation of immigrants and ethnic minorities occurs fairly" (2011, p. 8). He believes that the terms 'multiracial' and 'multicultural' are commonly conflated, and that "multiculturalism was *racialized* from its inception" (2011, pp. 9, 25). Hollinger argues against multiculturalism, where "'culture' has often turned out to be a euphemism for 'ethnicity' or 'race'" (2000, p. 13). He suggests we work towards a *post-ethnic* society which develops cosmopolitan instincts (2000, p. 4).[161] And Modood takes multiculturalism in Britain to be "the political accommodation of minorities formed by immigration..." (2010, p. 5). Some multiculturalists, however, think it is better not to understand multiculturalism as focusing on granting group rights to ethnic groups. Kymlicka, as we have seen, focuses on national groups instead. He takes ethnic and immigrant groups to be the same, and argues that because immigrants make a decision to relocate, they have no grounds for expecting their host country to protect their culture (1995, p. 63).[162] "[E]thnic minorities have for the most part chosen to migrate and want to integrate, and such choice cancels the option of self-government rights" (Song 2008, p. 187).

In this chapter I will analyse what multiculturalists might mean by 'ethnic group'. We can then look at whether or not it is a concept that multiculturalists can rely upon in order to justify the provision of group rights. Sometimes it is argued that discussion of ethnic groups is really just discussion of racial groups. For this reason, I will start out by considering the concept of race, and outlining why it would be a bad idea to grant racial

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[161] Hollinger calls his position 'postethnic', but clarifies that it is much like rooted cosmopolitanism. "[P]ostethnicity is the critical renewal of cosmopolitanism in the context of today's greater sensitivity to roots. 'Rooted cosmopolitanism' is indeed a label recently adopted by several theorists of diversity whom I take to be moving in the direction I call postethnic" (2000, p. 5).

[162] Kymlicka echoes the views of Nathan Glazer and Michael Walzer on the rights of immigrants (Walzer 1982) (Glazer 1983, p. 149). Kymlicka does think that immigrant groups can claim *polyethnic rights*, which essentially allow for funding and public recognition of the group, but he does not think they can claim any form of self-government rights (rights which nations can claim). For more on Kymlicka's account of nations, see Ch. 5 and Ch. 3.3.

groups rights. This is not something that multiculturalists argue for, but understanding what is problematic about race will help us understand why we cannot simply understand ethnic groups to be the same as racial groups, at least if an ethnically-based multiculturalism isn't to be indefensible for the same reasons as a racialised one.

I will then ask how we are to understand ethnic groups, if they are not to be synonymous with racial groups. First, a seemingly plausible understanding of 'ethnic group' is one in which it is ontologically the same as a racial group, but different for pragmatic reasons. Sally Haslanger hints as such a distinction, suggesting the idea of adopting an understanding of ethnicity as the same as race, but different in that ethnic groups do not suffer subordination or privilege. I argue that this understanding will not be helpful for the multiculturalist, as any understanding that holds ethnic and racial groups as ontologically the same will run into the same problems we encountered with race (some of these problems are the same as the ones we saw in Ch. 5). A second plausible understanding of 'ethnic group', for the multiculturalist, will have to abandon the connection with race. I will consider an understanding of ethnicity as separate from race altogether. On this understanding, 'ethnic groups' will be the combination of cultural, national, religious and linguistic groups. It becomes an umbrella term used to capture groups that the multiculturalist thinks need special attention. However, I will argue that this understanding fails to justify the type of group rights that the multiculturalist is after, so is also going to be unhelpful for them.

6.2 The problem with 'race'

We might consider ethnicity to be interconnected with the concept of race. As I mentioned in Chapter 5, the etymology of the terms shows that they share similar root words. There, I argued that the concept of race is problematic and that any definition of 'nation' should avoid connecting itself with ideas concerning race altogether. Here, I will show that a similar problem faces any understanding of 'ethnic groups' that is connected with ideas concerning race.

The word 'ethnic' derives from the Greek *ethnos*, which refers to the "modern English usage of nation, peoples, especially foreign peoples, or tribes and castes plus the adjectival national and foreign" (Fenton 2010, p. 14).[163] *Ethnos* derives from the word *ethnikos*

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[163] It is disputable whether or not this is how the ancient Greeks actually used the term. For example, Jeremy McInerney tells us that while it was often used to mean 'people' or 'distinct peoples', it is not strictly used only in this way. In Xenophon's *Symposium*, Socrates asks Niceratus "if he knows of an ethnos more stupid

"which originally meant heathen or pagan" and continued to be used in this way until the mid-nineteenth century, when it started to refer to racial characteristics (Eriksen 2010, p. 4). The word 'race' is derived from the French *rasse*, meaning "'breeding', persons of the same family or bred from the same ancestors..." (Fenton 2010, p. 17). The Oxford English Dictionary defines a race as "[a] group of people... connected by common descent or origin" (OED 2013c).

Most worryingly, the concept of race has been tainted by the project of racialism.[164] This is the idea that observable physical characteristics such as skin colour, hair colour and texture, facial features and cranial sizes can be used to explain temperament, ability, intelligence and moral worthiness (Kivisto and Croll 2012, p. 6). This proposal was offered by scientists and naturalists, such as Carl Linnaeus for example, who divided the human population into four races: white, red, yellow, and black (2012 [1747]). Once set racial categories were established, they could be ranked hierarchically, with white Caucasians being considered the most superior race. Comte Arthur de Gobineau was one person to undertake this project in his *The Inequality of Human Races* (1915 [1853-1855]). Here, he highlighted "the presumed superiority of some groups and the inferiority of others" (Kivisto and Croll 2012, p. 6). Of course, we know now that we cannot make generalisations about temperament and character on the basis of physical characteristics, and we have come to value equality of persons.

However, even years after we have rejected the claims of racialists, the common understanding of race that we hold is still problematic. The layman's understanding of race does not match onto the biological facts about inheritance and ancestry. Michael Hardimon gives what is widely considered to be a compelling account of the ordinary concept of race. As he explains, "[t]he ordinary concept of race is... used to categorize common perceived objects - human beings and their properties - in the course of everyday life... [It] bears the imprint of eighteenth- and nineteenth-century attempts to develop a scientific concept of race (race as an infraspecific division of *Homo sapiens*), which was an outgrowth of the Enlightenment's larger taxonomic project" (2003, p. 437). He argues that the ordinary concept of race is the concept of a group of human beings:

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than the rhapsodes..." (2001, p. 54). Here the character appears to be using 'ethnos' to apply to a profession rather than a kinship group. See further discussion by Tonkin et. al regarding the Greek usage of *ethnos* (1996, pp. 19-21).

[164] I will borrow Hardimon's distinction between 'racism' and 'racialism'. Racialism refers to a group of theories that seek to outline subdivisions of the human species. Racism refers to "an affective and voluntative attitude toward individuals and groups" (2003, p. 449, fn. 45).

1. Who are distinguished from other human beings by visible physical features of the relevant kind

2. Whose members are linked by common ancestry; and

3. Who originate from a distinctive geographical location

(2009, p. 1)

Our ordinary thinking about race is confused though. For example, we consider certain visible physical characteristics, such as skin colour, to indicate what racial group someone belongs to, but we would not consider race to track *invisible* characteristics such as lactose tolerance (the presence of the enzyme lactase) (2003, p. 442). However, if we think that race is something that is inherited, then we must believe there is a genetic connection. If we are happy to look at the genetic visible features, then we should be happy also to look at the invisible features. Yet we simply would not consider the group of people that share the presence of the enzyme lactase (the northern and central Europeans and the Fulani of West Africa) to constitute a race.[165] We are also selective about which visible characteristics we think are indicative of race. We would not, as Hardimon points out, consider the visible presence of an Adam's apple to be a racial characteristic (2003, p. 443).

It is simply incorrect to think that all people of a particular race (consider for example, an Asian race) have shared ancestry. For features to be passed on genetically, the group must have relatively little interbreeding with other groups. However, there has been so much interbreeding between (supposed) racial groups that it simply cannot be true that there are a limited number of genetically distinct races (for example, four or five). The places where we find the most genetically similar groups of people are places with isolated populations - often islands. "Scientists studying the heritability of characteristics have found the greatest concentration of shared genetic material in the populations of small island communities like Iceland or Sardinia, yet many people rarely talk of the Icelandic or Sardinian people as constituting a distinct race" (Phillips 2009, p. 16). Scientists believe that between twenty and thirty percent of African Americans' genetic material derives from European or American Indian ancestors (Gutmann 1996, p. 115).[166] "Neither the traditional one drop of (black) blood rule for identifying someone as black nor the once official one-sixteenth black ancestry rule makes biological sense..." (Gutmann 1996, p. 115). As for measurable genetic difference, it is estimated that if, say, Europeans and Asians were considered separate races, only 0.012 percent of their genetic differences can

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[165] See further Diamond (1994).
[166] See Shreeve (1994), p. 58.

be accounted for by 'race' (Hoffman 1994, p. 4). Racial features, then, are not inherited in quite the way that we think they are. There is not a straightforward connection between skin colour, and a direct line of ancestry that can be traced back to a certain geographic location.[167] As Haslanger puts it, "there are no racial genes responsible for the complex morphologies and cultural patterns we associate with different races" (Haslanger 2000, p. 43).

Given that there are these problems associated with race, and with distinguishing between racial groups, it would be unwise to grant group rights to *racial* groups. The worry is that doing this could encourage people to think that there are distinct racial groups, members of which share common ancestry and are genetically similar. This is especially worrying when we consider the fact we have not yet abolished racialist thinking, and that it still affects our common understanding of race. It could be that granting group rights to racial groups will result in more people thinking that there is a connection between visible physical characteristics, temperament and character, and superiority of some races over others.

> Classifying people in terms of race is inherently suspect, because it is almost inevitably tied up with bogus biology and psychology and almost always presupposes... an assumption that some races are superior to others.
>
> (Barry 2001, p. 71)

As Peter Kivisto and Paul Croll argue, talking about racial groups essentialises them, and implies that they are homogeneous. "To say they are essentialized means that groups are seen as fixed and determinate, and not subject to change over time" (Kivisto and Croll 2012, p. 4). This echoes the concerns I had regarding the concept of culture. In Chapter 3 I argued that it is commonly thought that cultures are fixed and stable, and that we essentialise them. We seem to make the same errors about the concept of 'race'. Some, like Rogers Brubaker, propose that we view race (and ethnicity) *beyond groupism*, by which he means that we should stop viewing racial and ethnic groups as if they are groups with clear

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[167] Interestingly, there have been recent developments in the medical field to establish whether drugs can be designed for different racial groups. "For example, the drug BiDil is being specifically marketed as a prescription drug for African Americans with cardiovascular disease, it being the first drug to receive the approval of the Food and Drug Administration" for a racial population (Kivisto and Croll 2012, p. 18). However, I do not think this goes to show that there are clear genetic racial categories. For example, the gene that produces sickle cell anemia is predominantly found amongst Africans, "the people of the Arabian Peninsula and southern India. But it is rare among Northern Europeans and the Xhosa people of South Africa. Does that make Nelson Mandela and Bjorn Borg racial kin?" (Holmes 1994, p. 5). The commonality of diseases between certain groups of people should not be taken as evidence that there are single racial groups (Appiah 1996, p. 117). See also Lee (2005, p. 2136).

and unchanging boundaries. We should reject the tendency to "take discrete, bounded groups as basic constituents of social life, chief protagonists of social conflicts, and fundamental units of social analysis" (2004, p. 8).[168] The problem is that "[b]y *invoking* groups, [people] seem to *evoke* them, summon them, call them into being..." (Brubaker 2004, p. 10). When politicians or people in positions of authority (or 'ethnopolitical entrepreneurs' to borrow Brubaker's term) talk of races or racial groups, they reify these groups in a way that can aim to "stir, summon, justify, mobilize, kindle, and energize" the people who identify with them (Brubaker 2004, p. 10). As Pierre Bourdieu tells us, when an authority figure speaks publicly and officially as if these groups *do* exist and *are* concrete, "he sanctions them, sanctifies them, consecrates them, [makes] them worthy of existing, in conformity with the nature of things, and thus 'natural'" (Bourdieu 1999, p. 223).[169] Talking about groups as if they are fixed and definite actually serves to strengthen peoples' beliefs that they are.

If multiculturalists legally define and give specific rights to racial groups, there is a danger that they will entrench differences and reify the group. In a time where we are trying to end racist discrimination, it seems counterproductive to encourage the common understanding of racial distinctions by granting racial groups special rights (especially given their false biological implicit assumption). We should focus on breaking down barriers and encouraging people to work together to see what commonalities they share, not creating boundaries as a consequence of granting rights.

I should point out that there are some policies - that multicultural societies might endorse - that address racial groups. Affirmative action policies, like the ones in the USA, are temporary measures aimed to address some of the problems that have emerged for African Americans due to racism.[170] These policies do distinguish between different racial groups, and in this way highlight boundaries between racial groups in order to determine who can be considered white and black. Understandably then, it might be thought that this counts as an example of group rights granted to racial groups.

However, affirmative action policies are seen to be an unfortunate but necessary way to tackle persistent discrimination against individuals. Ideally they would not be needed, but in order to redress the balance it is determined that temporary measures must be put in place. For example, African Americans might be given preference during the hiring

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[168] Brubaker urges us to understand that "ethnic conflict - or what might better be called ethnicized or ethnically framed conflict - need not, and should not, be understood as conflict *between ethnic groups*, just as racial or racially framed conflict need not be understood as conflict between *races*, or nationally framed conflict as conflict between *nations*" (2004, pp. 9-10).

[169] Bourdieu is speaking predominantly about ethnic groups.

[170] Affirmative action can also be known as positive discrimination.

process, university scholarships might be earmarked for African Americans, and, in India, there might be quotas for hiring people from certain castes, religions and races. Affirmative action policies are not what we might consider multicultural policies; they could be implemented by any liberal society as anti-discrimination policies. The aims of affirmative action policies are classic universalistic liberal aims, focused on achieving equality for individuals. Multicultural policies, on the other hand, aim to grant permanent group rights not to regain some balance, but to treat groups differently by accepting that they are different (for example, they have different cultural or religious practices which we should not expect them to change).[171]

Furthermore, affirmative action policies do not take the form of group rights. They are not rights granted to a group to be exercised by the group. They typically come in the form of requiring businesses and universities to take race into consideration when hiring and admitting students. So we should not consider affirmative action policies to be an example of justified multicultural group rights based on race.

6.3 Ethnicity understood as ontologically the same as 'race'

As far as I know, there are not any multiculturalists that focus primarily on *race*. There are, however, multiculturalists that focus on *ethnic groups*.[172] We need to figure out how the multiculturalist understands ethnic groups that makes the category different from race if an ethnic-focused multiculturalism is to avoid the problems faced by a race-focused one. The problem arises because there are many that believe that multiculturalists are surreptitiously using the term 'ethnic' to address racial groups. Rattansi, a sociologist focusing on race, argues that, at its core, multiculturalism *is* focused on race (even if it purports to be focused instead on ethnicity). He understands multiculturalism to have arisen as a response to the immigration of people from different racial groups to white, Western countries.

> [T]he response to the incoming populations all over Western Europe, as well as in
> Australia and Canada, generally regarded the immigrants as *racially* distinct from
> the majority white populations, although by then the legitimacy of the idea of 'race'

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[171] Kymlicka recognises that these are not the types of rights that should strictly be called multicultural rights. He says "[A]nti-racism policies are considered part of the 'multiculturalism' policy in Canada and Australia... However, these policies are primarily directed at ensuring the effective exercise of the common rights of citizenship, and so do not really qualify as group-differentiated citizenship rights" (1995, p. 31).

[172] For example, Anaya (1997) and Levy (2000)

had already been seriously challenged. The issue of multiculturalism was *racialized* from its inception.

<div align="center">(2011, p. 9)</div>

I understand Rattansi to be explaining that he believes multiculturalism arose out of racist views, the dislike of non-white foreigners and immigrants. The arrival of racially distinct immigrants in a society that had not yet managed to dispel incorrect views about racial hierarchy called for a theory that aids the arrival and integration of these immigrants. While multiculturalists might now claim to be addressing the issues of *ethnic* groups, the term ethnic is really being used to refer to racial groups.

This is an interesting, and perhaps quite compelling theory. Consider, for example, the case of Australia, which implemented the White Australia Policy from 1901 to 1973. This was a group of immigration policies which favoured people of white European descent. These racist policies were eventually dismantled, and immigrants from all racial and ethnic groups were allowed to apply for immigration. Australia then adopted a multicultural approach. "By the 1970s 'multiculturalism' had evolved as the dominant policy approach to address Australia's cultural diversity" (Australian Government 2013). It seems like this case might illustrate Rattansi's point well. Here, the move towards multiculturalism looks like a new way to accommodate racial groups in Australia, although it drops the language of 'race' to appear more politically correct.

We might think that multiculturalists are proposing that we focus on ethnic groups because it is seen to be a more politically correct term. Elisabeth Tonkin et. al argue that this is the case, telling us that "'[e]thnic group' is a collocation often used in covert synonymy for another term, 'race', which has been morally and politically disallowed in many areas" (1996, p. 23). Marie de Lepervanche says that in some contexts, ethnicity "is obviously a replacement word for this increasingly offensive term" - race (1980, p. 24). This is perhaps because "many of us are ashamed of our racist past and are trying to make amends by getting on with more constructive enterprises like inventing new terms" (1980, p. 25). Roger Just tells us that, in discussions of ethnicity, "there is... a Joker in the pack (and it seems to be a Joker studiously avoided by the academic proponents of ethnicity): namely, 'race'" (1989, p.76). It is clear that this avoidance is due to "a sense of revulsion and shame at the events that racial doctrines, and specifically Nazi racial doctrines, brought about in Europe...", as the term 'ethnic' came into more common usage in the post-war period (Tonkin et. al 1989, p. 22). And Rattansi tells us that "[i]n most debates on

multiculturalism, in Europe especially, 'race' is the elephant in the room, so to speak"
(2011, p. 10).

If multiculturalism aims to focus on, and grant group rights to ethnic groups where
ethnic group simply means *the same thing* as racial group, then, of course, multiculturalism
will run into problems. As discussed above, the worry is that if multiculturalists legally
define and give specific rights to racial groups, this could entrench differences and reify
the group. If we are aiming to discourage racism, it seems counterproductive to encourage
the confused, ordinary conception of race. By using this ordinary conception to grant group
rights, we are seen to give it more force, or make it seem more justified. If multiculturalists
have good reason not to grant group rights to racial groups, then they should also have
good reason not to grant group rights to ethnic groups where 'ethnic group' is merely a
synonym for 'racial group'.

We might want to consider a distinction between race and ethnicity which sees the two
concepts as being ontologically the same, but pragmatically different. Perhaps the
multiculturalist could rely on an understanding of ethnicity that is sufficiently different that
it will avoid the problems discussed above. One way to present such an account, which
seems *prima facie* plausible, is suggested by Haslanger.[173] Haslanger provides an account
of race, influenced by feminist epistemology, which focuses on the relations of privilege
and subordination between groups.[174] She suggests that we could understand ethnic groups
to be the same as racial groups in that we pick out observable bodily features, which we
believe are evidence of ancestral links to geographic regions, but different in that they do
not suffer subordination or privilege. This would make the two groups the same
metaphysically, but different for socio-political reasons.

> One's ethnicity concerns one's ancestral links to a certain geographical region
> (perhaps together with participation in the cultural practices of that region); often
> ethnicity is associated with characteristic physical features... [I]t might be useful to

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[173] I should make clear that Haslanger does not put forward a theory of ethnicity, she merely suggests this as
a plausible distinction in her paper concerning gender and race (2000).

[174] Haslanger's definition of 'race' (simple version; she does provide a more elaborate version): "A group is
racialized iff its members are socially positioned as subordinate or privileged along some dimension
(economic, political, legal, social, etc.), and the group is 'marked' as a target for this treatment by observed
or imagined bodily features presumed to be evidence of ancestral links to a certain geographical region"
(2000, p. 44).

employ the notion of 'ethnicity' for those groups that are like races as I've defined them except that they do not experience systematic subordination or privilege...
(2000, p. 45)[175] [176]

If we were to accept this distinction, we would have to understand any of these groups that suffer subordination and privilege to be racial groups. So, as Haslanger points out, groups such as Italian-Americans and Irish-Americans will have at one time been racial groups (as opposed to ethnic groups) (2000, p. 45).

This distinction seems plausible at first glance, however there are a couple of reasons we should be wary of adopting it. Firstly, it does not map onto how we currently use the words 'ethnic' and 'race'. There is a worry that Haslanger is proposing an altered understanding of the term that takes it too far from the common understanding, in order to make it fit neatly into her theory. For example, it seems strange to say that when the Italian-Americans and Irish-Americans suffered subordination, they were racial groups. We typically think of these as being ethnic groups, and they do not possess any of the physical characteristics we associate with racial groups; they do not have the "observed or imagined bodily features presumed to be evidence of ancestral links to a certain geographical region" which Haslanger finds characteristic of race. Also, we talk about ethnic conflict and ethnic cleansing, and do not think the privileged or oppressed groups could change from being ethnic to racial groups. The Yugoslav wars are thought to be a series of wars fought by ethnic groups vying for power, and they are not considered racial groups when some of the groups suffer subordination or privilege (Bennett 1997). Similarly, we normally describe the Rwandan genocide was the result of a long-lasting power struggle between two *ethnic* groups - the Hutus and the Tutsis. It sounds odd to say that these groups switch from ethnic groups to racial groups when their power relations change.

Secondly, adopting such an understanding seems unwise, because doing so risks trivialising the atrocities that have been committed in the name of ethnicity. We might think it seems insensitive to try to view ethnicity as a concept in which all parties are

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[175] She does stipulate that *some* inequalities between ethnic groups might remain, but not persistent inequalities that could count as systematic subordination. "We may want to allow there to be kinds of social stratification between ethnic groups that falls short of the kind of systematic subordination constitutive of race" (2000, p. 54, fn. 19).

[176] Song also considers making a similar distinction (although it is not as a *reforming* definition, like the one Haslanger is suggesting): "Hierarchy is a constitutive element of the category of race, but not of ethnicity... The degree of systematic subordination or privilege on the basis of race in the United States has tended to exceed such treatment on the basis of ethnicity" (2008, p. 188). She rejects the distinction, rightly pointing out that this is an idealised conception of ethnicity (2008, p. 188). In fact, it is simply not true of ethnic groups today that they do not suffer subordination and privilege.

neutral and free from privilege or subordination. It implies that ethnic groups do not vie for power, and that they just exist peacefully, or that any conflict is unrelated to the fact that they are *ethnic* groups. Yet the truth is that many people have suffered terribly from ethnic violence. To change the common understanding of 'ethnic' seems insensitive in that it will fail to explain why people suffer from ethnic problems. Ethnic conflict *starts* because of problems relating to ethnic groups; to switch the terminology to *racial* problems would mask the real root of the problem.

Regardless of whether we choose to accept these warnings concerning Haslanger's distinction, the multiculturalist is still unable to rely on this understanding of ethnicity. As long as ethnic groups remain ontologically the same as racial groups, they will still run into the same problems we would have granting rights to racial groups: granting rights to these groups essentialises them and encourages the problematic ordinary conception of race. Of course, we would be granting group rights to *ethnic* groups, but on this understanding ethnic groups are still identified by certain visible physical features, which we take to indicate common ancestry and specific geographic origin, and this will be just as untrue for ethnic groups as it was for racial groups. A political system that grants rights to these groups will encourage the thought that the group is more fixed and clearly defined than it really is. There are different degrees to which people might belong to one ethnic group or another, or possess the physical characteristics that we think count. Granting group rights to these groups implies that there are fixed boundaries, and as a result, would end up essentialising ethnic groups. If the multiculturalist wants to argue for group rights for ethnic groups because they find the concept of ethnicity valuable, then they must hold an understanding of ethnicity that separates itself completely from the connection with race.

6.4 Ethnicity abandoning the connection with race

The multiculturalist might want to understand ethnicity as different from race altogether. This would involve abandoning the idea that ethnic groups are identifiable by visible physical characteristics, share common ancestry, and are descended from a certain geographic region. Instead, 'ethnic group' might be an overarching term for national, religious, cultural and linguistic groups, or some combination of these groups. I deal with some of these groups independently elsewhere (cultural and national groups in Chapters 3 and 5) where I establish that, on their own, these groups cannot justify the group rights that the multiculturalist is after. Perhaps the multiculturalist will have more success considering a combination of them together.

Oftentimes, it seems, the term 'ethnic group' is used to mean the same thing as 'national group' or 'nation'. For example, Adeno Addis, who argues for multicultural group rights, looks at the breakup of the Soviet Union, the 1992 independence referendum for Quebec, as well as the events in Ethiopia (the break-up of The People's Democratic Republic of Ethiopia into Ethiopia and Eritrea), Sri Lanka (the fighting between the Sinhalese and Tamils), and Eastern Europe (fighting between Croats and Slovenes, and between Czechs and Slovaks), and labels them all as *ethnic* conflicts. "In each of those countries there are movements, primarily ethnic-based, that are asserting what they see to be a right to self-determination, a right which is usually taken to mean the declaration of the independence of the territorial unit within which the ethnic group resides" (1992, p. 616). Others might instead view these as *national* conflicts, particularly given the political language of 'self-determination' and 'declaration of independence'. Even Michael Walzer, when arguing for ethnic pluralism, seems to use the terms 'national' and 'ethnic' community synonymously, or in conjunction at least (1982). Furthermore, discussion of primordialism often refers both to national and ethnic groups as if they are the same (see Hutchinson and Smith 1996, Ch. 2).[177]

Instead of using the terms 'ethnic' and 'national' synonymously, Thomas Erikson combines the terms to discuss 'ethnonational' groups. He believes that the study of ethnonational movements is one of the primary foci of ethnic studies. "These groups, the most famous of ethnic groups in the news media, include Kurds, Sikhs, Palestinians and Sri Lankan Tamils. By definition these groups have political leaders who claim that they are entitled to their own nation-state and should not be 'ruled by others'... They are always territorially based..." (2010, p. 19). We might wonder, though, what distinguishes these ethnonational groups from *national* groups. Of course, the multiculturalist will need them to be more than simply national groups, because, as we have already established in Chapter 5, the multiculturalist cannot rely on national groups to ground group rights. So, if there is not any normatively relevant distinction, this will be a dead end for multiculturalism.

The addition of the 'ethno-' prefix is found elsewhere ('ethnocultural' or 'ethnoreligious' for example).[178] However it is not clear what this prefix is supposed to add. I worry that the author believes that by using it, the claims of the group appear more

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[177] Primordialism is the theory that nations or ethnic groups are natural, and that bonds between members of these groups are long-established. One's national or ethnic identity is fixed and inflexible on this view. I also mention primordialism in my discussion of nationality (see Ch. 5). See Tonkin et. al for more examples of primodialism and the use of 'ethnic' and 'national' in this discussion (1996).

[178] Examples of the use of the word 'ethnocultural' can be found in Kymlicka (1998), Kymlicka and Norman (2000, p. 14) and Barry (2001, p. 68). The term 'ethnoreligious' is used by Modood (2011, pp. 2-3). Even the term 'ethno-cultural-religious' is used by Emerson (2011, p. 4).

legitimate, or more respectable. It is as if the author is saying 'these are not merely the desires of a religious group, but of an *ethno*religious group.' Perhaps it is the case that the claims of ethnic groups are more often seen to be legitimate than these other groups, and so the prefix gives the reader a sense that the group's claims are just as legitimate as that of any ethnic group. Or, (on a more cynical note) perhaps it is the case that ethnic groups as a matter of fact are prioritised in multicultural societies, and see more rights and funding than other cultural or religious groups. Classifying your group as an ethnic group could, then, be advantageous in securing these benefits. For example, Barry points out that "[i]n Canada... governments at all levels provide financial support for ethnically based cultural manifestations. This means that people have a financial incentive to identify with their ethnic community" and to frame their demands as the demands of ethnic groups as opposed to any other type of group (2001, p. 314). However, the addition of the 'ethno-' prefix does not actually add any further legitimacy or respectability to the claims of these groups. If they are ethnic groups, then they should be evaluated and treated as such, but if they are (for example) religious groups, then they should be evaluated and treated as religious groups. Classifying them as a form of ethnic group should not make their claims more salient.

In other cases, ethnic groups might simply be seen as cultural groups. For example, Barbara Lal describes what she calls 'ethnicity by consent'. On this account, an ethnic group is a group that members freely enter into, has a strong shared culture, and is not based on shared ancestry, although group members may hold the *belief* that they have shared ancestry. She says that examples of such groups include The Black Jews of Harlem, the Hare Krishna movement, the Black Muslims and the Rastafarians (Lal 1983, p. 166). It appears that these groups could simply be understood as cultural groups, except for the fact that they might believe that they have shared ancestry (this is not typical of cultural groups).[179] Chris Eipper thinks that ethnic groups are no more than cultural groups: "ethnic means cultural; ethnicity is culture" (1983, p. 437). He asks, "[w]hen discussing the multiplicity of groups conventionally bracketed under the ethnic label why can't we simply speak of cultural groups, specifying which particular cultural phenomena or amalgam of phenomena is relevant?" (1983, p. 444).

Linguistic groups are also sometimes described as ethnic groups. According to Weber, "[g]roups... can engender sentiments of likeness which will persist even after their demise and will have an 'ethnic' connotation... [M]ost directly, such an effect is created by the *language group*, which is the bearer of a specific 'cultural possession of the masses'

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[179] For more on cultural groups, see Ch. 3.

(*Massenkulturgut*) and makes mutual understanding (*Verstehen*) possible or easier"
(Weber 1996, p. 36). Shared language leads to shared understanding, and may be thought
to clearly demarcate one group from another.

As these examples show, ethnic groups are often linked with, and conflated with, other
groups. The term 'ethnic group' might then be used to refer to all of these groups. De
Lepervache also notices this trend of using 'ethnicity' as an umbrella term: "all that was
previously categorised as linguistic, tribal, cultural or religious difference is now ethnicity"
(1980, pp. 30-31). Nathan Glazer and Daniel Moynihan think that forms of identification
based on "religion, language, and national origin all have something in common, such that
a new term is coined to refer to all of them - 'ethnicity'" (1975, p. 18). Sandra Wallman
can be understood as holding this understanding of ethnicity as well, in the broadest sense.
She believes that "[e]thnicity refers... to the perception of group difference and so to the
social boundaries between sections of a population. In this sense 'ethnic difference' is the
recognition of a contrast between '*us*' and '*them*'" (1977, p. 532). The multiculturalist
could understand ethnic groups to be all of those groups that we typically consider for
special treatment in diverse societies.

This seems like a plausible way to understand ethnic groups. We might think that it fits
nicely with how we use the term in common discussion; we can use 'ethnic' to refer to
those groups that we think should have special rights, typically to self-determination or
self-governance. The problem, however, is that the multiculturalist is yet to explain why
these groups that we are calling 'ethnic groups' *are* justified in getting special treatment.[180]
Remember, the whole reason that we were considering the concept of ethnicity in the first
place, was to see if it could provide justification for group rights. There are certain groups
to which the multiculturalist wants to grant rights, and we were trying to determine
whether the concept of ethnicity could explain why these groups *should* get group rights.
But if we are now going to use the term 'ethnic group' to refer to all of those groups that
multiculturalists are justified in granting group rights to, then we have to look elsewhere to
find what is providing that justification. If the multiculturalist is to avoid circularity, then
he must refer to something other than ethnicity. Of course, there are other ways that he
might want to justify the special treatment of these groups. He could appeal to the value of
nationality, or of culture, or bring in the importance of recognition, for example. But these

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[180] Note that the multiculturalist only wants to grant group rights to *certain* groups (national, linguistic,
religious, cultural), but not others. It was suggested to me that 'ethnic group' may be an umbrella term
which refers to all underprivileged groups, as they might need special treatment to improve their position.
However, if this were true, the multiculturalist would also have to think that women, gays, disabled people,
and the working class count as ethnic groups, deserving of rights. So far, I have not come across a
multiculturalist that wants to include these groups.

routes of justifications are ones that I have examined in previous chapters (see Chs. 5, 3 and 4). There, I have shown that these other routes fail.

So once more we are seeing an example of the multiculturalist using the buck-passing strategy. He argues that we can find justification for multicultural group rights by considering the value of ethnicity, however ethnicity – most charitably – turns out to be an umbrella term used to refer to all of those groups that we are justified in granting group rights to. The justification for those groups must lie elsewhere, then, and the reader is directed to a different concept with the promise that *it* can do the work. However, the other chapters of this thesis show that those concepts fail to do the work the multiculturalist needs them to. The reader is led through a maze of confusion on the search for justification of multicultural group rights, which ultimately does not exist.

6.5 Conclusion

In this chapter we asked whether the concept of ethnicity could be helpful for the multiculturalist looking to justify group rights. Could we have a multicultural theory that focuses on granting group rights to ethnic groups? In order to answer this question, our first task was to clarify what we understand an ethnic group to be.

On many definitions of ethnicity, it is understood to be similar to race, or even a synonym for race. I began by examining the concept of race, and outlining the problems we would have if we were to grant group rights to racial groups. In order to avoid these problems, the multiculturalist appealing to ethnicity would have to understand ethnic groups to be sufficiently different from racial groups; they could not be synonymous.

I considered the possibility of understanding ethnic groups to be ontologically the same as racial groups, but different for socio-political reasons. According to this distinction, ethnic groups differ from racial groups in that they do not suffer subordination and privilege. This was a proposed reforming definition of the terms race and ethnicity, which would see ethnic groups change to racial groups in the event that they do start to suffer subordination or privilege. I pointed to some reasons we why would not want to endorse such a distinction. However, this is not an understanding of ethnicity that the multiculturalist can adopt anyway. As long as ethnicity is understood as ontologically the same as race, it will still run into the same problems associated with granting racial groups rights.

As a result of this conclusion, the multiculturalist would have to hold an understanding of ethnicity that separates itself completely from the concept of race. I considered the

possibility of using ethnicity as a catch-all term used to encompass all the groups the multiculturalist typically believes should have special treatment - national, religious, linguistic and cultural groups. This might be in keeping with how we commonly use the term in English. However, the problem is that we were originally trying to find out if an appeal to the concept of ethnicity could justify granting certain groups rights; ethnicity was meant to provide us reason for thinking that these groups need special treatment. But if we understand 'ethnic group' to refer to all of the groups that are justified in having group rights, then there must be *something else* that is providing justification for these groups having rights. To avoid circularity, the multiculturalist must appeal to some concept other than ethnicity. I explained that they could appeal to many other concepts, such as culture or nationality, but that I have already considered these concepts in previous chapters and found that they also fail to provide justification for multicultural group rights.

We can conclude, then, that the concept of ethnicity will not be a helpful focus for multiculturalists. Coming to understand what an ethnic group is in the first place is difficult enough. It can be used in many different ways to mean many different things. Eipper proposes an interesting theory:

> Magicians use big hats and sleight-of-hand to mystify those who listen to them. I want to claim that an influential group of social scientists have amazed their colleagues and confused themselves by using sleight-of-hand in their arguments, employing a concept as a top hat out of which they pull all kinds of groups and conflicts, labelling them ethnic. By this I do not mean to suggest they are dishonest, only that, whether they know it or not, they are illusionists.
>
> (Eipper 1983, p. 427)

Whether or not it is correct to accuse social scientists of this sleight-of-hand, it seems clear that the multiculturalist will not be able to rely on the concept of ethnicity until they are able to come up with a clear and precise understanding of the term. It is safe to say that until one is found, the concept of ethnicity cannot be relied upon to ground multicultural group rights.

Conclusion

From the outset of this thesis, my main aim has been to examine the concepts that multiculturalists rely upon in order to reveal that multicultural arguments fail for one of three reasons:

a) the concept is unsuitable for achieving the aims of multiculturalism;

b) the concept is important, but valuing it leads us to support cosmopolitanism as opposed to multiculturalism; or

c) the concept has been misunderstood or misrepresented by the multiculturalist, and the argument actually relies on another concept altogether.

The last reason is the most interesting. In this case the argument has not necessarily *failed*, the reader is simply pointed to yet another concept. This is what I have identified as the buck-passing strategy: the multiculturalist will phrase their argument in terms of one concept, but an analysis of the concept shows that it is a different concept altogether that they are relying upon. The reader is then led to another concept, and here the argument, again, takes one of the three paths above. This process is repeated until the argument fails for reasons (a) or (b), or it becomes circular. The reader is led through a maze, and eventually (at the point of feeling lost) accepts that there must be some concept that, in the end, can provide the justificatory work that the multiculturalist needs. The multiculturalist is guilty of creating an illusion, of giving the impression that there are sound foundations for their arguments, when in fact there are not.

In examining multicultural arguments that aimed to base legal group rights on moral group rights (Ch. 2), I showed that one could indeed argue that there are moral group rights that legal group rights can be grounded on. However, these arguments lead us to support cosmopolitanism as opposed to multiculturalism (b). This is because the cases in which we think group rights could be justified are ones in which doing so is the best way to benefit individuals. Cosmopolitanism is ideal for accommodating rights of this sort. Alternative routes for the multiculturalist to justify legal group rights based on moral group rights simply fail (a). (For example, if the multiculturalist chooses to take a robust sense of agency for arguing for group rights on the will theory.)

Examining the concept of culture (Ch. 3), I provided an example of a multiculturalist using the buck-passing strategy (c): Kymlicka's argument appeals to culture in order to

justify rights for national groups. So we are led from the concept of culture to the concept of nationality, where we there see that Kymlicka's arguments lead us back to culture (c), making them circular. I also showed that once we hold an accurate understanding of culture, we can see that cultural groups cannot support group rights in the way that multiculturalists need them to, so arguments for multiculturalism based on the concept of culture fail for (a). Further, valuing culture, understood accurately, leads to support cosmopolitanism instead of multiculturalism (b).

In Chapter 4, I examined the concept of recognition. First, I considered Hegel's account, showing that his understanding of recognition could lend support to cosmopolitanism, but not to multiculturalism (b). Looking at more contemporary accounts, I argued that valuing recognition cannot support the aims of multiculturalism unless one already holds a prior commitment to groups. Separate arguments would have to be given to establish a group focus, as opposed to the standard liberal focus on individuals. Here the reader is pointed to other concepts that might be able to establish this conclusion, such as culture, nationality or ethnicity. This is another instance of the multiculturalist employing the buck-passing strategy (c). The most convincing contemporary account of recognition supports cosmopolitanism as opposed to multiculturalism (b).

I examined the concept of nationality in Chapter 5, and found that the understanding of 'nation' that the multiculturalist is forced to adopt (if they do not want their argument to fail outright (a)) is one which essentially reduces it to no more than a cultural group. Here, again, we see the buck-passing strategy, because the reader is led back to consider culture, where they will then find that the arguments fail for reasons (a), (b) or (c).

Finally, I examined the concept of ethnicity. There I showed that if the multiculturalist understands ethnicity to be ontologically the same as race, their arguments will fail (a). They must, then, hold an understanding of ethnicity that is unconnected with race, but if they do this, their resultant understanding of ethnicity - a catch-all term - will fail to do the justificatory work that they need it to. They will have to provide other arguments to explain why we should consider some groups (those that fit into the category of 'ethnic group') as deserving of group rights but not others. Again, we see an example of the buck-passing strategy (c): the reader is pointed in the direction of different concepts which the multiculturalist promises will do the necessary justificatory work.

Examining in detail the various concepts that the multiculturalist relies upon allows us to see the complex way in which they fool the reader. The multiculturalist needs to justify a focus on groups, expressed through legal group rights. So far, a liberal justification for this has not been given, and I doubt one can be. When we focus on groups we risk failing individual members of those groups - and those individuals will inevitably be the vulnerable and weak members of society. Instead of continuing attempts to revive and reformulate multiculturalism, we should reject it altogether and set our sights on a more liberal future.

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