Multiculturalism, Liberalism and the Burden of Assimilation

Lily Stroubouli Lanefelt

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Cover image: "Integration Patterns", ©Lily Stroubouli Lane-felt 2012.

To Fred and Sofia

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Acknowledgements

The origins of this book lie in the confusion of its author. Since this is a thesis on how to respond politically to cultural diversity, it may be helpful to the curious reader to know what this confusion is.

My interest in such matters was sparked by personal experience. Growing up as an ethnic Greek in Greece in the 1970s, I cannot say that I experienced unequal opportunities due to my ethnic background. However, growing up as a female person in the Greek society of that time I soon came to realize that I was not supposed to receive the same opportunities as male persons. This struck me as deeply unfair because I could not, and I still cannot, understand why boys are worth more opportunities than girls just because they are boys. So I migrated to the Netherlands in search of equal opportunity. After some years I ended up in Sweden, following my heart this time, where I found myself confronted with a number of discourses of culture and ethnicity.

According to some people, I was supposed to suffer endlessly because I missed my original context of culture. Others, mostly immigrants, informed me that my ethnic background once and for all was going to block my access to diverse opportunities in the new country. Some described people like me as victims of local assimilationist policies. Others suggested that I, being an immigrant, had a duty to totally assimilate into the Swedish society. To make things even more confusing, the Swedish media often reminded me that I had to view myself as a passive victim of racist societal structures that were too powerful to be challenged by individuals like me. I thus found myself confused, as I was told that the fact that I could be classified as an immigrant and a member of an ethnic minority was negatively influencing my future prospects in the society to which I had moved. I felt trapped.

On the one hand, the discourses of importance of cultural identity informed me that the key to my future prospects was to be found in the Greek society. On the other hand, experience advised me that this was not the case. What was the right thing to do? What could I reasonably expect from the Swedish society? What did people living in this society owe me? And what did I owe them?

1. Introduction

1.1. Framing the problem

1.1.1. The normative conjunction between multiculturalism and liberalism

Since the dawn of the third millennium, the trend in Western states previously committed to political and legal accommodation of ethnic diversity has been towards policies that deviate from the dictates of the multicultural ideal of integration[1]. Only a few years after Kymlicka (1999: 113) affirmed that "multiculturalists have won the day" by establishing multiculturalism as a dimension of liberal policy and liberal theory, Joppke (2004) presented evidence that multiculturalism was already in retreat in policy and in theory[2]. As academic research shows, states that have been prominent bastions of multiculturalism, such as the Netherlands and the U.K., have gradually or suddenly ceased to pursue policies that affirm the differences of cultural minorities and retreated from the discourse of recognition of cultural identities[3]. The reversal of multiculturalism has also been publicly affirmed by the

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[1] A multicultural ideal or model of integration aims at advancing a claim that is characteristic of multiculturalism as normative project. This claim asserts that the equal membership in society of members of diverse cultural minorities – such as immigrant groups, indigenous people, national minorities and ethnoreligious sects – should proceed by means of 'recognizing' the different 'cultures' that form these minorities as distinct groups. Since this ideal implies policies that ascribe rights or benefits on the basis of membership to cultural groups, it promotes group-specific rights and, thereby, differentiated citizenship. It, therefore, deviates from the ideal of uniform citizenship based on universal rights advocated by post-war liberals.

[2] See also Joppke (2007, 2010).

[3] On the Netherlands, see Entzinger (2003, 2006); on the Netherlands and Britain, see Joppke (2004) and Phillips (2007: 4-8); on the crisis of multiculturalism in Britain see Turner (2006); on Australia see Poynting and Mason (2008); on the return of of the poltical discourse of assimilation, in Germany, France and USA, see Brubaker (2001); on the turn away in Sweden from official multiculturalism see Joppke and Morawska (2003:13-14); on explaining the reasons of the retreat of multiculturalisms in Europe see Bertossi (2010).

heads of governments in states such as Germany (BBC 2010), the U.K. (ibid. 2011), and France (The Telegraph 2011).

Although the political retreat from cultural recognition has also been described as involving the "re-balancing of multiculturalism rather than its erasure" (Meer & Modood 2009: 490), the fact is that the convergence among Western democracies on the ideal of multiculturalism has been in decline.[4] At the same time, policies of cultural recognition have been replaced by policies of civic integration that impose on dissenters' challenging liberal values at least a modicum of liberalism, such as respect for individual liberty and basic rights and for established equalities, like gender equality (Joppke 2004: 243-4, Kymlicka 2012: 18).

The shift towards civic integration reveals that multiculturalism has, to a greater or lesser extent, become a cause located outside of the spectrum of liberal accommodation of diversity. It also shows that the retreat from policies of cultural recognition has been followed by a model of integration relying largely on difference-blind institutions in order to solve the conflicts of culture appearing in circumstances of multiculturalism. The general tendency in European states has actually been to approach the claims by ethnic (immigrant) minorities for the accommodation of their cultural differences by addressing them on the basis of a model of integration that, instead of recognizing the aspects of culture that constitute such minorities as distinct groups, treats them as irrelevant.

As an example, the non-restrictive policies towards Islamic veils in Sweden and Norway were formulated with reference to general principles, such as freedom of religion and employment opportunity, and not by reflecting on how important veiling practices may be to Muslim identity. In the aftermath of the provocation directed against the Islamic faith caused by the publication of the Muhammad cartoons in *Jyllands-Posten*, the Danish government remained loyal to the principle of neutrality and refused to intervene in the freedom of expression of the press.[5] By repealing in 2008 laws against blas-

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[4] Banting & Kymlicka (2012) challenge the perception that a multicultural approach to diversity is on retreat in Europe. On the other hand, they do not deny "the importance of the rhetorical backlash against "multiculturalism""in many European countries and that this backlash has also "been associated in some countries with draconian changes in such critical elements as admission policies and access to social benefits" (ibid: 17).

[5] In his refusal to meet the ambassadors from majority Muslim countries, the Danish Prime Minister A. F. Rasmussen maintained that the government could not tell newspapers what to print, since freedom of expression is very comprehensive in Denmark. Although he did not explicitly defend the publication of caricatures or appeal to the principle of neutrality of the state in matters of opinions that concern religious or secular beliefs, his refusal to interfere signifies his choice to remain neutral on the issue.

phemy which made it illegal to insult Christianity, the British government foreclosed the possibility of an extended blasphemy law that would also have provided public recognition of the identities of religious minorities (BBC 2008).

The retreat from multiculturalism does not only mean the de-politicalization of the discourse of cultural identity[6] in practice but also a challenge to the possibility of a normative conjunction between multiculturalism and liberalism advocated by multicultural theorists. In fact, the shift towards a model of integration, which emphasizes liberal values while distancing itself from the ideal of recognition of cultural identity, supports political theorists that have questioned the possibility of merging multiculturalism into liberalism on the basis of liberal premises.[7]

On the one hand, multiculturalists can reject the challenge and question the justice of the difference-blind integration model that has replaced the difference-sensitive policies of diversity accommodation. If an alliance between multiculturalism and liberalism is successfully established in theory, states that neglect the multicultural ideal of integration can be criticized for treating cultural minorities unfairly. On the other hand, this challenge can be understood as re-opening an issue that multicultural thinkers have considered to be settled in political theory, namely the issue of the reconciliation of multiculturalism with liberal justice. If the policy trend is towards the disentanglement of liberalism from multiculturalism, then the normative alliance between multiculturalism and liberalism is open to question. Whereas the former interpretation of the challenge can easily lead to the simplistic *a priori* categorization of all policies deviating from the ideal of cultural recognition as intrinsically unfair, the latter calls for a comprehensive re-assessment of the main arguments in theories which explicitly affirm or reject the normative merging of multiculturalism with liberal justice.

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[6] By de-politicalization of cultural identity I mean here that the claims by cultural minorities for the accommodation of their cultural differences are not given bearing in the process of formation of policies. These claims are, instead, referred to general liberal principles that do not reflect how important these differences may be to the identities of the minorities in question.

[7] The most prominent, although polemic, liberal critique of multiculturalism has been presented by Barry (2001). Levy (2000) has also disputed the possibility of establishing the recognition of cultural difference as a matter of right in liberal theory, although, as Joppke (2004: n. 2) explains, it might be questionable to classify Levy along with Barry. According to Joppke (2004), Sartori (2000) has also questioned the possibility of including multicultural accommodation into the concerns of liberal theory. Moreover, Kukathas (2003) has presented a libertarian interpretation of toleration that denies the possibility of merging multiculturalism with liberalism.

The retreat from multiculturalism forms the political background of this thesis. The object of the thesis is the evaluation of theoretical positions on the issue of the normative conjunction between multiculturalism and liberalism. What renders this evaluation an urgent matter in political theory is that the shift from cultural recognition to a model of integration that gives priority to liberal political norms appears to be inherently unjust, given that a key initial assumption of multiculturalism as a normative proposition is the characterization of liberal political norms as per se incapable of resolving the conflicts of culture without committing serious harm to minorities.

If this assumption is correct, and if cultural accommodation can be considered a dimension of liberal justice as multiculturalists claim, there are reasons for asking liberal democracies to reconsider their present models of integration. If this idea is not well-grounded and if there are problems of compatibility between multiculturalism and liberalism, liberals need to identify and present in a systematic way the directions that liberalism as political theory gives for dealing with conflicts of culture. They also need to explain how these directions differ from the inhospitable to cultural difference ideals of integration asserted by contemporary populist and nationalist movements and parties, which also reject the multicultural ideal of integration.

1.1.2. Aim and question

The purpose of this thesis is to study the compatibility of multiculturalism with liberalism; more specifically, the aim is to investigate whether or not the accommodation of multiculturalism through cultural rights is compatible with the promotion of liberal values. The study concerns liberal approaches to multiculturalism 'as they are', namely the main positions on the alliance between multiculturalism and liberalism that have already been formulated within political theory. What these positions have in common is that they have the ambition of either showing or rejecting the idea that multiculturalism is consistent with liberal values.

By multiculturalism I both mean multiculturalism as a societal fact, i.e., that a society contains many cultures, and multiculturalism as a normative approach to the accommodation of cultural diversity through cultural rights. "Cultural rights" here denotes rights that aim to protect some aspect or many aspects of a group's culture. Theories that try to justify cultural rights as a way of accommodating cultural diversity will, thus, be referred to as multicultural theories here. By liberalism I mean the justification and promotion of liberal values. The liberal values that are focused in this inquiry are equal-

ity of opportunity, toleration and autonomy. Theories that try to justify and to promote equality of opportunity, toleration and autonomy will, thus, be referred to as liberal theories in the dissertation. In this inquiry I will mainly deal with multicultural theories that also claim to promote liberal values. I will refer to these theories as liberal multicultural theories.

By compatibility I mean the capability of performing in harmonious or congenial combination, and this capability is mainly evaluated in practice rather than in theory here. This means that I will primarily tease out the practical implications of a liberal multicultural theory and reflect upon if these implications should be conceived of as promoting the liberal value it sets up to promote. The compatibility evaluation is, thus, principally a test of whether or not a theory is able to deliver what it promises. It is not a test of a theory's logical compatibility with another theory at an ideal theoretical level.

The study of the compatibility of multiculturalism with liberalism is organized around three main liberal values: equality of opportunity, toleration and autonomy. These values have been interpreted in different ways in political theory in order to affirm or refute a specific understanding of the conjunction between multiculturalism and liberalism. The study is divided into three thematic parts: i.e., the equality of opportunity approach, the toleration approach and the autonomy approach. The focus of the study is on examining whether these approaches succeed in establishing what they set out to do, which is either a justification of multiculturalism on liberal grounds or the impossibility of such a justification.

The normative question that motivates this dissertation involves the human concern about what people owe each other, as equal members of the political community, in matters of acceptance of cultural particularities. The question is how the claims of cultural minorities for accommodation of their cultural differences are to be met by the liberal state. This thesis also includes answer to this question that clarify and systematize the way in which liberalism manages conflicts of culture. Elucidating what a liberal model of integration implies in practice falls, therefore, within the parameters of this study.

The working question that organizes the inquiry into the compatibility of multiculturalism with liberalism asks whether or not the theories under examination deliver in practice what they promise, i.e., the promotion of the liberal values of equality of opportunity, toleration and autonomy. The present study employs the burden of assimilation as the concept of analysis that assesses whether or not the examined theories deliver in practice what

they claim to deliver. The introduction of this concept constitutes the theoretical contribution of this dissertation to liberal multiculturalism and integration studies.

1.2. Theoretical framework

1.2.1 Multiculturalism and liberalism

Multiculturalism is a contested concept, as it has been used to refer not only to the identities of ethnic minorities but also to a wide range of policies. In general terms, multiculturalism is about cultural diversity or culturally embedded differences (Parekh 2000: 3). As a descriptive concept,[8] it describes "[…] the state of a society or the world containing many cultures that interact in some significant way with each other" (Gutmann 1993: 171). As a normative concept, multiculturalism refers to the commitment to what Taylor (1994: 38-44) calls 'the politics of difference',[9] that is, to the moral value and viability of preserving different, equally valid cultural ways of life within a political system. As a political formula that realizes the conception of political identity suggested by normative multiculturalism, it implies a model of integration with a political agenda that considers the universal rights promised by liberalism to offer insufficient protection for minority cultures. The multicultural model of integration seeks to preserve the cultures of minority groups in the face of the assumption that minorities are subjected to unacceptable pressures to assimilate to the norms and customs of the majority. Since it attributes special individual rights and group rights to cultural minorities, it departs from the liberal notion of uniform citizenship based on

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[8] As a descriptive concept, multiculturalism denotes the coexistence of different types of cultural groups within a state. According to the typology of cultural groups of Kymlicka (2002: 348-365), such groups can include: national minorities, i.e., groups that seek to become separate nation-states, such as, for example, the Catalans in Spain; indigenous groups, i.e., the original inhabitants of a territory, such as the Sami in Scandinavia and the Inuits in Canada; religious groups that wish to remain separate from the rest of society, such as the Amish in the USA; voluntary immigrants, such as British Asians; and metics, i.e., illegal immigrants and refugees (Kymlicka 2002: 348-365).

[9] According to Taylor (1994:39), "[…] the politics of difference often redefines nondiscrimination as requiring that we make these distinctions [i.e. the different identities of citizens] the basis of differential treatment". For Taylor (ibid.: 42), 'the politics of difference' asserts the universal "[…] potential for forming and defining one's own identity, as an individual, and also as a culture. [….] [I]n the intercultural context, a stronger demand has recently arisen: that one accord equal respect to actually evolved cultures".

identical universal individual rights. For this reason, the place of multiculturalism within liberal theory has been a controversial issue.

The focus of this study is confined to liberal multiculturalism, i.e., to theories that employ the liberal values of equality of opportunity, toleration and autonomy in order to define what the possible scope for the multicultural model of integration is within liberal theory. Liberal multiculturalism includes, however, many internally intertwined aspects. Theorists not only base their positions on different methodologies, analytical levels and moral values; they also sometimes use the same values in advocating conflicting positions. The feasibility of this thesis depends on finding a level of analysis that stands above these complexities and provides a common vantage point for examining liberal multiculturalism.

The origin of the internal analytical complexities can be found in the changes that the alliance between multiculturalism and liberalism brings to liberal methodology. The analytical move from multicultural policy to liberal multicultural theory requires that categories such as 'culture' and 'cultural diversity' become part of the liberal methodology. This methodological modification is necessary so that the cultural rights assigned to cultural minorities in practice attain the status of moral rights in liberal theory. Let me explain what a modification of this kind implies in liberal theorizing.

According to Raz (1986: 166), a moral right exists when an aspect of a person's "well being (his interest) is a sufficient reason for holding some other person(s) to be under a duty". Dworkin (1977: xi) makes a similar point when he maintains that "[i]ndividuals have rights when [...] a collective goal is not a sufficient justification for denying them what they wish, as individuals, to have or to do, or not a sufficient justification for imposing some loss or injury upon them". Both accounts of the basic features of moral rights emphasize the significant harm that the failure of the duty bearer to provide a specific good causes to the right holder.[10]

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[10] As clarified by Freeman (1995: 29), "[...] rights are constituted by norms that govern relations between those who have rights and those who have duties arising from those rights". Hence, the elevation of cultural rights, as part of an existing legal system, to moral rights implies the assignment to the state of the moral duty to provide the good of culture to relevant minorities. The normative basis of the relationship between cultural minorities as right bearers and the political authority as duty bearer can, therefore, be explained as follows: given that human beings share the interest in having access to their own culture, the political authority has a duty to provide the good of culture to its citizens. This suggestion relates to a conception of rights that focuses on interests. According to Freeman (ibid.), the interest conception of rights "[...] is said to hold that the *grounds* of rights are the *interests* of the rights holders. [...]". The core idea of this understanding of rights appears to be that an important human interest in a certain good is protected by a duty.

Thus, the move from multicultural policy to liberal multicultural theory implies the acceptance of the latter idea: the failure of the liberal state to protect the interest of members of a minority in their own culture causes unacceptable harm to them. This idea suggests that liberal theorists have failed to take into consideration the harm of neglected cultural identity suffered by minorities in states that do not apply the multicultural model of integration. They should, therefore, modify their methodologies, assign epistemological value to the interest of minorities in their own culture and make the avoidance of the harm of neglected cultural identity a major concern of liberalism.

Yet, this methodological modification cannot by itself establish a liberal basis for multiculturalism, since not all human interests generate moral duties, i.e., duties that can be understood as being owed to somebody. As Hartney (1991:304) claims, interests do not generate moral duties that correlate with rights, unless there is a moral reason for protecting those interests. Hence, in order for the assignment of epistemological value to the interest in one's own culture to establish cultural rights from a liberal perspective, the protection of this interest has to be presented as a matter of liberal principle. This is exactly what theorists that advocate the normative alliance between multiculturalism and liberalism do: they justify the protection of the interest of minorities in their culture with reference to a central liberal value. In contrast, theorists that reject this alliance question the validity and/or relevance of this mode of justification of multiculturalism. They also claim that liberalism without cultural rights properly accommodates in practice the particularities of cultural minorities.

The structure of the argumentation for and against the inclusion of cultural rights as moral rights in liberal theory can be schematically summarized in three premises:

> P1: The interest of minorities in their culture should/should not be given definitional value in liberal theory.
> P2: The inclusion of this interest in liberal methodology is/is not a matter of liberal principle.
> P3: Thus, cultural rights can/cannot attain the status of moral rights in liberal theory.

The study of the compatibility of multiculturalism with liberalism has to be located at the level described in P2. This means that the present study will focus on assessing the validity of the normative foundations on which theor-

ists rely in order to show that cultural accommodation is or is not a matter of liberal principle.

An inductive approach to theories that concern the possibility of the normative conjunction between multiculturalism and liberalism shows that these foundations are derived primarily from three liberal values: equality, toleration and autonomy. However, this classification does not directly lead to the disentanglement of the different methodologies and interpretations employed in liberal multicultural theory. This is why I introduce as a concept of analysis the burden of assimilation, which I derive from Scanlon's contractualism and from the claim of the unfeasibility of the ideal of state neutrality advocated by multiculturalists.

1.2.2. The burden of assimilation

1.2.2.a. Burdens as measures of non-wrongness of principles

Contractualism appeals to the idea of the social contract and attempts to derive the content of morality from the notion of agreement between persons who have equal moral status. It interprets people's moral status as based on the human capacity for rational or reasonable autonomous agency. It also defines morality as consisting "[…] in what would result if we were to make binding agreements from a point of view that respects our equal moral importance". (Ashford & Mulgan 2012) Contractualist theories, such as those of Kant[11] (1948), Rawls (1971, 1980) and Scanlon (1998, 2006), have several aspects in common. They share the idea of justifying our own interests to others, who also have their own interests. They advocate the ideals of freedom and equality, which are reflected in the idea of free agreement and equal moral status. They also base the normative force of morality on relations of mutual respect. Contractualism, furthermore, suggests a method of moral reasoning for answering the question of what persons owe to each other. The most influential recent formulation of such a method is Rawls's original position, with which Rawls seeks to find principles that every person would agree to endorse.

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[11] According to Darwall (2006: 5), the "kingdom of ends" formulation of Kant's Categorical Imperative can be seen as the animating idea of contractualism. In this formulation, Kant maintains that anyone subject to the moral law must be able to be regarded as "making" the law (ibid.). Thus, we can say that the central idea of contractualism is that principles of right are rules that individuals would agree from a common perspective as free and equal persons.

However, for Scanlon (2006: 227) the contractualist method involves the identification of principles "'which no one could reasonably reject' rather than […] principles 'which everyone could reasonably accept'". According to Scanlon (2003, 2006), it is unreasonable to reject principles that forbid certain acts, if we have neglected to consider, i.e., include and seriously weigh in, the moral claims of other people. He claims that we wrong those people that are negatively affected by the rejection of an act X if we do not take into account their claims in the process of justification of the principles that prohibit X. The idea of human morality as guided by the desire to avoid treating others wrongly is reflected in Scanlon's principle of moral reasoning. This principle implies, according to Parfit (2003: 368), that "[a]n act is wrong just when, and because, such acts are disallowed by some principle that no one could reasonably reject".

The exact formulation of Scanlon's principle is the following: "[…] an act is wrong if its performance under the circumstances would be disallowed by any set of principles for the general regulation of behaviour that no one could reasonably reject as a basis of informed, unforced general agreement" (Scanlon 1998: 153). Scanlon (ibid.) maintains that this principle explains "how the idea that an act is wrong flows from the idea that there is an objection of a certain kind to people's being allowed to perform such actions". He claims that this principle groups our substantive intuitions about wrongness and rightness, since it captures what we do when we want to find out whether a certain act or principle is right or wrong: what we do is to try to identify the relevant objections that can be raised against it and to test them, in order to find out whether they are reasonable or unreasonable.[12]

The idea of burdens as a measure of non-wrongness of principles arises in Scanlon's version of contractualism.

As Scanlon (ibid.: 195) explains his contractual method, in order to decide whether it is wrong to do X in circumstance C, we have to consider the possible principles that rule how one may act in such situations. First we ask whether any principle that permits X in C can be reasonably rejected. In order to answer this question, we have to identify the burdens that the permission of this action would impose on other people. These burdens constitute the objections to permission. In order to decide whether the objections to

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[12] "According to my version of contractualism, deciding whether an action is right or wrong requires a substantive judgement on our part about whether certain objections to possible moral principles would be reasonable. […]. If my analysis is correct then the idea of what would be reasonable in this sense is one that underlies and guides our ordinary thinking about right and wrong." (Scanlon1998: 194).

permission provide grounds for rejecting the principle that permits X in C, we also have to consider how others would be burdened by a principle that prohibits X in C. These burdens constitute the objections to prohibition. If the objections to prohibition are not significant in comparison to the objections to permission, then it is reasonable to reject any principle that permits one to do X in C. This means that the particular action is wrong, in the contractualist method. And, conversely, if the objections to prohibition are significant compared to the objection to permission, then doing X is not wrong (ibid.).

Thus, Scanlon's method implies a strong presumption against unjustifiable burdens as morally wrong, as it suggests that all relevant burdens are to be taken into account in the process of assessing the fairness of principles. Given the contractualist assumptions of free mutual agreement that reflect people's equal moral status based on reason, non-considered burdens show that people who endure these burdens are not respected as free and equal human beings that possess the right to have their moral claims seriously considered in the process of the justification of rules that affect them.[13] Let us now move on to the multicultural claim of the unfeasibility of the ideal of state neutrality and see how this claim, combined with Scanlon's idea of burdens as measures of non-wrongness, leads to the concept of burden of assimilation.

1.2.2.b. The observation of unfeasibility of the ideal of state neutrality

Liberal theory refers the accommodation of cultural differences to universal individual rights and to a principle that translates equal treatment of cultures into cultural 'blindness', namely the principle of neutrality. Most multicultural theorists agree that liberal governments fail in practice to fully realize the strict cultural 'blindness' required by the principle of neutrality of the state:

> "The common denominator that binds different multiculturalists is unease about the way mainstream liberal thinking treats the issues of diversity and pluralism. In particular, the impartial neutrality of liberal policy has become

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[13] In Scanlon's principle of moral wrongness, the contractualist assumptions are entailed in the conditions that frame the process of justification: it should be informed, unforced and result in rules that no one could reasonably reject. The requirement of information is meant to exclude agreement based on superstition or false belief (Scanlon 2006: 227). The requirement of unforced agreement rules out coercion. It, thus, expresses a deep concern for the protection of individual freedom. The requirement of reasonable rejection points out that no one would freely agree to have fewer rights than any other person in society. It carries, therefore, a strong presumption in favour of equality.

the target of a number of multicultural thinkers. This is not to suggest that liberal impartiality is not a good cause, but 'difference-blind liberalism' is accused of failing to live up to its own egalitarian ideals" (Loobuyck 2005: 109).

According to multiculturalists, neutrality is an unattainable ideal because states in practice tend to heavily favour the identity of society's prevailing cultural group (cf. Tamir 1993: 145-147; Taylor 1994: 62; Kymlicka 1995: 111, 2001: 43, 2002: 346).

As Kymlicka further explains the flaws of the ideal of neutrality (1995: 108-15, 2002: 344), the cultural 'blindness' of the liberal model of integration implies that the state treats the cultural differences of its citizens in the same way as religious differences, i.e., with indifference, as something that is not the concern of the state and that people should be free to pursue in their private lives. Yet, the idea that states can be neutral with respect to the cultural identities of their citizens is not feasible, since in practice governments already pursue cultural perfectionism when they choose public holidays, symbols, official language and religion (Kymlicka 1995: 114-5). From the point of view of theorists of multiculturalism, the members of minorities are discriminated because the system of uniform law suggested by the ideal of neutrality of the state has consequences that are more burdensome to cultural minorities than to cultural majorities (Barry: 2001: 34). Thus, the unfeasibility of the ideal of neutrality of the state implies that the liberal model of integration does not show equal concern for the fulfilment of the interest in culture of members of minorities, according to multiculturalists.

Theories that support the multicultural model of integration subscribe, implicitly or explicitly, to the egalitarian assumption that follows from the assertion of the unfeasibility of the ideal of neutrality. This assumption implies a distinction between better-off majorities and worse-off minorities in the satisfying and protection of the interest in one's own culture. It asserts that the members of cultural minorities are worse off in terms of the possibility for survival of their cultures because liberal states already support and promote the culture of the majority. The observation of the unequal opportunity for cultural survival of minorities identifies the members of prevailing majorities as better-off in matters of acceptance and realization of their own cultural identity. This assumption is supposed to raise concerns about the existence of inequalities in matters of satisfying the interest in one's own culture suffered by various minorities in liberal systems of law that do not assign political relevance to cultural difference. Hence, it turns the claim that minorities suffer the harm of neglected cultural identity into an egalitarian liberal concern.

For the supporters of multiculturalism, the dichotomy between better-off majorities and worse-off minorities in the satisfying of this interest implies that the members of cultural minorities are dominated in matters of culture by the members of the majority, who have the authority to decide what is acceptable in such matters. According to multiculturalists, these relations of authority are manifested in the mandatory imposition on minor cultural groups of the ethical standards, practices and language of the majority. Members of such groups are required to adopt the substantive lifestyle and norms of the dominant group and to assimilate into the main culture of society. Hence, multiculturalists suggest that members of minorities, in order to achieve societal inclusion in the places where they permanently reside, have to bear a specific burden precisely because they belong to a minority culture.

In this dissertation, I will refer to this burden as the burden of assimilation. As a generic concept, the burden of assimilation stands for the losses, sacrifices and costs – cultural, moral, political, psychological and economic – that the members of minorities have to endure in order to adapt to the prevailing rules and norms of the majority culture. This concept is intended to summarize the negative consequences that the unequal protection of culture has on cultural minorities, according to multiculturalists. Since it is the ideal of neutrality that stops the fulfilment of the claims for cultural rights of minorities, this burden also signifies the partial consequences of a liberal model of integration that follows the prescriptions of the principle of neutrality.

I suggest that the unfairness of the imposition of the burden of assimilation on members of minorities is a central underlying assumption of liberal multicultural theory. By drawing on the presumption against unjustifiable burdens implied in Scanlon's contractualism, it can be maintained that supporters of multicultural policies present the burden of assimilation as morally unacceptable by asserting that the moral claims of the persons that in practice have to bear this burden were not considered in the process of endorsement of the political rules that affect them. Liberal multiculturalists endorse this concern and assign different types of cultural rights to cultural minorities in order to relieve their members of the burden of assimilation. Thus, liberal multiculturalism aims at relieving the members of minorities of the burden of assimilation that is imposed on them by a system of uniform law that follows the prescription of the ideal of state neutrality.

1.3. Methodological framework

1.3.1. Assessing the accounts of the burden of assimilation

Liberal multiculturalism assigns to the political authority a duty to relieve cultural minorities of the burden of assimilation. In methodological terms, this duty implies that relief from the burden of assimilation is considered to be morally valuable and is, thereby, given epistemological value at the level of formulation of liberal multicultural theories. It also implies that these theories provide justifications of the moral unacceptability of the burden. Therefore, each of them entails an account of the unacceptability of the burden of assimilation. What characterizes theories of liberal multiculturalism is that they base the justification of the duty to ease minorities from the burden of assimilation on liberal values. In this way, the relief of minorities from this burden is presented as a matter of liberal principle.

My study of the compatibility of multiculturalism with liberalism starts from the assumption that liberal multiculturalism aims at relieving members of minorities from the burden of assimilation. It focuses on investigating whether the reasons that liberal multicultural theories give for helping members of cultural minorities avoid the burden of assimilation are adequate.

I will assess the validity of the different approaches to liberal multiculturalism by examining the acceptability of the account of the burden of assimilation implied in each approach. The values of equality, toleration and autonomy, respectively, provide the reasons for relieving minorities from this burden. In each approach, these reasons form an account of the burden that explains how relieving minorities from the burden promotes the liberal value on which the specific approach is based. Hence, we can examine the tenability of each account of the burden of assimilation by investigating whether the measures that aim at relieving minorities from the burden actually promote the value of the approach in focus. If they do, then the approach in question is consistent with its own premises, i.e., it is internally coherent and thereby valid in that respect. However, theories also need to be coherent in relation to our considered convictions in particular cases, according to a coherentist method.

The method that I use to investigate coherence in a broader sense bears on the view of moral justification that Rawls (1971, 1974) calls "reflective equi-

librium"[14]. According to Daniels (1996:1), this view corresponds to what all of us do when we deliberate over moral questions: we work back and forth between a judgement that we usually make about the right action in the particular situation and the reasons and principles that we offer for that judgement. In the words of Rawls (1971: 43):

> "[…] the best account of a person's sense of justice is […] the one which matches his judgments in reflective equilibrium. […] this state is one reached after a person has weighed various proposed conceptions and he has either revised his judgements to accord with one of them or held fast to his initial convictions […]".

Or, as Harman (2001:658) explains the method of reflective equilibrium, "[o]ne starts with one's current beliefs and inferential practices, using some parts to criticize others, with an ideal goal of arriving at a result in which all parts of one's view are in equilibrium with each other".

Hence, reflective equilibrium implies that we[15] try to bring into harmony our moral convictions, i.e., considered[16] judgements, and the principles that we believe to govern certain instances or cases. To the extent that in working back and forth we bring to bear all theoretical considerations drawing on all the different moral and non-moral beliefs and theories that are relevant to our selection of principles or adherence to our moral judgments, we seek wide reflective equilibrium (Daniels 1996: 2, 6).[17] However, if we only focus on particular cases and on some principles that apply to them and if we do not include all the theoretical considerations that have relevance to the acceptance of the principles as well as the particular judgements, we look for

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[14] Rawls employs this method in order to assess his conception of *justice as fairness* and his claim that fair principles are those that people in the original position – i.e., the hypothetic contractors – would choose. On what reflective equilibrium means in the context of Rawls's theory of justice, see Rawls (1971: Chapters 4 and 9).

[15] The language of "we" and "our" used in connection with the method of reflective equilibrium initiates the question: Who is the "we" who performs the test of reflective equilibrium in this study? The "we" here consists of all those who, in different ways and from different perspectives, share the concerns of my study of the compatibility of multiculturalism and liberalism. This "we" is no way a unified and general "we" in relation to which the questions asked here can be given a final objective answer. Hence, the "we" does not refer here to a universalistic point of view.

[16] According to Rawls (1971: 42), judgments are "considered" if they avoid sources of distortion, such as hesitation, lack of confidence, self-interest or fear. On the epistemic relevance of considered moral judgments, see Coradetti (2009: 41-44).

[17] Rawls's approach in *A Theory* is based on wide reflective equilibrium, since his discussion includes many layers of considered moral judgments and background theories.

narrow reflective equilibrium (ibid.). This is the form of equilibrium sought in this enquiry.

The method of narrow reflective equilibrium is used in this study to test whether similar cases confirm or refute that the value associated with the approach in focus is actually promoted. The role of the cases is to initiate a process of moral deliberation that reveals the practical and analytical consequences of the measures of integration suggested by each approach. If these consequences run counter to our moral intuitions, do we have to review the particular measures and, consequently, the moral grounds on which this model is based? Or, do we have to modify our considered judgements? Finally, do they promote the value associated with the approach in focus?

Since Rawls describes the method of reflective equilibrium as an exercise in self-examination,[18] the conclusions drawn in this enquiry can be criticized for having limited epistemic value. Simply put, this method involves volition, as it offers no rule that categorically defines how the conflicts uncovered by reflection should be resolved. Then again, this method relies on reason in a manner that is the essence of rationality in many spheres of thought; "[i]n this sense, the pursuit of reflective equilibrium is a process of searching for reasons in areas of our thought that we have not yet brought to bear on the issue at hand" (Thacher 2006: 1648-1649). After all, all human rationality – both factual and normative – involves volition (ibid.: 1649). Hence, the aspect of volition that characterizes the pursuit of reflective equilibrium should not be mistaken for an epistemic weakness.

Since the process of moral deliberation is guided by particular cases, the conclusions drawn on the basis of the analysis of these cases can also be criticized for having limited validity, i.e., that they only account for the examined cases. Nonetheless, the cases employed in this study are representative of the moral tensions that the accommodation of cultural aspects of people's lives raises in practice. They are representative in the sense that they relate to normative questions that have been central to liberal ideology since the emergence of liberalism as doctrine that protects individual liberty in conditions of multiple diversities: How is the equal possibility in realizing individual liberty best guaranteed in circumstances of diversity of beliefs and cultural traditions? Which entitlements does the realization of individual

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[18] Rawls makes clear that he sees the method reflective equilibrium as an exercise in self-examination when he discusses this method: "I shall not even ask whether the principles that characterize one person's considered judgments are the same as those that characterize another's. [….] So for the purpose of this book, the views of the reader and the author are the only ones that count" Rawls 1971: 44).

freedom require? The employed cases reveal the moral tensions underlying each of the approaches on liberal multiculturalism. In turn, these tensions refer to conflicts of principles, such as that of liberty against liberty, equality against liberty and collectivism against individualism. By going back and forward between these principles and particular cases, the conclusions of the analysis of these cases can be seen as a proposed narrow equilibrium.

1.3.2. The cases

The following cases are employed in this dissertation in order to test whether the approaches under examination promote in practice the values that they are supposed to promote: a case of honour killing, the exclusion of women from priesthood in Catholic Church, the French issue of the headscarf, the Rushdie affair, the withdrawal of Amish children from education, the language rights of French Canadians in Quebec, and two cases of individual exception rights.

The case of honour killing[19] used in this study is that of Banaz Mahmod, who was killed in 2006 in U.K., by male relatives because she had chosen a man that her family disapproved (BBC 2007). This case is just one among many cases of honour killings that the last decades have been reported in Europe and North America. As it has been unclear whether or not honour killings are a culturally specific expression of domestic violence that is committed only among certain ethnic minorities (cf. Meetoo and Mirtza 2007), the practice of honour killings also has been used to point at the cultural relativistic defaults of the multicultural model of integration (cf. Kymlicka 1995, Okin 1999, Beckett and Macey 2001: 311). In this study the case of honour killing of Ms. Mahmod forms instead the context of examination

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[19] The term "honour killings" refers to the premeditated homicide of preadolescent, adolescent or adult women by one or more members of the family or social group due to the belief of the perpetrators that the victim has brought dishonour to the family or community (Sev'er and Yurdakul 2001: 964-5). What actlually differentiates 'honour killings' from other crimes of domestic violence is that it is not just the husband or partner that may carry out the act, but also the community and other family members such as mothers, brothers, uncles and cousins (Meetoo and Mirtza 2007: 187). Although honour killings have been extended to men, the vast majority of such crimes are committed against girls and women. In general, there are some serious misunderstandings about honour killings. According to Sev'er and Yurdakul (2001), it is not unusual that humanitarian reports leave the false impression that such killings are committed only in the name of Islam; nor is it unusual to confine honour killings to fragile non-secular democracies, such as Pakistan, or to patriarchal monarchies, such as Jordan. However, honour killings also occur in better established secular democracies; therefore, they should be seen as one extreme in the worldwide patriarchal violence against women (ibid.).

of the libertarian model of integration of Kukathas (2003) by illustrating a conflict of liberty against liberty that concerns the limits of liberal toleration.

The case of women's exclusion from priesthood concerns the exclusion of women from ministerial positions in the majority of contemporary religions. The present study focuses on the Catholic Church, which is at the moment one of the largest religious bodies in the world with more than a billion adherents. In this study, this case exemplifies a conflict between liberty and equality of opportunity. It is employed in order to examine the limits that liberal toleration can set to equality, as equality is concretized by Barry (2001), sets on liberal toleration, in specific whether toleration as freedom of association can justifiably limit equality of opportunity.

The French issue of the headscarf and the Rushdie affair are two cases that have been extensively debated and analyzed both in media and academic contexts. Both cases are employed in this study in the context of examination of an approach to multicultural accommodation that adds recognition to liberal toleration. Such an approach is advocated by Galeotti (2002). In this dissertation, these cases illustrate the different layers of problems that underlie a conflict between freedom of religion and freedom of expression.

The issue of the wearing of the Islamic headscarf in public schools first arose in 1989 when three girls in a Parisian suburb were suspended for wearing their headscarves in their public school. This incident and its aftermath became known as *l' affaire du foulard*, i.e., the headscarf affair (Wing and Smith 2005: 754). In response to this incident, the *Conseil d'État*[20] held at that time that the expression of religious belief was not incompatible with the secular tradition of French state schools, as long as it did not amount to provocation, proselytism, propaganda and the infringement of the rights of others. As social tensions aroused nationally in France during the 1990's around the issue of the wearing the headscarf in public schools, in 2003 the French President mandated a special commission to examine the contemporary meaning of the principle of *laicité*, i.e., the French principle of secularism. On February 10, 2004, the French National Assembly followed the recommendation of the commission and voted in favour of a legislation that would ban conspicuous religious symbols, including the Islamic headscarf, from public schools (Wyatt, BBC: 2004).[21]

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[20] The *Conseil d'État*, Council of State, is the French supreme tribunal for administrative justice. It is a body of the French national government that provides the executive branch with legal advice and acts as the administrative court of last resort.

[21] On a detailed description of the development of the headscarf affair see Steiner (1995-1996), Wing and Smith (2005), Adrian (2009).

With regard to the Rushdie affair, it started in 1988, when S. Rushdie published a novel which portrayed Islam and its prophet in a postmodern style. The publication of this book, which was taken to be blasphemous throughout the Muslim world and among Muslim immigrants in U.K., led to world-wide protests and calls for the book to be withdrawn from circulation and for governments to ban it. In 1989 the Iranian clerical leader Ayatollah Khomeini declared Rushdie guilty of apostasy and called for Rushdie's death, a judgment that still hounds the author. The U.K. government was also petitioned to prosecute Rushdie for blasphemy. However, no charges were laid since a select committee of the House of Lords declared that the law only protects the beliefs of the Church of England[22]. The Rushdie affair initiated in U.K. a debate on whether or not blasphemy law should be extended to all religions. In 2008 the common-law offences of blasphemy and blasphemous libel were abolished in England and Wales.

The case of withdrawal of Amish children from secondary education in the U.S.A. is employed in this study in the context of examination of the autonomy justification of multiculturalism of Kymlicka (1989, 1995). In this study, it reveals the conflict between collectivism and individualism, which underlies the clash of cultural autonomy with individual autonomy. The facts of this case can be stated briefly. Three Amish children from three different families were withdrawn from school at the end of the eighth grade, all due to the religious beliefs of their parents. Under the standards of Amish religion, school attendance and higher education were considered unnecessary and endangering the salvation of Amish members[23]. Although the three families were convicted in the first court instance, they were later freed in the Wisconsin Supreme Court. At this point, Wisconsin appealed in the U.S. Supreme Court, which ruled in favour of the Amish parents. It found that the Amish parents' right to freedom of religion outweighed the interest of the state in educating its citizens. It, therefore, granted to Amish parents the right to withdraw their children from compulsory education past eighth grade.

As the case of withdrawal of Amish children from obligatory education, the case of language rights of French Canadians in Quebec reveals the conflict between collectivism and individualism that characterizes a justification of multiculturalism based on autonomy.

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[22] *Religious Offences in England and Wales – First report.* House of Lords (2003).
[23] *Wisconsin v. Yoder* [1972] 406 U.S. 205.

In 1977 the National Assembly of Quebec established the Charter of the French Language, which is a legal framework that defines the linguistic rights of French-Canadians. It is also a language management policy that gives the province of Quebec the authority to intervene in many sectors of public life and civil society in order to promote French as the common language of people living in Quebec. For this reason, the enactment of the Charter sparked legal conflicts that continue until today. For example, based on the legal framework of the Charter, Quebec requires private businesses to use French signs, immigrants to send their children to French schools and. It also limits the right of French speaking family of choosing language of education of their children.

Finally, the *Ahmad* case[24] and the *Begum* case[25] concern the conflict between equal application of the law and exemptions from law based on claims of culture. They are employed in this thesis in the context of analysis of the equal opportunity approach to claims of culture of Barry (2001).

The *Ahmad* case relates to a Muslim's absence from his work as a teacher for purposes of Friday prayers. Mr. Ahmad, a devout Muslim, decided to resign from his full-time job when his employer refused to give him free from time from teaching so that he could attend the mosque each Friday afternoon. Mr. Ahmad contended that his treatment amounted to unfair dismissal and appealed to an industrial tribunal where his appeal was dismissed. After his case had been rejected to all relevant legal instances in U.K. Mr. Ahmad petitioned the European Court of justice without success.[26]

The *Begum* case relates to a female Muslim pupil's refusal to go to school for three years because she rejected her school's uniform policy. In the opinion of Ms. Begum, the Islamic version of school uniform offered by the school was not compliant with the Muslim requirements for female modesty. Ms. Begum contended that the school had interfered with her Human Rights to manifest her religion and claimed the judicial review of the school's decision not to allow her to wear the *jilbab* at school. She lost the case in the High Court. She later won an appeal in the Court of Appeal, only to lose again in the House of Lords, which ruled in favour of the school.

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[24] Ahmad v Inner London Education Authority. Employment Appeal Tribunal: [1976] ICR 461.

[25] Begum v. Denbigh High School. [2004] EWHC 1389 (Admin).

[26] For a detailed description of the Ahmad case see Poulter (1984: 247-252).

1.4. Demarcations

The study of the compatibility of liberalism with cultural rights presented in this thesis is organized around three main liberal values: equality of opportunity, toleration and autonomy.

The suggested thematic division has resulted from an inductive reading of the academic literature that deals with multiculturalism from a normative perspective. The inductive reading was performed in two phases. First, the literature which was produced in the field of normative multiculturalism since the 1980's, was thoroughly studied and the reasons for and against a normative alliance between multiculturalism and liberalism were systematically observed. Second, the evident patterns of argumentation formed by the different reasons were detected.

Although it is possible to identify a variety of patterns of argumentation that are located at different analytical levels in the academic literature of multiculturalism, the thematic division adopted in this thesis appears to be the most fruitful. It is fruitful in the sense that it allows the combination of meta-theoretical analysis with normative analysis of moral positions, the employment of specific cases and drawing theoretical conclusions that can give policy directions.

One can object to the proposed thematic division by questioning the characterization of toleration, autonomy and equality as important liberal values. For example, one can refer to Forst (1994: 31-2) and claim that personal liberty, social pluralism and political constitutionalism are the elementary values of liberalism. What Forst suggests is that these values correspond to starting points for different models of justification of liberalism. Hence, they are part of the central foundations of liberalism. On the other hand, since the emergence of liberalism, toleration, autonomy and recently equality have been repeatedly employed and interpreted in political theory in order to define the rights and obligations of persons living under a system of public rule that gives ultimate importance to the protection of the liberty of each and every person. They constitute therefore core liberal values, but in another way from what Forst suggests.

The thematic division of this thesis can also be criticized for excluding liberal approaches to multiculturalism that do not bear on any of these three values, such as the theories of Levy (2000), Carens (2000) and Philips (2007).

Levy, however, bases liberal multiculturalism on fear, which is hardly a liberal value. Although the theories of Carens and Philips are important con-

tributions, they do not concern the inclusion of the interest in culture in the methodological categories of liberalism. More specifically, Carens bases the legitimacy of the multicultural model of integration on evenhandedness, which, according to him, entails immersion rather than abstraction and involvement rather than the hands off approach required by the ideal of neutrality. Although evenhandedness implies equity and thereby fair-treatment, it still remains unclear in Carens' approach how the ideal of evenhandedness motivate the methodological inclusion of the category of culture in the definitional categories of liberalism. As for Philips's position, it is outside the scope of this study, as it proposes the normative separation of multiculturalism from the various denotations and connotations of a concept of culture.

Since the thematic division of this thesis focuses on liberal approaches to multiculturalism that form theories and excludes arguments that are not parts of comprehensive theoretical positions on multiculturalism, it implies that we can make a distinction between theories and arguments. Although one can argue that this distinction is epistemologically and semantically ambiguous, I suggest that this is a possible distinction.

As McDermott (2008: 22) explains the feasibility of such a distinction, a theory like that of Rawls, for example, is not an argument but "[…] a complex set of components put together to shed light on the structure and content of justice". We can, therefore, say that this dissertation looks at how theorists have combined different components in order to shed light on the content of multiculturalism from a liberal perspective. Some of these theorists aim at showing that the content of multiculturalism can be based on a structure that gives value to the burden of assimilation on liberal grounds. Others reject the necessity and viability of such a project and defend instead the neutralist liberal model of integration.

1.5. The structure of the thesis

The study of the compatibility of liberalism with cultural rights is conducted in four analytical chapters. The first one takes up the question of justification of cultural equality as a political objective of the liberal state. The analysis continues with two chapters that concern two interpretations of liberal toleration, one that presents toleration as incompatible with cultural rights and another that advocates the opposite. The final analytical chapter examines the normative merits of a liberal justification of multiculturalism that is based on autonomy. The last chapter of the thesis summarizes the main con-

clusions of the study. It also presents the general outline of a liberal multicultural policy that is based on anti-discrimination and equality of opportunity, the practical role that the burden of assimilation can have in this policy and the further research prospects of the burden of assimilation as a methodological concept.

Chapter 2, *Equality of Opportunity and Equality of Culture*, scrutinizes the acceptability of the accounts of the burden of assimilation that underlie two different approaches to the issue of inclusion of cultural equality to the objectives of the liberal state. The first is the approach of equality of opportunity of Barry (2001) that argues against such an inclusion. The other is the view on cultural equality of Parekh (2000) that suggests the need of interpreting equality in politics and in theory in a cultural sensitive manner. Since an important normative question that these two opposite positions initiate concerns the proper way of distinguishing acceptable and unacceptable inequalities, this chapter discusses whether or not the duty of relieving minorities of the burden of assimilation can be based on an egalitarian ideal that assumes the different impact of identical laws to be an unacceptable inequality. This chapter challenges an account of the burden of assimilation that bears on such an idea. It, instead, supports the account of the burden of assimilation implied in an approach that identifies equality of opportunity as the proper metric of equality.

Chapter 3, *Toleration as Freedom of Association*, concerns liberal positions on diversity accommodation that defend the idea that toleration as freedom of association constitutes a proper basis for a liberal theory of group rights. These are the positions of Kukathas (2003) and Barry (2001). This chapter disputes Kukathas's libertarian attempt to handle multiculturalism solely with freedom of association. It also questions Barry's account of when freedom of association legitimately can overrule the anti-discrimination principle of equality of opportunity in the context of the liberal state. Although both positions reject the suggestion of granting definitional value to the burden of assimilation in liberal theorizing, they both still assume in another way the unacceptability of assimilation. The chapter draws on the conceptual origins of liberalism and explains how the unacceptability of assimilation is reflected to a central implicit assumption of liberal theory. This is the assumption of the harm of enforced morality. Hence, the analysis presented in this chapter is organized around the concept of the harm of enforced morality, in specific around the question of how an approach of toleration as freedom of associations justifies the unacceptability of this harm.

Chapter 4, *Toleration as Recognition*, examines the normative merits of the account of the burden of assimilation that underlies the approach of toleration as recognition to multiculturalism of Galeotti (2002). This kind of approach attempts to add the dimension of recognition of cultural identities to the liberal concept of toleration. The argument developed in this chapter is divided into two parts. The first part focuses on explaining how a normative justification of recognition can be derived from a liberal notion of respect that bases respect on the right to justification. The second part of the argument discusses the general need of a liberal turn to recognition, given that such a turn does not include in practice other measures of accommodation of diversity than those already suggested by a liberal neutralist model of integration.

Chapter 5, *Freedom as Autonomy and the Good of Culture*, examines the merits of an autonomy justification of multiculturalism by analyzing the normative consequences of the argument of autonomy of Kymlicka (1989, 1995). This chapter questions the account of the burden of assimilation underlying an autonomy justification of multiculturalism. More specifically, it suggests that this type of justification fails to resolve the moral tension between the individualistic aim of protection of personal autonomy and the collectivist aim of promotion of cultural autonomy.

The last chapter, *Conclusions: Revisiting the Liberal Neutralist Model of Integration together with the Burden of Assimilation*, stars by summarizing the main findings of this study. It identifies the approach of equality of opportunity as offering the most promising starting point for a liberal multicultural policy. It continues by clarifying the role that the burden of assimilation would and should have in a liberal model of integration that emphasizes anti-discrimination and equal opportunities. It also presents a framework that explains in a general way how a liberal multicultural policy that is based on equality of opportunity can handle conflicts of culture without referring minorities *a priori* to assimilation. It finishes by discussing the prospects that the burden of assimilation can have as methodological concept in integration studies and other overlapping research fields.

2. Equality of Opportunity and Equality of Culture

One of the main characteristics of multiculturalism as a normative project is that it asserts the equal standing of all cultures. Culture constitutes more or less the central value in theories defending the moral desirability of multicultural policies. However, the recognition of culture as an important normative value does not in itself imply respect for cultures other than one's own, since it can just as well lead to nationalism and monoculturalism. For this reason, multiculturalists usually claim to be egalitarians and maintain that respect for culture also entails the duty to recognize the equal status of other cultures (Paul Kelly 2002: 9-10). If we take into account that equality is one of the major ideals of contemporary liberal theory,[27] the multicultural demand for equal respect for other cultures raises well-founded questions of whether equality of culture can and should be embraced as a central aim of liberalism as political theory and praxis. Does the liberal commitment to equality justify the acceptance of cultural equality as a political objective of the liberal state?

We can identify in contemporary liberal theory two major positions on cultural rights that overtly discuss the possibility of introducing cultural equality into the objectives of the liberal state. The first is the position of Barry (2001) that disputes the multicultural idea of cultural equality as a dimension of liberal justice and, thereby, of including interest in one's own culture among the methodological categories of liberal theory. The second argument, which is to be found in the normative defense of multiculturalism

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[27] The location of the concept of equality in liberal political theory is a complex subject. Because of its Kantian links, the liberal account of Rawls (1971) advocates universalism and, thereby, presents equality as a prior liberal ideal. Dworkin (1985, 2000) has taken the central role that equal treatment has in liberal theory and politics and presented an account of liberalism that bears on equality, specifically that equality is a constitutive political ideal that "requires that the government treats all those in its charge *as equals*, that is, as entitled to its equal concern and respect" (Dworkin 1985: 190). For a concise overview of the extent to which liberal theorists have co-opted equality into the liberal core, see Freeden (1996: 241-247).

of Parekh (2000, 2002),[28] advocates exactly the opposite, namely that equality should be interpreted in a culturally sensitive manner in politics and in theory.

In *Culture and Equality*, Barry presents a complex argumentation that aims at comprehensively refuting multiculturalism as normative project. A major theme in Barry's argument is the defence of the ideal of neutrality as an epistemological and a political objective. Against the theme of defence of liberal neutralism, Barry clarifies his position on claims for exemption rights expressed by members of cultural minorities and presents his core argument against the inclusion of cultural equality among the political objectives of the liberal state. This argument concerns the proper metric of equality, which Barry identifies as being that of equality of opportunity. Simply put, Barry asserts that a liberal neutralist model of integration based on equality of opportunity can appropriately accommodate cultural diversity. Hence, for Barry, the liberal state does not have a duty to relieve minorities of the burden of assimilation.

In contrast to Barry, Parekh claims that liberalism, in political theory and in political practice, has to abandon neutrality as an epistemological and a political ideal and instead adopt a notion of equality that is responsive to people's cultural similarities and differences. For Parekh, cultural equality should be a part of social justice, and the good of culture should be secured because culture is a constitutive element of people's identities. Cultural minorities, therefore, should have cultural rights, which are supposed to promote the value of equality of culture by relieving minorities of the burden of assimilation.

The analysis that I present in this chapter challenges the multicultural position of equality of culture. It, instead, speaks in favour of a liberal neutralist model of integration that emphasizes anti-discrimination, as this is explained in the equality of opportunity approach of Barry. Specifically, I will argue that Parekh's justification of cultural equality leads to a problematic account of the burden of assimilation due to the omission of the fact that cultures can also systematically be of no good for people. As regards an equal opportunity approach to cultural rights, I will argue that it provides a valid account of the burden, given that we accept the proposition that a prop-

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[28] Kymlicka (1989, 1995) also presents an argument for cultural rights that refers to equality of opportunity. This is the argument that Kymlicka (1995: 108-123) calls *The Equality Argument*, and its role is to justify the hierarchy between national and ethnic minorities in the distribution of cultural rights. Since this argument is complementary to Kymlicka's autonomy justification of multiculturalism, I do not discuss it further in this chapter.

er distribution of social goods is given by principles that employ objective criteria of equal treatment.

My analysis is divided into four sections. The first section presents the accounts of the burden of assimilation that underlie the positions of Barry and Parekh. It also explains the analytical connection between these accounts of the burden of assimilation and the liberal ideal of neutrality. The second section examines the normative merits of the account of the burden that results from Parekh's justification of equality of culture. The third analyzes the account of rejection of the burden that follows from an equality of opportunity approach to accommodation of diversity. The final section systematizes the liberal anti-discrimination approach to cultural rights that follows from an equality of opportunity approach by presenting a liberal outline of evaluation of demands for exemption rights.

2.1. Equal opportunity versus cultural equality

2.1.1. Equality of resources and the burden of assimilation

Barry's standpoint on what liberal equality requires and allows in terms of multicultural policies is organized around the problematic of claims to cultural rights that is classified in multicultural studies as exemption rights from rules (Barry 2001: Ch. 2).

In general terms, exemption rights are rights to exemptions from laws that penalize or burden cultural minorities. Examples are the demands of Sikhs for exemptions from motorcycle helmet laws, Jews and Muslims seeking exemptions from sabbatarian laws, exemptions for Amish children from mandatory education, exemptions for Aboriginal people from various fishing and hunting regulations, demands by American Jews for exemptions from Air Force uniform regulations, the "affaire du foulard" in France and demands in other countries for being able to wear different types of concealing veils in schools or at work. All of these are instances of claims to cultural rights that entail the normative problematic of exemption rights.

Exemption rights are morally alike in that they have the character of "individually exercised liberties granted to members of a religious or cultural group whose practices are such that generally and ostensibly neutral law would be a distinctive burden on them" (Levy 1997: 23). As individually exercised liberties, exemptions can easily be criticized for particularizing and violating the universal applicability of law because they selectively grant

liberties to some that others lack. This is a serious problem for theories that place overwhelming importance on equal liberty, as, for example, Rawls's theory of justice does. It is also a problem for a conception of public rule that emphasizes the general applicability of laws and the absence of particularistic nouns for legitimate lawmaking (ibid.: 28).

Consequently, there are two main arguments that can be raised against exemption rights: the objection of unequal liberty and the objection of selective inconsistent applicability of law. Barry follows both lines of criticism of exemption rights. In addition, his argument against exemptions focuses on two themes. One is the defense of resource egalitarianism, i.e., that recourses and not welfare is the proper metric of equality. The other is the defense of the idea that fair treatment is provided by a deontological conception of justice (Barry 2001: 40-50).

Barry's central point is that a scheme of public rule, in political theory and in practice, should be structured so as to be generally and consistently applicable to citizens. For Barry, if a law aimed at protecting a legitimate public objective has a side effect of affecting members of different cultures differently, the cultural group that fails to gain an exemption from this law cannot properly claim to have suffered an injustice. The theoretical defense of this position is based on an egalitarian liberal theme, which asserts that equal treatment does not entail equal impact; therefore, the differential impact of a law cannot in itself support a claim that the law is unfair (ibid.: 32-40). More precisely, Barry supports the idea that liberal public rule should be structured so as to equalize the opportunities that people have for achieving their ends, wherever and however they begin, rather than equalizing how people end up in terms of happiness, income or welfare.[29] Thus, Barry advocates the position that public rule – as expressed in constitutional principles,

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[29] "From an egalitarian standpoint, what matters are equal opportunities. If uniform rules create identical choice sets, then opportunities are equal. We may expect that people will make different choices from these identical choice sets, depending on their preferences for outcomes and their beliefs […]. But this has no significance: either way it is irrelevant to any claims based on justice, since justice is guaranteed by equal opportunities" (Barry 2001:32).

"The error lies in thinking that, even as a matter of principle, fair treatment requires compensation for expensive tastes. To explain what is wrong with the idea, we have to invoke the fundamental premise that the object of fairness is the distribution of rights, resources and opportunities. […] Suppose you and I have an equal claim on society's resources, for whatever reason. Then it is simply not relevant that you will gain more satisfaction from using those resources" (ibid.: 35).

"[…] [T]here is no case of saying that everybody should have the same chance of realizing their ends, regardless of what their ends are. What matters is that people should have equal access to the means of achieving their ends: rights, resources and opportunities […]" (Barry 2002: 219).

laws and regulations – should follow the directions of the egalitarian ideal of equality of opportunity and not of equality of outcome.

By advocating equality of opportunity as the proper way to organize a system of public rule, Barry informs us that he approaches the question of moral acceptability of exemptions from the normative context of resource egalitarianism. Resource egalitarianism stands for the idea that what we should aim to achieve, when we urge egalitarian reforms in order to make people equal in some respect, is "assuring people greater equality in the resources needed to pursue their ends" (Daniels 1996: 2008).

For resource egalitarians, resources or basic goods – which usually include liberties, opportunities, basic wealth and health – are the criteria that provide a basis for appraising a person's well-being. These criteria are supposed to provide a metric of equality that properly measures and compares the benefits and sacrifices of different persons in the process of identifying unacceptable inequalities, because this metric is independent of people's individual tastes and substantive beliefs and interests. Hence, egalitarian reforms are rightly urged only when they are meant to correct unacceptable inequalities in distribution of resources. For resource egalitarians, reforms in the direction of equality are wrongly undertaken if they aim at equalizing the outcome – satisfaction or welfare – that persons obtain from using their resources. The reason is, according to Dworkin (1981: 228), that if we make equal welfare the aim of egalitarian reforms, we face the counterintuitive moral problem of expensive tastes: that we have to provide more income to persons with expensive tastes so that they can fulfill their tastes and achieve equal welfare.

Because Barry contrasts beliefs with preferences in his argument against exemption rights, he can be misinterpreted as viewing as expensive preferences that are characteristic of minorities and that obviously diverge from those of the majority. Since in practice most demands for exemptions concern minority practices that in one way or another can be classified as religious, Barry can be criticized for treating people's preferences emanating from their religious beliefs as expensive tastes. The fact is, however, that Barry never claims that beliefs are like expensive tastes. He does claim, on the other hand, that "beliefs are not to be conceived of as some sort of alien affliction" and that "[b]eliefs are not an encumbrance in anything like the way in which a physical disability is an encumbrance" (Barry 2001:36). This shows that Barry focuses instead on the aspect of responsibility in Dworkin's (1981: 237) argument of expensive tastes, namely that people do choose whether and how far to act on their beliefs.

In other words, equality for Barry does not require that persons be compensated when they do not succeed in having their preferences satisfied or in achieving their aims, given that they are not subjected to unfair treatment or discrimination in the first place. Concerning the issue of exemption rights, this suggests that people must assume responsibility for their beliefs when those beliefs conflict with established rules. However, Barry also adds a proviso to this specification of what equality requires in terms of exemption rights: that the established rule aims at protecting a legitimate public objective.

Consequently, in circumstances of conflict between the beliefs of a member of a minority culture and an approved rule that protects a legitimate public objective, the minority member has to accept that s/he has to adjust her/his beliefs and lifestyle to the norms that the rule in question is supposed to protect. For example, if public open-air cremation is forbidden for environmental and health reasons in some European societies, Hindus must either cover the costs of transporting their deceased ones to India or bear the burden of adapting their lifestyles to this specific rule. If wearing a full-length veil is forbidden during dental operations for hygienic reasons, a Muslim female dentist wishing to wear such a garment while working must either give up her career as a dentist or respect the rule.

Accordingly, from the angle of Barry's liberal framework of rights that is based on equality of opportunity, the burden of assimilation imposed on people by established rules is a consequence for which people have to assume responsibility and from which people are not morally entitled, under just any circumstances and without qualification, to be relieved by the political community. This is because equality of opportunity requires people to take responsibility for their ends and accept the consequences of the choices they make on the basis of their beliefs and interests, under the condition that they are initially provided with equal access to basic resources. The liberal state, thus, does not have a duty to relieve minorities from the burden of assimilation, and the promotion of equality of culture cannot be a part of the aims of the liberal state.

On the other hand, although exemption rights can assume neither the status of moral rights nor the status of constitutional rights in accordance with Barry's approach of equality of opportunity, Barry still leaves open the possibility of granting exemption rights at the practical political level and on anti-discrimination grounds, as these grounds are defined by equality of opportunity. In fact, it is possible to identify in Barry's position a method of

evaluation of demands for exemptions, which I will present at the end of the current chapter.

2.1.2. Equality of culture as moral right

In diametrical contrast to Barry's position on exemption rights is the position[30] of Parekh (2000, 2002).

Parekh (2002: 148-9) asserts that it is wrong to treat exemptions from general rules in the way Barry does, i.e., as cases of justified inequalities, since equality properly understood makes differential treatment a matter of right and sees differential treatment based on culture as a form of equality. More precisely, whereas Barry (2001: 31) claims that opportunity is an objective concept, Parekh (2000: 241) claims that opportunity has to be interpreted in a culturally sensitive manner. According to Parekh (ibid.), opportunity is a subject-dependent concept in the sense that "[…] a facility, a resource, or a course of action is only a mute and passive possibility and not an opportunity for an individual if she lacks the capacity, the cultural disposition or the necessary cultural knowledge to take advantage of it".

In Parekh's view, cultures are constitutive of people's identity and not, as liberals suggest, voluntaristic. Moreover, cultural and religious beliefs cannot be seen as a matter of choice, since culture and religion shape personality in a rather deep way. According to Parekh, it is not reasonable to say that a Sikh boy and a Muslim girl have the opportunity to abandon their cultural dress in order to attend the schools of their choice, if the schools they want to attend forbid the Sikh turban and the *niqab*. Hence, members of cultural minorities are not responsible for missing an opportunity when a rule, which is insensitive to their cultural particularities, stops them from utilizing that opportunity. In such situations, Parekh (ibid.) maintains, members of cultural minorities suffer from a culturally derived incapacity that resembles a natural inability; therefore, society has to bear at least most of the cost of accommodating the cultural particularity.

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[30] The criticism directed against Barry's position on exemption rights is many-sided as it is focused on different normative themes. This is probably because Barry employs a multifaceted line of argumentation that is pursued on different philosophical levels. For example, criticism is directed at, among other things, the distinction between choice and chance (Mendus 2002), the expensive tastes argument (Kelly 2002: 71-74), the responsibility for culturally derived costs (Miller 2002), the influences of liberal perfectionism of John Stuart Mill in Barry's position (Kukathas 2002), the limitations of Barry's interpretation of egalitarian liberalism (Caney 2002), the cultural grounds of the human condition (Parekh 2002) and postmodern philosophical arguments against the liberal project (Tully 2002).

What Parekh suggests is that the rule creates an unjustifiable obstacle for members of cultural minorities. In turn, this obstacle conditions their possibility of taking advantage of certain opportunities, since it requires them to be willing to give up norms and practices that are constitutive of their identity. As this condition is not placed on members of the majority culture, Parekh's point is that minorities have to endure the extra costs that the burden of assimilation signifies in order to have the same possibility of utilizing the opportunity as the majority.

Equality, for Parekh, involves that both the similarities and the differences of human beings are considered and that equal freedom and equal opportunity are sensitive to difference. As Parekh suggests (ibid.: 240), equality concerns neither uniformity of the law nor identical rights, because "individuals with different cultural backgrounds and needs might require different rights to enjoy equality in respect of whatever happens to be the content of their rights". The reason why equal treatment does not mean identical treatment but rather differential treatment that respects cultural difference is that cultural embeddedness is a constitutive feature of human nature (ibid.: 2, 47, 128, 159).

Consequently, Parekh's justification of cultural equality relies on a human ontology that presents people as culturally embedded and human nature as mediated and reconstituted by culture. Equal respect for a person, therefore, involves "locating him against his cultural background, sympathetically entering into his world of thought, and interpreting his conduct in terms of its system of meaning" (ibid.: 240-1). Thus, equality of culture ought to be a politically relevant moral value, according to Parekh.

The upshot of how Parekh connects his concept of equality with the ontological assumption of people as embedded in their cultures (the cultural embeddedness thesis) is that the granting of exemption rights – and of all types of cultural rights – is rendered a moral duty. Systems of public rule have to fulfill this duty and provide cultural rights to minorities in order to respect people equally.

Concerning the burden of assimilation, the link between equality of culture and the cultural embeddedness thesis implies that the burden obtains definitional value in political theory and political practice. This happens not only because of the centrality of the cultural embeddedness thesis but also because Parekh sees culture as something that is systematically good for

people. [31] If culture is something systematically good for people, requiring people to assimilate into another culture is per se bad. From Parekh's point of view, accommodation of cultural diversity through uniform laws and identical rights merely imposes the burden of assimilation on cultural minorities. Given the thesis of cultural embeddedness, this imposition is unfair because it shows that members of minorities are not equally respected as persons.

As a result, Parekh's approach of equality of culture instructs liberal theorists that they should recognize the unfairness of the burden of assimilation, assign definitional value to it and make differential treatment a matter of right and cultural equality a dimension of social justice. In turn, this instruction implies that Parekh bestows upon equality of culture the status of a moral right in political theory. In this way, cultural equality is rendered as a standard – like political equality and freedom of conscience – that ought to be invoked in legal and political arguments for exemption rights or other types of cultural rights. In accordance with Dworkin's typology of the standards used in legal reasoning or dispute about rights and obligations, this means that Parekh presents exemptions as a matter of principle, not as a matter of policy. Whereas a policy is the kind of standard that sets out a goal to be attained with regard to some economic, political, or social feature of the community, a principle is the kind of standard that sets out a requirement of justice or fairness or some other dimension of morality (Dworkin (1977: 22). Thus, given that Parekh sees exemptions as being a matter of principle, his approach suggests that exemption rights, and other types of cultural rights, should have the status of moral rights in liberal theory.

2.1.3. Neutrality of justification and the (un)acceptability of burden

The central point in Barry's resource egalitarian position on moral acceptability (justifiability) of exemptions is that a conception of public rule cannot include exemption rights as moral rights because political theory and political praxis have to remain neutral between people's different ideas about how a good life can and ought to be lived, i.e., people's different conceptions of

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[31] "[O]ur culture gives coherence to our lives, gives us the resources to make sense of the world, stabilizes our personality, and so on. Its values and ideals inspire us, act as our moral compass, and guide us through life; its arts, rituals, songs, stories and literature fill us with joy and add colour and beauty to our lives; and its moral and spiritual wisdom comforts and helps us cope with the inevitable tragedies of life" (Parekh 2000: 159).

the good. This position also suggests the negation of the multicultural model of integration, since it maintains that the claims of multiculturalism either fall within the sphere of the epistemological and political ideal of neutrality or else they are false.

For Barry, the political norms that condition accommodation of diversity in circumstance of multiculturalism has to be derived in the way that Rawls suggests in his theory of justice: in a process of justification that is neutral towards people's preferences and interests emanating from their substantive beliefs about what constitutes a good life. Since, for Barry, conflicts of culture are conflicts between different conceptions of the good, claims for cultural rights fall outside the distributive aims of liberal justice.

In the neutral framework of social justice suggested by Rawls (1971), claims for unfair treatment appeal to discrimination or denial of equality of opportunity, namely the violation of equal access to basic goods, as equal access is defined in Rawls's account of fair equality of opportunity[32]. For moral relativists[33] like Parekh, the norm of fair equality of opportunity is inappropriate for assessing the justice of the claims for accommodation of cultural particularities expressed by minorities because it concerns the distribution of goods that only privilege the liberal way of ordering society and defining the good life. Such theorists argue that the real world contains plenty of different ways of organizing societies and diverse accounts of a good life. In their view, the norm of equality of opportunity is already culturally biased because it favors the liberal individualistic attitude towards life at the expense of received forms of life.

Parekh draws on this line of criticism in his critique that classical liberalism advocates moral monism (Parekh 2000: 33-49). More precisely, the the-

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[32] According to Rawls (1971:93), the second part of his second principle of justice has to be understood as the principle of fair equality of opportunity. This principle says that social and economic inequalities are to be arranged so that they are attached to offices and positions open to all under conditions of fair equality of opportunity (ibid: 92). Fair equality of opportunity requires not only that offices and positions are distributed on the basis of merit, but that all persons have a reasonable opportunity to obtain the kind of skills on the basis of which merit is assessed.

[33] According to Corradetti (2009: 36), moral relativism can be thought of at three different levels: normative, descriptive and metaethical. Normative relativism, which claims that moral requirements are relative to the internal requirements of different moral agents and groups, defends the view according to which people ought to follow their own individual or cultural principles (ibid.). Descriptive relativism claims that the differences of cultural practices lead to fundamental moral disputes that are neither reducible to non-moral disagreement nor rationally resolvable (ibid.: 37). Metaethical relativism, in its absolute form, "claims that there are neither true or false standards of validity for moral claims, and that, whatever moral judgment is thought to be true, there is no possibility of either confirming or disproving it […]".

sis of cultural embeddedness questions the possibility of liberal neutralism to deliver what it promises, namely a unified conception of moral good or right that appeals to all human beings because it corresponds to the basic interests of all people. This thesis also indicates that cultural identity cannot be separated from moral identity the way liberalism based on neutrality presupposes. Therefore, the moral good is not the same for all persons. It is plural and varies, depending on the moral standards that cultural communities place on people. Accordingly, a central theme in Parekh's approach of cultural equality is that liberals have to stop embracing the neutralist premises on which equality of opportunity is based. Instead, they have to interpret equality in a culturally sensitive manner so that liberalism will be able to make sense of the plurality of moral goods that exist in the real world.

Hence, for cultural pluralists[34] like Parekh, the burden of assimilation – imposed on members of minorities by a liberal neutralist system of public rule –indicates that people are forced to follow a conception of moral good that neglects the fact that the individual moral good is embedded in one's own cultural identity. The burden, thus, constitutes an objective harm, since it requires people to do things that they believe to be morally wrong. What happens when a Jew is not allowed to wear the yarmulke in his workplace or when a Muslim is deprived of the possibility of following Friday prayers due to his work schedule is that he is compelled to follow a rule that forces him to do something that he believes is wrong.

In contrast to cultural pluralists, liberal neutralists like Barry make a distinction between ethical good and moral good and do not support the evaluation of the burden of assimilation that I identified in Parekh's approach. For them, the ethical good refers to the kind of life that a person thinks is good for her/him to live, while the moral good only involves the question of how we ought to treat each other as equal members of the political community.[35] For liberal neutralists like Barry, cultural identity falls into the category of ethical good and concerns the different conceptions people have of the good life, i.e., their ethical beliefs. However, liberal neutralists do not deny that in practice ethical identity can influence people's conceptions of moral good.

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[34] Like multiculturalism, cultural pluralism is a contested concept. In connection with Parekh's approach, cultural pluralism is to be understood as claiming that cultural diversity must be acknowledged as of fundamental ethical and political significance. It is also strongly linked to moral relativism (about moral relativism, see supra note 32).

[35] I base my description of this distinction on the way Dworkin (1989: 479, note 1) explains the difference between ethics and morality: "Ethics […] includes convictions about which kinds of lives are good or bad for a person to lead, and morality includes principles about how a person should treat other people".

What they dispute is the idea that contested ethical values should serve as the basis of the common norms that define the political morality of society. This is actually the central meaning of the principle of neutrality, namely that contested ethical values may not serve as the foundation of the general norms aimed at ruling the political community.[36]

Liberal neutralist theories do not lack an account of moral wrongness that is relevant to the evaluation of the burden of assimilation. Such theories define the limits of legitimate constraint that public rule can impose on people's ways of living in a deontological way, namely by the principle of toleration that asks people to refrain from forcing onto others their beliefs about how a good and ethical life ought to be lived. Hence, they rely on the dimension of the burden of assimilation that emphasizes the harm of enforced morality.[37] If, for example, a Muslim is required to convert to another religion in order to keep her/his job as a school teacher or a Jew to reject his faith in order to join the Air Force, this corresponds to an imposition of the burden that is morally wrong.

The immorality of acts of enforcement of belief, i.e., acts of assimilation, can be defined by a Kantian argument of reciprocity that appeals to the mutual recognition of equal value of persons as self-governed individuals. The essence of this argument is that it is morally wrong to use a person as a means to an end to which s/he does not voluntarily agree: it is always wrong that I compel another person to adopt an end that s/he is not convinced of, even when I am sure that this will benefit her/him. In classical liberalism, this dimension of the burden of assimilation only concerns religious beliefs. In contemporary liberal theory, it is extended to cover conceptions of the good.

What the principle of toleration expresses is the egalitarian conviction that every person has an equal individual right to freedom of living the kind of life that her/his conscience dictates. Rawls's freedom principle, i.e., the first principle of justice that distributes to individuals basic equal rights, specifies how this conviction is to be fulfilled in practice. This principle aims at securing the individual liberty of people equally so that every person has an equal opportunity to follow her/his conscience and realize the type of life that s/he wants to pursue. Rawls's priority of equal liberty draws on the same conviction, but it also corresponds to another major egalitarian aim that the principle of state neutrality brings into play: that the equal right to freedom of

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[36] I borrow this definition of liberal neutrality from Frost (1994: 35).
[37] The harm of enforced morality as a dimension of the burden of assimilation is presented in the next chapter of the thesis.

living as one's own conscience dictates cannot be withdrawn when those possessing political or social power have reasons to favor one view of the good life over another. Nor can it be withdrawn by a majority deciding to do so. Since the freedom principle and the rule of priority of liberty are supposed to guarantee every individual's equal access to basic constitutional rights regardless of people's ethical views, the members of diverse types of minorities cannot be deprived of their rights by authoritarian or majoritarian decisions.

One of the reasons why liberal neutralists insist that the substantive content of ethical views should not inform the context of justification of principles aimed at informing the basic institutions of society is that the alternative implies the opening of the liberal system of rule to values that conflict with the egalitarian conviction of equal freedom. In this way, liberalism as political praxis and political theory takes the role of reflecting existing power relations between individuals and between different groups and of justifying prevailing historically contingent distributions of constitutional rights and other social goods. Consequently, equal treatment is turned into a value that is relative to the system of values of existing communities.

At this point, let us assume for the moment that there are no other arguments to defend the neutralist basis of the approach of equality of opportunity against the claim that cultural minorities are discriminated at different societal levels due to the neutralist background and aspirations of equality of opportunity. Does this mean that equality of culture is a justified dimension of liberal equality? Or, expressed in another way: is the proposition that the liberal state has an essential duty to relieve minorities of the burden of assimilation adequately established in political theory?

In the following section, I will maintain that this is not the case, as the justification of cultural equality provides a questionable account of the burden of assimilation due to the omission of the paradox of cultural vulnerability.

2.2. Equality of culture and the paradox of cultural vulnerability

2.2.1. The inegalitarian consequences of selective relief from the burden

In the literature on multiculturalism produced after the late 1980s, theorists – such as Green (1994), Kymlicka (1995), Tamir (1999), Okin (1999, 2002), Shachar (1999, 2001), Deveaux (2000), Eisenberg and Spinner-Halev (2005), and Song (2007) – have expressed major concerns over how cultural rights can affect individuals within cultural groups.

These concerns originate in the observation that cultural groups may not always be good for all of their members, since, given the present status of traditional cultures, women may have to compromise their freedom and equality to the patriarchal norms of the group to which they belong. The academic systematization of these concerns constitutes the feminist critique of multiculturalism, which is a well-established sub-field encompassing a rich array of theoretical perspectives. According to Shachar (2007: 117), three distinct variants of the feminist-multicultural critique can be identified: liberal feminism, post-colonial feminism and multicultural feminism. Although the variations on the theme of feminism and multiculturalism draw on different visions of culture and identity, all three acknowledge the potential tension between cultural rights and women's rights.

Parekh's justification of cultural equality is receptive to the feminist critique of the multicultural model of integration. As Shachar maintains (2002: 265), a major weakness in Parekh's approach is that it "fails to pay attention to the equally important issue of the potentially negative consequences of multicultural accommodation for historically vulnerable group members such as women, for example". Hence, Parekh fails to notice the paradox of cultural vulnerability. According to Shachar (2000: 35), this paradox indicates that well-intentioned political accommodation aimed at leveling the playing field between minorities and the broader society may have the effect of nullifying the citizenship rights of some individuals within the minority group.[38] Simply put, given the present character of many traditional cultures,

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[38] Since the paradox of cultural vulnerability is a well-recognized fact in the academic analysis of the multicultural model of integration, we do not need here to thoroughly examine specific cases in order to show that the assignment of cultural rights can have as an unintended consequence the deprivation of freedom of historically vulnerable group members.

cultural rights can also be harmful to people, namely to women that may find their freedom and equality severely compromised due to the patriarchal norms of the group to which they belong (Jones 2010: 47).

What makes Parekh's approach receptive to the feminist critique of multiculturalism is the thesis of cultural embeddedness, which presents culture as systematically good for people. In this way, the approach of equality of culture does not take into consideration a fact that the paradox of cultural vulnerability reveals: that cultures can also be systematically of no good for people. Hence, the justification of cultural equality bears on an epistemological omission, namely the omission of the paradox of cultural vulnerability. Since the account of the burden of assimilation identified in Parekh's position bears on the thesis of cultural embeddedness, this omission also affects the acceptability of this account. Let me explain how it does.

If we accept the paradox of cultural vulnerability, we also have to accept the assumption that not all minority members have a first-order preference for following the culture of their community. In fact, some minority members may consider the adjustment to liberal norms as something positive; therefore, they may experience the burden of assimilation as something good.

For example, a rule that forbids the wearing of fully concealing veils in school or makes gymnastics an obligatory school subject may be experienced by some Muslim school girls as liberating rather than burdensome. Giving relevance to the experiences of those girls in integration studies is far from putting forward a voluntaristic ideal of human agency that neglects people's cultural bonds. Giving consideration to this experience simply means that we accept that members of cultural groups, no matter how they are positioned in intra-group power relations, can actually think and rank their preferences in ways that can differ radically from what their cultures require them to do.

The approach of equality of culture suggests that cultural rights promote cultural equality by relieving minority members of the disadvantages from the non-neutral effects of laws. In contrast, the paradox of cultural vulnerability reveals that this is not always the case; some members of conservative minorities can find this to be unwelcomed relief and may instead prefer to be submitted to the burden of assimilation. In fact, cultural rights may be used in illiberal groups to annul the citizenship rights of the vulnerable members so that the groups' elites are relieved of the burden of assimilation. In such cases, relief of the burden promotes cultural equality selectively, i.e., only for the members that want to preserve the patriarchal cultural structures in

order to consolidate their intra-group positions of power. For the subordinated members of such groups, cultural rights rather consolidate their vulnerability and subordination, as they institutionalize the contingent power aspects of intra-group relations. Thus, the paradox of cultural vulnerability provides a reason for questioning the account of the burden of assimilation identified in Parekh's approach, namely the reason of inegalitarian consequences of selective distribution of relief of the burden.

2.2.2. Equal treatment as a matter of cultural preference

The previous discussion indicated that a justification of cultural equality that does not take the paradox of cultural vulnerability into consideration provides a questionable account of the burden of assimilation. The reason is that the burden of assimilation does not account for situations in which certain members of conservative groups may prefer to be subjected to assimilation because they want to break free from the inegalitarian structures of their groups. Consequently, we have good reasons to doubt an account of the burden that emphasizes the dimension of disadvantages from the non-neutral effect of legislation.

At this point, it can be objected that the previous discussion did not pay attention to the method of evaluation of cultural practices through intercultural dialogue suggested by Parekh (2000: 264-273).
This is a method of resolving the issue of toleration of controversial practices, such as female circumcision, polygamy, arranged marriages, scarring parts of children's bodies as part of initiation ceremonies, preserving the subordinate status of women, withdrawing girls from school gymnastics, refusing to send children to school and the like.[39] For Parekh (ibid.: 268-273), the best way of resolving this issue is for both parties – the minority and the majority – to engage in a bilateral dialogue in which the operative public values of the broader liberal society provide the context and orientation for the dialogue.

As Parekh (ibid.: 272) explains, if the two parties fail to reach an agreement, the operative public values of the broader society should prevail. Thus, if Parekh specifies a method of assessment of controversial practices, he implicitly recognizes that cultures can also be systematically of no good for people. Does this mean that Parekh's approach can meet the argument made in the previous discussion, namely that the paradox of cultural vulnerability

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[39] For a full list, see Parekh 2000: 264-5.

shows that the selective provision of relief of the burden to some group members can have deep inegalitarian consequences for some other members of the same group? In what follows, I will argue that it cannot meet this argument, since the suggested method of evaluation of controversial practices conflicts with the cultural relativistic basis of Parekh's conception of equality of culture.

Let me start by pointing out that it is possible to make two interpretations of Parekh's method of intercultural evaluation: either Parekh means that the imposition of the burden of assimilation is totally acceptable in certain situations[40]; or he means that agreement over the liberal norm of equality is eventually attainable. What the two interpretations have in common is that both rely on the assumption that an external defense of liberal values is possible. This assumption, however, is not compatible with the meta-theoretical background of the suggested justification of equality of culture because it presupposes what this background questions, namely the possibility of identifying a unified conception of human good that appeals to all people.

Parekh's justification of equality of culture bears on a theme of metaethical moral relativism, which, in turn, presupposes descriptive moral relativism.[41]

Although Parekh recognizes that there may be a few universal principles, he subjects the truth or falsity of moral principles to the operational standards of cultural groups and, thereby, endorses metaethical moral relativism. Respect for human life is for Parekh (2000: 135, 2002: 140-1) a relative concept that takes several forms of expression and has different meanings, depending on which existing moral structure informs the local interpretation of the right to life. For Parekh (2000 135-6), the subordinated status of women in certain indigenous and traditional communities, the practice of torture

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[40] According to Kelly (2003:105), we can read Parekh's strategy of intercultural evaluation as meaning that it is legitimate for the broader society to impose its norms on minorities. As Kelly (2003: 107) further argues, "such modus vivendi arguments are always contingent on the balance of power and advantage and thus can change at any time. […]. And as we have seen, that is not what Parekh wants, and it is an inadequate basis for multicultural recognition".

[41] Metaethical relativism involves the truth or justification of moral judgments and makes the following point: all moral propositions originate from societal or individual standards and, therefore, the truth or falsity of moral judgments cannot be absolute or universal but are relative to the traditions, convictions and practices of a group or persons. Metaethical relativism can be contrasted with moral objectivism, which maintains that moral judgments are ordinarily true or false and can be justified on the basis of evidence available to any reasonable and well-informed person. Descriptive moral relativism claims that it is an empirical fact that there are fundamental disagreements across different societies and that these disagreements are much more important than whatever agreement there may be (Gowans 2008).

and human degradation in religious sects and in some terrorist groups constitute local interpretations of personal and collective worthiness that we should be careful to reject by appealing to universally valid conceptions of moral worthiness. From the viewpoint of Parekh (ibid.), the existence of so many inegalitarian practices that people continue to follow shows that "it is difficult to think of a single universal value which is 'absolute' or inherently inviolable and may never in practice be overridden".

However, the mere fact that the right to life and other basic rights are interpreted differently across different societies does not prove that the application of the right to life and other basic rights ought to be relative to the working moral standards of existing societies. As Hume (1969: 521) has observed, a moral judgment (an *ought to* sentence) that justifies the values used in a social context cannot be logically inferred[42] from an empirical judgment (an *is* sentence) that appeals to the way that things are done in this context.

Simply put, the fact that a conception of personal worthiness is applied in a local societal context does not render this very conception morally acceptable. In order to establish the morality of a conception of moral worthiness, we need other reasons that are external to those provided by the observation that "this is actually how they do things there". In addition, given the psychological make-up of humans, not just anything can count as a good life. The moral legitimacy of severe practices – such as female genital mutilation, suicide for widowhood, torture for blasphemy or adultery, death for religious apostasy – cannot be established by claiming "this is how they usually do things there", in the same way as the statement "men are usually inclined towards physical aggression due to high testosterone levels" cannot legitimize spousal abuse.

Certainly, Parekh does not intend to justify the idea that severe practices should be covered by equality of culture, since his method of intercultural evaluation aims at excluding as unacceptable practices that impose extreme harms on people. He overlooks, however, that we cannot submit the truth and falsity of moral principles to the working ethical standards of cultural groups – as the meta-theoretical background of his justification of cultural equality implies – and at the same time claim that certain cultural practices

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[42] "In every system of morality, which I have hitherto met with, I have always remarked, that the author proceeds for some time in the ordinary way of reasoning, and establishes the being of God, or make observations concerning human affairs; when of a sudden I am surprized to find, that instead of the usual copulations of propositions, *is*, and *is not*, I meet with no proposition that is not connected with *ought*, or an *ought not*" (Hume 1969: 521).

should not be tolerated because they are morally unacceptable. This is an inconsistent position, since we cannot both endorse and reject meta-ethical relativism. Or, expressed in another way, Parekh, by suggesting that we can find common ground for rejecting controversial practices, assumes after all that we can identify an objective meaning of equality that can provide a legitimate common basis for social interaction.

My point is that there is a tension between this assumption and Parekh's approach of cultural equality, since this approach implies that equal treatment is a matter of cultural preference, in particular a matter that takes a range of legitimate forms depending on the working norms of the different cultures.[43]

According to Kelly (2003:106), the upshot of a position that approaches equal treatment as a matter of cultural preference is moral relativism in questions that concern the norm of equality. As Kelly (ibid.) further explains, the cultural relativization of equal treatment implies that "equality is merely a value relative to a particular community and does not provide a normative justification for action to those who do not form part of the community". This means that basic rights and freedoms cannot provide a common basis for sociopolitical interaction to those that have other tastes in matters of respect of individual freedom and constitutional rights. Such a situation makes us wonder why people should care about equal treatment when their culture does not.

The risk of presenting equal treatment as a matter of cultural preference is that the liberal system of rule has to actively recognize or passively accept the inegalitarian working norms of cultural groups formed by contingent relations of power. In turn, the recognition of the inegalitarian norms leads to societal normalization of the relations of subordination and inequality that consolidate and perpetuate established intra-group relations of power. Accordingly, if Parekh's method of evaluation of controversial practices through intercultural dialogue is going to avoid the inegalitarian consequences of cultural rights indicated by the paradox of cultural vulnerability, Parekh's approach of equality of culture has to be modified in order not to present equal treatment as a matter of cultural preference. Instead, Parekh has to endorse the assumption that equal treatment is rather a matter of find-

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[43] According to Parekh (2000: 132), "[e]quality is a matter of moral judgment based on how we interpret and what weight we give to the similarities and differences". Given that the thesis of cultural embeddedness implies that a person's moral judgment is formed by the meanings and norms that her/his horizon of culture provides to her/him, we can say that Parekh´s approach implies that equal treatment is a matter of cultural preference.

ing objective principles of equality and not a matter of showing respect to the working norms of equality of existing cultural groups.

This modification, however, requires that the account of the burden of assimilation implied in the cultural equality approach is also adjusted to reflect this modification: the imposition of the burden of assimilation is unacceptable given that the norms of cultural minorities are compatible with the operative ideal of equal treatment of liberal society. Consequently, relief from the burden becomes conditioned on the working norm of equality that the liberal government promotes. This also means that cultural equality can be advanced as long as the promotion of cultural equality does not conflict with the ideal of equality promoted by the liberal state.

Yet, such an alteration in the account of the burden of assimilation does not allow for the kind of broad and generous recognition of cultural identities that Parekh has in mind. Nor does it guarantee that equality is going to be interpreted in a culturally sensitive manner and in another way than equality of opportunity, as it leaves to the liberal authorities to decide the norm of equal treatment that informs society's major institutions.

2.3. Equal treatment and the duty to relieve minorities of the burden

The preceding analysis has provided reasons to question the account of the burden of assimilation that underlies a justification of equality of culture. However, those reasons only speak against the suggestion that equality of culture should be a dimension of liberal justice; they do not speak in favor of the suggestion that the claims for exemption rights by minority members do not qualify as legitimate claims for equal treatment. Nor do they show that Barry is right when he maintains that the allocation of social goods should not follow a result-oriented criterion of equal treatment but rather one like equality of opportunity, i.e., a criterion that aims at equalizing the chances that people have of achieving their ends wherever and however they begin. Above all, those reasons do not settle the question of whether it is acceptable to consider the burden of assimilation a consequence for which people have to assume responsibility themselves.

Given the liberal neutralist background on which Barry bases his approach to multiculturalism, it appears that the assessment of the account of the burden of assimilation identified in his approach requires that the following issues be considered. Firstly, is it right to approach the claims for exemp-

tion rights of minorities as illegitimate claims for equal treatment? Secondly, is the proper metric of equality provided by resource-oriented principles of distribution, such as equality of opportunity, and not by result-oriented ones? Finally, is it defensible to assign the responsibility for the burden to those that have to bear it, i.e., to the members of minorities?

In the following section, I will discuss in sequence the three questions. I will start by arguing that claims for cultural rights can be read as legitimate claims for equal treatment even within the context of the liberal neutralist model of integration of diversity. I will then present two arguments in support of an account of the burden of assimilation that focus on equality of opportunity. The first argument draws on the distinction between objective and subjective criteria of well-being detailed by Scanlon (1975); it defends the idea that the proper metric of equality is provided by resource-oriented principles of distribution. The second argument aims at questioning the multicultural claim of involuntariness of cultural identity. The purpose of this argument is to tease out what Barry's approach suggests about the burden of assimilation, namely that it is a consequence that people have to assume responsibility for.

2.3.1. The condition of epistemological restraint and the burden

At first sight, it appears that the assessment of the account of the burden of assimilation identified in Barry's approach concerns the possibility of defending the epistemological ideal of neutrality of justification. In this part, I will explain why the acceptance of the liberal ideal of legitimacy of political power that neutrality of justification exemplifies does not necessarily imply that claims for exemption rights should be classified as illegitimate claims for equal treatment. In order to explain this, I will employ Nagel's account of higher-order impartiality, which bears on the epistemological division between private and public domains. This kind of impartiality is, according to Nagel, appropriate as the foundation of a valid concept of political power because it stands on a level that is generally binding.

Higher-order impartiality is a liberal ideal of legitimacy of political power that translates into an epistemological standpoint the division between the private and the public domains asserted in the liberal concept of toleration (Nagel 1987). Besides the ideal of toleration, Nagel's epistemological division between private and public domains also relates to the liberal ideal of neutrality of the state, which is supposed to offer directions about how the liberal state is to conduct itself in matters that concern the ethical convictions

of its citizens. These ideals advocate in different ways the desirability and feasibility of the distinction between public reason and private reason. A central idea with this division is that public reasons provide people holding different, and sometimes incommensurable, religious or other doctrines a common basis for justification of political power. Private reasons do not do this, because they concern the reasons that convince people of the truth of their religious or other doctrines.

The idea of epistemological division between the private and the public domains refers to a kind of epistemological restraint, which draws a distinction between what is needed to justify belief and the higher standard of objectivity that is needed to justify the employment of political power.[44] As Nagel (ibid.: 229) maintains, a result of this distinction is that:

> " […] if we apply the general form of moral thought that underlies liberalism to the familiar fact that while I cannot maintain a belief without implying that what I believe is true, I still have to acknowledge that there is a big difference, looking at it from the outside, between my believing something and its being true".

Hence, the core idea of the epistemological division is that people accept that in certain contexts they are obliged to consider their beliefs as being merely beliefs rather than truths, no matter how convinced they may be of the truth of their beliefs (ibid.: 230). Or, as Barry explains the condition of epistemological restraint (1995: 177), it is perfectly coherent that we are convinced of the truth of our religious or other doctrine, while we acknowledge as a matter of principle that it is wrong to make our doctrine the basis of a public policy in a society in which some of its members reject it.

By claiming that persons ought to exercise epistemological restraint when they reason on matters of the common good, i.e., in their public reasoning, Nagel recommends that the justification of political power has to be performed through a type of moral reasoning that is characterized by "higher order impartiality". This impartiality, which is on a level above ethical questions (Forst 1994: 36), corresponds to neutrality of justification that Rawls (1971) aims at instantiating in his method of original position when he excludes the knowledge of people's own religious beliefs, among other things.

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[44] Nagel (1987: 229) formulates the principle of epistemological restraint is the following way "I believe that the demand for agreement, and its priority in these cases over a direct appeal to the truth, must be grounded in something more basic. Though it has to do with epistemology, it is not skepticism but a kind of epistemological restraint: the distinction between what is needed to justify belief and what is needed to justify the employment of political power depends on a higher standard of objectivity, which is ethically based".

In his justification of higher order impartiality, Nagel (1987: 226-7) relies on an assumption that he understands to be central in liberalism, namely the rejection of the universalizability of the truth of religious beliefs. Thus, the liberal axiom summarized and advanced by the condition of epistemological restraint states that the truth of a particular religious or other ethical doctrine cannot constitute a public reason for basing the validity of law on it.

Although one can discuss the feasibility of Nagel's condition of epistemological restraint, my interest here is rather in what this idea implies for claims for cultural rights, given the account of unacceptability of the burden of assimilation identified in Barry's approach of equality of opportunity. The question is whether the condition of epistemological restraint supports this account, in the sense of supporting the suggestion that claims for cultural rights do not constitute legitimate claims for equal treatment. Hence, the question is whether this specific condition settles the issue of provision of relief from the burden of assimilation in favor of the equal opportunity approach to cultural rights, namely that the liberal authority does not have a duty to relive minorities of the burden.

In order to keep the analysis simple, I will discuss this question by employing two cases. The first is the *Ahmad* case[45], which concerns a Muslim junior school teacher who left his employment because he was not given time off to attend the mosque during work hours on Fridays. The other is the *Begum* case[46], which concerns a pupil who was denied entrance to her school because she went to classes dressed in a more extreme form of veil than the official veil-version of school uniform adopted by her school and accepted by the local Muslim community.

I am going to assume that both Mr. Ahmad and Ms. Begum are persons that are reasonable in the way that the exercise of high-order impartiality requires. Despite their strong devotion to their religious beliefs, they both recognize that it is wrong to make those beliefs the basis of public policy, if some members of the society reject them. The burden of assimilation implies here that both Mr. Ahmad and Ms. Begum have to give up central elements of their faith: he, in order to adhere to his work schedule; she, in order to attend the school of her choice.

Let us assume that Mr. Ahmad uses the burden of assimilation as the reason when demanding to be exempted from the policy of Inner London Education Authority (his employer) and that Ms. Begum does the same in order

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[45] *Ahmad v Inner London Education Authority*. Employment Appeal Tribunal: [1976] ICR 461.
[46] *Begum v. Denbigh High School*. [2004] EWHC 1389 (Admin).

to justify why she should be exempted from the specific dress code. Can we reasonably maintain that these claims for exemptions offered the truth of the claimants' beliefs as the reasons for a change in the policies in question? I think we cannot.

The point is that the burden of assimilation imposed on the two claimants by restrictive regulations instantiates reasons that do not violate the condition of epistemological restraint. These reasons can be formulated in terms of equal freedom, namely that of freedom of expression. Such formulations of the reasons why common rules should be defined so as to respect the cultural identities of Mr. Ahmad and Ms. Begum do not fall back on arguments that appeal to the truth of the claimants' beliefs. Instead, they rely on arguments that question whether the specific established regulations can provide equal employment opportunity for Mr. Ahmad and equal educational opportunity for Ms. Begum without violating their right to freedom of expression. Since those reasons appeal to social justice and specifically to equal treatment, we can call them reasons of justice or reasons of equal treatment.

Thus, the claims of exemption rights expressed by Mr. Ahmad and Ms. Begum can be understood as legitimate claims for equal treatment. Does this mean that liberal neutralists have to admit that the liberal state has a duty to relieve the members of cultural minorities of the burden of assimilation? Do they have to agree with Parekh and make equality of culture a central aim of liberal theory and practice?

I do not think so, because the defense of a liberal neutralist model of integration that follows equality of opportunity concerns the acceptability of the suggestion that the proper metric of equality is given by resource-oriented principles of distribution and not by result-oriented ones. In the following part, I will present how the acceptability of this suggestion can be grounded in Scanlon's argument for objective criteria of well-being.

2.3.2. A defense of objective criteria of well-being

As Barry makes clear in his argument against exemption rights, equal treatment does not imply equal impact. It implies instead providing equal opportunities for people and is realized politically in a two-stage process. In the first stage, equal treatment is organized around the distributive principle of equality of opportunity, and the rights, benefits and obligations that define and make possible equal opportunity are identified. In the second stage, people have access to these rights, benefits and obligations and are free to exercise their equal opportunity in the way they want. Depending on their

aims, interests and preferences, people are going to use their equal opportunity and obtain different outcomes in well-being. Some people may choose to paint, others to become doctors or political scientists, still others to live in monastic seclusion.

For a liberal that advocates equality of opportunity as a proper criterion of equal treatment, such as Barry, it is of no importance how people choose to use their equal opportunity in the second stage.

According to Kelly (2002: 64), the crucial point of equality as a distributive principle is that as long as outcomes vary within a just distribution of rights and opportunities on the basis of individual liberty, i.e., on the basis of the exercise of free choice, how people choose to use their equal opportunity is a neutral matter and of no concern to liberals. Hence, goods and rights can be used in ways that differ, thus resulting in inequality of outcome. Simply put, the fact that different people in the same society attach different values to the same set of goods and rights distributed to them does not initiate a change in the principle of distribution. Some people, such as members of the Amish community, may place little value on political rights and on equal employment opportunity, while others, such as Buddhist monks, may be uninterested in receiving equal economic distribution. In both situations, this has no bearing on the principle of distribution (ibid.: 65).

Claims for cultural rights, on the other hand, do not usually concern situations in which people place little value on rights and equal opportunity. In most demands for exemptions, the issue is that people place a higher value on some right because the performance of the practice that the exemption concerns requires more extensive or a 'greater amount' of the liberty that the specific right delivers.

For example, granting exemptions from dress codes and uniforms usually requires more extensive freedom of expression or freedom of religion; exemptions from laws on animal slaughter also imply more extensive freedom of religion, and the same can be said of the Rastafarian demand for exemption from anti-drug laws. In some other situations the issue may be that the members of a minority, or at least their representatives, value a particular right more highly and another less. This is actually what the Rushdie affair reveals, since the call by some British Muslims in the U.K. for applying blasphemy law to *The Satanic Verses* implies more extensive freedom of religion and limitations on freedom of expression and freedom of speech. For egalitarian liberals such as Barry, none of these situations can justify changes in the principle of distribution. Hence, the fact that certain minori-

ties may value some freedoms more highly has no normative bearing and, therefore, does not justify the granting of cultural rights to these minorities.

From Barry's perspective, the fact that Mr. Ahmad and Ms. Begum need more extensive freedom of expression in order to meet the demands of their faiths and avoid suffering the burden of assimilation is not a good reason for changing the principle of distribution in the first stage of the process of equality. What this kind of change would aim at achieving is a distribution of rights and opportunities that is sensitive to the subjective value that Mr. Ahmad and Ms. Begum attach to this freedom. Since what a person values in the allocation of social goods is a parameter of what s/he needs in order to satisfy her/his substantive interests and preferences, such a change presupposes a distributive criterion that is result-oriented in the sense that it aims at directly satisfying this person's substantive interests and preferences. This is the kind of subjective criterion of equal treatment that Barry has in mind when he maintains that equal treatment does not entail equal impact. In his view, the allocation of the social goods in society should not be informed by a result-oriented criterion of equal treatment. This kind of criterion is subjective precisely because it suggests that the distribution has to be continuously adapted to correspond to the subjective value that people place on rights and opportunities.

According to Scanlon (1975), subjective criteria of well-being are not proper metrics of individual well-being because they do not confirm our intuitive way of proceeding in matters that require the identification of unacceptable inequalities. What I call here 'criteria of equal treatment', Scanlon (ibid.: 655) calls 'criteria of well-being'; these are criteria that provide some standard that can be used as a basis for measuring and comparing the benefits and sacrifices of different people. For Scanlon (ibid.), such criteria have a central role to play in issues of distributive justice because we need to appeal to some standard of this kind when we measure the equality or inequality of people's shares of benefits and sacrifices and when we defend systems of rights.

In a manner reminiscent of Dworkin's (1981a, 1981b) distinction between equality of welfare and equality of resources, Scanlon distinguishes between utilitarian, i.e., consequentialist, and deontological criteria of equal treatment. The former type of criterion implies that

"[…] the level of well-being enjoyed by a person in given material circumstances or the importance for that person of a given benefit or sacrifice is to be estimated by evaluating those material circumstances or the benefit or sacri-

fice solely from the point of view of that person's tastes and interests" (ibid.: 656).

Hence, utilitarian criteria are subjective metrics of equal treatment because they measure the level of well-being of a person only from the point of view of the tastes and interests of that person. In contrast, deontological criteria are objective in the sense that they provide a basis for assessment of a person's level of well-being that is independent of that person's tastes and interests; in this way, they allow for the possibility that such an assessment can be correct even though it conflicts with the preferences of the individual in question (ibid.: 658).[47]

As Scanlon further explains, what leads to the rejection of result-oriented/subjective criteria of distribution as metrics of equal treatment is that such criteria give us an incorrect description of our moral intuitions of what we do in real life when we compare conflicting interests with the aim of supporting a moral judgment. Scanlon (ibid.: 660) asserts that, in such situations, we do not compare how strongly the people in question feel about these interests but rather inquire into the reasons for which the different benefits that the interests point at are considered desirable. What Scanlon points out is that we look instead for external reasons for providing people with or depriving people of certain benefits.

For Scanlon (ibid.), the fact that a person is willing to starve in order to save money to build a monument to his god "does not mean that his claim on others for aid in his project has the same strength as a claim for aid in obtaining enough to eat". Or, expressed in another way, the fact that Jane refrains from working and earning money because her religion forbids women to work does not mean that her claim for receiving financial aid from the state has the same strength as the claim of Jacky who cannot find a job. It appears, therefore, that subjective criteria of equal treatment do not match our moral intuitions of how unacceptable inequalities are to be identified.

Scanlon's (ibid.: 658) point is that, to the extent that we are concerned that some interests are going to be favored at the expense of other interests in the distribution of social goods, what is relevant is an objective evaluation of the importance of those interests and not just the strength of the subjective preferences that these interests represent. In turn, this point does not only lend support to objective criteria of equal treatment but is also an argument

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[47] Examples of positions on distribution of social goods that rely on an objective criterion of equality are those of Rawls (1971) and of Dworkin (2000). Examples of defenses of subjective criteria of equality are those of Cohen (1989, 2004) and of Arneson (1999).

against result-oriented criteria that does not bear on individual responsibility, moral desert and free choice, as the positions on deserved and undeserved inequalities of Rawls and Dworkin do. Rather, this argument instantiates the manner in which we morally contemplate when we compare conflicting interests with the aim of supporting a moral judgment.

What Scanlon's point implies for the question of whether the liberal government has a duty to relieve, for example, Mr. Ahmad of the burden of assimilation is a clear negative answer.

The liberal state does not have a duty to relieve Mr. Ahmad of the burden because the reason why he experiences the limitations set by the employment regulations as burdensome is his strong preference for following Friday prayers. Undoubtedly, the same employment regulations also constrain the satisfying of various preferences that Mr. Ahmad's colleagues may have. For example, John may also want to stop working earlier on Fridays in order to be with his children; Jill may want the same because she would like to qualify for the Olympics and needs time for extra training sessions in the early afternoons. Both John and Jill most likely experience the employment regulations as burdensome, and both have to modify their interests and preferences to fit those regulations. Just as it does not make sense to say that the regulation is unfair to John or Jill because it does not consider the sacrifices that they have to make in order to follow their work schedules, it does not make sense to maintain that the regulation places an unfair burden on Mr. Ahmad because it frustrates the fulfillment of the demands of his faith.

In order for this type of demand to have some significant weight in relation to the kind of project to which Mr. Ahmad attaches great importance, we need arguments that do not refer to the relative and subjective intensity of his preferences emanating from his ethical views. Such arguments can appeal to the following aspects: firstly, the regulation or law discriminates against Mr. Ahmad, since it denies him or limits his access to a constitutional right or an equal opportunity; secondly, the regulation in question does not fulfill a legitimate public objective. I will discuss the role that these aspects play in assessing demands for exemptions in practice later in this chapter.

For the moment, let me point out that Scanlon's defense of objective criteria of equal treatment supports the suggestion that the proper metric of equality is not given by result-oriented principles of distribution but by resource-oriented ones, such as equality of opportunity. Let us now move forward and consider the acceptability of a central feature of an account of the burden of assimilation that is based on equality of opportunity, namely the suggestion that this burden is a consequence for which members of cultural

minorities have to assume responsibility. Do we need to accept that Mr. Ahmad and Ms. Begum have to assume responsibility for the burden of assimilation?

2.3.3. The multicultural objection of un-voluntariness of cultural identity

I would now like to discuss an argument directed against the voluntariness of religious belief and cultural identity. The central point of this argument is a communitarian claim, with strong Hegelian connotations. It states that people cannot help having their primary moral obligations to their (cultural) communities, since what makes them the persons they are is their membership in these communities.[48] This argument is usually directed against the liberal will-centered view of the human condition that regards legitimate human groups – like religious and cultural groups – as voluntary associations. It also underlies a justification of cultural equality that relies on the thesis of cultural embeddedness, in particular when Parekh describes the failure of a member of a minority to make use of equal opportunity as a culturally derived incapacity that can be compared to a natural inability.

The multicultural objection to an account of the burden based on equality of opportunity that I will consider here bears upon the idea of luck as a key indicator in distinguishing deserved from undeserved inequalities.

Good or bad "luck" or "fortune" plays an important role in the model of distributive justice of Rawls (1971: 64, 65, 85). In particular, it underlies his notion of moral desert. This notion states that people cannot be held responsible for the consequences of their unchosen features, since they can choose neither the social environment in which they are born nor their genetic endowments; hence, they do not deserve the disadvantages or advantages that they receive in life due to their unchosen features. In Rawls's view, people's share in the benefits and obligations of social cooperation should not be weighted according to their social fortune or their luck in the lottery of natu-

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[48] The idea of primacy of the norms of community over liberal political norms that may contradict the norms of existing communities is central to the communitarian tradition of making political theory. According to this tradition, inherited systems of affiliations are important, if not exclusive, sources of what people experience as morally legitimate (Shapiro 2003: 170). This can be interpreted to imply that people can neither choose their affiliations and moral obligations nor reject the ethical norms assigned to them by their groups. For communitarians, the norms of historical communities are constitutive of the identity of their members because they are ontologically prior. In Taylor's words, they are the sources of the self, in the sense that they give meaning and value to people's lives.

ral talents, since people cannot choose those features of themselves.[49] Hence, people are only responsible for outcomes that arise from their choices and not for those resulting from their bad luck.

Dworkin (1981, 2000) further clarifies this moral intuition that bears on the aspect of luck by making a distinction between poor option luck and poor brute luck.[50] If I am made worse-off than others because gambles I have made have turned out poorly, then I have poor option luck. However, if I am made worse-off due to no choice of my own, i.e., because of factors out of my control and that could not have been predicted, then I am stricken by bad brute luck (Dworkin 1981: 293). As Daniels (1996: 219) explains this distinction, it is only the latter situation that raises legitimate concerns about the existence of undeserved inequalities, whereas the former does not trigger egalitarian concerns at all.

Proponents of multiculturalism, like Taylor (1994), Parekh (2000) and Modood (2007), usually share basic communitarian proclivities[51] and claim, in one way or another, that the human self is formed and fixed by the beliefs and norms of the cultural community one belongs to.[52] This idea of the human self as fixed by culture makes the idea of choice, implied in the idea of voluntarism characterizing the liberal approach to associations and individual responsibility, look false. Parekh, as we have seen, goes so far as to argue that the cultural embeddedness of the self creates inabilities to follow rules

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[49] "We do not deserve our place in the distribution of native endowments, any more than we deserve our initial starting place in society. That we deserve the superior character that enables us to make the effort to cultivate our abilities is also problematic; for such character depends in good part upon fortunate family and social circumstances in early life for which we can claim no credit. The notion of desert does not apply here". (Rawls 1971: 89)

[50] In a similar vein as Rawls, Dworkin (2000: 91, 92) considers differences in wealth generated by differences in natural endowments – in "genetic luck" or "effects of differential talents" – to be unfair.

[51] Multiculturalists such as Parekh, Taylor and Modood share the following communitarian philosophical convictions: the historicity of moral systems, i.e., that social meanings and values are historic and created contingently within cultural systems; the rejection of universally objective moral epistemology, i.e., that moral values cannot be assessed as right or wrong outside the cultural system that produces them since, contrary to what liberals as Rawls (1971) Barry (1995) Nagel (1987, 1991) claim, there is no such thing as an impartial point of view for making such evaluations; the ontological assumption of situated self, i.e., that collective norms and practices constitute, as Taylor says, "the sources of self" in the sense that they both make persons the beings that they are and supply people's life with meaning and value.

[52] Taylor (1994: 32-34) bases his position of recognition of cultural identity on an ontological argument that presents human identity as created dialogically by collective norms and practices. For Kymlicka (1989: 164-165, 1995: 76-80), persons acquire their horizon of meanings and beliefs through the systems of norms and practices of their cultural communities. For Modood (2007), who bases his theory on Taylor's and Parekh's philosophical assumptions, human beings are definitely culturally embedded.

that are comparable to natural inabilities. If people's beliefs and sense of obligation are deterministically framed by their cultural and religious communities, then it is morally unacceptable to hold Mr. Ahmad and Ms. Begum responsible for having preferences that require a 'greater amount' of liberty in order to be satisfied. Therefore, the burden of assimilation imposed on them by a rule that is insensitive to their cultural identity is undeserved and signifies illegitimate unequal treatment.

Obviously, the multicultural objection of un-voluntariness of religious belief and cultural identity bears on the egalitarian liberal 'luck-driven' notion of moral responsibility. It suggests that Mr. Ahmad and Ms. Begum are not responsible for the consequences of their beliefs, since those beliefs define who Mr. Ahmad and Ms. Begum are in a deterministic manner. Nor are they responsible for needing more extensive liberties in order to satisfy the preferences that emanate from their beliefs. The last point appeals to a metric of equality other than resources or basic goods, which is the metric endorsed by egalitarians such as Rawls, Dworkin and Barry. In particular, it calls for the adoption of a metric that measures equality in terms of welfare, happiness or income in relation to how people end up and not in terms of distribution of resources or basic goods in relation to where and how people begin.

Thus, if the objection of un-voluntariness of religious belief and cultural identity is correct, then Barry's rejection of cultural equality is wrong; consequently, the members of cultural minorities do not deserve to bear the burden of assimilation. Hence, the liberal state should recognize the claims for cultural rights by members of minorities and relieve them of the burden of assimilation. Does this particular objection justify assigning the duty to relieve minorities of the burden to the liberal state?

I suggest that it does not because cultural inabilities are not in any way comparable to natural inabilities.

Firstly, let us assume that Mr. Ahmad has recently adopted the belief that he now has and pose the following question: given that Mr. Ahmad is a recent convert, can we still claim that he is suffering from an inability to follow his working schedule on Fridays that is comparable to a natural inability?

If we think that we cannot, then we mean that an exemption right can be granted only after the authenticity of Mr. Ahmad's beliefs has been verified. This development implies that state agents, such as courts and public servants, should have the authority to decide what an authentic interpretation of a religious doctrine is. It, thus, turns the clock back to situations that Locke's philosophical justification of toleration aims at avoiding, namely that the

political authority decides in private matters of individual conscience. If, on the other hand, Mr. Ahmad's recent conversion does not play a role, then the entire argument about persons as embedded in their religious beliefs and cultural identity collapses. In that case, Parekh has to further explain in what way Mr. Ahmad's inability resulting from his belief can be compared to a natural inability.[53]

Secondly, it is counterintuitive to compare natural inabilities, such as mental and physical handicaps, with inabilities caused by beliefs. Let us assume that Jane and Maria are educated privately in their respective homes and that both girls would prefer to go to school instead. Jane, whose both legs are paralyzed, is taught at home because she lacks the means to purchase a wheelchair. Maria, who can walk perfectly, is educated at home because the school's dress code does not allow her to be dressed in school strictly in accordance with the demands of her faith. In what way can we say that Maria's cultural inability is comparable to Jane's physical inability?

Maria receives home education because she ranks her preference for appearing in public dressed according to the demands of her faith above her preference for being educated at school. Jane's situation is, however, different. She is stranded at home because she cannot walk, with a first-order preference for going to school. Whereas Jane's disability is purely physical, Maria's disability can only be described in terms of psychological disabilities. Unless we are willing to accept that Maria's belief is causing a psychological inability that makes her unable to think and revise her ends[54], comparing the inabilities of the two girls does not make any sense. Even if we accept this, do we really want to approach religious beliefs as unchosen human features that cause psychological handicaps and impede people from functioning normally? Such an approach would be to portray religious people and religious communities "as in the grip of some collective compulsion unable to stand back and reflect on the […] norms that they currently embrace" (Miller 2002: 54).

Thirdly, although it can be questioned whether the egalitarian liberal language of choice provides the proper framework for analyzing the consequences of beliefs, it is still controversial to approach beliefs as idiosyncrasies caused by the unchosen circumstances of life. The reason is that beliefs

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[53] I base this argument on the argument that Tamir (1993: 38-39) makes against Sandel's description of people as 'thickly' encumbered in religious beliefs.

[54] According to Daniels (1996: 220), unchosen preferences that make people worse-off than others can activate egalitarian concerns only when these preferences lead to psychological disabilities, i.e., if they make people unable to function normally.

are open to critical appraisal, as they can be assessed as true or false, more or less supported by evidence, more or less plausible, and so on. Beliefs have, after all, epistemic content, since they make claims about the way the world is and about how we should behave in it. (Jones 1994: 553-556)

If beliefs are susceptible to critical scrutiny, they cannot be approached as quirks of the mind that control our will and compel us to act in ways beyond our reflective capacities. People may as well not bother to evaluate critically the content of their beliefs or may be convinced that their beliefs are true. But this does not mean that they cannot reflect over the merits and consequences of their beliefs and that they have no choice but to take at face value their cultural or religious beliefs. When someone asks us "Why do you believe this?" it does not make sense to answer "Because of my culture, or my religion". Such an answer does not provide relevant grounds for convincing others of the truth or normative merits of the belief in question. It is similar to answering someone who asks "Why do you believe in Newton's law of gravity?" with "The reason is physics", or "Because my school teacher told me so".

Thus, it makes no sense to compare cultural inabilities with natural inabilities. Nor does it make sense to claim that people cannot help but having the kinds of beliefs they have. Consequently, we cannot base the duty to relieve minorities of the burden of assimilation on the objection of un-voluntariness of beliefs. At this point, however, we can wonder whether this conclusion implies that beliefs belong to people's chosen features. Is the voluntariness of beliefs one of the reasons for assigning responsibility for the burden to members of minorities?

In fact, Barry never maintains that people can choose their beliefs. What Barry (2001: 36) says instead is that people are responsible for their beliefs, in the sense that their beliefs are not to be conceived of as some sort of alien affiliation. In his view, assessing the fairness of the costs that people have to carry due to lack of cultural rights does not involve identifying the ontological origins of beliefs. The question of voluntariness of beliefs is nevertheless metaphysical and concerns the irresolvable philosophical problem of free will and determinism.

From the perspective of equality of opportunity, choice becomes a relevant feature in connection with cultural rights at the point where a person P faces an opportunity Y at a specific point in time T, and P has to decide

whether s/he is going to take advantage of Y at T[55]. This clarification of when choice enters as a relevant normative feature for distinguishing deserved from undeserved costs helps us understand what Barry means when he asserts that opportunity is an objective concept. What he means is that P can decide to use or not to use Y at T, given P's aims, preferences, talents, interests, ambitions, beliefs and so forth. Those features frame, inform and influence P's process of decision at the point at which P is to decide what to do with Y. However, in the end, it is P that decides through reflection whether or not to make use of Y at T.

Let us say that Jane is a great fan of Bob Dylan and that she has an opportunity to see him performing live at an open-air concert arranged and financed by the cultural committee of her Swedish hometown. Jane is also rather superstitious and decides not to go to the concert because it is on Friday the 13th. Jane has an objective opportunity of seeing Bob Dylan live, in the sense that she can choose to make use of the opportunity that the cultural committee provides her. At the same time, it seems absurd to employ Parekh's argument and claim that her hometown has to pay the extra costs of her attending another performance of Bob Dylan arranged by a private company on another day because Jane is being subjected to an unequal opportunity of going to the concert. On the other hand, if the cultural committee has decided only to allow members of the Swedish Church into the concert and Jane is an atheist, then we have a practical case of denial of Jane's equal opportunity.

In the former scenario, Jane's opportunity to go to the concert on that particular Friday was objective, but Jane made a choice based on her beliefs not to do so. In the latter scenario, her opportunity was not objective, as admittance to the concert was subjected to conditions that were irrelevant to the purpose of the concert.

In the second scenario, the rule of admission to the concert was decided on by municipal representatives of the citizenry in a process that included arguments for the favoring of just one conception of the good. The process of justification for the rule of admission was not, therefore, neutral in relation to different ideals of the good life of the members of the political community. Thus, the opportunity offered to citizens to attend the concert was not objective but biased towards their conceptions of the good. This is actually the way the aspect of choice relates to equal opportunity and the theme

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[55] "Once again we must insist on the crucial difference between a denial of equal opportunities to some group […] and a choice some people make out of that from a set of equal opportunities […] as a result of certain beliefs" (Barry 2001: 25)

of legitimate costs in the equal opportunity approach to cultural claims. Jane is treated unfairly in the second scenario because she is deprived of the possibility of choosing whether she wants to go to the concert on grounds that are irrelevant to the specific situation. Therefore, the community should either change the admission rule or pay the extra costs so that Jane can attend another Bob Dylan concert. However, in the first scenario, Jane's opportunity to attend the concert is objective, since the community authorities do not place conditions that are irrelevant to the situation on the exercise of her equal opportunity to attend the concert. Whether or not Jane can choose her beliefs is an irrelevant issue that never enters into the process of determining the fairness of the two scenarios.

Thus, the approach of equality of opportunity does not rely on an argument of voluntariness of beliefs when it assigns to members of minorities the responsibility for having to carry the burden of assimilation. It relies instead on the view that equality of opportunity constitutes a proper principle of distribution of social goods because it is an objective criterion of equal treatment. To the extent that we accept this view, we can consider as defensible an account of the burden of assimilation that focuses on equality of opportunity.

2.4. A liberal outline of evaluation of demands for exemptions

The question that I want to pose now concerns the acceptability of the limitations that a liberal model of integration places on cultural minorities, when this model is based on equality of opportunity. How can we evaluate the fairness of limitations placed on minorities by a neutral rule in practice?

Barry's approach of equality of opportunity advises us to ask and answer the following two questions in lexical order:

1. The question of discrimination: Is the case in question a case of discrimination?
2. The question of legitimate public objective: Are the grounds on which the claimant is deprived of the possibility to act in accordance with her/his beliefs legitimate?

The second question is to be divided in two sub-questions:

a. Is the public objective that the rule aims at protecting justifiable?
b. Is the restriction, imposed by the rule on members of minorities, proportional in relation to the achievement of the public objective?

I propose that these questions form a liberal outline of evaluation of demands for exemptions in particular and of demands for cultural rights in general.

The first question is meant to identify whether there is a violation of equal rights and equal opportunity. If Mr. Ahmad's employer has already allowed other employees to take time off from their teaching obligations with pay on a regular basis in order to perform religious or secular activities, we have a situation of discrimination. In the *Begum* case we could, for example, check to see whether other pupils violated the dress code at the same point in time without having faced any equivalent consequences.

The question of legitimate public objectives is actually the central question in deciding in practice whether the imposition of the burden of assimilation is unfair. It is rather common that demands for exemptions, and cultural rights in general, are addressed in terms of discrimination in media debates and in courts by claimants' lawyers. In this way, such cases are framed to appeal directly to violations of equal rights and equal opportunity.

However, the normative issue that demands for cultural rights in general and for exemptions in particular invoke is that of the justification of the public objective that a law or rule aims at protecting. For example, we can question the legitimacy of a uniform policy for bus drivers that does not include an alternative hat for Sikhs or scarf for Muslim women on the grounds that it does not have a valid public objective. The fact that such clothing has never before been part of the dress conventions of a given society does not make a good argument for a restrictive uniform policy. When it comes to uniform policies and dress codes, a public objective that appeals to reasons of security or hygiene seems to be defensible, other things being equal.

In the *Ahmad* case, the question of legitimate public objective requires that we consider how justifiable the objective of fulfilling the educational interests of the school pupils is. In the *Begum* case, the focus is on the justifiability of the school's objective of social cohesion and of creating an educational environment that is free from social and ethnic conflicts, which the dress code aims at achieving. When we deal, for example, with a demand for

open-air cremation, we have to consider the objectives of environmental protection and public health[56]. In cases of requirements for the ritual slaughtering of animals, we have to evaluate the objective of protecting the rights of animals.

Finally, the question of proportionality is also important, since it can identify consequences that are unfair, namely that the achievement of a public objective can establish disproportionately high costs for certain individuals or groups. The question of proportionality concerns the identification of questionable restrictions on access to rights and opportunities.

Let us assume that in the *Begum* case the dress code required total exclusion of all religious symbols from school premises. In such a situation, we can question whether the extreme secular dress code is really in proportion to the aim of social cohesion that the school aims at achieving within the bounds of a liberal society. In a similar manner, we have to consider how a total or partial prohibition on fully concealing veils affects the equal access to equal opportunities of women that wear such veils.[57]

Another example that demonstrates the relevance of the question of the proportionality of the costs that an identical rule causes to minorities is the demand on the part of Sikhs in the U.K. for exemption from security helmet laws in construction areas.

Barry (2001: 49-50) actually allows us to understand that it is possible to identify reasons of equal opportunity for granting an exemption right to Sikhs from obligatory helmet laws. What he suggests is the following: given that half of all male Sikhs in the U.K. are engaged in construction and building (ibid.), helmet laws dramatically affect the equal employment opportunity of male Sikhs. Therefore, a serious consequence of the security helmet law is that Sikhs as a group risk facing social deprivation due to unequal employment opportunity. The crucial premise here is that male Sikhs working in the construction and building sector usually cannot choose another

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[56] In 2009, a Hindu man in Britain lost his court battle for the legal right to be cremated in the U.K. in a traditional Hindu open-air funeral pyre. As opponents of this tradition maintain, open-air cremation is unsanitary and hazardous to health and the environment. More precisely, calculations based on U.N. estimates of mortality rates reveal that in India alone 50 million trees are cut down each year in order to create funeral pyres, generating more than 8 million tons of carbon dioxide (CNN 2009).

[57] In 2010, the Norwegian parliament rejected the proposal that fully covering veils be prohibited in public places in Norway. Although the main argument against the proposal referred to Article 9 of the European Convention of Human Rights, i.e., to freedom of thought, conscience and religion, the Minister of Labor maintained that a prohibition with accompanying sanctions would primarily limit the opportunities of women who wear such garments (Aftenposten 2010).

occupation, since they do not possess other working skills. However, we cannot make a parallel argument in order to defend an exemption for Mr. Ahmad. The reason is that Mr. Ahmad actually can choose another job or another school that has a work schedule that allows for Friday prayers. In this way, Mr. Ahmad, will have the freedom perform his religious duties and follow the demands of his conscience and religion.

2.5. Conclusion

Does the liberal commitment to equality justify the acceptance of cultural equality as a political objective of the liberal state?

In this chapter, I examined two accounts of the burden of assimilation, one that follows from a justification of equality of culture and another that results from an approach to accommodation of diversity that bears on equality of opportunity. The former account adds a dimension to the burden that emphasizes the disadvantages from the non-neutral effect of legislation as a major basis for justification of cultural equality. The later presents equality of opportunity as a proper metric of equality; it also rejects the notion that the dimension of disadvantages of non-neutral effects of laws can have relevance in liberal political theory.

In particular, I have argued that the paradox of cultural vulnerability provides a good reason for questioning an account of the burden of assimilation that bears on the disadvantages of non-neutral effects of laws, namely the reason of inegalitarian consequences of selective distribution of relief from the burden. I have also argued that an account of exclusion of the burden from the methodologies of liberalism that bears on the value of equality of opportunity appears to be promising, given the proposition that proper principles of distribution of social goods are those principles that employ objective criteria of equal treatment.

3. Toleration as Freedom of Association

Since the emergence of liberalism as a doctrine of individual freedom, the concern for handling a diversity of moral views has been central to liberal ideology. Hence, there is overlap between liberals and multiculturalists, as both consider accommodation of diversity to be an issue that has to be settled by definition in political theory. On the other hand, liberals and multiculturalists disagree on whether the traditional liberal solution of toleration as freedom of association can adequately satisfy the claims of various cultural minorities for public acceptance of their distinct norms and lifestyles. The liberal conceptualization of toleration bears, after all, on historical cases of toleration[58] that do not involve a multicultural model of integration. Differential treatment of minorities in the form of cultural rights is, however, not uncommon in contemporary liberal societies. There is a gap, therefore, between liberal theory and actual political praxis, since contemporary cases of toleration do not indicate that freedom of association constitutes the only solution to the accommodation of diversity. Given that contemporary cases of toleration also include the granting of cultural rights to minorities, do liberals need to re-conceptualize toleration in order to make sense of multicultural policies within liberal theory?

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[58] The philosophical discussion of toleration is established in political theory by two texts that define the liberal approach to accommodation of diversity: *A Letter Concerning Toleration* by Locke and *On Liberty* by J. S. Mill. Whereas Lockean toleration draws on the case of the European Religious Wars, Mill's conception of toleration is a reaction to Victorian England's ethics. These two discussions on toleration offer two lines in resolving the issue of accommodation of diversity. Locke's line proposes the strict separation in matters of conscience and faith from matters of politics as a solution to the problem of socio-political instability caused by the European Religious Wars during the 16th and 17th centuries. His view of toleration advocates the exclusion of religious differences from the political sphere in favor of avoiding state intervention in religious matters. The second line is based on Mill's harm principle, which suggests toleration of diversity as long as the free pursuance of a moral position on the part of one person does not inflict harm on others. According to Mendus (1989: 51), Mill's understanding of toleration is premised primarily on an argument of autonomy stating that "it matters more that people should find their own route to the best way of life than that they should lead the best way of life".

The focus of this chapter is on theoretical positions that draw on the conceptual origins of liberalism and that, in different ways, defend the idea that toleration as freedom of association constitutes a proper basis for a liberal theory of group rights. These are the positions of Kukathas (2003) and Barry (2001). Both theorists consider that liberal toleration, as manifested in the political right of freedom of association, provides sufficient self-determination powers to minorities and adequate cultural freedom to people. Both of them also deny the possibility of a normative conjunction between multiculturalism and liberalism. Thus, they implicitly reject a multicultural proposition for granting definitional value to the burden of assimilation in liberal theorizing. On the other hand, an analysis of their models of toleration as freedom of association shows that they give different reasons for excluding the burden of assimilation from the methodological categories of liberalism.

In Kukathas's model of toleration, the reason for excluding the burden of assimilation from the liberal methodology draws on an argument of priority of individual freedom, which also denies the idea that equality is a central liberal value.

What lies behind Kukathas's libertarian separation of liberalism from the value of equality is a methodological conviction that requires that liberalism is derived solely from a universal human property, which Kukathas identifies in the interest in liberty of conscience. It follows from this that liberalism can include only one basic right, that of freedom of association, which, according to Kukathas, sufficiently can handle all human diversity. It also follows that multicultural concerns about the imposition of the burden of assimilation on minorities cannot have bearing on liberal theory, since the assignment of cultural rights would upset the priority of the interest in liberty of conscience.

In Barry's approach to multiculturalism, the rationale of exclusion is located in his resource -egalitarian position on exemption rights, which rejects the proposition of making equality of culture a political objective of the liberal state.

Equality is also the central issue in Barry's position on toleration, though in this context it concerns the self-government powers assigned to groups on the basis of freedom of association. Barry does not see contemporary cases of toleration as demonstrating the need for a liberal justification of group-specific measures of multicultural accommodation. Instead, he sees such cases as involving the normative issue of identification of acceptable and unacceptable inequalities. For Barry, claims to cultural rights made by, or on

behalf of, groups raise the question of 'how much' self-government powers the right to freedom of association can allow to associations and communities without violating the liberal state's commitment to anti-discrimination. Hence, contemporary cases of toleration embody conflicts between equality and freedom of association and raise the question of when freedom of association legitimately overrules equality of opportunity.

My analysis of the proposition of handling multiculturalism with toleration as freedom of association is organized around the concept of the harm of enforced morality. A central assumption of the analysis presented in this chapter is that the rejection of the harm of enforced morality as immoral has been a central implicit premise in the liberal theorizing of toleration ever since the formulation of Locke's case of toleration.

I suggest that the harm of enforced morality, as a methodological concept, lies at the conceptual roots of liberal political theory. I also suggest that this harm constitutes a dimension of the burden of assimilation. This concept gives concrete political meaning to freedom[59] as a generally valuable condition of people, since it leads to the endorsement of freedom of conscience and freedom of association. It lays the initial grounds for the formulation of the principle of state-neutrality in the sense that it motivates the de-politicalization of religious movements. It also expresses the individualistic directions of liberalism, as it signifies that political authority has a primary duty to protect certain interests of each and every person as an individual over the interests of groups or any particular class of people.

In this chapter, I will challenge Kukathas's attempt to handle multiculturalism solely with freedom of association. The central point of my criticism of a libertarian understanding of toleration as freedom of association is that it tends in practice to tolerate acts of persecution instead of systematically relieving people of the harm of enforced morality. I will also question Barry's account of when liberals should allow freedom of association to overrule their commitment to anti-discrimination based on equal opportunities.

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[59] The central importance that an ideology gives to freedom is not what makes the ideology in question liberal, since the concern for the protection and promotion of freedom - in different ways and on levels - figures into all ideologies. In general terms, what characterizes liberals in terms of the approach to freedom is that they do not want to promote the freedom of any particular class or group of people but of each and every person as an individual (Ball & Dagger1995: 52).

More specifically, I will argue that, given that equal opportunity forms the normative basis of anti-discrimination policies, compromising gender equality for the sake of freedom of association of religious bodies is not as unproblematic as Barry considers.

The analysis that follows is divided in three sections. The first one explains how the harm of enforced morality surfaces in the conceptual grounds of liberalism. The second section   analyzes Kukathas's version of toleration as freedom of association. In the last section, Barry's version of toleration as freedom of association is discussed.

3.1. The harm of enforced morality as a dimension of the burden

The individualistic directions of liberalism can be traced back to complex processes of socio-political change that appeared in the interplay of historical developments such as the Protestant Reformation, the rise of the bourgeois class in European cities, the English civil war and the European religious wars. These historical events entailed elements of reaction against two central features of medieval society in Europe: religious conformity and attribution of social status by birth. Out of the interplay of these historical events emerged the liberal ideology that attributed to a political system the aim of the liberation of the individual from the constraints of the medieval social order. However, of all of the historical developments that contributed to the formation and rise of liberalism, the most important was the Protestant Reformation, which established the primacy of individual conscience. (Ball & Dagger 1995: 54-58)

Since the doctrine of conscience called for each person's freedom to pursue the good life in the manner most agreeable to her/his conscience, the adoption of this doctrine by liberalism made the protection of individual freedom a primary liberal concern (McConnel 1999-2000: 1251-2). It also rendered toleration an important political value that needed to be justified from a liberal perspective.

Such a justification was provided by Locke. From the time of Locke's theoretical defence of toleration, one of the central aims of liberal toleration has been to provide a political solution to persecution and pressures of assimilation imposed on religious minorities. In *A Letter Concerning Toleration*,

the main argument[60] for toleration refers to the irrationality of forced imposition of belief (Mendus 1989: Ch.2; McKinnon 2006: 7-10). This goes as follows:

> "The care of the soul cannot belong to the civil magistrate, because his power consists only in outward force: but true and saving religion consists in the inward persuasion of the mind, without which nothing can be acceptable to God. And such is the nature of the understanding, that it cannot be compelled to the belief of anything by outward force." (Locke 2003: 219)

As Mendus (1989: 26) explains Locke's case against religious intolerance, the civil magistrate that employs intolerance or persecution will achieve no more than outward conformity, since people cannot be coerced into genuine belief. Hence, Locke's defence of toleration bears upon a negative argument for toleration, as it establishes the immorality of forced imposition of belief by pointing out the irrationality of intolerance.

By pointing out the immorality of forced imposition of belief, Locke proposes a mode of accommodation of diversity that draws a sharp distinction between the private and the public spheres.[61] This division of a person's life into two domains implies the separation of matters of faith and conscience from issues of politics. Whereas political authorities have to restrain from imposing religious conformity on the members of the political community, religious movements have to refrain from using political power in order to impose their doctrines on the members of rival groups. The implication of this demarcation is the privatization and political neutralization of religion[62]. Religion is de-politicized, in the sense of being deprived of political relev-

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[60] This argument is actually one of the three arguments in support of toleration on the part of Locke; the other two are the argument based on scepticism and the argument based on pragmatism. However, since the argument based on the irrationality of forced imposition of belief is by far the most well-known and powerful argument for toleration on the part of Locke and the one that actually appeals to human will and human understanding (McKinnon 2006: 8), it can be claimed that it is Locke's central argument in *A Letter*.

[61] According to Lewis (1832, cited in Barry 1965: 190-191), "[p]ublic, as opposed to private, is that which has no immediate relation to any specified person or persons, but may directly concern any member or members of the community, without distinction. Thus the acts of a magistrate, or a member of a legislative assembly, done by them in those capacities, are called public; the acts done by the same persons towards their family or friends, or in their dealings with strangers for their own peculiar purposes, are called private".

[62] "The end of a religious society, […], is the public worship of God, and by means thereof the acquisition of eternal life. All discipline ought therefore to tend to that end, and all ecclesiastical laws to be thereunto confined. Nothing ought, nor can be transacted in this society, relating to the possession of civil and worldly goods. No force is here to be made use of, upon any occasion whatsoever: for force belongs wholly to the civil magistrate, and the possession of all outward goods is subject to his jurisdiction" (Locke 2003: 222-3).

ance, in exchange for avoiding political intervention in matters of conscience. Toleration is, thereby, also linked to freedom of association, which is the freedom that guarantees a sphere of human activity located outside of the political/public sphere in which persons sharing the same mores and beliefs can live according to their consciences relatively free from political interference.[63]

Consequently, we can identify in Locke's negative justification of toleration a position that corresponds to a disapproval of the pressures of assimilation imposed on minorities by a majority, namely the argument that condemns as irrational the enforcement of religious faith. Since this argument denounces the assimilationist aims of forced imposition of belief as immoral, it implies that the enforcement of belief is an unacceptable harm. However, it is important to note that Locke's view of toleration does not allow for interpreting the harm of enforced morality as generating political rights that address the substantive elements of various religious doctrines. In line with the distinction between the private and public spheres, this view suggests instead that the "magistrate", i.e., the political authority, should refrain from getting involved in matters of personal belief. Liberal rights should not, therefore, address the substantive content of any faith, since this would entail the political authority deciding how people should interpret the essential elements of their faith.

It can be claimed therefore that the responsibility, assigned to the political authority, for assisting minorities in avoiding the assimilationist pressures of majorities is to be found in the conceptual roots of liberalism: it is a central premise that informs the liberal political framework of accommodation of diversity following from Locke's position on toleration. In classical liberalism these pressures entail compelling people to adopt other beliefs, i.e., depriving them of their freedom to live and organize their lives according to the dictates of their own consciences. Hence, there is an analytical connection in liberalism between the justification of the liberty of conscience and the recognition of the human need to avoid pressures of assimilation in matters of faith. In classical liberalism, this human need corresponds to the individual interest in avoiding the harm of enforced imposition of belief. In contemporary liberalism, it is expanded to correspond to the individual interest in avoiding the harm of enforced conception of the good life or of morality.

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[63] "The position of the church changed with the reformation: the link to divine authority which the church represented, that is, religion, became a private matter. So-called religious freedom came to insure what was historically the first area of private autonomy" (Habermas, Lennox S. & Lennox F. 1974: 51).

Thus, the justification of basic individual freedoms in liberalism bears on the implicit assumption that every person has a basic interest in avoiding the harm of enforced imposition of morality. Since freedom of association aims at affording people the opportunity of organizing their lives and activities according to their own moral views, we can also say that toleration as freedom of association aims at accommodating the basic human interest in avoiding the harm of enforced morality.

As regards the difference between the harm of enforced morality and the burden of assimilation, it lies in how these concepts identify the negative effects of assimilation. Whereas the latter concept focuses exclusively on the harmful consequences that assimilation has for the possibility of cultural minorities to obtain public acceptance of the substantive content of their norms and traditions, the former addresses every person as an individual, independently of group belonging and of the particular substantive content of her/his moral views.

The aspects of individualism and of abstract generality that characterize the harm of enforced morality correspond to what multiculturalists oppose and criticize liberal theory for. They assert that liberalism, due to its individualist and neutralist methodology, fails to provide the kind of accommodation that cultural minorities are asking for in practice. More specifically, they maintain that the centrality of individualism does not allow liberal theory to make normative sense of claims to cultural rights made by, or on behalf of, groups. They also argue that the aspect of abstract generality, i.e., the aspect of identity-blindness, prevents liberal theory from justifying any political measures that would fulfil the needs of minorities for public recognition of their identities. Hence, a concept of toleration that bears only on the dimension of the harm of enforced morality fails to capture the kind of accommodation that cultural minorities are asking for in practice, according to multiculturalists.

3.2. Freedom of association as the only institutionalized freedom

3.2.1. Limitless toleration and the harm of enforced morality

A central methodological assumption in Kukathas's approach to accommodation of diversity is that particular human interests should not be addressed

as a matter of fundamental principle in political theory. For Kukathas, the specific interests of people are products of circumstantial human differences that vary in accordance with the changing requirements of human well – being.[64] Although liberal theory must recognize the plurality of, often competing, interests, it has to "look at the problem of divining political rule from a standpoint which owes its allegiance to no particular interest – past, current, or prospective" (Kukathas 2003: 86). This standpoint should lead to a theory that only gives primary weight to the claims of individuals, since communities can matter for liberals only to the extent that they affect the lives of the individuals living within them. Given that cultural groups are characterized by internal diversity of individual interests (ibid.: 87), the requirement of priority of individual claims prevents the justification of cultural rights in liberal theory.

What Kukathas asserts is that the individualistic basis of liberalism cannot be compromised so that multiculturalists will be able to justify on liberal premises the kind of accommodation that certain cultural minorities are asking for in practice. He also interprets this basis as involving the protection of a universal, in the sense a-historical, property possessed by every human being. This property cannot belong to a holistic entity, like a cultural community, a social class or a nation, because this would bring the subordination of respect for the individual to the good of a social entity. Nor can it reflect the contingent interests of people. Liberal theory cannot, therefore, give definitional value to the interest in avoiding the burden of assimilation that members of cultural minorities may have, since this interest is a product of circumstantial human differences.

By drawing on the moral philosophy of Hume and by rejecting the idea that liberalism can be derived from rationality or autonomy (ibid.: 42-64), Kukathas identifies human conscience – our sense of right and wrong – as the a-historical individual property[65] that makes people uniquely human. He suggests that conscience is the human aspect that structures and governs all human life in the sense that people can be described as governed by their

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[64] "Difference is not essential but circumstantial; and when circumstances are similar, people will act and choose similarly, driven by the same motives which have marked human conduct over the millennia. And because culture and particular historical forms are ephemeral, they are of no value themselves" (Kukathas 2003: 42).

[65] "The most important source of human motivation is principle – or better still, conscience. It is important in this context not because conscience always overrules or overcomes other motives […] It is important, rather, because conscience is what not only guides us (for the most part), but what we think should guide us. It is this motivation which makes us – distinctively – human". (ibid.: 48)

moral sense. For Kukathas, it is the capacity for morality that connects dialogically the self with other selves and renders people to social beings. In short, he argues that the capacity for morality should be identified as the preeminent property of all individuals. Liberalism should therefore assume that all people have a basic interest in having liberty of conscience and liberal theory should be formed to reflect the individual interest in following the dictates of one's own conscience.

Whereas the interest in liberty of conscience constitutes the normative component in Kukathas's account of liberalism, the descriptive component is to be found in his depiction of social world. The social world consists in a variety of societies, which, in turn, encompass a diversity of large and small groups.[66] Societies and groups are mutable historical formations, consist of individuals and matter for liberals because they are essential for the well-being of their members (ibid.: 86). The nature of societies, and of the groups within them, is disunited because there are conflicts of interests between groups and within groups (ibid.: 87-88).

Given the variability and mutability of human associations, the diversity of moralities and the strength of people's attachments to their own moral views, a society is good when it respects diversity as it is. Given the primacy of the interest in liberty of conscience, a society is good when it offers freedom of association to its members. Thus, a good society is a society that relies on laws and policies that are totally neutral in relation to people's moral views in order to not favour any particular moral ideal. Above all, it is a society that tolerates dissenters, although it does not encourage or help those that want to leave their groups (ibid.: 93).

By deriving liberalism solely from the interest in liberty of conscience, Kukathas defines liberal toleration as requiring only one political right, namely that of freedom of association. By maintaining that liberalism has to be receptive to human diversity as it is, he recommends that the liberal state has to tolerate almost all types of associations and communities, no matter how authoritarian or totalitarian they may be.

Kukathas (ibid.: 22) suggests that the ideal liberal state is an archipelago of societies that consists of many different "islands", i.e., communities, that operate in a sea of mutual toleration. In this type of liberal state, which resembles the Ottoman millet system of religious pluralism together with the right to apostasy, conservative and totalitarian groups can impose any kind

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[66] According to Kukathas (ibid.: 91), a group is an association of individuals and society is a union of such associations.

of corporal, psychological, political or socioeconomic harm to their members. As long as people formally have freedom of association, the state has neither a right nor a duty to intervene and protect the members of illiberal groups from suffering any kind of harm. Nor does it have the right or obligation to encourage or assist those that want to disassociate from their groups (ibid.: 133-147).

The analysis thus far suggests that Kukathas submits his conception of liberal accommodation of diversity to two restrictions: the interest in liberty of conscience, which forms the condition of individualism, and the assumption of mutability and variability of the social world, which signifies the fact of diversity.

As regards the harm of enforced morality, the analysis shows that the avoidance of this harm belongs to the conceptual structure of Kukathas's model of toleration. Since the interest in liberty of conscience compares the human good to the individual freedom of following the dictates of own morality, the condition of individualism identifies the harm of enforced morality as morally unacceptable. It subscribes therefore to every person a primary interest in avoiding the harm of enforced morality. Thus, a model of toleration that is based on freedom of association assigns to political authorities a duty to relief people from the harm of enforced morality.

At the same time, Kukathas refrains from interpreting the conception of human good that follows from his condition of individualism as setting any egalitarian constraints on the liberal state, other than a requirement for formal institutionalization of people's right to freedom of association. He also suggests that policies that have any kind of egalitarian ambitions are unacceptable because they always bring about the suppression of diversity. As Kukathas (ibid.: 229) explains how diversity relates to equality, the pursuit of equality demands a serious disruption of the lives of people who view or value equality differently. Therefore, if diversity is accepted, then equality has to be abandoned.

Hence, the reason why liberal toleration requires no other political right than the right to freedom of association is to be identified in the role that Kukathas gives to the fact of diversity in his model of toleration. Since he conceives liberalism as directly subordinated to the mutability and variability of the social world, he assumes that liberal institutions are legitimate only when they completely refrain from taking actions that intentionally or unintentionally can upset human diversity by influencing the moral views of citizens. However, such a conception of legitimate political power corres-

ponds to a rather open notion of moral agency, which defines as legitimate agency everything that human conscience tells and can tell people to do.

Consequently, legitimate moral agency includes also intolerant moral views, i.e., moral views that when exercised involve other persons being deprived of the possibility of living according to the dictates of their own conscience. Intolerant persons are, in this way, given virtually unregulated freedom to impose the harm of enforced morality on others. In this way, liberalism is interpreted as not placing any requirements on people to respect each other's interest in avoiding the harm of enforced morality. Whereas mutual respect is relativized, toleration requires the liberal authority to tolerate virtually without limits those that are intolerant for reasons of respecting their interests in liberty of conscience. Thus, liberal toleration applies to any way in which people may treat each other, on the proviso that people are not overtly hindered from exercising their right to freedom of association and disassociation.

3.2.2. The conceptual background of the relativization of respect

What underlies Kukathas's relativization of mutual respect is a view of the theoretical nature and the practical role of respect: respect can be neither the result of rational or reasonable agreement in political theory nor the means of achieving rational or reasonable consensus in political life. This anti-constructivist view of respect[67] corresponds to an anti-realistic epistemological standpoint that rejects the possibility of attaining objective knowledge in normative theory.

Given the incommensurability of values, the fact of diversity and the realization that we cannot attain objective knowledge in normative questions, the content of mutual respect can be nothing other than context dependent. The answer to the question "What respect do people owe each other?" depends on cultural conventions and how different norms and virtues are valued and honoured in different cultural contexts. After all, the question of

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[67] That Kukathas adopts an anti-constructivist view of respect means that he rejects constructivism as an ethical and meta-ethical position. According to Bagnoli (2011), constructivism in ethics implies "that insofar as there are normative truths, for example, truths about what we ought to do, they are in some sense determined by an idealized process of rational deliberation, choice, or agreement". As a metaethical position, i.e., a position on "whether there are any normative truths and, if so, what they are like, constructivism holds that there are normative truths. These truths are not fixed by facts that are independent of the practical standpoint, however characterized; rather, they are constituted by what agents would agree to under some specified conditions of choice" (ibid.).

what respect we owe to each other is a normative question. Since we lack the common grounds for objectively evaluating normative questions, we cannot find an objective answer to this question. Liberals cannot, therefore, demand that those that are intolerant become tolerant and respect the interests in avoiding the harm of forced imposition of belief of others or any other basic interest assigned to people in liberal theory.

Kukathas's relativist notion of respect is bound up with the rejection of the possibility of discovering the conditions of the legitimacy of liberalism through an impartial method based on rationality or reason, as contractual theorists suggest. This rejection echoes the criticism of Hume (1984) of the idea that the contractual method is the means to objective political theory: political theory is inevitably time bound, since the legitimacy of any political system is to some degree always a matter of accidental historical circumstances.

Kukathas's position on toleration suggests that it is pointless to search for criteria of legitimacy accepted by a consensus of everyone that is required to live under them. Liberals have to stop viewing liberal norms, such as equality and toleration, as objective truths that generate universally applicable prescriptions. They should instead regard those norms as historically contextualized conventions, the content of which depends on the historical variations of human diversity. They have to accept that the world contains many ways of life, which often conflict with each other in an incommensurable way. Hence, liberals have to abandon the view that toleration based on mutual respect constitutes an objective model of achieving social stability and individual well-being in all societies.[68]

Thus, Kukathas denies that liberalism is to be derived from a moral theory based on reason or rationality. Although he does not disagree with the idea that morality presupposes basic intellectual capacities and a sense of self-interest, he does not conceive of liberalism as guided by an understanding of human beings as rational or reasonable individuals.

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[68] Kukathas's anti-constructivist approach to liberal toleration echoes certain aspects of the way Gray (2000) analyzes liberal theory. Gray identifies two traditions of liberal thought: one that presents liberalism as a theory of a universal rational consensus; and another, in which liberalism is a project of seeking terms of peaceful coexistence between different ways life, i.e., a *modus vivendi* project. What Gray actually suggests is that, if liberalism is going to survive as a doctrine of freedom relevant outside the historical context of Western liberal democracies, then liberals have to understand that "[l]iberalism's future lies in turning its face away from the ideal of [toleration] as rational consensus and looking instead to [toleration] as *modus vivendi*" (ibid.: 105). Like Gray, Kukathas conceives liberalism as a *modus vivendi* project that denies the idea that human rights constitute immutable truths with self-evident contents.

From Locke and Kant to Rawls, Nozick and Scanlon, a series of liberal thinkers has sought to accommodate the fact of diversity – i.e., that persons have different answers when it comes to how their private and collective lives are to be organized – by proposing political arrangements that hypothetically obtain the consent of rational or reasonable individuals.[69] What these thinkers have in common is that they derive the legitimacy of liberal government from a notion of moral agency that presupposes some type of rationality or reasonableness. Rationality or reason is presented as part of the condition of individualism and aims at providing a common ground for agreeing about what legitimate liberal authority implies, given the fact of diversity. Its role is to make it possible for liberal theory to give primary political significance to the fact of diversity while avoiding proposing a relativistic concept of political authority. In order to explain what this means, let us first disentangle some central terms.

The fact of diversity refers to the familiar phenomenon of diversity of moral views of the social world. It implies that individuals "express different preferences, perhaps even different 'reflective' […] judgements, when it comes to the ways in which their personal and collective lives are to be organized" (D' Agostino (2004): 239). Since the beginning of liberalism, liberal thinkers have sought to formulate concepts of authority that are responsive to the fact of diversity. They have, therefore, endorsed the condition of pluralism, which is to be distinguished from diversity.

Whereas the word 'pluralism' can be confused with 'diversity' as it can be understood to stand "for the empirical claim that different people hold different beliefs and values" (Crowder 1994: 293), pluralism as a theoretical condition[70] proposes "that the fact of diversity must be acknowledged as of fundamental ethic -political significance" (D' Agostino 2004: 240). It holds in particular that, "[i]f diversity of assessments creates difficulties for individual or collective choice, then, […], these difficulties have to be addressed

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[69] In the contract theory of Hobbes (1996), the basic idea is that, although we cannot agree on the truth value of moral norms, we can agree on the political institutions that are to govern us; these are the kinds of institutions that rational, in this sense, self-interested individuals, would choose. For Locke (2003), political arrangements are to be guided by the law of men, which is the law that individuals guided by reason would accept. Contemporary deontological liberals, such as Rawls (1971, 1995), Nozick (1974) and Barry (1995), who envisage liberal theory as a theory of right, also justify their respective versions of social justice by relying on some understanding of human reason.

[70] It is important to point out that D' Agostino does not use the term "condition of pluralism". Crowder, on the other hand, distinguishes between the term 'pluralism' and the thesis of pluralism, which is a meta-ethical thesis that recognizes the impossibility of reducing values to a hierarchical frictionless system (Crowder 1994: 293).

on terms which recognize the significance of the diversity which engenders them" (ibid.).

The condition of pluralism can also be associated with the thesis of value-pluralism, which explains why diversity can create problems for the coordination of choice. This thesis involves a meta-ethical position about the nature of values and claims that "values cannot be reduced to any hierarchy or frictionless system but are, on the contrary, irreducibly multiple and constantly liable to come into conflict with each other" (Crowder 1994: 293). Hence, value-pluralism expresses scepticism about the interpersonal status of values, as it implies that human reason is inadequate for definitively answering the question of what makes life worth living.

When liberal contractualists, such as Rawls, Nozick and Barry, endorse the condition of pluralism, they do not confront liberalism directly with the fact of diversity. Nor do they necessarily associate liberalism with scepticism about values. This is because their underlying idea is the following: although diversity causes problems for collective choice in normative questions, the human capacity of reason makes possible an agreement on the form and the content of political authority. Their liberal outlooks can bypass the value-scepticism associated with the thesis of pluralism by placing answers to the questions of the good life outside of the political sphere. In contrast, Kukathas submits liberalism directly to the fact of diversity and thereby to value-scepticism, as he believes that liberalism has to be inclusive in relation to all human diversity and, therefore, responsive to all answers to the question of what makes life worth living. However, this does not mean that he proposes that liberal principles, and the policies derivable from them, should reflect the substantive content of the different ideals of the good.

Kukathas, instead, interprets the direct confrontation of liberalism with the fact of diversity as requiring liberals to adopt a 'thick" doctrine of neutral political concern, i.e., a principle of neutrality of the state.

Within the context of Kukathas's model of toleration, the principle of neutrality of the state requires the political authority to refrain from taking any action, if this action is going to make a difference to the likelihood that a person will endorse one ideal of the good over another. Simply put, this principle asks the state not to do anything that can possibly influence or disturb the morality of people. In this way, state-neutrality[71] is given a 'thick'

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[71] My distinction between the meaning that the principle of state-neutrality assumes in Kukathas's theory and the meaning that this principle usually has in contemporary liberal theory is based on the interpretations of political neutrality suggested by Raz (1986: 114-5) and by Rawls (1993: 192-3).

meaning that differs from the meaning that contemporary liberals usually assign to this principle, namely that the state should avoid taking action that intentionally favours a particular ideal of the good.

Hence, Kukathas suggests that liberals have to endorse a relativistic notion of respect and recognize that it is immoral to force people, who share ideals that conflict with core liberal values, to endorse an ideal of toleration that is based on mutual respect. A theoretical implication of the particular relativization of respect is that the principle of neutrality of the state is defined to require the political authority to refrain from taking any actions that intentionally or unintentionally can affect or upset in any possible way the moral views of people. However, a practical consequence of giving such a 'thick' meaning to neutrality is that the liberal state is required to refrain from stopping people that hold conservative or oppressive ideals of the good life from imposing their ideals on others. In this way, illiberal people are given unregulated freedom to impose the harm of enforced morality on others. In turn, this consequence makes us wonder about how acceptable a notion of toleration that allows illiberal people to mistreat others for reasons of liberty of consciences is. Allow me, therefore, to investigate this question in connection with a case of honour killing.

3.2.3. Persecution as an unintended consequence of liberal toleration

3.2.3.a. 'Good' reasons against 'good' reasons

In 2006 in the U.K., Ms. Mahmod was killed by her father and her uncle because she had a relation with a man of whom her family disapproved. As a case of honour killing, the murder of Ms. Mahmod is a form of extra judicial execution that signifies an atrocious violation of women's basic rights.[72] However, from Kukathas's epistemological view that rejects the possibility of objective answers to normative questions, this case concerns the incommensurability of values that becomes evident when persons, influenced by different cultures, honour different ideals of marriage. The woman endorsed the ideal of personal choice of a partner, while her family did not believe that the ideal of romantic love is applicable to marriage and family life. Hence,

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[72] "Honour killings" refers to one of the most horrendous forms of women's human rights violations and is a form of extra judicial execution. It is "subjected on individuals who believe or are perceived to believe in values and standards which are at odds with the social mores of the society in which they may live". (Pevizat 2002)

we are confronted with a conflict of moralities, which the two men decided to resolve by killing the woman. At this point we can ask whether Kukathas's epistemological standpoint implies that liberals cannot condemn this act of killing as morally wrong.

I do not actually read Kukathas's theory as suggesting that liberals cannot denounce the killing of Ms. Mahmod as morally wrong. After all, his theory is primarily a theory of political morality and not of individual morality. Moreover, since Kukathas recognizes that people have a moral right to maximum liberty of conscience, he refers the question of condemnation of the specific act of killing to the moral feeling of each person.

On the other hand, the version of neutrality of the state advocated by his account of liberalism recommends that the state should almost totally refrain from helping the victim avoid the harm of persecution imposed on her by her relatives. It seems, therefore, that this account assigns all of the responsibility for avoiding her own persecution to Ms. Mahmod herself, despite the fact that she did not choose to be born into that specific family. Does it make sense to suggest that the victim of this case should bear the responsibility for preventing her own killing?

Let us try to answer this question by identifying the political consequences of Kukathas's version of neutrality of the state in connection with the specific case of domestic persecution.

Kukathas's account of liberalism implies that constitutional essentials only include the right to freedom of association, which is supposed to protect individual freedom as defined by the following principle of freedom: each person has a right to maximum negative empirical freedom to live according to the dictates of one's own morality.[73] Since there are no other constitutional rights or principles to weigh against the right of associational freedom,

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[73] Kukathas's derivation of freedom from the interest in liberty of conscience implies that freedom is to be found in unimpeded fulfilment of one´s own moral law, no matter the specific content and origins of a person's morality. For Kukathas, the moral law that we prescribe for ourselves is not - as liberal rationalists drawing on Kant claim - general, universalized and accessible through the human faculty of practical reason. It is, instead, specific and can have diverse and changeable contents, as it is formed within the moral and institutional parameters of different historical contexts by real persons situated within these contexts. Thus, if freedom implies unrestricted compliance with personal moral law, then freedom requires the total absence of external constraints in matters of the realization of one´s own morality. In other words, Kukathas identifies liberalism with the principle that each person has a right to maximum negative empirical freedom to live according to the dictates of one´s own morality. As a result, liberal government is assigned the obligation of providing maximum negative liberty to individual agents, whereas negative liberty is the absence of any kind of unwanted interference on the part of others in matters of moral beliefs.

courts, when they rule in cases like the one here, have to deal with freedom of association as an absolute constitutional right and every example of its exercise as a moral right without any further qualification. As regards the condition of voluntariness of group membership that the right to exit reflects, this is also an instance of freedom of association since it concerns the right to freedom of disassociation. The question now is what reasons for or against interfering in associational freedom a minimalistic constitutional context of this kind provides in cases of domestic persecution.

Given that associational liberty is recognized as the only fundamental liberty, the specific constitutional context categorically rejects other typical reasons for interference that can be provided in this case. For example, we cannot evoke the position of Glover (1977), which identifies the wrongness of taking another person's life in the deprivation of a valuable life to live. Nor can we appeal to the harm principle[74] of Mill, which sets the limits of personal freedom on acts that injure other persons. As De Marneffe (1998: 146) explains, the identification of a general category of liberty as fundamental in political theory implies the claim "that there are moral rights against government interference with certain specific liberties that are naturally thought to fall within this general category". In Kukathas's theory, this is the moral right to live a life according to the dictates of one's own conscience, which is established by the condition of individualism and which reflects the interest in leading a life according to one's own morality. But does this right provide reasons for or against government interference in this case of domestic homicide?

According to De Marneffe (ibid.: 146-147), it is possible to identify two different ways in which it is wrong for the political authority to interfere for a specific reason with a liberty: either the reason to interfere may be a bad reason, or the reason might be good, but there is a reason against interference that has moral priority over the good reason to interfere.

More exactly, a reason is bad when the proposition that is supposed to establish the judgement that the government ought to interfere is false or inadequately supported, or, while true and adequately supported, is irrelevant to the judgement that the government ought to interfere. Moreover, a reason against interference has moral priority over a good reason to interfere "if it identifies a burden that interference would impose on someone that is sub-

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[74] "[…] the only purpose for which power can be rightfully exercised over any members of a civilized community, against his will, is to prevent harm to others" (Mill 1999: 52).

stantially worse than any burden imposed on someone by non-interference
[…]" (ibid.).[75]

Following De Marneffe's criteria of identification of good/bad reasons for
political interference, it appears that Rawls's idea of respect for the inviola-
bility of every human life[76] as reason for interfering in the internal affairs of
the family of Ms. Mahmod constitutes a bad reason from Kukathas's pers-
pective. For Kukathas, this idea is false, as it presupposes that there is an
objective ideal of respect that citizens have to follow. Alternatively, if we
evoke as a reason for government interference the moral right to live a life
according to one's own moral view of Ms. Mahmoud, then it seems that we
may have a reason for interference that is good from Kukathas's perspective.
If we accept that she was following her own ideal of the good life when she
was dating a man of whom her family disapproved, then we can claim that
the two relatives, by killing her, stopped her from living a life according to
her own moral view.

On the other hand, Kukathas's model also suggests that the two perpetra-
tors have the moral right to follow the prescriptions of their morality, which
in this specific case commands them to kill their female relative since she
dishonoured her family. The question is now whose moral right to liberty of
conscience has priority: that of the victim, or that of the perpetrators?

Kukathas's analysis speaks for the moral right of the perpetrators, since it
assumes that the protection of the moral right of the victim is covered by the
right to freedom of disassociation. Hence, the moral right to liberty of con-
science of the two relatives overrides the same moral right of Ms. Mahmod.
It seems, therefore, that Kukathas's model of toleration speaks against state
interference in the internal affairs of this family, even when the consequence
of non-interference is the persecution of Ms. Mahmod by her relatives. Does
this mean that Kukathas suggests that the woman's burden of persecution is

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[75] An example of a bad reason is "the reason to prohibit the public expression of certain polit-
ical beliefs that their expression will result in revolution. If this proposition is false or inade-
quately supported, then it is a bad reasoning itself for government interference". An example
of a reason of non-interference that overrides a good reason of interference is the following:
"Consider, for example, the reason against prohibiting the public expressions of beliefs about
the wisdom of government policy that it will make it difficult for those who hold these beliefs
to influence the political process in ways favourable to their legitimate interests. This reason
identifies a burden that is substantially worse than the burden of being upset by hearing these
beliefs expressed" (De Marneffe: 146-7).

[76] "Justice is the first virtue of social institutions, as truth is of systems of thought. […]. Each
person possesses an inviolability founded on justice that even the welfare of society as a
whole cannot overrule". (Rawls 1971: 3)

less important than the burden of the two relatives having their morality constrained?

The point is that the notion of state-neutrality implied in Kukathas's account of liberalism requires the state to refrain from interfering with the liberty of conscience of the two relatives. Hence, it seems that his model of toleration implicitly gives moral priority to the burden of shame that the relatives have to carry due to the woman's behaviour. It also refers Ms. Mahmod to her right to exit, which she is entitled to use in order to avoid the burden of persecution. In terms of assignment of responsibilities, giving priority to the burden of the relatives and referring the woman to the right to exit show that Kukathas's model of toleration places the responsibility for avoiding her persecution entirely on Ms. Mahmod The strong moral voluntarism that informs Kukathas's account of liberalism suggests that the woman should suffer the consequences of her change of moral view, since she is the one that adopted an ideal of marriage of which her family disapproved.

At this point we can wonder whether it makes sense to hold the victim responsible for being persecuted by claiming that she failed to use her right to exit. After all, did she really have a genuine possibility of leaving? And even if she did and failed to avail herself of it, can we consider persecution an acceptable consequence of liberal toleration?

3.2.3.b. Violating the premise of individual freedom

The question of whether there is a genuine option of exiting a conservative or authoritarian group is the Achilles heel of liberal toleration. It involves the adequacy of the voluntariness of membership as a guarantee that groups do not abuse their powers and inflict serious harm on their members. Since I further discuss this question in the chapter that analyzes the autonomy approach to cultural rights, let us focus here on whether the victim in the specific case of honour killing had a real option of leaving her family.

The genuineness of the exit option for Ms. Mahmod depends on two factors. The first has to do with whether she was a mature person capable of making an informed decision on her own to leave her family. The second concerns the effectiveness of the right of exit in preventing her murder.

Although Ms. Mahmod meets the first requirement, cases that concern children raise doubts about the soundness of the assumption that the right to freedom of disassociation can adequately protect people from internal power relations within a group. For example, the paedophile case in Norfolk Island in the Pacific Ocean exposes a history of sustained child abuse committed over several decades by a senior public person and encouraged by the isola-

tion of the island and the reluctance of the victims to come forward in a relatively closed society[77]. How realistic is to expect children to possess the voluntarism needed to leave such a group? Is not the claim that "if a child does not like to be sexually abused, s/he can leave the group" counterintuitive, after all?

With respect to the effectiveness of the option to exit, the use of this option by Ms. Mahmod does not necessarily mean that her relatives will stop persecuting her. Yet, Kukathas's model of toleration suggests that the liberal state should not protect her even after she has left her family, since this would entail the state favouring one moral ideal over another. At this point, let us briefly consider the Rushdie affair, in an attempt to capture the peculiar consequences of a system of rule that fails to protect the victims of those that are intolerant in order to include as much diversity as possible.

From Kukathas's perspective, Ayatollah Khomeini's pronouncement of a death sentence on Rushdie for blasphemy is unacceptable, not because it is wrong to kill people that propose alternative interpretations of old texts but because the Iranian constitution does not recognize the right to apostasy. What if it allowed apostasy and Khomeini pronounced a death sentence on Rushdie for blasphemy nonetheless? Does Kukathas mean that a liberal society organized around his framework of toleration should not have offered Rushdie its protection, as the British state did? Given the notion of state-neutrality that informs his model of toleration, does Kukathas propose that the U.K. should not have gotten involved at all, in order not to disturb the freedom of those British citizens whose morality dictated that they implement Khomeini's fatwa?

It appears that a major practical consequence of Kukathas's model of toleration is that it gives priority to the freedom of those that are intolerant to constrain the liberty of others. While those that are intolerant can blatantly disrespect the interests of others in living according to their own morality, the state has to refrain from helping the victims of intolerant people for reasons of non-interference with human diversity. Kukathas's outlook equates in this manner liberal toleration with the idea that 'anything goes', in the name of lack of common normative grounds in circumstances of moral pluralism.

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[77] In 2001, a court found 68-year-old S. N., widely regarded as a pillar of the community, guilty of indecency against children aged between seven and thirteen. According to Islanders, the case exposes a history of recurring child abuse over decades, encouraged by the island's isolation and the unwillingness of victims to reveal the sexual abuses in a small society in which everybody knows each other (Squires 2001).

On the other hand, the endorsement of value-scepticism and the direct confrontation of liberalism with the fact of diversity do not necessarily lead to limitless toleration.

For example, Gray (2000: 107) interprets liberal pluralism as setting the limits of toleration on regimes that systematically expose people to serious injury in order to remain in power. According to him, regimes that practice genocide, torture, suppression of minorities or majorities, humiliation of their citizens, destruction of the environment or sanctioning religious prosecution are not legitimate, because they are obstacles to the well-being of those whom they govern. What Gray suggests is that liberal toleration cannot cover such practices, since they constitute the worst human evils in all possible societal and cultural contexts.

Kukathas's model of toleration, however, cannot set limits on the worst human harms, such as homicide, physical and psychological torture, denigration and suppression. This is because Kukathas defines liberalism as amenable to all diversity for reasons of endorsement of value-scepticism. Simply put, Kukathas reasons that the liberal authority is not in a position to take any action that directly or indirectly excludes or suppresses any way of life, given that there are no scientifically given truths about the best way to live. Still, it is possible to reject Kukathas's model of toleration by questioning the conceptual connection that Kukathas draws between liberalism and value-scepticism.

As Mendus (1989: 78) explains, (a) there is no historical connection between liberalism and scepticism; (b) liberalism has no conceptual commitment to scepticism; (c) liberalism affirms what scepticism denies, namely that the values of freedom and toleration are objectively better than others. Aside from how acceptable these three reasons may be, we can also identify a reason that concerns the validity of Kukathas's model of toleration. It is that this model fails in practice to pay regard to the interests of all people in living according to the dictates of their own morality, i.e., to the interest that defines both the condition of individualism and the normative component on which Kukathas bases liberal toleration.

As the case of Ms. Mahmod shows, Kukathas's attempt to develop liberalism from value-scepticism leads to a model of toleration that in practice gives priority to the freedom of those that are intolerant to persecute others at the expense of the freedom of conscience of those being persecuted. Such a model tends to unintentionally support actions of persecution instead of the value of individual liberty of conscience. Thus, when it comes right down to it, Kukathas's version of liberalism cannot deliver what its own condition of

individualism promises, namely individual freedom to live according to the dictates of one's own conscience. This failure is the outcome of Kukathas's ambition to derive liberalism solely from the interest in liberty of conscience or, formulated in another way, the interest in avoiding the harm of enforced morality.

If a liberal system of rule is organized, as Kukathas suggests, around a principle of freedom that assigns to each person an unconditional right to maximum negative empirical freedom of living according to the dictates of her/his own morality, then obviously governments are going to face a problem of dealing with conflicting actions of people with different moral views. Almost everybody is going to do as s/he likes in order to achieve maximum fulfilment of his or her own morality. Such a system of public rule is destined to collapse into a Hobbesian state of nature due to a lack of coordination of actions. Kukathas tries to avoid the problem of coordination of actions by assuming that people are going to form and live in separate groups that correspond to their moral views. However, this solution is based on the fallacious idea that every culture is a concrete whole and corresponds to a specific group. Moreover, this idea solves neither the problem of one group persecuting another nor the problem of internal persecution of members of illiberal groups.

Thus, we have good reason to question Kukathas's relativization of respect, since it leads to a model of toleration that, in practice, fails to stop persecution and interference in individual freedom of living according to one's own moral view. In other words, Kukathas's attempt to handle multiculturalism solely with freedom of association submits the provision of relief from the harm of enforced morality to intra-group contingent relations of power. Simply put, Kukathas's account of liberalism fails to provide a theory of accommodation of diversity that can be loyal to its basic premise, namely the condition of individualism that requires the political authority to ease people from the harm of enforced morality.

In order for this account to be able to function in practice without violating its own premises, Kukathas has to add two stipulations to his theory:

(a) that all associations are internally tolerant, in the sense that they actively respect and protect the freedom of conscience of their members;
(b) that the right to exit is politically protected.

The first stipulation calls for the addition of other basic rights to Kukathas's minimalist list of rights, such as the freedoms of religion and expression and

the right to education. The second stipulation requires the state to actively support and help all citizens who are persecuted and are suffering the harm of enforced morality. Both conditions imply that Kukathas has to make his theory susceptible to intuitions of unacceptable inequalities of access to relief from the harm of enforced morality.

3.3. The extent and limits of freedom of association

3.3.1. Freedom of association and the harm of enforced morality

In contrast to Kukathas, Barry (1995, 2001) believes that liberalism should face the fact of diversity in a way that makes it possible to place the answers to questions of the good life outside of the political sphere. For Barry (1995), liberalism should face human diversity in a deontological way. In the words of a prominent critic of deontological liberalism, this means that "society […] is best arranged when it is governed by principles that do not *themselves* presuppose any particular conception of the good" (Sandel (1982: 1). According to Gaus (2004:111), deontological liberalism presumes that, because every person is the one who should choose her/his own ends in life, respect for other individuals' personhood demands that we refrain from imposing our moral views on them. This means that principles respect people as individuals only if they can be endorsed by each person. Hence, respect "requires *a certain mode of justification*, according to which moral principles are acceptable to all free moral persons in a fair choice situation" (ibid.).

An example of such a situation of fair choice is Rawls's methodological device of the original position. Although Barry (1995: Ch. 3) bases his own theory of liberal justice on the choice situation constructed by Scanlon and not by Rawls, he explicitly places his egalitarian approach to cultural equality and his model of toleration under the plateau of Rawls's theory of justice.[78] Let us look, therefore, at how the harm of enforced morality surfaces in Rawls's theory.

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[78] As Barry (2001: 16) explains, his view on the liberal legitimacy of cultural rights constitutes a defense of Rawls's theory of justice:"The egalitarian liberalism that I shall lay out here is influenced by, and related to Rawls's theory of justice, at any rate on my interpretation of it. If Rawls is taken to epitomize the contemporary state of the 'Enlightenment project', this book constitutes a defence of it".

3.3.1.a. The theoretical background

In *A Theory of Justice*, Rawls justifies toleration in connection with the principle of Equal Liberty, i.e., the first principle of justice. He thereby allows the issue of toleration to be decided from the standpoint of the original position. (Rawls 1971: 180-190) He also bases toleration on equal respect, whereas equal respect requires that political principles are acceptable to those whom they are to bind.[79]

Regarding the selection of significant interests that are relevant in defining toleration, Rawls's argument instructs us as follows: if persons are constrained to legislate in an impartial way in the sense that they are ignorant about their beliefs about the true and good way of life, then they are going to reciprocally recognize each other's concern for liberty of conscience. What this means is that the existence of diverse ethical views, i.e., the fact of diversity, guides persons, who are properly constrained to consider only the justifications that all reasonable persons would accept, to freedom of conscience and thereby to mutual toleration.

Concerning the interest in avoiding the harm of forced imposition of belief, we can suggest that the fact of diversity leads persons in the original position to realize that every person feels the same about the direct or indirect imposition of moral views, namely that s/he wants to avoid suffering this harm. Thus, Rawls's justification of toleration presupposes that persons have a basic interest in avoiding the harm of enforced moral view. It is this interest that leads them to give the freedoms of conscience and association the status of basic goods.

According to Rawls, mutual toleration requires a state that guarantees "moral liberty and freedom of thought and belief, and of religious practice", that does not favour any particular religion and that recognizes its members' right to freedom of association (ibid.: 186).[80] Hence, freedom of association is a central aspect of mutual toleration and is derived from the individual

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[79] Rawls's ideal of legitimacy of a common regulating framework is representative for what Nagel (1991) calls "the pure ideal of political legitimacy": "The pure ideal of political legitimacy is that the use of state power should be capable of being authorized by each citizen – not in a direct detail but through acceptance of the principles, institutions, and procedures which determine how that power will be used" (Nagel 1991: 8).

[80] It is also important to indicate that Rawls's model of toleration does not strictly confine the expression of ethical differences to the private sphere in the way French secular republicanism does, since the principles of justice do not support the notion of "the omnicompetent laicist state": "Therefore the notion of omnicompetent laicist state is also denied, since from the principles of justice it follows that government has neither the right not the duty to do what it or a majority (or whatever) wants to do in questions of morals and religion. Its duty is limited to underwriting the conditions of equal moral and religious liberty" (Rawls 1071: 186-7).

concern for liberty of conscience. It implies that " […] particular associations may be freely organized as their members wish, and they may have their own internal life and discipline subject to the restriction that their members have a real choice of whether to continue their affiliation" (ibid.). In other words, freedom of association allows groups to enjoy certain self-government rights. However, this does not imply that Rawlsian liberalism, and liberalism in general, approaches groups as bearers of rights; families, churches, clubs, etc. have value only because they serve and fulfill the needs of individuals.

The value-individualistic[81] view of the importance of groups presupposes an individualistic analysis of society, which, since Locke's formulation of liberalism, is definitional to liberalism and disqualifies the idea that groups can bear rights. What lies behind this rejection of groups as right-bearers is the liberal suspicion that groups can abuse their powers and impose the harm of enforced morality on their members. We can claim, therefore, that the interest in avoiding the harm of enforced belief has a double-sided role in Rawls's liberal theory: (a) it is a part of the justification of toleration as freedom of association; (b) it also defines the limits of toleration as freedom of association.

3.3.1.b. The limits of associational freedom

Barry's suggestion that toleration as freedom of association constitutes a proper theory of group rights bears mainly on the second role that the interest in avoiding the harm of enforced morality has in Rawls's theory, i.e., that of defining the limits of toleration.

The initial point of Barry (2001: 118) is to respond to a multicultural critique which asserts that liberalism fails to treat cultural minorities fairly because it does not allow illiberal groups to arrange their internal affairs as their beliefs dictate. For Barry (ibid.: 131-146), liberal tolerance extends to the internal affairs of illiberal groups, provided that those groups do not violate the constraints imposed by liberal law for the protection of individuals. This provision, however, does not imply that liberalism requires every group to apply liberal principles in its internal structure.[82]

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[81] Value-individualism, as a view that establishes the importance of collective entities implies that "only the lives of individual human beings have ultimate value, and collective entities derive their value from their contribution to the lives of individual human beings" (Hartney 1991:297).

[82] "The central point is that voluntary associations do not have to have internal rules satisfying the demands that liberal principles make on political bodies" (Barry 2001: 165).

According to Barry (ibid.: 131), liberalism does not force illiberal groups to become internally liberal, given that such groups stay within the framework of liberal laws: "What is not up for grabs, however is that framework itself". What Barry asserts here is that appeals to cultural diversity and pluralism do not under any circumstances trump the value of basic liberal rights, which protect individuals from oppression, exploitation and injury. These rights are not 'up for grabs' because "the concern of liberals for the well-being of individuals is […] non-negotiable" (ibid.: 118). Thus, illiberal groups cannot deprive their members of their equal rights for reasons of protecting and perpetuating their cultures.

More specifically, Barry is categorical that liberal toleration does not cover groups that do not recognize the right to freedom of association and that want to punish their members for apostasy when they criticize or renounce the group's values. Nor does it cover patriarchal ways of life that deprive girls of access to basic education. Whereas in the former example we have an obvious violation of the interest in avoiding the harm of enforced morality, the later concerns the development of basic capabilities that persons must have in order to be able to take advantage of equal opportunity.

On the other hand, Barry's position implies that liberal toleration covers associations like the Protestant Church of Exclusive Brethren[83], which requires its members to refrain from using their political rights and from going to university[84], and the Catholic Church, which prohibits the ordination of women as priests. However, what is the difference between a group that denies the right to apostasy or deprives its under-age members of basic education and a group that does not accept women as priests or asks its members to refrain from higher education?

According to Barry, groups that do not recognize the right of their members to exit the group violate a necessary condition of toleration as freedom of association: the condition of voluntariness of membership. On the other hand, groups like the Catholic Church and the Exclusive Brethren fall into a category of groups that Barry (ibid: 150) describes as following: these are

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[83] The Exclusive Brethren is a sect that emerged as a result of discontent within the Church of England in Ireland during the 1820s; it has gradually spread throughout much of the developed world. Central to the beliefs of this sect is that they should socially and spiritually separate from the perceived evils and corruption of the surrounding world (Tonts 2001).

[84] The following activities are forbidden for members of the Taylorite Exclusive Brethren because they are too worldly: watching television, listening to the radio, visiting places of entertainment, owning pets, taking out life assurance, going to university (this exposes young Brethren to morally unhelpful influences), standing for political office, voting in elections and bearing arms (BBC 2009).

"groups whose norms would be intolerable if they were backed by political power but are acceptable provided that membership in the group is voluntary" (ibid.: 150). Thus, liberalism cannot forego the condition of voluntariness of membership[85].

For Barry, the condition of voluntariness of membership also entails a number of other provisos that set limits on what groups can do to their members without being publicly accountable. One such proviso concerns "the capacity of individual group members to make well-considered and well-informed choices from a range of realistically available options" (ibid.: 147). Another proviso states that "the participants should be adults of sound mind" and that "their taking part in the activities of the group should be come about as a result of their voluntary decision and they should be free to cease to take part whenever they want to" (ibid.: 148). Implicit in these provisos is also the condition of the protection of the interests of children. As Barry (ibid.: 124) explains, although the liberal state can allow a great deal of discretion to parents in bringing up their children, children must be protected against parents who would physically harm them, even if this is prescribed by the parents' beliefs or customs.[86]

Given that all these conditions are met, "people should be able to engage in relations of domination and submission that would clearly be insupportable in the absence of consent" (ibid.: 148). Hence, it is wrong for the government to limit an adult person's freedom of association for her/his own good. It is wrong because such a limitation implies a violation of the person's interest in living according to her/his own view about the good life. It, therefore, imposes on her/him the harm of enforced morality.

While the government cannot limit an adult person's freedom of association, it can constrain the freedom of groups to run their internal affairs so as

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[85] The voluntariness condition is justified in Barry's positions as follows: (1) Liberals "recognize that much of every normal individual's well-being derives from membership in associations and communities" (Barry 2002: 117). (2) However, because "of their fundamental commitment to the value of the individual, they cannot turn a blind eye to the potential that associations and communities have for abusing, oppressing and exploiting their members" (ibid.). (3) Therefore, a liberal theory of group rights attaches crucial significance to the voluntariness of group membership (ibid.: 146- 154). (4) Thus, given that "people are free to leave […] organizations any time that they find the rules unduly onerous, it is hard to see why the law should intervene, even if the rules would violate liberal norms in a political body" (ibid.: 165).

[86] "A liberal society cannot be indifferent […] to the way in which children are raised and educated, because its legal, political and economic system can function well only if its members are fit to exercise the responsibilities with which they are entrusted as legal, political and economic agents. […]. Their other primary concern stems from the obvious fact that children are not in a position to protect their own interests" (Barry 2001: 201).

to sustain a legitimate public objective such as equal opportunity. This limitation is the corporate equivalent of Barry's position on exemption claims made by individuals and entails the same two provisos: either the end pursued by the law is sufficiently important to support the conclusion that there should not be an exemption, or the law is wrong and should be overturned (ibid.: 167).[87] However, Barry also suggests that there is a major exemption that must be allowed for reasons of sustaining the associational freedom of religious groups: churches claims to associational freedom from state interference are stronger than those of other types of groups. According to Barry, religious bodies should be exempted from laws of employment discrimination based on religion, ethnicity and gender.

Thus, although the pursuance of anti-discrimination through equal opportunity is not negotiable when cultural groups claim exemptions from laws for reasons of perpetuation of culture, it is negotiable for churches. Moreover, whereas the interest of members of religious bodies in avoiding the harm of enforced morality supersedes the public objective of equality of opportunity, this interest cannot override the demands of cultural equality in cases of cultural minorities. However, since respect for the anti-discrimination norm of equal opportunity is Barry's central argument against the introduction of cultural rights as moral rights in liberal theory, the privilege of churches to violate this norm makes us wonder what the reasons for assigning a special position to religious bodies are and why these reasons do not apply to cultural minorities and other types of associations as well. In other words, this specific privilege calls for an explanation of when and why freedom of association supersedes equal opportunity and for an investigation into the normative acceptability of this specific supersession.

3.3.2. The conflict between equal opportunity and freedom of association

Demands for powers of self-government made by groups relate in political theory to the broader normative question of how conflicts between equality and freedom of living according to the dictates of one's own conscience should be resolved. What underlies this specific conflict is a tension between two major human intuitions.

On the one side, our intuitions tell us that every individual derives much of her/his well-being from her/his membership in different associations, cul-

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[87] These two conditions are explained in the previous chapter.

tural communities and own family. For this reason we think that groups should have certain powers of self-government. On the other side, the self-government powers of groups can have consequences that run counter to our intuitions about unacceptable inequalities, since associations and communities can be guided by rules that violate basic requirements of equal treatment. If churches are entitled to immunity from anti-discrimination rules and other groups are not, on which grounds our intuitions about unacceptable inequalities are only negated in connection with religious bodies?

3.3.2.a. The distinction between community and civil society

According to Barry, equal opportunity does not apply to churches to the extent that the Jewish religion has to apply criteria of ordination that would allow persons of another ethnicity and religion to become Rabbis. Nor can we invoke equal employment opportunity as a reason for requiring the Greek Orthodox Church to hire female priests because, as Barry explains (ibid.: 174), "[i]f you believe that the sacraments have efficacy only if administered by a man, you can scarcely regard the sex of the person administering them as irrelevant".

On the other hand, Barry also maintains (ibid.: 123) that state intervention in private companies that violate anti-discrimination laws is "essential to ensure that the principle of equal treatment is not rendered nugatory in central areas of people's lives as employment, housing and travel". As Barry (ibid.) further clarifies, although it does not make sense to claim that anti-racial laws should only hold for municipally run bus companies and not for privately owned companies, this is far from the demand that every type of association follows the constraints of liberal principles in its internal affairs.

Thus, whereas private companies have to be subjected to state intervention in relation to their employment practices, communities, such as churches and families, do not have to have internal rules satisfying the demands that liberal principles make on political bodies (ibid.: 165). According to Barry (2002: 223), the idea justifying the immunity of churches bears on Tönnies's (2002) distinction between *Gemeinschaft* (community) and *Gesellschaft* (civil society). As Barry (ibid.: 224) explains, this distinction shows that communities such as churches and families "exist for the sake of their own members, to provide a framework for living, a means of salvation, or some other value that can be realized only within the community."

In general terms, *Gemeinschaft* implies a kind of association in which individuals are regulated by common mores and beliefs about appropriate behavior and responsibility towards other members of association and the as-

sociation at large. In contrast, *Gesellschaft* signifies a kind of association that exists in the realm of business and institutions in which individuals are driven by self-interest" (Tönnies 2002: 33-34). The family and globally dispersed religious communities, such as the Catholic and Protestant Churches, are characteristic examples of *Gemeinschaft*. An example of *Gesellschaft* is a global business like IKEA, in which the employees and the owners may not share much in terms of beliefs but share a self-interest in IKEA being a profitable business. The question is now how this distinction justifies the exemption of churches from antidiscrimination laws.

What Barry actually suggests with this distinction is that when the mores and beliefs of a voluntary community conflict with the political norm of equal opportunity and, given that the community does not violate the voluntariness condition, freedom of association overrides the government's concern for equal treatment for one simple reason: the members of the community do not have a strong interest in enjoying equal opportunity in all aspects of life since they fully, or partially, reject the ideal of equality.

Rawls (1981: 83) makes a similar point when he says that persons have the right to reject the pronouncements of liberal principles: "members of a religious association may regard themselves as having submitted in conscience to religious authority, and therefore as not free, from the standpoint of that relationship, to question its pronouncements". In connection with the methodological device of the original position, we can interpret this point as follows: the fact that theorists ascribe certain equal interests to individuals when they define the liberal political framework does not mean that every person in practice endorses all of those interests. Whereas a liberal political framework aims at providing equal opportunity for pursuing the interests that can be identified as basic to all human beings from an impartial point of view, liberalism leaves it to people to decide themselves the extent to which they are going to pursue those basic interests.

The important point is that liberty of conscience is indispensible to liberalism because persons need this good in order to live a life according to the dictates of their own consciences. Given that we ascribe to persons the interest in having liberty of conscience so that they can live according to their own moral views and avoid the harm of enforced morality, we also ascribe to them the interest in having access to structures that can provide the necessary means for them to form and pursue their own moral views. This is exactly what communities, such as the family and churches, do: they provide the means for realizing liberty of conscience. They give effect to liberty of conscience. For this reason, the right to freedom of association implies that

groups such as the family and churches should have the freedom to override the demands made by liberal principles on political bodies when such demands conflict with the mores and norms of these groups.

I suggest that this is what Barry means when he says that the family and religious bodies provide values to their members that can be realized only within those communities. Religious bodies provide the moral framework that their members need to have in order to fulfill their basic interest in following the prescriptions of their own moral views.

In contrast, private companies – and other types of associations that belong to civil society, such as private educational institutions and workers' unions – do not have as a primary purpose the provision of the means for realizing liberty of conscience. Private companies belong to the economic structure of society and, together with private schools and universities, have a central role in forming socioeconomic opportunities for people. From the viewpoint of Rawlsian liberalism, they are linked to the basic structure of society, which comprises the main sociopolitical institutions, such as the constitution, the economic regime and the legal order. Since it is the basic structure of society that "provides the framework for a self-sufficient scheme of cooperation for all the essential purposes of human life […]" (Rawls 1981: 15), civil society associations cannot bypass the central rules of equal liberty and equal basic opportunity that inform this framework. What this implies in practice is that in liberal democracies, companies cannot evoke their associational freedom in order to block, for example, women, homosexuals, Muslims or Jews from equal employment opportunities. A university cannot condition the selection of students on membership in a specific church. Nor can it exclude students on the basis of gender, race or ethnicity.

Thus, we can identify in liberal theory the reason why freedom of association should not bypass equality in the case of civil society associations. This is because such associations have a great impact on the basic opportunities of individuals. On the other hand, for liberals like Barry, the concern for providing equality of opportunity cannot circumscribe the associational freedom of religious communities. This deviation from equal opportunity is justified by an argument that states the importance of communities in giving effect to individual's liberty of conscience, i.e., in helping persons realize their interest in living according to their own moral views. It seems, therefore, that liberal theory recognizes the right of churches to discriminate.

In the following part, I am going to discuss how acceptable it is to grant church bodies a right to discriminate. Should churches have a right to commit gender discrimination in the ordination of their ministers?

3.3.2.b. The transcendental purpose

In practice, it is not only churches that are allowed to violate equal treatment with reference to freedom of association. In liberal democratic societies, secular expressive associations[88], such as private clubs, are allowed to select their members on gender, ethnic, economic or other grounds. For example, Mensa conditions membership on IQ level, and Greek letter organizations (organizations of undergraduate university students in USA) can condition membership on gender, religion or ethnicity, among other things. In the real world, there are a broad variety of expressive associations that link membership to different human attributes. So, why do we question more specifically the right of churches to commit gender discrimination in the ordination of priests?

One reason is that we cannot ignore the fact that a religious body, like the Catholic Church, often represents a global community with millions of members, while a university fraternity is a smaller local group. Therefore, the message sent by the Catholic Church about gender roles and gender equality has a much greater impact than that of other expressive associations. Secondly, if liberals like Barry ascribe to churches a right to commit gender discrimination in the ordination of ministers, then we can wonder how consistent this is with liberal arguments against cultural rights that refer to the potentially negative consequences of multicultural accommodation for historically vulnerable group members, such as women and children.

Nevertheless, it is not unusual that courts tend in liberal democratic societies to favor the claims for exemptions from anti-discrimination laws on behalf of churches. In a comparative analysis of moral and constitutional claims of churches with claims addressed by other types of associations, Greenawalt (1998: 137) asserts that "[…] in most instances the critical line is between religious and nonreligious; otherwise courts would favor transcendent religions over others". Greenawalt argues that claims deriving from religious associations have more force in courts and succeed in obtaining greater associational freedom as long as they are perceived as transcendent.

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[88] In U.S.A. expressive associations claim the protection of the First Amendment. The right to form an expressive association is a First Amendment right that is derived from freedom of speech. The basic idea behind this right is to extend the freedom of speech and expression from individuals to groups. Groups, by using the right to expressive association, can enjoy freedom of association in order that their members exercise more effectively their First Amendment rights – freedom of speech, freedom of assembly, right to petition for the redress of grievances and the exercise of religion (Troum 2002: 644-5).

In order to understand what Greenawalt suggests, let us look at his critical comment on the decision of the *Roberts v. United States Jaycees* case.[89]

The *Roberts* case concerns the overturning in the U.S. Court of Appeals for the Eighth Circuit's application of a Minnesota antidiscrimination law, which had permitted the U.S. Junior Chamber of Commerce (Jaycees) to exclude women from full membership. According to Greenawalt (ibid.: 114), the *Roberts* decision links religious activities with the expressive activities of secular groups, like the Jaycees. Therefore, someone "might conclude from the decision of this case that the constitutional status of discrimination by churches and other religious groups would have the same status as discrimination by the Jaycees […]". This is, however, highly doubtful according to Greenawalt, as religious groups already enjoy another discrimination status that presupposes the recognition of absolute liberty of church bodies in matters of associational freedom.

What Greenawalt wants to clarify by referring to the *Roberts* case is that we cannot justify the absolute liberty of church bodies in discriminating on grounds of race, ethnic origin or gender by claiming that the government does not have a strong interest in ending such discrimination because religious associations belong to the private sphere, farther removed from the activities of secular expressive associations like the Jaycees. Nor can we maintain that discrimination by religious groups has little effect on the social opportunities of people. These are unconvincing reasons, given the central place that churches have in many communities (ibid.). The fact is that religious associations do not have less impact than secular associations on the basic opportunities of individuals. It is rather that the claims of churches are based on their transcendental or spiritual purposes (ibid.: 137). So, it is the role that religious associations have in providing answers to metaphysical questions of salvation of the soul that justifies the right of such associations to bypass the aims of equal opportunity.

Greenawalt's point is that a crucial factor in the legal assessment of discrimination committed by an association is how remote or close this discrimination is to the aims of the association. Hence, although American law forbids discrimination on the basis of religion, it can make an exemption for religious organizations because religion lies at the core of the associational identity of churches. In the same way as a church is allowed to accept only those who endorse the tenets of the faith of that church, political organiza-

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[89] *Roberts v. United States Jaycees* - 468 U.S. 609 (1984).

tions are allowed to use ideological criteria in order to select their members (ibid.: 116).

Simply put, the government cannot tell the Nation of Islam[90], i.e., "Black Muslims", to accept non-black people or Christians, but it can interfere if a golf club rejects Jews by maintaining that "our Protestant members feel that they do not get along so well with Jews". Whereas in the former case race and religion are closely related to the expressive aims of the Nation of Islam, in the latter case religion has nothing to do with the recreational purpose of the golf club.

Thus, when it comes to the ordination of priests, the transcendental purpose of churches overrides our concerns for discrimination because the choice of ministers lies too close to the expressive aims of churches to permit intervention.

In liberal theory, the transcendental purpose of churches is directly linked with the moral unacceptability of the harm of enforced morality, since this purpose assigns a vital role to religious association: they take care of people's souls in the sense that they deal with the relation of people with a divine authority whose powers and concerns reach beyond this life. It is important to note that the transcendental purpose does not constitute an argument for toleration and freedom of association, which in liberal theory takes different forms. In Locke, it is the irrationality of forced imposition of belief; in Mill, it is the value of individuality, i.e., autonomy, which is identified as leading to "freedom of combination"[91]. But regardless of the argument used to establish the unacceptability of the harm of enforced morality, the recognition of the importance of the transcendental aim of churches has been an implicit, fundamental aspect of liberalism as political theory, ever since Locke's defence of toleration.

Still, we can wonder whether we can consider the issue of the priority of the transcendental purpose over equal opportunity in the issue of ordination of priests to be settled in political theory. If religious associations have a significant impact on the basic opportunities of individuals, why do we have to accept this priority?

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[90] The Nation of Islam is a new religious movement founded in USA in 1930. It aims at improving the spiritual, economic and social condition of African Americans in U.S.A. and in the entire world. It has been accused of anti-Semitism.

[91] Mill identifies associational freedom ("liberty of combination") as one of the liberties that is essential to a free society. Together with associational freedom, he also identifies liberty of conscience, liberty of thought and discussion and liberty of tastes and pursuits as basic liberties, and he argues that it is wrong for the government to limit any of those liberties for the purposes of preventing adults from harming themselves (Mill 1999: 54-55).

A possible answer is that gender discrimination in the selection of religious ministers does not have as considerable an impact on equal opportunity as, for example, the exclusion of women from university education or the medical profession does. However, this argument is beside the point, since for liberal deontologists like Barry and Rawls the deprivation of equal opportunity is a matter of principle and not one of assessing the consequences of violation of the political norm of equal opportunity in terms of numbers. We cannot justify, for example, the exclusion of women from becoming members of the Swedish Parliament by maintaining that women are only being deprived of a few hundred jobs.

Moreover, the fact that the recognition of the transcendental purpose is located at the conceptual roots of liberal toleration does not mean that liberals have to consider those roots to be 'sacred' and to refrain from questioning the acceptability of the patriarchal norms of organization of society mediated by most contemporary religions. The patriarchal structure of religious associations was undoubtedly in line with the prevailing societal norms of Locke's society. However, this is not the case globally today.

The point is that liberal theory has unresolved issues with gender equality. According to a prominent feminist critique of liberalism, the conceptual grounds of liberal theory consist mainly of patriarchal notions that structure the entire Western civil society (Pateman 1988). Another more specific critical argument points out that the total absence of discussion of gender inequalities performed within the family is an important problem in Rawls's liberal theory, for reasons both external and internal to this theory (Kearns 1983, Okin 1987, 1989, 1989, 1994, Exdell 1994). Simply put, liberalism is said to be blind to its own role in providing the conceptual grounds for the subordination of women and for the acceptance of patriarchal family structure (Grant 2003: 287). An example of such a discriminatory ground is liberalism's sharp division into public and private spheres, which places gender inequalities committed within community associations (*Gemeinschaft*), such as the family and churches, beyond the scope of equal treatment.

We can maintain, therefore, that the liberal conceptualization of equality exclusively in terms of equal access to basic rights leaves the processes of consolidation and perpetuation of conservative conceptions of gender difference intact. At the same time, there is, in contemporary political theory and political praxis, an obvious tendency towards 'more' equality, in the sense that there is a strong emphasis on detecting and preventing people from suffering undeserved inequalities. Thus, given the contemporary tendency to present equality as a leading value in political practice and theory, the signif-

icant impact of churches on equal opportunity and the unresolved issues of liberalism in relation to gender equality, we can consider the question of the priority of the transcendental purpose over gender equality in the ordination of priests as unsettled.

3.4. Conclusion

Given that contemporary cases of toleration also include the resolution of cultural rights that are assigned to groups, do liberals need to re-conceptualize toleration in order to make sense of existing multicultural model of integrations in liberal theory?

Theoretical attempts to handle multiculturalism with toleration as freedom of association give a negative answer to this question. They also reject the multicultural suggestion of assigning to the liberal state a duty to relieve minorities from the burden of assimilation. They suggest instead that the right to freedom of association provides sufficient self-determination powers to minorities and adequate cultural freedom to people. What characterizes propositions of handling multiculturalism with toleration as freedom of association is that they base the moral wrongness of demands and acts of assimilation on a methodological concept that lies at the conceptual roots of liberal political theory, namely the harm of enforced morality. In this sense, they imply that the harm of enforced morality should be considered an essential dimension of the burden of assimilation. Hence, they require liberal governments to ease people from the harm of enforced morality.

More specifically, the analysis of a model of toleration that relies solely on freedom of association in order to guarantee liberty of conscience reveals that this model tends in practice to submit the possibility to live according to the dictates of one's own morality to the circumstances of life. In cases of conservative and authoritarian minorities, this means that the provision of relief from the harm of enforced morality is regulated by intra-group contingent relations of power. It appears, therefore, that this model fails to formulate a consistent account of the burden of assimilation.

As regards a model of toleration as freedom of association that bears on the priority of equality of opportunity, it can be questioned on the ground that it allows the freedom of association of religious bodies to overrule gender equality. Given that equal opportunity forms the basis of a liberal ideal of integration, gender equality cannot be considered a secondary aim of this ideal. Gender inequalities should rather be considered as unacceptable

irrespective of whether existing among conservative cultural minorities or the official church of a liberal state.

4. Toleration as recognition

The recent turn towards culture in political theory has resulted in the reconsideration of the kind of equal treatment offered by the principle of neutrality. The presentation of cultural identity as a relevant political category of social justice in theories of multiculturalism has called into question the liberal commitment to the principle of neutrality, which defines equal treatment of individuals qua individuals in general and irrespective of cultural membership. Multiculturalism as a normative proposition advocates that liberals should view cultural identity as a moral value and respect for people's culture as a fundamental part of equal treatment. It also suggests that liberalism, in order to show greater sensitivity to the moral value of cultural identity, should adopt an account of the relationship between citizenship and cultural identity that is not hostile to the public affirmation of the particular identities of cultural minorities. A change in liberalism of this kind necessitates the inclusion of public recognition of cultural identity in the definitional categories of liberal justice. Given the centrality that the principle of neutrality has in liberal justice, is the turn towards recognition of cultural identity compatible with liberalism?

Galeotti's (2002) thesis on toleration as recognition constitutes the most comprehensive attempt in political theory at establishing the compatibility of the recognition of identity with liberalism. This chapter focuses on the account of compatibility of recognition with liberalism suggested by Galeotti in her thesis of toleration as recognition. It examines the sustainability of this account, namely whether Galeotti succeeds in establishing the recognition of identity as a dimension of liberal justice, given her theory's liberal grounds for public recognition of identities.

The grounds of the thesis of toleration as recognition draw upon liberalism in two ways. Firstly, Galeotti explicitly proposes a modification of the descriptive categories of Rawlsian liberalism. She identifies a problem in the methodological assumptions of Rawls, and she suggests that correcting this problem justifies the inclusion of recognition in liberal theory. She also considers that this inclusion does not affect the role that the principle of neutrality plays in Rawlsian liberalism. Secondly, Galeotti's account of the compa-

tibility of recognition with liberalism bears on the liberal value of toleration. It advocates the semantic and normative extension of the traditional notion of toleration from the negative meaning of non-interference to the positive connotation of recognition.

In her thesis, Galeotti presents the public recognition of (cultural) differences as a political obligation of the liberal state. The assignment of the duty of recognition to the liberal state requires the introduction of an additional interest in the descriptive categories of liberalism that settle the methodological issue of which human concerns should be dealt with by the political authority: the interest in acquiring public affirmation of one's own (cultural) difference. In other words, Galeotti's thesis suggests that liberalism's core normative category of interest in avoiding the harm of enforced morality should be complemented with the interest in having one's own (cultural) difference publicly accepted. Should liberals endorse the addition of this interest to the methodological assumptions of liberalism? Is Galeotti's account of compatibility of recognition with liberalism well-grounded?

In this chapter, I will argue that the assignment of definitional value to the burden of assimilation in liberal theory for reasons of recognition appears to be redundant, given that toleration as recognition does not generate any other measures than those already offered by a liberal neutralist model of integration

My argument is divided in three parts. The first part presents Galeotti's position on toleration and identifies the account of the burden of assimilation that underlies this position. The second part focuses on a major problem that characterizes Galeotti's attempt to include recognition in liberal toleration, namely the problem of lack of a normative justification of recognition on liberal premises. It also explains how such a justification can be derived from the notion of respect proposed by Forst (2004). The final part observes the political consequences of toleration as recognition and examines whether a liberal turn to recognition succeeds in substantiating the public recognition of identity in concrete political measures.

4.1. Recognition and the burden of assimilation

Galeotti (2002: 104) provides two reasons why members of various minorities deserve official affirmation of the elements of their traditions and norms that make them different from the majority: (a) the reason of individual im-

portance of own (cultural) differences and (b) the reason of socio-political injustices of misrecognition. In Galeotti's own words,

> "[d]ifferences should be publicly recognized not because they are important or significant per se, though they may well be, but because they are important for their bearers and because expressions of public contempt for them, on the grounds that depart from the social "norm", are a source of injustice" (ibid.).

The first reason suggests that such differences have instrumental value[92] to their bearers because they are indispensible parts of the personalities of minority members. The second suggests that the public affirmation of certain particular characteristics of minorities will contribute to reducing socio-political injustices inflicted on members of minorities due to the negative evaluation of the norms and practices of minorities on the part of the majority.

For these two reasons, liberal toleration should also "be conceived of as a form of recognition of certain different identities in the public sphere" (ibid.: 10). Hence, the traditional notion of toleration has to be extended in two ways: spatially, from the private domain to the public domain, and semantically, from the negative meaning of non-interference to the positive connotation of acceptance and recognition (ibid.).

Galeotti's idea of extending toleration bears on the distinction by Apel (1997: 200) between negative toleration and positive or affirmative toleration. Whereas the former type of toleration is based on indifference, the latter is "based on appreciation, in principle, that deep and manifold value-traditions are resources that can enrich human culture in general and the social engagement of individuals" (ibid.). The inclusion of the meaning of appreciation, or recognition, in toleration involves complementing the classical liberal concept of negative toleration with the concept of affirmative toleration in order to make sense of the demands for cultural accommodation that arise in the context of multicultural society. In turn, the addition of the notion of toleration as recognition to liberalism calls attention to two major deficiencies in the basic underlying assumptions of liberal theory. The first has to do with the liberal concept of pluralism, which is the descriptive component that the prevailing paradigm of liberal justice employs in order to identify the political consequences of toleration in circumstances of multiculturalism. The other concerns the liberal concept of respect, which forms

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[92] "Differences can be recognized not for their intrinsic value, which is not up to the political authorities to determine, but instrumentally, for the value they have for their bearers" (Galeotti 2002: 15).

the normative structure of this paradigm by defining how the individual is to be respected.

According to Galeotti (2002:65), the problem with this concept of pluralism is that it classifies social differences as concerning the presence of many different and potentially conflicting ethical views. This critique is explicitly directed at the descriptive categories used by Rawls (1993: xviii) to solve the problem of stability[93] in *Justice as Fairness*, in specific at the description of pluralism as "pluralism of incompatible yet reasonable comprehensive doctrines".[94]

Galeotti's idea is that Rawls's concept of pluralism construes the struggles of cultural minorities for unconstrained expression of their different forms of life and traditions in the public sphere of the state as signifying essential disagreement about what is worthwhile in life and how life should be lived. In this way, all questions of the accommodation of socio-cultural differences of minorities are presented as requiring "the classic solution […] of toleration as non-interference – i.e., of leaving everyone free to pursue their ideals and to practice their culture as long as no one else is harmed and the liberal order is safe – plus neutrality in public treatment" (Galeotti 2002: 65). In Galeotti's view, the demands for toleration of cultural groups are framed *a priori* in liberal theory to correspond to conflicts of incompatible beliefs about value. For her, such claims call instead for a form of accommodation other than the one offered by the Lockean approach to toleration.

Galeotti maintains that the descriptive structure of liberalism neglects the special character of contemporary demands for toleration that makes them genuine cases of toleration. As Galeotti (ibid.: 3-4, 11) explains, genuine cases of toleration concern highly controversial matters, such as the wearing

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[93] The problem of stability of *Justice as Fairness* refers to certain tension implicit within the argument of stability in A Theory. These tensions result from the philosophical view of moral agency employed in A Theory, which presupposes that the human good consists in autonomy as self-realization. As Rawls explains in *Political Liberalism*, the problem with this view of moral agency is that it cannot provide a basis for public justification among persons who have different and conflicting ideals of the good life, since not all conceptions of the good endorse the ideal of autonomous agency. For a concise description of the problem with Rawls's argument of stability, see also Freeman (2003).

[94] "Neutralists suppose that pluralism is the presence of many different and potentially conflicting conceptions of the good […]. On this reading, ethnic, linguistic, and cultural differences condense into world-views, engendering incompatible and irreducible moral positions, social practices, and ways of life. […]. Consequently, the problem of pluralism is understood as the conflict deriving from the irreducible disagreement about what is worthwhile in life and how it should be lived. For such a conflict, which liberals see as unavoidable and non-eliminable, the classic solution consists of toleration as non-interference (…/ plus neutrality in public treatment" (Galeotti 2002: 65).

of veils in public schools, the admission of gays into the army and the regulation of hate speech; the settlement of such issues requires the intervention of the state, because what is at stake cannot be dealt with through the acquisition of extra liberty offered by political freedoms. She does not believe that such issues can be addressed satisfactorily with measures drawn from negative toleration, no matter what decision is reached.[95] The reason is that under the claims of minorities in contemporary cases of toleration lies the quest for public recognition of their different identities (ibid.: 11).

What minority members want to achieve through public recognition of their cultural particularities is "the inclusion, of a different trait, behaviour, practice, or identity in the range of legitimate, viable, "normal" options and alternatives of an open society" (ibid.: 15). Galeotti suggests that the quest for recognition also concerns the hidden aspect of socio-political and economic deprivation of various minorities. The marginalization of minorities is a consequence of the power-asymmetry between different minorities and a majority that has the authority both to define which traits and practices are normal/abnormal and to make their own negative evaluation of the differences of minorities a rule (ibid.: 88-94).

According to Galeotti, the problem is not only that the liberal concept of pluralism fails to capture the pursuit for acceptance of (cultural) difference marking genuine cases of toleration. It is also that the normative structure underlying negative toleration refers those cases to anti-discrimination measures, which are blind to the social dynamics that have triggered the quest for recognition. Hence, the defective descriptive structure of liberalism (the concept of pluralism) relegates multicultural conflicts to a normative structure that limits the political solutions to what negative toleration calls for, namely to neutrality in the sense of non-intervention in matters of belief about value.

As Galeotti (ibid.: 58-61) argues, although the type of anti-discrimination offered by the principle of state neutrality may be enough to guarantee the free pursuance of conceptions of the good on the part of minorities and the equal treatment of citizens regardless of their ethical views, it fails to counteract the general societal marginalization and stigmatization of the minorities in question. In claiming that the principle of state neutrality is inadequate for dealing with the lack of acceptance of the identities of minorities, she impli-

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[95] "[W]hen genuine, non trivial cases are to be addressed, the usual solutions, drawn from liberal views of toleration, are largely inadequate and seem unsatisfactory no matter what decision is reached – that is, either alternative – taking a tolerant stance and imposing limits on toleration – seems unsatisfactory" (ibid.: 4)

citly points to the notion of respect underlying liberal toleration as being insufficient for providing an appropriate solution to genuine cases of toleration. How can we, then, understand Galeotti's critique of liberal neutrality as affecting the liberal notion of respect?

If we assume that the starting point of liberalism, under any possible description, is a concern for the fulfillment of people's interest in living according to their own beliefs about value[96], respect is framed so as to require people to show consideration for each and every individual's interest in following her/his own morality by mutually refraining from imposing one's own ethical view on others. Such a notion of respect is negative in the sense that it asks people to allow others to organize their lives according to their own beliefs about value, no matter how much they may dislike other people's beliefs. Since toleration is a virtue that calls for respect, the negative character of this idea of respect is also reflected in the liberal concept of toleration: "[t]olerance requires us to accept people and permit their practices even when we strongly disapprove of them" (Scanlon 2003: 187).

It follows that toleration is "an attitude that requires us to hold in certain feelings of opposition and disapproval" (ibid.), i.e., a negative attitude that does not cover recognition. Whereas toleration specifies how people should treat each other in matters of belief about value, the principle of state neutrality renders the notion of respect underlying toleration to a political virtue that explains how political authorities should show equal concern for each citizen's interest in living according to one's own moral view: it should treat all moral views as equally valuable by not supporting any of them in its actions or policies. As with the attitude of toleration, the principle of state neutrality links respect with the duty of non-intervention in people's different forms of life.

By claiming that liberal neutrality is inadequate for dealing with the lack of recognition of the differences of minorities, Galeotti asserts that the liberal notion of respect falls short of the normative conditions placed on liberal governments by contemporary cases of toleration. In her view, the extension of negative toleration into the positive connotation of recognition also requires the extension of the negative notion of respect into a positive one that entails the moral duty of supporting minority members in their pursuit of

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[96] The protection and promotion of the individual's interest in living and organizing her/his life according to the dictates of one´s own morality is definitional to liberalism. The difference between various formulations of liberalism in relation to the specific content of this interest determines the normative arguments that liberal theorists provide in order to justify the primary importance of this interest.

official acceptance of their differences, as well as ensuring their equality of opportunity, which is threatened by the majority's denial of their differences.

Thus, the extension of the meaning of toleration implies a change in the liberal concept of respect. This change, in turn, requires the introduction of a supplementary interest in the descriptive components of liberalism that settles the methodological issue of which human concerns ought to be met by the political authority: the interest in acquiring official affirmation of one's own (cultural) differences. The assignment of political relevance to this particular interest implies the allocation to the liberal state of the duty to assist its citizens in avoiding the harm of unaccepted individual particularities, which in the context of claims for recognition of cultural differences takes on the following specific meaning: the harm of unaccepted or misrecognized cultural identity.

We can, therefore, interpret the idea of extending toleration from the negative meaning of non-interference to the positive sense of recognition as requiring the liberal government to help minorities to avoid not only the harm of enforced morality but also the harm of misrecognized cultural difference.

As I explained in the previous chapter, the unacceptability of the harm of enforced morality underlies the conceptual roots of liberalism and assigns to liberal governments the duty to assist minorities in avoiding the assimilationist pressures of majorities. Galeotti's thesis of toleration as recognition does not aim at rejecting the liberal solution of toleration as freedom of association that seeks to protect minorities from the demands of the majority for assimilation. Instead, it points out that there is another aspect to the assimilationist pressures experienced by cultural groups than that of the harm of enforced morality, as they do not involve the forced imposition of beliefs about value.

Galeotti's view of demands for recognition in genuine cases of toleration suggests that in such cases assimilation involves public rejection of differences that are important to the very people demanding recognition of those differences. For Galeotti, liberalism does not only fail to capture this aspect of repudiation of difference underlying contemporary pressures for assimilation. It also confirms the dynamics of assimilation as a negation of difference, since, as it is explained by Galeotti (95-99), the individual inclusion

granted by basic liberal rights in genuine cases of toleration offers nothing more than inclusion through assimilation[97].

Assimilation is, therefore, an unacceptable burden for members of cultural minorities because it negates the importance that their differences have to them. It does not only inflict the harm of unaccepted (cultural) identity to minority members but also has the side-effect of confirming the legitimacy of socio-political disadvantages suffered by minority members due to the misrecognition of their identities. Thus, an account of toleration that includes recognition adds a dimension of disadvantages from cultural domination to the burden of assimilation.

This account of unacceptability of the burden of assimilation bears mainly on the immorality of misrecognition of differences that are significant to those that are different. It appeals, therefore, to the first of the two reasons on which Galeotti grounds the justification of toleration as recognition. Although Galeotti presents socio-political disadvantages as equally important as the individual importance of one's own cultural differences, the validity of the thesis of toleration as recognition relies strongly on the latter. Minorities may experience societal marginalization due to the negative evaluations of their norms and traditions by the majority.

However, if norms and traditions were not important to those possessing them, assimilation as negation of difference would not be in the first place a burden on cultural minorities. It follows that it would not be controversial to suggest that assimilation as negation of difference is a proper option for the avoidance of marginalization. Hence, the inclusion of the burden of assimilation in the normative parameters of liberalism depends on the normative plausibility of the assumption of individual importance of one's own cultural differences.

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[97] "The strategy of individual inclusion, which is what liberal democracy actually offers to minority members, even when it is supplemented by affirmative action policies, implicitly requires the minority member to forge and exhibit a social identity which is independent of those characteristics, traits, and behaviour which are usually associated with his or her groups, and which generally have a negative connotation. […]. No one can feel at ease and retain self-esteem and self-respect if he or she is socially accepted despite being a woman, a black, an Arab, a gay, since such acceptance would amount to denial of significant components or elements of one's (personal) identity. The social pressure to disguise oneself and to act as a white, a macho, or an "Anglo" (a WASP) in order to achieve a condescending and fragile acceptance is humiliating and a impediment to the development of a healthy, autonomous, and self-reliant personality, (such as the liberal citizen ideally should have)" (Galeotti 2002: 98-99).

4.2. The justification of toleration as recognition and the burden

A major problem with Galeotti's thesis is that it cannot by itself establish the compatibility of recognition with liberalism because it does not include a normative justification for why recognition of identities should be a liberal concern.[98]

The justification of toleration as recognition starts from the empirical observation that cases of toleration today concern the acceptance of differences that are important to their bearers. From this, Galeotti infers the reason of individual importance of one's own cultural difference and the conclusion that liberal toleration should be extended to accommodate demands for recognition, given the inability of liberal methodology to capture how important such differences are to their bearers. However, the fact that certain people have a deep attachment to their norms and practices does not directly lead to the normative conclusion that the liberal state should adopt the dictates of toleration as recognition. Nor does it justify the inclusion of the interest in acquiring official affirmation of one's own cultural differences in the normative categories of liberal ideal theory.

If the fact of having a special attachment to one's own particularities is going to justify the inclusion of this interest in liberal ideal theory and the assignment to the liberal state of the duty to deliver the good of recognition, it has to be shown that misrecognition is, from a liberal perspective, an objective harm. In other words, the avoidance of the harm of misrecognition has to be morally justified with reference to some human property or an aspect of human life that is acknowledged as important by all people.

How does the lack of normative justification affect the validity of the account of the burden of assimilation underlying the thesis of toleration as recognition?

Without some argument other than the hypothesis that contemporary cases of toleration concern people's attachment to their differences, assimilation

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[98] According to Lægaard (2005: 332), Galeotti's project is to deliver a project that is liberal in a justificatory sense, i.e. that "policies of recognition in some sense actually follow from liberal principles together with a new understanding of social differences". My characterization of Galeotti's thesis as lacking a normative component concerns more another respect in which a theory of recognition might be said to be liberal, namely what Lægaard (ibid.: 333) describes as the individualism requirement of liberalism. This constraint is strong on neutralist versions of liberalism; it implies that "[t]he property of persons addressed by recognition cannot concern the value of the ways people live, […], or aspects that can only be picked out as important on the basis of evaluative judgments, if the theory is to be consistent with liberal neutrality"(ibid.).

as negation of difference appears to signify the experiences of people that have a strong psychological urge to have their way of life affirmed by others and who interpret the lack of positive acceptance of their lifestyles as pressuring them to adopt the mainstream norms and practices of society. In this way, the need for recognition of one's own difference appears to be part of a conception of the good, in the sense that it can be traced back to people's substantial ideas of how a good life is supposed to be lived.

Hence, the interest in having one's own differences publicly affirmed cannot inform - as Galeotti suggests - the norm of justice in the Rawlsian paradigm. The norm of justice in this paradigm is deontological: it gives priority to the right over the good; it has to hold independently of people's commitments to specific beliefs and ideas about what the good life consists of. If the need for recognition is a part of a conception of the good, then the inclusion of the interest in acquiring official affirmation of one's own differences in liberal ideal theory leads to a norm of justice that favours an ideal of the good life. It cannot, therefore, hold independently of people's commitments to particular values. If this is the case, then Galeotti's thesis of toleration as recognition faces problems of compatibility with deontological liberalism, which is the kind of liberalism that she identifies with.

How can we integrate the concern for avoidance of assimilation as negation of difference into liberal theory? Can we justify the inclusion of the interest in having one's own difference publicly affirmed into the definitional categories of liberalism?

It is possible to submit Galeotti's thesis to three interpretations, each of which could provide a reason why liberal ideal theory should be informed by this particular interest: the first one rests on the thesis of recognition of identity by Taylor (1994); the second rests on the status model of recognition by Fraser (2001, 2003); and, the third draws on the Kantian notion of respect by Forst (2004). Of the three interpretations, it is the third that can provide the most plausible normative justification for including the interest in having one's own differences publicly affirmed into liberal ideal theory[99]. I, thus, suggest that Forst's notion of respect adequately explains why assimilation as negation of difference can, in certain circumstances, constitute objective harm from a liberal perspective.

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[99] Lægaard (2005) presents a liberal justification for politics of recognition that is based on Rawls's political liberalism. To the extent that my analysis of how a liberal justification of recognition can be derived from Frost's notion of respect connects this notion of respect with Rawls's notion of reasonableness, my suggestion of plausible normative justification of recognition can be considered as compatible with Lægaard's proposed justification.

However, since the other two interpretations are noteworthy contributions to the theorizing of recognition and, furthermore, correspond to Galeotti's two reasons for toleration as recognition, let us start by presenting them and explaining why they cannot provide the normative justification that we are looking for.

4.2.1. Misrecognition as identity harm and as harm of injustice

In *The Politics of Difference* Taylor (1994: 25) claims that recognition and identity are intertwined in such an intimate way that nonrecognition or misrecognition generates serious harm to persons:

> "[t]he thesis is that our identity is partly shaped by recognition or its absence, often by the misrecognition of others, and so 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. Nonrecognition or misrecognition can inflict harm, can be a harm of oppression, imprisoning someone in a false, distorted, and reduced mode of being" (ibid.).

This thesis bears on the previous moral theory of Taylor (1989), which criticizes liberalism's devaluation of community and emphasizes the importance of social context for moral and political reasoning. Its basic idea is that we obtain our moral compass and orientation in moral space from our location in the social world, which forms and defines our capacity for achieving a good life. Identity and morality are interwoven in the sense that individual identities enable political and moral decisions and self-realization. Hence, having one's own identity recognized by others is a necessary condition for attaining full subjectivity.

As Taylor (1994: 32-3) further explains, recognition and identity are intimately linked, since people develop their subjectivity through dialogue with significant others and not through monologue with their own selves. In his view, individual subjectivity is embedded in intersubjective social relations that entail discursive patterns of recognition or misrecognition between cultural groups. These patterns produce the good of acceptance or the harm of humiliation, since they frame identities as acceptable or unacceptable.

According to Emcke (2000: 484), Taylor suggests that individuals are intersubjectively intertwined with others; for this reason, each person's self-understanding of her/his own individual or collective identity is dependent on how significant others react and receive her/his identity. When interaction is successful, the individual or the group receives the respect of significant

others. When it fails, others respond with misrecognition, and the individual or the group experiences a wide gap between self-understanding and external description. In the latter case, the misrecognized persons, as individuals and as members of a cultural group, suffer the moral injury of misrecognition, which implies not simply "the fact of being fixed of labelled by others, but […] a specific – mostly structural and permanent – discrepancy between one's self-understanding and the other's description" (ibid).

Consequently, recognition is a deep human need[100] that makes us vulnerable to the way other people respond to who and what we are and to the particular attributes that signify who and what we are, i.e., to societal traits, such as traditions and norms, that form our identities. Since we make ethical decisions about how to live our lives by referring to those elements of our identities, there is a strong moral aspect to this vulnerability, since it concerns our practical relation with our selves. Misrecognition is, therefore, a moral harm because it inhibits our self-realization and our capacity for achieving a good life. It follows from this that assimilation as negation of difference also involves serious harm, since it prevents people from living a full life according to their own ideals of the good. Consequently, liberals should consider assimilation as negation of difference to entail objective harm: it hampers the realization of individual freedom, the protection and promotion of which is definitional to liberalism as a doctrine of freedom.

Taylor's notion of recognition, thus, makes it possible to derive the reason of unacceptability of the burden of assimilation from the centrality that individual freedom has in liberalism. However, this does not mean that the inclusion of the interest in having one's own difference publicly affirmed into the liberal methodology can be based on Taylor's notion of recognition. One of the problems with Taylor's position is the methodology that he employs in order to establish in political theory the turn towards cultural rights by reference to recognition.

Recognition for Taylor concerns the cultural survival of collective identities that are attached to groups like the French-speaking minority in Canada, i.e., to national minorities. In Taylor's view, legitimate demands for recognition are those raised by groups that have the characteristics of French-Canadians: occupying a specific territory and being internally culturally 'homogenous', in the sense that their members have common collective ethical values due to sharing the same history and language. A major normative

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[100] "Due recognition is not just a courtesy we owe to people. It is a vital human need" (Taylor 1994: 26).

consequence of Taylor's methodology is that individual freedom can be violated for the sake of fulfillment of the collective aspirations of the national community. An example of a violation of this kind can be found in the case of Quebec, where non-English-speaking immigrants and French-speaking residents are not allowed to send their children to English schools. Taylor (1994: 60-61) suggests that such a violation is legitimate, given that the specific infringement of individual freedom aims at serving the collective goal of cultural survival of the national minority.

In deontological Rawlsian liberalism this type of violation is in conflict with the principle of priority of equal liberty, which reflects the core idea in liberal ideology of the precedence of individual freedom over the collective goals of groups and of the political community[101]. Taylor considers the aim of avoidance of identity harm caused to national minorities by misrecognition to justify the loss of individual freedom of members of minorities that exist inside national minorities.

However, where do the limits of moral acceptability of this particular 'loss' go? If the condemnation of homosexual behaviour as evil is a central aspect of the identity of a national community, do liberals within and outside this community have to endorse the persecution of homosexuals for reasons of recognition of identity? It appears, therefore, that Taylor's approach to recognition is not compatible with liberalism as a doctrine of individual freedom, since it implies an *a priori* subordination of basic rights to the collective values and aspirations of national communities. Moreover, recognition, as presented by Taylor, construes identities as static and homogenous, leads to cultural essentialism and gives priority to the acceptance of existing identities over the acceptance of identities under development (Mörkenstam 1999: 28-31).

It seems that Galeotti is aware of the problematic notion of identity and culture underlying Taylor's approach to recognition and of the practical consequences of it that violate the principle of equal liberty.[102] She maintains that differences should be "recognized not for their intrinsic value, […], but instrumentally, for the value they have for their bearers" (Galeotti 2002: 15). She thereby makes "[…] a distinction between the public recognition and

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respect for identities and beliefs and the moral evaluation of the same; the former is possible without the latter" (Dobbernack and Modood 2011: 22-3).

In Galeotti's view, the fact that toleration as recognition requires political arrangements to publicly affirm people's affective commitments to their communities does not imply that the substantive values underlying those commitments should be incorporated into the basic principles of society that determine the distribution of rights and obligations among citizens. Thus, she considers that the adoption of toleration as recognition by liberal states should not require the political authority to pursue policies that violate the norm of equal treatment suggested by the principle of state neutrality. On the other hand, Taylor considers recognition to permit such violations, as his position on language politics in the case of Quebec shows.

If we now move on to Fraser's approach to recognition, this approach allows us to assume that we can locate the moral unacceptability of assimilation as negation of difference in the harm of injustice that misrecognition causes to people. In contrast to Taylor, who emphasizes the identity harm caused by misrecognition, Fraser (2001: 27, 2003: 29) presents misrecognition primarily as a matter of status subordination[103].

According to the "status model", which Fraser (2001: 23-5) contrasts with the "identity model" of Taylor, the object of misrecognition is not the group-specific identity but the social "status of group members as full partners in social interaction". Misrecognition does not entail the deformation of group identity but rather social subordination in the sense of being prevented from participating as an equal in social life. (ibid.: 24) Fraser's status model suggests that cultural humiliation results in misrecognition only if it is also attached to social structures that systematically exclude the members of the humiliated group from equal participation in social life. Hence, legitimate claims for the elimination of misrecognition are those that aim to change "institutionalized patterns of cultural value that subordinate certain persons and groups in such a way that they are denied the opportunity to participate in social life on an equal basis. (Zurn 2003: 522)

But how analytically close is the status model of recognition to Galeotti's view of toleration as recognition? On the one hand, Fraser's approach substantiates Galeotti's argument of socio-political exclusion of minorities: the majority's stigmatization of the differences of minorities produces social structures that prevent the members of minorities from participating as equals in social life. It also suggests that assimilation as negation of differ-

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[103] See also Fraser (2000).

ence is wrong because it confirms and reproduces the status of subordination of minorities. Hence, it confirms the addition of a dimension of disadvantages from cultural domination to the burden of assimilation. On the other hand, Fraser's approach fails to pay adequate attention to Galeotti's main reason for expanding the meaning of toleration from indifference to recognition, namely, the individual importance of one's own difference. It focuses instead on how the differences of minorities are mobilized in structural power relations in order to confirm the legality of the unequal status of minorities.

In Galeotti's approach, however, what justifies the move from indifference to recognition is primarily the assumption of the positive relation that the individual has with her/his own particularities: they are important to the bearer, and for this reason the rest of society has to publicly affirm them. Hence, assimilation as negation of difference is wrong because it injures the identities of those that bear the difference in question. To be more exact, it imposes an identity harm. The harm of injustice may emerge prior to or simultaneously with the identity harm. However, if the avoidance of the later harm were not of crucial importance in the first place, it would be meaningless to demand expanding toleration from indifference to recognition. The remedy would be instead measures that intend to correct the harm of injustice, irrespectively of whether they provide public recognition of identities.

Although the argument of marginalization makes Galeotti's position appear to bear effectively on Fraser's status model, the centrality that Galeotti places on the reason of individual importance of one's own difference makes the official recognition of the identities of minorities the core aim of toleration as recognition. Thus, it appears that we cannot base the inclusion of the interest in having one's own difference publicly affirmed into the definitional categories of liberalism on Fraser's notion of recognition. Let us now move on a notion of respect that can provide a normative justification of toleration recognition.

4.2.2. The right to justification and the moral wrongness of the burden

Forst (2004) spells out two conceptions of toleration applicable in political communities in which the citizens are divided by deep cultural and religious differences: the permission conception and the respect conception.

The permission conception, which presents toleration as a relation between an authority or a majority and a dissenting "different" minority, im-

plies that " the authority (or majority) gives qualified permission to the members of the minority to live according to their beliefs on the condition that the minority accepts the dominant position of the authority or majority" (ibid: 315). In contrast to the permission conception, the respect conception signifies that:

> "[…] the tolerating parties recognize one another in a reciprocal sense: even though they differ remarkably in their ethical beliefs about the good and true way of life and in their cultural practices and they hold in many respects incompatible views, they respect each other as moral-political equals in the sense that their common framework of social life should – […] – be guided by norms that all parties can equally accept and that do not favour one specific ethical community […]." (ibid.: 316).

As Forst argues (ibid.: 316-7), the respect conception of toleration is informed by the fundamental principle of the justification of justice, which claims that the major institutions of society need to be reciprocally and generally justifiable to all citizens.[104] This principle corresponds to "the most fundamental form of moral recognition: the respect of the other as having a right to justification" (ibid.: 317). Thus, whereas the respect conception sets the limits of toleration on the denial of the right of justification (ibid.: 318), the permission conception leaves it to the authority (or majority) to define the values that justify the limits of toleration (ibid.: 316).

The permission conception has clear similarities with Galeotti's description of traditional liberal toleration as negative and as requiring just non-interference.[105] It signifies freedom as non-interference, which Galeotti considers to be inadequate for meeting the demands for freedom as non-

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[104] "[…] the fundamental principle of the justification of justice […] says that all those institutions which determine social life and thus the individual lives of citizens to a high degree need to be justifiable in the light of the norms that the citizens cannot reciprocally and generally reject" (Forst 2004: 317).

[105] Galeotti interprets demands for recognition as activating intuitions of freedom that refer us to the aspect of domination of minorities. Her argument with regard to the marginalization of immigrants emphasizes that liberalism omits this aspect. This omission results from liberalism´s definition of freedom as non-interference, which misses the fact that, even in situations of non-interference, people can be dominated and subjected to arbitrary power relations. Dobbernack and Modood (2011: 12) claim that negative toleration involves a discretionary exercise of power that is based on the arbitrary will of the tolerator, in the sense that those that are tolerated may live under the threat of interference, should the tolerator change her/his mind and stop refraining from interfering. What they suggest is that the fact of systematic subjection of people to the threat of interference leads us to a Republican notion of freedom, like the one suggested by Pettit (1997), which identifies such situations as involving domination and recommends that freedom, in order to represent a more secure status than non-interference, should imply the absence of domination.

domination underlying contemporary cases of toleration. Regarding the respect conception, although it does not overtly correspond to Galeotti's notion of toleration as recognition, it implies a notion of respect that is more inclusive than the negative notion of respect manifested in toleration as non-interference.

Can the respect conception of toleration provide the positive notion of respect that Galeotti seeks to insert into liberal neutrality? Can it establish the concern for avoidance of assimilation as negation of difference as a major concern of liberalism? I suggest that it can. Let us start by explaining how the particular notion of respect is compatible with the Rawlsian paradigm of justice on the basis of which Galeotti wants to integrate the idea of toleration as recognition.

In his presentation of a universally acceptable foundation for human rights, Forst (1999: 40) defines the right to justification as "the right to be respected as a moral person who is autonomous at least in the sense that he or she must not be treated in any manner for which adequate reasons cannot be provided". His idea is that demands for human rights emerge when people ask for reasons for the justification of rules, laws and institutions because they believe that they are treated unjustly, both as members of their culture and society and as human beings. By protesting, they demand unconditionally to be respected as people that deserve to be presented with justifications for actions, rules or structures to which they are subjected (ibid.). What we have here is actually a normative justification of liberal basic rights that is based on a concept of person with roots in Kantian autonomy.

According to Forst (ibid.: 42), the right to justification offers both a negative and a positive interpretation of autonomy: in negative terms, autonomy implies that people should not be treated as the mere means of preserving institutions and power relations; in positive terms, it states that "to be an "end" and not a "means" to others is to be able to demand justification for social relations in concrete contexts". These two meanings of autonomy are reflected in the notion of respect advocated by the principle of justification, which, in turn, refers the ethical conflicts over belief or culture to a process in which the relevant parties mutually engage their distinct capacity of reasoning and provide reasons in order to convince each other.

The point is that we respect people in a way that differs from respect as non-interference, if we are willing both to explain to them our reasons for

judging their conduct and to listen to their reasons for why they do as they do, whether or not we are going to endorse each other's reasons.[106]

A notion of respect that is analogous to the one advocated in Forst's principle of justification can be identified in Rawls' liberal principle of legitimacy:

> "our exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason" (Rawls 1993: 137).

According to Larmore (1999: 605-6), this principle reflects liberalism's moral foundation, which is the view that basic political principles should be acceptable to those whom they are to bind. This view expresses the commitment of liberalism to the idea that the legitimacy of political principles should depend upon reasonable agreement about the rules to be enforced (ibid.: 607). It also rests on the following principle of respect for persons: "[…] to respect another person as an end is to require that coercive or political principles be as justifiable to that person as they presumably are to us" (ibid.: 608). In Larmore's view, this norm of respect is paradigmatic for liberal ideology, as it forms the basis for the fundamental liberal belief that political principles should be the object of reasonable agreement.

In order to confirm Larmore's suggestion that *Political Liberalism* bears on the specific principle of respect, we can start by considering Rawls' moral concept of reasonableness and how this is elucidated in the idea of reasonable persons. Reasonable persons recognize the burdens of judgement; they also accept that because of those burdens, other reasonable persons affirm comprehensive doctrines – i.e., ethical views – different from their own (Rawls 1993: 54- 58). Consequently, reasonable persons are tolerant of other reasonable doctrines. They endorse the principle of reciprocity and "insist that reciprocity should hold within that world so that each benefits along with others" (ibid.: 50). Moreover, "[r]easonable persons […] desire for its own sake a social world in which they, as free and equal, can cooperate with others on terms all can accept" (ibid.: 50). So, reasonable persons want to live according to political principles that other reasonable persons endorse. They are also "ready to work out the framework for the public social world, a framework it is reasonable to expect everyone to endorse and act on, pro-

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[106] As Larmore (1999: 602, n. 13) points out by referring to Galston (1991: 101), "we respect a persons in a different sense when explaining to him fully our reasons for the principle by which we judge his conduct, whether or not he can appreciate those reasons".

vided others can be relied on to do the same" (ibid.:54). In other words, they want to publicly justify political principles to other persons by presenting reasons that other reasonable persons can understand and approve of.[107]

I suggest that Rawls's concept of reasonableness, as it is exemplified in the idea of reasonable persons, can be interpreted as referring to a process of public deliberation that is comparable to what Laden (2000, 2001) calls reasonable deliberation[108].

According to Laden (2000: 576-577), a deliberation is reasonable when two conditions are met: first, every deliberator offers reasons to the others, on the presumptions that they form together a plural subject and that their deliberations are the deliberations of the plural subject that they form together; second, there is proper space for a reasonable rejection of submitted 'we'-reasons to influence the further course of deliberation. Hence, what characterizes a process of reasonable deliberation is that the deliberating parties share an understanding of each other as having an equal right to participate in the process of deliberation that concerns the acceptability of actions that affect them. We can therefore interpret Rawls's concept of reasonableness as implying that reasonable persons recognize each other's right to participate in the process of justification of political principles and respect others as persons who have the equal right to require that such principles are also justifiable to them.

Thus, we can maintain that Rawlsian liberalism is informed by a notion of respect that advocates the mutual recognition of the right to justification: respect as right to justification. The question is now how this notion of respect helps us to establish the avoidance of assimilation as negation of difference as a major concern for liberalism. In order to answer this question, let us use the French case of the headscarf[109], which Galeotti classifies as a

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[107] The idea that reasonable persons are willing to openly, i.e., publicly, justify the common rules of society to other reasonable persons underlies Rawls' concept of public reason. On this concept, see Rawls (1993) "The Idea of Public Reason" (p. 212-254); see also how Freeman (2003: 28-44) explains how the idea of public reason underlies Rawls' notion of reasonableness and how this idea is implied in Rawls' principle of legitimacy.

[108] According to Laden (2000: n.6), Rawls's theory cannot be fully appreciated unless it is also seen within the framework of reasonable deliberation. As Laden (ibid.: 551) explains the main characteristics of theories of reasonable deliberation, such theories analyze a different domain of reasoning in the service of action than theories of rational choice. "First, their subject matter is the deliberation that leads in action, rather than the final selection of the action itself. Second, they ask about the intrinsic character of a deliberative path, rather than its likely outcome" (ibid.).

[109] For a detailed description of the origins, development and final solution of this case, see Thomas (2000), Beller (2004) and Adrian (2009).

genuine case of toleration: the protests of Muslim female pupils against the ban of the headscarf from French schools correspond to request for public recognition, which, in turn, signifies their desire not to be dominated by the majority. Respect as right to justification allows us to specify the experiences of domination of those pupils as the denial of their right to justification of the laws that they are expected to follow. Their own reasons for wearing the specific dress are excluded, or are not given enough consideration, in the process of justification of the rule that forbids the headscarf in schools.

However, two objections can be raised here. First, Forst's notion of respect is an idealization. Therefore, we cannot regard it as having the same sort of validity in practical cases as the constitutional principles by which we live. Second, given the extensive inquiry carried out by the Stasi investigative committee[110] in connection with the matter of the headscarf, can we reasonably criticize this for not having shown any concern for Muslim pupils' reasons for wearing the veil?

With regard to the first objection, the notion of respect should not be interpreted in this context as superordinate to interpretations of practical political principles but as an aid in illuminating, from a liberal perspective, certain normatively relevant aspects that political systems may neglect in the process of defining laws and policies. With regard to the second objection, it can be argued that the Stasi enquiry did not symbolically meet the requirements of respect as the right to justification. The French commission of inquiry interpreted the issue of the headscarf mainly in terms of the mandates of French secularism (*laicité*). Therefore, the issue of the headscarf was approached solely as a religious symbol. The demands of the girls were thereby not only construed as arising from notions of female modesty in relation to a patriarchal belief but also as challenging the separation of state and religion advocated by *laicité*.

The emphasis on the religious meaning of the headscarf together with the presentation of the issue as involving the precepts of secularism made the demands of the protesters appear to originate in a religion that is not fully

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[110] The Stasi commission was set up by the president of the French Republic Jacques Chirac to reflect upon the application of the principle of *laicité*, i.e., the French principle of secularism. It was set on July 2003; it reported its conclusions on December 2003. During this time, the commission interviewed representatives from different groups, for example, religious leaders, head teachers, political leaders, and representatives of egalitarian and social groups. It eventually led to the official prohibition (2004) of conspicuous religious symbols in French schools.

compatible with secularism[111] and gender equality. The issue of the headscarf was presented so as to entail a conflict between French citizens and a religion that questions French constitutional principles and political values. The protests on behalf of the right to wear the headscarf in school were in this manner framed to signify a commitment on the part of the protesters to a religious lifestyle that challenges the core principles of French secular order: the renouncement of the political dimension of religious movements. Hence, the claims for wearing the headscarf in schools were construed to represent demands for public acceptance of the substantive elements of a religious identity that did not acknowledge the French socio-political order.

Since the process of investigation approached the headscarf solely as a religious symbol, it failed to consider that symbols are open to different interpretations. Undoubtedly, the veil[112] is a symbol with strong religious connotations. Because of its religious meaning, it is often interpreted as symbolizing female subordination to patriarchal norms of male control of the female body. In this sense, it is taken to mark the submission of women's personal freedom to patriarchal relations of power in the private sphere[113]. On the other hand, it is also claimed that associating the veil solely with female oppression belies the diversity of the practice, as it totally overlooks "the fact that many Muslim women not only participate voluntarily in veiling, but defend it […] claiming it as a mark of agency, cultural membership, and resistance" (Hirschmann 1998: 345).

These two opposing examples of the symbolism of veiling indicate that, depending on the specific meaning that we ascribe to this practice, we are

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[111] My point is not that this specific report stated that Islam is a religion that is incompatible with French secularism but that the manner in which the entire problem was construed by the commission made the headscarf, as a symbol of the Islamic faith, appears to challenge the principle of *laicité*. According to Beller (2004: 582), while "denying that *laicité* mandates a "militant atheism" or that *laicité* is incompatible with Islam, the report states that just as the state must abandon all authority within matters of personal conscience and spirituality, so must religion renounce its political dimension".

[112] The term veil covers different forms of Islamic female dresses as the *hijab*, usually a headscarf covering head and shoulders; the *jilbab*, a full-length dress that leaves only the face exposed; the *niqab*, which only leaves the eyes uncovered, and the *burqa*, which covers also the eyes with a semi-transparent cloth.

[113] "This ancient segregation of space was, moreover, enshrined in religious texts (Surah 22, verse 31, for example). In this sense the veil can be interpreted as a symbol revealing a collective fantasy of the Muslim community: to make women disappear, to eliminate them from communal life, to relegate them to an easily controllable terrain, the home, to prevent them moving about, and to highlight their illegal position on male territory by means of a mask. This is the logical conclusion of the almost phobic attitude of the community towards women." (Mernissi 1982: 189)

confronted with different political problems, which, in turn, call for different legal solutions. Thus, by interpreting the headscarf exclusively in terms of religion, the commission did not consider any other motives that women may in fact have for bearing the headscarf. Although we cannot expect an investigative commission to interview each and every person in question about her motives for wearing the headscarf, the absence of such considerations is a symbolic act of exclusion that confirms the authority of the majority to give qualified permission to minority members to live according to their lifestyles and to define the values that justify the limits of toleration.

From the perspective of the notion of respect as the right to justification, the symbolic act of exclusion signifies that those pupils who want to bear the headscarf in school are not respected as equal moral persons: their reasons for wearing the headscarf in school are symbolically ignored in the process of justifying the law that forbids this item of dress in school. Moreover, this act of exclusion can be seen as expressing and confirming the status-quo of domination of minorities by the majority. In this particular case, this domination has two interrelated features. First, a public dimension, which entails that minorities are dominated in the public sphere. Second, a decisional dimension, which entails that minorities are dominated in the process of definition and interpretation of constitutional principles.

The public dimension of domination entails that minorities are explicitly or implicitly subjected to assimilation by a rule that forbids them from or makes it difficult for them to carry out their traditional practices in the private sphere. The second dimension entails the exclusion of the reasons that minorities have for questioning the validity of political principles and policies from the process of justifying laws. In other words, the unacceptability of the later form of domination bears on Forst's notion of respect.

Galeotti emphasizes very strongly the unacceptability of the public dimension of domination. Her thesis advocates the spatial extension of toleration from the private domain to the public domain. Moreover, the reason of individual importance of one's own difference is supposed to explain why this form of domination should be ended. Finally, the account of the burden of assimilation underlying Galeotti's position rejects as morally wrong subjecting minorities to assimilation by a rule that prohibits them from expressing their differences in public. On the other hand, the decisional dimension of domination does not really come forward due to the centrality that Galeotti gives to the public dimension of domination.

My point is that the decisional form of domination can provide the normative link that Galeotti's thesis needs in order to show that recognition is

compatible with liberalism on liberal grounds. What I mean is that it can provide the reason, on liberal grounds, that the avoidance of assimilation as negation of difference should be incorporated into liberal theory. This reason is formulated as following: given that assimilation as negation of difference is affirmed and reproduced by political structures that deny or illegitimately limit the right of minorities to justification, we should view assimilation as negation of difference as the product of a political system that treats minorities as a means of preserving institutions and not as full citizens with an equal right to the justification of common laws.

Thus, assimilation as negation of difference signifies that members of minorities are not respected by the liberal state as moral persons that possess an equal right to present their own reasons in the process of justification of rules and institutions to which they are expected to be subjected. Since assimilation as negation of difference is a symbolic act of exclusion that affirms and perpetuates the unequal moral standing of minorities, the avoidance of the harm of assimilation as negation of difference, or of the burden of assimilation, should be a liberal concern.

4.3. The political consequences of recognition

In the preceding section, I suggested that a notion of respect as the right to justification can provide the normative justification for including the concern for avoidance of assimilation as negation of difference into liberal theory.

However, we must be careful about drawing excessively far-reaching inferences about the overall theoretical compatibility of Rawlsian liberalism with the thesis of toleration as recognition. One of the problems is that this particular notion of respect concerns features that all persons possess independently of group belonging, as it is essentially Kantian universalist in nature. It can, thus, involve recognition of capacities and features shared by everyone. For Galeotti this type of recognition corresponds to what liberal policies and anti-discrimination measures based on the principle of neutrality can offer to minorities, namely recognition of general human characteristics rather than particular differences. Nonetheless, in order to defend Galeotti's thesis from the criticism of lacking normative validity, let us accept that, all other things being equal, we can base the normativity of Galeotti's position on a notion of respects as the right to justification

On the other hand, settling the matter of the normative validity of Galeotti's thesis does not entirely resolve the issue of whether to include the inter-

est in acquiring public affirmation of one's own differences to the normative categories of liberalism. We still have to inquire into the political consequences of toleration as recognition, since Galeotti is rather unclear in her analysis about the type of concrete political measures that toleration as recognition corresponds to. Which political measures does a liberal government have to take in order to relieve minorities of the burden of assimilation? How do these measures differ from the policies of accommodation of diversity produced by liberal justice? Do they affirm the compatibility of recognition with liberalism?

In the remainder of this chapter, I make use of two cases in order to answer these questions: the French issue of the headscarf and the Rushdie affair in the U.K. Let us begin by looking at the political measures that the French government has to take in order to secure the good of recognition for French Muslims.

4.3.1. Liberal principles and assimilation

In the context of French republicanism, the political debate surrounding the question of the headscarf was mainly framed as an issue that concerns the requirements of *laicité*. According to Laborde (2002: 168), this principle entails "a complex set of ideals and commitments that constitutes the closest equivalent in France […] to the liberal philosophy of toleration". It is also a problematic concept because it appeals simultaneously to neutrality, to autonomy and to community, i.e., to values that are usually kept separate in Anglo-American liberal theory (ibid.).

In practice, *laicité* is a principle of integration that requires immigrants to relegate their cultural, ethnic and religious differences to private sphere and to adopt the French Republican ideal of equality through similarity of public identity (Pena-Rui 2003: 167-9). Therefore, this principle "supports […] the unification of national and political citizenship in France, a unification that necessitates cultural assimilation as an ideal" (Choudhury 2007: 236-7). As a principle enshrined in the first article of the French Constitution, it provides a model of integration that requires the cultural assimilation of regional cultural minorities and immigrants. Hence, the kind of intersubjective recognition that *laicité* provides to citizens is based on sameness and exclusion of differences from the public sphere and requires their cultural assimilation into the French Republican ideals.

If we accept that the demands of the protesters to be able to wear the headscarf in school concern the exclusion of their differences from the

French public sphere, then these demands question the legitimacy of the assimilationist norm of intersubjective recognition[114] underlying *laicité*. In order to stop subjecting them to assimilation as negation of difference, the French government either has to change the content of *laicité* or to avoid subsuming the question of the headscarf under the concerns of *laicité*. In a liberal constitutional democracy, the government can employ a combination of both of these solutions and approach the issue from the point of view of the constitutional right to freedom of expression. This right can provide the grounds for political deliberations that approve of the wearing of the headscarf in schools.

An accommodating policy based on freedom of expression has the consequence of welcoming the public manifestation of the differences of French Muslims, irrespective of why individual members may consider those differences to be an important part of their identity. Such a policy change would also involve a kind of intersubjective recognition that does not subject French Muslims to assimilation as negation of difference, as it leads to the inclusion of their particularities into the public sphere. However, if a revised policy based on freedom of expression can provide the good of recognition to the minority in question, then liberal principles can, after all, secure the good of recognition. If this is the case, why should liberals incorporate the concern for avoidance of assimilation as negation of difference in liberal theory? Why do they have to give epistemological value to the burden of assimilation?

As Forst (2004: 319) clarifies the political consequences of the respect conception of toleration, this conception "[…] implies a kind of "qualitative equality" of equal respect and equal rights for persons with different ethical-cultural identities". In his view, the ideal of respect as right to justification necessitates exemptions from legal requirements and social traditions, i.e., it stands for the granting of rights of exemption to minority members as individuals and to minorities as groups. This change, in turn, necessitates a norm of equality that is responsive to the practices of minorities, in the sense of

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[114] According to Tully (2000: 470), a struggle for recognition is "both a challenge to a prevailing rule or norm of intersubjective recognition and a demand for another rule or norm of recognition by a group (or groups) of citizens against those who oppose the proposed change (or changes) and defend the status quo or advance a change (or changes) of their own". Struggles for recognition are also struggles over recognition in the sense that they aim at changing constitutional, legal, political rules: "struggles over recognition are struggles over the intersubjective 'norms' (laws, rules, conventions or customs) under which the members of any system of government recognize each other as members and coordinate their actions" (Tully 2007: 22).

supporting the granting of rights of exemption to minorities. In other words, the political implementation of respect as right to justification raises the important analytical question of what equal treatment requires and allows in circumstances of multifaceted diversity. This question is not at issue in this chapter, but is discussed extensively in connection with the issue of exemption rights in the chapter that analyzes an equality approach to multiculturalism.

Even if we agree to a definition of equality that justifies the granting of rights of exemption to cultural minorities, such rights are, in practice, still justified by political/judicial considerations that interpret and evaluate various general constitutional principles and rights in relation to each other. For example, the withdrawal of Muslim female pupils from school gymnastics can be contemplated by weighing the freedom of religion of the pupils in question or of their parents' right to privacy against the aim of gender equality or of equal educational opportunity. What I mean is that toleration as recognition does not require methodological modifications of liberal theory. It requires, rather, institutional change at the practical political level, namely in the way the political and legal system interprets basic principles and laws.

For Galeotti, however, institutional change cannot secure recognition for minorities. According to Jones's (2006: 130) explanation of what recognition signifies for Galeotti, recognition cannot be reduced to mere institutional change, since it requires an attitude rather than a political act. Recognition, for Galeotti,

> "[…] relates to the way in which the members of a society regard a minority rather than merely to how its political and legal system provides for that minority. It inheres not in a society's rules and institutions but in what those symbolise. Thus changes in public policy will accord recognition only if they symbolise a positive regard that the wider society (the majority) has for the minority. So, in the kind of democratic society that is Galeotti's concern, it is not possible for recognition to be accorded independently of the attitude of majority" (ibid.: 130-1).

The difference between recognition as institutional change and recognition as the positive regard of the society in a broader sense is elucidated in the distinction that Seglow (2003) makes between narrow and wide recognition.

Narrow recognition is accomplished through legal or policy changes and falls within the scope of social justice[115]; wide recognition means "that the

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[115] Claims for public recognition "involve changes to laws, policies public conventions and state funding which seek to accommodate the specific needs and identities of minority groups" (Seglow 2003: 89).

particular minority identity in question is publicly accepted and acknowledged as having its own particular perspective and view of the world that is different from the majority's" (ibid.: 84). From Galeotti's point of view, the type of recognition secured through the application of liberal principles is narrow and affirms the legality of assimilation as negation of difference[116]. Hence, institutional change in the direction of recognition that fall within the scope of social justice is assimilationist.

So, as long as a policy fails to secure wider recognition, it imposes the burden of assimilation on persons whose cultural practices it aims to accommodate. If Galeotti's categorization of liberal institutional change as assimilationist is correct, then the immorality of the imposition on minorities of the burden of assimilation calls for liberal governments to adopt forms of accommodation of diversity other than those linked to institutional change.

At this point, we can wonder whether there is a difference in demands for assimilation between a policy that allows, for example, the headscarf in schools and a policy that forbids it. We could say that a prohibitive policy based on *laicité* corresponds to 'thick' assimilation, since it explicitly requires immigrants to relegate their particularities to the private sphere and adopt the established social conventions of society. An unrestrictive policy based on freedom of expression may allow minorities to manifest their particularities outside of the private sphere, but it leaves them exposed to the pressures of assimilation directed at them by persons that dislike that particular practice. Yet, it seems counterintuitive to describe a policy that does not forbid the wearing of the headscarf in school as assimilationist, although we may mean that the demand for assimilation is indirect. Let me illustrate this with a concrete example.

In 2010 the British Department of Health announced that Muslim doctors and nurses would, for religious reasons, be exempt from strictly following NHS dress codes introduced to prevent the spread of deadly hospital bacteria (Daily Mail: 2010). In practice, this means that female Muslim staff will be permitted to cover their arms in hospital wards in order to preserve their modesty. On the other side of the English Channel, the French National Assembly approved a bill in 2010 that outlawed wearing in public fully concealing veils, such as *niqab* and *burqa*. Both pieces of legislation concern the accommodation of a Muslim practice in democratic states where Muslims constitute a significant minority. In the British case, the rationale of permissiveness bears on freedom of religion. In the French case, the rationale of

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[116] See Section 4.1 in this chapter.

prohibition is based mainly on an argument about gender equality (Lanefelt 2012).

Obviously, the total French ban on concealing veils shows intolerance towards the particular difference. Its rationale entails the stigmatization of fully veiled women as non-autonomous actors subjugated to patriarchal norms. It also shows that their reasons for wearing such veils are excluded from the decisional procedures. The ban is not only a direct act of public misrecognition but also a symbolic act of political misrecognition, since it signifies that women that follow such practices cannot be recognized as full citizens with an equal right to justification. The British policy, however, indicates the opposite: it is a political act of inclusion into the civil society of differences that are important to their bearers. Can we reasonably subsume the British policy change under the heading 'assimilationist' merely because its rationale bears on general considerations of social justice? Can we identify such a policy as an instance that demonstrates how minorities are dominated by the prevailing majority under the regime of liberal toleration?

The point is that there is a substantial difference in the consequences between these two policies on veils: whereas one totally forbids Muslim women from expressing their differences in public, the other adjusts the medical dress code to accommodate their differences. But why does Galeotti stretch the meaning of assimilation to such extent that it cannot capture those differences? Why does she present assimilation as an inescapable outcome of liberal policies, independently of how inclusive or exclusive these policies may be?

The reason why Galeotti interprets assimilation as an inevitable consequence of liberal institutions lies in her reduction of standard liberal arguments for toleration and neutrality to the theoretical problems underlying the French question of the headscarf. However, this case cannot function as a key to revealing the unfairness of the limits of liberal toleration and the assimilationist effects of liberal neutrality. As Moruzzi (1994: 656) clarifies,

"[t]he discourse of liberalism was not the defining discourse of this issue. In France, the headscarf issue raised the problem of what it meant to be French, in which the two competing traditions of French Christian Catholicism and French secular Republicanism found themselves awkwardly in agreement that wearing a headscarf in class was militantly anti-French and should not be tolerated".

It appears, thus, that there is disparity between the theoretical preoccupations of classical and contemporary liberalism and the concerns of French political tradition, the complexities of which are reflected in the question of the head-

scarf. I suggest that an example of this divergence is the principle of neutrality of the state.

The ideal of neutrality advocated by *laicité* may be parallel to the meaning that Rawls (1993) assigns to state neutrality[117], since both concepts of neutrality require the state to refrain from supporting through action or policies a specific conception of the good. However, French neutrality is firmly bound up with a norm of intersubjective recognition that also requires citizens in practice to relegate their cultural, ethnic and religious differences to private sphere. It demands that "[…] they […] disregard their special membership in the public sphere" (Laborde 2002: 170). Although liberal states may interpret neutrality as requiring a public sphere that is free from particularistic differences, the assimilationist norm of intersubjective recognition underlying *laicité* is in no way inherent to liberalism as political theory.

4.3.2. Social conventions and the multicultural conflict

As a result of a flawed methodology, Galeotti assumes that liberal theory, through the principle of neutrality of the state, reflects the requirement for assimilation embodied in *laicité*. On the basis of this assumption, she then categorizes all practical policies of diversity accommodation that appeal to liberal principles or rights as having assimilationist consequences for cultural minorities, no matter how permissive these policies may be.

An example of how this defective methodology affects Galeotti's argument is the link that she assumes to exist between the protests of French girls for the right to wear the headscarf in school and liberal principles. For Galeotti these protests signify the need on the part of the protesters for public recognition of their identities and show that liberal justice should include in its aims the fulfillment of this need. However, the direct object of these protests was neither liberal justice nor basic liberal principles and rights. It was, instead, the institutionalized French social convention of 'proper' dressing in public, which was later rationalized politically as legitimate with reference to *laicité*.

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[117] Laborde (2002) identifies neutrality as a stand of *laicité*, the other stands are autonomy and community: "[t]he neutrality of the state requires that it neither promote not hamper the expression of religious and cultural identities" (ibid: 170). This definition is almost identical in the meaning of state-neutrality endorsed by Rawls (1993: 193): "that the state is not to do anything intended to favour or promote any particular comprehensive doctrine rather than another, or to give greater assistance to those who pursue it". As Rawls explains (ibid.: note 25), this is the meaning of neutrality that Dworkin (1985: 191ff) gives to neutrality.

The protesting pupils wanted to change this convention because it limited their freedom to manifest their individuality, or identity, in school. The important question for liberals is not whether the headscarf is an indispensible element of Muslim identity but whether this particular limitation on freedom is legitimate, or, to be more precise, whether the restriction aims at meeting a justifiable public objective. In the question of the headscarf, it was the objective of protecting French values embodied in the principle of *laicité* that made this limitation of freedom assimilationist. However, this does not show that a permissive policy on the headscarf that challenges a prohibitive social convention on the basis of liberal rights is assimilationist.

Galeotti most likely wants to say that institutional change fails to provide equal treatment because established institutions tend to favour the social conventions of the majority. Like Kymlicka (1995: 114-5), she means that state neutrality is an unfeasible ideal, since states are inclined to favour and affirm the prevailing identity of society, which usually coincides with that of the majority. One can, however, object that the argument of unfeasibility of the ideal of neutrality is based on faulty premises. As I discuss further in the following chapter[118], this argument grossly conflates the question of what liberal states do with the question of what liberal theory allows and requires states to do. Although the argument of the unfeasibility of neutrality can be used in order to justify certain changes in the social conventions adopted in a society, it does not demonstrate that liberal policies of diversity accommodation are inherently assimilationist.

The point is that a large number of the issues that multiculturalists present as proving the inadequacy of liberalism for accommodating cultural diversity concern social conventions. For example, cases of dress codes and dietary requirements, demands for language rights and for the inclusion of the symbols of minorities in the official symbols of the state and demands for exemptions from working schedules for religious reasons are issues with an underlying problematic that concerns conflicts between differing social conventions. In such cases, the multicultural conflict appears when the institutionalized conventions of a society limit the freedom of members of minorities because the practices of minorities fall outside of the scope of the adopted conventions of society.

Multiculturalists tend to interpret this discrepancy as setting a requirement for assimilation on cultural minorities and as proving the inadequacy of the liberal model of integration for accommodating cultural diversity. However,

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[118] In 5.4, "Autonomy and the unfeasibility of neutrality of the state".

neither the endorsement of the institutionalized conventions of majorities nor the requirement for assimilation are inherent to a liberal neutralist model of integration. Liberalism can accommodate the social conventions of minorities, given that those conventions do not clash with legitimate public objectives. It focuses on the legitimacy of the public objectives that limit the freedom of minorities and not on the extent to which the practices in question may diverge from what people usually do or consider 'normal' in a specific society.

At the same time, the accommodation of a practice of a minority can never be absolute, in the sense that it under all circumstances takes priority over all other political principles of the society. For example, the wearing of fully concealing veils in public can be generally motivated by the right to freedom of expression. This does not mean, however, that the freedom of person X, who wants to wear the *niqab* in all possible situations cannot be limited by other public objectives, depending on the nature of the situation. For example, if X is a brain surgeon and wants to operate on her patients dressed in *niqab*, the practical requirements of her job and considerations of hygiene set limits on the freedom of expression of X. They do the same for Y, who is a brain surgeon and a devoted nudist and wants to operate dressed in a bikini. I have already discussed the justifiability of these limits in the second chapter of this thesis.

4.3.3. The liberal limits of recognition

The previous analysis allows us to draw the following conclusions. First, the subjection of minorities to assimilation as negation of difference is not inherent to liberalism as political theory. Second, policies based on liberal principles cannot be *a priori* classified as imposing the burden of assimilation on minorities, since they can, in practice, lead to the inclusion of the differences of minorities into the public sphere. Third, in several contemporary cases of liberal toleration, multicultural conflict concerns differing social conventions. Particularly the second conclusion questions the need for the turn towards recognition in liberalism suggested by Galeotti: if liberal principles can resolve cases of multicultural conflict to the advantage of minorities, why should the concern for avoidance of assimilation as negation of difference become a part of liberal methodology?

A multiculturalist might object here that toleration as recognition is needed principally in cases that cannot be described in terms of differing social conventions, since they concern clashes between views of how the

political dimension of people's lives should be organized. In such cases, minorities are always subjected to assimilation as negation of difference, as liberals may insist that the norm of equal treatment suggested by the principle of neutrality overrules all other norms that can give political relevance to the substantive content of people's identities. Let us, therefore, discuss the political implications of Galeotti's thesis in connection with the Rushdie affair, which involves the problematic kind of this type of case.

The controversy in the U.K. over *The Satanic Verses*, or the Rushdie affair, also corresponds to what Galeotti calls "genuine" cases of toleration. The members of a socially marginalized ethnic/religious minority in the U.K. demand public recognition of a norm that is important to them and that radically differs from the prevailing norms of society. This is the Muslim rule of condemnation of apostasy, i.e., a rule that denies members of Islam the right to freedom of belief and to freedom of religious association. During this controversy British Muslims demanded that the blasphemy law in the U.K. be extended to cover the Muslim faith and all other faiths[119]. Their demand was rejected in court.

As stated in the decision of *Regina v. Choudhury* ([1991] 1 Q.B. 429, p 30)[120]. The problem with such an extension is that it

> " […] would encourage intolerance, divisiveness and unreasonable interference with freedom of expression. Fundamentalist Christians, Jews or Muslims could then seek to invoke the offence of blasphemy against each other's religion, doctrines, tenets, commandments, or practices; for example, for denying the divinity of Jesus Christ; or for denying that the Messiah has yet to come; or for denying the divine inspiration of the Prophet Mohammed, and so on".

In terms of liberal toleration, the Regina motivation informs us that an extended blasphemy law would carry with it the re-politicalization of religion and a major deviation from toleration as indifference. It would cause a clash

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[119] In 1988 the publication of Salman Rushdie's novel *The Satanic Verses* caused intergovernmental tensions and domestic controversy in the U.K. over what was perceived as an improper depiction of sacred elements of Islam. Some British Muslim spokesmen accused Rushdie of apostasy, others for declaring a war against the 'House of Islam', and, therefore, he could not be forgiven (Parekh 1990: 698-699). The variety of complaints expressed by the British Muslim communities were crystallized into a political demand for extending anti - blasphemy laws to cover all other religions in addition to the Anglo-Christian church. (ibid.: 703)

[120] In *R v Chief Metropolitan Stipendiary Magistrate, ex parte Choudhury* (1991), a Divisional Court in U.K. held that British blasphemy law prohibited attacks only on the Christian religion, and did not prohibit attacks on the Islamic religion.

between different religious groups over which religious doctrine should define the limits of the right to freedom of expression, since each group would seek to establish the tenets of their own faith as the source of intersubjective recognition that would inform this right. Moreover, this extension would not only institutionalize religious intolerance, it would also require that basic constitutional principles be interpreted in particularist and collectivist terms.

Hence, the deviation from liberal toleration would also lead to a departure from the ideal of neutrality of the state, since, for example, the state would have to decide on the basis of court verdicts which religious group's interpretation of divinity is the most truthful. Does Galeotti's thesis of toleration as recognition support or reject the *Regina* decision?

The normative problem underlying the Rushdie affair can be described as a conflict between the interest in avoiding the harm of enforced morality and the interest in having one's own difference publicly recognized. The former interest is assigned to Rushdie, who does not accept that the tenets of his faith should limit his freedom of expression. The latter belongs to those British Muslims for whom the political rejection of the norm of condemnation of apostasy constitutes an official act of misrecognition of their identity. Multiple minorities on different levels of politics are also a part of this problem. Rushdie as an individual symbolizes the minority inside a majority, which, in turn, is a religious/cultural minority within the U.K. How can we balance these two interests from the perspective of toleration as recognition? Which minority should the liberal authority give priority to?

Galeotti is unclear as to how the liberal authority is supposed to deal with the demands for recognition of identity expressed in cases like the Rushdie affair. On the one hand, given the centrality that the reason of individual importance of one's own difference has in her thesis, the decision of *Regina* can be criticized for failing to take note of how vital the norm of condemnation of apostasy is to British Muslims. It, therefore, imposes the burden of assimilation on them, since it fails to affirm the importance attached to this norm by those calling for Rushdie to be sentenced for apostasy. Assimilation as negation of difference here implies that those that want to prosecute Rushdie have to accept that the freedoms of conscience, expression and association override the tenets of their faith. On the other hand, given that Galeotti (2002: 57) does not consider recognition to require that liberalism has to give up the constitutive ethical core of neutrality and adopt communitarianism, the political consequences of legal recognition of condemnation of apostasy speak against the suggestion that recognition is an acceptable option in the Rushdie case. Let us analyze these two options.

If Galeotti means that the *Regina* decision is wrong because it deprives the Muslim minority in the U.K. of the good of recognition of identity, then she approves of Rushdie being prosecuted in the U.K. for profanity against Islam. With that, she also endorses both the direct and the broader political consequences of the legalization of the norm of condemnation of apostasy. The direct political consequence is that Rushdie's right to freedom of conscience, association and expression are withdrawn. The broader consequence involves the subjugation of the extent and limits of freedom of expression in the U.K. to the tenets of religious beliefs. Both consequences are problematic for liberalism as a doctrine of individual freedom for two reasons.

Firstly, the direct consequence is incompatible with liberalism's central aim of protection of individual freedom against the collective goals of groups. Secondly, the broader consequence means that the freedom of all citizens in the U.K. has to be restricted so that a particular minority can enjoy 'more' freedom of religion and, thereby, not subjected to assimilation as negation of difference. In contrast, in the French question of the headscarf, assimilation as negation of difference can be avoided through institutional change that provides the minority in question with the same 'amount' of freedom as that enjoyed by the majority. Hence, the political consequences of public accommodation of this specific veiling tradition entail an expansion of freedom.

In the Rushdie affair, however, the political consequences involve restrictions on overall freedom. Since these restrictions would enhance the religious freedom of a certain minority, we can describe the broader consequences in terms of leading to the establishment of minority rule, i.e., a minority ruling over the majority as well as over other minorities. In addition, multicultural conflict in the Rushdie affair does not involve differing social conventions. It involves, instead, the clash between a religious norm and basic rights that aim at protecting the equal individual freedom of all citizens. Unless Galeotti wishes to submit liberalism directly to value-pluralism and value-relativism, she cannot mean that the turn towards recognition requires that liberals should approach all basic freedoms as contingent social conventions. It appears, therefore, that the political consequences of legal approval of the norm of condemnation of apostasy are incompatible with the type of liberalism in which Galeotti wants to include toleration as recognition.

If Galeotti agrees that public recognition is not an option in the Rushdie affair because it has illiberal political consequences, she also agrees that the liberal aim of protecting and promoting equal individual liberty supersedes

the need for recognition of identity of minority members. Hence, she concedes that this aim defines the extent to which recognition is compatible with liberalism. If this is the case, we can wonder what the point is with trying to establish the compatibility of recognition with liberalism on liberal grounds. Given that toleration as recognition in the Rushdie affair, as in the French case of the headscarf, does not justify any measures of accommodation of diversity other than those already proposed in liberal theory, why does liberalism need to embrace the turn towards recognition?

The point is that Galeotti does not specify what the turn towards recognition adds to liberalism in terms of concrete political measures of cultural accommodation. As the analysis of the issue of the headscarf shows, demands for recognition can be valid from a liberal perspective when laws and rules forbid the manifestation of differences of minorities because they reflect the social conventions of the majority. However, favouring practices of majorities is not inherent to liberalism, which already entails a systematic way of dealing with this kind of multicultural conflict.[121]

Still, one can object that Galeotti does not intend to suggest with her thesis of recognition that the liberal neutralist model of integration should also include multicultural measures of accommodation of diversity. She is rather searching for some ethics of civic respect that requires the wider society to adopt a directly positive attitude towards differing minorities. Such an ethics of civic respect falls, however, outside of the legitimate aims of the liberal paradigm that Galeotti places her concept of toleration as recognition.

4.4. Conclusion

Given the centrality that the principle of neutrality has in liberal justice, is the turn towards recognition of cultural identity compatible with liberalism?

This chapter has considered the issue of the compatibility of liberalism with the multicultural turn towards recognition of identity by analyzing Galeotti's attempt to include the aspect of recognition in the liberal concept of toleration.

The analysis presented in this chapter allows us to draw three conclusions. First, an account of toleration that includes recognition adds a dimension of disadvantages from cultural domination to the burden of assimilation. Second, a main problem with this account is the lack of a normative justifi-

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[121] I present this way thoroughly in Section 2.4 of the chapter that analyzes the equality approach to multiculturalism.

cation of recognition on liberal premises. Third, even if a liberal justification could be based on a notion of respect as the right to justification, the assignment of definitional value to the burden of assimilation in liberal theory for reasons of recognition appears to be redundant, given that an account of toleration as recognition implies no other measures than those already offered by the liberal model of integration. Although recognition can have a place in liberal theory, it is unclear what embracing this value contributes to liberalism in terms of measures of accommodation of cultural diversity. Thus, it remains unclear how relieving minorities of the burden of assimilation and the promotion of the value of toleration as recognition will be accomplished in practice.

5. Freedom as Autonomy and the Good of Culture

One of the most sophisticated liberal justifications of multiculturalism is based on the value of autonomy. Theorists such as Tamir (1993), Raz (1994) and Kymlicka (1989, 1995) have sought to justify the inclusion of cultural rights as moral rights in liberal theory by presenting arguments that appeal to the individual pre-political interest in making one's own choices and in reassessing choices once made. The autonomy justification of multiculturalism is liberal not only because autonomy is a prominent liberal value, but also because it suggests that multiculturalism as a normative project is derivable from the major liberal concern of protection and promotion of individual freedom. In this way, the autonomy justification is supposed to avoid the collectivism[122] and the cultural relativism[123] resulting from the direct introduction of the category 'culture' into the normative categories of liberal justice. Another central characteristic of the autonomy justification is that it assigns instrumental value to culture, since it attributes to people a basic need for having access to one's own cultural context. Does the argument of autonomy succeed to establish culture as a category of liberal justice?

This chapter examines the merits of the autonomy justification of multiculturalism by analyzing the normative consequences of Kymlicka's argu-

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[122] 'Collectivism' here signifies the practice of giving priority to a (cultural) group over every single individual member of that group, usually for reasons of preservation of the cultural characteristics of the group. Such an understanding of 'collectivism' has affinities with communitarianism, since it presupposes the rejection of the idea that the individual is prior to the community and that the value of social goods is reducible to their contribution to individual well-being. We can say that 'collectivism' is a consequence of the communitarian rejection of the social ontology of liberalism and of the embracement of ontological holism, which views social goods – such as substantive identities and languages – as irreducible social goods that should be presumed to be of equal worth.

[123] Cultural relativism suggests that the question we should be asking when we formulate our common standards of justice is not what people should choose in the case of different conflicting substantive practices, as, for example, monogamy and polygamy, religious toleration and shunning. We should, instead, be asking what people that share a culture actually choose. According to cultural relativism, social justice is the distribution of goods according to their cultural meaning (Gutmann 1993: 173).

ment of autonomy. This chapter does not discuss the sustainability of the analytical connection between the different conceptions of moral autonomy – suggested by theorist such as Kant 1948), Mill (1999), Rawls (1971), Raz (1986) or Wall (1998) – and multiculturalism. Nor does it take up the question of whether autonomy constitutes the fundamental principle of liberal political morality. It starts by simply endorsing the assumption that liberalism can also be based on autonomy. It then analyzes Kymlicka's argument of autonomy in order to determine whether the autonomy justification resolves the problem of compatibility of liberalism with multiculturalism.

There are three reasons why this chapter focuses exclusively on Kymlicka's autonomy argument. Firstly, the autonomy arguments of Tamir and Raz have central analytical similarities with the argument of Kymlicka. Secondly, Kymlicka seeks to provide a theory that demarcates between different units of diversity and between the types of cultural rights that each unit can legitimately claim. Thirdly, he aims at including culture in the definitional categories of Rawlsian justice, since he bases the autonomy argument largely on the account of liberalism of Rawls (1971). In this sense, we can say that Kymlicka has an ambition of making liberal justice responsive to the substantive content of ethical views about the good life without abandoning the liberal commitment to neutrality. His autonomy justification of multiculturalism can, therefore, be seen as an attempt to answer the communitarian critique of liberalism, which criticizes liberal theory for failing to make sense of the unchosen properties – such as religion, ethical views and specific traditions – of people's lives.

I will argue in this chapter that an autonomy justification of multiculturalism, as this is formulated by Kymlicka, does not succeed to resolve the moral tensions between the individualistic aim of protecting personal autonomy and the collectivist aim of promoting cultural autonomy. In the case of conservative groups, this tension indicates that cultural rights may fail to promote the value of individual autonomy. In the case of groups that embrace the ideal of human good as autonomy, the tension discloses the deeper tension between individualism and collectivism that characterizes multiculturalism based on autonomy.

The analysis presented in this chapter is divided into three parts. The first part identifies the two basic premises in Kymlicka's autonomy justification of multiculturalism. These are the thesis of freedom as autonomy and the thesis of national embeddedness. They imply that the burden of assimilation is unacceptable because it costs the members of minorities the realization of their own freedom. The second part takes up the objection of assimilationist

effects of autonomy and discusses how this objection affects the account of the burden of assimilation underlying an autonomy justification of multiculturalism. The third part analyzes the tension between collectivism and individualism that characterizes the thesis of national embeddedness and discusses how this tension is reflected on the concept of burden of assimilation identified in Kymlicka's theory.

5.1. Freedom as autonomy and the burden of assimilation

5.1.1. The interest in freedom and the interest in culture

The justification of multiculturalism provided by the argument of autonomy emphasizes liberalism's definitional concern for promotion and protection of individual freedom. The central idea of this argument is that all persons have a major interest in being free to choose, by and for themselves, how they are going to live their lives. As Raz (1986: 21) maintains, liberalism is an ideology of freedom that advocates the idea of persons being in control of their lives by making individual choices[124]. Also, for Kymlicka (1989:13) liberalism is a doctrine of freedom that stresses individual choice, since it allows persons to decide and reconsider how they want to lead their lives[125]. Hence, the autonomy justification of cultural rights links liberalism with individual choice.

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[124] "[L]iberals believe that those [i.e., political] authorities are bound by principles requiring the promotion and protection of freedom" (Raz 1986:21). "[Liberalism] is a political morality which arises out of a view of the good of people, a view which emphasizes the value of freedom to individual well-being. It upholds the value for people of being in charge of their life, charting its course by their own successive choices. […] Freedom depends on options which depend on rules which constitute those options" (Raz 1994: 160-1).

[125] "Individuals must[…] have the resources and liberties needed to live their lives in accordance with their beliefs about value […]. Hence the traditional liberal concern for civil and personal liberties. And individuals must have the cultural conditions conductive to acquiring an awareness of different views about the good life, and to acquiring ability to […] examine and re-examine these views. Hence the equally traditional liberal concern for education, freedom of expression, […]" (Kymlicka 1989: 13). "The defining feature of liberalism is that it ascribes certain fundamental freedoms to each individual. In particular, it grants people a very wide freedom of choice in terms of how they lead their lives. It allows people to choose a conception of the good life, and then allows them to reconsider that decision, and adopt a new and hopefully better plan of life" (Kymlicka 1995: 80).

The strong connection between freedom and choice means that liberalism is identified with a notion of freedom that bears on the individual's ability to make choices which s/he can later reassess. Central to the autonomy argument is, therefore, the assumption that persons need to have two things in order to fulfil their primary interest in freedom: the ability to make choices and to re-evaluate the choices that they have made; the provision of the conditions necessary for making choices – in particular, a variety of options, a constitutional framework that respects and promotes individual choice and the social circumstances and mechanisms that help people develop the capacities required to exercise individual choice.

The first requirement settles the methodological issue of the essence of human nature, which lies at the basis of political theory. It suggests a concept of person that advocates the natural disposition to self-authorship or autonomy, namely a person that can reflect on, assess, choose and reconsider how to live her/his own life. The second requirement assigns to the political authority the obligation to provide persons with the means they need in order to realize their natural disposition to autonomy. Such means correspond, according to Kymlicka (1995:81), to "the resources and liberties needed to live their lives in accordance with their beliefs about value". Once the interest in freedom is defined in terms of autonomy, the next step in the autonomy argument is to connect this interest to the interest in culture.

For Raz (1994: 162-3), individual well-being depends on membership in a prosperous cultural community, since "[o]nly through being socialized in a culture can one tap the options which give life a meaning. By and large, one's cultural membership determines the horizon of one's opportunities […]". Moreover, "[…] sameness of culture facilitates social relations and is a condition of rich and comprehensive personal relationships". Finally, "[f]or most people, membership in their cultural group is a major determinant of their sense of who they are; it provides a strong focus of identification; it contributes to what we have come to call their sense of their own identity […]" (ibid.). And, according to Kymlicka (1995:83),

> "[p]eople make choices about the social practices around them, based on their beliefs about the value of these practices […]. And to have a belief about the value of a practice is, in the first instance, a matter of understanding the meanings attached to it by our culture. […]. Understanding these cultural narratives is a precondition of making intelligent judgements about how to lead our lives. In this sense, our culture not only provides options, it also 'provides the spectacles through which we identify experiences as valuable' […]".[126]

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[126] See also Kymlicka (1989:16).

Thus, our cultural communities provide us with (a) the narratives that shape our beliefs about value, and (b) the options, which correspond to our beliefs about value and from which we can make significant choices about how to live our lives.

What the two theorists argue is that people can neither make meaningful choices nor reassess them, if they are deprived of their context of culture. In their view, this happens because people's beliefs about value, on the basis of which they make significant individual choices, are shaped by the non-chosen attachments of their cultural membership, such as shared customs, norms, bonds of place and language. These attachments define people's constitutive allegiances and make people who they are. Since they can only be produced within the cultural communities of people, individuals need their cultural groups in order to have access to all of the elements that help them to make meaningful choices.

The realization of the human disposition towards autonomy is, therefore, embedded in culture. Culture is instrumentally valuable to people, and the interest in culture has to be given definitional value in liberal theory. Since people need their cultural communities in order to realize their interest in freedom, freedom assumes the following meaning: "[f]reedom […] is the ability to explore and revise the ways of life which are made available by our societal culture" (Kymlicka 1997: 75).

5.1.2. Demarcating cultural claims: the interest in national culture

Since the autonomy argument does not differentiate between different cultural claims on the basis of how legitimate they are, it cannot by itself provide a complete liberal theory of multicultural justice. Which groups under which circumstances qualify for what kind of rights?

In order to present a systematic liberal theory of multicultural justice, Kymlicka (1995: 18) confines culture to "'a nation' or 'a people' – that is an intergenerational community, more or less institutionally complete, occupying a given territory or homeland, sharing a distinct language and history". 'Culture' refers, therefore, to a nation's culture. A national culture is a 'societal culture', which is a culture that "provides its 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" (ibid.: 76). Hence, Kymlicka gives the interest in culture the specific meaning of interest in national culture and ascribes to

people the interest in having access to their own national culture. He, thus, introduces in his theory the thesis of national embeddedness of freedom[127], which presents the disposition of people towards autonomy as embedded in national cultures.

In particular, the thesis of national embeddedness entails that cultural rights can be assigned only to minority groups that constitute, or are part of, a nation. It also leads to the division of cultural diversity into two units: national minorities, which evolve from the incorporation of previously self-governing, territorially concentrated cultures into a larger state; and, ethnic groups, which arise from individual and familial immigration (ibid.: 10-25)[128]. However, these two units do not qualify for the same type of special rights.

According to Kymlicka (ibid.: 26-33, 37-8), states tend to use three patterns of cultural measures: (a) self-government rights, which entail subsidiary rights to political powers, language maintenance and own social institutions; (b) special representation rights, which guarantee seats for ethnic and national minorities in major institutions; and (c) polyethnic rights, which aim at providing legal and economic support to specific practices of religious and immigrant groups. Ethnic minorities are entitled to polyethnic rights and (some) representation rights, but not to self-government rights. National minorities – such as Indian tribes, Puerto Ricans and Québécois – are eligible for self-government rights. (ibid.: 95-96, 108-113)

Kymlicka (ibid.: 108-115) justifies the hierarchy of rights between national and ethnic groups by presenting an argument of equality. This argument relies on the view of moral responsibility that Anderson (1999) and Scheffler (2003) identify as luck egalitarianism. Central to this view is the distinction between poor option luck and poor brute luck (Dworkin 1981).[129] It also rests on Rawls's (1971) idea of moral desert, which states that people do not deserve the disadvantages and the advantages they obtain in life due

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[127] My identification of the thesis of national embeddedness in Kymlicka's theory is based on the analysis by De Shutter (2007).

[128] Kymlicka (1995: 98-100) identifies political refugees as another type of group. Since this distinction is not central to his theory, I do not discuss this type here.

[129] If I am made worse-off than others because gambles I have made have turned out bad, then I have poor option luck. On the other hand, if I am made worse-off because of no choice of mine, i.e., of matters out of my control that could not be predicted, then I am stricken by bad brute luck (Dworkin 1981: 293). It is only the latter situation that brings appropriate concerns about the existence of undeserved inequalities, whereas the former does not trigger egalitarian concerns at all (Daniels 1996: 219).

to their social environment or genetic endowments[130], since they are not responsible for the consequences of the unchosen features of themselves.[131]

In Kymlicka's view, ethnic minorities have voluntarily left their nations to immigrate[132] and, for this reason, are only entitled to assistance in integrating into the prevailing culture of their new society. On the other hand, national minorities need to have self-government rights in order to be protected from the destruction of their context of culture that the political and economic decisions of the majority can cause.[133] Such rights constitute legitimate external protections. They should also be distinguished from internal restrictions, which are unjustifiable from the standpoint of liberalism, since they limit the individual freedom of minority members in order to protect the group's identity from the destabilizing impact of internal dissent (ibid.: 35-37).

5.1.3. The burden of assimilation

The preceding analysis of the autonomy argument shows that the autonomy justification of multiculturalism rests on two theses: the thesis of freedom as autonomy and the thesis of national embeddedness of individual freedom. Both theses function as normative components in the proposed theory of multicultural justice. They are also parts of liberalism's condition of individualism, since both concern properties of individuals.

The former thesis is introduced at the first stage of the autonomy argument. At this stage, liberalism is construed to be based on the interest in freedom as autonomy, which, in turn, is connected to the interest in culture. The latter thesis is presented at the second stage of the argument, which re-

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[130] "We do not deserve our place in the distribution of native endowments, any more than we deserve our initial starting place in society. That we deserve the superior character that enables us to make the effort to cultivate our abilities is also problematic; for such character depends in good part upon fortunate family and social circumstances in early life for which we can claim no credit. The notion of desert does not apply here". (Rawls 1971: 89)

[131] Kymlicka argues that the inequality emanated from membership in a minority culture is as unchosen as the inequality deriving from disadvantaged social environment and natural disabilities (Kymlicka 1989: 196, 1995: 109).

[132] "Having uprooted themselves from their old culture, they are expected to become members of the national societies which already exist in their new country. Hence promoting the good of cultural membership for immigrants is primarily a matter of enabling integration, by providing language training and fighting patterns of discrimination and prejudice" (Kymlicka 1995: 114).

[133] "The viability of their societal cultures may be undermined by economic and political decisions made by the majority. They could be outbid or outvoted on resources and policies that are crucial to the survival of their societal cultures" (ibid.: 109).

solves the openness of the definition of culture by giving to the interest in culture the specific meaning of interest in national culture. The specification of the interest in culture as the interest in national culture links the interest in freedom as autonomy with the interest in national culture. Access to the good of national culture is thereby presented as being a precondition for the realization of people's natural disposition towards freedom as autonomy. Simply put, the autonomy argument asserts that people need to be members of national communities in order to be able to make choices that they can later reassess.

In terms of defining the reason for the unacceptability of direct or indirect political demands for cultural assimilation, the thesis of freedom as autonomy suggests that cultural assimilation is a serious harm because it is an impediment to the realization of people's natural disposition towards autonomy. Cultural assimilation, as a direct or indirect consequence of laws and policies, compels the members of minorities to reject their own cultures and to adopt the culture of the majority. Since the involuntary renouncement of one's own cultural context entails that people are unfairly deprived of the option of making meaningful choices, assimilation constitutes evidence that the political authority does not show equal concern for securing the interest of minorities in freedom. Thus, the burden of assimilation is unacceptable because it costs the members of minorities the realization of their own freedom. We can, therefore, say that this signifies the imposition of a freedom cost on minorities that is unacceptable.

Whereas the thesis of freedom as autonomy provides the general reason why the burden is morally wrong, the thesis of national embeddedness limits the relevance of the burden as a methodological concept to cases of national minorities. This implies that the burden of assimilation does not have any bearing on cases of subcultures, such as urban tribes, punk groups and sexual subcultures. It also means that the burden is not fully relevant in cases of immigrant groups as well, given the role that Kymlicka's distinction between deserved and undeserved inequalities has in the justification of special rights for national minorities.

However, Kymlicka also provides us with an additional argument for cultural rights that is external to the autonomy argument. This is an empirical argument that has bearing on ethnic minorities. It involves the unfeasibility of the ideal of neutrality of the state in relation to the separation of the state from ethnicity. Its central idea is the following: the state, as an apparatus of governance, tends to promote the substantive elements of the identity of the prevailing ethnic group in society, since it most commonly identifies with

the language, religion or symbols of this group; it imposes, therefore, the harm of assimilation on national and ethnic minorities. Thus, immigrant minorities should have certain rights to cultural accommodation, which aim at helping members of immigrant groups to integrate in the new society without suffering in full the burden of assimilation.

5.2. The thesis of freedom as autonomy

5.2.1. The paradox of assimilationist effects of autonomy

According to the way Larmore (1996: 127-133, 1999: 602-4) explains the Romantic critique of liberalism, liberalism based on the values of autonomy and individuality tends to give priority to the individualist reflective attitude towards life at the expense of received forms of life. This critique is also reflected in an objection usually directed against the autonomy justification of cultural rights.

The objection states that not all cultures or groups place a high value on choice or encourage their members to exercise it (Galston 2002: 21, Kukathas 1992: 120-3, 2003: 102). Liberalism based on autonomy narrows the possibilities available in liberal societies because "the autonomy principle in fact represents a kind of uniformity that exerts pressure on ways of life that do not embrace autonomy" (Galston 1995: 523). Anthropological research shows that Australian Aboriginals value order and conformity rather than critical reflection.[134] The problem is that if these practices are to be allowed to continue, the justification cannot be one that embraces choice as critically important. By basing cultural protection on the importance of preserving the context of choice, Kymlicka chooses the path of cultural interference rather than cultural protection. Hence, when cultural minorities do not value self-reflective choice, the promotion of autonomy can undermine certain cultures.

The Romantic critique of liberalism is also echoed in Rawls' *Political Liberalism*. For Rawls, liberalism derived from autonomy leads to institutions that promote the ideals of individualism and the reflective attitude towards

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[134] Kukathas (1992: n. 63) refers to the research of Maddock (1972) in order to provide empirical evidence that not all cultures value autonomy as defined by Kymlicka. Meggit (1964) also provides a thorough account of the Australian Aboriginal organization. Although Meggit does not focus explicitly on the aspect of freedom, his account confirms Kukathas's claim that aboriginal society is organized around the values of conformity and order and not around creativity and critical reflection.

life.[135] Rawls suggests, therefore, that liberalism has to be based on an ideal of justice that is independent – i.e., neutral – in relation to specific moral views, in the sense that it does not apply a conception of the good to the political realm (Rawls 1993: 12). Thus, if autonomy liberalism generates a political morality that promotes a specific conception of the good, as Rawls claims, then the autonomy justification of multiculturalism has the unexpected consequence that minorities that do not value individual choice are forced to adopt the ideal of human good as autonomy.

Although there are considerable theoretical differences between the accounts of liberalism of Kukathas, Galston and Rawls, they all suggest, in different ways, that the autonomy justification of cultural rights has assimilationist effects on persons who do not value the individualist reflective attitude: instead of helping them to avoid the cost of freedom that assimilation to another culture would bring to them, it imposes this cost on them. Consequently, if cultural rights are to be secured by institutions that are driven by the ideal of autonomy, then such institutions will tend to impose, rather than avoid, the burden of assimilation on minorities that reject the ideal of autonomy. This is a paradox, since cultural rights are meant to help minorities to preserve, not to destroy, their context of culture.

In addition to the paradox of the assimilationist effects of autonomy, the autonomy justification faces another paradox in connection with holistic-oriented groups. It does not make sense to give special rights to minorities that do not embrace the ideal of human good as autonomy, since their members lack the interest in freedom as autonomy. Hence, such minorities do not conform to the methodological assumption of human nature on which Kymlicka bases his theory. In order to defend the thesis of freedom as autonomy as relevant even in such cases, we can say that the interest in freedom as autonomy does not imply 'thick' liberal individualism. It can also signify the individual interest in making one's own choices solely from the materials that one's own culture provides, on the condition that persons have consented to adhere to a holistic lifestyle.

Still, as I will discuss later in this chapter, the extent to which members of holistic-oriented minorities are given a fairly good opportunity to voluntarily agree is a thorny question.

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[135] "Comprehensive moral ideals, autonomy and individuality are unsuited for a political conception of justice. As found in Kant and J. S. Mill, these comprehensive ideals, despite their very great importance in liberal thought, are extended too far when presented as the only appropriate foundation for a constitutional regime. So understood, liberalism becomes but another sectarian doctrine" (Rawls 1985: 245-6).

It is important to point out here that Kymlicka does not advocate in his theory the imposition of autonomy on minorities that embrace holistic life-styles. The pursuance of the ideal of autonomy is, however, the practical consequence of liberal policies that are formed primarily in consideration of people's interest in freedom as autonomy. Therefore, the fact that Kymlicka does not subject holistic-oriented minorities to freedom as autonomy in his theory does not entirely disqualify the objection of assimilationist effects of autonomy. How does this particular objection affect the validity of the autonomy justification of multiculturalism?

In what follows, I view this objection in connection with the example of the Amish community, i.e., a group organized around a system of collective rules that leads to the absorption of the individual into the identity of the group.

5.2.2. Holistic-oriented minorities: the example of the Amish

In general terms, the Amish conception of the good rejects the reflective attitude towards life and requires people to abstain from revising their own beliefs about value. We can claim, therefore, that there is a discrepancy between the ideal of human good of the Amish and the notion of human good advocated by the autonomy argument. In the context of a system of rule informed by the ideal of autonomy, this discrepancy implies public institutions that tend to be biased towards the non-autonomous lifestyle of the Amish. Such a system of rule can be described as perfectionist in the sense that it embraces the idea of individual human good advocated by liberalism based on autonomy. This idea suggests that the human good consists of being able to select and revise one's own conception of the good through a process of critical reflection. Hence, a system of public rule organized around the value of autonomy produces institutions that tend to be less hospitable to people that do not embrace the interest in freedom as autonomy and, thereby, the human good as autonomy.

Kymlicka's account of multiculturalism is susceptible to the charge of involving perfectionist implications of autonomy. As Barry (1995: 131-3) explains, Kymlicka overlooks the idea that the good as autonomy does not imply that the pursuits of all substantive ideals of the good are equally valuable. It implies, instead, that only the 'right' ideals – those that have come about in ways that meet the criteria of self-determined choice – are valuable. It is, therefore, doubtful whether the good as autonomy will be advanced by

distributing resources without considering the autonomous origins of people's ideals of the good. (ibid.)

In Barry's view, Kymlicka's definition of liberalism fails to totally fulfill the ideal of equal treatment suggested by the principle of neutrality of the state, which requires governments to treat all ideals of human good as equally valuable by not supporting in action or policies any of them. Barry's claim is also relevant to Kymlicka's autonomy argument: if autonomy-driven institutions have to consider the autonomous origins of conceptions of the good when they allocate resources, then the distribution of cultural rights is conditioned by the extent to which minorities embrace the interest in freedom as autonomy. This means that such institutions are not going to be so keen to secure the good of culture to minorities like the Amish. Does this also mean that the Amish have first to show that they endorse the interest in individual freedom in order to qualify for cultural rights?

It can be objected here that Kymlicka never presents the adoption of the reflective attitude towards life as a precondition for the distribution of cultural rights. His main intention is to present a liberal theory of justice that values cultural belonging and assigns to the state the duty to prevent the degradation of the cultural context of minorities. It is the protection of autonomy of culture at the group level that is important for Kymlicka, not the active promotion of autonomy at the individual level.

On the other hand, Kymlicka describes culture as instrumental to individual freedom. Consequently, the primary obligation of an autonomy-driven system of rule is to provide individuals with the necessary means, such as liberties, rights and opportunities, for making their choices about how to live and for leading their lives in accordance with their beliefs. In addition, Kymlicka gives precedence to the promotion and protection of individual autonomy over cultural autonomy, since he rejects internal protections[136] as unacceptable from a liberal perspective. Thus, although Kymlicka's intention is to emphasize the importance of cultural autonomy and to avoid the focus on the promotion of individual autonomy, the interest in freedom as autonomy has a cardinal position in his theory.

However, the absence of an explicit endorsement of autonomy-driven institutions in Kymlicka's theory means that a system of liberal rule based on autonomy cannot require the Amish to provide evidence of them valuing individual autonomy. On the other hand, the priority of the interest in free-

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[136] This means that Kymlicka dismisses the assignment of special group-rights that intend to limit the basic rights of minority members in order to protect the group's identity from the destabilizing impact of internal dissent.

dom as autonomy over the interest in culture implies that the Amish have to endorse the basic liberal rights that aim at helping people realize their freedom as autonomy, namely the freedoms of conscience, religion, association and expression. For example, the Amish community has to legally protect those of its members that choose another religion. Therefore, the Amish have to apply freedom of religion to the internal structure of their community and stop expelling apostates.

Moreover, in contrast to the decision of the U.S. Supreme Court in *Wisconsin v. Yoder* that confirmed the power of the Amish community to limit the possibility for its younger members to learn how to question their received way of life, the Amish have to adopt a culture of autonomy, which aims at helping them develop a reflective attitude towards life. Hence, they have to endorse the political measures that protect and promote a reflective attitude towards life.

As Patten (1999: 7) explains, the fact that groups such as the Amish have to respect the institutionalized forms of support for individual autonomy indicates that there are three conditions for the realization of autonomy, not one, as stated in the autonomy argument: first, individuals should have access to a range of meaningful options; second, a liberal framework of law should be in place; third, individuals should be exposed to social conditions and mechanisms that are needed in order to develop the capacities and attitudes required for autonomy. For Patten, the problem with the autonomy argument is that it only deals with the first condition, since it calls for cultural rights to ensure people's access to meaningful options. This works for cultures that are liberal. However, for cultures that reject autonomy, this argument advocates the imposition of costs and burdens on their members for the sake of the realization of autonomy (ibid.).

In Paten's view, the Amish have to apply the liberal framework to the internal relations of their group. Most of all, though, the Amish have to ignore the decision of *Yoder* and allow their children to acquire an education that will help them to develop critical thinking and the possibility of rejecting their own cultural context. Thus, a system of public rule formed after the thesis of freedom as autonomy has assimilationist consequences for minorities, such as the Amish, because it requires them to adopt central components of the human good as autonomy: they have to assume a reflective attitude towards life and value individual choice.

How would Kymlicka counter the claim that the autonomy justification of multiculturalism requires in practice institutions that promote autonomy? How would he respond to the observation that, in the case of Amish, the

practical implication of the thesis of freedom as autonomy is the adoption on the part of the Amish of the interest in freedom? Let us look at how he responds to a similar claim, which is that his theory imposes freedom of religion on Pueblo Indians.

According to Kymlicka (1995: 194), this claim conflates the question of identifying a defensible liberal theory of minority rights with the question of imposing that theory. This explanation implies that we have to separate two different levels of justification of cultural rights by distinguishing between two questions. Firstly, does the freedom-based argument of autonomy justify the right to culture? Secondly, how do we regulate the right to culture? What this distinction suggests is that a defensible justification of the right to culture revolves around the contribution of culture to individual freedom. However, as with other major liberal rights, recognizing a general right on the basis of freedom does not provide an answer in advance to questions concerning the regulation of this right. Hence, for Kymlicka the objection of assimilationist effects of autonomy involves issues that relate to the second of these questions. The solutions to these issues are not inherent in the freedom-based right to culture. They are, instead, external and concern the specification of this right.

If the autonomy justification of cultural rights requires the formulation of principles that specify these rights externally, then Kymlicka proposes that autonomy-driven institutions do not require the Amish to affirm the interest in individual freedom. Hence, his theory avoids the objection of assimilationist effects of autonomy. However, such an answer implies that Kymlicka supports the decision in the *Yoder* case, which gives the Amish parents a right to limit their children's right to education for reason of cultural preservation. On the other hand, if Kymlicka does not approve of the ruling in *Yoder* for reasons of protection and promotion of autonomy, then his theory cannot meet the objection of assimilationist effects of autonomy.

In the following part, I consider the decision in the *Yoder* case[137] and examine how successful Kymlicka's response is to the assertion that his theory imposes liberal freedoms on illiberal cultures.

The *Yoder* case concerns the legality of the demand of Amish parents to be able to withdraw their children from education after the 8th grade: Should the Amish be exempted from mandatory education laws for reasons of cultural preservation? For liberals, this case raises the following general norma-

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[137] *Wisconsin v. Yoder* [1972] 406 U.S. 205 (1972). In *Wisconsin v. Yoder* the U.S. Supreme Court upheld that Amish children should not be forced to comply with compulsory education past the 8th grade because it violated their parents' right to freedom of religion.

tive issue: how are we to reconcile the demands for cultural preservation addressed by conservative groups with the liberal concern for protection of individual freedom?

5.2.3. The interest in freedom of Amish teenagers

Egalitarian liberals that advocate a strict hands-off principle of neutrality, such as Barry, can deny the legality of the Amish demand by appealing to the principle of equal application of the law: either the end pursued by the law on compulsory education is sufficiently important to support the conclusion that there should not be an exemption, or the law is wrong and should be rejected. However, Kymlicka allows us to understand that we should approach this case in another way.

Kymlicka (1995: 165) argues that "any form of group-differentiated-rights that restricts the civil rights of group members is [...] inconsistent with the liberal principles of freedom and equality. But this does not imply for him that liberals should impose their principles to cultural groups that reject liberal values. In the case of illiberal national minorities, the state should refrain from forcibly intervening to compel respect for individual rights; it should instead support the internal group efforts to liberalize the culture. In cases of new immigrants, i.e., ethnic minorities, it is more legitimate to require respect for liberal principles. As about long-standing ethnic and religious minorities like the Amish, they have a stronger claim to non-interference than new immigrants, since they have been given tacit or explicit assurances to maintain certain of their illiberal institutions". (ibid.: 165-170)

Thus, Kymlicka identifies three principles that liberals have to consider in resolving the *Yoder* case. The first is a principle of equal liberty, which requires the state to treat with equal respect and concern each person's interest in freedom. The second is a principle that emphasizes the importance of respecting historical agreements. The third is a principle of restraint that requires liberals to abstain from forcible interference to the internal affairs of illiberal groups.

The first principle functions as a meta-principle in liberal theory, in the sense that it establishes the moral precedence of the individual claim to equal basic rights. It advocates a notion of moral equality, which White (2007: 10-11) explains as following: when we design "society's basic institutions, we ought to treat each member's interests – their morally significant interests in things such as freedoms, resources and so on – as placing equally pressing

claims on how our society is organized". This notion is also expressed in the claim of Dworkin (2000: 1) that "[e]qual concern is the sovereign virtue of the political community". This principle provides good reasons for protecting the right of Amish teenagers to education.

The second principle, which speaks in favour of the demand for cultural preservation, bases the exception on an historical argument that is external to Kymlicka's autonomy-based right to culture. The third principle implies that liberals should generally refrain from intervening in how the Amish raise their children. As it advocates a hands-off approach to the Amish lifestyle, it is closer to the libertarian interpretation of toleration found in Spinner-Halev (2000) and Kukathas (2003). Let us start with the historical argument, which affirms the Court's decision in *Yoder* to acknowledge the exemption.

According to the dissent of Justice Douglas, the decision in *Yoder* only focuses on the interests of the parents and the state and neglects the interests of the children that are going to be affected by the exemption[138].

Following Justice Douglas's objection, Shapiro and Arneson maintain that the Court's decision is inconsistent with the interest in autonomy of the Amish children (Shapiro and Arneson 1996). Macedo also argues that it deprives young Amish of the necessary information and the motivation to participate effectively in public life and to make their own decisions.[139]What these arguments point out is that, by assigning this specific exemption to the Amish, the Court chooses to satisfy the interests of the parents in cultural preservation, which requires the preparation of their children solely for living their entire lives in the Amish community. This is done at the expense of the interest in freedom of Amish children, whose chances for exploring and revising their own beliefs about value is vastly circumscribed due to their lack of education.

The historical argument also results in favoring the interests of the parents, but it appeals to reasons of historical precedence and not, like the *Yoder* decision, to the parents' freedom of religion. The problem, however, is that "reasons of *historical precedence* must not be confused with *philosophical*

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[138] "[…] I disagree with the Court's conclusion that the matter is within the dispensation of parents alone. The Court's analysis assumes that the only interests at stake in the case are those of the Amish parents, on the one hand, and those of the State, on the other. The difficulty with this approach is that, despite the Court's claim, the parents are seeking to vindicate not only their own free exercise claims, but also those of their high-school-age children". (*Wisconsin v. Yoder*, 406 U. S. 205 (1972), Justice Douglas dissent)

[139] "[S]ome level of awareness of alternative ways of life is a prerequisite not only of citizenship but of being able to make the most basic life choices. This ground alone might well be adequate to deny the claimed right to opt-out" (Macedo 1995: 486).

arguments as to why a set of identity claims emerging out of one set of markers, i.e., the cultural ones, should be privileged over others" (Benhabib 1999: 54). Simply put, a past agreement may be a good argument to use in civil court cases, but it does not in itself constitute a moral argument that establishes the superiority of one interest over another.

Thus, the historical argument fails to explain why it is morally acceptable to treat with unequal respect and concern the interest in freedom of Amish teenagers. In terms of Kymlicka's theory, this argument does not provide a reason that can justify inequality of freedom, as Kymlicka defines freedom, namely as concerning the ability to explore and revise the ways of life that are made available by our culture. By leaving school early, Amish children seriously compromise their ability to examine and revise their received beliefs about value coming from their traditional Amish upbringing. Hence, they are doomed to live their entire lives in the Amish community, since the Amish way of life is the only way of life that they can conceive of as meaningful. Even if they want to leave their community, their lack of education and contact with other lifestyles vastly diminishes their chances of living a successful and full life outside of the Amish group.

The point is that the principle of historical agreement and the principle of restraint of forcible interference direct the Amish teenagers to the right to exit, in the event that they want to examine and revise their received beliefs about value. Both principles are, therefore, vulnerable to the same criticism as the hands-off treatment of the Amish way of life suggested by toleration liberals, such as Rawls (1993), Spinner-Halev (2000) and Kukathas (2003). Liberalism based on toleration may be more hospitable to diversity than autonomy liberalism, as it assigns to liberal authorities the duty to tolerate minorities that reject the human good as autonomy rather than the duty to reform them according to individualistic ideals. The fact remains, however, that it relies extensively on the right to exit to protect the interest in freedom of members of conservative cultural minorities.

As the analysis of the behaviour of Amish teenagers during their year of Rumspringa[140] shows, toleration liberals tend to greatly underestimate what is required for a meaningful right of exit (Mazie 2005: 748-53). One of the reasons why these teenagers cannot achieve a satisfying life outside of the Amish community is that "the Amish upbringing does not include much

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[140] During Rumspringa, Amish boys and girls are given greater personal freedom. They are allowed to leave the Amish community for a year, during which they are supposed to find out how life functions outside of their community. Rumspringa usually begins around the age of sixteen and ends with the choice of baptism into the Amish church or leaving the community.

exposure to alternative ways of life" (ibid.: 752). As Barry explains (1997: 10), by denying their children an education, Amish parents prevent them from being able to make a free choice as adults between staying and leaving their community. Due to their limited education and lack of contact with other cultures, Amish teenagers lack the adequate knowledge to choose from the different options offered in mainstream society. Without the corresponding intellectual references that further school education could have provided them, the right to exit does not quite help them make meaningful choices outside of their community. In this way, Amish teenagers are compelled to choose between a meaningful life in the Amish community and a disadvantaged life outside of it.

The observation of the inadequacy of the right to exit as a protection of the interest in freedom of Amish teenagers raises two questions in connection with Kymlicka's theory and with the broader issue of reconciliation of claims for cultural preservation of conservative groups with the liberal concern for individual freedom: should education promote the ability for critical reflection over received ideals of the good life? Does it matter in the assignment of group rights whether a culture offers a narrow set of options to its members?

The answer to the first question depends on how we define freedom. If freedom focuses mainly on the absence of external obstacles to living according to one's own belief about value, as Kukathas (2003) and, to some extent, Rawls (1995) suggest, liberal education does not necessarily need to promote the ability to reflect critically. However, if freedom is defined in accordance with Kymlicka's theory as requiring its subject to devote her/his energies to examining one's own ideal of the good, education has to promote the ability for critical reflection.

Regarding the second question, the answer is that Kymlicka relies too much on the distinction between external and internal restrictions in identifying acceptable and unacceptable demands for cultural preservation. In this way, he fails to note that a narrow set of options can also function as an internal restriction. For example, the socialization of women into restrictive behavioral models in conservative religious communities usually entails a restrictive set of options for women that is comparable to internal restrictions (Okin 1999, 2002). It turns out, as Weinstock explains (2007: 247), "that most measures that groups will promulgate have both an internal and an external dimension".

So, when it comes to the normative issue underlying the *Yoder* case, Kymlicka faces a *Catch-22* situation: either he endorses the accommodation

of the collective demands for cultural preservation and violates his theory's own concept of freedom as autonomy, or he accepts the promotion of autonomy-driven institutions and gives priority to the liberal concern for protection of individual freedom.

The first alternative is obviously inconsistent with the thesis of freedom as autonomy. The second implies that the autonomy justification compels minorities with holistic lifestyles to adopt the ideal of autonomy that informs the thesis of freedom as autonomy. Thus, in connection with conservative minorities, such as the Amish, Kymlicka's theory cannot adequately meet the objection of assimilationist effects of autonomy. We can therefore question the account of the burden of assimilation underlying an autonomy justification of multiculturalism, since this account faces practical problems of relevance, particularly in connection with minorities that do not embrace the interest in freedom as defined in the thesis of freedom as autonomy.

5.3. The thesis of national embeddedness

The previous part questioned the practical significance of an account of the burden of assimilation that is based on autonomy by evaluating the objection of assimilationist effects of autonomy. However, this specific objection only shows that the account of the burden underlying Kymlicka's theory does not have bearing on minorities that do not endorse the human good as autonomy. Still, it can have relevance for minorities whose lifestyles affirm, all other things being equal, the importance of the interest in freedom assigned to individuals in an autonomy justification of multiculturalism. For example, national minorities – such as the Canadian Quebecoise and aboriginal groups like the Sami and the Inuit who inhabit the east and west coasts of the North Atlantic – embrace lifestyles that are compatible to different degrees with the interest in freedom as autonomy and in relative agreement with autonomy-driven institutions.

This part focuses on the thesis of national embeddedness, specifically on the interest in national culture, since this assumption plays an important role in Kymlicka's justification of special rights for national minorities. Is the burden of assimilation, as defined in the autonomy justification of multiculturalism, a reliable concept for identifying instances of unfair treatment of national minorities?

5.3.1. The priority of freedom and the interest in national culture

Kymlicka's position contains a distinct ontological view of people. In line with the liberal tradition, it presents people as embedded in freedom; that is why all individuals have a basic interest in freedom. However, it also stresses the fact that humans are embedded in their own national cultures, which are supposed to provide people with the features that they need in order to realize their interest in freedom. For this reason, they also have an essential interest in national culture. In this way, the inclusion of the interest in national culture in the methodological categories of liberalism is justified by presenting access to one's own national culture as necessary for the fulfilment of freedom as autonomy. Specifically, the role of the interest in national culture in liberal justice is to connect liberalism with nationalism on the basis of liberal premises. The central rationale in Kymlicka's version of liberal nationalism is that the state can secure individual autonomy only if all of its members enjoy secure membership in a national community.

According to the classification of theories of liberal nationalism into cultural and static suggested by Gans (2003), Kymlicka's version belongs to the cultural. In contrast, Miller (1995, 2000), who presents an account of liberal nationalism that emphasizes civic solidarity[141] and the good of shared public culture, belongs to the family of static nationalism. Cultural nationalists approach states as cultural communities of common history, whose members "have a fundamental, morally significant interest in adhering to their culture and sustaining it across generations" (Gans 2003: 7). Statist nationalists, on the other hand, suggest that "in order for states to realize political values such as democracy, economic welfare and distributive justice, the citizenries of states must share a homogenous national culture" (ibid.).

The difference between the two strands of nationalism is their totally different normative and practical concerns. The goal of cultural nationalism is for people to adhere to their national culture; the state is the means for achieving this. Within statist nationalism, the national culture is the means, and the aim is the realization of the political values of the state (ibid.: 7, 16). The similarity is that both present the nation and the state as separate entities that relate to each other for certain purposes.

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[141] "[N]ationality answers one of the most pressing needs of the modern world, namely, how to maintain solidarity among the populations of states that are large and anonymous, such that their citizens cannot possibly enjoy the kind of community that relies on kinship or face-to-face interaction" (Miller 2000: 31-32).

As Bauböck (2008: 11) explains the way in which the nation and the state become connected in cultural nationalism: "[…] cultural nationalists conceive of the nation as a pre-political community of shared traditions, practices, and identities. Such communities need to be protected by the state, but do not have to be merged with it". When it comes to Kymlicka's separation between the nation and the state, countries like Canada, Spain, Britain and India are not nested nation-states but multinational democracies in which the nation-building projects of majorities and minorities mutually constrain each other. In such states, the role of external protection, i.e., self-government rights, is to protect minorities from the assimilationist pressure exercised by dominant majorities (ibid.). Thus, the state has a duty to relinquish the ideal of cultural homogeneity and assist members of national minorities in avoiding the burden of assimilation, since people have a morally significant interest in adhering to their national cultures and preserving them. They have, in other words, an objective interest in identifying with their nations.

The thesis of national embeddedness modifies the paradigm of liberal justice endorsed by Kymlicka by introducing into the liberal methodology – on individual grounds – the pre-political collective interest in preserving the substantive content of the holistic structure of one's own national culture. In Kymlicka's argument, this specific interest also has an individualistic basis owing to its reference to the pre-political and universal individual interest in freedom as autonomy. By introducing into liberal theory the assumption of persons as embedded in their own national culture, Kymlicka suggests that the realization of the human disposition towards autonomy presupposes a sentiment of national identification. In this manner, he infers a notion of political morality that assigns to the state the obligation of organizing the basic institutions of society in such a way so as to show concern for the identification of each individual with her/his own national structure for reasons of attainment of individual autonomy. It also assigns to the state the obligation of equally respecting the national cultures of the different national groups residing on its territory. It follows from this that the role of the liberal state is expanded so as to include the allocation and administration of multicultural rights, i.e., goods that aim at compensating minorities for the tendency of the state to identify in practice with the culture of a specific national group.

The importance of the interest in national culture is grounded, however, on the impact that the national identity of the individual has on the realization of her/his natural disposition towards autonomy. Kymlicka's idea is that people's national particularities should be recognized in liberal political

theory and practice, because a strong sense of and contact with one's own national identity is indispensible for the capacity of the individual to make and reassess choices.

However, the exercise of individual choice is not the ultimate aim of the liberal political morality, as advocated by Kymlicka. Nor does it constitute the intrinsic aim of liberalism in general. The reason why autonomy liberals place fundamental importance on free choice is because they want to provide persons with the possibility of leading their lives in accordance with their beliefs about value and conceptions of the good. But even liberal theorists who do not strongly emphasize individual choice – such as Locke, Rawls (1993) and Kukathas – give a central role to the interest of the individual in living according to her/his own beliefs.

What characterizes liberalism as a doctrine of individual freedom, irrespective of whether it advocates 'thick' or 'thin' choice, is the idea that political morality should prohibit attempts by the state to impose beliefs and to enforce moral ideals or to actively promote any specific belief, lifestyle or conception of the good.

Thus, by including into liberal methodology the interest in national culture, Kymlicka proposes that people's access to the substantive content of their own national culture should be a concern of the liberal state. By presenting the interest in national culture as instrumental to freedom as autonomy, he also suggests that the fulfilment of this interest does not lead in practice to the enforcement or favouring of a particular moral view. Kymlicka advocates, thus, that the liberal state can include among its political aims the fulfilment of people's interest in having access to the substantive elements of their own national culture without limiting the possibility for citizens to live according to their own ethical views. By subordinating the interest in national culture to the interest in freedom as autonomy, Kymlicka believes that his scheme of culturalization of the liberal paradigm of justice does not entail in practice that the prevailing norms and ideals of national communities are internally promoted or favoured at the expense of the equal opportunity to live according to one's own conception of the good of individual members. He, therefore, considers that his liberal theory of multiculturalism can avoid within-group collectivism.

Simply put, the instrumental relationship between the interest in national culture and the interest in freedom as autonomy is meant to keep the substantive conceptions of the good underlying cultural affiliations and practices outside of liberal justice, since, according to the Rawlsian basis of Kymlicka's model of multiculturalism, such conceptions can neither in theory serve

as a justification for liberal principles nor in practice form the locus of liberal policies. Hence, the priority of the interest in freedom as autonomy aims at introducing group rights without constraining within-group pluralism and without giving priority to the well-being of the group at the expense of the freedom of autonomy of individual member.

The question now is whether Kymlicka's scheme of culturalization of liberal justice can accomplish the intricate task of providing access to the substantive elements of a societal group without negotiating the internal pluralism of the group. Can Kymlicka's culturalization of liberal paradigm avoid within-group collectivism?

5.3.2. From *multi*culturalism to *mono*culturalism

A major consequence of the inclusion of the interest in national culture into liberal methodology is that this inclusion focuses on the attachments and loyalties of the nationalist identity at the expense of other attachments that people have. According to Charney (2003: 299-309), Kymlicka's way of establishing the importance of national identity presupposes the existence of sentiments of deep connection with the national culture. As Charney (ibid.: 301-303) explains, Kymlicka's emphasis on national identities represents the advancement of a substantive conception of the good in violation of Kymlicka's own principle of neutral treatment of conceptions of the good.

In Charney's view, Kymlicka's approach to national identity presupposes the existence of nationalistic feelings of strong identification with the culture of one's own nation, which represents a 'thick' conception of the good:

> "[…] if [an] individual's well-being is so fundamentally connected to the well-being of their nation (as the source of their sense of self), it is a short step to assume that persons find their own highest good in and through the flourishing of the nation. A view such as this is a view of the highest good or the ends of life: It is a "thick" or "substantive" or "comprehensive" conception of the good derived from a view as to what our "true nature" is and what ultimately fulfils that nature" (ibid: 301).

Thus, Kymlicka's scheme of culturalization of liberal justice leads to a notion of interest in national culture that signifies the interest in forming and sustaining one's own 'true self', which only membership in one's own nation can provide.

This kind of understanding of the interest in national culture stresses the attachments and loyalties of the nationalist identity at the expense of other significant commitments that people might have. It presupposes, therefore,

that nationalist identity informs people's personal identities and deepest commitments in a manner that homogenizes or takes priority over their conceptions of the good. In this way, the internal pluralism of a national group is presented as standardized or superseded by the substantive content of the national identity.

By giving precedence to the attachments and loyalties of nationalist identity over other identities that persons may have, the interest in national culture leads to a system of distribution of basic rights and of multicultural accommodation that recognizes the moral hierarchy of nationalist identity above all other identities. Given that, in practice, the substantive content of national identities is causally shaped by the prevailing linguistic, historical, normative and institutional features of national communities, the precedence of this specific identity means that people's other identities have to correspond to or affirm those basic features. Let me illustrate this with an example.

Due to the role that the Greek Orthodox Church played in the achievement of Greek independence from the Ottoman Empire and in the cultural homogenization of Greece as a nation, Greek national identity is still today intimately linked with the Greek Orthodox religion. If Tim, who is a Muslim having lived in Greece for the past twenty years, wants to become a Greek citizen, what does the predominant role of the nationalist identity entail for Tim's right to become a Greek citizen? Does it mean that Tim has to affirm the religious beliefs identified as being an important part of Greek identity in order to acquire citizenship? Does he have to convert to Christian Orthodoxy in order to become a Greek citizen?

Clearly, it is not Kymlicka's intention to present a scheme of culturalization of liberal justice that gives priority to the prevailing particularities of the nationalist identity over all other personal attachments of the members of national groups. His answer would be that Tim's right to remain Muslim while becoming a Greek citizen is covered in liberalism by the right to freedom of religion. However, this answer does not affect the point that the previous example makes: the particular traits that comprise a person's 'true self' is an empirical question, since those traits can only be acquired through membership in an existing nation. Thus, the answer to this question involves the prevailing traditions, symbols, language and narratives of existing nations.

Given that the established Greek nationalistic discourse constructs 'Greek-ness' so as to presuppose the adoption of Greek Orthodoxy, from the perspective of this discourse the Muslim Tim can only become a Greek citizen in an administrative sense, not in the 'true' sense of the word Greek.

Although administrative inclusion satisfies the aim of accommodation of religious pluralism, the fact remains that the emphasis on affiliation to Orthodoxy in relation to Greek national identity functions as the condition for distinguishing acceptable from unacceptable pluralism in the Greek national context. But how serious a challenge to the accommodation of pluralism is giving priority to attachments of national identity over other attachments?

The point is that Kymlicka's focus on national identification presupposes the type of identity constructed in the process of nation-building in the modern state. According to the logic of this process, the modern state constructs a shared identity by establishing a common culture through the formation of a common language and common institutions. The importance of national identification, introduced into liberal justice by the interest in national culture, rests on this logic, since this interest emphasizes the common attachments shared by the members of a nation as bearers of a common identity. But by focusing on the common attachments underlying the national identity, the interest in national culture does not only limit the conception of pluralism in Kymlicka's theory but also leads to a monocultural conception of citizenship.

The latter limitation is a consequence of Kymlicka's concept of societal culture, which, according to Carens[142] (2000: 64- 9), leads to *mono*cultural citizenship, since it reproduces the logic of the nation-state. As Carens explains (ibid.: 65), this is because Kymlicka's concept of societal culture relies on the discussion of nationalism of Gellner (1983: 140-1), which asserts that a considerable degree of cultural homogeneity is a prerequisite for the effective functioning of the modern state. In Carens' (ibid.) view, Kymlicka's focus on common elements of culture hinders his theory from capturing "the problem of *multi*culturalism understood as the persistence (or emergence) of cultural differences *within* a given state and the moral and political relevance of such differences".

De Schutter (2005, 2007) reinforces the critique of monocultural tendencies in Kymlicka's theory. He maintains that Kymlicka, in making the case for the rights of national minorities to self-governing mononational territories, treats the world as one large mosaic of mononational blocks with distinct languages and homelands, inhabited by monolingual and monocultural speakers. Such a 'mosaic methodology' ignores the fact that "our world is

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[142] According to Carens (2000: 56-73), the notion of societal culture causes serious problems for Kymlicka's theory, such as the indeterminacy of the normative implications, the undermining of moral claims of smaller, more vulnerable cultural minorities, the issue of the *mono*cultural conception of citizenship and the problem of homogenization of cultures.

full of much more complicated cultural identities, such as binational or bilingual cultural affiliations, and of gray zones, minorities within minorities, etc." (De Shutter 2005: 18).

Kymlicka's methodology does not work, however, in (a) cases of territorial mixing. Such cases concern conflicts where two groups lay claim to the same land, as with the conflict between Israelis and Palestinians over Jerusalem, and situations in which there is no mosaic of distinct cultural blocks but a hybridity of cultural contacts, as in Brussels and in Latvian cities where both Russian and Latvian are spoken. In addition, it cannot handle (b) groups that live in the same territory and develop in time a partly common identity, and (c) bicultural, bilingual persons that do not see themselves as having their roots primarily in one group. (De Schutter 2007: 45-46) In the view of De Schutter, the focus on the common culture underlying the national identity causes that Kymlicka's project is able to solve only problems that affirm the logic of one nation – one culture.

Given that we accept the critique of monoculturalism in Kymlicka's project, what does this critique imply for the acceptability of the account of the burden of assimilation underlying the autonomy justification? How does the logic of monoculturalism in this project affect the burden of assimilation as a methodological concept that is supposed to capture instances of unjustifiable inequality in relation to the interest in freedom as autonomy of minorities?

Let us answer these questions by looking at Kymlicka's view on the fairness of the changes in the character of French-Canadian culture brought about by the Quiet Revolution[143] .

5.3.3. The tension between collectivism and individualism

Kymlicka turns to the example of the Quiet Revolution in order to show that the transformation in the character of the culture of a national group is justifiable as long as it is initiated by the members of that group, i.e., from 'within'. He asserts that "the existence of French-Canadian cultural community itself was never in question, never threatened with unwanted extinction or assimilation as aboriginal communities are currently threatened" (1989: 167). This is because the demise of the French-Canadian culture occurred as

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[143] The term Quiet Revolution signifies the period of intense societal changes in Quebec, Canada. These changes took place in the 1960s and included the rapid and effective secularization of society, the creation of a welfare state and the shift of politics towards federalism, French-Canadian nationalism and separatism.

a result of choices that Francophones themselves made from within their context of choice. However, when it comes to Aborigines, the demise of culture arises in spite of the choices of aboriginal people and threatens their context of choice (ibid.).

Hence, the changes in the French-Canadian culture are acceptable because the Francophones chose themselves to modify its character. It appears therefore that Kymlicka suggests either that (a) the changes to culture brought about by the Quiet Revolution cannot be considered to have caused any harm to French-Canadians comparable to the burden of assimilation, or that (b) such harm experienced by French-Canadian people during and after the revolution is not morally objectionable.

The first suggestion is true given the affinities[144] that Kymlicka's notion of culture shows with Gellner's (1983:1) principle of nationalism "which holds that the political and the national unit should be congruent". If nations are supposed to realize "an objective need for homogeneity" (ibid.: 46), then we can assume that there was a 'natural' congruence between the policy aims introduced by the revolution and the understanding on the part of French-Canadians of their national culture.

Still, the first suggestion overlooks the role of French-Canadian nationalism in this revolution. According to Meadwell (1993: 206), in Quebec in the 1950's, there emerged "a new political class that contested the local power of the church and the traditional political elite, as well as the co-optive arrangements underlying confederation". If the ruling elite changed and if the revolution contested the position of the dominant church by leading to the rapid secularization of society, the assumption of internal consensus over the character of French-Canadian culture is questionable. Moreover, the revolution brought about social trends in Quebec that revealed an increased individualism and a departure from the high level of social integration, which also existed due to people's strict obedience to the Catholic Church (Krull & Trovato 1994: 1125). Statistical evidence indicates that the post-revolutionary period was followed by a sharp increase in the suicide rate in Quebec (ibid.: 1122-1123).

Apparently, some French-Canadians experienced a state of anomie due to the changes that occurred in the character of their culture as a consequence of the revolution. They could not make meaningful choices because they

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[144] On how Kymlicka's notion of societal culture rests upon Gellner's discussion of nationalism see Carrens (2000: 65).

lacked their cultural context. Hence, the Quiet Revolution imposed on them the burden of assimilation.

The second suggestion can be called into question on the basis of Kymlicka's own notion of freedom as autonomy. If, as Kymlicka claims, freedom concerns the ability to explore and to revise the ways of life that are made available by our culture, then the French-Canadians that did not welcome the changes brought about by the Quiet Revolution to their culture have a moral right, based on freedom as autonomy, to maintain the previous character of their culture. After having explored their traditional way of life and compared it with the one introduced by the revolution, they chose to adhere to the old one.

Consequently, the changes in the character of culture implemented by the elites caused an unfair asymmetry of access to the context of their own culture between the French-Canadians that wished to preserve their traditional culture and those that wanted to change it. Given that the former were the minority and the latter the majority, this situation corresponds to the way in which the autonomy argument establishes the unacceptability of the burden: asymmetry in access to the good of (national) culture imposes a freedom cost on minority members. Therefore, requiring that the minority adopts the 'new' version of the character of French-Canadian culture corresponds to an unacceptable imposition of the burden of assimilation.

It seems that Kymlicka fails to observe that the cultural changes brought about by the Quiet Revolution are objectionable from the premises of his own theory, namely from the priority of freedom as autonomy. Although it is true that the changes in the character of French-Canadian culture occurred from within the specific culture, the fact is that this revolution was the project of a group inside the national group, namely the political and intellectual elites. Unless Kymlicka wants to say that these elites had a morally acceptable monopoly over the definition of what constitutes the 'true essence' of French-Canadian culture, his justification for the changes in this culture is problematic, as it confirms the monoculturalism underlying the interest in national culture.

If we were to accept that the changes to culture brought about by the Quiet Revolution cannot be considered to have caused French-Canadians a kind of harm comparable to the burden of assimilation, then we have to give primary weight to the aspect of common collective identity associated with the interest in national culture. However, this is done at the expense of the individualistic basis that the interest in freedom, as defined in the thesis of freedom as autonomy, gives to the account of the burden of assimilation

implied in Kymlicka's theory. In such a case, this account cannot capture the moral unacceptability of within-group collectivism, since it reflects the collective monocultural basis of the interest in national culture. On the other hand, if we stress the individualistic foundation that the priority of freedom as autonomy gives to the account of the burden of assimilation, any possible change to the character of a national culture is seen as problematic, since there are always members that do not welcome such changes. Let me explain what this means.

It is reasonable to assume that the interest in freedom concerns the personal identity of the individual and that the interest in national culture corresponds to the person's national identity. Whereas the former identity is formed in the interplay of the personality of the individual and various social factors, the latter is constructed on the basis of social categories that unite and divide people[145] in terms of a common identity created by one's own nation. These categories include collective elements that frame a person's aspirations in terms of common discourses and concerns, such as myths of common descent, historical struggles and territorial and linguistic bonds.

In Kymlicka's project, the national identity has to be subordinated to personal identity, if the collectivistic aspects of the national identity are not to take priority over individual freedom to choose how to lead one's own life. This implies that the interpretation of the elements of national identification is left to each person, who interprets them in relation to her/his life plans and the special inclinations of her/his, personality. Even when the content of the national identity matches the content of the personal identity in terms of life plans and beliefs, a person can always choose to reject a change in the character of her/his culture because she/he wants to adhere to a character that corresponds to her/his own ends. This voluntaristic description of people as choosing the interpretation of their culture that fits their own plans is in total agreement with Kymlicka's normative basis of freedom as autonomy.

The result of the tension between collectivism and individualism marking Kymlicka's scheme of culturalization of liberal justice is a theory of cultural accommodation that is normatively unhelpful.

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[145] My distinction between personal and national identity draws on the description of national identities of Moore (2001: 9): "National identities […] are social identities, constructed from the social categories that unite and divide people. Although they have various rules of inclusion and exclusion (boundary-maintenance), they are also more fluid, especially in comparison with personal identities. That national identities are socially constructed and hence more fluid than personal identities is generally accepted by almost all scholars of nationalism".

If the emphasis is on the interest in national culture, we have a theory that refers to a solution involving one culture – one nation, missing issues of multicultural accommodation as well as conflicts of pluralism occurring inside national groups. If the focus is on the interest in freedom as autonomy, we have a theory that justifies the assignment of cultural rights every time persons experience an undesirable change in the character of their culture. In the first case, we have a theory of monoculturalism, not of multiculturalism; in the second case, we have a theory that trivializes multiculturalism beyond the point of any political interest.

The tension between collectivism and individualism also affects the reliability of the concept of the burden of assimilation underlying the autonomy justification, since the account of the burden of assimilation obtains its content through both the interest in freedom as autonomy and the interest in national culture. This tension has a negative influence on the normative relevance of the concept of the burden identified in Kymlicka's theory, in the same way as it calls into question the normative helpfulness of this theory. The reason is that the tension between collectivism and individualism renders the burden of assimilation into a confusing indicator of unfair treatment.

If we place emphasis on the prescriptions informed by the interest in national culture, we can miss violations of the priority of individual choice which, according to the autonomy argument, constitutes the normative basis of liberal multicultural justice based on autonomy. If we stress the normative basis of the interest in freedom as autonomy, we can end up claiming that unfair cultural inequalities exist every time the unsatisfied preference of a person can be seen to emanate from her/his cultural identity.

5.4. Autonomy and the unfeasibility of neutrality of the state

The analysis presented up to this point has questioned the relevance of the account of the burden of assimilation implied in an autonomy justification of multiculturalism. The problem with the specific account of the burden is that it echoes the general flaws in the autonomy justification of multiculturalism: (a) it has no bearing on minorities that do not endorse the human good as autonomy; (b) it has questionable relevance because it reflects a tension, which is inherent in Kymlicka's methodology, between collectivism and individualism. Thus, it appears that we have reason to question the autonomy justification of multiculturalism.

However, Kymlicka also presents an argument for cultural rights that is external to the two main theses of his theory. This is the argument of the unfeasibility of the ideal of state neutrality, which justifies the polyethnic rights of ethnic groups, i.e., the right of immigrant groups to special accommodations. How convincing is this argument?

Kymlicka (1995: 114-5) suggests that the ideal of neutrality is a myth, since states are already actively involved in recognizing and supporting the identity of the prevailing ethnic group in society. Governments choose which particular religious or ethnic background the state is officially going to reflect since they make decisions about public holidays, official uniforms and state symbols, such as flags, anthems and mottos. In his view, almost all major European countries of immigration have public regulations that unintentionally give priority to the needs of Christianity and create disadvantages for other faiths. This shows, according to Kymlicka, that states, in practice, fail to satisfy, in relation to cultural minorities, the egalitarian norm of the principle of state neutrality, which requires governments to treat all ideals of the good as equally valuable by not supporting in action or in policies any of them[146].

The argument of the unfeasibility of state neutrality, therefore, calls for a 'more' generous accommodation of the practices of ethnic minorities so that their members can avoid the full effects of the burden of assimilation. Thus, it provides a reason for granting polyethnic rights to immigrant minorities. These rights aim at protecting specific religious and cultural practices of ethnic minorities and include measures, such as exemptions from legislation about closing on Sundays or dress codes that conflict with religious beliefs (Kymlicka 1995: 38). But, does liberal theory have to adopt such rights in

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[146] According to the principle of neutrality of justification, the ruling criteria of justice have to be derived through a process of justification that is neutral in relation to the substantive content of people´s conceptions of the good. This principle reflects an idea of how a meta-norm of political legitimacy is to be applied to political theory. This norm defines how the government should act towards the members of the political community in order to be acceptable. It is specified in Dworkin's idea that 'the interest of the members of the community matter, and matter equally' (Dworkin 1983: 24, 1987: 7-8), therefore 'no government can be legitimate if it does not show equal concern and respect for [the basic interests of] each member of the community' (Dworkin 2000: 1). This specific norm and its correlative idea of equal treatment also inform the principle of state neutrality, which requires governments to treat all ideals of the good as equally valuable by not supporting in action or in policies any of them. What happens when the government favours an ideal of the good, X, over another, Y, is that it shows less concern and respect for the interest in living according to one's own conception of the good on the part of those citizens that adhere to Y. Following Dworkin, we can say that in such cases the government "must be prepared to explain, to those who suffer in that way, why they have nevertheless been treated with the equal concern that is their right" (ibid.:2).

order to correct failures on the part of governments in implementing the principle of state neutrality?

Firstly, Kymlicka is right to claim that laws requiring private businesses to close on Christian holidays fail to observe the principle of state neutrality. However, he wrongly draws the conclusion that the only way for liberals to correct this violation is to grant exemptions to Jews and Muslims, i.e., to religious minorities, from such regulations. This conclusion neglects the fact that liberal governments can eliminate this kind of partial treatment of non-Christians – and atheists – by abolishing such laws through the stricter application of the principle of state neutrality. This solution is also relevant to public offices. However, in this case, governments have to consider the aspect of economic efficiency, since the entire state apparatus would have to be mobilized during holidays to serve a presumably low demand for service.

Secondly, when it comes to official uniforms, the principle of state neutrality does not generate an absolute requirement for exclusion of religion or culture from the public sphere but a relative requirement for absence of discrimination. That states in practice, due to local institutional and constitutional traditions, fail to meet the anti-discrimination requirement does not mean that liberal theory cannot answer the demands of minorities for modification of official uniforms or solve other multicultural conflicts that concern social conventions in a way that helps immigrant minorities. Liberal theory already suggests a systematic way of accommodating such demands, which bears on the liberal ideal of neutral treatment of conceptions of the good[147].

Thirdly, when it comes to the partiality of state symbols, the fact is that states can to some extent avoid symbols that reflect the identity of prevailing national group in society by adopting 'more' neutral flags, anthems and mottoes. But this kind of solution raises the following question: how does this solution match the demand for integration of immigrants advocated in Kymlicka's theory? This question indicates that there is no point in totally neutralizing the established symbols of the state, if immigrants are expected to adopt the societal culture of their new place. Yet this objection has no bearing on national minorities.

Kymlicka's point in criticizing the partiality of state symbols is that the state should not favour or be possessed by any national group that exists on its territory. In his view, the state, as an institutional-bureaucratic apparatus that secures rights and obligations in relation to its members, should not be

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[147] See in this thesis Section 2.4.

identified with any particular nation. On the one hand, this idea can be interpreted as calling for 'more' neutrality on the part of the state. On the other hand, it can be understood as justifying the inclusion of the symbols of all national groups existing on the territory of a state. There are, in fact, liberal unitary states, such as the U.K., that allow their constituent nations to have their own symbols. The point is that we do not need to dig very deeply into liberal theory in order to justify the pluralism of state symbols, since liberal theory does not require political communities to embrace a monistic solution to official symbols. It is rather nationalism that does this.

Thus, we can question whether the argument of the unfeasibility of the ideal of state neutrality provides adequate reasons for including polyethnic rights as moral rights into liberal theory. Although this argument correctly suggests that modern states tend to support the lifestyle and the traditions of the majority culture, Kymlicka incorrectly interprets this empirical observation as proving the unfeasibility of the principle of state neutrality. In other words, he conflates the question of what liberal states do with the question of what liberal theory requires and allows states to do.

5.5. Conclusion

Does the argument of autonomy establish culture as a category of liberal justice?

The analysis presented in this chapter has identified two problems that characterize an autonomy justification of multiculturalism. First, such a justification is susceptible to the objection of the assimilationist effects of autonomy. Second, it is characterized by an internal tension between collectivism and individualism.

These problems indicate that an autonomy justification tends to lead to a theory of multicultural liberal justice that in practice is normatively unhelpful because it cannot give clear directions as to how the liberal state should approach the aim of cultural preservation of conservative minorities. What is problematic with this aim is that it is fundamentally holistic, in the sense that it requires solutions that give priority to the collective aspirations of cultural groups over the protection and promotion of the individual's interest in freedom. Moreover, given that an autonomy justification bears on one thesis that is inherently individualistic and on another that is inherently collectivistic, it leads to a liberal theory of multiculturalism that cannot resolve the conflict between the multicultural ideal of maintenance of cultural structures and

liberalism's primary concern for protection of the individual's freedom. Thus, it appears that an autonomy justification of multiculturalism fails to deliver an adequate account of the burden of assimilation.

6. Conclusions: Revisiting the Liberal Neutralist Model of Integration together with the Burden of Assimilation

I have argued in this thesis that a defensibility of a normative conjunction of multiculturalism and liberalism is still an open question in political theory. The inquiry also indicates that a liberal neutralist model of integration, based on the ideal of equality of opportunity, can solve cultural conflicts without necessarily subjecting minorities to assimilation, that is, without requiring them to abandon their traditions, practices and norms. A first conclusion of this investigation is, thus, that culturally affirmative approaches to liberal multiculturalism fail to convince that a liberal state has a duty to relieve minorities of the burden of assimilation. A second conclusion is that the ideal of equality of opportunity offers a more promising basis for assessing the legitimacy of claims for relief of the burden expressed by different cultural groups and, thereby, for a liberal multicultural policy. This conclusion, in turn, calls for reconsidering the neglected possibilities of a liberal neutralist model of integration that emphasizes anti-discrimination and relies on equality of opportunity in resolving conflicts of culture and for specifying the practical role that the burden of assimilation can have in this model.

6.1. The compatibility of multiculturalism with liberalism: reassessed

The study of the compatibility of liberalism with cultural rights presented in this thesis does not support the proposition that liberal multiculturalism follows consistently from liberal premises. It supports rather the characterization of the attempts to derive a justification of liberal multiculturalism from the liberal values of toleration, autonomy and equality as falling of forming convincing accounts of the burden of assimilation.

More specifically, a justification based on the unfairness of the impact that identical laws have to minorities draws attention to the dimension of the

burden of assimilation that emphasizes the disadvantages from the non-neutral effects of legislation. This type of justification seems problematical in the sense that it blurs all instances in which relief from the burden promotes selective cultural equality at the expense of institutionalization of deep inegalitarian intra-group relations. These inegalitarian consequences of a selective relief of the burden make an account of the burden of assimilation based on cultural equality seem questionable.

An account of toleration that includes recognition adds a dimension of disadvantages and harms from cultural domination to the burden of assimilation. A major problem with this account is the lack of a normative justification of recognition on liberal premises. But even if a liberal justification could be derived from liberal grounds, the approach of toleration as recognition is still susceptible to the objection that assignment of definitional value to the burden of assimilation in liberal theory appears to be redundant, given that toleration as recognition implies no other measures than those already offered by the liberal model of integration. It remains unclear, therefore, how relieving minorities of the burden and the promotion of toleration as recognition will be accomplished in practice.

Finally, an autonomy justification of liberal multiculturalism draws on disadvantages from non-neutral effects of legislation and disadvantages and harms of cultural domination. This type of justification, however, fails to resolve the moral tensions between the individualistic aim of protecting of personal autonomy and the collectivist aim of promoting cultural autonomy. In the case of illiberal groups, this tension implies that cultural rights may fail to promote individual autonomy in practice. The tension also reveals the deeper tension between individualism and collectivism that underlies a multicultural approach based on autonomy. It appears, therefore, that an autonomy justification delivers an inadequate account of the burden of assimilation. Thus, none of the culturally affirmative approaches to liberal multiculturalism that have been examined seems to offer a convincing case of the compatibility of multiculturalism with liberalism.

As regards liberal approaches that reject the possibility of a normative conjunction between multiculturalism and liberalism, the analysis of an attempt to handle multiculturalism with toleration as freedom of association indicates that the harm of enforced morality should be considered a vital aspect of the burden of assimilation. However, it also suggests that this attempt is questionable as well. The problem with a model of accommodation of diversity that relies solely on freedom of association in order to guarantee individual liberty is that it tends in practice to subject the individual's possi-

bility to liberty to the relations of authority of associations. This implies that the provision of relief from the harm of enforced morality is also subjected to the power structure of association, which seems to entail that this model too fails to formulate a consistent account of the burden.

In this inquiry, the most promising model for handling cultural claims seems to be based on an approach that prioritizes and emphasizes liberal anti-discrimination: the approach of equality of opportunity. This approach appears to rely on a more consistent account of the burden of assimilation. It offers also a liberal outline for the evaluation of demands for exemptions rights from equal treatment and equal rights. Equality of opportunity is, in addition, compatible with a scheme of political deliberation which may offer guidance to how liberal institutions can solve multicultural conflicts. The neutralist basis of this approach seems to entail that relieving cultural minorities from the burden is not an essential duty of the liberal state. This, however, does not mean that the equal opportunity approach demands political authorities to be blind to the claims for relief from the burden.

I will soon try to clarify the role that the burden of assimilation would and should have in a liberal policy of integration based on equal opportunities. Before I do that, however, I wish to repeat that equal opportunities justifiably limit the freedom of association of religious bodies for the sake of promotion and protection of gender equality. If equal opportunity forms the basis of the liberal ideal of integration, gender equality cannot be considered a secondary aim of this ideal. Gender inequalities should rather be considered unacceptable irrespective of whether existing among conservative cultural minorities or the official church of a liberal state. This does not mean that a liberal state should force families and religious associations to endorse gender equality. Instead, it means that a liberal state should actively pursue policies that counteract the discrimination of women.

6.2. The burden of assimilation: further considered

I will now move on to outline how the burden of assimilation can be given practical relevance within the framework of a neutralist model of integration that emphasizes anti-discrimination by promoting equality of opportunity

6.2.1. Theorizing the practical relevance of the burden of assimilation

Which role should the burden of assimilation be granted in a liberal neutralist model of integration? It seems possible to give two answers that are compatible with a liberal neutralist model of integration based on equality of opportunity. One answer presents the burden of assimilation as politically irrelevant and suggests that liberal governments do not have to consider the justifiability of claims that appeal to the burden of assimilation. In this answer, the burden of assimilation should be considered politically irrelevant.

Another answer is that the liberal government should not presume *a priori* that the claims of culture of minorities are unjustifiable. This can be called the proposition of practical consideration of the burden of assimilation. Both propositions agree in that a top-down institutionalization of cultural rights is not part of the liberal way of dealing with cultural conflicts. However, in contrast to the proposition of political irrelevance of the burden, the proposition of practical consideration asks governments to be open to the possibility that members of cultural minorities can, in fact, be submitted an unjustifiable burden of assimilation due to unidentified systemic and other errors that can hinder minority members' access to and utilization of opportunities. This is the answer that seems to follow from the present study and which I therefore defend.

The presumption should be that unidentified systemic defects can function in a way that prevents the institutions of liberal democracies to realize, in practice, the egalitarian liberal ideal of eliminating undeserved inequalities and access to opportunities. These flaws may result from biased conceptions of ascriptive and voluntary differences of cultural minorities.

A hypothetic example of a biased systemic error would be the attempt to base the justification of institutional prohibition of Islamic veiling practices on the assumption that no woman voluntarily can ever agree to wear such dresses. This argument seems biased in the sense that it implicitly presumes that every veiled Muslim woman is indoctrinated or oppressed by her cultural group. Systemic imperfections can also be the outcome of a structural discrepancy between the institutional state of affairs and the difference of minorities. Educational and employment disadvantages due to lack of fluency in society's official language, for instance, can be seen as systemic errors that are caused by such a structural mismatch.

Although the relief of the burden of assimilation cannot be an aim that informs constitutional essentials, the presumption that policies can be unfair -

generally to people and specifically to cultural minorities - due to systemic errors, thus, gives reasons to assign conditional relevance to the burden. A liberal system of law should therefore focus on detecting and correcting systemic errors that jeopardize equal access to opportunities.

6.2.2. The significance of culture for liberal theory

The moral significance of culture for liberal theory can be illustrated with Rawls's theory of justice.

Let us start by assuming the contractualist method of original position and the veil of ignorance, which restricts the information that the parties in the original position have about historical, social, natural and personal circumstances in the selection of principles of justice.

Let us also add two more assumptions to the original position, other things being equal. Firstly, that the parties lack information not only about the particular circumstances of their own society, i.e., economic or political situation and level of societal development and culture, but also on whether they belong to the cultural minority or the cultural majority of a society[148]. This means that they lack information about the value that their own culture has in the market of culture. Secondly, the parties are also aware that culture is relatively important to them, in the sense that culture provides people with a context of meaningful choice and a sense of belonging[149].

However, adding these two assumptions does not imply that the parties would choose to include cultural rights in the basic framework of rights and decide to control the market of culture. The fact that conservative cultural groups can be systematically or selectively oppressive against their members leads the parties to refrain from letting these two assumptions inform the selection of the basic principles of justice, as the parties are unaware of whether or not they are going to belong to a conservative type of culture

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[148] It can be objected here that this assumption is disqualified by a central assumption in Rawls's theory: the society, for which the parties choose principles, is closed, namely "a more or less self-sufficient association of persons" (Rawls 1971: 4). My answer is that Rawls's initial description of society as closed does not disqualify the addition of this assumption. The society can be closed and at the same time entail different ethnic groups, since Rawls does not stipulate that the society is ethnically homogenous. Moreover, the information that it can imply certain harms - such as the burden of assimilation for example - can be seen as belonging to the general facts about human society that, according to Rawls (1971: 119) the parties are supposed to know.

[149] The importance of culture also can be seen as a part of the general facts of life that the parties are presumed to know because such general facts affect the choice of the principles of justice.

after the veil of ignorance has been lifted. On the other hand, Rawls's theory also moves on after the selection of the two principles of justice[150] to a four stage sequence of applying the principles of justice to the main institutions of a constitutional democracy. In each stage, the veil of ignorance is gradually relaxed until it is completely lifted in the fourth stage, in which rules to particular cases are applicable by judges and administrators.

The present study seems to suggest that culture – and the burden of assimilation – should be taken into consideration at the later stages, when the general facts about society and the particular facts about individuals are relaxed. At these stages, state delegates become aware that minority members can be submitted to the burden of assimilation due to systemic errors in the way major institutions distribute basic opportunities. They suggest, therefore, that legislatures, courts and administrators should consider claims for relief from the burden of assimilation expressed by cultural minorities. These consideration, however, have to be embedded in a liberal framework of justice, which in Rawls's theory is set by his two principles of justice. This means that they are conditioned by the aim to provide and protect equal access to equal opportunities. This way, an argument for the practical relevance of the burden of assimilation can be derived from Rawls's account of liberal justice.

Let us now move forward and observe how a liberal multicultural policy based on anti-discrimination would look like.

6.3. Towards a liberal multicultural policy

6.3.1. A liberal scheme of deliberation on multicultural issues

The normative question that has driven this study is how the claims of cultural minorities for accommodation of their cultural differences are to be met by the liberal state. The conclusions of the inquiry do not support the proposition that a liberal state has to meet these claims by actively allocating the

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[150] Rawls (1971) develops his liberal theory of *justice as fairness* in three parts. The first part is "Theory" (ibid.: 3-168); it concerns the justification of the two principles of justice. The second part is called "Institutions" (ibid.: 171-343); it explains how these principles are applied in the main institutions of the constitutional democracy. The third part is "Ends" (ibid.: 347-514. This part takes up the issue of stability of justice as fairness, namely that the concept of right advocated by justice as fairness is congruent with the different moral views of persons.

good of culture to people. The conclusions, rather, suggest that a liberal neutralist model of integration that aims at realizing the ideal of equality of opportunity forms the most promising basis for handling such claims. More specifically, the claims of cultural minorities for accommodation of their cultural differences are to be met in a liberal state in accordance with guidance that the ideal of equality of opportunity offers. This ideal provides a liberal matrix for evaluation of demands for exemptions.

This model of integration is characterized by the proposition of equality of opportunity in the evaluation of people's claims for relief from the burden of assimilation in the market of culture. This means that it does not leave this market entirely uncontrolled. Rather, political authorities ought to interfere and discourage practices the exercise of which implies a general or partial violation of basic constitutional rights and equal opportunity[151]. It does not mean, however, that a model of integration based on this norm supports monoculturalism or cultural majoritarianism. A scheme of cultural accommodation based of equality of opportunity has very little in common with a nationalist or right-wing populist perspective on multiculturalism.[152]

The principle of equality of opportunity also provides a liberal scheme for political deliberation on multicultural issues. This scheme is applicable not only to claims for cultural rights addressed by individual members of minorities, but also to collective claims addressed on behalf of cultural groups. One way to proceed is to ask the following questions in lexical order:

1. The question of discrimination: Is the cultural claim in question a case of discrimination?
2. The question of legitimate public objective: Are the grounds on which members of minorities are deprived of the possibility to pursue their own culture legitimate?

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[151] An example of a general violation of basic freedoms and rights can be found in the Rushdie affair and in the demand to withdraw the right of freedom of expression of Rushdie expressed by some Muslims in UK. The acceptance of this claim would generally restrict the freedom of expression of all persons in UK. An example of a partial restriction of basic freedoms and rights can be found in the claims expressed by the elites of conservative groups for restricting the individual freedoms and rights of certain members, usually women, in order to preserve the illiberal structure of the conservative groups in question.

[152] Nationalist and right wing populist movements tend to consider multiculturalism an unwelcome state of society. They usually advocate limitations to universal citizenship rights on the basis of ethnic and religious belonging. In contrast, the equality of opportunity approach to multiculturalism not only advocates a neutral stance towards multiculturalism as a state of society, but also explicitly rejects the idea that people's access to citizenship rights is to be conditioned by ethnic, religious or racial belonging.

The second question can be divided into two sub-questions, if we follow Barry's egalitarian approach:

    a. If a specific rule or law hinders members of minorities to fulfill their interest in the own culture, is the public objective that the rule or law protects justifiable?[153]

    b. Are the restrictions imposed on members of minorities by this rule or law proportional in relation to the realization of the public objective?[154]

If this scheme is accepted as providing a basis for a liberal multicultural policy, states that actively pursue multicultural policies can be described as having included multiculturalism in their public objectives on anti-discrimination grounds that bear on equality of opportunity. This does not mean that such states are to be criticized for overstepping the limits of a liberal neutralist model of integration.

The adoption of multiculturalism as a public objective requires no top-down moral justification from general principles or reference to a language of recognition of identities. Instead, this justification can be external to liberal theory. The land rights for aboriginal minorities can, for instance, be based on respect of past agreements, on recognition of the right to partial secession of national minorities or on correction of forcible occupation of those lands in the past. The essential point is that multiculturalism as a public objective can never be absolute, in the sense that it unconditionally overrules all other public objectives.

6.3.2. A liberal scheme in practice: balancing the requirement of equality

But how would a liberal multicultural policy that follows the liberal scheme of deliberation look in practice?

A liberal integrationist approach that employs a scheme of deliberation should be based on a perspective of equality of opportunity in the evaluation of cultural claims. The focus on equality raises a series of questions that concern the role that the requirement of equality has in a process of evaluat-

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[153] The condition of justifiability of the public objective that a rule protects can be identified in the analysis of the headscarf issue of Barry (2001: 57- 61).

[154] The condition of proportionality is entailed in the presentation of a pragmatic case for exemptions of Barry (ibid.: 50-54).

ing cultural claims. These questions seem to be left unanswered in Barry's theory.

One concerns the assignment of practical relevance to the burden of assimilation: What types of burdens are justifiably eased from the point of view of equality? Another has to do with the relation between equality and legitimate public objectives and proportionality: How should the ideal of equality affect the evaluation of a legitimate public objective and proportionality? This question can, in turn, be divided into the following questions: Should only public objectives that concern the promotion of equal opportunity count as legitimate? Or, are there other public objectives that justify restrictions on the cultural practices of minorities? Finally, are the costs / burdens disproportionate only if restrictions imply limitations to the equal opportunity of minorities?

6.3.2.a. The justifiability of easing burdens: the dimensions of the burden

The analysis has identified three dimensions of the burden of assimilation: the harm of enforced morality, disadvantages from the non-neutral effects of legislation and disadvantages and harms from being dominated by a majority culture. These three types of burdens can justify both exemptions and restrictions within a system of public rule that gives practical relevance to the burden of assimilation. The burdens of enforced morality do so in cases of discrimination in matters of equal rights to freedoms. The latter do so on the basis of disadvantages and harm that cultural minorities may endure. How does the particular requirement of equality affect the relevance that these types of burdens should be given in the evaluation of cultural claims in a liberal scheme of deliberation?

The present study suggests that the burden of enforced morality may very often justifiably be eased. The reason is that such burdens concern people's equal right to the basic freedoms of conscience, belief, religion, association and expression. Hence, they warrant relief when morality is enforced externally by a law. "Externally" here signifies that the members of a minority are partially or fully denied equal opportunity due to some legislation. For example, a law that bans all types of Muslim veils from public space seems to produce external burdens of enforced morality that can be eligible to ease. However, morality can also be enforced internally to a conservative group, in the sense that it is enforced by certain practices that restrict the liberties of all or some members of the group. "Internally" here means that all or some members of a minority are deprived of equal opportunity due to a norm or

practice that is internal to their group. For example, a group that punishes apostasy with the death penalty produces internal burdens of enforced morality that warrant relief.

It appears that the requirement of equality positively affects the relevance of the burdens of enforced morality. This is because this type of burdens usually invokes the first question of the liberal scheme of deliberation, i.e., the question of discrimination. The two other types of burdens seem to become relevant in the process of deliberation in connection with the second question, which concerns the legitimacy of a public objective. In the example of a minority that is totally intolerant towards internal apostasy, the public objectives of associational freedom and equal opportunity to life seem to be legitimate. Therefore, they rule out in this example the possibility of giving significance to the burdens of non-neutral effects of law and to the harm of cultural domination.

Internal burdens of enforced morality are also produced by the right of the Amish parents to withdraw their children from mandatory education. What the case of the Amish exemption has in common with the example of a minority that is completely intolerant to internal apostasy is that both question the public objective of freedom of association. By withdrawing their children from obligatory education, the Amish parents constrain their children's possibility of making a free choice as adults between staying and leaving their community. A strict understanding of the requirement of equality would speak for giving significance to the burden of enforced morality of the Amish teenagers and refrain from taking up the question of legitimacy and proportionality of a public objective. On the other hand, a scheme of deliberation on multicultural claims allows us to also make an alternative categorization of the relative significance of the different types of burdens produced in this case. Let me explain how this is possible.

In the case of the Amish exemption, the public objective protected by the law of mandatory education is that of equal educational opportunity, which, in extension, aims at realizing equal employment opportunity. If we move on to the question of the legitimacy of a public objective and in specific to the issue of proportionality, equal employment opportunity will seem as a justifiable public objective that should be given priority. However, proportionality can be interpreted in the specific case as motivating a re-evaluation of non-neutral effects of legislation or cultural domination.

In this case, non-neutral effects of legislation mean that the promotion of the public objective of equal employment opportunity has the unintended consequence that it drains the Amish community of its youth. The realization

of the Amish conception of the good, however, requires close family relations that include several generations. A drain of the youth therefore entails that the present members of this community are not only going to lose contact with their children but also that they will be unable to realize their common conception of the good. On top of that, there is a burden of cultural domination, which indicates a systemic mismatch between the pre-modern conception of the good of the Amish and the modern lifestyles of the surrounding majority culture. The upshot is a further erosion of the Amish way of life.

These consequences of the law of mandatory education warrant reconsideration of the restrictions that a specific law imposes on the Amish. The question we should consider is if a law is disproportional in relation to the public objective of equal employment opportunity. Consequently, legislators have to decide whether they are going to ease the burdens of enforced morality or the burdens of non-neutral effects of law and cultural domination.

A strict understanding of equality of opportunity would speak against easing the later types of burdens. Yet, it would still not be unreasonable to decide in the specific case that the burdens imposed by the non-neutral effects of law and cultural domination are disproportional in relation to the attainment of that public objective. Although normative priority for equality of opportunity means that cultural survival is left to the market of culture, the fact is that people tend to experience the extinction of their culture as a bad thing; strictly speaking as a serious individual harm that is imposed on the members of the culture which is threatened by extinction. States that have included multiculturalism in their public objectives can in fact be described as also giving political relevance to this rather common human intuition. The exemption of Amish from mandatory education laws can, therefore, be defended by a more relaxed reading of the requirement of equality.

A relevant fact in this case that speaks in favour of a more relaxed understanding of the requirement of equality is that the Amish way of life has certain features that many other conservative minorities lack. Firstly, the Amish tend to refrain from persecuting apostates and also from using physical violence as means of restraining their members. Secondly, their way of life includes the tradition of Rumspringa[155], which offers to the Amish teenagers an elementary access to freedom of association.

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[155] I refer to this tradition in the chapter "Freedom as Autonomy and Culture", namely, when I discuss the interest in freedom of the Amish teenagers.

These two features should be taken into consideration when we evaluate the relevance of the burdens of non-neutral effects and cultural domination in a process of deliberation on multicultural issues. The first implies that these burdens have no bearing in cases of minorities that employ persecution and physical and psychological violence in order to internally control their members. The other indicates that multiculturalism as public objective is revoked when minorities lack an elementary respect for the basic liberal freedoms of their members.

In the case of the Amish exemption from mandatory education, the tradition of Rumspringa indicates that this respect exists. The tradition gives Amish teenagers the possibility of leaving their community for a year, which, to some extent, compensates for the burdens of enforced morality imposed on them by the Amish exemption right. The tradition also gives the Amish teenagers possibilities that compensate for the losses that the exemption brings to them. From an equal opportunity perspective, the crucial point for allowing an exemption from mandatory education is, in fact, this compensation.

Notwithstanding, the tradition of Rumspringa does not balance totally for the unequal employment opportunity of Amish teenagers which will follow from an exemption from mandatory education. The tradition does not provide a right to exit for the Amish who want to permanently leave their community but lack the adequate skills and abilities to make use of the different options offered by mainstream society. They have not made a choice themselves to refrain from mandatory education. This means that the surrounding society is morally obliged to realize the equal educational opportunity that the Amish exemption right has deprived them of. One solution could be to offer them study grants and housing subsidies during the extra years that they have to spend in school, for example.

Thus, although the equality requirement can be relaxed so that the cultural disadvantages of non-neutral effects of legislation and cultural domination are eased, it appears that the political authority should not lose sight of the inegalitarian consequences of the particular relaxation. More specifically, it appears that when a political authority decides to grant exemptions that restrict equal opportunities, it should endeavour to compensate this restriction by offering equal opportunities in some other way.

6.3.2.b. Public objectives, proportionality and the requirement of equality

Up to this point, I have given a general description of how the requirement of equality affects the significance that the three types of burdens should be given in an evaluation of cultural claims. The upshot of the discussion of Amish exemption from mandatory education laws seems to be that the requirement of equality is relaxable, but only with qualification. Before I conclude this discussion, I would like to present a rather general account of how the requirement of equality relates to legitimate public objectives and proportionality, more specifically, how the evaluation of a legitimate public objective and proportionality is affected by the ideal of equality of opportunity.

Given that the requirement of equality would have a central role in the liberal scheme of deliberation, public objectives that deny exemption rights for minorities can be divided into two categories: those that can be derived from reasons of equal treatment and those that depend on other types of reasons. The fact that a public objective is egalitarian does not per se establish the legitimacy of the objective in question. For example, a law banning all types of Muslim veiling practices from public space for reasons of gender equality could be motivated by the protection of women's equal freedom as public objective. It is still questionable, however, if all women wearing such gear really are oppressed and acting against their own will. Vice versa, the fact that a public objective does not appeal to equal opportunity does not entail that it may be justifiably overruled. A law that prohibits open-air cremations may illustrate this point. The public objective of this prohibition is the protection of a good natural environment and good health. This is not an egalitarian objective. Nevertheless, it may not be justifiably overruled in order to grant an exemption right to Hindu immigrants that wish to exercise their burial traditions in their new home countries.

When the legitimacy of a public objective is evaluated, it is not of decisive importance that the specific public objective relates primarily to equality. Equality of opportunity is not, after all, the only public objective which is legitimate and which therefore should be prioritized. As indicated by the example of ban of Muslim veils, public objectives that appeal to equality are not in fact always legitimate. And conversely, as the example of prohibition of open-air cremations indicates, public objectives that do not appeal to equality can be legitimate and justify restrictions on the cultural practices of a minority. It appears, therefore, that the legitimacy of a public objective

must be considered on a case by case basis every time a minority requires to be relieved from the burden of assimilation.

As regards the evaluation of proportionality, the discussion about the Amish exemption allows us to assume that exemptions can be granted to minorities for reasons of proportionality also in cases where the restricting law is directly linked to a legitimate egalitarian public objective. Another conclusion that follows from this discussion is that the costs imposed on a minority by a restricting law do not need to imply violations of the equal opportunities of the minority in question in order to be considered disproportional. In the case of the Amish exemption, the disadvantages brought on the Amish by the law of mandatory education can be seen as disproportional not because they limit the equal opportunity of the Amish, but because they impose on them a burden of non-neutral effects of a law and cultural domination. Disproportionality, thus, can also be based on other reasons than equality of opportunity.

6.4. The burden of assimilation as a methodological tool

Let me finally present the prospects of the concept of the burden of assimilation in integration studies and other overlapping research fields.

In this thesis, the burden of assimilation is construed as a generic notion that signifies the different intentional or unintentional harms which minority members endure from the lack of public affirmation of their cultural particularities. Multicultural theories refer to various different harms in order to justify cultural rights. Hence, the burden of assimilation not only summarizes the negative consequences of the lack of cultural rights, but also encapsulates the different reasons that motivate the endorsement of the multicultural ideal of accommodation of diversity. The burden of assimilation is, thus, both a descriptive and a prescriptive concept that systematizes the field of normative multiculturalism. It overviews the different rationales, methodologies and epistemologies of culturally affirmative positions of multiculturalism, which suggest that the burden of assimilation may be a useful research concept that can be applied in different ways in both normative and empirical studies.

In this inquiry, the concept of the burden of assimilation has been employed as a methodological concept in a study of the possibility of a normative conjunction of multiculturalism and liberalism. More specifically, it has been operationalized to measure the validity of culturally affirmative and

culturally disinterested positions on liberal multiculturalism. The burden of assimilation is a new concept in political science and the question is therefore whether a methodology based on this concept would be also fruitful in other studies. The present study seems to suggest that it would.

I have identified three dimensions of the burden of assimilation: the harm of enforced morality, disadvantages from the non-neutral effects of legislation; and disadvantages and harms resulting from majority culture domination. The burden of assimilation may therefore be described as a three-dimensional concept.

These three dimensions of the burden of assimilation seem to offer further possibilities for using the concept in both empirical and normative research on integration. In empirical research, the three dimensions could be employed as independent variables in studies that aim at assessing the effects of different policies on ethnic minorities in comparison to the ethnic majorities, for example. It can also be an independent variable in studies of the subjectively experienced weight of the burden or of the societal mechanisms causing different experiences of the burden. In normative research, the three dimensions give further possibilities for discussing and comparing the fairness of different systems of cultural rights, for example. Here the role of the burden would be to provide a common basis for comparing the fairness of different systems of cultural rights or for comparing different multicultural models of integration with liberal neutralist one.

One conclusion of the present study is that culturally affirmative theories fail to deliver convincing accounts of the burden of assimilation. Nevertheless, the burden of assimilation can still be used in integration studies. Furthermore, to the extent that it represents the inegalitarian consequences of a liberal ideal of neutrality, it also summarizes the inability of liberal neutralism to capture structural and other biases that distort a fair distribution and utilization of liberties and opportunities. In this sense, the burden of assimilation may also be used in a critique of the "sameness" that liberal universalism and objectivity is sometimes accused for. According to this critique, the liberal perspective is inherently biased against persons deviating from the autonomous liberal subject, such as women or members of racial, religious, ethnic and sexual minorities. It is not unusual that people bear different combinations of these types of excluded identities and the concept of the burden of assimilation can therefore be extended to signify multiple instances of inequality in the intersection of people's different identities. The burden may, thus, be a useful methodological concept in research fields,

such as gender equality studies or gender studies that intersect with immigrant studies.

References

Academic Articles and Books

Adrian, M. (2009). "France, the Veil and Religious Freedom". *Religion, State & Society*, Vol. 37, No. 4, December 2009, pp. 345-374.

Anderson, E. (1999). "What Is the Point of Equality?". *Ethics*, Vol. 109, No. 2, January 1999, pp. 287-337.

Apel, K. O. (1997). "Plurality of the Good? The Problem of Affirmative Tolerance in a Multicultural Society from an Ethical Point of View". *Ratio Juris*, Vol. 10, No. 2, June 1997, pp.199-212).

Arneson, R. J (1999): "Equality of Opportunity for Welfare Defended and Recanted". *Political Philosophy*, Vol. 7, Issue 4, pp. 488-497, December 1999.

Arneson, R. & Shapiro, I. (1996). "Democratic Autonomy and Religious Freedom: A Critique of Wisconsin v. Yoder". In I. Shapiro, *Democracy's Place*. New York: Cornell University 1996.

Ashford, E. & Mulgan, T. "Contractualism", *The Stanford Encyclopedia of Philosophy* (Fall 2012 Edition), Edward N. Zalta (ed.),URL= http://plato.stanford.edu/archives/fall2012/entries/contractualism/ [Assessed 5 October 2012].

Bagnoli, C. "Constructivism in Metaethics", *The Stanford Encyclopedia of Philosophy* (Winter 2011 Edition), Edward N. Zalta (ed.),URL= http://plato.stanford.edu/archives/win2011/entries/constructivism-metaethics/ [Assessed 15 April 2012]

Ball, T & Dogger, R. (1995). *Political Ideologies and the Democratic ideal*. New York: Harper Collins.

Banting K. & Kymlicka W. (2012). "Is there Really a Backlash Against Multicultural Policies? New Evidence from thr Multiculturalism Policy Index", paper presented in a seminar at the Swedish Institute for Social Research, Stockholm University, 17 Sep. 2012.

Barry, B. (1965). *Political Argument. A Reissue with a New Introduction*. Herfordshire: Harvester Wheatsheaf.

Barry, B. (1995). *Justice as Impartiality*. Oxford: Oxford University Press.

Barry, B. (1997). "Liberalism and Multiculturalism". *Ethical Perspectives* 4 (1997) 2, p. 3-14.

Barry, B. (2001). *Culture and Equality*. Cambridge: Polity Press.

Barry, B. (2002). "Second Thought; Some First Thoughts Revived". In P. Kelly, ed. 2002. *Multiculturalism reconsidered*. Cambridge: Polity Press.

Bauböck, R. (2008). "Beyond Culturalism and Statism. Liberal Responses to Diversity", Online Working Paper, No.06, 2008,   *Eurospehere*, Working Paper Series.
http://eurosphere.uib.no/
[Assessed 20 Aug 2011].

Beckett, C. & Macey, M. (2001). "Race, Gender and Sexuality: the Oppression of Multiculturalism". *Women's Studies International Forum*, Vol. 24, No. 3/4, pp. 309–319.

Beller, E. . (2004). "The Headarf Affair: The Conseil d' Ètat on the Role of Religion and culture in French Society". *Texas International Law Journal*, Summer2004, Vol. 39 Issue 4, p581-623.

Benhabib, S. (1999). "'Nous' et 'les Autres' The Politics of Complex Cultural Dialogue in a Global Civilization". In C. Joppke and S. Lukes, eds. 1999. *Multicultural Questions*. Oxford: Oxford University Press.

Bertossi, C. (2010). "Mistaken model of integration? A critical perspective on the crisis of multiculturalism in Europe". In A. Silj, ed. 2010. *European Multiculturalism Revisited*. London: Zed books.

Brubaker, R. (2001). "The return of assimilation? Changing perspectives on immigration and its sequels in France, Germany, and the United States". *Ethnic and Racial Studies*, 24:4, 531-548.

Caney, S. (2002). "Equal Treatment, Exceptions and Cultural Diversity". In P. Kelly, ed. 2002. *Multiculturalism Reconsidered*. Cambridge. Polity Press.

Carens, J. H. (2000). *Culture, Citizenship, and Community. A Contextual Exploration of Justice as Evenhandedness*. Oxford: Oxford University Press.

Charney, E. (2003). "Identity and Liberal Nationalism". *The American Political Science Review*, Vol. 97, No. 2 (May, 2003), pp. 295-310.

Choudhury, N. (2007). "From the Stasi Commission to the European Court of Human Rights: L´Affaire du Foulard and the challenge of protecting the rights of Muslim girls". *16 Columbia Journal of Gender and Law* 199 (2007).

Cohen, A. G. (1989). "On the Currency of Egalitarian Justice". *Ethics*, Vol. 99, No. 4 (Jul., 1989), pp. 906-944 .

Cohen, A. G (2004). "Expensive Taste Ride Again". In J. Burley, ed. 2004. *Dworkin and His Critics. With replies by Dworkin*. Oxford: Blackwell.

Coradetti, C. (2009). Relativism and Human Rights. A Theory of Pluralistic Universalism. Springer.

D' Agostino, F (2004). "Pluralism and Liberalism". In G. F Gaus and C. Kukathas eds. 2004. Handbook of Political Theory. London: Sage. Ch. 18.

De Marneffe, P (1998). "Rights, Reasons, and Freedom of Association". In A. Gutmann, ed. 1998. *Freedom of Association*. New Jersey: Princeton University Press.

De Schutter, H. (2005). " Nations, Boundaries and Justice: on Will Kymlicka's Theory of Multinationalism". *Ethical Perspectives: Journal of the European Ethics Network*, no. 1 (2005): 17-41.

De Schutter, H. (2007). "Towards a Hybrid Theory of Multinational Justice". In S. Tierney, ed. 2007. *Accommodating Cultural Diversity*. Hamphsire: Ashgate.

Daniels, N. (1996). *Justice and Justification. Reflective Equilibrium in Theory and Practice*. Cambridge: Cambridge University Press.

Darwall, S. (2006). "Introduction". In S. Darwall, ed. 2006. *Contractarianism/Contractualism*, Malden: Blackwell.

Deveaux M. (2000). "Conflicting Equalities? Cultural group rights and sex equality". *Political Studies*, 48:522-539, June 2000.

Dobbernack, J. & Modood, T. (2011). "Tolerance and cultural diversity in Europe: Theoretical perspectives and contemporary developments". *ACCEPT PLURALISM Research Project*. Fiesole: European University Institute, Robert Schuman centre for Advanced Studies. Available at: http://www.eui.eu/Projects/ACCEPT/Documents/Research/wp2/ACCEPTPLUR ALISMWP2D2-1Stateoftheartreport.pdf
[Assessed 12 September 2012].

Dworkin, R. (1977). *Taking Rights Seriously*. London: Duckworth.

Dworkin, R. (1981a). "What is Equality? Part 1: Equality of Welfare". *Philosophy and Public Affairs*, vol. 10, No.3, pp. 185-246, 1981.

Dworkin, R. (1981b). " What is Equality? Part 2: Equality of Resources". *Philosophy & Public Affairs*, Vol. 10, No. 4 (Autumn, 1981), pp. 283-345.

Dworkin, R. (1983). "Comment on Narveson: In Defense of Equality". *Social Philosophy & Policy* Vol. 1, (1983), Pp. 24-40.

Dworkin, R. (1985). *A Matter of Principle*. Massachussets: Harvard University Press.

Dworkin, R. (1987). "What Is Equality? Part 3: The Place of Liberty". *73 Iowa L. Rev*. 1 1987-1988.

Dworkin, R. (1989). "Liberal Community". *California Law Review*, Vol. 77, No. 3, Symposium: Law, Community, and Moral Reasoning (May, 1989), pp. 479-504.

Dworkin, R. (2000). *Sovereign Virtue. The Theory and Practice of Equality*. Harvard University Press.

Eisenberg, A. & Spinner-Halev, J. (2005). "Introduction". In A. Eisenberg and J. Spinner-Halev, eds. 2005. Minorities within Minorities: Equality, Rights and Diversity. Cambridge: Cambridge University Press.

Emcke, C (2000): "Between Choice and Coercion: Identities, Injuries and Different Forms of Recognition". *Constellations*, Volume 7, No. 4, 2000.

Entzinger, H. (2003). "The Rise and Fall of Multiculturalism in the Netherlands". In C. Joppke and E. Morawska, eds. 2003. *Toward Assimilation and Citizenship: Immigrants in Liberal Nation-States*. London: Pelgrave.

Entzinger, H. (2006). "Changing the rules while the game is on; From multiculturalism to assimilation in the Netherlands". In Y. Bodemann and G. Yurdakul, eds. 2006. *Migration, Citizenship, Ethnos: Incorporation Regimes in Germany, Western Europe and North America*. New York: Palgrave MacMillan.

Exdell, j. (1994). "Feminism, Fundamentalism and Liberal Legitimacy". *Canadian Journal of Philosophy*, vol. 24 (1994).

Forst, R. (1994). *Contexts of Justice. Political Philosophy beyond Liberalism and Communitarianism*. Berkeley: University of California Press.

Forst Rainer (1999). "The Basic Right to Justification: Toward a Constructivist Conception of Human Rights". *Constellations*, Volume 5, No 1, 1999.

Forst, R. (2004). "The Limits of Toleration". *Constellations* Volume 11, No 3, 2004.

Fraser, N. (2000). "Rethinking Recognition". *New Left Review*, new series, 3 (2000), 107-120.

Fraser, N. (2001). "Recogntition without Ethics?". *Theory, Culture and Society* 2001, Vol. 18(2-3): 21-42.

Fraser, N. (2003). "Socia Justice in the Age of Identity Politics: Redistribution, Recognition and Participation". In H. Axel and N. Fraser, eds. 2003. *Redistribution or Recognti*on. A Poltical-Philosophical Exchange. London: Verso 2003.

Freeden, M. (1996). *Ideologies and Political Theory*. Oxford: Oxford University Press.

Freeman, M. (1995). "Are there Collective Human Rights?". *Political Studies* (1995) XLIII 25-40.

Freeman, S. (2003). "Introduction: John Rawls - An Overview". In S. Freeman, ed. 2003. *The Cambridge Companion to Rawls*. Cambridge: Cambridge University Press.

Galeotti, A. E. (1994). *La toleranza: Una proposta pluralista*. Naples: Liguori. (In Lukes 1997).

Galeotti, A. E. (2002). *Toleration as Recognition*. Cambridge: Cambridge University Press

Galston, W. (1991). *Liberal Purposes*. New York: Cambridge.

Galston, W. (1995). "Two Concepts of Liberty". *Ethics* 105 (April 1995): 516-534.

Galston, W. (2002). *Liberal Pluralism*, Cambridge. Cambridge University Press.

Gans, C. (2003). *The Limits of Nationalism*. Cambridge: Cambridge University Press.

Gaus, G. (2004). "The Diversity of Comprehensive Liberalisms". In G. F Gaus and C. Kukathas eds. 2004. *Handbook of Political Theory*. London: Sage. Ch. 8.

Gellner, E. (1983). *Nations and Nationalism*. Oxford: Blackwell.

Glover, J (1990). *Causing Deaths and Saving Lives*. London: Penguin Books.

Gowans, Chris, "Moral Relativism", The Stanford Encyclopedia of Philosophy (Winter 2008 Edition), Edward N. Zalta (ed.), URL = http://plato.stanford.edu/archives/win2008/entries/moral-relativism/

Grant, R. W. (2003). "John Locke on Women and the family". In I. Shapiro, ed. 2003. *Two Treatise of Government and A Letter Concerning Toleration*. New Haven: Yale University Press.

Gray, J. (2000). *Two Faces of Liberalism*. Cambridge: Polity Press.

Green, L. (1994). "Internal Minorities and their Rights". In J. Baker, ed. 1994. *Group Rights*. University of Toronto Press.

Greenwalt, K. (1998). "Freedom of Association and Religious Association". In A. Gutmann, ed. 1998. *Freedom of Association*. New Jersey: Princeton University Press.

Crowder, G. (1994). "Pluralism and Liberalism". *Political Studies* (1994) XLII 293-305.

Gutmann, A, (1993). "The Challenge of Multiculturalism in Political Ethics". *Philosophy & Public Affairs*, Vol. 22, No. 3 (Summer,1993), pp. 171-206.

Habermas, J., Lennox, S. & Lennox, F. (1974). "The Public Sphere: An Encyclopedia Article (1964)". *New German Critique*, No. 3 (Autumn, 1974), pp. 49-55.

Hartney, M. (1991). "Some Confusions Concerning Collective Rights". *Canadian Journal of Law and Juriprudence*, Vol. IV, No.2 (July 1991).

Harman, G. (2001). "General Foundations versus Rational Insight". *Philosophy and Phenomenological Research*, Vol. 63, No. 3 (Nov., 2001), pp. 657-663.

Hirschmann, N. J. (1998). "Western feminism, Eastern Veiling, and the Question of Free Agency". *Constellations*, V.5, No. 3, 1998.

Hobbes, T. (1996). *Leviathan*. Oxford: Oxford University Press.

Hume, D. (1969). *A Treatise of Human Nature*. London: Penguin Books.

Hume, D. (2006). "Of the original Contract" in *Essays, Moral, Political and Literary*. New York: Cosimo.

Jones, P. (1994). "Bearing the Consequences of Beliefs". In R. Goodin and P. Petit, eds. 1997. *Contemporary Political Philosophy*. Oxford: Blackwell Publishers (1997).

Jones, P. (2010). "Group rights and group-differentiated rights". In M. Dimova-Cookson and M. Stirk, eds. 2010. *Multiculturalism and Moral Conflict*. New York: Routledge.

Jones, P. (2006). "Toleration, Recognition and Identity". *Journal of Political Philosophy*, Volume 14, Number 2, 2006, pp. 123-143.

Joppke, C. & Morawska, E (2003). "Integrating Immigrants in Liberal Nation-States: Policies and Practicies". In C. Joppke and E. Morawska, eds. 2003. *Toward assimilation and Citizenship: Immigrants in Liberal Nation-States*. London: Pelgrave.

Joppke, C. (2004). "The retreat of multiculturalism in the liberal state: theory and policy". *The British Journal of Sociology* 2004 Volume 55 Issue 2, 237-257.

Joppke, C. (2007). "Immigrants and Civic Integration in Western Europe,". In K. Banting, T. Courchene and L. Seidle, eds. 2007. *Belonging? Diversity, Recognition and Shared Citizenship in Canada*. Montreal: Institute for Research on Public Policy.

Joppke, C. (2010). *Citizenship and Immigration*. London: Polity Press.

Kant, I. (1948). *Groundwork of the Metaphysics of Morals* (translated and analyzed by Paton H. J.). London: Routledge.

Kearns, D. (1983). "A Theory of Justice and Love-Rawls on the Family," *Politics* 18 (1983): 36-42.

Kelly, P. (2002a). "Introduction: Between Culture and Equality". In P. Kelly, ed. 2002. *Multiculturalism Reconsidered*. Cambridge: Polity Press.

Kelly, P. (2002b): "Defending some Dodo: Equality and/or Liberty". In P. Kelly, ed. 2002. *Multiculturalism Reconsidered*. Cambridge: Polity Press.

Kelly, P. (2003). "Identity, Equality and Power". In B. Haddock and P. Sutch eds. 2003. *Multiculturalism, Identity and Rights*. New York: Routledge.

Krull, C. & Trovato, F. (1994). "The Quiet Revolution and the Sex Differential in Quebec's Suicide Rates: 1931-1986". *Social Forces*, Vol. 72, No. 4 (1994) pp. 1121-1147.

Kukathas, C. (1992). "Are There Any Cultural Rights?". *Political Theory*, Vol. 20, No. 1 (Feb., 1992), pp. 105-139.

Kukathas, C. (2002). "The Life of Brian, or Now for Something Completely Difference-Blind ". In P. Kelly, ed. 2002. *Multiculturalism Reconsidered*. Cambridge: Polity Press.

Kukathas, C. (2003). *The Liberal Archipelago. A Theory of Diversity and Freedom*. Oxford: Oxford University Press.

Kymlicka, W. (1989). *Liberalism, Community and Culture*. Oxford: Oxford University Press.

Kymlicka, W. (1995). *Multicultural Citizenship*. Oxford: Oxford University Press.

Kymlicka, W. (1997). "Do we need a liberal theory of minority rights? Reply to Carens, Young, Parekh and Forst". *Constellations*, Volume 4, No 1, 1997.

Kymlicka, W. (1999). "Comments on Shachar and Spinner-Halev: An Update from the Multiculturalism Wars". In C. Joppke and S. Lukes, eds. 1999. *Multicultural Questions*. Oxford: Oxford University Press.

Kymlicka, W. (2002). *Contemporary Political Philosophy*. Oxford: Oxford University Press

Kymlicka, W. (2012). *Multiculturalism: Success, Failure, and the Future*. Washington, DC: Migration Policy Institute. Available at: http://www.miguelcarbonell.com/artman/uploads/1/kymlicka.pdf [Assessed 5 October 2012]

Laden, S. A. (2000). "Outline of a Theory of reasonable Deliberation". *Canadian Journal of Philosophy* Volume 30, Number 4, December 2000, pp. 551-580.

Laden, S. A. (2001). *Reasonably Radical: Deliberative Liberalism and the Politics of Identity*. Ithaca: Cornell University Press.

Lægaard, S. (2005). "On the Prospects for a Liberal Theory of Recognition". *Res Publica* (2005) 11: 325-348.

Lanefelt, S. L. (2012). "Women's Freedom of Choice and the Issue of the Veil". In L. Freidenvall and M. Micheletti, eds. 2012. *Comparisons, Quotas and Critical Change*. Stockholm: Stockholm University

Lamborde, C. (2002). "On Republican Toleration". *Constellations* Volume 9, No 2, June 2002 (167:183).

206

Larmore, C. (1996). *The Morals of Modernity*. Cambridge: Cambridge University Press.

Larmore, C. (1999). "The moral Basis of Political Liberalism". *The Journal of Philosophy* Vol. 96, No. 12 (Dec. 1999), pp. 599-625.

Levy, J. (1997). "Classifying cultural rights". In I. Shapiro and W. Kymlicka, eds. 1997. *Ethnicity and Group Rights*. New York: New York University Press.

Levy, J. (2000): *The Multiculturalism of Fear*. Oxford: Oxford University Press.

Locke, J. (2003). *Two Treatises of Government and A Letter Concerning Toleration*. New York: Yale University Press.

Loobuyck, P (2005). "Liberal multiculturalism : A defence of liberal multicultural measures without minority rights". *Ethnicities*, 2005 5: 108, pp 109-123.

Lukes. S. (1997). "Toleration as Recognition". *Ratio Juris*, Vol. 10 No. 2 June 1997 (213-22).

Macedo, S. (1995). "Liberal Civic Education and Religious Fundamentalism: The Case of God v. John Rawls?". *Ethics*, Vol. 105, No. 3 (Apr., 1995), pp. 468-496.

Mazie, S. V. (2005). "Consenting Adults? Amish Rumspinga and the Quandary of Exit in Liberalism". *Perspective in Politics*, December 2005, Vol. 3/No. 4, pp. 745-759.

McConnell, M. W. (1999-2000). "Why is Religious Liberty the "First Freedom"?". *21 Cardozo L. Rev.* 1243 (1999-2000).

McDermott, D. (2008). "Analytical Political Philosophy". In D. Leopold and M. Stears, eds. 2008. *Political Theory. Method and Approaches*. Oxford: Oxford University Press.

McKinnon, K. (2008). *Toleration. A Critical Introduction*. New York: Routledge.

Meadwell, H. (1993). "The Politics of Nationalism in Quebec". *World Politics*, Vol. 45, No. 2 (Jan., 1993), pp. 203-241.

Meer, N. & Modood, T. (2009). "The Multicultural State We're In: Muslims, 'Multiculture' and the 'Civic Re-balancing' of British Multiculturalism". *Political Studies*, 2009 Vol 57, 473-497.

Meetoo, V. & Mirtza, H. S. (2007). " "There is nothing 'honourable' about honour killings": Gender, violence and the limits of multiculturalism". *Women's Studies* International Forum, Vol. 30, Issue 3, May-June 2007, pages 187-200.

Mendus, S. (1989). *Toleration and the Limits of Liberalism*. London: MacMillan.

Mendus, S. (2002). "Choice, Chance, and Multiculturalism", ". In P. Kelly ed. 2002. *Multiculturalism Reconsidered*. Cambridge. Polity Press.

Meggitt, M. (1964). "Indigenous forms of government among the Australian aborigines". *Bijdragen tot de Taal-, Land- en Volkenkunde* 120 (1964), no: 1, Leiden, 163-180. Available at:
http://www.kitlv-journals.nl
[Assessed 7 Januari 2010]

Mernissi, F. (1982). "Virginity and Patriarchy". *Women's Studies Int. Forum*, Vol 5, No. 2, pp. 183-191.

Mill, J. S. (1999). *On Liberty*. Ontario: Broadview.

Miller, D. (1995). *On Nationality*. Oxford: Oxford University Press.

Miller, D. (2000). *Citizenship and national Identity*. Polity Press.

Miller, D. (2002). "Liberalism, Equal Opportunities and Cultural Commitments". In P. Kelly, ed. 2002. *Multiculturalism Reconsidered*. Cambridge: Polity Press.

Modood, T. (2007). *Multiculturalism*. Cambridge: Polity Press.

Moore, M. (2001). *The Ethics of Nationalism*. Oxford: Oxford University Press.

Moruzzi, C. N. (1994). "A Problem with Headscarves: Contemporary Complexities of Political and Social Identity". *Political Theory* 1994 22: 653-672.

Mörkenstam, U. (1999). *Om "Lapparnas privilegier". Föreställnigar om samiskhet I svensk samepolitik 1883-1997*. Stockholm University: Stockholm Studies in Politices 67.

Nagel, T. (1987). "Moral Conflict and Political Legitimacy". *Philosophy and Public Affairs*, Vol. 16, No. 3, pp 215-240, Summer 1987.

Nagel, T (1991). *Equality and Partiality*. Oxford: Oxford University Press.

Nozick, R. (1974). *Anarchy, State, and Utopia*. Basic Books Inc.

Okin, Moller S. (1987). "Justice and Gender". *Philosophy and Public Affairs* 16 (1987): 42-72.

Okin, Moller S. (1989), "Reason and Feeling in Thinking about Justice". *Ethics* 99 (1989): 229-49.

Okin, Moller S. (1989). *Justice, Gender, and the Family*. New York: Basic Books.

Okin, Moller S. (1994). "Political Liberalism, Justice, and Gender", *Ethics* 105 (October 1994): 23-43.

Okin, Moller S. (1999). "Is Multiculturalism Bad for Women". In J. Cohen, M. Howard and M. Nussbaum, eds. 1999. *Is Multiculturalism Bad for Women?*. New Jersey: Princeton University Press.

Okin, Moller S. (2002). ""Mistresses of Their Own Destiny": Group Rights, Gender and Realistic Rights of Exit". *Ethics* 112 (January 2002): 205–230.

Parekh, B. (1990). "The Rushdie Affair: Research Agenda for Political Philosophy". *Political Studies* Vol. 38, Issue 4, pp.695-709, December 1990.

Parekh, B. (2000). *Rethinking Multiculturalism: Cultural Diversity and Political Theory*. New York: Palgrave.

Parekh, B. (2002). "Barry and the Dangers of Liberalism". In P. Kelly, ed. 2002. *Multiculturalism Reconsidered*. Cambridge: Polity Press.

Parfit, D. (2003). "Justifiability to Each Person". *Ratio* (new series) XVI 4 December 2003 0034-0006, pp. 368-389.

Pateman, C. (1988). *The Sexual Contract*. Stanford: Stanford University Press.

Patten, A. (1999). "The autonomy argument for liberal nationalism " . *Nations and Nationalism* 5 (1), 1999, 1-17.

Pena-Ruiz, H. (2003). *Qu'est-ce que la Laicité?* Éditions Gallimard.
Pervizat, L. (2002). "Honor Killings in Turkey". Paper presented at Strategies to Address Crimes of Honor meeting in London, UK organized by the CIMEL, University of London, and INTERRIGHTS, February 15-17 2002. Available at: http://www.respublica.dk/2004_artikler/honor_killings.htm [Assessed 20 July 2012].

Pettit, P (1997). *Republicanism* . Oxford: Oxford University Press.

Philips, A. (2007). *Multiculturalism without Culture*. Woodstock: Princeton University Press.

Poulter, M. S. (1986). *English Law and Ethnic Minority Customs*. London: Butterwoths.

Poynitng, S. & Mason, V (2008). "The New Integrationism, the State and Islamophobia: Retreat from multiculturalism in Australia". *International Journal of Law*, Crime and Justice 36 (2008) 230e246.

Rawls, J. (1971). *A Theory of Justice*. Harvard University Press (1999).

Rawls, J. (1974). "The independence of Moral Theory". Proceedings and Addresses of the American Philosophical Association, Vol. 48 (1974 - 1975) pp. 5-22. Published by American Philosophical Association.

Rawls, J. (1980). "Kantian Constructivism in Moral Theory". *The Journal of Philosophy*, Vol. 77, No. 9 (Sep. 9, 1980), pp. 515-572.

Rawls, J. (1981). "The Basic Liberties and their Priorities" in *The Tanner Lectures on Human Rights.* Available: http://www.tannerlectures.utah.edu/lectures/documents/rawls82.pdf [Assessed 31 May 2012]

Rawls, J. (1985). "Justice as Fairness: Political not Metaphysical". *Philosophy and Public Affairs*, Vol. 14, No. 3. (Summer, 1985), pp. 223-251.

Rawls, J. (1993). *Political Liberalism*. New York: Columbia University Press.

Raz, J. (1986). *The Morality of Freedom*. Oxford: Oxford University Press.

Raz, J. (1994). *Ethics in the Public Domain*. Oxford: Oxford University Press.

Sandel, M. (1982). *Liberalism and the Limits of Justice*. Cambridge: Cambridge University press.

Sartori, G. (2000). *Pluralismo, multiculturalism e estranei*. Milano: Rizolli (in Joppke 2004).

Scanlon, T. M. (1975). "Preference and Urgency". *The Journal of Philosophy*, Vol 72, No. 19 (Nov 6, 1975), pp 655-669.

Scanlon, T. M. (1998). *What We Owe to Each Other*. Harvard University Press.

Scanlon, T. M. (2003). *The Difficulty of Tolerance*. Cambridge: Cambridge University Press.

Scanlon, T. M. (2006). "Contractualism and Utilitarianism". In S. Darwall S, ed. 2006. *Contractarianism/Contractualism*. Malden: Blackwell.

Scheffler, S. (2003): "What Is Egalitarianism". *Philosophy & Public Affairs*, Vol. 31, No. 1 (Winter 2003), pp. 5-39.

Seaglow, J. (2003). "Theorizing Recognition". In B. Haddock and P. Sutch, eds. 2003. *Multiculturalism, Identity and Rights*. London: Routledge.

Sev'er, A. & Yurdakul, G. (2001). "Culture of Honor, Culture of Change : A Feminist Analysis of Honor Killings in Rural Turkey". *Violence Against Women* 2001 7: 964-998.

Shachar, A. (1999). "The Paradox of Multicultural Vulnerabiltiy". In S. Lukes and J. Joppke, eds. 1999. *Multicultural Questions*. Oxford: Oxford University Press.

Shachar, A. (2000)."The Puzzle of Interlocking Power Hierarchies: Sharing the Pieces of Jurisdictional Authority". *Harvard Civil Rights -Civil Liberties Law Review* 385, 2000.

Shachar, A. (2001). *Multicultural Jurisdictions: Cultural Differences and Women's Rights*. Cambridge: Cambridge University Press.

Shachar, A. (2002). "Two Critiques of Multiculturalism". *23 Cardozo Law Review* 2001-2002 , Vol 23:1, 253-297.

Shachar, A. (2007). "Feminism and Multiculturalism". In A. Laden and D. Owen, eds. 2007. *Multiculturalism and Political Theory*. Cambridge: Cambridge University Press.

Shapiro, I. (2003). *The Moral Foundations of Politics*. New Haven: Yale University Press.

Song, S. (2007). *Justice, Gender and the Politics of Multiculturalism*. Cambridge: Cambridge University Press.

Spinner-Havel, J. (2000). *Surviving Diversity: Religion and Democratic Citizenship*. Baltimore: The John Hopkins University Press.

Steiner, E. (1995-1996). "The Muslim Scarf and the French republic". *The King's College Law Journal*, 6 K.C.L.J. 146 1995-1996.

Tamir, Y. (1993). *Liberal Nationalism*. New Jersay: Princeton University Press.

Tamir, Y. (1999). "Against collective rights". In S. Lukes and C. Joppke, eds. 1999. *Multicultural Questions*. Oxford: Oxford University Press.

Taylor, C. (1989). *The sources of the Self. The Making of the Modern Identity*. Cambridge: Cambridge University Press.

Taylor, C. (1994). "The Politics of recognition". In A. Gutmann, ed. 1994. *Multiculturalism . Examining the Politics of Recognition*. New Jersey: Princeton University Press.

Thacher, D. (2006). "The Normative Case Study". *American Journal of Sociology*, Volume 111, No 6 (May 2006): 1631.76.

Thomas, E. R. (2000). "Competing Visions of Citizenship and Integration in France's Headscarves Affair". *Journal of European Area Studies*, Vol.8, No.2, 2000.

Tonts, M (2001). "The Exclusive Brethren and an Australian Rural Community". *Journal of Rural Studies* 17 (2001) pp. 309-322.

Troum, N. (2002). "Expressive Associations and the Right to Exclude: Reading Between the Lines in Boy Scouts of America v. Dale", *35 Creighton Law Review* 641 (2001-2002).

Tully, J. (2000). Struggles over Recognition and Distribution". *Constellations* Volume 7, No 4, 2000.

Tully, J. (2002). "The Illiberal Liberal: Brian Barry's Polemical attack on Multiculturalism" ". In P. Kelly, ed. 2002. *Multiculturalism Reconsidered*. Cambridge: Polity Press.

Tully, J. (2007). "The Practice of Law-Making and the Problem of Difference: An Introduction to the Field". In P. Shabani, ed. 2007. *Multiculturalism and Law: A Critical Debate*. Wiltshire: Cromwell Press.

Turner, S. B. (2006). "Citizenship and the Crisis of Multiculturalism" *Citizenship Studies*. 10:5, 607-618.

Tönnies, F (2002). *Community and Society*. Devon: David and Charles Brunel House.

Wall, S. (1998): *Liberalism, Perfectionism and Restraint*. Cambridge: Cambridge University Press.

Wing, A. K. & Smith, N. S. (2005). "Critical Race Feminism Lifts the Veil?: Muslim Women, France, and the Headscarf Ban". *UC Davis L. Rev*. 2005, Vol 39:743.

White, S. (2007). *Equality*. Cambridge: Polity Press.

Weinstock, D. M. (2007). " Liberalism, multiculturalism and internal minorities". In A. Laden and D. Owen, eds. 2007. *Multiculturalism and Political Theory*. Cambridge University Press.

Zurn F. C. (2003). "Identity or Status? Struggles over 'Recognition' in Fraser, Honneth, and Taylor". *Constellations*, Volume 10, No 4, 2003.

Newspaper Articles

Hornburg, Boe Thomas (2010), "Burka-forbud ikke aktuelt", *Aftenposten* [online] 23 April 2010. Available at:
http://www.aftenposten.no/nyheter/iriks/article3620932.ece
[Assessed 31 August 2012].

"State multiculturalism has failed, says David Cameron". *BBC* [online] 5 Feb. 2011. Available at: http://www.bbc.co.uk/news/uk-politics-12371994
[Assessed on 8 July 2012].

"Merkel says Greman multicultural society has failed". *BBC* [online] 17 Oct. 2010. Available at: http://www.bbc.co.uk/news/world-europe-11559451
[Assessed 8 July 2012).

"Exclusive Brethren". *BBC* [online] 11 August 2009. Available at:

http://www.bbc.co.uk/religion/religions/christianity/subdivisions/exclusivebrethren_1.shtml
 [Assessed 5 October 2012].

"Peers vote to scrap blasphemy". *BBC* [online] 6 march 2008. Available at: http://news.bbc.co.uk/2/hi/programmes/bbc_parliament/7281381.stm

[Assessed 8 October 2012]

Marshal, C. (2007),"Killed for loving the wrong man". *BBC* [online] 11 June 2007. Available at: http://news.bbc.co.uk/2/hi/6733653.stm [Assessed 27 April 2012].

Wyatt, C. (2004). "French headscarf ban opens rifts". *BBC* [online], 11 February 2004. Available at: http://news.bbc.co.uk/2/hi/3478895.stm [Assessed 19 July 2012].

"British man loses right to Hindu cremation". *CNN* [online] 8 May 2009. Available at: http://edition.cnn.com/2009/WORLD/europe/05/08/uk.funeral.pyres/index.html [Assessed 31 August 2012].

"Muslim nurses CAN cover up... but Christian colleagues can't wear crucifixes". *Daily Mail* [online] 12 April 2010. Available at: http://www.dailymail.co.uk/news/article-1265289/NHS-relax-superbug-safeguards-Muslim-staff-Women-cover-long-sleeved-uniforms-despite-health-warning.html [Assessed 8 October 2012]

"Nikolas Sarkozy declares multiculturalism has failed". *The Telegraph* [online] 11 Feb. 2011. Available at:

http://www.telegraph.co.uk/news/worldnews/europe/france/8317497/Nicolas-Sarkozy-declares-multiculturalism-had-failed.html# [Assessed 8 July 2012].

Squires, N. (2001). "Paedophile case divides tiny Pacific Island". *The Telegraph* [online] 28 January 2001. Available at:

http://www.telegraph.co.uk/news/worldnews/australiaandthepacific/australia/1320032/Paedophile-case-divides-tiny-Pacific-island.html [Assessed 5 October 2012].

Other documents

Ahmad v Inner London Education Authority. Employment Appeal Tribunal:[1976] ICR 461.

Begum v. Denbigh High School. [2004] EWHC 1389 (Admin) [online]. Available at: http://www.bailii.org/ew/cases/EWHC/Admin/2004/1389.html [Assessed 9 October 2012].

Regina v. Choudhury ([1991] 1 Q.B. 429

R v Chief Metropolitan Stipendiary Magistrate, ex parte Choudhury

Religious Offences in England and Wales – First report. House of Lords (10 April 2003). United Kingdom Parliament Publications and Records [online]. Available at:
http://www.parliament.the-stationery-office.co.uk/pa/ld200203/ldselect/ldrelof/95/9501.htm
[Assessed 9 October 2012].

Roberts v. United States Jaycees - 468 U.S. 609 (1984).

Wisconsin v. Yoder [1972] 406 U.S. 205. [online]. Available at:
http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=406&invol=205
[Assessed 9 October 2012].

Doktorsdisputationer
(filosofie doktorsgrad)

1. Tage Lindbom (1938) Den svenska fackföreningsrörelsens uppkomst och tidigare historia 1872-1900.
2. Lars Frykholm (1942) Studier över artikel 48 i Weimarförfattningen.
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    1919-33.
13. Elmar Nyman (1963) Indragningsmakt och tryckfrihet 1785-1810.
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11. Harriet Lundblad (1979) *Delegerad beslutanderätt inom kommunal socialvård.* (Liber) 9138-048909-4

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24. Bertil Nygren (1984) *Fredlig samexistens: klasskamp, fred och samarbete. Sovjetunionens detente-doktrin. (Utrikespolitiska institutet)* 91-7182-576-2
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