

ABSTRACT
of
TOLERATION, DIVERSITY AND GLOBAL JUSTICE
by

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This dissertation is an examination of the problem of global diversity and justice within a liberal framework. Specifically, it considers how two current influential but competing interpretations of liberalism, political liberalism and comprehensive liberalism, fare with respect to this problem. At another level then, this work is an evaluation of the important debate between these two conceptions of liberalism.

Despite the current popularity and influence of global liberalism, liberal theory continues to be plagued by internal difficulties and tensions. For instance, what is the limit of liberal toleration? Should a liberal global order accept as legitimate nonliberal ways of ordering political society? And can a liberal global theory accept the idea of the rights of peoples? That is, to what extent can an individualistic political morality endorse collective rights? These two related sets of questions are the motivating concerns of this work.

Political liberalism and comprehensive liberalism offer different responses to these questions. While much of the current debate between these two views of liberalism has been within the context of a single state, I believe that extending this discussion to the global context will provide us with the basic concepts with which to clarify the global questions of concern to us. Moreover, and very interestingly, it seems to me that thus extending this debate will give us a new setting against which to further test each of these liberal conceptions, allowing us therefore an extra measure by which to evaluate this important contest within liberal theory.

I argue that comprehensive liberalism provides an interpretation of liberal political morality which is more faithful to the basic liberal ideal that individuals be at liberty to form, pursue and revise their conceptions of the good life. By contrast, political liberalism, I contend, fails to give due weight to individual liberty. While this shortcoming is most vividly exposed in its global application, I show that it stems ultimately from political liberalism's mistaken stress on toleration as the fundamental liberal principle.

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TOLERATION, DIVERSITY AND GLOBAL JUSTICE

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CHAPTER ONE

INTRODUCTION

The Issues

For much of its history, international relations theory was dominated by the school known as International Realism, which held the view that international relations fall outside the bounds of morality. Realists believed states to be interacting in a global condition akin to a Hobbesian state of nature, motivated ultimately by considerations of power and security. But Realism, it seems to me, has been largely discredited today. Not only is the purported amorality of Realism in the end questionable (for implicit in many Realists' arguments is the recommendation that state actors protect and promote their national interests foremost), but even as a descriptive view, it is far from 'realistic'. With the advent of the various international and regional organisations and conventions -- like the United Nations, the European Union, International Law, the Law of the Sea Convention, and the different international human rights declarations and covenants -- whose objectives are, purportedly at least, informed by moral considerations, and with the increasing interdependence between the states of the world, the Realist picture of international society as a state of nature unresponsive to moral ideals is patently false.¹ With its demise, the focus of discourse on global ethics has now shifted to the different competing normative theories vying to fill the spot Realism has vacated, among which liberalism is generally regarded as the strongest contender.²

But despite the current popularity and influence of global liberalism, liberal theory continues to be plagued by profound internal difficulties and tensions. Urgent questions remain unanswered, and liberals disagree heatedly among themselves over how these should be resolved. For example, what is the limit of liberal toleration? Should liberal global institutions and liberal states tolerate nonliberal states? Or should these be criticised in the name of protecting individual liberty? Second, can a liberal global

theory accept the idea of the rights of peoples, the so-called 'third generation' of human rights? That is, can a political morality which regards the individual as the ultimate unit of moral worth, and entitled to equal concern and respect, coherently and consistently accommodate the notion of collectivistic or group rights?³ These two related sets of questions are the motivating concerns of this work.

Because much of the work done on liberal theory has been in the context of a single state, it will be helpful to quickly review the domestic counterparts of the above global questions to gain some purchase on the philosophical issues under contention here.⁴ Consider first the toleration question. Liberalism prides itself on its tolerance of different social (e.g., cultural) ways of life; but it is also foremost an individualistic political morality in that it is a political morality concerned primarily with protecting and promoting the autonomy of individuals. Autonomy is generally understood as the capacity to examine and reevaluate, and revise if necessary, one's ends and goals in life. As Gerald Dworkin puts it, it is a "second-order capacity of persons to reflect critically upon their first-order preferences, desires, wishes, and so forth and the capacity to accept or attempt to change these in light of higher-order preferences and values."⁵ At the first instance, these two liberal ideals need not conflict -- as long as a social way of life is liberal in character, i.e., is conducive to the exercise of individual autonomy, liberal toleration and individual autonomy are compatible and even complementary.

But a difficult question arises when a way of life thwarts the autonomy of its own adherents. Obviously, brutally oppressive ways of life, that is, those which violate the very basic human rights to life, physical security and integrity, sustenance and the like,⁶ and for which I shall reserve the term 'illiberal', are rejected by all liberals -- no political morality need pretend to be tolerant of or compatible with all possible ideas of the good or ways of life. The difficult challenge for liberal toleration concerns what I shall refer to as 'nonliberal' practices, namely practices which, while respectful of basic rights, reject other quintessential liberal-democratic rights, like the right of free expression and association, gender equality, equal liberty of conscience and the equal right of dissent and political participation.

Does the liberal principle of toleration require that the liberal state tolerate these nonliberal practices at the expense of individual autonomy? Or should the liberal commitment to autonomy set the limits of toleration, thus deeming these nonliberal ways inadmissible?

Turning to the question of group rights, there is an ongoing debate in domestic liberal theory over whether the liberal state should grant members of certain groups, in particular minority cultural groups, special rights. Some liberals worry that granting minority groups special rights is tantamount to treating their conceptions of the good as more worthy, and hence a violation of the "equal respect and concern" clause. They think that once the basic rights of citizenship are secured for all and equally enforced, there will be no need nor the justification to give minorities any special consideration.⁷ Others argue that the idea of special rights for minorities is consistent with, and indeed required by, liberal equality.

Two broad opposing liberal responses to these questions of toleration and group rights can be identified. On the one side, we have liberals who stress toleration (within the limits noted above) as the overriding liberal value; on the other, we have liberals who take individual autonomy to be fundamental. While these two opposing conceptions of liberalism can be represented or expressed in a variety of ways, they are commonly represented in the current literature by political liberalism and comprehensive liberalism respectively.⁸

Political and Comprehensive Liberalism

Briefly, political liberalism holds that liberalism should not be understood as a comprehensive philosophy applicable to all of a person's life and to the whole of society, but should be regarded strictly as a political doctrine and thus as one whose application is to be confined solely to the political context of society. This is because, so political liberals believe, liberalism must be detached from its own contentious moral or philosophical views of the good human life.⁹ So while political liberalism does not

reject the ideal of individual autonomy entirely, it restricts its scope to the political realm. It is, therefore, only in a strongly qualified sense that political liberalism can be said to take toleration as the fundamental liberal value -- toleration is overriding (or fundamental) only after the ideal of autonomy as a political conception is secured. So, throughout this dissertation, political liberalism is understood to treat toleration as fundamental in this qualified sense.¹⁰ Comprehensive liberalism, on the other hand, is a political morality which remains fully committed to the comprehensive moral commitments of liberalism, and hence does not take the ideal of autonomy solely as a political ideal but as an ideal applicable to the whole of life.

In order not to obscure the point of contrast between comprehensive and political liberalism, it is important to distinguish at least two different senses in which political liberalism claims to be political, and to get clear as to which of these is being contested by comprehensive liberals. One way political liberalism is political concerns the subject-matter of justice. As a political morality, its subject is the "basic structure" of society (i.e., its primary social, economic and political institutions), in contrast with what we may call ethics whose subject-matter is interpersonal behaviour and relationships, and the types of character traits one ought to cultivate.¹¹ That is, liberalism as a political morality is concerned primarily with how to design and assess basic institutions within which human interaction takes place, and which determine "probabilistically" the nature of this interaction, rather than directly with specific human interactions themselves.¹² Comprehensive liberalism, being a political morality, will have no quarrel with this sense of being political; it too regards the proper subject-matter of political morality to be the institutions of society.

But a unique sense in which political liberalism claims to be political, one not shared by comprehensive liberalism, concerns the justification and, consequently, the scope of liberal politics. For the political liberal, liberalism is also political in that its "conception of justice is presented as a freestanding view," that is, as a conception independent of any controversial philosophical doctrine, and

hence whose application is confined to just those aspects of society impervious to such controversies.¹³

On the contrary, comprehensive liberalism rejects the idea of liberalism as "freestanding" and hence does not restrict the scope of politics to just those "uncontroversial" concerns of society. It is this second sense of being political that is at stake here. As an aside, while it is correct under one description to say that political liberalism confines liberalism to the political, it can be said, alternatively and perhaps more accurately, that comprehensive liberalism has a wider conception of the political. But with this point firmly in mind, I will use both ways of describing the contrast interchangeably.

I shall be saying more about each of these liberal views in due course, but we can roughly see now why each would take a different stance with regard to toleration and group rights. The political liberal will be willing to tolerate nonliberal group-ways of life as long as these do not reject liberalism understood strictly as a political ideal. The comprehensive liberal, because of her understanding of autonomy as an ideal applicable to the whole of life, will insist on the stronger requirement that ways of life also be liberal "internally" before they fall within the limits of toleration.

To anticipate a possible objection to my associating political liberalism with toleration-based liberalism, and comprehensive liberalism with autonomy-based liberalism, let me clarify a few points. I am not making the strong claim that these associations are logical ones. That is, I will grant that there is no necessary entailment between political liberalism and toleration liberalism, and comprehensive liberalism and autonomy liberalism. What I am suggesting is that there is a general tendency for political liberals to stress toleration as the basic liberal value in the sense described above, and comprehensive liberals to stress autonomy.¹⁴ More significantly, this dissertation shall take John Rawls to be the definitive and paradigmatic political liberal (for reasons I shall note later), and Rawls plainly regards toleration as the primary liberal value in his articulation of political liberalism..

The reason one might offer as to why political liberalism is distinct from toleration liberalism, and comprehensive liberalism from autonomy liberalism, is that the scope of a political theory is

logically distinct from the justification of that theory. Because, the reasoning goes, political liberalism is characterized primarily by its method of justifying liberalism, whereas toleration liberalism is essentially concerned with the scope or reach of liberalism, there is no logical connection between these two categories of liberalism; to treat them as identical is to commit a category mistake.

I accept that these are two distinct liberal categories, but my point is it they are nonetheless intimately interdependent (hence the association we commonly see in the current literature). This is because the range or class of issues that can fall within the province of a political theory (i.e., its scope) is largely determined by how that theory itself is justified (or claims to be justified). Consider, for example, the relationship between the method of justification of political liberalism and its (limited) scope. The type of arguments available to the political liberal in justifying liberalism in the public domain, namely that which does not appeal to any comprehensive philosophical or moral doctrines, constrains the scope of political liberalism by exempting certain issues from direct political judgement, namely those issues pertaining to comprehensive views. That is, if a liberal theory can be justified by appealing only to its political conceptions and not to its comprehensive moral doctrines, then issues involving comprehensive moral matters (like the role of autonomy in private life) have to fall outside the domain of its political concern. Its scope, in other words, is delimited by its method of justification.¹⁵ Conversely, we can easily see how the justificatory method of comprehensive liberalism shapes its scope, giving it a wider range than that of political liberalism. Its ability to appeal to liberalism's comprehensive doctrines as a justificatory strategy consequently makes it a liberal model committed to protecting the ideal of autonomy in all areas of life.

Whether one should begin with a justification of a theory and then arrive at its scope, or begin with some considered judgements about the scope of politics and then work back towards a justificatory theory, is irrelevant for our purpose here. In reality, it seems to me, it is more the case of a combination of both: one may begin with some intuitions about the reach of politics and then work towards a theory to

ground these intuitions, but in turn will adjust her intuitions in light of the theory arrived at if necessary or, conversely, modify the theory if it fails to mesh with intuitions about new hard cases. The above describes the method of wide reflective equilibrium originating in Rawls, and developed by others like Norman Daniels and Kai Nielsen.¹⁶ But it is precisely this tight interconnection between scope and justification that lends coherence to the method of wide reflective equilibrium. A denial of any interdependence between the scope of politics and the justification of theory would also deny this influential and widely endorsed method of moral reasoning.

Moving onto the issue of group rights, liberals who stress tolerance are, as a rule, less willing to endorse such rights than are liberals who stress autonomy. I shall develop and defend this point more fully later, but let me outline here why I think this to be the case. Since political liberals strive to keep liberalism solely in the political arena (or, if we like, since they hold a narrower conception of the political), the question of cultural membership falls outside the scope of politics and hence cannot be of concern to the state. For them, so long as the familiar basic liberal individual rights are equally protected for all citizens, including the right to free association and expression, the right to a cultural community is equally secured for all. But comprehensive liberals, because of their broader commitment to individual autonomy, are more willing, and indeed obliged, to justify and provide special protection for 'autonomy-conducting' cultural conditions when these are unfairly threatened.

In this dissertation, I propose to extend the political/comprehensive liberalism debate, hitherto largely confined to the domestic, to the global context. It seems that this debate will serve as a useful prism through which to clarify the global questions we noted earlier. This work shall thus move between domestic liberal theory and the international arena, borrowing and adopting concepts, arguments and issues previously raised in domestic discourse in one instance, and developing and applying these to the global setting in the next. While it is true that there isn't an equivalent of a global state, there are nevertheless global liberal institutions and even some powerful individual liberal states, what Lea

Brilmayer calls "hegemons", which approximate a global state in many important aspects, including, as recent history showed us, having the capacity and authority to use force to enforce global resolutions and sanctions. Hence the central doctrines of liberal political theory, even though concerned primarily with state institutions, will provide us with the useful and indispensable conceptual tools with which to evaluate the norms of global liberalism and the institutions these generate.¹⁷

But an interesting reflexivity of a sort will be at play throughout this work. Extending the political/comprehensive liberalism debate globally will allow us to critically reflect back on this debate. The global setting will provide new scenarios and challenges against which to further test each of the contesting liberal positions. Plainly, all things being equal, the position with the greater applicability and scope is the superior one. So our 'globalisation' of this debate, rather than complicating an already difficult debate, can provide us with new insights into the overall merits and flaws of each position. In fact, given liberalism's own universalistic aspiration, global applicability constitutes a crucial, if not a decisive, test of the tenability of any interpretation of liberalism.

Moreover, in moving the debate away from the domestic context, the flaws and virtues of each of these liberal interpretations previously obscured (though not necessarily resolved) by domestic contingencies can be better exposed. This is because the global context accentuates certain central problems faced by each in its domestic incarnation, thus providing a more rigorous test against its main ideas. For example, that global diversity is more pronounced than domestic diversity will test the limits of liberal toleration and the demands of group rights more stringently. That the right of exit is less enforceable against sovereign states than against nonpolitical associations within a country, and that the "liberalising effects" of liberal policy are less effective against nonliberal countries than against associations within a country, may render more vivid certain theoretical problems each interpretation faces, problems which may be mitigated to some extent by fortuitous circumstances in the domestic context and hence overlooked. Just as Plato once said that it is easier to grasp what justice is in a larger

unit -- "We should begin by inquiring what justice means in a state. Then we can go on to look for its counterpart on a smaller scale in the individual" -- we too may say, distorting Plato's metaphor slightly, that globalising the political versus comprehensive liberalism debate will amplify each of these positions, making more visible and perspicuous their respective weaknesses and strengths.

Hence, although the driving concern of this dissertation is the problem of global diversity and morality, it is at the core an evaluation of political liberalism and comprehensive liberalism. As is evident, my purpose here is not to defend liberalism's status as the dominant global theory against nonliberal alternatives, but more specifically to sort out difficulties within liberal theory itself. Only after differences within a theory are settled can its strongest version be forwarded and defended against competing theories. So, if we like, we may read this dissertation as constituting the first part of a larger project to defend global liberalism.

My hypothesis is that comprehensive liberalism provides an interpretation of liberal political morality which is more faithful to the basic liberal ideal that individuals be at liberty to form, pursue and revise their conceptions of the good life. As most liberals accept this idea of liberty to be the basic principle of liberalism, I will take it to be the touch-stone liberal value.¹⁸ This value ultimately expresses the liberal ideal of autonomy, but because political liberalism is of the view that this liberty is best achieved by restricting the scope of autonomy and treating toleration as fundamental (again within the range specified above), I shall occasionally refer to this touch-stone value more neutrally as "liberty" when a contrast is required. There are comprehensive liberals who opt for some other touch-stone value, most notably equality; but this difference, as will be elaborated later, does not affect substantively our basic debate over whether liberalism should treat toleration as fundamental.¹⁹ I have offered here only an indication of my approach -- details will be filled in as we progress, including what the relevant background conditions are for the proper exercise of liberty and the extent to which these conditions constitute topics of legitimate political concern.

Communitarians and Liberals

It is commonly thought that the different conclusions concerning toleration, and group rights in particular, presented above reflect a dispute between liberalism and certain nonliberal political theories. It is typically believed that liberalism is a highly abstract universalistic and individualistic political morality, requiring that we put aside social and historical contingencies about persons, like their religion, ethnicity or culture, for the purposes of justice. As John Rawls has famously put it, these contingent facts about individuals are "arbitrary from a moral point of view" and hence should not influence our decisions concerning the rights and freedoms to which individuals are entitled.²⁰ On the other side, particularistic values (e.g., the idea of group rights) are commonly associated with nonliberal political moralities which reject this perceived radical individualism and universalism of liberalism, and which hold instead that morality cannot be indifferent to the particular historical and social circumstances of societies. In recent philosophical debate, the position known as "communitarianism" is most frequently forwarded as the particularistic alternative to the universalism of liberal morality.

So, before embarking on our discussion proper, I think it will be helpful to quickly survey this famous dispute between liberalism and communitarianism. This will allow me to show more explicitly the sense in which the supposed tension between individual rights and group rights, and that between autonomy and toleration, can be understood as tensions within a liberal framework. My purpose here is not only to justify my liberal framework but also, crucially, to leave behind us certain extraneous arguments which may obscure the discussion to come.

Communitarians do not constitute a monolithic group hostile to liberals (as liberalism is not a unitary position), but as a whole, communitarians reject liberalism's stress on individual autonomy. They question the liberal faith in the capacity of individuals to abstract from their social particularities and to evaluate their ends and goals from a socially unencumbered vantage point.

Michael Sandel, for instance, rejects the liberal idea of the unencumbered self, a self which is

capable of stepping back from her socially defined ends. Others like Alasdair MacIntyre argue that liberalism ignores the important relationship between individuals and their community, that individual well-being is fundamentally tied to membership in a flourishing community. And Michael Walzer criticises the universalism of liberalism, arguing that justice is dependent on the history and tradition of a community. The above is a radical simplification of various communitarian positions, but we can see the sense in which communitarians, as a whole, hold that morality is particularistic, in opposition to the universalism of liberalism, and why they emphasise, consequently, the need to sustain and foster community life, in opposition to liberalism's emphasis on promoting and protecting individual autonomy.²¹

Even though the liberal versus communitarian debate began within the domestic context, it was easily extended to the international sphere by several philosophers. Walzer himself, for instance, has presented a communitarian defence of state sovereignty against the liberal defence of individual rights over sovereignty advanced by liberals like Charles Beitz.²² Another communitarian, David Miller, has argued for a communitarian theory of global justice which gives priority to one's fellow nationals, in contrast to the universalistic theory of global justice proposed by some liberals.²³ The conflict between the norms of individual rights and state sovereignty or national self-determination is thus seen by many to be the global version of the liberal/communitarian dispute.

One important liberal response to the communitarian critique is to incorporate many of the weaker communitarian claims, most significantly, the claim concerning the importance of community to individual well-being. Liberals argue that they do not, and need not, deny the basic premise that our ends and goods are defined by and derive their worth from the practices and traditions of our community.²⁴ Indeed, more specifically, unlike the communitarians who tend to be notorious for leaving rather vague their conception of community, many liberals go further and argue that the cultural community is that morally relevant community.²⁵

What many liberals do reject are the stronger communitarian claims, most notably the claim that some of our ends are fixed and unreviseable, and the ensuing normative conclusion that the state ought to support and engender these fixed ends rather than promote our capacity for revising them.²⁶ They point out that communitarians have misunderstood the sense in which liberalism considers the self to be prior to its ends. For liberals, the self is prior to its ends morally speaking "in the sense that no end or goal is exempt from possible self re-examination"; and none of this implies the belief that the self is prior ontologically speaking in the sense of being defined independently of its ends.²⁷

The liberal response seems to me to successfully refute the communitarian challenge. What is of relevance from the normative point of view is not the question whether individuals or groups are prior, but how individuals who are socially formed can be enabled to examine their social values and traditions. However, in having to acknowledge and incorporate some of the communitarian claims, liberals succeed only in reformulating the challenge of particularism associated with group rights and group toleration into a challenge from within liberalism itself rather than disarm that challenge entirely. As Amy Gutmann has said, the failure of the communitarians "suggests not that there are no communitarian values but that they are properly viewed as supplementing rather than supplanting basic liberal values."²⁸ So, in accepting (explicitly now that which was previously only implied) the communitarian claim that individual well-being is dependent on and defined by one's membership in a flourishing community, liberals have accepted as pressing and poignant questions concerning the relationship between the state and community hitherto relegated to the background or taken for granted. They must now ask whether a liberal concern for the individual translates into a liberal endorsement of particular group ways of life given the importance of community to the individual. The universalistic and individualistic commitments of liberal morality, rather than being directly at odds with particularistic and collectivistic ideals like group rights, may now in fact require the endorsement of these ideals.²⁹

So, once the dust has settled, it is revealed that the particularistic commitments of the

communitarians are shared by liberals also, and consequently any difficulties these may pose for the universalistic values of liberalism are tensions between competing liberal goals rather than challenges to liberalism. Unsurprisingly, it has become evident that many prominent communitarians are not so much antiliberals as advocates of different understandings of liberalism. Thus Walzer now says that "the communitarian correction of liberalism cannot be anything other than a selective reinforcement of those same values or ... a pursuit of the intimations of community within them." Likewise, Charles Taylor (who is typically regarded by many as a communitarian) does not argue so much against liberal politics as against the traditional individualistic and neutralist account of liberalism.³⁰ That these "communitarians" regard themselves as defenders of an alternative conception of liberalism, rather than as its detractors, is a further indication that the tension between particularism and universalism is not necessarily a dispute between liberalism and its enemies.³¹

In fact, liberal philosophers are now telling us that the commonly perceived hostility of liberalism towards the ideals of particularism and collectivism is only a recent misconception and misinterpretation of liberalism (for reasons we shall further note in Chapter 5). In its earliest articulation, the liberal tradition regards particularistic concerns, like group rights, as legitimate liberal concerns.³² It appears then, that even as the communitarian criticisms have been soundly countered by liberals, communitarians deserve credit for reminding liberals of their own tradition, of alerting them to their recent neglect of the community and its relationship to the individual. The community has been restored to the forefront of liberal theory largely because of the criticisms of the communitarians, and so it has become, once again, a legitimate subject of liberal concern.³³

If that which is of substance in the communitarian/liberal debate can be re-interpreted as a debate within liberalism, the political/comprehensive liberalism debate seems to me to aptly capture and bring to centre-stage much of this. For as we shall soon see, political liberalism and comprehensive liberalism have each accommodated the communitarians in different ways and to different degrees, and so can serve

as platforms on which to re-present some of the legitimate concerns of the communitarians but without entangling them in distracting extraneous discussions concerning the priority of the self and different conceptions of morality which have tended to dominate (and obfuscate) the communitarian arguments.

Recasting The Global Problem

The tension between the internationally accepted norms of individual rights and the norms of sovereignty and self-determination can therefore be correctly read as a tension between two different liberal commitments, that is, a conflict within liberalism itself, and hence potentially resolvable on liberal terms. As with communities in the domestic context, liberals should be concerned with collectivities like nations and even states if it is the case that one's nationality, or citizenship, gives worth and meaning to one's goals and ends. In this case, a universal concern for individual rights could entail the tolerance and even special concern (in the form of peoples' rights) for the particular forms of nationality and political membership of persons.

Liberal theorists accept this recasting of the global tension. Beitz in his survey of the global conflict between individual rights (which he calls the cosmopolitan ideal) and state sovereignty (the national ideal), points out that this conflict is not one between liberal and nonliberal ideals, but a conflict within liberal morality itself, "a conflict between different categories of reasons, each of which is capable of motivating the will, and neither of which is obviously suspect or inadmissible."⁶⁴ Similarly, Michael J. Smith tells us that in current international affairs, "[t]he hard questions of global distributive justice, the nature of the international trading system, the scope and enforceability of international law, and the problematic place of national self-determination in an interdependent world are debated in terms basic to the liberal tradition."⁶⁵ And Stanley Hoffman treats sovereignty, self-government or democracy, national self-determination and human rights as four liberal norms but regrettably "norms in conflict and a source of complete liberal disarray."⁶⁶

To be sure, the fact that the tension between the norms of individual rights and those of sovereignty and self-determination can be examined within a liberal framework does not by itself guarantee that liberalism is the only viable framework for a normative global theory. But, as I said earlier, sorting out any disputes within a theory is one important first step towards defending it against alternative theories.

The Strategy

I shall start by examining political liberalism and its global application. For this purpose, I propose to rely primarily on the later works of John Rawls. Given Rawls's prominence in contemporary political philosophy and the fact that his Political Liberalism is the most complete and influential statement of political liberalism to date, it is not unreasonable to regard Rawls as the exemplary political liberal. But more importantly, Rawls has recently applied the central ideas of his political liberalism to the global context, and so in taking him to be representative of political liberals, there is no need to speculate as to how a political liberal might extend her conception of liberalism to the global situation.

Chapter 2 reviews Rawls's political liberalism and his global application of it. Here I reject Rawls's stance that nonliberal regimes fall within the limits of liberal toleration by pointing out certain fundamental differences between nonliberal comprehensive views and Rawls's well-ordered hierarchical societies. More significantly, I show that the idea of tolerating nonliberal views is problematic from the outset and why this serious problem is accentuated in the global context. Chapter 3 offers a defence of comprehensive liberalism. I argue that Rawls's criticisms of comprehensive liberalism are either exaggerated or apply also to political liberalism; positively, I argue that comprehensive liberalism can better ground the idea of group or collective rights, and so consequently is a liberalism more hospitable to diversity than is political liberalism.

Chapters 4 and 5 extend comprehensive liberalism to the global context. Chapter 4 shows that a

comprehensive liberal global theory will be fully committed to individual human rights and that its tolerance for different ways of ordering political society is limited by this commitment. But in spite of this individualistic strain in comprehensive liberalism, Chapter 5 argues that it is nonetheless able to ground many of the commonly proposed rights of peoples, including the rights to self-determination, to development, and to a cultural identity. Thus, any concern that a liberal global theory based on comprehensive liberalism will be radically individualistic is shown to be unfounded.

But this dualistic commitment of comprehensive liberalism to both individual rights and peoples' rights may be seen by some to be an attempt at squaring the circle. Because of the fact of nonliberal cultural ways of life, they feel that a liberal concern for culture lies in a serious tension with its commitment to liberty. I consider this possible objection in Chapter 6 and show why the difficulty it poses is for the most part avoidable in practice. And in so far as the demands of culture and individual rights do in fact pose a real dilemma, I point out that this is in no small measure the result of serious social and economic inequalities between societies.

Thus Chapter 7 reasserts a defence of global egalitarianism along the lines recently put forth by some liberals, and argues that the failure of Rawls's global theory to adequately address the problem of global inequality exposes another shortcoming with political liberalism. Finally, Chapter 8 concludes our discussion by exploring schematically the applicability of the normative ideals I propose, and outlines how we can reasonably hope to move from theory to practice.

ENDNOTES

1. For further discussion on International Realism, see Charles Beitz's classic treatment in Political Theory and International Affairs (Princeton: Princeton Univ. Press, 1979), Part One. See also Jack Donnelly, "Twentieth Century Realism," in Traditions of International Ethics, ed. Terry Nardin and David R. Mapel (Cambridge: Cambridge Univ. Press, 1992): 85-111.

2. See, e.g., Stanley Hoffman, "The Crisis of Liberal Internationalism," Foreign Policy No. 98 (1995): 159-177; also Michael Joseph Smith, "Liberalism and International Reform," in Traditions of International Ethics: 201-224.

3. This famous formulation of liberal equality is Ronald Dworkin's. Taking Rights Seriously (Cambridge: Harvard Univ. Press, 1978), pp. 180-83.

4. There are notable exceptions of course. Brian Barry, Beitz, Lea Brilmayer and Thomas Pogge are some liberals who have been applying for some time now the ideas of domestic liberal theory to the global sphere. Brian Barry, The Liberal Theory of Justice (Oxford: Clarendon Press, 1973), Chap. 12; Lea Brilmayer, American Hegemony: Political Morality in a One-Superpower World (New Haven: Yale Univ. Press, 1994); and Thomas Pogge, Realising Rawls (Ithaca: Cornell Univ. Press, 1989), Part III.

5. Gerald Dworkin, The Theory and Practice of Autonomy (Cambridge: Cambridge Univ. Press, 1988), p. 20. Second-order preferences are preferences regarding one's preferences.

6. This list of basic rights follows closely Henry Shue, Basic Rights, 2nd ed. (Princeton: Princeton Univ. Press, 1996).

7. See, e.g., Jeremy Waldron, "Minority Rights and the Cosmopolitan Alternative," University of Michigan Journal of Law Reform 25/3 (1992): 751-93.

8. This opposition has also been expressed in terms of Reformation versus Enlightenment liberalism, and modus vivendi versus Kantian or Millian liberalism. See, respectively, William Galston, "Two Concepts of Liberalism," Ethics 105/3 (1995):516-534 and Charles Larmore, Patterns of Moral Complexity (Cambridge: Cambridge Univ. Press, 1987). These theoretical representations are of course ideal and paradigmatic types; the line between them is usually blurred in application, and even possibly in some theoretical formulations.

9. In Larmore's words: "We do better to recognize that liberalism is not a philosophy of man, but a philosophy of politics" (p. 129). See also John Rawls, Political Liberalism (New York: Columbia Univ. Press, 1993).

10. As said previously, no plausible political morality can take toleration to be fundamental without limiting it in some ways.

11. Rawls, pp. 11-12.

12. See, e.g., Thomas Pogge, "Liberalism and Global Justice: Hoffmann and Nardin in International Affairs," in Philosophy and Public Affairs 15/1 (1986): 57-81, p. 68.

13. Rawls, Political Liberalism, pp. 12-13. Amartya Sen also discusses these different ways of being "political" in his Inequality Reexamined, (Cambridge: Harvard Univ. Press, 1992), pp. 77-78.

14. See e.g., Will Kymlicka, Multicultural Citizenship: A Liberal Theory of Minority Rights (Oxford: Oxford Univ. Press, 1995], p. 154 and his references. And as I pointed out in note #8, it is possible that some liberal theorists do not fit comfortably into either of these ideal-type categories. But this does not deny the

importance of the distinction in contemporary debate.

15. This, of course, does not mean that political liberalism has no implications for how individuals can lead their non-political lives. One of the claims of political liberals is that there is no need to make direct political judgements about certain so-called private matters because the power of liberal public values will have "liberalizing" effects on the private sphere. But this cannot simply be asserted, and one of my goals in this work is to show why the liberalizing effects of liberal public ideals, so crucial for political liberalism, cannot be taken for granted.

16. See, e.g., Kai Nielsen, "How to Proceed in Social Philosophy: Contextual Justice and Wide Reflective Equilibrium," in Naturalism Without Foundations (Amherst: Prometheus Books, 1996) and his extensive references.

17. Brilmayer in justifying applying domestic political theory to international relations says that "to the extent that one state does possess overwhelming international power, I will argue, it possesses political power that must be evaluated in political terms. For this reason, the standards that we would use to evaluate a world government (or for that matter a domestic government) are relevant in evaluating a hegemon as well." Brilmayer, p. 6. Brilmayer was speaking specifically of the United States.

18. Thus Mill writes: "The only freedom which deserves the name is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs or impede their efforts to obtain it." On Liberty (Indiana: Bobbs-Merrill Co, 1976), pp. 16-17. And Kant: "Freedom (independence from being constrained by another's choice), insofar as it can coexist with the freedom of every other in accordance with a universal law, is the only original right belonging to every man by virtue of his humanity." The Metaphysics of Morals, trans. Mary Gregor (Cambridge: Cambridge Univ. Press, 1991), p. 63. Among contemporary liberals, Rawls says, "As free persons, citizens claim the right to view their persons as independent from and not identified with any particular such conception with its scheme of final ends. Given their moral power to form, revise, and rationally pursue a conception of the good, their public identity as free persons is not affected by changes over time in their determinate conception of it." p. 30. More recently Will Kymlicka notes: "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." Multicultural Citizenship: A Liberal Theory of Minority Rights (Oxford: Oxford Univ. Press, 1995), p. 80.

19. Ronald Dworkin is one liberal who stresses equality over autonomy. But as Gerald Dworkin, quite rightly it seems to me, puts it, "[Ronald Dworkin] does not use the word 'autonomy,' but in discussing the idea of treating people as equals, he is arguing for equal respect for the autonomy of citizens." G. Dworkin, p. 4, my emphasis.

20. John Rawls, A Theory of Justice (Cambridge: Harvard Univ. Press, 1971), p. 15. Rawls's original position whereby parties to the hypothetical deliberation about principles of justice are to imagine themselves behind a "veil of ignorance", abstracting themselves from their actual social standing and status, is commonly considered to be the epitome of the abstract individualism of liberalism.

21. Statements of these communitarian positions can be found in: Alasdair MacIntyre, After Virtue (London: Duckworth, 1981), esp. Chaps. 14 and 15; Michael Sandel, Liberalism and the Limits of Justice (Cambridge: Cambridge Univ. Press, 1982); and Michael Walzer, Spheres of Justice (New York: Basic

Books, 1983). Another philosopher commonly classified by commentators as a communitarian is Charles Taylor. Although he is critical of some of the common communitarian claims, in particular its tendency toward moral relativism, Taylor shares the communitarian view on social ontology. See, e.g., Taylor, "Atomism," in Communitarianism and Individualism, ed. Shlomo Avineri and Avner De-Shalit (Oxford: Oxford Univ. Press, 1992): 29-50.

22. Beitz, Part II; David Luban, "Just Wars and Human Rights," Philosophy and Public Affairs 9/1: 161-181; and Michael Walzer, "The Moral Standing of States: A Response to Four Critics," Philosophy and Public Affairs 9/3 (1980): 209-229.

23. David Miller, "The Ethical Significance of Nationality," Ethics 98 (1988): 647-662.

24. For one influential liberal response to the communitarians, see Will Kymlicka, Liberalism, Community and Culture (Oxford: Oxford Univ. Press, 1989).

25. Kymlicka, Liberalism, esp. Chap. 7; see also Joseph Raz, "Multiculturalism: A Liberal Perspective," in Ethics in the Public Domain (Oxford: Oxford Univ. Press, 1994); and Yael Tamir, Liberal Nationalism (Princeton: Princeton Univ. Press, 1993), chaps. 1 and 2.

26. Kymlicka has argued that this claim simply violates our "deepest self-understandings" -- we are able to, and in fact do, step-back from our deepest ends, even if in a piecemeal manner, and critically evaluate them. Kymlicka, Liberalism p. 53.

27. Kymlicka, p. 52. Another way of putting this is to say that while society "is the most foundational, it is not the most valuable." Karen Detlefsen, "Diversity and the Individual in Dewey's Theory of Democratic Education," Educational Theory Summer 1998 (forthcoming).

28. Amy Gutmann, "Communitarian Critics of Liberalism," Philosophy and Public Affairs 14/3 (1985): 308-322, 320.

29. As Gutmann puts it, "[c]ommunitarianism has the potential for helping us discover a politics that combines community with a commitment to basic liberal values." *Ibid.*, p. 320.

30. Michael Walzer, "The Communitarian Critique of Liberalism," Political Theory 18/1 (1990): 6-23, p. 15. Charles Taylor, "Cross-Purposes: The Liberal-Communitarian Debate," in Liberalism and the Moral Life, ed. Nancy Rosenblum (Cambridge: Harvard Univ. Press, 1989): 159-182.

31. More accurately, therefore, the communitarian versus liberal debate should be called, in most instances, the liberal-communitarian versus liberal-individualist debate. But for the sake of economy, and because some communitarians remain unapologetically anti-liberal, I shall retain the former label except in places otherwise required.

32. See, e.g., Kymlicka who notes that "the rights of national minorities were continually discussed and debated" by liberals of the nineteenth and early twentieth centuries. Multicultural Citizenship, p. 44.

33. To be sure, other historical reasons for this increased liberal interest in the collectivistic and particularistic claims of cultural communities have been pointed out, two common ones being the rise of nationalism after the end of the Cold War and the reemergence of ethnicity within multicultural-liberal-

democracies. But it would be too hasty to overlook the communitarians' theoretical contribution to liberalism here.

34. Beitz, "Sovereignty and Morality in International Affairs," in Political Theory Today, ed. David Held (Stanford: Stanford Univ. Press, 1991), 236-254, p. 253.

35. Smith, p. 218.

36. Hoffman, p. 169.

CHAPTER TWO

RAWLS'S LAW OF PEOPLES

In "The Law of Peoples," John Rawls argues that while tyrannical regimes, i.e., states which are war-like towards other states and/or abusive of the basic rights of their own citizens, do not fall within the limits of liberal toleration, certain nonliberal but peaceful and well-ordered states, what he refers to as "well-ordered hierarchical societies," meet the conditions for liberal toleration.¹ That tyrannical regimes are not to be tolerated is uncontroversial enough for most liberals; what is more contentious in Rawls's thesis is his claim that WHSs are to be tolerated. It is this claim that I wish to refute in this chapter.

Before beginning, I should point out that Rawls makes two fundamental assumptions in "The Law of Peoples" which I shall grant for the present purpose. Rawls assumes that a) there are clear and well delineated peoples whose cultural or national boundaries coincide with the boundaries of their political communities (i.e., he assumes a state to be more or less representative of a nation or people), and b) that these boundaries are morally beyond challenge, that how they were arrived at is morally irrelevant, for the purposes of ideal theory.² We shall revisit these assumptions in Chapter 4.

Toleration and Political Liberalism

Rawls's law of peoples is the global application, or the "globalised" version if we like, of his domestically conceived political liberalism, and so I shall begin with a review of some of the basic ideas of political liberalism, especially that of toleration. In Political Liberalism, Rawls sees one of the main challenges facing a liberal democratic society to be the problem of maintaining legitimate stability in the face of the deep and irreconcilable moral, religious and philosophical diversity found in most contemporary states.³ Authoritarian suppression of differences is of course not a legitimate option here. But neither is state imposition of liberal values across all areas of society legitimate because, Rawls argues, not all

individuals accept the values of liberalism -- for example the idea of autonomy -- as applicable to every aspect of their lives. To members of some religious communities the idea that one can, for example, reevaluate and revise her religion-based conceptions of the good life is a foreign and incomprehensible one. It therefore would be unreasonable for the state to insist that they embrace this idea of autonomy because it is a value they cannot be reasonably expected to adopt. As he says, given the "many hazards involved in the correct (and conscientious) exercise of our powers of reason and judgement in the ordinary course of political life," that is, the "burdens of reason", we can expect reasonable persons to have "reasonable disagreements" over philosophical, moral or religious comprehensive views.³ The state would in this case be enforcing a contentious view, a view not everyone can be reasonably asked to accept, and so would be illegitimate in the eyes of some.

So, because of the facts of diverse comprehensive doctrines and the burdens of reason, legitimate stability can be attained only if liberalism itself is detached from its own contentious comprehensive moral doctrine and its application consequently restricted to the political realm. The liberal idea of autonomy, for example, is applicable only to individuals qua citizens and pertains only to their public rights and duties; it is not regarded as a value applicable in private associations like the home or the church, or other cultural associations. As Rawls puts it, "This full autonomy of political life must be distinguished from the ethical values of autonomy and individuality, which may apply to the whole of life, both social and individual, as expressed by the comprehensive liberalism of Kant and Mill. Justice as fairness emphasizes this contrast: it affirms political autonomy for all but leaves the weight of ethical autonomy to be decided by citizens severally in light of their comprehensive doctrines."⁶ Thus "political virtues must be distinguished from the virtues that characterise ways of life belonging to comprehensive religious and philosophical doctrines, as well as from the virtues falling under various associational ideals (the ideals of churches and universities, occupations and vocations, clubs and teams) and those appropriate to roles in the family life and to the relations between individuals."⁶

This move away from liberalism as a philosophy to govern all of life -- comprehensive liberalism -- to liberalism as a philosophy to govern only political life is the project of political liberalism. When liberalism is confined to the political in a pluralistic society with a liberal public culture, it is no longer a contentious doctrine but can become the subject of an overlapping consensus between most (including nonliberal) comprehensive views. When this overlapping consensus is in place, liberalism attains what Rawls call a "freestanding" status; at this point it does not depend on any particular comprehensive philosophical foundation (eg., Kantian or Millian) for support but is founded on "neutral ground" and can be equally supported by the different comprehensive doctrines present in society.⁷

None of the above presupposes that all comprehensive doctrines present in a modern pluralistic democratic society will endorse political liberalism. Some will simply be intolerant of different comprehensive doctrines; others may violate the public political rights their own members qua liberal citizens are entitled to (e.g., the rights to vote in public elections, to exit and form or join new associations, to employment and to a basic public education). These comprehensive doctrines are what Rawls refers to as "unreasonable" and are to be criticised and even challenged by the liberal state.⁸ Were political liberalism compromised or tailored accordingly to gain the allegiance of all existing comprehensive views, it would be "political in the wrong way". The overlapping consensus would in this case be more properly a modus vivendi, a means of accommodating and placating differences for the sake of social stability, than a real consensus around liberal ideals.⁹ Rawls stresses that the restriction of liberal principles to the political realm must not be read as a compromise of liberalism but rather as a requirement of liberal toleration itself, and unreasonable views fail to fall within the bounds of toleration.

The overlapping consensus is more precisely then a consensus between reasonable comprehensive views, namely, views which are tolerant of other views and which do not violate the public political citizenship rights of their members (e.g., to vote, to exit and form or join new associations, to equal political participation, and so on). But, very importantly for Rawls, a

comprehensive view need not be "internally" liberal as well in order to meet the conditions of "reasonableness".¹⁰ In other words, the practices and traditions internal to a particular view need not be liberal in nature before we can expect it to be tolerant of other doctrines and respectful of the public rights of their members. There are several examples of nonliberal but reasonable comprehensive views in contemporary liberal states: the church and the family are two cases, to use Rawls's own examples from a passage quoted earlier, of associations which are internally nonliberal yet reasonable in Rawls's term.¹¹ The internal arrangements of these associations cannot by themselves be the criteria for reasonableness because, given the fact of reasonable disagreement, there is no basis for questioning the truths of their affiliated comprehensive views so long as these views are not hostile to the values affirmed in the overlapping consensus. In short, political liberalism "does not attack or criticise any reasonable view"¹² even if these views are internally nonliberal. As long as a comprehensive view accepts liberal principles as binding in the public political sphere (as expressed in its dealings with other views and in its regard for the public political rights of its members), it lies within the limits of liberal toleration.¹³

It bears stressing then that for Rawls, liberal toleration is distinct from accommodation (modus vivendi). The latter is a compromise (for strategic or practical reasons) of liberal principles, the former is a requirement and instantiation of liberal principles. It is in this moral rather than pragmatic sense that most liberals understand toleration.¹⁴ This distinction between accommodation and toleration is not merely semantic. When we find a way of life tolerable, we accept it as permissible regardless of our power to criticise or change it. On the other hand, when we say we are forced to accommodate a way of life because of practical constraints, we should be ready to act once the constraints are lifted. Indeed if we are forced to accommodate a situation only because of such constraints, then it seems that we are morally obliged to work towards the lifting of these constraints as an immediate objective.

There are, of course, some liberals who treat toleration as a modus vivendi.¹⁵ But I think this is not a helpful understanding of liberalism. Modus Vivendi Liberals may provide sound advice for liberal

strategists concerning what to do about certain unreasonable ways of life, but as a theory, it is deficient because it confuses policy or strategy with principle. It tells us of the need to compromise liberal principles sometimes (hence the modus vivendi) but it does not tell us what those principles are. To treat toleration as pertaining only to our capacity for action empties it of much of its moral content. In any case, it should soon be evident that my arguments against political liberalism should apply a fortiori against Modus Vivendi Liberalism should one insist on so understanding liberalism.

Globalising Political Liberalism

Rawls extends the political liberal idea of toleration to guide the relationship between states. This short passage in the opening of "The Law of Peoples" sums up the extension project neatly:

Just as a citizen in a liberal society must respect other persons' comprehensive religious, philosophical, and moral doctrines provided they are pursued in accordance with a reasonable political conception of justice, so a liberal society must respect other societies organized by comprehensive doctrines, provided their political and social institutions meet certain conditions that lead the society to adhere to a reasonable law of peoples.¹⁶

Rawls wants his global toleration to be, as in the domestic case, a liberal ideal and not one based on a compromise of liberal principles in order to accommodate global diversity. The latter would be a quest for a modus vivendi not a quest for a genuine overlapping consensus. A reasonable law of peoples is first conceived, and only then it is asked whether nonliberal regimes can also freely endorse this law.

In this first step of the extension, Rawls has representatives of liberal states participate in a global original position deliberation in order to arrive at the global principles of justice.¹⁷ As with the domestic original position, the parties here are deprived of knowledge of certain contingent or morally irrelevant facts: they do not know "the size of the territory, or the population, or the relative strength of the people whose fundamental interests they represent ... they do not know the extent of their natural resources, or level of their economic development" (p. 54). The important difference, the significance of which shall be discussed in due course, with the global original position is that it is now a device of

representation where peoples or societies and not individuals are represented: "As before the parties [to the original position] are representatives, but now they are representatives of peoples" (p. 48, my stress). Or as Thomas Pogge puts it perspicuously, it is delegates of societies, and not individuals of the world, who are hypothetically represented at the global original position.¹⁸ Under this hypothetical free and equal state, Rawls believes that liberal delegates would agree to the following principles:

- 1) Peoples are free and equal and their freedoms are to be respected by other peoples,
- 2) Peoples are equal and parties to their own agreements,
- 3) Peoples have the right to self-defence,
- 4) Peoples are to observe the duty of non-intervention,
- 5) Peoples are to observe treaties,
- 6) Peoples are to observe justice in war,
- 7) Peoples are to honour human rights (p. 55)¹⁹.

The next crucial step of this globalisation project is to see whether representatives of nonliberal states too would freely assent to these principles. Obviously, representatives of tyrannical states (i.e., states which are warlike and/or are abusive of the basic rights of their own citizens) will not accept these global principles. But rather than alter the global principles to accommodate these "outlaw regimes", as Rawls calls them, which would be blatantly an instance of a modus vivendi, of making global liberalism political and stable in the wrong way, Rawls notes that these regimes are to be publicly criticised, "contained" and even forcibly challenged in extreme cases (pp. 73-74). Rawls's stance in this "non-ideal" case of outlaw regimes is relatively uncontentious (for liberals) and need not detain us further here. It is with regard to a class of nonliberal states, the "well-ordered hierarchical societies" (WHSs), that Rawls makes a more contentious claim, namely, that these nonliberal societies are to be tolerated by liberal states.

WHSs are states which meet these three necessary conditions: they are peaceful, they are

organised around a common good conception of justice and (consequently) are legitimate in the eyes of their own peoples, and they honour basic human rights (pp. 60-62).²⁰ The second condition shows that WHSs are not liberal states (for no liberal state can be organised around a common good conception of justice).²¹ Moreover, while WHSs are expected to respect the basic human rights of their citizens (the third condition), these basic rights do not include quintessential liberal rights like the rights of free speech (p. 62), democracy (pp. 69-71) and equal freedom of conscience (p. 63). Yet, Rawls argues, these two conditions together with the condition that a WHS be peaceful are sufficient to ensure that representatives of WHSs will also endorse the global principles agreed on by his liberal representatives. They would, for example, respect the principle of non-intervention and aggression, they would honour basic human rights and ensure that their citizens receive their share of duties and rights as dictated by the conceptions of justice peculiar to their societies.²²

Because they are in compliance with these global principles, WHSs qualify as states in "good standing" and hence "there would be no political case [on the part of liberal states] to attack these nonliberal societies militarily, or to bring economic or other sanctions against them to revise their institutions" (p. 81). "Critical commentary in liberal societies would be fully consistent with the civil liberties and integrity of those societies" (ibid., my emphasis), but public criticism by liberal representatives in international political forums like the United Nations, the European Union and other similar international bodies is apparently ruled out.²³ Rawls has confirmed this point in a follow-up lecture to "The Law of Peoples": "it is necessary to distinguish this continuing critical commentary [by individual citizens] from hostile criticism and attacks (or propaganda) by governments and their agents and their allies. This is ruled out of bounds as a kind of organised political action and so lacks justification."²⁴

Thus Rawls treats WHSs as the global analogue of domestic reasonable but nonliberal comprehensive doctrines, and as the liberal state ought to tolerate reasonable nonliberal comprehensive

doctrines, so too should the global liberal order be tolerant of WHSs. Given the fact of reasonable disagreement, it would be contrary to liberal toleration to expect all well-ordered societies to be domestically liberal and to endorse all the essential liberal individual rights; "the law of peoples would not [in this case] express liberalism's own principle of toleration for other reasonable ways of ordering society" as Rawls has it (p. 80). A liberal global order, in Rawls's view, must have the moral space for certain nonliberal societies; it must be able to accommodate WHSs, not as a matter of compromise, but as a matter of (liberal) principle.

Comprehensive Views and Political Societies

One may ask here whether it is evident that delegates of WHSs will accept a law of peoples which imposes even Rawls's thin list of human rights. As Pogge challenges, "[Rawls] gives no reason... historical or philosophical, for believing that hierarchical societies, as such, would incorporate these human rights into their favored law of peoples."²⁵ This is an important question not just for "The Law of Peoples" but for the political liberalism project in general, and a complete defence of political liberalism must rise to this concern. But I wish to pursue another difficulty with Rawls's law of peoples here. Why would/should liberal delegates be content with the list of global principles Rawls presents? Would they not want a more demanding list of global principles (one which, for one, demands the respect of all the essential liberal rights) and hence be less willing to count WHSs as reasonable regimes or regimes in good standing? Liberals, after all, are concerned ultimately with individual well-being; why should they, then, tolerate regimes whose institutions sustain domestic inequality and are antithetical to any liberal aspiration citizens of these regimes may have? Indeed, we may ask whether these global principles are the ones citizens of WHSs themselves would accept were we to postulate a single-stage "all-inclusive [global] original position with representatives of all the individual persons of the world" (p. 65) instead of the two-stage procedure Rawls favours where only delegates of societies are represented in the second

and global stage.

As mentioned, Rawls holds tolerating WHSs to be analogous to tolerating reasonable nonliberal comprehensive views in a liberal society. But this is a deeply flawed analogy. There are important differences between comprehensive views and state regimes Rawls forgives. First, in the case of comprehensive doctrines, what is permitted are moral, religious or philosophical differences, not political ones. As mentioned earlier, while it would be unreasonable for a liberal state to forcibly promote a vision of the good life based on a moral, philosophical or religious comprehensive doctrine, the state should not hesitate to challenge (and contain) comprehensive views which advocate a nonliberal political order. These views threaten liberalism as a political doctrine itself and are denounced as "unreasonable." A political philosophy cannot consistently accommodate another competing political philosophy without undermining itself. As Ronald Dworkin puts it, any political theory must "claim truth for itself, and must therefore claim the falsity of any theory that contradicts it. It must itself occupy ... all the logical space that its content requires."²⁶ A political philosophy, for reasons of consistency, must take a stance against any competing political philosophy.

We should get clear, therefore, as to what liberals (can) claim to be neutral about. Liberalism claims to be ethically neutral in the sense that it strives to be impartial between different private conceptions of the good life. But it (because of this) cannot be politically neutral in the sense of being indifferent about how society is to be organised politically. This should be obvious: A commitment to ethical neutrality necessarily entails a commitment to a certain type of political arrangement, one which, at the very least, permits the pursuit of different private conceptions of the good. If one is politically neutral, one gives up one's stance on ethical neutrality -- one no longer can insist on a particular political order supportive of and conducive to ethical neutrality. Ethical neutrality is a stance, a political stance to be precise, requiring a defence of a particular type of political theory. Thus a liberal who accepts political neutrality is not just spineless but risks self-contradiction -- she says that one ought to be neutral between

conceptions of the good and yet one need not; that is, she believes in neutrality between conceptions of the good but is not ready to defend the political order requisite for this neutrality.²⁷

Rawls himself rejects political neutrality in his domestic theory, as is evident from his unflinching stand against unreasonable views. He admits, although reluctantly, that when it comes to the crunch, when political liberalism itself is challenged, we may have to invoke some of liberalism's own comprehensive views (thereby doing that which "we had hoped to avoid") to justify putting down the challenge.²⁸

But at the international level, Rawls advocates tolerating regimes with nonliberal political institutions. He says that "whenever the scope of toleration is extended ... [t]he criteria of reasonableness is relaxed" (p. 78) and so nonliberal politics, unreasonable in the domestic context, becomes reasonable in the international context. Accordingly, certain views not permitted in domestic liberal society are deemed permissible if expressed in foreign societies. It seems that while Rawls would say that a liberal state should criticise a domestic comprehensive view which forbids its members from exercising their public rights (like the right to vote in public elections), this same state should not criticise a WHS which denies some of its citizens this same right. This seems blatantly inconsistent to me. Why does Rawls hold this position?

Rawls does not provide a satisfactory answer here. He points out that although domestic liberalism begins from a political conception of the person as free and equal and rooted in a liberal public culture, to begin from similar assumptions in the international case would make the basis of justice "too narrow" (pp 65-66). This is indeed one of Rawls's expressed reasons for deploying a two-stage original position: "The difficulty with an all-inclusive, or global, original position is that its use of liberal ideals is much more troublesome, for in this case we are treating all persons, regardless of their society or culture, as individuals who are free and equal, and as reasonable and rational, and so according to liberal conceptions. This makes the basis of the law of peoples too narrow" (p. 66).²⁹ But why avoid this "too

narrow" basis for a law of peoples? Is it because liberal toleration requires that we do? Or is it because WHSs would not endorse the law of peoples otherwise? As mentioned, liberal toleration in the domestic context does not require toleration of nonliberal politics; indeed it must demand otherwise. Yet Rawls has given us no principled reason why it should be any different in the global context other than the fact of diversity of political cultures in the world. Absent a good justification, it appears that Rawls relaxed the limits of toleration simply in order to accommodate representatives of WHSs, to ensure that his law of peoples can be endorsed by some nonliberal states as well.

This modifying of political liberalism to satisfy international conditions is, Teson points out, the fatal error of "The Law of Peoples". He writes: "[A] political theory cannot survive if one keeps amending its assumptions at every turn to reach results that do not seem to match the theory in its original form. This is simply a way of immunizing the theory against (moral) falsification."⁶⁰ The seriousness of Teson's objection is fully appreciated once we recall one of Rawls' motivations for extending political liberalism to cover international relations: "In the absence of this extension to the law of peoples, a liberal conception of political justice would appear to be historicist and to apply only to societies whose political institutions and culture are liberal. In making the case for justice as fairness, and for similar more general liberal conceptions, it is essential to show that this is not so" (p. 44, my emphases). That is, it is important for Rawls that political liberalism can be demonstrated to have global scope, that its basic ideas can be freely endorsed by (some) nonliberal societies as well. But if this endorsement is accomplished only by modifying some of the basic tenets of political liberalism in a seemingly ad hoc manner (namely, by relaxing the limits of toleration without good reason), then Rawls has not succeeded in demonstrating the global applicability of his theory on his own terms.

It appears then, his claim notwithstanding, Rawls's international project is, in the end, a project of modus vivendi, of seeking a political compromise between liberal and nonliberal regimes, rather than that of achieving stability with respect to liberal justice.³¹ To accommodate WHSs, Rawls has his liberal

delegates agree on a global theory of justice which is overly generalised and less demanding than a liberal global theory would be.

Here, it could be objected that there is nothing counter-intuitive or obviously inconsistent about responding differently to domestic and international nonliberal practices. A liberal state, as a matter of practice or strategy, cannot always react in the same way to similar kinds of domestic and international violations of liberties given the different conditions of domestic and international societies. One obvious instance of this difference is that there is no established enforcement body in global society to enforce judgements that a liberal state may make against nonliberal states. A liberal state cannot pass enforceable laws criminalizing, say, female genital mutilation in another country the way it can within its own borders.³² Thus, it cannot help but tolerate certain abuses overseas which it would not condone at home.

But this objection neglects the distinction between making a judgement and acting on that judgement.³³ The fact that we may be (genuinely) compelled to act differently in similar cases does not necessarily entail that we have or ought to have judged these cases differently. That we may be forced to put up with certain illiberal practices overseas because of practical constraints does not mean that we need to judge them morally acceptable. We still judge them unacceptable as we do similar domestic abuses even though we may not be able to act on these judgements the way we can in the domestic context. And as I mentioned earlier, there is a normative implication to making this distinction: if we admit that we are unable to act on a judgement because of practical constraints, then we should be ready to act on this judgement once the constraints are lifted. So, overlooking the judgement/acting distinction and thereby mistakenly claiming (as does the above objection) that we tolerate some foreign illiberal practices, when we are actually compelled to put up with them, misses this important implication.³⁴

A second important difference between reasonable nonliberal comprehensive doctrines and WHSs which Rawls overlooks is that in the case of the former, individual members have recourse to democracy in the political sphere. They are citizens of a liberal-democratic state besides being members

of particular (nondemocratic) communities. So, even if the internal practices of their communities are undemocratic in nature, members of these communities are still able to exercise their democratic rights in their other capacity as citizens.³⁵ In this way, they are, to a degree, able to influence public policies that may have some positive effects on the practices of their communities. (I shall say more later on how public policies can affect communal practices.)

On the other hand, ordinary citizens of WHSs do not have this recourse. Unlike members of nonliberal private associations who are nonetheless free and equal citizens of a larger democratic society, citizens of WHSs are not citizens of any democratic order. They do not, for example, enjoy democratic global citizenship which may help rectify their lack of democratic rights in their own countries. Therefore, unlike members of nonliberal associations, citizens of WHSs do not have the opportunity to democratically influence external (i.e., global) policies which may help reform and democratise the institutions of their own societies.

The fact that WHSs are undemocratic seriously undermines Rawls's proposed two-stage original position. Recall that in the second-stage, in the global original position where the principles of global justice are to be fleshed out, it is representatives of societies and not of individuals who are the parties to the hypothetical deliberation. But if the representatives of WHSs are not democratically elected by their own peoples, it is very unlikely that they can meet Rawls's own stipulation that "the peoples they represent are represented reasonably" (p. 54). Accordingly, the two-stage procedure cannot merely be a methodological preference with possibly no consequential differences, as Rawls seems to suggest at one point.³⁶ On the contrary, whether we opt for a two-stage procedure or a single global procedure (which will provide a "device of representation" for all individuals of the world as opposed to societies) has obvious implications for the kinds of global principles we will arrive at. It is clear, for example, that individuals reasonably represented behind the veil of ignorance will reject global principles which condone the kinds of institutional arrangements associated with WHSs. Individuals (unlike state

delegates) know that they could find themselves as lowly placed members of a hierarchical society when the veil is lifted: so, why would they accept global principles which would sanction their possible subordinate status in their own countries?

Indeed, the two-stage procedure is especially objectionable if we remember that WHSs are not expected to envisage a domestic original position for determining their domestic principles of justice. Consequently, not only is there no guarantee of the fairness of these domestic principles, but by allowing only delegates of these societies (who tend to be the ones benefiting from their domestic arrangements anyway) to be represented at the second-stage deliberation, these delegates are able to settle on global principles which accept their domestic arrangements as beyond rebuke.

Now, Rawls asserts that it is not implausible for a people organised hierarchically in their own country to endorse global principles which treat all well-ordered societies with equal concern and toleration: "A people sincerely affirming a nonliberal conception of justice may still think their society should be treated equally in a just law of peoples, even though its members accept basic inequalities among themselves. Though a society lacks basic equality, it is not unreasonable for that society to insist on equality in making claims against other societies" (p. 65). But this depends entirely on who speaks for the people. This point is especially crucial because we cannot expect all citizens of a WHS to share a common conception of the public good. Even if we grant the assumption that each state represents a national or cultural entity (i.e., a people), we can still expect there to be internal disagreement over existing political arrangements and even over interpretations of cultural and traditional practices. Surely, it is not unrealistic to believe that members of castes or classes at the lower rungs of a hierarchical society would oppose the dominant values and traditions and the established institutional practices of their society were they empowered to do so. Given that Rawls allows nondemocratically appointed delegates to speak for citizens of WHSs, we must be very suspicious of the kinds of global principles these delegates will endorse, especially if these principles call for equal toleration between states at the

expense of equality between citizens within states.

At this point, some comments concerning Rawls' second condition for a WHS, that it "meet[s] the essentials of legitimacy in the eyes of its own people" (p. 79), are in order. Now, Rawls does not mean by this that there can be no dissent at all in a WHS; in fact, he explicitly allows for the "possibility of dissent" here. He says, however, that the opportunity for expressing any such dissent is "not, to be sure, in a way allowed by democratic institutions, but appropriately in view of the religious and philosophical values of the society in question" (p. 62).

The crucial question here, then, is whether there can be disagreements in a WHS regarding the (restricted) procedures by which differences can be voiced. Rawls is not explicit on this, but it seems to me that he must also allow for disagreements at this basic level for the following reasons. First, given his own "fact of oppression," i.e., the fact "that only the oppressive use of state power can maintain a continuing common affirmation of one comprehensive religious, philosophical, or moral doctrine,"³⁷ Rawls must concede that unless a regime organised around a comprehensive good is successfully tyrannical (thus not a WHS but an outlaw regime), there will prevail certain fundamental disagreements over its basic institutional arrangements or structure, including over how dissent can be voiced. Second, it is quite implausible that members of, say, a caste society objecting to their caste status and the restrictions that follow it will accept, nonetheless, the caste-bound procedures by which their objections may be raised. Opposing the one entails opposition to the other. As such, in accepting the possibility of dissent in a WHS, Rawls must also accept that there will also be disagreements over how dissent can be expressed.

If there must be fundamental disagreements among citizens of a WHS, then the legitimacy condition, that a WHS "meet[s] the essentials of legitimacy in the eyes of its own people", cannot be understood literally to mean that all citizens of a WHS actually accept its basic structure as just. "People" here does not refer to individual persons of a society but refers, more precisely, to an embodiment of a

collective way of life or to a nation. In other words, a political society meets the essentials of legitimacy for Rawls when its basic structure is organised in accordance with its own history, conventions and traditions. This "communitarian" reading of the legitimacy condition fits neatly with Rawls's elaboration of this condition: a WHS is a society organised around a comprehensive view, it has a common-good conception of justice and its basic institutions are structured "appropriately in view of [its] religious and philosophical values" (pp. 61-62, 64-65, 69-70).³⁸ But as mentioned, the fact that a society is structured according to its own history, culture and tradition does not rule out the possibility of dissension over its basic institutional arrangements.³⁹

To sum up the points made in this section, the main flaw in Rawls' global thesis is his belief that the global overlapping consensus between different political societies is morally equivalent to a domestic overlapping consensus between different comprehensive views.⁴⁰ This is a seriously flawed belief because, as pointed out, comprehensive views are unlike political societies in two important ways: the former do not insist on political diversity and they, moreover, operate within a larger liberal-democratic framework. The global overlapping consensus Rawls presents in "The Law of Peoples" is more a political compromise worked out between liberal and nonliberal state delegates than a consensus around genuinely liberal values.

The Problem of Toleration

The idea of tolerating nonliberal regimes is therefore objectionable. Is this a problem of application, that is, a problem arising from a mistaken application of basically sound ideas to the international case, in which case what is to be done is not to reject the teachings of political liberalism but to reapply them correctly? Or does this in fact highlight a fundamental flaw with political liberalism itself, in which case what we are required to do is to jettison the theory and seek out alternatives?

I argue that the toleration problem in the law of peoples is not a problem of application but is an

accentuation of a problem inherent in political liberalism itself. The idea of toleration is, of course, shared by all liberals. It is a central liberal belief that the state ought not to discriminate between individuals' genuinely private conceptions of the good life. But individuals are not the only subject of liberal toleration. Most liberals today (in no small measure due to the communitarians as we saw) also believe that the state ought to tolerate different group-based ways of life, for example, of religious or cultural communities, not because these ways matter in themselves but because of their moral significance to members of these groups.⁴¹

But what is the limit of this group-based toleration? For many liberals, groups whose practices and traditions are antithetical to the liberal aspirations of their own members are not to be tolerated. So, a group which does not permit its members the right and freedom to reevaluate and revise the internal practices and traditions of the group falls outside the bounds of liberal toleration.⁴² But, as we have seen, political liberals want to extend group-toleration to groups which are internally nonliberal. This is important, Rawls claims, because liberals should not expect all individuals to have liberal aspirations and therefore we ought not to challenge reasonable ways of life which are not liberal in character. But this extension of toleration to nonliberal views is problematic once we recognise that within any association there are always dissenters or internal minorities. It is one thing not to expect individuals to be liberals (in their private lives), it is quite another not to support whatever liberal aspirations they may have against oppressive group traditions. Surely as a liberal, Rawls cannot remain indifferent if the aspirations of (some) members of nonliberal reasonable groups to reevaluate and revise their conceptions of the good and their corresponding group practices and institutions are thwarted by their own group traditions. But because of his reluctance to criticise the internal practices of reasonable groups, he seems to have reneged on his liberal commitment to these individual dissenters. There is, therefore, a serious tension within political liberalism between its toleration of nonliberal reasonable groups and its commitment to the individual liberty of (dissenting) members of these groups.

Now, one could argue that in the case of domestic political liberalism, this tension is fortuitously alleviated by two important features of a liberal-democratic society, features which I shall show to be lacking in the international context. The state enforced right of exit and the "liberalising effects" of liberal public policies on nonliberal ways of life, it could be argued, allow the political liberal to have it both ways -- to tolerate nonliberal groups without forgoing her commitment to individual liberty. Let me quickly explain how these two mitigating features might operate in domestic society.

The first of these features is straightforward: private associations must permit their members the right to leave and join other associations should they so desire. To deny members this basic right is unreasonable in the Rawlsian sense; denying members the right to leave and join different associations would be contrary to the political idea of citizens as free and equal. As Rawls says, "In the case of ecclesiastical power, since apostasy and heresy are not legal offenses, those who are no longer able to recognize a church's authority may cease being members without running afoul of state power."⁴³ So, while the state need not insist that reasonable private doctrines organise themselves internally according to liberal ideals, it must secure for members the right to leave their associations should they so desire. This is one way the political liberal hopes to escape the tension between its dual commitments to group-tolerance and individual liberty.

The second feature is a little more complicated and invokes the idea of liberal neutrality. Political liberalism, or liberalism for that matter, does not pretend to be neutral in effect as Rawls points out. What liberalism is neutral about is the way policies are justified; they are not to be justified on grounds that some (reasonable) ways of life are intrinsically superior to others and hence more worthy of state support, or that some are intrinsically inferior and hence ought to be done away with. But this does not mean that neutrally justified policies cannot have repercussions on the private arrangements of reasonable groups. Neutrality of consequence or effect is impossible to attain as Rawls himself notes.⁴⁴ To use one familiar example, the liberal emphasis on civic education, which (for the political liberal) is

justified solely on neutral political grounds (namely, the cultivation of traits and character necessary for equal and free citizenship), can have "liberalising" consequences beyond the political sphere. As Rawls writes, "it may be objected that requiring children to understand the political conception in these ways is in effect, though not in intention, to educate them to a comprehensive liberal conception.... It must be granted that this may indeed happen in the case of some ... [but the] unavoidable consequences of reasonable requirements for children's education may have to be accepted, often with regret."⁴⁵ This indirect "liberalisation" of nonliberal private practices does not entail a rejection of their affiliated comprehensive views. For the political liberal, this liberalising effect is an unintended side-effect of a neutrally justified public policy. It is just a "regrettable" fact that public policies impartial about the internal arrangements of reasonable groups can have nonetheless non-neutral (liberalising) effects on these arrangements. However, the fact that neutrally justified policies are not neutral in consequences allows the political liberal state to indirectly reform the internal arrangements of reasonable nonliberal groups, thereby protecting and promoting individual liberty (the liberal aspiration), without explicitly rejecting these group arrangements as inadmissible (the political liberal aspiration).

Thus, we can see how Rawls, at the domestic level, could hope to maintain his toleration for nonliberal reasonable groups without forfeiting his liberal commitment to liberal dissenters within these groups. The trickle-down effects of liberal public policies will eventually win the day for them; but in the meantime, should these dissenters find their internal oppression unbearable, they have the state protected right to leave their associations.

However, some commentators have asked whether the right of exit and the liberalising tendencies of liberal public policies can resolve this tension in political liberalism entirely. They point out that a formal right of exit is of little solace for most people, and that the liberalising effects of liberal public policies are limited in their reach.⁴⁶ Indeed, it seems that Rawls must admit that neutrally justified public policies cannot have liberalising effects in all areas of society. For if this were not the case, why

would he expect political liberalism to be better able than comprehensive liberalism to secure the basis for legitimate stability? That is, if the consequences of these two kinds of liberalism on the internal practices of nonliberal reasonable groups are ultimately the same, why would either of these liberal theories be any more acceptable than the other to individuals holding diverse views? The only difference between political and comprehensive liberalism in this case would be in the way each justifies liberal public policies: Comprehensive liberals would say that the objective of, say, liberal education is "to foster the values of autonomy and individuality as ideals to govern much if not all of life," whereas the political liberal, to repeat, justifies this policy solely on political (i.e., neutral) grounds.⁴⁷ But adherents of nonliberal comprehensive views worry about the actual effects of liberal policies on their ways of life and not just about how these policies are justified to them. So, in order for political liberalism to be a plausible alternative to comprehensive liberalism in the first place, Rawls must concede that the liberalising tendencies of neutrally justified policies are limited in reach.⁴⁸ But if this is so, then political liberalism does not avoid entirely the tension between toleration and individual liberty even in the domestic context. But I do not wish to pursue this matter further; my main objective now is to show that as far as the international setting goes, these two alleviating features are conspicuously absent.

First, is there a meaningful and substantial right of exit in the international context? The social unit that this right is demanded against in this case would be one's country. Is there such a right in international society? It is true that Rawls insists that well-ordered societies must recognise the right of emigration as a basic human right (p. 68). But what is the point of this demand if it is not reinforced by the demand that states also be obliged to accept immigrants?⁴⁹ Most liberals, and this includes Rawls, are reluctant to insist on the right to immigrate to even though they may support the right to emigrate from.⁵⁰ Indeed, there is no mention in "The Law of Peoples" of any duty on the part of a people to accept immigrants. A right to emigrate from a country without a corresponding right to immigrate to a country is a facile right. In the domestic setting, when one leaves one's private association one is able to join

another, even if it is the default community, as when one leaves the church and joins the secular community. In international society, on the other hand, one cannot leave one's country unless also adopted by another country.

Moreover, apart from the issue of whether the right to emigrate is meaningful without the corresponding right to immigrate, there is also the question of individual capacity: Is it reasonable to expect an individual to leave her country of birth if she finds the political institutions of her country unbearably oppressive? Or, to put it differently, is giving one the right to leave one's country giving one a real choice? Oddly enough, on this matter, Rawls himself notes that "normally leaving one's country is a grave step: it involves leaving the society and culture in which we have been raised, the society and culture whose language we use in speech and thought to express and understand ourselves, our aims, our goals, our values."⁵¹ Whether it is true that it is harder to leave one's country than one's religion as Rawls appears to be implying is not the issue here. What is relevant is that given Rawls's acknowledgement that leaving one's country is more of a wrenching experience than renouncing one's comprehensive doctrine, he must admit that the right of exit is especially weak and empty in the international context, that the right of individuals to leave their country if they find their continuing membership in it too unbearable is very small comfort (even if this right were supplemented by the right to enter another country). On Rawls's own terms, the right of exit does not mitigate the tension between tolerating nonliberal groups and protecting individual liberty in the global case.⁵²

Is there any global liberalising effect on nonliberal regimes? Does Rawls's law of peoples include this provision? It is not clear if it does, at least in any substantive sense. What kinds of global policies would have liberalising effects on the domestic institutions of WHSs? Obviously, the one policy Rawls refers to in his domestic theory, that of a liberal public education, is not available in the international scene -- there is no global educational policy, no global public schools all the children of the world are expected to attend. Likewise, some liberals argue that public policies aimed at improving gender equality

can have positive effects in the homes and private associations (e.g., equal career opportunity in the public sphere can result in greater equality in the private sphere, some liberals argue);⁵³ yet there is clearly no global equivalent here. Moreover, because Rawls insists that the internal political arrangements of WHSs are off limits to political criticism and economic sanctions (pp. 80-81), liberal states cannot insist on any linkage between liberalisation and trade or developmental aid, which is one important liberalising tool available to liberal states against nonliberal states.

The one possible liberalising tendency I can think of in the global setting would be the effects of cultural exchanges. Films, books, intellectual exchanges, and art play an important role in educating and raising public awareness and in informing individuals of the world of different possibilities and options. But Rawls would have no qualms about permitting the governments of WHSs the right to censor ideas contradictory to their "common" good conceptions of justice. As we may recall, freedom of expression or speech is not a necessary condition for a WHS; to demand this right as universal would make the law of peoples too "sectarian," according to Rawls.⁵⁴ But more relevantly, the issue here is not whether individuals themselves can come to appreciate and acquire liberal values, but whether we should support those who already hold liberal aspirations. More so than with public policies in the domestic case, it is unlikely that global practices and policies can eventually turn the tide against oppressive traditions in favour of these dissenters within a reasonable time span, especially if these are state sanctioned oppressions. Thus, Rawls's reluctance to take a stance against WHSs in the clear absence of any significant global liberalising effect and a de facto right of exit belies his liberal commitment to individual liberty.

Conclusion

Political liberalism faces a tension between tolerating reasonable nonliberal comprehensive views and supporting individual liberty. This tension is most vividly exposed and left entirely unremedied in the

globalised version of the theory because of the special conditions of the international realm. In extending his domestically conceived theory to cover international relations, Rawls, inadvertently and very ironically, has rendered more visible this fundamental problem with political liberalism. The problem of toleration in "The Law of Peoples" is not so much a problem of application as an accentuation of an inherent theoretical problem. Political liberalism's emphasis on toleration conflicts with its other liberal commitments, which in the domestic context is fortuitously (and only to a degree I stress again) alleviated. But a sound political theory cannot wait to be saved from internal tensions by fortuitous and contingent social circumstances -- there is no guarantee that these circumstances will always be obtained, as they have not at the global level.⁵⁵

Comprehensive liberalism, which Rawls rejects, does not face this tension between tolerating nonliberal regimes and protecting individual liberty given its fundamental commitment to individual autonomy. It is thus able to secure a global theory better able to protect the rights and freedoms of persons universally. I shall develop this claim in the next three chapters.

ENDNOTES

1. John Rawls, "The Law of Peoples" in On Human Rights, ed. Stephen Shute and Susan Hurley (Basic Books: 1993), pp. 41-82, 220-230.

2. As some commentators have pointed out, these assumptions are highly problematic. See Thomas Pogge, "An Egalitarian Law of the Peoples," Philosophy and Public Affairs 23/3 (1994): 195-224, pp.-197-199; and Stanley Hoffmann, "Dreams of a Just World," New York Review of Books (2 Nov. 1995): 52-57, p. 53.

3. John Rawls, Political Liberalism (New York: Columbia Univ. Press, 1993).

4. These "hazards" arise because of a) the fact of conflicting evidence, b) disagreements over the weight given to pieces of evidence, c) the indeterminacy of our concepts and principles, d) different

individual "total experience" which in turn affects the interpretations and considerations we give similar pieces of evidence, e) the difficulty with assessing normative claims, and f) the difficulty with setting priority for all possible cases of conflicts. Rawls calls these hazards the "burdens of reason." Rawls, "The Domain of the Political and Overlapping Consensus," in *The Idea of Democracy*, ed. David Copp, Jean Hampton and John E. Roemer (Cambridge: Cambridge University Press, 1993): 245-269, p. 248. Hereafter "Overlapping Consensus."

5. Rawls, *Political Liberalism*, p. 78.

6. *Ibid.*, p. 195.

7. Rawls, *Political Liberalism*, pp. 144, 155. As Rawls puts it, for its justification, political liberalism "seeks common ground -- or if one prefers, neutral ground -- given the fact of pluralism." *Ibid.*, p. 192.

8. *Ibid.*, pp. xvi-xvii; "Overlapping Consensus," p. 253.

9. Rawls, "Overlapping Consensus," p. 259.

10. Rawls puts this more explicitly in the preface to the Second Edition (1996) of *Political Liberalism*: "The point is that not all reasonable comprehensive doctrines are liberal comprehensive doctrines; so the question is whether they can still be compatible for the right reasons with a liberal political conception." p. xxxix.

11. Witness, for example, the prohibition against women or homosexuals from holding offices in certain religious communities; or witness also, more pervasively, the male-dominant family within which female members are not given an equal voice. Yet these associations meet the criteria for "reasonableness" in Rawls's theory.

12. Rawls, *Political Liberalism*, pp. xix-xx.

13. Some liberals question Rawls's claim that an internally nonliberal doctrine can accept liberalism as a political ideal. For example, Will Kymlicka thinks it is not obvious "why anyone would accept the ideal of autonomy in political contexts unless they also accept it more generally [in their nonpolitical lives as well]." *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Oxford University Press, 1995), p. 160. The coherence of the political liberal project rests on the tenability of this "moral dualism" of Rawls. I leave this discussion aside and shall examine instead, albeit concentrating on the international case, whether liberals should even entertain the idea of tolerating nonliberal views.

14. See Ronald Dworkin, "Foundations of Liberal Equality," *Tanner Lectures XI* (Salt Lake City: Univ. of Utah Press, 1990); Will Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Oxford Univ. Press, 1995), Chap. 8; and Joseph Raz "Multiculturalism: A Liberal Perspective," in *Ethics in the Public Domain* (Oxford: Oxford Univ. Press, 1994). Toleration in this understanding is akin to respect. What is tolerated is respected as morally permissible and not just grudgingly accommodated. Some liberals want to distinguish toleration from respect. The motivating reason is to show that respect entails more than just acceptance (i.e., tolerance) but active support as well. See, e.g., Amy Gutmann, "Introduction," in *Multiculturalism* (Princeton: Princeton Univ. Press, 1994): 3-24, pp. 21-24. This could be an acceptable distinction except that I think it obscures the important distinction between respect and concern in Dworkin's celebrated equality clause. The distinction Gutmann wants then should be better put as

toleration or respect on the one side and recognition or concern on the other.

15. See, e.g., Chandra Kukathas, "Cultural Toleration," in Nomos XXXIX: Ethnicity and Group Rights, ed. Ian Shapiro and Will Kymlicka (New York, New York Univ. Press, 1997): 69-104; and Charles Larmore, Patterns of Moral Complexity (Cambridge: Cambridge Univ. Press, 1987).

16. Rawls, "The Law of Peoples," p. 43. Because of the frequent references to this work in this chapter, subsequent citations from this work will be noted in parenthesis in the text of the chapter itself.

17. The original position, as we may recall, is "a device of representation" where representatives of rational but reasonable individuals deliberate on the appropriate principles of justice for the basic structure of their society. See, e.g., Rawls, Political Liberalism, pp. 22-28. To ensure that this hypothetical deliberation is fair and equal, parties deliberate behind a "veil of ignorance." That is, they are asked to imagine that they do not know their actual status and stations in society. In this way, no one party could insist on terms biased in her favour according to her own social standing..

18. Pogge, p. 206n.

19. Rawls tells us that this list is not meant to be conclusive and more principles could be added over time.

20. The kinds of basic rights Rawls has in mind are rather minimal. They cover the rights to subsistence and security (the right to life), to liberty (e.g., freedom from slavery or forced occupation) and personal property, to formal equality before the law (in the sense that similar cases be treated similarly), to a limited liberty of conscience, and to emigrate (pp. 62, 68).

21. Some would argue, to the contrary, that a liberal state can indeed be organized around a common good conception of justice. See, for example, Charles Taylor, "The Politics of Recognition," in Multiculturalism, ed. Amy Gutmann (Princeton: Princeton Univ. Press, 1992): 25-73, pp. 56-61. Also, Xiaorong Li claims that "[i]f Rawls's 'hierarchical society' could respect all these rights, such a society would hardly differ from a contemporary liberal democratic society." Li, "A Critique of Rawls's 'Freestanding' Justice," Journal of Applied Philosophy 12 (1995): 263-271, 269. I think the above claims are disputable but I shall not challenge them here. For further discussion, see Will Kymlicka, Liberalism, Community and Culture (Oxford: Oxford University Press, 1989), esp. chap. 5.

22. So a caste society which accords different rights and duties to members of different castes can be well-ordered if this unequal distribution of rights and duties is in accordance with the traditions and rules of the caste system and not arbitrarily enforced as when similar castes are treated differently.

23. This observation has also been made by Fernando Teson, "The Rawlsian Theory of International Law," Ethics and International Affairs 9 (1995): 79-99, p. 89. Such criticisms, Rawls fears, come with sanctions of some sort. This distinction between passing judgements against WHSs as private citizens and associations within liberal societies on the one hand, and passing judgements as official delegates of liberal societies in international forums on the other, parallels Rawls's stance in his domestic theory that while individuals and associations may question nonliberal comprehensive views in their private capacities, the liberal state (and individuals in their public capacities) may not; it is unreasonable to use the power of the state which is shared equally by all against some reasonable views. Compare "The Law of Peoples," p. 81 and Political Liberalism, pp. 215-16.

24. Rawls, "Philosophical Problems of the Law of Peoples," Lecture delivered in Princeton University, Spring 1995, MS. 22, my emphasis. (Text with me on file).

25. Pogge, pp. 214-15.

26. Ronald Dworkin, A Matter of Principle (Harvard Univ. Press, 1985), p. 361.

27. Indeed the failure to distinguish ethical neutrality from political neutrality has caused much confusion in the debates surrounding liberal neutrality. Many anti-neutralists commit the fallacy of equivocating between these two kinds of neutrality when presenting their case. They begin by showing (rightly) how liberalism cannot be politically neutral, but they conclude (falsely) that therefore the idea of ethical neutrality is untenable. For example, Jean Hampton convincingly argues that liberalism (she was in particular challenging Rawls's political liberalism here) cannot be politically neutral, but mistakenly makes the general conclusion "that the growing literature purporting to develop a 'neutral' form of liberalism is deeply misguided". In Hampton, "The Moral Commitments of Liberalism" in The Idea of Democracy eds. David Copp, Jean Hampton and John E. Roemer (Cambridge Univ. Press, 1995), 292-313, p. 312.

28. As he puts it, "Nevertheless, in affirming a political conception of justice we may eventually have to assert at least certain aspects of our own comprehensive religious or philosophical doctrine (by no means necessarily fully comprehensive). This will happen whenever someone insists, for example, that certain questions are so fundamental that to insure their being rightly settled justifies civil strife.... At this point we may have no alternative but to deny this, or to imply its denial and hence to maintain the kind of thing we had hoped to avoid." Rawls, Political Liberalism, p. 152. See also pp. 153, 250-51.

29. His other reason for using the two-stage procedure is that this is a methodological preference, with possibly no consequential difference (p. 50). I shall examine this other reason in due course.

30. Teson, p. 85. The falsification in question being the fact that other cultures do not value freedom, human rights, and democracy, as the West does.

31. This point has already been made by Hoffmann who says that the motivation of the law of peoples is "implicit but clear enough: this 'overlapping consensus' is really just a modus vivendi among quite different models of society." Hoffman, p. 54. Some critics have presented this charge against Rawls even in his domestic theory. But this charge is even more obvious against Rawls's global theory.

32. Nor, indeed, can international agencies (like the United Nations) enact enforceable global laws given the lack of any international law enforcement body. At present, international law is, as we commonly hear, "toothless".

33. This distinction was recently pointed out in Kymlicka, Multicultural Citizenship, pp. 164-166. Kymlicka's point in making this distinction is to show that judging the practices of certain minority groups to be illiberal does not entail that the liberal state is therefore "drawn down the path of interference". Similarly, Joseph Raz points out that while oppressive cultural practices should be criticized, we should exercise "restraint and consideration in thinking of the means by which [these practices are] ... to be countered." Raz, "Multiculturalism: A Liberal Perspective," in Ethics in the Public Domain (Oxford: Oxford Univ. Press, 1994), p. 170.

34. As a matter of fact, Rawls would dissociate himself from the above objection because it treats toleration of WHSs to be a matter of strategy or a modus vivendi. But recall that this is not Rawls's understanding of toleration.

35. Rawls takes this to be one of the reasons why nonliberal comprehensive views could be permissible within a liberal-democratic state: Private associations are permitted "to offer different terms to its members ... depending on the worth of their potential contribution to society as a whole." This is "because in their case the prospective or continuing members are already guaranteed the status of free and equal citizens, and the institutions of background justice in society assure that other alternatives are open to them." Rawls, Political Liberalism, p. 42.

36. As he writes, "I think there is no clear initial answer to this question [whether to have a two-stage or one-stage original position]. We should try various alternatives and weigh their pluses and minuses. Since in working out justice as fairness I begin with domestic society, I shall continue from there as if what has been done so far is more or less sound" (p. 50).

37. Rawls, "Overlapping Consensus," p. 246.

38. Teson interprets the legitimacy condition in a similar way: "On [Rawls'] view, we look to tradition and history; they, and not the government or the majority, establish the limits of freedom." Teson, p. 88. This "communitarian" understanding of WHSs mirrors Michael Walzer's account of the state as a "historic community" where citizens "express their inherited culture through political forms worked out among themselves." Walzer, "The Moral Standing of States," Philosophy and Public Affairs 9/3 (1980): 209-229, p. 211.

39. The discussion in the above three paragraphs has benefitted from different helpful comments by Frank Cunningham and the reviewers and editors of Ethics.

40. Hoffmann, p. 54.

41. This group-based toleration is justified on the grounds that an individual's well-being is intimately tied to the "prosperity" of her community. As Kymlicka puts it, one's cultural membership provides "the context of choice" which gives meaning to one's conception of the good. Thus, liberals have good individualistic reasons for respecting (and even supporting when necessary) group-based diverse ways of life. Kymlicka, Liberalism, Community and Culture, Chap. 8. See also Joseph Raz, "National-Self-Determination," in Ethics in the Public Domain, 110-30, pp. 113-17.

42. See Kymlicka, Multicultural Citizenship, Chap. 8; and Raz, "Multiculturalism," pp. 169-74.

43. Rawls, Political Liberalism, p. 221.

44. *Ibid.*, pp. 192-94.

45. *Ibid.*, pp. 199-200.

46. On the small consolation of the right of exit in domestic cases, see Leslie Green, "Internal Minorities and Their Rights," in Judith Baker, ed., Group Rights (Toronto: Univ. of Toronto Press, 1994): 101-117. He argues that "the mere existence of exit does not suffice to make it a reasonable option. It is risky,

wrenching, and disorienting to have to tear oneself from one's religion or culture" (Green, p. 111). On the limits of the liberalizing effects of liberal public policies on private arrangements (of the family in particular), see John Exdell, "Feminism, Fundamentalism, and Liberal Legitimacy," *Canadian Journal of Philosophy* 24 (1994): 441-464, p. 461; and Susan Moller Okin, "Political Liberalism, Justice and Gender," *Ethics* 105 (1994): 23-43, p. 32.

47. Rawls, *Political Liberalism*, p. 199.

48. A similar point has been made by Exdell, pp. 453-55.

49. While it could be argued that liberal states have the duty to accept political refugees, it would seem that Rawls cannot classify political dissenters of WHSs as prospective political refugees; to do so would imply critical judgements of the political institutions of the WHSs in question. See Teson, p. 90.

50. Kymlicka, *Multicultural Citizenship*, pp. 124-26. There are exceptions of course, most notably Joseph Carens, "Aliens and Citizens: The Case for Open Borders," *Review of Politics* 49/3 (1987): 251-73.

51. Rawls, *Political Liberalism*, p. 222.

52. Concerning individual capacity, besides the psychological costs discussed above, there are also economic ones. Ironically, individuals who may have the strongest reason to leave their country are often also the ones most badly exploited and hence least able to muster the financial resources necessary for travel, documentation and other immigration related expenses. I owe this point to David Dyzenhaus.

53. Of course, other liberals object to this line of argument; see Exdell and Okin. The point here is that this is an argument the political liberal can at least attempt in the domestic setting.

54. Recall his "thin" list of universal rights on p. 62.

55. I call these circumstances i) contingent because, as I pointed out, the significance of a formal right of exit is contingent on other conditions being in place, there being somewhere else to go to for one, and ii) fortuitous because (for the political liberal) the liberalizing effects of liberal policies on nonliberal reasonable associations are unintended and fortuitous side-effects.

CHAPTER THREE

TOLERATION AND DIVERSITY: TWO LIBERAL VIEWS

In the previous chapter, we saw how John Rawls's political liberalism faces what we may call the toleration problem, namely the tension between liberalism's commitment to individual liberty and political liberalism's toleration for nonliberal social groups. This tension, I argued, is especially damaging in the international version of Rawls's theory. I then suggested that comprehensive liberalism does not face this particular tension and can therefore secure a more coherent liberal global theory.

But Rawls rejects comprehensive liberalism on the ground that liberalism so understood becomes another "sectarian doctrine." According to him, comprehensive liberalism espouses an ideal of autonomy which cannot be reasonably expected of individuals affirming the various nonliberal but reasonable comprehensive philosophical, religious or moral views one finds in a modern pluralistic society. As such this conception of liberalism itself violates liberalism's own principle of toleration by disallowing nonindividualistic conceptions of the good, and consequently cannot hope to secure the basis of legitimate stability within a democratic state, let alone provide the legitimate basis for a global theory.

So, before I can present the comprehensive liberal alternative to Rawls's law of peoples, I must first defend comprehensive liberalism against Rawls's charges. Because most of Rawls's discussion with regard to political liberalism and comprehensive liberalism is situated within the domestic context, my discussion shall also be confined mainly to this context. Also, to fix the debate and to keep it in line with the main theme of this dissertation, I shall, when talking about social groups, focus primarily (though not exclusively) on ethno-cultural groups rather than on some other types of non-political association. A precise account of 'culture' will be developed in later chapters but for our present purposes, 'culture' understood loosely as a way of life characterised by common practices, traditions, beliefs and values, and usually a distinct language should suffice. Finally, while Rawls himself does not deal explicitly with

cultural groups in his domestic theory but more with comprehensive views specifically, his comments about comprehensive views are clearly applicable to such groups. Cultural ways of life are typically informed by certain encompassing philosophical, moral or even religious comprehensive views. That the principles relevant to comprehensive views apply also to cultural groups is of course confirmed by Rawls himself in "The Law of Peoples" where, as we saw, he treats some national cultures (i.e., peoples) as societies organised around certain comprehensive religious, moral or philosophical views.

Comprehensive Liberalism

Comprehensive liberalism is not a monolithic view of liberal political morality but is itself given to alternative interpretations. For example, comprehensive liberals do not all agree on whether to adopt the neutralist or perfectionist model of liberalism.¹ They also disagree over the philosophical foundations of liberalism (e.g., Millians and Kantians have very different philosophical bases for liberalism). Consequently, they can also differ over whether to adopt, say, a utilitarian or a duty-based liberal theory.² Comprehensive liberalism, rather, is the class of liberal political moralities Rawls contrasts political liberalism with, namely those which are not disengaged from liberalism's own comprehensive moral and philosophical doctrines, and whose application is not therefore restricted to the political arena (or more precisely, do not hold as narrow a conception of the political as does political liberalism). Thus, unlike political liberalism which "affirms political autonomy for all but leaves the weight of ethical autonomy to be decided by citizens severally in light of their comprehensive doctrines,"³ comprehensive liberalism is concerned also with the ethical autonomy of persons. In other words, because it remains grounded on this comprehensive moral commitment to autonomy, comprehensive liberalism maintains that the value of autonomy holds in all areas of society and that the state should therefore protect and promote individual autonomy throughout.

It should be clear from the above description of comprehensive liberalism why it does not, unlike

political liberalism, face the toleration problem. For the comprehensive liberal, a social unit (e.g., a minority cultural community) whose institutions and customs obstruct the freedom of its own members to examine and reevaluate their socially formed conceptions of the good fails to meet liberal standards. It will be critical not only of illiberal groups (i.e., groups hostile to political liberalism itself), as is political liberalism, but unlike political liberalism also of nonliberal groups. In other words, comprehensive liberalism requires that communities not only be politically liberal but internally liberal as well. Will Kymlicka endorses this view of liberalism: "Liberals are committed to supporting the right of individuals to decide for themselves which aspects of their cultural heritage are worth passing on. Liberalism is committed to (perhaps even defined by) the view that individuals should have the freedom and capacity to question and possibly revise the traditional practices of their community."⁴ To illustrate, a cultural community which respects other communities and the political rights of its members but discriminates against those who do not profess the traditional religious beliefs fails to meet liberal standards;⁵ similarly, a religious community whose internal institutional structure prevents women from holding high office within the community and hence effectively bars them from its decision-making processes also fails to meet liberal standards.

Since comprehensive liberalism does not shy away from liberalism's own comprehensive moral commitments, it retains the moral basis, and the conceptual resources, for judging the internal and private arrangements of nonpolitical associations. Whereas political liberals caution that liberal ideals need not apply within associations like the family or the church,⁶ comprehensive liberals are able, and required as a matter of principle, to take a stance against autonomy-compromising arrangements within these associations; they will deem such matters appropriate political concerns. It is not at all surprising, therefore, that while most feminist liberals reject political liberalism as too feeble a liberal morality to support women's rights precisely because it cannot directly address the core of the gender problem, namely unjust familial arrangements, they are more optimistic about comprehensive liberalism. They

believe that a logical application of comprehensive liberalism's ideal of autonomy should commit the state to take a more direct and active stance vis-à-vis arrangements in the household.⁷

Toleration and Philosophical Foundations

The reason for comprehensive liberalism's more stringent standard of toleration has to do essentially with its unflinching commitment to liberalism's own comprehensive doctrine. While political liberalism eschews its comprehensive philosophical and moral doctrines, and therefore deprives itself of the basis upon which to judge the internal practices of nonliberal groups, comprehensive liberalism remains openly and unapologetically grounded on its comprehensive moral commitments. It hence retains the moral basis for judging and criticising the internal practices of nonliberal comprehensive views; it remains, as a matter of principle, fully committed to promoting and supporting individual autonomy, not just in a narrowly defined political life (political autonomy), but in all of life (ethical autonomy).

Thus comprehensive and political liberals hold different conceptions of liberal toleration. For comprehensive liberals, the principle of toleration is derived from its more fundamental moral commitment to ethical autonomy and is not the fundamental liberal commitment itself. Ronald Dworkin prefers to speak of liberal equality instead of autonomy, but we may leave this difference aside and follow his general argument.⁸ He points out that a liberal theory based on a commitment to treating individuals with equal respect and concern will arrive at the toleration principle on the ground that treating individuals as equals is best ensured, as a general strategy, by tolerating their different conceptions of the good. But liberal toleration, understood in this way, is only instrumental for realising this fundamental commitment to individual equality and not the fundamental commitment itself. On this view, toleration is insisted on "only to the degree that equality requires it."⁹ Thus cultures whose practices violate this more fundamental liberal value defeat the very moral reason for tolerating them.

Political liberalism, on the other hand, grants toleration a fundamental rather than a derivative

status. As I mentioned, political liberals want the liberal state to refrain from making judgements beyond the political realm because they believe that there is simply no uncontentious or reasonable basis for making such judgements. Because of the fact of reasonable disagreement, any state imposition of particular comprehensive views, including liberal ones, would itself be illegitimate. This belief that there can be no (reasonably) universally shared comprehensive moral or philosophical views is what motivates the liberal project in the first place for the political liberal. In their view, the principle of toleration is the very raison d'etre for liberal politics.¹⁰

It is important not to misunderstand political liberalism here. As I said before, it is not the case that autonomy does not count at all under this reading of liberalism -- political liberals would not have any criteria for judging some views to be "unreasonable" if this were so. Rather, their position is that reasonable disagreement requires that the scope of autonomy be reduced and confined to the political sphere; accordingly, only as long as full political autonomy is secured does the toleration principle come into effect. But, for the political liberal, autonomy understood in this limited sense is the only viable limit for toleration; there is simply no available basis for imposing a stricter standard. To insist on a more extensive account of autonomy would itself interfere with the liberty of those who hold reasonable though nonliberal conceptions of the good; it would violate liberalism's own principle of toleration.

However, as I have argued in the previous chapter, this understanding of toleration can unfortunately compromise liberalism's own commitment to individual liberty, namely, the liberty of those whose freedom to examine and revise their ideas of the good is thwarted by the nonliberal character of their own communities. In response, political liberals may say that this tension between liberty and toleration is a price liberal theory has no option but to pay given the contentious nature of comprehensive philosophical and moral doctrines. Indeed, considering the fact that even liberals themselves cannot agree on these matters (e.g., Kantians and Millians will disagree on the philosophical bases of liberal morality), the toleration problem is but a necessary compromise for getting the liberal project off the ground. Thus,

we have no choice, they would argue, but to set aside these squabbles over comprehensive philosophical and moral claims, and concentrate on presenting a liberal theory acceptable to all even if that theory exhibits certain flaws.

In other words, while political liberals like Rawls accept that liberal political theory is founded on certain comprehensive moral and philosophical views (with, I think, the philosophical presumably most fundamental in that this is what ultimately grounds the moral doctrine), these foundational claims are contested by reasonable individuals and so they take the more urgent task to be that of presenting a liberal theory which is independent of any foundational commitments by detaching liberalism from such commitments. Comprehensive liberalism remains openly grounded on its comprehensive moral commitments and hence is a morally more rigorous theory; but its disadvantage is that it comes loaded with contentious philosophical and moral claims about the foundation of liberalism, and hence risks becoming another sectarian doctrine.

The question of philosophical foundation is indeed one of the more daunting issues facing political theory and hence political liberalism's strategy of avoidance. But does it successfully avoid this matter entirely? As stated, Rawls wants to present political liberalism as a "free-standing" political philosophy, a philosophy excised from any comprehensive philosophical support, and hence freed from the foundational question comprehensive liberals are entangled in: "We try, so far as we can, neither to assert nor to deny any particular comprehensive religious, philosophical, or moral view, or its associated theory of truth and the status of value."¹¹ Yet this free-standing status of political liberalism is only conditional. When cornered by his hypothetical archenemy, the religious fundamentalist who attacks the very idea of political liberalism itself, Rawls concedes that he may have to do what he "had hoped to avoid," and appeal to the comprehensive views of liberalism (not too much but just enough, he cautions) to counter these attacks.¹² This passage sums up Rawls's predicament neatly:

Nevertheless, in affirming a political conception of justice we may eventually have to assert at least certain aspects of our own comprehensive religious or philosophical

doctrine (by no means necessarily fully comprehensive). This will happen whenever someone insists, for example, that certain questions are so fundamental that to insure their being rightly settled justifies civil strife.... At this point we may have no alternative but to deny this, or to imply its denial and hence to maintain the kind of thing we had hoped to avoid.¹³

Political liberalism is freestanding, therefore, only in the company of reasonable comprehensive views. But when confronted by unreasonable views (i.e., those hostile to political liberalism itself), it has no choice but to abandon its freestanding facade and invoke its comprehensive philosophical doctrine, hitherto considered too controversial to bring into political discourse, to counter these unreasonable views.¹⁴ Bringing in liberalism's comprehensive view is, the political liberal would admit, controversial and even destabilising, but given the extremity and seriousness of the circumstances (i.e., the fact that liberalism itself is under threat), she could presumably say that it is a lesser evil to risk some controversy and even political stability than to allow the demise of liberalism. Moreover, as we noted in passing above, the contentiousness of such a move is supposedly allayed by ensuring that we do not invoke a fully comprehensive view if this is not necessary.

Rawls does not dwell much on these fundamental challenges, but in order to understand why political liberalism must resort to foundational claims in the fundamentalist example above and not simply appeal, say, to the political values endorsed in the overlapping consensus, we may recognise that challenges to any political theory can occur at two different levels. On one level, a challenge can be directed at the substantive principles enjoined by the theory. This substantive challenge, or 1st-order challenge, questions not the theory itself but the theory's normative entailments or commitments. Challenges of this sort are not fundamental philosophical challenges and can be countered by reference to the internal coherence or logic of the theory, by showing why, if the basic premises of the theory are accepted, its conclusions (i.e., its normative implications) must be accepted. So, for example, against an opponent who rejects the freedom of expression, the political liberal's first task is to show why if one accepts the idea of political autonomy and equal citizenship, this freedom must follow.

On the other hand, a challenge can come from a more fundamental level, this time directed at the very idea of that political theory itself. That is, one can challenge not just the substantive values affirmed by political liberalism, but the very premises or justification of political liberalism itself. This fundamental challenge, or 2nd-order challenge, questions, for example, why the idea of political autonomy is an appropriate moral starting point; that is, it questions the very justification for the overlapping consensus. Against these kinds of challenges, it is of no effect to refer to the internal coherence or logic of the theory for here the bases of the theory are the very points of contention. Faced with challenges at this fundamental level the political liberal, as Rawls concedes, has no choice but to draw on the comprehensive philosophical claims of political liberalism to proclaim the 'truth' of this premise. The political liberal is forced to go beyond the political values affirmed in the overlapping consensus to show why the very premises which gave rise to this consensus are themselves warranted. In which case, she may have to invoke, say, a Kantian account of rationality and autonomy or a Millian idea of well-being and individuality, to defend her premises.

Now, Rawls gives us the impression that most of the challenges faced by political liberalism are of the 1st-order type and hence can be countered without appealing to its comprehensive ideas. Under challenges of this sort, the normative goals of liberalism remain defensible without having to compromise the "freestanding" status of political liberalism. However, there are two observations to be made in response here. First, even if it is true that 2nd-order challenges against political liberalism are rare, the possibility of their occurrence shows that any attempt to detach liberalism from its comprehensive support is in principle futile. So long as we can imagine cases, as does Rawls, of 2nd-order challenges, political liberalism cannot in principle avoid the foundation issue.

But more to the point, most 1st-order challenges, directed at the substantive values of a political theory (at, say, the values enjoined in the overlapping consensus) when examined closely or pushed are revealed to be 2nd-order challenges.¹⁵ It is usually the latter which provides the motivation for the 1st-

order challenge in the first place. For example, it is often not sufficient to tell a cultural community which, say, discourages its female members from participating in public elections that it is violating the full political autonomy of some persons. It would, more often than not, when so countered, demand to know why full political autonomy is morally worthwhile in the first place. Most nonliberal views are views which ultimately challenge not merely the substantive values of political liberalism but the idea of political liberalism itself. In short, 2nd-order challenges are more common than Rawls had hoped. This has led some professed political liberals, like Steve Macedo, to be candid about the comprehensive commitments of liberalism. "Liberals," Macedo says, "need not deny that it is sometimes legitimate to acknowledge comprehensive moral and religious views in politics as grounds for possible accommodations or exceptions ... it is neither necessary nor possible to banish completely comprehensive considerations from politics."¹⁶

Thus, Rawls's ambition and hope to the contrary, political liberalism in the end cannot avoid appealing to comprehensive philosophical claims and so cannot avoid making contentious foundational claims of some sort. When it comes to the crunch, as Rawls himself is fully aware, political liberalism must invoke some of its comprehensive philosophical views which it has voluntarily set aside earlier. As David Dyzenhaus has argued, "we see Rawls being tempted into just the battle of truth-claims he wishes political liberalism to avoid. And it is difficult to know how it can be avoided since free and equal citizens are citizens, who, among other views, might have or develop views that challenge political liberalism."¹⁷ In fact, if there is any difference between comprehensive and political liberalism in this regard, it is to the disadvantage of political liberalism. Whereas comprehensive liberals can, as a matter of principle, appeal to its comprehensive moral principles when countering challenges to liberalism itself, political liberals must resort to ad hoc legal and political manoeuvres, and reinvolve moral principles it has hitherto considered too controversial to be affirmed politically. The political liberal state under this extreme condition must declare a state of emergency and overrule, by appealing to liberalism's

comprehensive views, potential threats against political liberalism itself. But it is this discretionary invocation of foundational claims which makes political liberalism especially vulnerable to the traditional charge that liberalism is contradictory.¹⁸

In other words, not only is it impossible to avoid making comprehensive philosophical claims or claims about foundation altogether in political philosophy, but in his attempt to circumvent this issue, Rawls renders his liberal theory spineless enough that it cannot defend or justify itself in a principled manner. Political liberals, therefore, risk living up to Robert Frost's unflattering caricature as individuals who cannot take their own sides in an argument (although more accurately, we should say that they cannot do so in a principled manner). We do well to recall Dworkin's argument that any political theory must "claim truth for itself," that "[i]t must itself occupy ... all the logical space that its content requires."¹⁹ A political philosophy cannot help but be dismissive of certain views and supportive of others, and to do this in a principled way, it cannot be neutral, or claim to be neutral, about its foundation.²⁰

I do not pretend to have on hand a final resolution to the heavily contested question of the philosophical foundations of liberalism. But I will beg off any discussion on this difficult topic as my aim here is not to offer a full-fledged defence of liberalism, which must no doubt confront this challenge, but only to defend one conception of liberalism against another. My goal above was only to show that political liberalism cannot in the end avoid the foundation question, and thus this problem is not one unique to comprehensive liberalism. Political liberalism faces the toleration problem and this is a price it pays because of its "freestanding" aspiration. But if this aspiration is unattainable, this trade-off serves no purpose.

Liberalism and State Intervention

Rawls worries that "[a] society united on a reasonable form of utilitarianism, or on the reasonable

[comprehensive] liberalisms of Kant or Mill, would ... require the sanctions of state power to remain so."²¹ So, even though political liberalism too must ultimately rest on contested moral and philosophical claims, one could reply on Rawls's behalf that comprehensive liberalism is sectarian in the sense that it is a political philosophy sustainable in practice only by the oppressive use of state power.

But this charge against comprehensive liberalism rests on a mistaken assumption of the kinds of political strategies it must resort to. Few comprehensive liberals today endorse the strong thesis that the liberal state ought to vigorously enforce and impose all its moral judgements.²² Most contemporary comprehensive liberals endorse a weaker thesis which allows for the distinction between making a judgement and acting on that judgement.²³ This distinction allows for the provision that while a liberal state may judge a particular private practice as unacceptable according to liberal principles, it need not forcibly impose this judgement, for whatever (e.g., moral and strategic) reasons. For example, a state may feel that to enforce its judgement (even if it believes it to be right) against a cultural group is not only contrary to the accepted democratic procedures of that society (and perhaps therefore a great harm in itself) but also self-defeating without assent by sufficient members of the group.

But not intervening does not imply not acting at all on a judgement. Comprehensive liberals can deploy state (i.e., publicly shared) resources to question and even criticise some nonliberal group practices without actually criminalizing or enacting legislation against them.²⁴ So, we can imagine the state taking sides against the sexist practices of a cultural community by funding awareness campaigns, providing forums for debate and discussion, teaching the value of domestic equality in public schools, sponsoring special opportunities for the women in the community, and so on, without actually forcibly intervening and ruling out these cultural practices as illegal from the outset. And it certainly would be too hasty to rule these non-oppressive means of sustaining liberal ideals as ineffectual. But because Rawls does not allow direct state involvement in contentious issues of this sort, for reasons we will come to in the next section, he will not endorse these policies.

Thus comprehensive liberalism need not necessarily impose its judgements always but aims, foremost, to draw the involved parties into dialogue and deliberation. The liberal-democratic state, of course, takes sides in the debate here, but the impetus for actual change has still to come from within, with the widespread endorsement of group members themselves. It is by exercising caution against state intervention, and encouraging and engendering reform from within that comprehensive liberalism can hope to liberalise internal arrangements without acting intrusively in the process. If we understand comprehensive liberalism in this weaker form, there is less worry that rejecting political liberalism in favour of comprehensive liberalism risks excessive state intervention. Its more restricted view of toleration does not imply a more permissive view of state coercion and intervention.

To be sure, urging caution against intervention does not mean that intervention is always ruled out. When oppressive group-based practices are serious enough, causing direct physical or permanent psychological harm -- as in the case of forceful religious conversions or disallowing apostasy, female genital mutilation, withholding of medical treatment from seriously ill children on religious grounds or the prohibition of girls from attending schools and the like -- coercive state action is warranted. That is, the state can rule these practices as illegal or even criminal and punish transgressors. Of course, it is important that coercive measures are supplemented by non-coercive ones, like education, providing incentives for reform and so forth, which would hopefully in time render obsolete the need for coercive preventive measures. But in the meantime, liberals would (what other choice do they have?) allow state intervention in these very extreme situations.

But these extreme cases do not pose a special problem for comprehensive liberalism because the kinds of practices against which intervention is deemed necessary by the comprehensive liberal state would also be ruled as "unreasonable" and be challenged by political liberalism as well. And while the political liberal may aspire to provide a solely political justification as to why intervention is warranted here, in the end, as we have seen, she too must appeal to her comprehensive moral doctrine when

justifying her denunciation of these practices. Thus, the philosophical basis for state intervention in extreme cases is no more controversial for comprehensive liberalism than for political liberalism.²⁵

Most contemporary comprehensive liberals agree with political liberals that the state should not expect all citizens to be liberals in all aspects of their lives -- the crucial difference between them is that the former are also committed to supporting individual liberal aspirations against oppressive communal traditions and practices. There is, therefore, another (but related) important distinction between strong comprehensive liberalism (e.g., the liberalism of Mill, as commonly interpreted anyway) and the weak comprehensive liberalism which I am defending. While the Millian liberal would not only be supportive of individuals who want liberal ideas to apply to their entire life but also expect everyone to actually live a questioning and experimenting life-style, few contemporary liberals actually hold such an expectation.²⁶ They are more interested in ensuring that individuals have the basic social conditions and freedoms to test out different life-styles should they wish, but they do not hold them in lower esteem or regard them contemptuously as people with "no need of any other faculty than the ape-like one of imitation"²⁷ should they choose not to experiment but maintain, say, their life based on faith or tradition. As Kymlicka writes, "A liberal society does not compel such questioning and revision [of life-styles], but it does make it a genuine possibility."²⁸ Indeed, comprehensive liberals could argue that one who maintains her traditional (e.g., religious) life-style instead of experimenting with different ways (after the basic conditions for choice-making are in place) need not necessarily be living an unquestioning life, but could have actually reexamined her options and chosen to remain where she is.²⁹

It should be evident now that any potential worry that comprehensive liberalism is more paternalistic than political liberalism would be largely unfounded. Comprehensive liberalism does not urge the state to unilaterally liberalise nonliberal cultural practices on the belief that this would be in the best interest of the members of a given community, their own preferences notwithstanding. Rather it demands that the state do so only out of support for those members who are themselves critical of their

communal practices but whose own efforts are thwarted. That is to say, liberalising cultures is in the perceived interests of (dissenting) individuals who want to reform practices they find oppressive. To borrow Frank Cunningham's words, "what is at issue [here] is how best, in situations where control of a common environment may be shared, to satisfy people's aspirations" and not what these aspirations should be.³⁰

Admittedly, there are some liberal policies which are not as easily defended against the charge of paternalism. Liberal civic education is one prime example of a liberal policy which aims not so much at supporting the liberal aspirations of some against oppressive traditions as at inculcating in individuals liberal aspirations and ideals. Because liberalism prides itself on being a thoroughly anti-paternalistic political morality, seemingly paternalistic liberal policies, like secular public education, present a very important and knotty challenge for liberals. But for my purpose, which is an evaluation of comprehensive liberalism against political liberalism, I need only show that political liberalism faces this troubling question also and hence fares no better in this regard.³¹ The sole difference between the two liberal views here is in how each justifies liberal education and other autonomy inculcating (but seemingly paternalistic) policies. Recall that while political liberalism would justify mandatory liberal education on neutral political grounds and then express "regret" that these policies have 'liberalising' implications for some nonliberal communities beyond the political sphere, comprehensive liberals will say that the liberalisation of nonliberal communal practices is one of the principal aims of this policy, an aim consistent with its comprehensive moral commitments, and not a regrettable side-effect.³² Unfortunately, not only is the political liberal's mode of justification disingenuous and dishonest (it, after all, rests on the dubious doctrine of double-effect), but also in cases where these effects are actually felt, the different methods of justification make no real difference to the persons actually affected. In their eyes, each strategy is as paternalistic as the other, if either is. If liberal education is indeed paternalistic (recall I leave this question open), the only difference between comprehensive and political liberalism is that the

latter unsuccessfully tries to deny it whereas the former admits to it.

State Power and State Coercion

We see then that comprehensive liberalism is not necessarily oppressive even though it requires that the liberal state take a comprehensive moral stance. Now, to be exact, political liberalism permits reasonable nonpolitical associations to non-violently promulgate and publicise their beliefs and values, and to question those of others.³³ What Rawls is specifically against is the use of state power or resources to support (or criticise) any reasonable comprehensive views even if these are liberal ones (or nonliberal ones), and not the use of personal or collective resources per se in this regard, as many commentators mistakenly think. As he puts it unequivocally, "It is unreasonable for us to use political power should we possess it, or share it with others, to repress comprehensive views that are not unreasonable."³⁴

It is in this very specific sense that moral and other controversial matters are to be kept out of the political sphere for Rawls, a point far too often overlooked by Rawls's critics. Amy Gutmann and Dennis Thompson, for instance, fault Rawls for denying that "democratic governments should encourage [public] moral discussion about controversial political issues," that he is wrong in thinking that "just because we cannot in advance philosophically establish principles specific enough to constrain public policy, ... we could not discover such public policies through discussion with fellow citizens in a process informed by the facts of political life, and inspired by the ideals of moral deliberation."³⁵ This is a serious misconception of political liberalism. Nowhere does Rawls say that moral discussions are not permitted in public nor that we cannot come to "discover" public policies through moral deliberation. On the contrary, Rawls must maintain that individuals are free to use their own resources to discuss, debate and promote their beliefs in the public sphere -- how could a liberal say otherwise? As we saw, what he objects to is the use of state power (a public power shared by all equally) to support the moral views of some over others (i.e., these views are not to be "politicised" or be translated into policy to the advantage

of some). He wants controversial comprehensive views kept out of the political arena, not the social as such, a crucial difference many of his critics miss. In fact, he prefers to speak of the public/social distinction as opposed to the more misleading public/private one.³⁶

Given this fairer understanding of Rawls, one may be tempted to think that political liberalism is really no different from the weak comprehensive liberalism I am proposing, that this noninterventionist comprehensive liberalism is identical in the end to Rawls's political liberalism. But the difference between the two is, upon some reflection, actually quite pervasive. Comprehensive liberals permit the state to take sides (albeit urging caution against intervention); political liberals, while permitting private associations to advertise their views publicly or socially, forbid the state from taking sides at all. This is a significant divergence because the state has access to social and cultural resources (e.g., control over public education, media, official language policies, the law and immigration, just to mention some examples) which private associations do not. Moreover, the state also has an ubiquitous influence on a society and its citizens which private associations lack. Political institutions are just more encompassing and pervasive than nonpolitical ones, as Rawls himself as noted in his brief discussion of the non-neutral effects of the liberal state.

Why is Rawls so reluctant to allow the state to support and promote a comprehensive liberal morality? The reason, it appears to me, is that Rawls conflates political judgement or power with political coercion.³⁷ This conflation is evident throughout his recent works. Just to cite two examples. In an article, Rawls writes that "the political power exercised within the political relationship is always coercive power backed by the state's machinery for enforcing its laws." Elsewhere he writes: "in a democracy political power, which is always coercive power, is the power of the public, that is of free and equal citizens as a collective body."³⁸ Evidently, Rawls worries that each time the state takes sides in moral disputes, those in disagreement with the state's position are necessarily coerced into compliance. But since this coercive power of the state is equally shared by all citizens, it is illegitimate for the state to use it to support some

contentious views, even if these are liberal ones, against others.

In a sense, Rawls is correct -- all political and even moral judgements are coercive if by this we mean that these judgements do have some influence on the judged's behaviour. Being thought of poorly or given a low public opinion rating is often some motivation for mending one's ways. But understanding 'coercion' so expansively deprives it of any meaningful content. If we more realistically restrict state coercion to the state legislating against or criminalizing (and hence being able to use "legitimate" force against) certain activities, then Rawls clearly overstates the connection between state power and state coercion. As I pointed out above, there are numerous non-coercive ways for a state to effectively take a moral stance and argue against nonliberal ways without actually resorting to the use of force. There is no necessary entailment that the state has to use force each time it takes sides in a moral debate. As L.T. Hobhouse reminded us, "Let us observe that, as Mill pointed out long ago, there are many forms of collective action which do not involve coercion."³⁹

The project of political liberalism seems to me to be motivated in part by this mistake. For were Rawls to recognise that state power is not always coercive, he would not see the choice for liberals to be one between a political liberalism which cannot take sides (and hence too feeble as I have been arguing) and a strong comprehensive liberalism which is too interventionist (and hence too "sectarian" as Rawls fears). Instead, he would see that there is a middle-of-the road option -- a weak comprehensive liberalism which can take sides in moral matters but is not necessarily oppressive.⁴⁰

Expecting the liberal state to be actively involved in moral issues may make the state loom large, perhaps too large for liberals whose traditional objective was to limit the powers of states over their own citizens. But, again, this concern would be warranted only if state involvement must always be accompanied by the use of force. Otherwise, all comprehensive liberals are recommending is not in excess of what goes on or is being called for in some contemporary liberal states -- some degree of state control over education; state support for oppressed individuals (by providing social services, counselling

and so on); state funding for certain artistic and cultural activities over others; and state support for public media and even regulating private ones (as for instance requiring that children's television networks contain a certain number of educational programmes). Classical liberals once thought that state provision of a social minimum (e.g., via progressive taxation) was contrary to liberal ideals, a point almost no liberals accept today.⁴¹ And some liberals are today also arguing that it is entirely compatible with, and indeed required by, liberal ideals that the liberal state also actively support certain minority cultural groups. (We will address this point more fully in the final section.) So, to conclude the discussion here, liberals do not strive for a minimalist state (as do libertarians); they will readily accept a fuller role for the state in accordance with the principles of liberalism. But this is far from endorsing dictatorial governance against which liberals of the past battled. Constitutional safe-guards are well in place in liberal democracies to prevent this from happening.

Diversity and the State

I have argued that Rawls's criticisms of comprehensive liberalism are either exaggerated or apply also to political liberalism. In this final section, I shall argue that in spite of its stricter account of toleration, comprehensive liberalism is better able than political liberalism to protect and support the flourishing of different cultural ways of life.

The issue of cultural diversity is, of course, an important one for contemporary liberal theory. Diversity is not simply a fact of a modern liberal-democracy to be tolerated but a beneficial product of liberal toleration, a condition to be celebrated. This is because liberals believe that particular ways of life provide individuals with the "context of choice" within which to form and pursue their ideas of the good life.⁴² Other liberals add that not only does diversity matter to the respective individual adherents of ways of life, but nonmembers too benefit in the sense that they have a larger range of options and possibilities to choose from and experiment with than they would otherwise have. Diversity thereby enriches society

as a whole.⁴³

Now although Rawls concedes that there is "no social world without loss,"⁴⁴ he thinks political liberalism allows for a wide range of different, including nonliberal, comprehensive views to endure and even to flourish. In his words, "[a] just liberal society may have far more space [for diverse ways] than other social worlds."⁴⁵ On first glance, it is tempting to think that political liberalism is indeed more permissive than is comprehensive liberalism of diversity. The fact that it "does not attack or criticise any reasonable view," including nonliberal ones, would allow, it seems, nonliberal cultural communities to maintain and sustain their practices free from state interference and discrimination. By contrast, comprehensive liberalism would seem to ensure that only "individualistic ones [i.e., conceptions of the good] alone can endure in a liberal society, or [that] they so predominate that associations affirming values of religion or community cannot flourish."⁴⁶

But this confidence in political liberalism's conduciveness to diversity is well founded only if the sole threat to diversity comes from the state. However, ways of life do not just need protection from the state; they also need to be protected from each other. In a pluralistic society, minority cultures often face the risk of passing on and/or being involuntarily assimilated into dominant or majority cultures even if they enjoy the basic non-discrimination rights. Thus, given the social advantages majority groups have over minority ones, it appears that some sort of state involvement, rather than state non-interference, is necessary to protect diversity, to protect minority ways from dominant mainstream cultures.

To be exact, Rawls himself is well aware of this fact when he notes that "[some ways of life] may be admissible but fail to gain adherents under the political and social conditions of a just constitutional regime."⁴⁷ But his response is that "if a comprehensive conception of the good is unable to endure in a society securing the familiar equal basic liberties and mutual toleration, there is no way to preserve it consistent with democratic values as expressed by the idea of society as a fair system of cooperation among citizens viewed as free and equal."⁴⁸ Evidently, Rawls believes that once the familiar basic liberal

rights, including the freedoms of expression and association, the right to join or form new associations and the right to equal toleration, are properly protected and enforced, the right of individuals to a flourishing culture is equally secured. That is, once the familiar basic rights are equally protected for all persons, all groups will compete in a fair marketplace of ideas, or the cultural marketplace as some commentators termed it, and it is then up to market forces to determine which ways endure and which lose out.⁴⁹ Should the state interfere with the workings of the cultural marketplace by providing threatened groups special support, it would be treating some citizens with greater concern, thereby violating liberal-democratic principles of equality and fairness.

This idea of benign neglect, the view that the state should not grant special consideration to some ways of life over others once basic individuals rights are in place, was until recently a widely shared liberal ideal. However, many critics of liberalism have since pointed out that this idea is seriously flawed.⁵⁰ They argue, rightly, that it is a serious mistake to assume that the equal right to a secure cultural community is sufficiently guaranteed once basic individual liberties like the freedoms of expression and association are secured. Quebeckers, for example, argue that equal protection of individual rights is not enough to ensure the survival of a Quebecois culture. What they demand is not equal protection of basic individual rights (this they already enjoy) but special rights in virtue of their distinct culture. These group-specific (or group-differentiated) rights which may apply only to them and no others -- like language rights, control over immigration into the province, proportionately more government funding for public services like Radio Broadcasts in French and so on -- are said to be necessary to supplement the basic individual rights Quebeckers already enjoy if their right to a secure and distinct culture is to be protected.⁵¹

The reason why equal basic individual rights are insufficient to assure everyone the equal right to a secure culture, these critics point out, is that cultural groups never compete as equals in the "cultural marketplace" of a pluralistic society. Certain groups are inevitably disadvantaged not because the basic

rights of their members to associate or express their ideas are violated, but because the social and political institutions of society inadvertently favour some groups, usually the majority cultural group, over others.⁵² Take the issue of language. Some minority cultures are immediately disadvantaged in and/or alienated from the political sphere because the language in which politics is conducted and power expressed is foreign to them. Moreover, the political institutions of a pluralistic society cannot help but reflect the customs, values, beliefs and symbols of the dominant cultural group to a greater degree than those of minority groups, thereby unfairly advantaging it further. Hence, as Bhikhu Parekh writes, "The [traditional] liberal response [to cultural diversity] thus does little more than carve out a precarious area of diversity on the margins of a predominantly assimilationist structure."⁵³

Many liberals today explicitly acknowledge this fact about the inherent inequality of the cultural marketplace. They have come to accept that the neutral state traditionally extolled by liberalism is neutral only in a very limited sense. Kymlicka writes:

A multinational state which accords universal individual rights to all its citizens, regardless of group membership, may appear to be 'neutral' between the various national groups. But in fact it can (and often does) systematically privilege the majority nation in certain fundamental ways -- e.g., the drawing of internal boundaries; the language of schools, courts and government services; the choice of public holidays; and the division of legislative power between central and local governments.⁵⁴

Likewise, Yael Tamir observes that "those who create the political system, legislate its laws, occupy key political positions, and run the state bureaucracy have a culture that they cannot avoid bringing into the political domain, the separation between state and culture is revealed as an impossible endeavour."⁵⁵

From the liberal point of view then, members of minority cultures are unfairly disadvantaged because they do not enjoy the same choice-enabling background conditions as members of mainstream cultures through no fault of their own. What is required for engendering diversity, therefore, is not simply equal toleration by the state of all permissible groups nor just equal protection of universal basic rights, but the granting of special recognition and rights to these unfairly disadvantaged groups. These rights would serve to compensate minority groups, to help secure for them what the majority already takes for

granted.⁵⁶

Yet the political liberal, because of her insistence that the state be nonjudgemental about different ways of life, cannot entertain the idea of group-specific rights. She will argue that just as the state should not, for example, support one vision of the "just" family or one religion against another as this is a controversial matter over which reasonable people disagree, neither should it provide special support for some cultures over others. These are particular ways of life not shared by all, and so state policies favouring some ways over others would be contestable, constituting thus an unfair use of state resources.

The political liberal would, therefore, be more comfortable leaving the survival of competing cultures up to the forces of the marketplace than to grant some groups special rights over others. To be sure, she will do her utmost to ensure that basic and familiar claims like equal individual liberties and freedoms of association and expression are equally respected and protected, and hope that with these basic rights in place, the marketplace can be more, rather than less, fair. But she would be reluctant to do more. The fact that some groups may perish without state support because of the unavoidable inequalities of the marketplace, while a matter to be regretted by the political liberal, is something she cannot do anything about given her greater commitment to stay impartial between competing substantive ways of life.

By contrast, because it does not claim to be disengaged from liberalism's own comprehensive moral commitments, comprehensive liberalism retains the moral basis upon which to ground the idea of group-specific rights. Its comprehensive commitment to autonomy which gives it the moral basis, and indeed also the obligation, to challenge ways of life antithetical to liberalism as a comprehensive idea also, logically, gives it the moral basis and the obligation to support ways of life (conducive to autonomy) which are being unfairly endangered. Its concern for individual ethical autonomy translates into a concern for the cultural bases within which this autonomy is exercisable. So while political

liberalism may have to regret the passing of some liberal cultures, the comprehensive liberal will insist on state support for these threatened ways.

Active support for permissible ways of life will not just ensure their endurance but also their flourishing. This seems to me to be the crux of the diversity issue: how well permissible ways of life fare or flourish as opposed to whether they can simply survive. It is not enough, if we take cultural membership to be morally significant, to simply provide them the "social space" (i.e., by not interfering with them) to survive (granting for the moment that a policy of benign neglect is sufficient to guarantee their survival). Cultural groups want more than just mere survival; they want also the conditions and resources to be vibrant communities worthy of self-respect and respect from others. Special considerations for a group (by way of language rights, providing it with extra state funding for cultural activities, allowing for special provisions concerning education and so on) serve to enrich a community and enhance its respectability, and not merely allow it to endure against the pressure of assimilation.⁵⁷

So understood, group-specific rights are not, contra Rawls, inconsistent with the idea of fairness and equality because what the state tries to do here is to compensate as far as possible for inequality of circumstance rather than of choice, as Kymlicka has persuasively argued.⁵⁸ The choice/circumstance distinction is important because were cultural membership merely a matter of choice, then there would be little justification for a liberal state to support some communities over others -- this would be akin to the state providing special support for someone who has cultivated expensive tastes and wants, which will be unfair to those who have acquired or opted for less expensive choices. But cultural membership is a matter of circumstance -- it is not a choice itself but the precondition which makes choice possible and is something into which we are born and socialised. It is, in short, an ascribed and not an acquired trait. So, it is entirely consistent with the liberal idea of fairness and equality for the state to take an active role in protecting minority groups once we accept that some groups are unfairly disadvantaged in society for the reasons offered above.⁵⁹

Some have voiced the worry that group-specific rights may undermine the rights of minorities within the group accorded these rights. If it is the case that group-specific rights inevitably harm internal minorities, then the case for such rights is derailed from the liberal point of view. But as we shall soon see (Chapters 5 and 6), a liberal account of group rights has built-in safeguards against such violations; it conceptually disallows group rights that can be turned against the individual rights of internal minorities (or of dissenting individual members of the group). A complete liberal justification and legitimation of group-specific rights involves two (defensive) stages then -- the first is to show why this special consideration for members of some groups does not disregard those outside these groups (i.e., why it does not violate the liberal idea of fairness and equality); the second is to show how these special rights cannot go on to violate rights of internal minorities or dissenting members (i.e., why these do not contradict the liberal commitment to individual liberty). My concern here is with the first stage.

We see then that diversity is best protected not by state non-interference (as suggested by political liberalism) but by a comprehensive commitment to individual autonomy. Keeping the state out of the business of judging ways of life, rather than securing more space (by way of tolerance) for diversity, preempts the state from protecting vulnerable ways against dominant ones. Paradoxically, a stress on equal toleration, instead of giving a wider berth for different ways of life, actually deprives some of these of the state assistance they need in order to survive. A non-interfering state can at best only protect the formal space in the form, of benign neglect, for admissible ways to endure -- the rest is up to the groups themselves.

That liberals who stress toleration as the fundamental liberal value are, as a general rule, less likely than comprehensive liberals to support group rights is easily confirmed by a quick survey of the current literature. For instance, both Chandra Kukathas and William Galston hold toleration to be the fundamental liberal value, yet both are suspicious of granting cultural communities special rights. Kukathas objects that Kymlicka's liberal theory gives "[cultural groups] too little insofar as regarding

choice as the fundamental liberal commitment disregards the interests of cultural communities which do not value the individual's freedom to choose," but "it gives it too much insofar as liberal equality [ought not] to sanction special rights."⁶⁰ Likewise, Galston says that "the more seriously we take diversity, the more seriously we must take the unitary public structure that both protects and circumscribes the enactments of diversity." We must "distinguish between state permission, on the one hand, and support or encouragement on the other."⁶¹

Obviously, none of the above obviates the fact that comprehensive liberalism tolerates only ways of life which are not hostile to ethical autonomy. But, as we have seen, this stricter state toleration is more than compensated for by the fact that the comprehensive liberal state is also able to actively support admissible ways. So even if comprehensive liberalism accords a narrower space for diversity, we have seen that this narrower space would nonetheless be a richer one than the wider space offered by political liberalism. It is a space which provides for the flourishing and not mere endurance of admissible ways of life.

Moreover, there is no reason why comprehensive liberals should regret this narrower (but richer) diversity. As I mentioned, liberals want diversity not because it is desirable in itself but because of its worth to individuals (both members and nonmembers). So, comprehensive liberalism need not apologise for its stricter criterion for permissibility; instead, this stricter idea of permissibility should be treated as a strength and not a weakness of the theory.

The important question here is whether comprehensive liberalism permits only a certain kind of lifestyle, whether its stress on ethical autonomy entails that "individualistic ones [i.e., conceptions of the good] alone can endure in a liberal society, or [that] they so predominate that associations affirming values of religion or community cannot flourish."⁶²

Here we need only to recall the point made earlier that comprehensive liberalism agrees with political liberalism's tenet that not everyone in a pluralistic society can be expected to pursue a fully

liberal or individualistic conception of the good. Where they differ is that comprehensive liberals also believe that it is important to support individuals who want to examine and revise their conceptions of the good (which may require challenging comprehensive views Rawls takes to be beyond state rebuke). So, in as far as individuals choose to live a life where the values of "religion or community" are central, comprehensive liberalism would permit, and even support if warranted and necessary (as in the case of disadvantaged cultural groups), these aspirations. One's right to embrace these values is after all guaranteed by the basic liberal freedoms of association and conscience; it would be a drastic misunderstanding of comprehensive liberalism to think that it denies these basic liberties. As I have pointed out previously, while comprehensive liberalism promotes and protects individual ethical autonomy, it does not follow that it expects individuals to reject all non-individualistic conceptions of the good. In other words, it is entirely permissible (and possible) for a person not to exercise her right to discard or revise the ideas of her religion; she can simply choose to keep her faith. Or, as we have said earlier, we can more generously interpret this as an exercise of her choice to retain her faith. Again we must remember that while there are good reasons for rejecting the strong comprehensive liberalisms of Mill and Kant (as these are commonly interpreted anyway), political liberalism is not the only other plausible alternative.

In this largely comparative chapter I have shown why comprehensive liberalism does not face (or face alone) the problems Rawls poses against it, and I also showed why its concern for autonomy over toleration makes it a liberal view more supportive of cultural diversity. In the following two chapters, I shall extend this conception of liberalism to the global context.

ENDNOTES

1. For example, two comprehensive liberals who disagree on this point are Joseph Raz, who proposes a perfectionist liberalism, and Will Kymlicka, who defends a neutralist liberalism. See Raz, The Morality of Freedom (Oxford: Oxford Univ. Press, 1986); and Kymlicka, Liberalism, Community and Culture, pp. 80-1.

2. What would be the most correct interpretation of comprehensive liberalism is an issue I leave aside. My primary goal is to defend comprehensive liberalism, broadly conceived, against Rawls's charges. Resolution of the "internal" disputes within comprehensive liberalism will be worthwhile only after we are agreed that it is a conception of liberal political morality worth advancing.

3. Rawls, Political Liberalism, p. 78.

4. Will Kymlicka, Multicultural Citizenship (Oxford: Oxford Univ. Press, 1995), p. 152.

5. See, for example, Kymlicka's example of the theocracy of the Pueblo which discriminates against members who renounce the traditional religion. Kymlicka, Liberalism, Community and Culture, pp. 196-97.

6. John Rawls, Political Liberalism (New York: Columbia Univ. Press, 1993), e.g., pp. 77-8, 195.

7. See, in particular, John Exdell, "Feminism, Fundamentalism, and Liberal Legitimacy," Canadian Journal of Philosophy 24/3 (1994): 444-464; Susan Moller Okin, "Political Liberalism, Justice and Gender," Ethics 105 (1994), 23-43; and Anne Phillips, "Must Feminists Give Up on Liberal Democracy?" in Prospects For Democracy, ed. David Held (Stanford: Stanford Univ. Press, 1993): 93-111.

8. To recall the point made in Chapter 1, Dworkin "does not use the word 'autonomy,' but in discussing the idea of treating people as equals, he is arguing for equal respect for the autonomy of citizens." Gerald Dworkin, The Theory and Practice of Autonomy (Cambridge: Cambridge Univ. Press, 1988), p. 4. As I said then, even if we grant the difference in emphasis between Dworkin and other comprehensive liberals regarding the touch-stone value of liberalism, the relevant point here is that comprehensive liberals take toleration to be derived from a more fundamental moral ideal.

9. Ronald Dworkin, A Matter of Principle (Cambridge: Harvard Univ. Press, 1985), p. 205.

10. See, e.g., Rawls, Political Liberalism, pp. xxivf; and William Galston, "Two Concepts of Liberalism," Ethics 105 (1995): 516-534, pp. 525-27. In his Tanner Lectures, Ronald Dworkin shows in greater detail how the different starting premises of the two models of liberalism result in two very different ideas of toleration. One model, the political liberal one, "builds neutrality in at the start of the story it tells. It argues that the political perspective must be created, so far as possible, under a methodological axiom of ethical neutrality, that it is part of the point of the entire constructive exercise to secure as much ethical neutrality as possible". The comprehensive model "arrive[s] at neutrality in the course of rather than at the beginning of the argument, as a theorem rather than as a methodological axiom. It hopes that the liberal ethics

it constructs will not only appeal to people who have very different substantive views about the good life, but also provide reasons why each of them should be tolerant of the others. Though both strategies defend tolerance, they arrive at different interpretations of that virtue, and therefore different conceptions of liberalism." Ronald Dworkin, "The Foundations of Liberal Equality," in The Tanner Lectures on Human Value XI (Salt Lake City: Univ. of Utah Press, 1990), pp. 21-22.

11. Rawls, Political Liberalism, p. 150, my emphases.

12. It is far from clear what an appeal to a partially comprehensive view is supposed to mean. I assume that it means we are to present our comprehensive view starting from the least contentious (and the most general) ideas, avoiding its more fundamental and controversial points as far as possible, invoking progressively more contentious points only if the previous (less contentious) arguments are themselves challenged.

13. Rawls, Political Liberalism, p. 152, my emphases. See also pp. 153 and 250-251 for other instances of relying on comprehensive views to defend and sustain political liberal ideals.

14. Obviously, Rawls cannot assume that once the fundamentalist sees the comprehensive support of liberalism, she will be sufficiently "enlightened" and will voluntarily rescind her demand. All it means, simply, is that the state now has a justification for denying her this demand, for showing why she is being unreasonable, and to put her away if necessary. No state, liberal or not, can avoid the use of coercion. The crucial point is how and when this can be justified. This is a point I return to briefly in the next section. The issue at hand concerns not so much whether intervention is warranted, but the earlier step of identifying our moral stance.

15. I say 'most' because there are some 1st-order disputes which do not stem from 2nd-order differences. For example, Kantian liberals can disagree over whether pornography is permissible or not. Here the disagreement is not over the fundamental moral commitments of liberalism, but over what those commitments entail in terms of policy and how to best realise these commitments in the real world.

16. Steve Macedo, "Liberal Civic Education and Religious Fundamentalism: The Case of God v. John Rawls?" Ethics 105/3 (1995): 468-496, p. 490, my emphasis.

17. David Dyzenhaus, "Liberalism After the Fall," Philosophy and Social Criticism 22/3 (1996): 9-37, pp. 22-23.

18. It is this vacillation of political liberalism between its abstinence from truth claims and its appeal to them when pushed, which makes it especially vulnerable to the critique of the Fascist philosopher Carl Schmitt that liberalism is contradictory. As Dyzenhaus puts it, "Political liberalism is thus political in the Schmittian sense. It asserts its truth against every challenge. But it is also political in just the contradictory way Schmitt thought liberalism had to be. It denies that it claims truth and so it claims to be neutral between all positions." Dyzenhaus, p. 23.

19. Dworkin, A Matter of Principle, p. 361.

20. Jean Hampton has argued the moral non-neutrality of the foundation of liberalism in greater depth. "The Moral Commitments of Liberalism," in The Idea of Democracy, ed. David Copp, Jean Hampton and John E. Roemer (Cambridge: Cambridge Univ. Press, 1995): 292-313. But while she takes this foundational commitment to be implicit in political liberalism, I showed above that Rawls explicitly, if reluctantly, admits to this reliance.

21. Rawls, Political Liberalism, p. 37.

22. John Stuart Mill, as he is commonly interpreted (including by Rawls, Political Liberalism, p. 37), would be an example of a strong comprehensive liberal. For more on the distinction between what I shall call weak and strong comprehensive liberalism, see Chandra Kukathas, "Liberalism, Communitarianism and Political Community," in The Communitarian Challenge to Liberalism, ed. Ellen Frankel, Fred Miller and Jeffrey Paul (Cambridge: Cambridge Univ. Press, 1996), 80-104, pp. 94-96.

23. Thus Joseph Raz says that while oppressive cultural practices should not be tolerated, he urges "restraint and consideration in thinking of the means by which [this problem] is to be countered." Joseph Raz, "Multiculturalism: A Liberal Perspective," in Ethics in the Public Domain (Oxford: Oxford Univ. Press, 1994): 155-176, p. 170. See also Kymlicka, who says that taking a critical stance "does not mean that liberals can impose their principles on groups that do not share them." Kymlicka, Multicultural Citizenship, p. 165.

24. Kymlicka, Multicultural Citizenship, pp. 168-69.

25. It is beyond the scope of this work to go into a discussion as to when precisely an intervention is justified. While it is clear that intervention is permissible and even obligatory in extreme cases, there are grey areas where it is less obvious whether this might be the case. Some of the relevant factors to be taken into account and balanced against each other include the severity of the violation, the cost of intervening (to both agent and target and by-standing parties), the availability and feasibility of other courses of action and the probability of success of the intervention.

26. As mentioned, this is how many critics of comprehensive liberalism interpret John Stuart Mill. They may point to passages like the following to show the intrusiveness of Mill's liberalism: "The human faculties of perception, judgement, discriminative feeling, mental activity, and even moral preferences are exercised only in the making a choice. He who does anything because it is the custom makes no choice. He gains no practice either in discerning or in desiring what is best. The mental and moral, like the muscular, powers are improved only by being used." Mill, On Liberty (Indiana: Bobbs-Merrill Co, 1976), p. 71.

27. This phrase is from Mill, p. 71.

28. Kymlicka, Multicultural Citizenship, p. 82, my emphasis.

29. Yael Tamir notes that we should not commit the fallacy of equating choice with actual change. Liberal Nationalism (Princeton: Princeton Univ. Press, 1993), pp. 20-21. So when Mill says that "He who does anything because it is the custom makes no choice" (Mill, p. 71), we can perhaps interpret him more charitably as saying: He who does anything just because it is custom makes no choice. So one who abides

by customary practices after having thought about and reflected on her options has actually made a choice. The following line from Mill perhaps lends ample support to this reading: "an intelligent following of custom, or even occasionally an intelligent deviation from custom, is better than a blind and simply mechanical adhesion to it" (Mill, p. 72, my stress).

30. Frank Cunningham, The Real World of Democracy Revisited (Atlantic Highlands, N.J.: Humanities Press, 1994), p. 41.

31. Without pretending to settle the problem of paternalism here, it seems to me that there are two different strategies available to the liberal. a) She could on one hand admit that such liberal policies are paternalistic but justify this paternalism on some other (higher) moral ground. In short, non-paternalism carries only prima facie weight which could be overridden when more fundamental moral values are at stake. b) Or, adopting a completely different strategy, she could argue that these policies are only seemingly paternalistic, but because they in fact are choice enabling rather than choice restricting in the long-run, they are actually anti-paternalistic. But as said, I leave aside any confrontation with this question, which is a task reserved for a project offering a complete defense of liberalism.

32. It is worth noting in greater detail the difference between the political liberal and comprehensive liberal here. Political liberals will not say that liberalism is a competing idea, but rather it is a neutral or impartial one in the midst of competing ideas. In other words, the political liberal would claim to be an umpire between different competing ideas. So, secular education is not offered as a competitor to, say, religion but as the adjudicator between different religions. Comprehensive liberals, on the other hand, would bite the bullet, conceding that liberalism is another competing belief (an atheistical one at that) among others in a pluralistic society. But it does not forcibly impose this belief but only offers it as another option for individuals to reject or accept. Now, it seems to me that not only is the political liberal's move less honest, it is also questionable whether it can even succeed in convincing nonliberal and religious groups that it is the neutral umpire and not a competitor given its non-neutral consequences for these groups.

33. For example, members of religious groups are free to seek out new converts by preaching on street corners, taking up advertising spots in the newspapers or other public spaces, organising public rallies, distributing literature from door-to-door, and so on.

34. Rawls, Political Liberalism, p. 61, my emphasis.

35. Amy Gutmann and Dennis Thompson, "Moral Disagreement in a Democracy," Social Philosophy and Policy 12 (1995): 87-110, pp. 102, 103.

36. Rawls, Political Liberalism, p. 220n. An even clearer way of putting forth the distinction it seems to me, which surprisingly Rawls does not offer, is in terms of political versus social. The root of this misunderstanding of Rawls lies evidently in the misconstrual of Rawls's use of "public".

37. This conflation in Rawls has been pointed out by Kymlicka, "Two Models of Pluralism and Tolerance," in Tolerance: An Elusive Virtue, ed. David Heyd (Princeton: Princeton Univ. Press, 1996): 81-105, p. 95.

38. Rawls, "The Domain of the Political and Overlapping Consensus," in The Idea of Democracy, ed. David Copp, Jean Hampton and John E. Roemer (Cambridge: Cambridge University Press, 1993):245-269, p. 252; Political Liberalism, p. 216. My emphases.

39. L.T. Hobhouse, Liberalism and Other Writings (Cambridge: Cambridge Univ. Press, 1994), p. 68. See also Raz, Morality of Freedom, p. 161.

40. One may suggest that a strong political liberalism would be equivalent to a weak comprehensive liberalism -- the state would judge but not politically enforce. But this is in principle not possible -- if political liberalism is a political philosophy detached from comprehensive views, a political philosophy without moral foundations, it simply can have no principled basis for politically judging comprehensive moral views. Recall Rawls' point that "political liberalism does not attack or criticize any reasonable view. As a part of this, it does not criticize, much less reject, any particular theory of the truth of moral judgements." Rawls, 1993, pp. xix-xx. It is not because he holds a "weak" version of political liberalism that Rawls keeps the state from making judgements outside the political; rather it is the very nature of political liberalism that the state does not judge matters outside the political sphere. But remember, as pointed earlier, that this does not preclude the making of these judgements by private citizens or associations. Recall the moral dualism of Rawls pointed out in Chapter 2.

41. Those who do are expelled from the liberal camp and labeled "libertarians".

42. See, e.g., Kymlicka, Liberalism, Community and Culture, pp. 165-66.

43. See, e.g., Arthur Ripstein, "Recognition and Cultural Membership," Dialogue XXXIV (1995): 331-41, 338-39.

44. Rawls, Political Liberalism, pp. 197-98. As we may recall, unreasonable cultural ways of life (namely, ways hostile to the values of political liberalism or to political liberalism itself) are not permitted in the political liberal state. Also, some reasonable ways may simply not find enough adherents and pass on. As we discussed earlier, the liberalising effects of some neutral public policies can undermine ways of life whose passing, Rawls says, "may have to be accepted, often with regret." *Ibid.*, p. 200.

45. *Ibid.*, p. 197n; see also p. 199.

46. *Ibid.*, p. 199.

47. *Ibid.*, p. 196, my stress.

48. *Ibid.*, p. 198.

49. This position has been more explicitly endorsed by other liberal philosophers. For example, Jürgen Habermas thinks that "if the selective reading of the theory of rights is corrected to include a democratic understanding of the actualization of basic rights, there is no need to contrast it with a [theory]

that introduces a notion of collective rights that is alien to the system." Habermas, "Struggles for Recognition in the Democratic Constitutional State," in Multiculturalism, ed. Amy Gutmann (Princeton: Princeton Univ. Press, 1994): 107-48, p. 116, my emphases.

50. This is a common objection raised by communitarians and feminist theorists. See, e.g., Charles Taylor, "The Politics of Recognition," in Multiculturalism, pp. 56-58; and Iris Marion Young, "Polity and Group Difference: A Critique of the Ideal of Universal Citizenship," Ethics 99 (1989): 250-274, pp. 267-269.

51. It should be clear that the idea of group-specific rights (or group rights for short) is understood here as rights which accrue not to groups in and of themselves but to individual members of these groups. I shall say more about this in Chapter 5.

52. Taylor, pp. 42-44.

53. Bhikhu Parekh, "British Citizenship and Cultural Difference," in Andrews, Geoff, Citizenship (London: Lawrence & Wishart, 1991): 183-204, p. 194.

54. Kymlicka, Multicultural Citizenship, pp. 51-52.

55. Tamir, pp. 148-49.

56. Kymlicka, Multicultural Citizenship, p. 113.

57. E.g., Parekh says: "It is widely conceded that the growing social, moral and economic problems, including those created by a sizeable and increasing underclass, cannot be solved by benign neglect or by throwing more money at them, but only by creating lively, responsible and self-disciplinary communities." Parekh, p. 194.

58. Kymlicka, Liberalism, Community and Culture, pp. 185-88.

59. It is important to remember that because the inequalities of the cultural marketplace are inherent, group-specific rights are different from affirmative action policies which some liberals take to be a temporary measure to redress past or remediable inequalities and hence to be phased out once these inequalities are compensated for or corrected. Rather, group rights are permanent policies given that the inequalities of the cultural marketplace can never be entirely eradicated in a diverse polity. See, e.g., *ibid.*, pp. 143-4.

60. Chandra Kukathas, "Are There Any Cultural Rights?", Political Theory, 20/1 (Feb 1992): 105-39, pp. 123-24. See also his more recent "Cultural Toleration," in Nomos XXXIX: Ethnicity and Group Rights, ed. Ian Shapiro and Kymlicka (New York, New York Univ. Press, 1997): 69-104.

61. William Galston, "Pluralism and Social Unity," Ethics 99 (1989): 711-26, pp. 529-30; p. 530.

62. Rawls, Political Liberalism, p. 199.

CHAPTER FOUR

INDIVIDUAL RIGHTS AND STATE SOVEREIGNTY

Comprehensive liberalism, although subject to alternative interpretations, differs from political liberalism principally in that it regards individual ethical autonomy rather than liberal toleration as the more fundamental liberal value. To recall, the principle of toleration for comprehensive liberals is derived from liberalism's commitment to individual autonomy, whereas for political liberals, the idea of toleration is the very basis for liberal political morality. In addition, we saw that the version of comprehensive liberalism I am advocating is also sensitive to particular group-based claims on the grounds that membership in social groups provides the social context which gives worth and value to a person's idea of the good and that this context is not equally secured for all.

A global theory informed by comprehensive liberal ideas will differ from Rawls's law of peoples in two important ways then. It will call for a more extensive commitment to human rights on the one hand; but it can also endorse the idea of peoples' or nations' rights on the other. In this chapter and the next, I thus extend comprehensive liberalism to cover international relations. Here I extend the first basic idea that individual autonomy is a universal and fundamental liberal concern. I shall argue that a comprehensive liberal global theory would be critical of well-ordered hierarchical societies which Rawls's law of peoples tolerates, and that it would reformulate the idea of state sovereignty in a more radical manner than Rawls does.

Individual Autonomy and Hierarchical Societies

One immediate difference between a comprehensive liberal global theory and Rawls's law of peoples is that the former will be reluctant to tolerate political societies which thwart the autonomy of their own citizens by restricting their freedom to question, reevaluate and revise the social roles and relationships

they may find themselves in and their socially formed ideas of the good life. As we have seen, Rawls tolerates well-ordered hierarchical societies (WHSs) even though these societies do not permit certain standard liberal rights, like freedom of expression and speech, equal liberty of conscience, and democratic rights. That is, for Rawls, the domestic principles of justice of a WHS need not be based on a conception of persons as "free and equal citizens" but on a common good conception of justice which assigns members their "moral duties and obligations", not as equal citizens, but according to their ascribed social title and role.¹

But these neglected liberal rights are essential for the full exercise of one's capacity to question and revise one's conception of the good. Freedom of expression and thought, for example, is one principal means by which individuals question and reevaluate their life goals, and the social roles they find themselves in.² Democratic rights also ensure that citizens have the opportunity to participate in making social decisions about matters that will affect them.³ Similarly, some semblance of domestic social and economic equality is necessary to ensure that individuals have the necessary background socio-economic conditions to properly and freely form and pursue their options.

A comprehensive liberal global theory would, therefore, be critical of WHSs on the grounds that their public institutions contradict, or fail to provide the necessary conditions for, the exercise of individual autonomy. As I have stressed in the previous chapters, comprehensive liberalism agrees with political liberalism that not everyone in a diverse society, let alone in a diverse world, can be reasonably expected to live fully autonomous lives, that it would be unreasonable to demand that all persons abide by the principle of autonomy in all areas of their own lives. Some individuals, for instance, would rather let the idea of faith and trust rule over certain (private) aspects of their lives. But the crucial difference between comprehensive liberalism and political liberalism is that comprehensive liberalism nonetheless remains fully committed to supporting individuals who wish to live fully autonomous lives, even if this involves questioning and criticising the customs and traditions of their own societies. That is,

comprehensive liberalism's commitment to individual liberty overrides its toleration for diverse ways of life when a way of life conflicts with individual liberal aspirations.

I should stress here that a political society need not be organised in one specific way before it can be liberal in character (e.g., it need not be in the form of a parliamentary democracy familiar in the west).⁴ What makes a political society meet the essentials of liberalism, in my view, is that it accepts the idea that individuals have the capacity to question and revise the values in force in society and their own ideas of the good life, and that they be provided with the requisite social and political conditions to do so. This would require that its public and social institutions permit and facilitate this exercise of individual choice. Minimally, this demands that a society not restrict speech and expression, that it treats its citizens as equals before the law, and that it ensures some degree of equality (economic and social) in the conditions for making choices. But such institutional arrangements need not entail a specific political model. Indeed we can imagine a theocracy in which these liberal individual rights are protected (including the implementation of measures to compensate minority religions for their less than equal political representation).⁵ Or we can imagine a constitutional monarchy meeting the essentials of liberalism in the case its subjects are allowed to question the basic structure of their society, even the idea of a monarchy itself, and that they have the protected rights and freedoms to do so. These political models can in principle be basically liberal. The reason why we reject Rawls's WHSs is not because they do not resemble the typical liberal-democracies of western societies but because they deny their citizens the right to reevaluate and revise the basic structures of their respective societies.

A comprehensive global theory, therefore, does not face the tension between tolerating nonliberal societies and protecting individual liberty -- it simply does not tolerate nonliberal societies. It would argue, on the contrary, that liberal dissenters and minorities within nonliberal societies should receive support and encouragement from liberal societies, even if these involve taking a stance publicly (in an international forum) against the domestic institutions and practices of well-ordered states. This, of course,

does not mean that armed intervention is necessarily permitted, that comprehensive liberals are thus "drawn down the path of intervention."⁶ On the contrary, given the high human and social costs of armed activities, this option should rarely be used. Instead, support can be in the form of sponsoring international debates, discussions and resolutions on behalf of oppressed peoples, engaging in public criticisms and condemnations of nonliberal states, or offering economic incentives, or even imposing carefully focussed sanctions in more serious cases, to encourage reform.

Because of its universal commitment to individual ethical autonomy, comprehensive liberalism remains consistent in both its international and domestic applications. Its commitment to individual autonomy which informs its domestic theory also informs its international theory. A comprehensive liberal state thus judges foreign nonliberal practices as it judges similar domestic nonliberal practices. A foreign society which, say, denies women equal democratic rights (even if this is based on religious arguments) will be judged against the same standards as a domestic comprehensive view which denies women similar rights. There is no reason on this liberal view why domestic cases should be judged more critically than foreign cases, why the scope of toleration has to be extended when we deal with foreign cases (as Rawls suggests), or why liberalism's commitment to individual autonomy should be attenuated when applied to international relations. The fact that a violation of liberal value takes place within a different political boundary by itself does not grant it any special moral status.⁷ Indeed, cultural sensitivity (a plea one often hears) itself cannot be the reason why there should be different standards between foreign and domestic cases precisely because many modern domestic societies are (almost) as culturally diverse internally as the global society. If justice sets the limit for cultural pluralism domestically, then it should also set the limit for cultural pluralism globally.

State Sovereignty

Given its commitment to individual autonomy as a universal ideal, it is obvious that a comprehensive

liberal global theory must reject the idea of the absolute sovereignty of states. The idea of sovereignty is a notoriously difficult one to pin down, but classically, a state is absolutely sovereign when it alone has complete authority and jurisdiction over subjects within its own borders (its internal sovereignty) and it alone can determine its foreign policy and its dealings with other states (its external sovereignty).⁸ Understood in this absolutist sense, sovereignty, especially internal sovereignty, is antithetical to any global commitment to individual autonomy for it allows a state to do as it wishes to persons within its borders and not be held accountable to any external moral judgements.

Hence Thomas Pogge argues that "[f]rom the stand point of a ... [morality] which centres around fundamental needs and interests of individual human beings, and all human beings", the idea of absolute sovereignty is no longer defensible.⁹ As long as individuals are the ultimate subjects of moral concern, state sovereignty cannot be absolute but must be conditioned on how states treat individuals within their territories. For liberals, basic individual liberties set limits on how states can act within their own borders. States which fail to respect these basic liberties forfeit the right to claim sovereignty; they are not entitled, therefore, to invoke the non-intervention principle to deflect external criticisms of their domestic affairs. "Unjust institutions [i.e., state regimes] do not enjoy the same prima facie protection against external interference as do just institutions."¹⁰

The proposal by liberal internationalists that absolute sovereignty be done away with is not a novel one, nor without precedent in international practice. As international observers have pointed out, "sovereignty is no longer [absolute] sovereign, the world has outgrown it. The exclusivity and inviolability of state sovereignty are increasingly mocked by global interdependence."¹¹ The advent of an international human rights tradition and law after the Second World War, as a response inter alia to the atrocities committed by the German state against its own citizens,¹² is as Rawls himself puts it, "an effort to provide a suitable definition of, and limits on, a government's internal sovereignty."¹³ The international law scholar Antonio Cassese writes, "Today the human rights doctrine forces States to give an account of

how they administer justice, run prisons, treat their nationals and so on."¹⁴ Thus, "[t]he direct application of international law to individuals ... has begun to evolve and circumvent the once impermeable membrane of sovereignty."¹⁵

Absolute state sovereignty has also been compromised by the rights of peoples. In fact, the affirmation of the rights of peoples to self-determination, rather than the now familiar individual rights, is considered by some scholars to pose the first challenge to the Westphalia or classical model of sovereignty. Cassese tells us that this happened as far back as during the First World War when the self-determination principle was first proclaimed (in 1917) "to apply both to nationalities in Europe (chiefly those under the Austro-Hungarian monarchy) and to colonial peoples."¹⁶ Hence this right, "particularly in its anti-colonialist version, sapped the [Westphalian] foundations of community of states for the very reason that it legitimized certain revolutionary forces, in particular peoples oppressed by colonial or alien Powers."¹⁷

To be sure, some countries are notorious for appealing to sovereignty and its corollary principle, the principle of non-intervention, to ward off international criticisms of their domestic rights abuses. But these same countries rarely adopt this stance consistently. For instance they may choose not to object when the domestic affairs of other states are being criticised or they may themselves join in the international condemnation of abuses in other states.¹⁸ Moreover, the fact most states in the world today are signatories to various international rights declarations and legal treaties shows that there is a general voluntary acceptance by states that sovereignty, in particular internal sovereignty, is no longer absolute or sacred. Thus Cassese rightly observes that "no State currently challenges the concept that human rights must be cherished and respected everywhere in the world.... [AH] have gradually come to accept the idea that massive infringements of basic human rights are reprehensible and make the delinquent State accountable to the whole international community."¹⁹

So when Rawls proposes that "we must reformulate the powers of sovereignty" by restricting a

state's internal sovereignty, namely "its right to do as it likes to people within its border", and by restricting its external sovereignty and "get rid of the right to wage war,"²⁰ he reports a sentiment which is already generally accepted in international theory and (to a lesser extent) practice. The pressing and interesting question is not so much whether sovereignty should be limited -- this all liberals (and many nonliberals too) agree with -- but where these limits should lie. This is where we will find serious disagreements. As we have seen, Rawls thinks that nonliberal states, even if they deny their citizens certain essential liberal rights, enjoy sovereign status so long as they meet the minimal requirements of being internationally peaceful and internally well-ordered.²¹ These are states in "good-standing" and should not be publicly criticised by representatives of other (liberal) states.

But as I have argued (Chapter 2), this is an indefensible thesis from a liberal point of view. His suggestion that only tyrannical regimes are to be criticised merely reiterates currently affirmed international sentiment and practice. But why should liberals defend this status quo? Why does Rawls grant nonliberal states the right of sovereignty and thus the right to be exempt from external criticisms of their nonliberal political structures?²²

On one reading, it seems that Rawls tolerates these states for the sake of maintaining global stability.²³ The preservation of global order is indeed one commonly heard argument in favour of respecting state sovereignty -- only by respecting the boundaries of states can we maintain some semblance of law and order in an already precarious and fragile international society. Hence Michael Walzer once wrote, "The rights of member states [in international society] must be vindicated, for it is only by virtue of those rights that there is a society at all. If they cannot be upheld (at least sometimes), international society collapses into a state of war or is transformed into a universal tyranny."²⁴ This is an argument we often hear on the world stage. Jiang Zemin of the People's Republic of China said in a speech to the United Nations:

The sacred nature of state sovereignty is inviolable. No state has the right to interfere in the internal affairs of another or force its own will on others. Some large countries

frequently use the pretext of 'freedom', 'democracy' or 'human rights' to encroach upon the sovereignty of other states, interfering in their internal affairs, damaging the unity of other countries or the solidarity of their nationalities. This is the major factor behind the lack of peace in the world today.²⁵

But defending stability for the sake of stability is an obvious violation of Rawls's own dictum.

This preoccupation with stability stems from a Hobbesian view of political morality, a view from which Rawls goes to lengths to dissociate himself. In *Political Liberalism*, he stresses several times, and rightly so, that liberal theory should seek stability with respect to justice and not stability for the purpose of a *modus vivendi*.²⁶ No liberals should equate order or stability necessarily with justice: a feudal society (where each is expected to keep to her own station in a rigidly hierarchical order) could (conceivably) be an exemplar of an orderly society but it would hardly count as a just one. As much as international stability may matter, it is but one factor in our moral calculus. Charles Beitz puts it neatly: "from the moral point of view, many things matter. The things that matter include peace and stability ... [but] they also include human rights and social justice."²⁷ Thus Pogge readily concedes that a "more assertive liberalism", that is, one which is sincere about defending human rights and willing to defy the borders of states in the process, may result in greater international conflict.²⁸ To be sure, global strife may not bode well for individual liberties, and so we need to exercise utmost caution as to how we can best go about protecting rights globally. But it is another thing altogether to suggest that order and stability are desirable in themselves or alone and hence ought not to be risked ever.

Moreover, even if order and stability were primary concerns, it seems to me that this would have implications only for our strategies and not our moral judgements. A concern for global order will definitely limit the methods we may employ to enact or implement our moral judgements -- for example, we may be more hesitant about sending troops into a foreign country, even if we believe the situation there to be morally deplorable, for fear that a military intervention might further aggravate the problem. But it is not obvious why this concern for preserving order requires limiting the kinds of moral judgements we may make; it is, after all, highly doubtful that moral judgements alone can undermine

stability and peace. The burden of proof is on one who claims that moral debates, criticisms and censure seriously threaten global peace and order.

But Rawls's expressed and philosophically more interesting reason why he thinks WHSs are entitled to sovereign status is because he believes these states qualify as communities in the strong sense. That is, he believes them to be societies organised around certain comprehensive moral, philosophical or religious views. As we remember, WHSs (can) have an established state religion, are well-ordered in terms of their particular conceptions of justice based on their own traditions, and they are ordered around a public good.²⁹ So just as a liberal state should tolerate nonliberal but reasonable comprehensive views in domestic justice, so too should a liberal global order tolerate nonliberal but well-ordered states. Read this way, respecting the sovereignty of well-ordered states is not a compromise of liberal commitment (as is the case with the above argument in defence of stability) but is actually required by liberal toleration itself. We may call this understanding of the state, state communitarianism.

Just as Rawls makes a concession to the "communitarians" (to a degree) in his domestic theory of justice and thereby sees the need to tolerate nonliberal comprehensive views, he also makes a (stronger) concession to the state communitarians and accepts that WHSs ought to be tolerated and granted sovereign status.³⁰ Now I have argued in Chapter 2 that WHSs impose very different kinds of demands on liberal theory than domestic nonliberal comprehensive views and so, pace Rawls, tolerating WHSs is not analogous to tolerating comprehensive views in domestic justice. Furthermore, I have shown in Chapters 2 and 3 that the very idea that a liberal state should tolerate nonliberal comprehensive views is an untenable one in the first place. But here I wish to examine a more basic point -- the communitarian premise underpinning Rawls's toleration for WHSs, his belief that a WHS constitutes a sort of "moral community" and is therefore exempt from external moral criticisms and judgements. This claim deserves special examination because the issue of state sovereignty is a fundamental one in international theory, and this communitarian defence of the state is one of the more influential defences of sovereignty. Indeed

state communitarianism, if sound, would be most devastating for any international normative theory with a universalist aspiration because it denies the possibility of making or passing moral judgements across state boundaries (except under very extreme circumstances).

The State as a Moral Community

State communitarians proceed by treating the state as a moral community, very much in the same way as (domestic) communitarians regard particular religious or cultural communities within the state as moral communities. That is, they claim that it is as members (i.e., citizens) of a state that individuals come to learn moral rules and acquire the motivation to comply with them; that these rules are justified solely in terms of the traditions and the shared goods of the state; and it is as citizens that individuals are engendered and sustained as moral beings. Because states provide the social contexts within which individual rights and freedoms take their meaning and worth, state communitarians conclude that there is no external basis for judging the domestic practices of states. We respect and protect this moral standing of states by respecting their sovereignty.

This communitarian argument for the moral standing of states is most explicitly presented by Walzer in his earlier writings.³¹ Walzer argued that "the distinction of state rights and individual rights is simplistic and wrongheaded.... Without the first of these rights, the second is meaningless: as individuals need a home, so rights require a location."³² The reason why the state is the locus of individual rights, he explained, is that "[the] political community is probably the closest we can come to a world of common meanings. Language, history, and culture come together (come more closely together than anywhere else) to produce a collective consciousness."³³ It is this shared understanding between the citizens of a state which makes it "presumptively, though by no means always in practice, the arena within which self-determination is worked out" and from which, therefore, foreigners are to keep out.³⁴ State sovereignty "derives its moral and political force from the rights of contemporary men and women to live as members

of a historic community and to express their inherited culture through political forms worked out among themselves.³⁵ We violate this right when we impose our judgements on a people without due regard for the boundary of its historic community.³⁶

Another prominent communitarian who treats the state as a moral community is Alasdair MacIntyre. In his often-cited lecture, "Is Patriotism a Virtue?", MacIntyre starts from the premises that "it is an essential characteristic of the morality which each of us acquires that it is learned from, in and through the way of life of some particular community," that "[we] find [our] justification for allegiance to these rules of morality in [our] particular community; deprived of the life of that community, [we] would have no reason to be moral," and that "typically moral agency and continuing moral capacity are engendered and sustained in essential ways by particular institutionalised social ties in particular social groups."³⁷ From these premises, he draws the conclusion that "patriotism and those loyalties cognate to it are not just virtues but central virtues."³⁸ MacIntyre's main concern in this lecture is to show that patriotism, contra liberal belief, is not a vice but a virtue by arguing that morality is particular, historical and contextual, and that the idea of a universal abstract morality propounded by liberals is a mistake with serious consequences. But the underlying point of immediate relevance to us here is that the state is the community which provides this particular, historical and social context.³⁹

More recently, Mervyn Frost presents what he calls the "constitutive theory" in his defence of sovereignty. Frost argues that "a person is constituted as a rights holder of a certain sort within the context of a specific social relationship ... rights are not things a person can be conceived of having outside of or prior to any and all social and political institutions" and that "a person only has value qua individual in a relationship of mutual valuation with another person or other people, i.e. within a community."⁴⁰ He then claims "that to become a whole, free and ethical self a person has to be a citizen of a good state. It is only in that capacity that individuality can be fully realised. Thus citizenship in a good state is not an option for a free person, but is rather a precondition for the existence of a free person."⁴¹ Like Walzer and

MacIntyre, Frost stresses the formative role of citizenship, how citizenship in a state "constitutes" us as moral persons, and therefore the ideas of sovereignty and individual rights are interdependent. Respect for individuals rights must, therefore, entail also the respect for state sovereignty.

Contrary to the communitarian accusation, most liberals accept that individual rights and freedoms must be situated within a social context if they are to be fully exercisable and their worth realised.⁴² They also accept that some of our socially defined ends are constitutive, or definitive of who we are (although they add that these ends are themselves nonetheless open to choice).⁴³ But it is the cultural component of our social context which makes it thus morally significant for liberals. As Will Kymlicka writes, membership in a community provides us with the cultural "context of choice" from which to choose how we want to live our lives, that "it's only through having a rich and secure cultural structure that people can become aware, in a rich and vivid way, of the options available to them, and intelligently examine their value."⁴⁴ Similarly, Joseph Raz points out that "[o]nly through being socialized in a culture can one tap the options which give life meaning. By and large one's cultural membership determines the horizon of one's opportunities."⁴⁵ What our options in life are, what renders them meaningful and worthwhile, is the "cultural narrative" we find ourselves in. The language through which we access various features of the "world out there" determines their very meaning and significance for us. As the anthropologist Clifford Geertz tells us, human beings are "incomplete or unfinished animals who complete or finish themselves through culture -- and not through culture in general but through highly particular forms of it."⁴⁶

Indeed, the communitarian's account of moral communities is also based (albeit less explicitly) on the presupposition that cultural membership provides the prerequisite for moral agency. Walzer's reference to a "world of common meaning" with a shared language, history and culture alludes to this, as does MacIntyre's "way of life in a particular community". The immediate question for the state communitarians, therefore, is whether states have this cultural feature, whether they represent worlds of

common meanings or particular ways of life to qualify as moral communities in the required sense.

States can have this strong cultural dimension if they are homogenous national or cultural entities -- that is, if states are also national-states. I speak of "national-states" rather than the more commonly used "nation-states" to stress the ethno-cultural basis at issue here.⁴⁷ As some philosophers have told us, a nation-state need not necessarily be based on a common ethno-cultural identity but can "embrace a multitude of different ethnicities."⁴⁸ We can still rightly call these (multi-ethnic) nation-states because their citizens despite their ethnic differences are able to affirm a common public culture. But "national-states" as I am using the phrase refers to states whose boundaries contain only one ethno-cultural community. The point of contention here is that state communitarians must rely on this ethno-cultural (i.e., national) conception of the state. A national-state (but not a multi-ethnic state) would capture the "world of common meanings" Walzer speaks of, or the common "way of life" MacIntyre refers to. It would exhibit a shared history, tradition, language and customs and hence there would be a "deep, horizontal comradeship" which conduces to its being "imagined as a community" (in Benedict Anderson's famous term).⁴⁹ Its political culture or institutions could and would actively reflect in an a vivid way the ethno-culture of its citizens. Its language of politics, political symbols, public institutions, school curriculum, official religion and even mundane but deeply-felt matters like religious and public holidays would represent and reflect the shared values and beliefs of its citizens. In short the public culture of a national-state would reflect and sustain a common encompassing way of life.⁵⁰

But the fact of the matter is that few states today, pace the state communitarians, hierarchical or liberal, are national-states in this ethno-cultural sense, and so few states actually mirror a "common way of life" or a "world of common meanings" to count as a moral community in the communitarian sense. On the contrary, most states today are multi-ethnic states, drawing together different and sometimes antagonistic ethno-cultural groups or "historic communities" rather than representative of a single "historic community."⁵¹ As has been commonly pointed out, "[m]any 'nations' (as self-conscious ethnic

units) are 'entrapped' within a sovereign state administered by a government that is controlled by a different nation".⁵² For a familiar example, the state boundaries of many African countries after decolonisation bear no resemblance at all to national or ethnic ones. Different nationalities are forced into a single political society, while other national communities are split by 'arbitrarily' defined political borders.

The basic flaw of the state communitarianism argument, then, is that it takes it for granted that states are homogenous ethno-cultural units, a mistake commonly committed in normative international relations theory. As Hugh Seton-Watson says:

The belief that every state is a nation [i.e., a distinct ethno-cultural type], or that all sovereign states are national states, has done much to obfuscate human understanding of political realities. A state is a legal and political organisation, with the power to require obedience and loyalty from its citizens. A nation is a community of people, whose members are bound together by a sense of solidarity, a common culture, a national consciousness. Yet in the common usage of English and of other modern languages these two distinct relationships are frequently confused.⁵³

The communitarian defence of state sovereignty founders because very few, if any, "political communities" actually constitute "historic communities" (to utilise Walzer's own terms).

To be fair, Walzer conceded that "[s]ometimes political and historical communities don't coincide, [that] there may well be a growing number of states in the world today where sensibilities and intuitions aren't readily shared; the sharing takes place in smaller units." But he went on to argue that the recognition of state boundary is "the only way we have of establishing an arena within which freedom can be fought for (and sometimes) won."⁵⁴ These internal differences are to be "worked out politically [free from foreign interference] and [their] precise character will depend upon understandings shared among the citizens about the value of cultural diversity, local autonomy, and so on. It is to these understandings that we must appeal when we make our arguments."⁵⁵

Walzer's argument presupposed that citizens of a multinational or multi-ethnic state have at least some shared understandings about "diversity, local autonomy" and other core values from which

differences can be negotiated and resolved. But, as Kymlicka rebuts, "if on [Walzer's] own terms, sensibilities are not readily shared between the different historical communities in a [culturally diverse] country, then there is no reason to think there will be any shared meanings over the value of local autonomy and cultural diversity."⁵⁶ Consequently, any perceived "shared" understandings in a diverse political society are likely to be the understandings of the dominant national community forcibly imposed on minority groups. Rather than winning for such a state moral legitimacy, this forceful imposition of "understandings" on all should in fact throw doubt on its moral standing. As Hurst Hannum warns, "the search for homogeneity, may in fact, be more likely to lead to repression and human rights violations than to promote the tolerance and plurality which many claim to be essential values."⁵⁷

This last remark reveals how the communitarian belief that states can provide the context requisite for moral agency "is itself especially prone to intolerance" for it seems to commend (for the purpose of creating a moral community out of a culturally diverse state) the imposition of the dominant national culture in opposition and disregard to the minority cultures within the state.⁵⁸ Put in another way, state communitarianism is not only empirically inaccurate, but if it is taken to heart in spite of this inaccuracy, it risks becoming a morally objectionable doctrine.

So the premise of state communitarianism that states constitute moral communities ignores the reality of nations and states. It presupposes a more neatly mapped and delineated world, a world in which each ethno-cultural unit or "people" has its own political community. Not only is it not currently (or for much of history) the case that each people is represented by a state, but it is questionable whether it is possible, geographically and physically, for there to be enough states for every people. Because of this flawed starting assumption, the state communitarian argument does not even get off the ground.

For the sake of argument, it is worth noting that even if we were to accept the premise that states are moral communities, the state communitarian normative conclusion that outsiders should refrain from questioning domestic arrangements of states does not follow. For while it is true that membership in a

moral community provides individuals with the "context of choice" within which to formulate and pursue their conceptions of the good, it is not true, pace the communitarians, that this context of choice itself is fixed and not revisable. As Kymlicka puts it, "we can and do make sense of questions not just about the meaning of the roles and attachments we find ourselves in, but also about their value."⁵⁹

It is this mistake of treating our deepest ends as fixed and unchangeable which leads communitarians to the false normative conclusion that domestic public policy should not undermine these ends and roles but should on the contrary reinforce them, and which compels state communitarians to conclude wrongly that foreigners should not criticise the domestic affairs of (well-ordered) states but should instead respect their sovereignty. But once we accept that our social roles and relations, and the ends which these define, are open to revision, it would no longer be unreasonable to say (in the domestic case) that public policies should be open to helping those who want to revise their communally defined particular roles and ends, and (in the international case) that foreigners should support citizens whose rights to revise their social roles and ends are denied by their own states.⁶⁰

Nations and States in Ideal Theory

The assumption that states are co-extensive with a people or an ethno-national group is one taken for granted by many theorists. Rawls too makes this assumption as I mentioned in Chapter 2. He says, "An important role of a people's government, however arbitrary a society's boundaries may appear from a historical point of view, is to be the representative and effective agent of a people as they take responsibility for their territory and the size of their population."⁶¹

To be sure, Rawls quickly adds that he is working within ideal or "strict compliance" theory which aims to provide principles of justice for well-ordered societies under "favourable circumstances". To his credit, he says that in the non-ideal case where boundaries are "often historically the outcome of violence and aggression, and some peoples are wrongly subjected to others, the law of peoples in its

nonideal part should, as far as possible, contain principles and standards -- or at least some guidelines -- for coping with these matters."⁶²

But an ideal theory which overly simplifies the crucial question of sovereignty by assuming states to be synonymous to a people is so "idealised" as to be inapplicable to the real world and its pressing problems. As Beitz tells us, "No arguments about human rights in other countries, humanitarian intervention or international distributive justice, for instance, can proceed ... without encountering the question of the foundations and significance of sovereignty as a norm of international conduct."⁶³ A proper analysis of these pressing issues in contemporary international justice requires that we grapple head-on with the difficult question of sovereignty, which in turn requires an examination of the relation between state and community.

Indeed, if we understand ideal theory (as Rawls himself understands it) to mean "strict compliance theory," that is, a theory which assumes that "the relevant concepts and principles are strictly complied with by all parties to the agreements made and that the requisite favourable conditions for liberal or hierarchical institutions are on hand,"⁶⁴ then there is no reason at all why an ideal global theory should begin by assuming states to be homogenous ethno-cultural units. All ideal theory so understood is entitled to assume is that states are both well-ordered and aptly endowed, and so would and could comply with the principles of justice arrived at. But there is nothing in this understanding of ideal global theory which requires or even permits the factoring or assuming away of the question of culture and political community. On the contrary, assuming states to be homogenous has misleading implications for the very principles we hope to arrive at, principles which ideal theory assumes all will comply with. It begs the very question under contention.

States in a Liberal World

We have seen that state communitarianism does not succeed as a general defence of sovereignty. First,

few states are moral communities in the way that is required to drive the communitarian argument; that is, few states are national-states. Second, even in the (rare) case of a national-state, which arguably could be a moral community of sorts, it does not follow from this that this state is entitled to the degree of internal sovereignty that Rawls and the state communitarians accord it. As I noted, accepting moral learning and practice to be contextual does not entail the impossibility of examining this context itself, even if this involves appealing to standards external to it.

But this does not mean that no states can ever have moral standing, nor that the state system is necessarily flawed. In so far as a state (in the rare case) actually constitutes a moral community and allows its citizens to exercise their basic rights, including the right to reevaluate its idea of public goods, it enjoys certain moral standing or legitimacy.

Nor is state communitarianism the only possible justification for states in the eyes of liberals. In the event that a multicultural state actually protects and promotes the flourishing of the admissible diverse ways of life within its territory, and that it does so in manner that is accepted by its citizens as fair and just, it achieves a certain (derivative) moral status. While there is no provision in such a case for a public ethno-cultural identity, we should not underestimate, as Joseph Carens argues, "the extent to which people from different cultures may create a common political culture" which can transcend these ethno-cultural differences.⁶⁵ It is not at all implausible that individuals of different ethno-cultural background can come to share a deep political culture organised around a commitment to certain ideals and values (e.g., the ideals of human rights or democracy). Jürgen Habermas writes that this shared loyalty and affinity to constitutional principles, what he calls "constitutional patriotism," "by no means has to be based on all citizens sharing the same language or the same ethnic and cultural origins."⁶⁶ The United States, Canada and Switzerland are considered prime examples of "constitutional patriotic" states. I do not mean to suggest that this kind of political affirmation is problem-free notwithstanding the differences in ethno-cultural identities, nor that such ties engendered by this common political affinity can be as deeply

binding as ethno-cultural ties, but only to indicate how a shared political culture could conceivably warrant a state's moral standing.⁶⁷

Likewise, it has been argued by some liberals that states can serve utilitarian function by allocating and assigning universal rights and duties which would otherwise remain "imperfect" because there are no a priori assigned agents to claim or bear them. Thus, states take on special responsibilities for their own citizens not because no one else has the responsibility, but because these duties are most effectively fulfilled (for geographical and administrative reasons, e.g.,) by assigning them to citizens' respective states. As Robert Goodin writes:

A great many general duties point to tasks that, for one reason or another are pursued more effectively if they are subdivided and particular people are assigned special responsibility for particular portions of the task.... National [sic] boundaries simply visit upon those particular state agents special responsibility for discharging those general obligations vis-à-vis those individuals who happen to be their own citizens.⁶⁸

Goodin's central thesis is that when a state fails to live up to its special responsibilities (vis-à-vis its citizens), these responsibilities fall (back) onto other states or the international community. But as long as a state lives up to its special responsibilities (with respect to its own citizens) it fulfils an important utilitarian purpose, and has subsequently some moral worth.⁶⁹

With regard to state borders as they currently exist, while many liberals are quick to point out their arbitrary nature,⁷⁰ and even argue in favour of secession (i.e., the redrawing of existing boundaries) when certain conditions obtain, they do not necessarily insist that all state borders be realigned and every nation be granted independent statehood.⁷¹ Some worry that doing this would "bring the international system into a condition of legal flux and make international law an agent of instability rather than stability."⁷² But more significantly, liberals point out that it is simply geographically and physically impossible to give every national community a state. Moreover, it has been pointed out that alternative means of granting autonomy to national groups are available, through "the establishment of national institutions, the formation of autonomous communities, or the establishment of federal or confederal

states."⁷³ Indeed, as James S. Anaya astutely calls to our attention, "in an increasing interdependent world in which the formal attributes of statehood mean less and less," the redrawing of state boundaries will become less and less significant than in an era in which sovereignty was absolute.⁷⁴ When sovereignty is no longer absolute and the laws within it final, it makes less difference whether a nation is an independent state or an autonomous region as part of a confederal state; both enjoy representation in the global community and are subjects of international law.

So, few liberals actually advocate that the world of states be replaced by a world state. Besides the fact that states can plausibly have certain moral worth for individuals in different ways (as described above), the idea of a world state worries liberals for a variety of reasons. Kant famously warned that a world state risks degenerating into a world tyranny and anarchy.⁷⁵ He also thought that a state of global proportions would be impracticable given the "strains of commitment" (to use the modern expression of Rawls's). A global state would be too dispersed, too stretched-out, to foster the level of individual commitments requisite for a functioning democratic government; "laws progressively lose their impact as the government increases its range."⁷⁶ Other liberals might worry about the homogenising effects of a central global state. And most poignantly, the idea of a world state seems to some to be hopelessly utopian, reachable perhaps only "in the wake of some global catastrophe" as Pogge graphically puts it.⁷⁷

What most liberals argue for, then, is less utopian although not politically insignificant. They urge that sovereignty no longer be absolute and stay concentrated at the level of states. Specifically, they propose that sovereignty be dispersed vertically, upwards towards supranational bodies, and also downwards towards particular communities within states.⁷⁸ Dispersing sovereignty towards international or regional institutions will offer different levels of protection for individuals against their own states. While states may remain the primary bearers of duties vis-à-vis their own citizens (for the sake of efficiency if nothing else), supranational institutions can ensure that this responsibility is carried out and be ready to take it over if necessary (as when a state reneges on its duties). Similarly, transferring

sovereignty to local communities will limit a given state's direct power over all persons within its territory. The state now is another level of appeal, and not the sole and final one.⁷⁹

This call for a dispersion of sovereignty is not a hopelessly utopian one (like the idea of a world state) but is in fact an idea already being actualised to some degree and put to test by the formation of the European Union, and more nascently by international organisations like the United Nations. "To be sure national sovereignty is fiercely defended, but at the same time there are examples of transfer of national power to transnational authority."⁸⁰ A thorough global-wide dispersion of sovereignty will significantly modify international relations practice as we currently know it, but "[o]ur task as philosophers is to try to imagine new, better [global] political structures and different, better moral sentiments. Yes we must be realistic, but not to the point of presenting to the parties in the original position the essentials of the status quo as unalterable facts."⁸¹

In short, a comprehensive liberal global theory will take human rights seriously enough to challenge the common conception of state sovereignty even if it does not rule out the state system altogether. But this need not make it a radically cosmopolitan or individualistic global theory, one which is unreceptive to the idea of the rights of nations. As I have argued in the last chapter, comprehensive liberalism is also supportive of diversity, and is willing and able to endorse the idea of group-specific rights. So, I shall argue next that a global theory based on comprehensive liberalism can endorse the rights of nations in spite of (or indeed because of) its individualistic and universalistic commitments.

ENDNOTES

1. John Rawls, "Law of Peoples," in On Human Rights, ed. Stephen Shute and Susan Hurley (New York: Basic Books, 1993), pp. 41-82, pp. 61-62. Recall the discussion in Chapter 2 of this work.

2. For arguments as to why freedom of speech is a prerequisite for a decent political society, see Mill famous treatment in On Liberty, chap. II.

3. As Frank Cunningham says, "The unique virtue of democratic institutions and practices is that they increasingly enable people sharing a social environment to make their environment conform to their wishes". Cunningham, The Real World of Democracy Revisited (Atlantic Highlands, N.J.: Humanities Press, 1994), p. 41. Also pp. 35-36.

4. This point, that a liberal order need not necessarily be democratic in the ordinary parliamentary form, is supported by Isaiah Berlin. He notes that "liberty in this sense [i.e., negative liberty or freedom from] is not incompatible with some kinds of autocracy, or at any rate with the absence of self-government. Liberty in this sense is principally concerned with the area of control, not with its source. Just as a democracy may, in fact, deprive the individual citizen of a great many liberties which he might have in some other form of society, so it is perfectly conceivable that a liberal-minded despot would allow his subjects a large measure of personal freedom." Berlin, "Two Concepts of Liberty" in his Four Essays on Liberty (Oxford: Oxford Univ. Press, 1969), p. 129. I owe this reference to David Dyzenhaus.

5. The exiled Tibetan Government in India is still very much a Theocracy in the sense that the spiritual leader of the people is still the formal political authority. But such an arrangement need not necessarily be nonliberal. Consider thus the attempts of the 14th Dalai Lama to dismantle the feudalism historically characteristic of Tibetan society by drafting "a new liberal and democratic constitution for his country, based on the principles of the doctrine of Lord Buddha and under the guidance of their [Tibetan's] religion and [the] Universal Declaration of Human Rights." P.N. Chopra, The Ocean of Wisdom: The life of the Dalai Lama XIV (New Delhi: Allied Publishers, 1986), p. 100. If what is actual must be possible, then a successful reformation of Tibetan politics will demonstrate the possibility of a Theocracy which is characteristically liberal.

6. It is important to bear in mind here the distinction between not tolerating and intervening as stressed in Chapter 3.

7. To recall, the fact that a state may be able to do less overseas than it can at home should not bear on the kinds of judgements it makes. The enforcement of moral judgements is a separate issue, independent of the judgements we ought to make.

8. The origin of this classical view of sovereignty can be traced back to the Peace of Westphalia in 1648, a European regional treaty which ended the Thirty Year War. Westphalia brought into inception three

features characteristic of classical international relations: a) states are the basic political unit in international relations, b) an established set of criteria for statehood, and c) the idea of non-interference with domestic affairs of states. See Daniel Philpott, "A Brief History of Sovereignty," Journal of International Affairs 48 (1995): 353-368.

9. Thomas Pogge, "Cosmopolitanism and Sovereignty," Ethics 103 (1992): 48-75, p. 58.

10. Charles Beitz, Political Theory and International Affairs (Princeton: Princeton Univ. Press, 1979), p. 121.

11. Jarat Chopra and Thomas G. Weiss, "Sovereignty is no Longer Sacrosanct: Codifying Humanitarian Intervention," Ethics and International Affairs 6 (1992): 95-117, p. 104.

12. Antonio Cassese, International Law in a Divided World (Oxford: Oxford Univ. Press, 1986), p. 289.

13. Rawls, "Law of Peoples", p. 49.

14. Cassese, p. 287.

15. Chopra and Weiss, p. 105.

16. Cassese, p. 131.

17. *Ibid.*, pp. 287-288.

18. Consider the international outcry over the wrongful execution of the Ogoni leader Ken Saro-Wiwa and eight of his associates. Many Asian states joined in the international condemnation of Nigeria at a Commonwealth Summit. Notice also the Asian response to the 1997 coup in Cambodia. "In the past, regional leaders clung to the notion of noninterference in each other's internal affairs. The ASEAN regional meeting last July [1997] marked a turning point. The Asian leaders lined up to criticize the coup and demand free elections." Keith B. Richburg, "Democracy on March Across East Asia," The Guardian Weekly 11 Jan. 1998, p. 15.

19. Cassese, p. 148. The Foreign Minister of Indonesia, Ali Alatas, concedes as much: "Indonesia and the ASEAN countries accept and recognize the universal validity of certain basic human rights and fundamental freedoms" even though he rejects how these rights are currently implemented. Quoted in Christina M. Cerna, "East Asian Approaches to Human Rights," Buffalo Journal of International Law 2/2 (1995): 201-213, p. 203. This does not mean of course that there are no cases of noncompliance with accepted universal human rights standards. But less than perfect enforcement of or compliance with a principle does not mean the principle is no longer in force.

20. Rawls, "Law of Peoples," p. 49.

21. As we can recall, up to the point where states are not "tyrannical" domestically, e.g., so long as they do not violate the basic rights of individuals to security and life, Rawls says they are states in "good-standing". But this leaves states free to deny their citizens other standard liberal rights -- like the rights to free expression, religious equality, and democracy -- which are essential for the full exercise of individual autonomy.

22. In fact some liberals who have a more forceful reading of The Universal Declaration of Human Rights and other international rights covenants will say that Rawls's view is more conservative than current international theory. But in any case, because international practice lags behind theory on this count, Rawls's stance simply affirms current international practice which tends to lay stress on state sovereignty barring very extraordinary cases of human rights violations.

23. See Pogge, "Egalitarian Law of Peoples," Philosophy and Public Affairs 23/3 (1994): 195-224 p. 215. See also Chapter 2 here.

24. Michael Walzer, Just and Unjust Wars (Basic Books: New York 1992), p. 59.

25. Cited in Peter Moody, Jr, "Asian Values," Journal of International Affairs 50/1 (1996): 166-92, p. 166.

26. Rawls, Political Liberalism (New York: Columbia Univ. Press, 1993), p. 142f. This is why many commentators find Rawls's implicit shift in his global theory towards stability for its own sake particularly distressing. See, for example, Stanley Hoffmann, "Dreams of a Just World," New York Review of Books 42 (2 Nov. 1995): pp. 52-57, p. 54; and Pogge. Some indeed argue that this modus vivendi is already implicit in his domestic theory. See Dyzenhaus, David. "Liberalism After the Fall." Philosophy and Social Criticism 22/3 (1996): 9-37.

27. Beitz, "The Reagan Doctrine in Nicaragua," in Problems of International Justice, ed. Steven Luper Foy (Boulder: Westview Press, 1988), p. 188.

28. Pogge, "An Egalitarian Law of the Peoples," p. 218.

29. Rawls, "Law of Peoples," pp. 60-62.

30. In his domestic justice, while Rawls accepts the communitarian claim concerning the constitutive nature of some of our ends, he nonetheless insists that qua citizens, individuals are free and equal. So while he concedes that individuals can be "communitarians" in private, he demands nonetheless that the public political institutions of the society be impeccably liberal. So in domestic political liberalism, communitarians get only half of what they want. But in his global justice, Rawls not only accepts that citizens need not be liberal citizens in their countries, but neither does he push for a truly liberal global order. State communitarians get all they are asking for here. For statements regarding Rawls's concession to the communitarians, see Kymlicka, Liberalism, Community and Culture (Oxford: Oxford Univ. Press, 1989), pp. 58-59 and Pogge.

31. To be fair, it seems that Walzer has now modified his state communitarian thesis. But because his so-called "communal integrity" defense of the state, first presented in *Just and Unjust Wars* and further defended in "Moral Standing of States," *Philosophy and Public Affairs* 9 (1980) 209-229, is one of the more complete and influential communitarian defenses of the state, I shall use him as a paradigmatic exponent of state communitarianism.

32. Walzer, "Moral Standing," p. 228.

33. Walzer, *Spheres of Justice* (New York: Basic Books, 1983), p. 28, my stress.

34. Walzer, "Moral Standing," p. 210.

35. *Ibid.*, p. 211, my emphasis.

36. I should point out that not all states qualify as moral communities for Walzer. In extreme cases where abuses are wide-spread and systemic, we may "doubt the very existence of a political community to which the principle of self-determination might apply." *Just and Unjust Wars*, p. 101. Rawls's stance on sovereignty more or less coincides with Walzer's. Both deny that tyrannical societies are entitled to non-intervention; yet both allow nonliberal societies to qualify as states with moral standing.

37. Alasdair MacIntyre, "Is Patriotism a Virtue?", *The Lindley Lectures*, Dept. of Philosophy, Univ. of Kansas (1984), pp. 8, 10.

38. *Ibid.*, p. 11.

39. The above communitarian accounts of the moral standing of states are reminiscent of the views of Carl Schmitt who, as Dyzenhaus points out, held that a "successful sovereign decision would be one which got its legitimacy by articulating a vision of the Volk or people which meets with the acclaim of some significant and homogenous segment of the population." Dyzenhaus, p. 13.

40. Mervyn Frost, *Ethics in International Relations: A Constitutive Theory* (Cambridge: Cambridge Univ. Press, 1996), pp. 138, 141.

41. *Ibid.*, p. 148, my stress.

42. Will Kymlicka, *Liberalism, Community and Culture* (Oxford: Oxford Univ. Press, 1989); Yael Tamir, *Liberal Nationalism* (Princeton: Princeton Univ. Press, 1993).

43. Tamir, pp. 22-25.

44. Kymlicka, pp. 164, 164-65.

45. Joseph Raz, "Multiculturalism: A Liberal Perspective," in Ethics in the Public Domain (Oxford: Oxford Univ. Press, 1994): 155-76, p. 162.

46. Cited in Tamir, p. 16, my stress.

47. "Culture" as used throughout this dissertation refers to culture in this ethnic sense. The modifier "ethno" is explicitly invoked when a contrast, say with political culture, is required. The fatal error we should avoid though is to treat 'ethnicity' as synonymous to 'race' as is so commonly done. Social anthropologists have long argued that ethnicity unlike the (dubious) concept of race is a social rather than a biological concept. Thus the common way of life with a shared language, values, history and customs the communitarians speak of characterizes an ethno-cultural group but may or may not any pick out a racial group.

48. David Miller, On Nationality (Oxford: Oxford Univ. Press, 1995), p. 20. See also Frank Cunningham who puts this in terms of "pluralistic nationalism." "The Canada/Quebec Conundrum: A Trinational Perspective," Constitutional Forum 8/4 (1997), Canada's Prospects Series (Special Issue), ed., Janet Ajzenstat and Caroline Bayard, 119-129. The United States, Canada and Switzerland are possible examples of multiethnic or pluralistic nation-states. These are only approximations of course, like any real world instantiations of ideal models, and so admit of some exceptions (Miller p. 20n). And there is nothing about these being nation-states which makes them necessarily liberal or illiberal. I will pick up this thread again in a later section and in next chapter.

49. Benedict Anderson, Imagined Communities, rev. ed. (London: Verso, 1991), p. 7.

50. As Kymlicka has argued, such binding ties between individuals who do not share a common cultural identity are rarely witnessed. Kymlicka, Multicultural Citizenship, chap. 9.

51. See, for example, Hurst Hannum, Autonomy, Sovereignty, and Self-Determination (Philadelphia: Univ. of Pennsylvania Press, 1990), p. 26; also David Miller, pp. 18-21; Tamir, pp. 58-63.

52. Richard Falk, "Evasions of Sovereignty," in Contending Sovereignties: Redefining Political Community, ed. R.B.J. Walker and Saul H. Mendlovitz (London: Lynne Rienner Publishers, 1990), p. 62.

53. Hugh Seton-Watson, Nations and States (Boulder: Westview Press, 1977), p. 1.

54. Walzer, Just and Unjust Wars, p. 89.

55. Walzer, Spheres of Justice, pp. 28-9.

56. Kymlicka, Liberalism, Community and Culture, p. 223.

57. Hannum, p. 26.

58. This point was suggested to me by Frank Cunningham. See also Kymlicka, Liberalism, Community and Culture, chaps. 11 and 12.

59. Kymlicka, Liberalism, Community and Culture, pp. 57-58. Likewise, Tamir says "embeddness and choice are not necessarily antithetical." p. 14. Of course, revising our constitutive ends is usually done in a piecemeal fashion.

60. See Beitz's discussion in "Sovereignty and Morality in International Affairs," in Political Theory Today (ed.) Held, David (Stanford: Stanford Univ. Press, 1991), pp. 252-54.

61. Rawls, "Law of Peoples," p. 56, my emphases.

62. *Ibid.*, p. 57.

63. Beitz, "Sovereignty and Morality," p. 237. See also Stanley Hoffman, "Dreams of a Just World," New York Review of Books Nov. 2 1995: 52-57, p. 53.

64. Rawls, "Law of Peoples," p. 52.

65. Joseph Carens, "Complex Justice, Cultural Difference, and Political Community," in Pluralism, Justice, and Equality, ed. David Miller and Michael Walzer (Oxford: Oxford Univ. Press, 1995), p. 64n.

66. Jürgen Habermas, "Citizenship And National Identity: Some Reflections On The Future Of Europe," Praxis International 12/1 (1992): 1-19, p. 7.

67. Andrew Mason has also recent provided another liberal defense of the state as having constitutive worth but more along the lines of Raz's defense of friendship rather than along those of Frost. See Mason, "Special Obligations to Compatriots" Ethics 107 (April 1997): 427-447.

68. Goodin, "What is so Special about Our Fellow Countrymen?" Ethics 98 (1988): 663-86, pp. 679-80.

69. Given the different possibilities of justifying a state's standing, it is odd that Mervyn Frost, in his attempt to "justify and reconcile [the] two sets of seemingly antagonistic norms.... the norms which assert that state sovereignty and the preservation of the state system is a good, and those norms premised upon the notion that individual human rights are a basic good" (Frost, p. 138), should insist that the only possible justification for state sovereignty is his constitutive theory, the idea that a person is fully constituted as a moral agent only by being a citizen of a state. He argues, "The state ... should not be seen as a device which protects individual rights, but as a comprehensive arrangement between people who by mutually recognizing one another in certain specified ways come to constitute one another as free individuals" (p. 151). Frost rejects the idea that states are protectors of human rights, inter alia, on the grounds that the state is often the major violator of rights (p. 126). What is highly curious here is that Frost should confine the applicability of his constitutive theory to "good states" and yet use the evidence of "bad states" to reject the "state as a

protector of rights" argument. As he admits, "Patently such individual freedom is not constituted by just any kind of state. In some kinds of state there is no provision made for private willing, private judgement and private conscience..." (p. 149, my emphases). But if we confine our theories to good state, we can as easily defend a consent theory or rights-based justification of state sovereignty.

70. See Beitz, "Sovereignty and Morality," Hoffman and Pogge.

71. See, e.g., Allen Buchanan, The Legitimacy of Political Divorce (Boulder: Westview Press, 1991).

72. James Anaya, "The Capacity of International Law to Advance Ethnic or Nationality Rights Claims" in The Rights of Minority Cultures (ed) Will Kymlicka (Oxford: Oxford Univ. Press, 1996): 320-330, p. 324.

73. Tamir, p. 75.

74. Anaya, pp. 325-26.

75. Kant, "Perpetual Peace," in Kant's Political Writings, trans and ed. Hans Reiss, 2nd ed. (Cambridge: Cambridge Univ. Press, 1991), p. 113.

76. Ibid.

77. Pogge, "Cosmopolitanism," p. 63.

78. Kant, for instance, proposes a federalism which will "[extend] gradually to encompass all states and thus leading to perpetual peace." Kant, p. 104.

79. See Pogge, "Cosmopolitanism," pp. 61-69.

80. Cunningham, p. 146.

81. Pogge, "Egalitarian Law of Peoples," p. 224.

CHAPTER FIVE
THE RIGHTS OF PEOPLES

I have argued that a comprehensive liberal global theory, because of its universal commitment to individual ethical autonomy, rejects the idea of absolute state sovereignty and reformulates sovereignty more radically than Rawls's theory does. But, nonetheless, it is not a radically individualistic or cosmopolitan theory incompatible with the idea of group or collective rights. On the contrary, it is a global theory able to support the internationally accepted idea of the rights of peoples or nations.¹ Our quarrel with an absolutist conception of state sovereignty, to recall, is that states rarely coincide with a national community or a people and not because it is an expression of a collective right.

We saw in Chapter 3 why comprehensive liberalism, unlike political liberalism, is able to accommodate the idea of group or collective rights. But this sensitivity of comprehensive liberalism to collective rights must not be read as a compromise of its universalistic commitments. Rather, its universalistic commitment to individual autonomy requires that it also endorse certain particularistic values and ideals on the ground that these provide the necessary precondition for the exercise of individual autonomy. That is, the particularism of comprehensive liberalism is entailed by its universalism.

This last remark may sound contradictory to some for the dispute between particularism and universalism is commonly read as a conflict between two fundamentally different and irreconcilable conceptions of morality -- one which takes morality to begin from universal and impersonal premises and another which holds morality to start from particular and partial ones. But another way of understanding particularism and universalism is to see them as referring not so much to different conceptions of morality as to the different implications of substantive moral principles within a single moral conception. To elaborate, universalism holds that moral standards are universal and apply to all persons equally and

impartially, whereas particularism is the view that moral standards are context-sensitive and partial to specific social contingencies. But nothing from the above description necessitates tying either universalism or particularism to a universalistic or particularistic conception of morality respectively. On the contrary, particularistic moral principles can be easily derived from a universalistic moral standpoint. As Alan Gewirth has argued, "the ethical universalist principle of equal human rights can justify various forms of ethical particularism ranging from familial preferences to special concern for one's own country.... [This is] because the social rules and institutions authorized by the ethical universalist principle provide for diverse and special role and modes of treatment, and these include various kinds of partiality and inequalities of treatment."²

Similarly, Michael Walzer in his more recent writings proposes to understand particularism in terms of universalism, as an ideal derived from a universalistic moral point of view. He now wants, as he puts it, to defend particularism "from within what [he], and many others, have taken to be the opposing camp" by arguing for a "universalism ... which encompasses and perhaps even helps to explain the appeal of moral particularism."³ Under what he calls "reiterative universalism," universal values can take on particularistic expressions or implications when applied or given content. "Independence, inner direction, individualism, self-determination, self-government, freedom, autonomy: all these can be regarded as universal values, but they all have particularist implications.... Reiterated acts of self-determination produce a world of difference."⁴

Given this interdependency between particularism and universalism, it is not difficult to see how liberalism can reconcile the "general conflict between the cosmopolitan and the national ideals of political organisation" (as Henry Sigwick once put it) in normative international relations theory.⁵ This global tension between universalistic and particularistic norms is vividly portrayed in the United Nations Charter which enjoins the "respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion" while simultaneously defending the "respect for the principle of equal

rights and self-determination of peoples.¹⁶ But if we see these two seemingly opposing global norms as interdependent in the way described above -- i.e., a universal commitment to individual autonomy entails the respect and even protection of the particular communities within which such autonomy can be realised -- then the tension between them is not necessarily irreconcilable. We need not regard these two norms as stemming from diametrically opposed normative traditions, but treat one (particularism) as a derivative or consequence of the other (universalism).

It is, of course, imperative here that "nations" or "peoples" are not assumed to be coextensive or coterminous with "states" as we discussed in the last chapter. Because states do not necessarily constitute a community in the morally relevant sense, they do not necessarily provide "the context of choice" requisite for situating individual rights and freedoms. We thus may not be able to reconcile the particular claims of states with the universal claims of human rights in the same way we can reconcile the claims of peoples or nations with the rights of individuals. In the case of nations, we need only to show how nationality provides the cultural context of choice for individuals to meaningfully choose and pursue their ideas of the good. In the case of states, we need to make the extra move, a step whose success cannot be guaranteed in the real world, of showing how a given political society actually represents or at least protects this context of choice. I do not rule out that this can happen or does occur -- in contexts in which states do represent a viable culture (in the case of a national-state) or when states do indeed protect the diversity of cultures within their borders (in the case of a just multinational state), then statehood and its accompanying particular claims are compatible with a universalistic normative theory (Chapter 4). But while a liberal-individualistic perspective can regard the collective rights of a nation as inextricably tied to the individual rights of its members, it can only take the rights of states to be conditional on whether a state actually represents or protects the cultural conditions for choice of its citizens.

My aim in this chapter is to establish only the first step; I hope to show how the particularism of nationality and the universalism of liberal individualism are complementary. I will start with a short

discussion on the commonly cited rights of nations, explaining the sense in which these are collective or group-specific rights and how they fit within an individualistic moral framework. Then, relying on recent work done on liberal nationalism, I recount the relationship between liberal and national ideals, noting why these are not necessarily incompatible ideals but very much complementary. I next argue why a liberal concern for the nation translates into nations' or peoples' rights, that is, why these rights do not contradict the liberal ideal that individuals be accorded "equal respect and concern."⁷ Finally, I address the common worry that collective rights pose a threat to individual rights.

International Collective Rights

From a liberal-individualistic perspective, collective or group rights (I shall use the two interchangeably) derive their moral force from the rights of the individuals members of the collectivity. Collectivities are granted special rights because of their significance to their respective individual members and not because collectivities in themselves are the bearers of rights. The controversial claim that collectivities have rights in and of themselves because they enjoy some transcendental metaphysical status is avoided by this understanding of collective rights.⁸

Under a liberal reading, therefore, collective rights are, strictly speaking, individual rights in that they are ultimately rights claimable by individuals. What gives these rights their "collective" dimension is that they are rights which are due to persons by virtue of their membership in particular collectivities -- they are rights claimable by specified persons and not universally claimable by all individuals. To illustrate, consider the case of a language right. While this remains fundamentally a right exercised by individuals, it has the status of a collective right since it is a right relevant only to speakers of the language specified by that right and does not apply to individuals outside that linguistic group.

Not surprisingly then, some philosophers suggest that it is less misleading to talk of group-differentiated or group-specific rights rather than of group or collective rights.⁹ Contrasting collective

rights with individual rights conveys the impression that only the latter pertain to individuals when they both are, as explained above, essentially rights of individuals. But because the term "collective right" is the common term used in international discourse (even by those who regard these rights to be fundamentally the rights of individuals) I shall continue to use this terminology in my discussion. And when I contrast collective rights with individual rights (or human rights), as is commonly done in the literature, I mean by this the contrast between group-differentiated individual rights and universal individual rights -- that is, between rights applicable to selected individuals because of their cultural or ethnic membership and rights universally applicable to all regardless of their cultural or ethnic background.

The proposed international collective rights, sometimes known as the third generation of human rights, include the rights of peoples to self-determination, to development, to sovereignty over their natural resources and to a cultural identity.¹⁰ The Universal Declaration of the Rights of Peoples (1976) says, for instance, that "Every people has the right to existence" (Article 1), "Every people has an imprescriptible and unalienable right to self-determination" (Article 5), "Every people has an exclusive right over its natural wealth and resources" (Article 8) and "Every people has the right to speak its own language and preserve and develop its own culture" (Article 13).¹¹

Other international declarations, like the UNESCO Declaration of International Cultural Cooperation (1966) and the UNESCO Convention for the Protection of the World Cultural and National Heritage (1972), stress the right of a people to a cultural identity.¹² The 1966 Declaration proclaims the rights of peoples to develop their culture and to engage in cultural cooperation; the 1972 Convention calls for international cooperation and support in the preservation of cultural sites and heritages of peoples. Consider also the United Nations' Declaration on the Right to Development (1986), which, as one observer explains, holds the "'right to development [to be] an inalienable right' devolving on both persons and peoples."¹³

While these rights in the abstract are universal in that they are rights accruing to all peoples, they take particular forms and have particular implications when specified and claimed. Michael Walzer calls this, if we may recall, "reiterative universalism" -- the idea that values, while universally applicable in their abstract form, can "take concrete form only in particular expressions with particularistic implications."¹⁴ The right to development implies that nations belonging to the so-called "less developed" or "underdeveloped" countries are entitled special considerations developed countries are not. The right to "preserve and develop" one's cultural identity also requires giving special rights to some nations but not others. For example, in North America, the mainstream Anglophone culture as a group does not need the special support the French and Aboriginal cultures need (language rights, self-government rights and so on) to ensure their cultural survival and flourishing; hence taking the cultural rights of the latter groups seriously would require giving them these special considerations. As a final example, the right of self-determination, again although a universal right in its abstract form, takes on particular expressions when specified and exercised. For some nations, self-determination may require statehood, for others greater autonomy within a federated state may suffice. Likewise, groups attaining self-determination can order their political institutions in different ways, reflect different cultural views in their public spheres, have different criteria for membership, give different preferences to the needs of fellow nationals over foreigners and so on. Peoples' rights are thus rights with particular and specific implications; in their precise expression and application they become nation-specific rights -- rights to which members of specified nations are entitled but not outsiders.

We can well recall that Rawls's global theory barely mentions the rights of peoples, other than the right of self-determination (and even then this is restricted to the negative right to non-intervention), the right not to be forced into war, and other negative rights of forbearance. This deficiency in Rawls's global theory is not simply the result of his applying mistakenly his political liberalism to global relations but is actually a reflection of a basic problem with political liberalism itself. As I argued in Chapter 3, because

of its restriction to the political and (hence its) insistence on being impartial and indifferent between (reasonable) cultural ways of life, political liberalism not only stresses toleration at the expense of individual liberty but is also unwilling to recognise collective rights for fear that endorsing these rights compromises its impartiality. Similarly in the global context, it seems that Rawls worries that endorsing the idea of peoples' rights would also violate the impartiality of global liberalism.

But why is this lack (of peoples' rights) a deficiency from the liberal point of view? As in the case of domestic collective rights, to answer this question, we need to demonstrate two things: first, that nationality is an important liberal value, and second, that nationality is not equally secure for all individuals in the world and hence the legitimate need to grant some nations special rights to compensate for this inequality.¹⁵ I shall argue for these two points in turn below.

Nations and Liberals

Anthony D. Smith writes that "[n]ational identity ... remains widely attractive and effective and is felt by many people to satisfy their needs for cultural fulfilment, rootedness, security and fraternity.... [N]ations are linked by the chains of memory, myth and symbol to that widespread and enduring type of community, the ethnie, and this is what gives them their unique character and their profound hold over the feelings and imaginations of so many people."¹⁶ Yet, it has been commonly assumed that national affiliations and liberal ideals are diametrically at odds. Liberalism, it is believed, urges impartial and impersonal reasoning; to act morally from the liberal view point requires one to abstract herself from all social particularity and contingencies. Nationality, on the other hand, is partial and personal; it reflects and affirms rather than denies particular and special relationships, historical ties, and tradition.¹⁷ But this perceived opposition between liberalism and nationality is a misconception, as many liberals have recently shown us. Rather than being conceptually at odds, these ideals are not only compatible but also complementary.

First, let me say what I take the nation to be. The exact definition of a nation is still hotly contested in the literature, but most of us can agree with Yael Tamir that "a group is defined as a nation if it exhibits both a sufficient number of shared objective characteristics ... and self-awareness of its distinctness."¹⁸ But we should add to Tamir's working definition two further important conditions: That the national group occupies a territory or homeland and "that the people making it up have the will and the ability collectively to carry on large-scale transgenerational projects to preserve and promote that about their nation with which they identify."¹⁹ Unlike other cultural groupings, people making up a nation are sometimes motivated to form a separate state (to pursue the long-term objectives) and thanks, among other factors, to occupying a common territory, they could realistically do this.²⁰ It is worth noting at this point that while secessionist movements may sometimes be justified, the mere ability of a nation to become a state does not confer upon it the right to become one. Such a right should depend, among other things, upon whether or how secession would affect minorities within a seceding nation or the rights of individuals in a state seceded from.²¹

What counts as objective traits varies from group to group and from time to time. For Quebeckers vis-à-vis the rest of Canada, it is currently language (although religion was once another trait); for aboriginal communities in North America, it is history, religion and territory. For yet others, ancestry is the defining trait. For instance, Japanese or German nationality is very much ancestrally determined (the problem in these two cases becomes additionally complicated because nationality is also a criterion for citizenship). It should be clear here then that "objective traits" does not refer to some fixed or permanent features of a community, nor does it imply an essentialistic conception of culture as an entity defined by certain necessary and sufficient criteria. Rather the objective traits are just those characteristics of a community which collectively allow its members to distinguish themselves from other communities. This should not rule out the possibility of their being 'constructed' or 'invented'. In fact, such objective traits can be successfully created concurrently with a nationalist movement. For instance, a language not held in

common in a community may be elevated to the status of a national language (as in Hungary in the middle of the nineteenth century), or a largely oral language may be transformed into a print language (as in Bohemia) as part of the national consciousness building.²² Or consider the well documented "Speak Mandarin" policy in Singapore which aims to foster a common sense of national identity among the various (mostly southern) Chinese dialect groups who collectively form the majority in the post-independence country.

But besides having some of these objective traits and a territorial base, it is essential that members of the group see themselves as belonging to a distinct and historical community. A nation is thus, as Benedict Anderson puts it, an "imagined community" because even though "members of even the smallest nation will never know most of their fellow-members ... yet in the minds of each lives the image of their communion."²³ So, while the existence of a nation requires that outsiders are able to perceive it as a distinct nation (hence the importance of the 'objective' traits condition), it is also necessary that individuals of that collectivity perceive themselves as members of a distinct national community in the sense of being engaged in some joint historic project.

In short, a nation must be self-ascribed in the sense that members of the group perceive themselves as constituting a nation; and for this perception to work, it must have some 'objective' characteristics which can be highlighted (or even created) to demarcate it from other groups. Furthermore, it must occupy (even if just historically or even potentially) a territory. Finally, it must be regarded by its members as a historical community whose past and continuity into the future is highly valued.²⁴

Now, for much of the history of modern political thought, nations and liberals have enjoyed at best an ambivalent relationship. Michael J. Smith writes that although historically "many liberals see no conflict between the apparently particularist doctrines of nationality and the claims of liberalism itself... [l]iberals writing after the world wars, with fresh evidence of the evils of nationalism... deplored [it] as an atavism, a barrier to enlightenment, an illiberal doctrine which prevents those who mistakenly cling to it

from recognizing their genuine interests.²⁵ They have come to view nationalism as "irrational and almost inevitably dangerous."²⁶ But, Smith continues, "[a]t the same time, liberals continue to applaud [national] self-determination, especially in the guise of anti-colonialism. They seem to believe that the particularist doctrine of nationalism can be transcended by a universal conception of the self-determination of peoples." However, he laments that "liberals have never solved the problem of how and whether one can have the good effect of the latter without the ill effects of the former."²⁷

But in recent times, the nation has been making a welcome return in liberal thought. Partly due to the resurgence of nationalist movements in the past few years, but partly also due to the criticisms of the 'communitarian' theorists, liberalism has been forced to clarify and make explicit its own relationship with the community, in particular the nation, and its place in liberal political morality (Chapter 1). As a result, the nation, once relegated to the background of liberal theory, and even openly derided by some liberals, has been brought back to the fore and accepted as a legitimate subject of liberal concern. Many liberals now argue that ideals of nationality and liberalism are not conceptually at odds, as commonly perceived in the recent past, but are indeed complementary ideals.

Thus in her Liberal Nationalism, Tamir "suggests that the liberal tradition, with its respect for personal autonomy, reflection, and choice, and the national tradition, with its emphasis on belonging, loyalty, and solidarity, although generally seen as mutually exclusive, can indeed accommodate one another. Liberals can acknowledge the importance of belonging, membership, and cultural affiliations, as well as the particular moral commitments that follow from them."²⁸ The reason why liberals can (and indeed must) acknowledge the nation is because

[nationality] contextualises human actions, no matter how mundane, making them part of a continuous creative effort whereby culture is made and remade. Insofar as every action within a national entity is endowed with this additional dimension, individuals living within national frameworks enjoy options unavailable to those outside them. It is in this sense that national frameworks can be said to bestow extra merit on social, cultural, or political acts, and to provide individuals with additional channels for self-fulfillment that make their lives more meaningful.²⁹

Similarly, Kymlicka argues that nationality "provides us with an intelligible context of choice, and a secure sense of identity and belonging, that we call upon in confronting questions about personal values and projects."³⁰ And Joseph Raz in his liberal defence of national self-determination tells us that "[i]ndividual well-being depends on the successful pursuit of worthwhile goals and relationships. Goals and relationships are culturally determined.... [I]t means that those goals themselves are ... the creatures of society, the products of culture."³¹

What these liberals have shown us is that despite liberalism's individualistic commitments, liberal morality can, and indeed must, accommodate nationality (and its accompanying particularist claims) because national membership provides the precondition for the exercise of individual autonomy. Membership in a national community is an important liberal good because it defines our options and gives meanings and worth to our choices.

Kymlicka, Raz and Tamir, among others, not only argue that liberalism must accommodate national claims, but they also point out that this acceptance of nationality was very much part of the liberal tradition in its earlier incarnations and has in fact remained implicit in liberal thought throughout. "[T]here is a long standing, though much [recently] denied alliance between liberal and national ideas" which Tamir refers to as the "hidden agenda" of liberal theory.³² They point out that "liberal theorists have generally, *if implicitly* [my stress], accepted that cultures or nations are basic [social] units of liberal political theory ... [the unstated assumption is that] liberal goals are achieved in and through a liberalised societal culture or nation."³³ Thus, the commonly held belief "that liberals have always opposed ... [the values of] ethnicity and nationality" is a only recent misconception in the liberal tradition.³⁴

It is the cultural component of nations which makes them the relevant social units for liberals. Nations constitute what Kymlicka calls "societal cultures", namely cultural communities "whose practices and institutions cover the full range of human activities, encompassing both public and private life."³⁵ In a similar vein, Raz calls nations "encompassing groups" with "pervasive cultures". Individuals find in their

nationality "a culture which shapes to a large degree their tastes and opportunities, and which provides an anchor for their self-identification and the safety of effortless, secure belonging."³⁶

We may notice here that nations differ from other kinds of ethno-cultural communities (like immigrant communities) in that in the case of the latter, besides the fact that these are not territorially based social units, their "distinctiveness is manifested primarily in their family lives and in voluntary associations, and is not inconsistent with their institutional integration."³⁷ Immigrant communities, for example, do not form societal cultures because individual members of these communities "participate within the public institutions of the dominant culture(s) and speak the dominant language(s) [in the public sphere]."³⁸ Their cultural expressions are confined largely to the nonpolitical sphere -- to private associations, the home, and in their private interactions. Compare these communities with national groups like the Aboriginal communities in North America, Quebec in Canada, East Timor in Indonesia, Tibet in China and the Kurds in Iraq and Turkey which constitute societal cultures. Despite enormous pressures from their respective states to assimilate them in the case of some, the national cultures in these groups (continue to) inform not just private but public life as well. For instance, national languages are used not just in the private sphere (like the home) but also in the public discourse as well (as in Quebec). Likewise, national religion is not just a private way of life but can inform public and political affairs (as in Tibet). Indeed some of these groups maintain separate and different legal and political institutions from those of their respective state governments (as with some aboriginal communities in N. America).

For the purpose of differentiating between nations and other kinds of cultural (e.g., immigrant) communities, we may refer to the latter as ethnic communities and use nations to specifically refer to the former.³⁹ This is an important distinction because while both nations and ethnic communities can be the claimants of cultural rights of some sort, the specific kinds of collective rights each can legitimately (and indeed do) claim are quite different in form.⁴⁰ Specifically, the entire range of international collective rights or the rights of peoples are claimable in principle only by nations. The right to self-determination,

the right to sovereignty over natural resources, for instance, are rights which are relevant only to groups with (or at least potentially with) a territorial component and a public political culture.

One might respond that this liberal justification of national self-determination and other national rights on the basis of individual autonomy misses something central underlying claims for nationhood. Nationalists often do not couch their goals on the basis of individual autonomy but on non-individualistic terms like solidarity, historical connection and national survival for its own sake. Thus liberalism fails to provide a satisfactory theory of nationalism.

However, this objection makes too much of how claims are actually articulated. People may not articulate their nationalistic attachments in individualistic terms, and in fact they may refuse to do so; but this seems to me to be a matter of how goals are described and presented, and not what the goals themselves are or ought to be. What is at the core of the liberal defense of nationality is that nationality is, in the end, valuable because of what it means to persons (and not because the nation has some transcendental moral worth in itself), that how well a person's life fares -- what options are in the end open to her -- is intimately connected, for a variety of reasons and articulated in a variety of ways, on how her nation as a whole fares. No matter how these national claims are put forward, I can't see why they are not in the end claims about the worth of the nation to individual persons, about how the nation adds meaning to people's lives and choices. Invoking Walzer's notion of reiterative universalism again, universalistic ideals can take on particularistic expressions; the universal value of autonomy should be kept distinct from the (possible) particular content and expression of autonomy.

It is important here not to confuse individualistic and autonomy-based justifications with egoistical or self-interested ones, a confusion which seems to me to be at the base of many of the expressed discomfort with talk of individual autonomy. Grounding national rights on individual autonomy does not reduce the value of nationality to selfish and self-centered interests. One may care for a nation because of the sense of solidarity and community it engenders, which add worth to one's life.

Yet, it is clear that this does not reduce the worth of nationality to self-interest even as the nation is valued because of what it means to that person.

But more to the point, it is not merely of psycho-philosophical interest whether or not the worth of nationality derives from autonomy or some other non-individualistic ideal. How we justify national claims has the crucial function of determining the kinds of nationalistic claims we ought to morally condone or support. Justifying nationalistic claims on the principle of autonomy sets the conditions and terms for the legitimate realization of nationalistic goals. This last point is exceptionally poignant in an era where resurgent nationalistic claims are responsible for incomparable human suffering and pain. Against those who not only fail to express their nationalistic ambitions in terms of autonomy but whose national goals are characteristically anti-liberal and harmful to the rights and freedom of individuals (especially of individuals belonging to minority groups), liberals will have to take a firm stance and deny the acceptability of these national claims. Intellectually, against the protestations of these nationalists, liberals will have to unflinchingly defend the ideal of individual autonomy, invoking their comprehensive moral and philosophical doctrines if necessary; strategically, all the liberal community can do is perhaps to contain, forcefully if necessary, these rights-violating ambitions. So if one makes the stronger objection that liberalism is inadequate because it cannot ground all nationalistic claims, the response will be that this is precisely one of the aims of a liberal theory of nationalism -- to set aside morally indefensible nationalistic claims from defensible ones.

So the liberal defence of the nation does not pretend that all national ideals and values are necessarily consistent with liberal principles. Some national practices may not respect individual autonomy (and other liberal values) let alone serve as the context of choice for the exercise thereof. There is no denial that a liberal global order can accommodate only national practices which are basically liberal in character. The point argued for here is that the special and particular affiliations and ties engendered by (characteristically liberal) nations are nonetheless values liberals can take a legitimate interest in. How

liberalism should respond to nonliberal national cultures -- that is, with nations sustaining practices contrary to the ideal of individual autonomy -- is a question I reserve for Chapter 6 where I explore the limits of pluralism. What I want to do next is to show how the liberal concern with nationality translates into a defence of international collective rights.

Liberal Justice and National Rights

As I mentioned, a liberal justification of international collective rights, in addition to showing nationality to be a liberal good, must also show why granting some individuals special rights on the basis of their nationality does not violate the liberal commitment to treating individuals with equal respect and concern. It does not immediately follow that there should be nation-specific rights just because nationality is of value. Indeed, absent an argument to the contrary, given the importance of nationality for individual well-being, it seems all the more plausible that no particular nationality should be given special preference in the name of fairness. But, as we shall see, the idea of peoples' rights not only does not contradict liberal equality but is required by it.

For one, peoples' rights aim partly at correcting historical injustices. Take the right to self-determination. This right was invoked originally to provide an argument for granting independence to subject peoples.⁴¹ Understood as a principle of national liberation, the right of a people to self-determination can hardly be thought to contradict liberal justice; instead it is clear that it aims primarily to rectify the wrongful subjugation of peoples. Compensating for the effects of, say, colonialism calls for more than political independence -- it also requires cultural independence as well "because that [is] the only way [colonial peoples] could assert themselves, justify their rights as a nation, a community, responsible for its own existence."⁴² Colonial rule not only stripped many peoples of the world of their cultural tangibles (as when local art and treasures were shipped away to foreign museums), but also imposed, through education and governance, foreign cultures at the expense of local ones. Thus

compensatory justice for the misdeeds of colonialism would require other kinds of peoples' rights in addition to the formal recognition of self-determination, including the right to demand the restitution of cultural properties taken from their places of origin, to request international aid and assistance (e.g., in education, supporting cultural activities and exchanges) to help the recovery and revitalisation of a people's cultural identity and heritage.

But the rights of nations do not simply aim to correct past global injustices. More significantly, they also aim to rectify prevailing inequality in global conditions. In the domestic context, as we have seen, collective rights do not violate liberalism's equal concern clause because these rights aim to compensate (as far as it is possible -- complete equality is not possible here) minority cultures for their disadvantaged cultural status.⁴³ Ascribing collective rights to minority groups, thereby restoring some equality in the conditions for exercising free choice, does not violate liberal justice but is in fact required by it.

This need to protect domestic minority cultures has important implications for global justice. The special rights minorities are entitled to must be endorsed and defended by the international community as well if we take the protection of minority cultures seriously. Experience has shown us that few states can be entrusted to promote and respect the cultures of their minorities on their own. The plights of indigenous peoples in the world, the Kurds in Iraq, the Ogonis in Nigeria, Tibetans in China are just some reasons why protecting minority rights cannot be left to their respective states alone. Giving minority rights international recognition by affirming these rights in various international minority rights bills and treaties, will buttress the claims minorities have against their states.⁴⁴ They can now count on the international community for (moral and legal) support should their rights be illegitimately denied by their respective states. When these rights are internationally recognised, states are duty-bound, and answerable to a higher (i.e., international) authority, to protect and respect the rights of their own minorities.

But besides protecting the rights of minorities within their states, international collective rights

also mitigate prevailing global inequalities, i.e., inequalities between the different national communities of the world. To be sure, there is no formal global political culture (i.e., a global state) which, in turn, inadvertently reflects the values and ideals of some nations and alienates others (which is one of the important reasons for collective rights in the domestic sphere). Nonetheless, there are other kinds of global inequalities which are more pronounced than in the domestic context and which have detrimental effects on the cultural identity of many nations.

The most obvious global disparity is the drastic imbalance in the distribution of the world's wealth and resources.⁴⁵ One immediate response to this problem would be to implement a global principle of distributive justice, and I shall examine this issue in greater detail in a later chapter. Here I want to point out that alleviating global economic inequality requires more than just universally and impartially enforcing the right of individuals to basic subsistence. Restoring the global economic imbalance requires also the recognition of certain collective rights, like the right of a people to development. That is, what is required as well, besides the universal enforcement of individual rights, is the granting of special rights and privileges to certain nations whose economies are considered "less developed or under developed". These rights may vary in kind and extent depending on the developmental level of the specific countries in question. They can include international financial institutions granting poorer nations concessional rates on loans according to their economic capacities, exempting poorer countries from certain international regulations (e.g., the rules regulating deep-sea fishing and sea-bed mining); it may well also require richer countries to offer poorer ones favourable trade terms, to provide them with developmental aid and assistance, and so forth. Yet, rather than being arbitrary or in violation of liberalism's own equality clause, the right to development, and the series of special rights corollary to it, aim to equalise the conditions under which the different nations of the world compete.⁴⁶ While the right to development is not in the first instance strictly speaking a cultural right, it has important cultural implications for the very plain reason that a healthy and adequately nourished population is better able to sustain its culture.

Global economic inequality not only hurts the economic well-being of peoples of poor nations, but also has severe direct cultural consequences. As Boutros Boutros-Ghali noted, "the culture of the rich countries, the consumer societies, manages to impose itself; manages even, to some extent, to place in jeopardy the culture that is sometimes referred to ... as traditional culture."⁴⁷ He pointed out that "American culture comes and imposes itself in the Caribbean, in Chile; but Caribbean or Chilean culture cannot penetrate the consumer society of America... French, English and American culture impose themselves, pass through such a pipeline into the Arab world; whereas Arab culture, apart from the products of certain specialised institutions and certain specialists in Arab affairs, has no chance of penetrating the French, English and American consumer societies."⁴⁸ So, not only are the cultures of poorer countries not regarded highly in the richer ones, but the cultures of the latter are threatening to drive out the cultures of the poor even in their own countries. There is "an overflow of cultural products of the rich countries, whereas the cultural products of the poor countries are unable even to find a local market."⁴⁹ Thus some ways of life are finding it harder to sustain themselves in the face of this uneven global cultural competition.⁵⁰

The reasons for this imbalance between the cultures of the rich and poor are various and mutually reinforcing. Richer societies are better able to market and export their "cultural products;" cultures of rich nations are associated with a life of security, comfort and affluence which are especially appealing to poor societies sorely lacking even basic needs. Colonialism brought on "the destruction or deliberate undervaluing of a people's culture, their art, dances, religions, history, geography, education, orature and literature, and the conscious elevation of the language [and culture] of the coloniser."⁵¹ Not surprisingly, many ex-colonial subjects till today still perceive the cultures of their previous masters as superior to theirs. Also the global political clout wielded by richer nations provides their cultures with a prominent global profile. Although there is no global state as such which might inadvertently privilege a dominant nation (as in the domestic case), there exists an informal global political culture with reflects some

national ideals more than others. The United Nations, many observers have rightly complained, has become in many ways an American institution since the demise of the Cold War, thus in effect becoming a vehicle to further promulgate Anglo-American ideals, language and culture globally. The working languages and work etiquettes in the administrative centres of various international organisations (as in the United Nations Headquarters in New York, the International Monetary Fund in Washington, just to name two) also reflect the languages and conventions of the dominant global cultures. These are all possible explanations for the cultural inequality between rich and poor nations.

Because of this inequality in the capacity of nations to disseminate and sustain their cultures, there is a need to grant some peoples special cultural rights in order to help protect and sustain their ways of life and identities, "to attenuate the effects of the cultural products from the rich countries, and also make the rich countries aware of certain intrinsic qualities in the cultures of developing countries."⁵² This may require more than simply permitting some countries to impose quotas on cultural imports threatening to drown out their local cultures (thus exempting them from some international trade regulations). It can also call for international support in the export and transmission of the cultures of poorer societies to the richer ones (one way of recovering self-respect in one's culture is to have outsiders acknowledge its worth); it may also require that poorer cultures receive financial support and assistance to aid the maintenance of their cultures at home -- in the form of educational aid, funding for cultural events and activities, and sponsoring the restoration and preservation of important cultural heritages and treasures. As Boutros-Ghali recognised, "what we are seeking is not perfect equality; that will never exist...; but just that minimum of equality which will make it possible for the [cultural] pipeline to function in both directions."⁵³

Most of these positive cultural rights are already proposed and even affirmed in some form or other in various international declarations, including UNESCO's Declaration of the Principles of International Cultural Cooperation and Convention for the Protection of the World Cultural and Natural

Heritage. A liberal defence of peoples' rights thus is not going to be jarringly out of phase with reality nor be so novel as to be derided outright, but will do mainly the important task of providing many of the currently proposed rights a moral basis and justificatory support. And more importantly, it will help rectify the traditional hostility of liberal states towards these rights, and also help correct the resulting perception on the part of nonliberal poor countries that liberalism fails to take their needs seriously and hence not a theory worthy of their assent.

In sum, internationally recognised collective rights help to correct global inequality of circumstance and not (unfairly) subsidise the choices of some peoples. These are rights specially accorded to some in order to compensate for the unequal opportunities and conditions under which nations interact and compete. There are limits, therefore, to the kinds of rights which can be legitimately claimed on national grounds. Collective rights aim only to restore (as far as possible) the imbalance in conditions for choice, not to privilege some ways over others. Overcompensating for an inequality is an inequality itself. So, a minority nation cannot demand more than its fair entitlement of its country's resources even if it argues that this extra support is necessary for its survival.⁵⁴ (But realistically, the concern tends to be the other way around, of minority groups not getting anywhere near their legitimate share.) Likewise, the dominant nation of an multinational state cannot generally demand that the state's political institutions actively reflect its culture and values. This would only further exacerbate the inequality in circumstance and further marginalise the minorities of that state. We can think of exceptions here -- in the case where the dominant national way of life is especially threatened by events in the world at large, it may not be unreasonable for it to politically support some of its cultural ideals and practices. But these are exceptional cases.⁵⁵

Also, collective rights do not intend to 'rigidify' or isolate a national culture. Cultural identity is always in a state of flux -- cultures change, evolve and borrow from other cultures. But it is up to members of these cultures to determine the terms of these changes, evolution and borrowings.⁵⁶ Peoples'

rights protect the context of choice of members, their opportunity for making and exercising their free choice, against outside incursion, not to prevent change from within.

Collective Rights versus Individual Rights

The introduction of collective rights in international discourse has met with resistance from some supporters of individual rights. These individualists worry that recognising collective rights will put individual rights at risk. They share the understanding that collective rights are ultimately the rights of individuals, but they fear that a majority in a collectivity can now trump the rights of the minority or the dissenting few in the name of enforcing the rights of the collectivity. Consequently, dissenting individuals who wish to question and reevaluate the practices and values of their national community may be denied this right if most of their compatriots think that allowing this will compromise the survival of their nation. This can happen when, for example, a nation organised around a religion disallows apostasy, fearing that allowing members to leave will undermine faith within the collectivity; or when a national community prohibits the use of foreign languages because it thinks this necessary for protecting its national language.

The opponents of collective rights point out that this risk to individual rights is especially poignant in the international context because states are the common bearers of collective rights in international practice. As the prominent human rights scholar Jack Donnelly puts it, "States' fear of secession and governments' fear of revolution have combined to restrict the right to self-determination to little more than a right to sovereignty for those states ... that currently exist."⁶⁷ And this is "extremely dangerous," Donnelly continues, because the "rights of states will be used to override the rights of individual citizens." He points out how the collective right to development has been used by repressive regimes (of the third world) as a rationale for undermining the basic individual human rights of their own citizens. Similarly, the right to self-determination has been invoked by leaders of tyrannical regimes to deflect international criticisms of their domestic human rights abuses. "Thus the United States

Government gave as one of its reasons for withdrawing from UNESCO in 1984, its distaste at UNESCO's apparent support for 'peoples' rights', and at the danger that they could create new excuses for the denial of individual human rights."⁵⁸

However, if we are agreed that the proper subject of international collective rights is not necessarily the state but rather the nation or people, then the above objection is disarmed. If anything, collective rights, rather than bolstering the sovereignty of states, actually dilute sovereignty because they empower groups (i.e., national or ethnic minorities) within states. As we have seen, self-determination rights allow minority nations to make claims against their own states, and to do so with the support of the international community. As Cassese reminds us, the international affirmation of the right to self-determination obliges third-party states "to support peoples entitled to self-determination, by granting them any assistance short of dispatching troops; conversely, they must refrain from aiding and abetting oppressor States."⁵⁹ Self-determination claims may require the states in question to disperse their sovereignty downwards towards national minorities within; or in more extreme instances, it may require that they forfeit sovereign control over a group entirely, as when a just secession takes place. Similarly, the collective right to development also gives less developed regions and national territories within a state the power to make demands against their own state government, and to do so with international support. So, collective rights, if properly understood, restrain state sovereignty instead of fortifying it.

Moreover, the fact that states claim collective rights for themselves and use these as excuses to abuse the rights of their citizens is not reason enough to reject these rights. After all, all rights -- even traditional individual rights -- are open to state abuse. Witness how classical individual rights, like the rights to property and the rewards of one's labour have been interpreted by some states (especially rich developed states) to rule out distributive justice and social welfare. Yet few egalitarian liberal theorists are ready to call for the complete withdrawal of these individual rights. The pertinent philosophical question, thus, is not whether state abuses of individual rights do take place but whether these abuses are

justifiable at all or necessarily entailed by the acceptance of collective rights. As Donnelly himself has attested, there is rarely any basis to the commonly invoked argument that the collective right to development requires the overriding of basic human rights.⁶⁰ Nor is there any evidence that the idea of collective rights in itself makes it easier for states to ride roughshod over individual rights. States may claim they have the right to trump individual rights, but whether such claims are remotely justifiable and defensible at all is a different question.

But leaving aside the issue whether collective rights give states a convenient excuse to violate individual rights, the objection that collective rights hurt individual rights rests on a fundamental conceptual error. It assumes that all collective claims qualify as collective rights claims. But liberal supporters of collective rights are more discriminating than to grant all collective-based claims the status of rights. Following Kymlicka's insight, we can identify two different kinds of claims a group may make - claims of "external protection" and claims of "internal restriction". Internal restrictions occur when the rights and freedoms of individual members (say to opt out, to question the values in force in the community, the social role they find themselves in and so on) are denied by their community. External protection claims, on the other hand, are claims a group has against other groups, in particular those of the larger society, to be sheltered against the effects of their decisions and actions. Examples of external protection measures include giving a group self-determination rights, providing special support (through public funds, e.g.) for its cultural practices to help sustain it in the face of outside forces, or according it special religious or language rights to compensate for its marginalisation from mainstream society.⁶¹

The flaw of the above objection is that it assumes "internal restriction" claims are also collective rights claims and hence collective rights can contradict the rights of individual (dissenting or minority) members. But there is plainly no reason at all from a liberal viewpoint why internal restrictions should be admitted into the realm of collective rights. If collective rights are understood to accrue fundamentally to individuals and are meant specifically to protect the context or preconditions of individual choice, then

internal restrictions straightaway fail to qualify as collective rights. Internal restrictions not only do not protect the context of choice of individuals but, worse yet, they deny members the very right to make choices, including choices regarding the context itself. Internal restrictions defeat the very raison d'être of collective rights.

Only external protection claims are possible candidates for the status of collective rights. A group which wants its communal institutions and practices protected from the decisions of outsiders or their influences may claim certain collective rights to protect itself from these external forces. This may require granting the group some form of self-determination rights or other special rights to make up for the unfair competition it faces. However, if this group wants also to restrict the rights of its members to reevaluate and revise its institutions and practices, we would say that these restrictions cannot be tolerated let alone be sanctioned as collective rights, even if a majority in the group agrees to them.

Taking external protection claims to be the only legitimate source of collective rights, the conflict of rights the objection above presents is largely averted. Internal restrictions, precisely because they violate individual rights, are never permissible. External protections, because they protect the conditions for the exercise of these individual rights, supplement and rarely contradict these rights. The important point to bear in mind throughout is the reason why liberals defend collective rights in the first place. Once it is clear that these rights are defensible precisely because they protect the preconditions for the proper exercise of individual autonomy, we can distinguish legitimate collective claims from illegitimate ones.

It is true that leaders of communities (and indeed of states) often claim that the internal restrictions enforced in their communities are the necessary consequences of protecting their communities against external influences.⁶² For example, some groups claim that in order to protect their cultural identity from external forces, they need to restrict the use of non-national language in public (e.g., Quebec's language sign laws; the Kingdom of Bhutan's attempt at culturally assimilating its Nepali-speaking minority). Or to protect its religion, a group can claim that it needs to restrict the kinds of ideas

its children can be exposed to, and/or even disallow (and criminalizing in the case of some states) apostasy. In these cases, it is argued, the neat distinction between internal restriction and external protection breaks down. The prohibition against internal restriction is overridden by the need for external protection; or to put it differently, the need to protect the context of choice of some members of the community (from outside forces) necessitates restricting the rights of others. One might add that given the increasingly overlapping social boundaries of the modern world, external protection measures may just very well entail some forms of internal restrictions. "The enemies are already within our gates," a staunch cultural defender might say.⁶³

I contend, however, that while such claims are invoked with distressing frequency, especially in the international context, they are very rarely warranted. Purportedly necessitated restrictions are often easily exposed as measures to protect corrupt regimes or community elites rather than a culture's survival. Only under quite dire circumstances could it be said, if at all, that allowing a minority to freely express their views, to question the ideas of public good in force, to revise their religious convictions and so on would come to harm national survival. And it is not always established that such dire conditions obtain as to necessitate restricting the use of non-national language in public or curtailing individual democratic freedoms for the purpose of protecting society. The first response on the part of liberals then when faced by such challenges is to assess their authenticity them.

But let us grant that even after sifting out illegitimate claims from legitimate ones, we may still be left with some cases in which internal restrictions of some form are necessary outcomes of external protection measures. What should we do then? I concede that under these circumstances, we are faced with a moral dilemma, and I shall return to this difficult question in the next chapter when I discuss the limits of liberal pluralism. The point to be stressed here, again, is that these are practical difficulties with the idea of group rights, but in themselves do not show the idea incoherent and indefensible. We are not forced to abandon the idea of collective rights just because they may conflict in practice with individual

rights. To repeat an earlier point, familiar individual rights may conflict with one another as well. To use the commonplace example, the right to free speech conflicts with the right to personal security under some conditions. But we do not go on to reject the idea of free speech. There is thus nothing novel at all in the claim that rights conflict -- all rights, individual and collective, need to be balanced against one another in the real world. The challenge is to try to strike a balance between these conflicting claims and not to take the easy way out by rejecting one or the other outright.

This chapter and the last have shown us that a global theory based on liberalism understood comprehensively is one which is supportive of the idea of peoples' rights while remaining steadfastly committed to universal individual rights. Its universal commitment to autonomy, rather than making it into a radically cosmopolitan theory, compels it to take peoples' rights seriously. It can therefore reconcile the seemingly antagonistic but endorsed norms of individual rights and national (and even sovereignty) rights in international relations. And because a comprehensive liberal global theory can consistently and coherently ground the idea of peoples' rights and defend cultural diversity, it is a theory better able than political liberalism to achieve legitimate stability. Ironically then, Rawls's reluctance to base liberalism on autonomy for fear that this will make it too sectarian deprives his liberalism of the moral basis to ground collective rights, thus making it all the more unlikely to win endorsement in our diverse world.

ENDNOTES

1. By internationally accepted, I simply mean that these rights have been formally endorsed in various global forums, notwithstanding the fact that there are disagreements concerning the application, content and implications of these rights, and even the rejection of these rights by some states.

2. Alan Gewirth, "Ethical Universalism and Particularism," The Journal of Philosophy LXXXV/6 (1988): 283-302, p. 302.

3. Michael Walzer, "Nations and Universe," in Tanner Lectures on Human Values XI (Saltlake City: Univ. of Utah Press, 1990), p. 509.

4. *Ibid.*, pp. 518, 518-523.

5. Quoted in Charles Beitz, "Sovereignty and Morality in International Affairs," in Political Theory Today, ed. David Held (Stanford: Stanford Univ. Press, 1991), p. 245.

6. Charter of the United Nations, Chapter 1, Article 1. My emphases.

7. This famous clause is from Ronald Dworkin, A Matter of Principle (Cambridge: Harvard Univ. Press, 1985), p. 190.

8. As Will Kymlicka puts it, "Groups have no moral claim to well-being independently of their members -- groups just aren't the right sort of beings to have moral status." Kymlicka, Liberalism, Community and Culture (Oxford: Oxford Univ. Press, 1989), pp. 241-42. Charles Beitz in his discussion on the moral status of states says, "Unless some independent sense can be given to the idea of the state as a moral agent, this view [that states are moral subjects in themselves] cannot be very persuasive." Beitz, Political Theory and International Affairs (Princeton: Princeton Univ. Press, 1979), p. 76.

9. See Kymlicka's discussion in Multicultural Citizenship (Oxford: Oxford Univ. Press, 1995), pp. 45-46.

10. The "first generation" rights are the civil and political rights, "second generation" rights are the economic and social rights. For a discussion concerning the concept of "generations" of rights, see Cees Flinterman, "Three Generations of Human Rights," in Human Rights in a Pluralist World ed. Berting, Jan; Baehr, Peter, VanderWal, Koo et. al. (Hague: Netherlands Commission for UNESCO, Middelburg: Roosevelt Study Center, London: Meckler, 1990), pp. 75-81.

11. The Algiers Declaration, as this document is commonly known, is not a diplomatic or inter-state declaration but nonetheless has important influence on international law and practice: "Some of its ideas have been adopted by the OAU [Organisation of African Unity] in the Banjul Conference on Human and Peoples' Rights of 1981. These two documents have been at the centre of the discussion of the 'third generation' of human rights, the collective rights which are current important political assertions of Third World states." Lyndel Pratt, "Cultural Rights as Peoples' Rights in International Law," in The Rights of Peoples, ed. James Crawford (Oxford: Clarendon Press, 1988): 93-106, p. 96. Declaration reproduced in Crawford, pp.187-89.

12. UNESCO Doc 14C/8.1 (1966) and UNESCO Doc 17C/106 (1972).

13. Roland Rich, "The Right to Development: A Right of Peoples?" in The Rights of Peoples ed. Crawford, James (Oxford: Oxford University Press, 1988), p. 52, my stress. See United Nations General

Assembly resolution 41/128; reproduced in Crawford, p. 207.

14. Walzer, p. 518, my emphases.

15. This two-stage strategy was devised by Kymlicka in his argument for minority rights within a liberal-democratic state. Kymlicka, Liberalism, Community and Culture, Chaps. 8 and 9.

16. Anthony D. Smith, Nations and Nationalism in a Global Era (Cambridge: Polity Press, 1995), p. 159.

17. See, e.g., Alasdair MacIntyre, "Is Patriotism a Virtue?", The Lindley Lectures, Dept. of Philosophy, Univ. of Kansas (1984), pp. 5-6.

18. Yael Tamir, Liberal Nationalism (Princeton: Princeton Univ. Press, 1993), p. 66.

19. Frank Cunningham, "The Canada/Quebec Conundrum: A Trinational Perspective," Constitutional Forum 8/4 (1997), Canada's Prospects Series (Special Issue), ed., Janet Aizenstat and Caroline Bayard, 119-129.

20. Interestingly, Tamir does not stress the territorial feature as a necessary criterion for nationhood which for many commentators is an essential characteristic. This is, perhaps, because she wants to include certain geographically dispersed or diaspora groups (like the Jews, even before the founding of the modern state of Israel) as nations. But we can modify the territorial criterion to include groups who historically held or could potentially hold a territory or 'homeland'.

21. See Allen Buchanan, Secession: The Morality of Political Divorce From Fort Sumter to Lithuania and Quebec (Boulder, Col.: Westview Press, 1991) for a pertinent discussion of this topic.

22. The examples are borrowed from David Miller, On Nationality (Oxford: Oxford Univ. Press, 1995), pp. 33-35.

23. Benedict Anderson, Imagined Communities, rev. ed. (London: Verso, 1991), p. 6.

24. Our description of nationality meshes well then with other well accepted definitions like Miller's. For Miller, nations are communities a) constituted by shared beliefs, b) which embody a historical community, c) with an active identity, d) possessing a homeland and e) marked off from others by distinct character. Miller, p. 27. See also Cunningham's discussion and his references on MS. 31-32.

25. Smith, "Liberalism and International Reform," in Traditions of International Ethics ed. Nardin, Terry and Mapel, David R. (Cambridge: Cambridge Univ. Press, 1992), p. 211. See also Will Kymlicka, Multicultural Citizenship, Chap. 4. Kymlicka points out that "the fall of the British Empire, the rise of Cold War conflict, and the prominence of American theorists within postwar liberalism" (p. 56) together with "a realpolitik fear about international peace [after the World Wars], a commitment to racial equality, and a worry about the escalating demands of immigrant groups" (p. 68) led many contemporary liberals to conclude

falsely that nationality rights are "inherently in conflict with liberal principles" (p. 68).

26. The liberal referred to specifically was Judith Sklar, one of the most renowned liberals of our time. Reported in Stanford Levinson, "Is Liberal Nationalism an Oxymoron?", *Ethics* 105 (1995): 626-645, p. 626.

27. Smith, pp. 211-12.

28. Tamir, p. 6.

29. *Ibid.*, p. 85.

30. Kymlicka, *Multicultural Citizenship*, p. 105.

31. Joseph Raz, "National Self-Determination," in *Ethics in the Public Domain* (Oxford: Oxford Univ. Press, 1995): 110-130, p. 118.

32. Tamir, p. 117.

33. Kymlicka, *Multicultural Citizenship*, p. 93.

34. *Ibid.*, pp. 49-50.

35. *Ibid.*, p. 76, my stress.

36. Raz, p. 118.

37. Kymlicka, *Multicultural Citizenship*, p. 14.

38. *Ibid.*, pp. 14-15.

39. This is not exactly precise usage of labels for nations are ethnic communities, and perhaps some non-national cultural communities need not be ethnic ones, like certain religious communities for example. But if we bear in mind that these labels are not meant to be precise descriptions of these collectivities, but mainly to provide a conceptual distinction between nations and non-national cultural communities, there should be no misunderstanding. I follow Kymlicka's distinction between national minorities and ethnic minorities. Kymlicka, *Multicultural Citizenship*, Chap. 2.

40. *Ibid.*, pp. 26-33. He speaks of self-government rights, which are rights to have separate political institutions with varying degrees of autonomy, polyethnic rights like religious or language concessions and support, and special representation rights. Ethnic groups do not claim (and are not entitled normally)-self-government rights.

41. See Antonio Cassese, International Law in a Divided World (Oxford: Oxford Univ. Press, 1986), p. 131.

42. Alassane N'Daw, "Discussion" in Cultural Rights as Human Rights (Paris: UNESCO, 1970), p. 99.

43. To recall, this cultural inequality is not the result of choices of individuals of minority groups -- in which case they ought not to be "subsidized" by granting them special rights -- but because of the inherent inequality of the cultural marketplace, an inequality of circumstance rather than of choice.

44. Thus the United Nations' "Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities" adopted in 1992 demands that "States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity" (Article 1). United Nations document A/RES/47/135

45. It is a familiar fact that a fifth of the world's population consumes more than four-fifths of the globe's resources and own more than 80 percent of its wealth.

46. To be sure, collective rights like entitlements to international aid and assistance are often claimed by states on behalf of their peoples. But if states receiving global assistance distribute the assistance appropriately, then there is no a priori reason why we should not allow states to make and administer these claims on their peoples' behalf. On the other hand, in the non-ideal situation of a state which does not allocate its aid fairly and to the regions which are most entitled to it, presumably alternative methods will have to be sought. As an example of the possibility of providing aid without consent of states, consider the recent international humanitarian assistance rendered to the Kurds in Northern Iraq and to the different regions in the Rwanda conflict which bypassed the warring state governments of these nations.

47. Boutros Boutros-Ghali, "Discussion" in Cultural Rights as Human Rights, pp. 100-01. As a trivial point, note that Boutros-Ghali was speaking not as United Nations Secretary-General but as a member of an invited panel of academics.

48. *Ibid.*, p. 100.

49. *Ibid.*, p. 101.

50. For one observant traveler's ground-level account of the extent to which American popular culture has taken hold in the Far East and beating its tradition cultures in the battle for adherents, see Pico Iyer's perceptive essays in Video Nights in Kathmandu (New York: Vintage Books, 1988).

51. Ngugi wa Thiong'o, "The Language of African Literature" in Colonial Discourse and Post-Colonial Theory, ed. Williams, Patrick and Chrisman, Laura (New York: Columbia Univ. Press, 1994), p. 442.

52. Boutros-Ghali, p. 102.

53. Ibid., p. 100.

54. Thus, policies like Apartheid could never be justified as entailed by collective rights as feared by some individualist theorists. The white minority in South Africa held 87% of the total land mass and controlled the politics and economy of the country. If anything, preferential treatment for the white minority aimed to entrench the inequality between them and other nationalities rather than to restore equality. See Kymlicka, Liberalism, Community and Culture, pp. 246-47. The details of what counts as a "fair entitlement" are, of course, contextual -- these will depend on historical circumstances, the overall wealth of the country, the trade-offs involved, among other things.

55. The case of the Himalayan Kingdom of Bhutan comes close to approximating such an exception. We will consider this case in the next chapter.

56. Kymlicka, Multicultural Citizenship, p. 104. As he says: "The desire [for a cultural identity] is not necessarily a desire for cultural purity, but simply for the right to maintain one's membership in a distinct culture, and to continue developing that culture in the same (impure) way that members of majority cultures are able to develop theirs." p. 105.

57. Jack Donnelly, "Human Rights, Individual Rights and Collective Rights," in Human Rights in a Pluralist World, p. 47 (my stress).

58. Crawford, "Editor's Preface," in The Rights of Peoples, p. vii.

59. Cassese, p. 136.

60. Donnelly, Universal Human Rights in Theory and Practice (Ithaca: Cornell Univ. Press, 1989). As he says, "Human rights trade-offs, except perhaps at the very early stages of the move from a 'traditional' to a 'modern' economy ..., are not development imperatives. They are contingent political choices undertaken for largely political, not technical economic, reasons" (p. 166).

61. Kymlicka, pp. 35-38.

62. We can see the double-effect doctrine at play here. The internal restrictions are not intended, it could be argued, because the driving motivation of these restrictions is to protect the community. Any resulting restrictions are just unintended side-effects, foreseeable and unavoidable as they might be.

63. I borrow this expression from David Dyzenhaus. Of course this is not his own view. Kymlicka himself notes this difficulty Multicultural Citizenship, pp. 42-44, 205n.

CHAPTER SIX

THE PROBLEM OF OPPRESSIVE CULTURES

We saw in the previous chapter that a liberal global order can endorse the rights of peoples (i.e., group-specific rights) without forfeiting its individualism. Indeed it does so because of its individualistic commitments in that its concern for individual well-being entails a concern for the cultural context within which individuals form and pursue their ideas of the good life. And granting some communities special protection in the form of group rights does not offend the liberal stipulation that political institutions treat individuals with "equal concern and respect" when it can be shown that the objective of these rights is to compensate for institutional inequality between groups. This line of argument has been put forth by liberals with regard to minority cultures within liberal states. Extending this point to the global context, I showed that the global economic and political institutions, historically and currently, unfairly disadvantage some national cultures, and so the idea of peoples' rights, the so-called "third generation human rights," can be understood as a strategy for compensating for this inequality in global circumstance.

But we also saw (Chapters 2, 3 and 4) that this liberal concern for culture does not extend to illiberal and nonliberal cultures. It is what cultures mean to individuals rather than cultures in themselves which makes cultural membership an important liberal good, and so cultures which contradict liberal values defeat the very reason why liberals give cultures moral weight in the first place. In other words, our reconciliation between liberal individualism and cultural pluralism succeeds only in the case of characteristically liberal cultures.

There is, therefore, a potential difficulty with our reconciliation project. If we take cultural membership to be an important liberal good because it situates individual choice, and/or is itself an expression of this choice, then would the rejection of nonliberal or oppressive cultures not undermine the

context of choice of some people (i.e., those who find these cultures worthy)? We have here, it would seem, a serious tension between our commitment to individual rights and freedom on the one hand, and our commitment to cultural diversity on the other. This difficulty posed by oppressive cultures will be the focus of the present chapter.

Isolating the Problem

To avoid obscuring the issue, our discussion shall leave behind cultural practices which are brutally oppressive or tyrannical — what I have referred to as illiberal cultures. These practices are rejected straightforwardly and not open to dispute within the liberal point of view. By brutally oppressive practices, I simply mean practices which violate very basic human rights, including the right to life and physical security, the right to minimum subsistence, the right not to be enslaved, the right to a community and so forth.¹ As is evident, we call these practices illiberal, and hence impermissible, because of the kinds of rights they violate, independent of their range or the rationale for these violations.

Genocide, slavery, human sacrifice, female genital mutilation, head-binding of infants, racial and gender discrimination, bride-burning, feet-binding of infant girls are some familiar examples of practices which will not be condoned by liberals even if these could be defended on cultural grounds. This holds even when, in the most unlikely of cases, the rejection of such practices implies the demise of an entire cultural way of life. Liberals do not pretend that liberalism is compatible with all ways of life or group preferences; on the contrary, they readily admit that "that there is no social world without loss." So practices which blatantly violate the basic rights of persons will be unequivocally rejected by liberals universally, regardless of their (purported) underlying cultural claims. Of course different liberals, say, a Kantian and a Millian, would offer different reasons why the basic rights cited above are inviolable, but for our present purposes we may remain agnostic over these fundamental philosophical starting points.

Hence political liberals like John Rawls, and communitarian-liberals like Michael Walzer, both of

whom I argued have erred too much on the side of toleration, nonetheless explicitly reject tyrannical societies or unreasonable comprehensive doctrines (Rawls) or societies engaged in "extreme forms of oppression" (Walzer). For Rawls, these illiberal practices are incompatible with, and indeed pose a direct threat to, any liberal political order, whether in the domestic or global sphere, and hence must be forced to change or be contained. For Walzer, "we can always assume that murder, slavery, and mass expulsion are condemned, at least by their victims."² So because all liberals, including those whom I am contesting, are in agreement about illiberal cases, we can safely leave these to one side and confine our discussion to the grey-area where dispute lies.

This grey area involves cultural practices which I have called nonliberal. To recap, nonliberal groups do not violate any basic rights. In addition to the basic rights cited above, they also respect the right of exit, a restricted right of dissent, and limited freedom of conscience. But nonliberal groups do not affirm other quintessentially liberal-democratic rights like the right to free speech and association, equal right of dissent, equal liberty of conscience and so on. Examples of nonliberal associations in the domestic context would include religious groups which discourage exposure to secular ideas or other religions, and minority cultures which oppose gender equality. In the international case, we have polities which restrict the political rights of some of their own citizens (e.g., women in some Muslim and Asian countries), which disallow free speech and association, which limit the right of dissent and political opposition, and which restrict religious liberty.³

Some liberals deny that these less-than-basic (liberal) rights have universal validity, and hence are of the view that these cannot be reasonably expected of all cultural groups. Recall that in his domestic theory, Rawls takes certain nonliberal philosophical, moral or religious comprehensive doctrines to be "reasonable" so long as they endorse liberalism in the political context (i.e., so long as they do not pose a challenge to liberalism in the political context), and must therefore be tolerated by the liberal state as a matter of principle and not just for pragmatic concerns.⁴ In extending this idea to the global context,

Rawls believes that societies which are organized around reasonable comprehensive views (the well-ordered hierarchical societies) must be similarly tolerated even if their basic structures are characteristically nonliberal.⁵ Walzer likewise accepts these nonliberal societies as "historic communities", whose right to political cultures of their own ought to be respected by outsiders.⁶

I shall not repeat the liberal arguments offered on behalf of nonliberal cultures or societies nor my counter that a sincere liberal commitment to individual liberty entails the rejection of these nonliberal cultural groups, be they polities or minority cultures within a state. It suffices to recall my position that the limits of liberal toleration do not extend to nonliberal cultures or societies (Chapters 2, 3, 4).

But I also pointed out that liberalism should be concerned with protecting cultures on the grounds that cultural membership provides the context for the exercise of individual autonomy and/or is itself an expression of this autonomy (Chapters 3 and 5). There is therefore a potential difficulty with the liberal view I am advancing. As Joseph Raz acknowledges, "Given that even oppressive cultures can give people quite a lot, it follows that one should be particularly wary of organized campaigns of assimilation and discrimination against ... oppressive cultures. For many of their members they provide them with all that they can have, as it may be too late for them to make a transition."⁷ In other words, if we accept that culture is choice-enabling, that it grounds the autonomy of persons in a fundamental way, then would reforming nonliberal cultures (in favour of those who find their current culture oppressive) not undermine the autonomy of some (namely, those who find membership in this culture choice-enabling)? This problem appears especially daunting as what we face here is a conflict between different claims to autonomy, between those whose autonomy requires reforming the culture and those whose autonomy depends on preserving that culture. This conflict could also be redescribed as a clash of the rights of different individuals -- the right of some to dissent from their cultural ways versus the right of others to preserve these ways -- although as a convenient short hand, I shall frequently refer to this as a conflict between individual rights and culture (or between individual and group rights). There appears thus to be a

serious tension within the liberal view I am defending which needs to be confronted.

Protecting Cultures and Individuals: Having it both ways

The above challenge assumes that a dual commitment to both individual rights and culture lies in a certain tension, that when faced with nonliberal cultures, there is no possibility of fulfilling both commitments. However, I believe this value conflict to be for the most part avoidable. One reason why I think this to be the case, a reason to which I alluded in an earlier chapter, but shall develop more fully now, is that most cultures can be reformed or “liberalised” without actually being destroyed. In other words, few cultures are irremediably nonliberal in the sense that liberalising them entails changing their very cultural identities; or, if we like, few cultures are inherently nonliberal such that their defining institutions and practices are nonliberal.⁸ If this observation is right, reforming nonliberal cultures (in favour of some) need not necessarily diminish the worth of these cultures (for others).⁹

To accept this proposition, we need only accept the rather modest premise that few cultures are entirely nonliberal, or even entirely liberal for that matter. Instead, more precisely, 'liberality' is largely a matter of degree rather than an all-or-nothing affair -- some cultures exhibit more nonliberal cultural practices than others, and vice-versa -- and, consequently, most cultures will have liberal elements in some of their practices.¹⁰ This claim is especially defensible, particularly after we factor out illiberal cultures which tend to have little space for even a modicum of liberty. Nonliberal cultures, as we have noted, respect basic liberal rights and so must by definition honour some rights and freedom and exhibit some degree of liberty. (Labelling some cultures as liberal or nonliberal is quite a misnomer then. More accurately, a culture is more or less 'liberal' than another if it has more or fewer liberal practices than the other, but with this point securely in mind, I continue to use these labels as useful approximations). It follows, therefore, that reforming a culture is not necessarily a zero-sum scenario wherein one group of claimants has to lose out. We can reform certain aspects of a culture, namely its nonliberal practices,

without eliminating others. Indeed we should see how much of a culture's own potential (by appealing to its liberal aspects) we can draw on and expand when advocating changes.

That the nonliberal practices of a culture is distinct from a culture's identity and can be reformed or even eradicated without significantly altering the latter is confirmed by numerous well-known historical examples. Just to cite two, ending feet-binding in China or widow-burning in India did not in any significant way alter Chinese or Hindu cultural identities. These are specific cultural practices which do not by themselves distinguish Chinese and Hindu culture from others, and so discontinuing them did not undermine the basic cultural institutions of these societies. Likewise, reforming nonliberal political institutions thought to be culturally derived in countries like Japan, Thailand and Nepal (from monarchy to constitutional monarchy -- or rather constitutional Theocracy given the religious status of monarchs in some of these countries) did not result in the destruction of a distinctly Japanese, Thai or Nepalese (national) identity even as the political organization of each country was dramatically altered. More so than other institutions, it seems that the political constitution of a nation can be reorganised without jeopardizing the basic cultural institutions and practices contributing to that nation's identity. The following reflection by the present spiritual and political leader of the Tibetan nation, the Dalai Lama XIV, on his own political office illustrates this point vividly: "The institution of the Dalai Lama is something different from the Tibetan nation. The Tibetan nation is always there. The institution of the Dalai Lama may or may not continue -- that depends on the value [of that institution]. If it is of value to our nation, then the next Dalai Lama will come [i.e., be reincarnated] as a beautiful little child. If it is not of value, then it is better to stop it."¹¹

The importance of distinguishing specific cultural practices from a cultural world view itself has been stressed by numerous philosophers, Hilary Putnam among them. According to Putnam, it is this confusion between cultural practices and culture as a whole which drives ethical relativism, and which also renders it indefensible. The relativist assumes that just because we are in no position to question

world views different from ours, the idea that there are universal and objective moral standards is therefore untenable. But as Putnam tells us, there is no reason to take an all-or-nothing stance with regard to culture. We may be in no position to question a cultural way of life, but that is very different from questioning its specific practices. Indeed, this applies not just to 'distant' ways of life but to our very own as well. "Is our way of life right or wrong?" is a silly question, although it isn't silly to ask if this or that particular feature of our life is right or wrong.... [R]eal questions require a context and a point."¹²

As a practice then, when faced with a so-called nonliberal culture, liberals should train their objections against its specific nonliberal practices and avoid condemning the culture as a whole with a broad brush. Moreover, as we saw earlier, criticism does not preclude recognising and supporting positive aspects in other areas of that culture by way of institutionalised group-specific rights (Chapters 3 and 5). Thus focusing and balancing our criticisms, we can hope to defend individual rights without undermining a culture's overall worth and the context of choice it can provide for its adherents. But, very importantly also, focused and balanced criticisms will be seen as more sincere and well-meaning from the point of view of the groups being judged and hence more constructive. This is an especially important point to bear in mind when advancing liberal ideals globally. We shall return to this point in Chapter 8.

The above discussion suggests that what sets off one culture from another is not one fixed and particular set of traits but varying sets of evolving, fluid and negotiable features. This conception of a culture's identity as social and temporal may not sit well with those who prefer a precise and fixed definition of culture, but it is nevertheless a more accurate conception of a culture. As David Miller says, "National identities are not cast in stone.... [T]hey are above all "imagined" identities, where the content of the imagining changes with time. So although at any moment there will be something substantial that we call our national identity, and we will acknowledge customs and institutions that correspond to this, there is no good reason to regard this as authoritative in the sense that excludes critical assessment."¹³

Miller's understanding of cultural identity is readily confirmed. A recent survey on ethnic identity

conducted in Britain found that "groups had quite different conceptions of the kind of group identity that was important to them." It showed, for example, "that religion was prominent in the self-description of South Asians, and skin-colour in the self-descriptions of Caribbeans."¹⁴ In Canada, what distinguished Quebec from Anglo-Canada prior to the Quiet Revolution included religion, a deep ethnic affiliation, and its more agrarian values in addition to language. Today, it is mainly language which sets Quebec apart from Anglo-Canada. In other nationalities, perhaps religion rather than language now serves as the defining feature (e.g., Muslims in India); yet in others, a sense of common history or geographical affiliation could count as what is important (as perhaps in the case of Aboriginal groups in N. America).

It follows that it is ultimately members of a cultural community who are to determine how the community's practices could be reformed without compromising its cultural identity. As liberals often remind us, the aim is not to sustain cultures as static and rigidly bound entities but to ensure that any change in a given culture is not forcibly imposed (from without) but is instigated by members of the culture themselves. Consequently, the more individual participation evident in the formation and evolution of a culture, the more confident we can be that changes are not changes that will undermine the given cultural context of choice but are changes freely assented to and so are choice-enabling rather than choice-restricting. Frank Cunningham thus defends democratic freedoms for this reason, that "progress in democracy in a community can lead to a critique of some aspects of its traditions without being destructive of the community."¹⁵ Similarly Bhikhu Parekh writes that "ethnic communities do, of course, run the risk of becoming internally oppressive and reactionary, but that requires their constant internal self-regeneration, not extinction."¹⁶

Thus democratic freedom not only defends a culture from outside incursions, but also insures that there is option for growth and reform from within.¹⁷ Not surprisingly, even Miller, who favours a communitarian view of national self-determination, takes individual freedom as the litmus test for the legitimacy of any self-determination claim:

No voice has a privileged status: those who seek to defend traditional interpretations enter the conversation on an equal footing with those who want to propose changes.... From this perspective ... liberal freedoms play a vital role in providing the conditions under which the conversation can continue. Without freedom of conscience and expression, one cannot explore different interpretations of national identity, something that takes place not only in political forums, but in a various association that make up civil society.... These discussions must proceed on the basis that no one should be penalized or excluded for expressing views that challenge the traditional understanding of national symbols and historic events.... [O]n this issue of basic freedoms there will certainly be convergence [between the principles of nationalism and liberalism].¹⁸

The importance of democratic individual freedoms within cultural communities underscores the comprehensive liberal stipulation that restricting the liberty of persons to question and revise the practices of their own culture is, as a general rule, impermissible. The liberal view I am proposing reiterates this modest proposition.

As an aside, we should remember that not imposing change from without does not mean that liberals should stand idly by as spectators in the face of nonliberal cultural practices. They may be called on to support and encourage reform within these communities. But the motivation for change must be internal and outside involvement must aim primarily to realise the aspirations of oppressed individual (Chapters 2, 3).

We see now how one could both hold that cultures are to be liberal and give cultural diversity its due. In rejecting nonliberal cultures, we are more accurately rejecting their nonliberal practices, and, as I said, we can hope to 'liberalise' these practices without obliterating the cultures' identities. The limits of pluralism do not extend to nonliberal cultural practices, but this is very different from saying that they do not extend to these cultural types as such.

"Nonliberal" Cultures: Two Cases

In response to my attempt at circumventing the tension between protecting rights and culture, it could be argued that there are some prominent and widely adhered to cultural ways of life which are irremediably or inherently nonliberal and so we may not 'liberalise' these cultures without also destroying the cultural

preconditions of choice for a large number of people. But as I mentioned in the last chapter, when confronted by claims of this sort, liberals must first of all assess their authenticity. And I suggested there that upon close examination, most of them are found wanting. Here, let me support my point more fully by examining two well-known cases.

A) Asian Values

To start, we mentioned earlier that few countries represent one particular cultural way of life, and so the idea that restrictions on individual liberty within a country are justifiable on cultural grounds, a view so commonly put forward in international forums, is often derailed from the outset. But to fully entertain the above challenge, let us accept that some states are indeed co-extensive with certain cultural types. The often cited Asian-Values argument is perhaps an example of an argument with some degree of cultural or at least 'civilizational' plausibility. We may, following Samuel P. Huntington, regard a "civilization [as] a cultural entity.... Civilization and culture both refer to the overall way of life of a people, and a civilization is a culture writ large. They both involve the 'values, norms, institutions, and modes of thinking to which successive generations in a given society have attached primary importance.'" For Huntington, Confucianism, or what he now calls 'Sinic' Civilization, is an example of a broad encompassing cultural worldview, and it is this worldview many East Asian leaders have in mind when they oppose liberalism on cultural grounds.¹⁹

Proponents of this position claim that liberal ideals like the freedom of expression and association, equality between the sexes and the equal right to dissent are values foreign and even hostile to their (Confucian) cultural tradition.²⁰ Moreover, they point out that the recent economic successes of their countries are the result of these very values and hence all the more reason to preserve them.²¹ One defender of this view, Bilahari Kim Hee P.S. Kausikan, writes: "In talking about Asian values, [their proponents] are often only examining issues such as the responsibility of individuals to society, the role of

the family and the maintenance of law and order."²² But because, so Kausikan believes, liberalism relegates these social issues to the background by stressing individualistic values, it is a political morality which is inapplicable and unacceptable in the Asian context.

But this cultural rejection of liberalism does not bear any close scrutiny. First of all, its asserted incompatibility with liberalism is based on a serious misinterpretation of liberal morality. Kausikan's critique overlooks the fact that individual responsibility, the family and law and order are vital liberal concerns as well. For instance, the liberal conception of individual rights makes sense only if it presupposes that other individuals have some sort of responsibilities corresponding to these rights.²³ And as we saw in earlier Chapters, liberals have pointed out that the commitment to individual freedom takes for granted a social context within which individual choices acquire their meaning and worth. So Kausikan's claim that the "exaggeration of liberal values and individual rights, devaluing the notion of [social] 'values,' has led to serious problems"²⁴ seems to me to be at most a criticism (and perhaps a well-taken one at that) against nominally liberal societies for failing to live up to liberal demands and not a criticism of liberal theory itself.

The fundamental mistake underlying Kausikan's objection, a mistake commonly made, is the confusing of liberal individualism with egotism understood commonsensically as selfishness or self-centeredness. Thus misunderstood, individualism is an unattractive aspiration, encouraging the privileging of one's narrow self-interests over the interests of others in society. Without doubt, a political morality premised on this view of human nature and/or which encourages and engenders this nature is highly undesirable for all societies, let alone those which take collective goals and responsibilities seriously.

But individualism as a liberal ideal commends quite a different account of individual aspiration. Liberal individualism is the view, firstly, that the individual is the ultimate unit of moral concern in that very uncontentious sense that persons are what matter ultimately, as opposed to some abstract entity like the collective or society. More significantly, it is also individualistic in that it holds individuals to be

capable of evaluating and revising their socially conceived ends in life, and as having the highest-order interest to do so. And nothing about thus conceiving individualism entails selfishness, self-centeredness, atomistic individualism, unresponsiveness to the needs of others or that one lives an aimless, discontinuous and disjointed life. And it certainly does not entail the belief that an individual may do as she wishes; nor does this understanding of individualism preclude the idea that individuals must have abiding communal ties and commitments, that they have important responsibilities to their society and other individuals, and that justice may require certain sacrifices on their part.²⁵

Thus, once one is alert to the difference between the individualism of liberalism and egotism (or excessive individualism as some commentators put it) often mistakenly associated with liberalism, it will be clear that a rejection of liberal individualism does not follow from a rejection of egotism. Objecting to excessive individualism or egotism can be a sound critique of liberalism only if it can be shown that liberal individualism when put into practice invariably breeds egotism. And, to be fair to liberal critics, it is unfortunately true that egotism is on the rise in many liberal countries, in no small measure due to laissez-faire capitalist practices in these societies. But, again, we must be careful not to mistakenly treat avoidable practical failures within liberal societies as evidence against liberal theory.²⁶

Admittedly, this misunderstanding of liberal individualism as egotism has been urged on in part by how some liberals have conceived the liberal project. Their view of liberalism is largely due to the Hobbesian account of society as a mutual benefit arrangement, a modus vivendi permitting selfish and rational competitive individuals to maximise their own enlightened self-interests. Even though few liberals today hold this conception of liberalism, the liberal project is often wrongly associated with this Hobbesian vision, hence motivating this wrong-headed criticism of liberalism. But a rejection of one (mistaken) interpretation of liberalism is not itself a refutation of liberalism.

Contrary to the concerns of "communitarian" societies then, the rule of law, order, individual social responsibility, the family and social values are all important liberal interests. Now, there may be

disagreement between liberals and nonliberals over how these interests can be legitimately realised, but this is quite different from saying liberals do not care about these social issues.

Here one may reply that such cultural disputes over how to realise these communal goods are fundamentally unresolvable because liberalism is unique in taking the individual to be the ultimate unit of moral concern. Since nonliberal societies do not similarly regard the individual, they are more willing to sacrifice the rights of individuals for the sake of the community. But here is where the opposition to liberal individualism becomes obfuscated. Is this objection suggesting that a society or community is entitled to some moral worth independent of the individuals which comprise it? If so, the burden of substantiating this metaphysical (and highly speculative) claim about the ontological status of groups is weighty enough to collapse the objection.²⁷

If the objection does not hinge on some untenable ontological view of groups, then all it can be suggesting is that the rights of the many outweigh the rights of the few. But in this case, the debate is no longer a debate between individualists and anti-individualists, but between different ideas on how to weigh individual rights, a debate firmly situated within an individualistic framework.

It could be retorted here that Asian societies have been forced into this individualist moral framework (the history of western conquest and colonialism being the main reason), that individualism is conceptually alien to the Confucian worldview. But many scholars are now arguing that the inherent anti-individualism so commonly associated with Confucianism is a misconception, or at best a one-sided interpretation, of the tradition. On the contrary, they point out that the idea of individual rights and freedom is latent, albeit in a nascent form, in Confucian thought. According to Julia Ching, the seeds of individual freedom and democracy were already sowed in ancient China. "[T]he belief in human perfectibility, a cornerstone of Confucian philosophy, implied a belief in personal freedom." Though "this was more an interior, spiritual freedom to improve one's own moral character ... [and] the conception of freedom as a right ... was never clearly articulated until modern times, and then under Western influence"

it strongly indicates nonetheless "that traditional Chinese culture contains 'seeds' for concepts like ... democracy which have come more directly from the West."²⁸

Some East Asian leaders openly endorse this more liberal interpretation of Confucianism. Most notably, President Lee Teng-hui of Taiwan refers to the latent individualism in Chinese culture, citing ancient Chinese scholars including Mencius and Confucius for support, to explain and justify the peaceful political democratisation ongoing in Taiwan over the past decade. He says, "Although [ideals of individualism] appeared early in the political activities of our Chinese forebears, the subsequent formation of feudalistic thinking unfortunately cut short the development of this kind of thought. Nevertheless, over many thousands of years of Chinese history these ideals have never disappeared; they have always been goals constantly pursued by the Chinese people."²⁹

My point here is not that this liberal interpretation of Confucianism is conclusive; rather I meant only to show that the tradition (particularly concerning its receptiveness of individualistic ideals) is open to competing interpretations, which should give us pause before accepting uncritically any one interpretation over another.³⁰ Indeed it may be well worth asking why one particular version is invoked and enforced rather than another. This has prompted some critics and observers to suspect the repressive interpretation of Asian Values currently in force to be "very much a political construction" rather than a popular expression of a cultural view.³¹ "If Asian values are used to deny human or civil and political rights, such denial does not reflect cultural values, but a selective practice of political philosophy."³² We cannot with confidence accept that a set of "values" in force in a society are truly assented to cultural values when there is no avenue for persons to voice their assent to or dissent from these values. If a politically enforced 'cultural view' quells internal dissension within a community, its claim that it is representative of that community's culture is immediately called into doubt.

Thus Annette Marfording warns that "[a]n advocacy of cultural relativism, in general terms, may fail to take into account the pervasive role political and social power structures can play in determining

'cultural' values, and in imposing those values on the population.⁶³ She says that "cultural relativism is not a valid proposition if political and social power structures artificially construct 'culture'. If cultural values are not freely determined by the respective population, but rather by these power structures, cultural relativism gives credence to cultural ideology rather than to culture, and thereby opens the door to state oppression."³⁴ In her study of contemporary Japan, Marfording suggests that the "argument that the limited human rights consciousness in Japan is due to 'psychological imperatives of Japanese values' discounts the influence of government education policies". She writes: "the Japanese power elite has a long tradition of regulating cultural ideology and of manipulating it to the elite's advantage. Subordination of women, limited individual autonomy and rights consciousness, marginalization of protesting voices, domestic stability, and ... economic success are the rewards of such regulation and manipulation."³⁵ Liberals sensitive to culture must not, therefore, take all cultural claims at face value but ought to determine whether these are truly culturally-based claims or whether they are ideologically and politically "constructed" ones.

Hence we can doubt, in the case of an oppressive society, whether that which is put forth as a cultural view is indeed genuine and not merely a 'political construct' imposed by a dominant class. How else should we react when a large segment of a population is prevented from participating in the formation and preservation of their own cultural identity in a variety of ways? It is plain that those who insist on the inherently nonliberal nature of their culture shoulder the burden of proof of showing that this very claim has a cultural basis, that it is not just a claim endorsed and enforced by a select few.

To generalise our above discussion: the proposition that a given culture is irremediably nonliberal is difficult to maintain -- this point ties in with our earlier observation that what is sought is not an ossified and impermeable cultural identity but one which is evolving and open to changes. This would bar attempts by the elites of society to entrench and enforce a particular conception of their national culture. A true living and growing culture requires the participation and contribution of its individual members; it

is through the contributions of individual members of the culture that it is able to "regenerate itself" (to use Parekh's words). That some cultural groups silence a segment of their members throws doubt straightaway on whether they meet the basic criterion for cultural legitimacy in the first place.

Here one may object that insisting that communities or societies be open to individual freedom to some degree before we accept their purported cultural claims as legitimate is culturally biased, that we are here being insensitive to different cultural ways of organising political society. But my above argument is that there is no other way of ascertaining the legitimacy of these claims. The onus falls by default on those who hold that their oppressive political institutions are justified on cultural grounds, that their cultures inherently have no space for, say, free speech or expression. They must convince us that these restrictions are culturally sanctioned in spite of the silencing of some members.³⁶

B) Islam and Gender

Let me briefly survey another case wherein nonliberal practices are thought to be integral to a cultural or civilizational view. It is commonly believed that certain restrictions against women in Islamic societies are justified on religious grounds, and so one could argue that in so far as liberalism takes the freedom of religion seriously (barring of course violations of basic rights as said earlier), it will be difficult to reconcile this with its commitment to gender equality.³⁷ Here, again, our respect for individual rights seems to clash with our respect for cultural diversity -- to demand reform will erode a religious (or civilizational) context of choice for many, whereas respecting this context of choice surrenders the freedom of some individuals (namely, women in this case).

But as with the first case study, it seems here that existing practices within a culture have been mistaken for practices necessarily required by that culture. Many Islamic scholars have rejected the belief that Islam endorses and requires the subjugation of women and other nonliberal practices. They argue that these restrictions while often carried out in the name of Islam are in truth due more to a 'politicised'

interpretation of Islam. Muslim feminists in pre-dominantly Muslim countries like Malaysia are challenging not so much Islam as a cultural worldview in their fight for greater equality, but the traditional male interpretation and enforcement of the Koran. "We find no contradiction in our desire to be modern women and to be good Muslims as well," one feminist puts it.³⁸ The point being pushed here is that current practices in many Islamic societies can be reformed without contradicting and dismantling the Islamic worldview. As one scholar tells us, "Islam teaches principles of freedom, human dignity, equality, governance by contract, popular sovereignty, and the rule of law that are compatible with but not identical to the cognate principles that belonged to the heritage of liberal democracy. A look at history suggests that the main obstacle facing Muslims in their attempts to achieve open political systems and democratic governments are 1) a deeply rooted authoritarian political culture and 2) manipulation of the Koran."³⁹

There are in fact a number of Islamic states which do not sanction many of the restrictions against women enforced in other Islamic states. The Prime Minister of Malaysia, no supporter of individual freedom himself, recently urged that Islamic law not be taken out of its historical and social contexts, but that it should "move with the times. Practices which were outlawed by religion in the old days, but are not relevant today [sic], need not be enforced."⁴⁰ We have recently witnessed legal cases in which the Islamic tradition itself was appealed to in order to justify (liberal) reforms in some Muslim countries. For instance, arranged marriages of girls, which used to be permitted in Morocco under the prescription of an eighth-century Islamic jurist, was overturned in 1993 by adopting the opinion of another eight-century Islamic jurist who had argued that the traditions of the Prophet require a woman's consent in marriage. Practices stereo-typically taken as integral to Islam are also open to rejection within the Islamic tradition itself. Polygamy commonly considered a sanctioned Muslim practice has been challenged on the basis that it violates basic Islamic principles. "Islam allows a man to take four wives, but he must treat them equally; some Islamic scholars and politicians argue that since this is impossible [in practice], polygamy should be banned."⁴¹

Against the objection that the above 'liberal' interpretation of Islam is a reading imposed by the colonising West, we can turn the table and argue that it is the contention that certain cultural ways are inherently nonliberal which is the colonising imposition. As Leila Ahmad persuasively argues, "The idea that Other men, men in colonized societies or societies beyond the borders of the civilized West, oppressed women was ... used, in the rhetoric of colonialism, to render morally justifiable its project of undermining or eradicating the cultures of colonized peoples." In other words, if Islam is interpreted to be intrinsically nonliberal, then only if Islam itself is "cast off could Muslim societies begin to move forward on the path of civilization" and its women be liberated.⁴² A sensitive and charitable interpretation of cultural oppression thus should require that we see such oppression as a curable aspect of a culture rather than to treat it as a sign that the culture is inherently oppressive and hence to be eradicated in toto in the name of individual liberty.

Our case studies show us the general strategy to adopt when confronted by so-called nonliberal cultures. But the main lesson to be drawn here is that real examples of irremediably nonliberal cultures are harder to come by than my critic might think. Consequently, the potential tension between rights and culture is less grave in practice than when considered in the abstract. Of course, I do not deny that there could be, in principle at the very least, genuinely nonliberal cultures. When such hard cases do arise, we may be forced to make the difficult choice of letting a culture pass on, and try to accommodate its adherents in other ways. Remember, again, that our concern for culture stems ultimately from what it means for individual autonomy; so as long as restrictions against individuals are a permanent feature (if this is indeed so) of a cultural way of life, we will have to concede that this culture will be one of those unavoidable losses of our social world. I underline 'permanent' though because our normative view may be different if certain restrictions are required as a temporary measure for the purpose of protecting a culture, and we shall turn to these kinds of cases below. But with respect to the challenge posed by irremediably nonliberal cultures, our trump remains that these cases are exceptions rather than the rule.

Individual Restriction and Cultural Protection

We made much of the distinction between internal restriction and external protection in the previous chapter.⁴³ We argued that while liberals should reject internal restrictions (against the rights of members of a cultural community), they should accept protective measures on behalf of a culture against external threats. This distinction was useful in defining the limits of liberal pluralism: cultural differences can be accepted and supported by special rights up to the point where these involve internally restricting individual liberty.

But it is sometimes said that certain internal restrictions are necessitated by the need for external protection, as when leaders of a cultural community think it necessary to ban the use of alien languages or when they think it necessary to restrict their members' exposure to competing cultural ideals in order to protect its cultural identity against the influence of more dominant cultures. This is not a case of an irremediably nonliberal culture as such (e.g., the sorts of cases we studied above) but a case in which a group is forced to engaged in oppressive practices just to ensure its cultural survival. But while this reason for restrictions is slightly different from the one offered above, the tension we face is familiar, namely that between protecting individual rights and protecting culture.

But as before, the burden of proof ought to lie with those who wish to impose restrictions on individuals within their group. This means they must demonstrate that cultural disintegration is both a real threat and requires the specific restrictions sought to be averted. It also requires showing that imposition of the restrictions would not be unduly oppressive to minorities directly affected or undermine the value of cultural survival for the majority in the long run, for instance by breeding pervasive discriminatory and intolerant attitudes. This allocation of the burden of proof is not arbitrary as, to repeat, the reason why we are concerned with culture in the first place is because of its worth to individuals. In other words, when individual rights conflict with cultural rights, we can say that the individual rights are "presumptive" trumps. They are "presumptive" because the onus is on those who want to restrict them to provide the

justification; but because they are only “presumptive”, one is open to the possibility that such justifications could be forthcoming.

Viewing the matter this way shifts the debate from abstract moral principles to estimations of actual possibilities and consequences. For example, in the case of Quebec, a fruitful question to ask is whether granting Quebec special powers short of separate statehood (the “asymmetrical federalist option”) might suffice to meet just demands for preservation of its franco-language and culture. Perhaps there is room for debate over whether, say, obliging children from the allophone communities to attend French language public schools is unduly oppressive of them. It could be argued in this case that the rights of persons to attend public schools in the language of their choice is justifiably overruled by cultural considerations. But there is little room for serious debate over whether it is justified to prohibit the appearance of Chinese characters on signs over Chinese stores and restaurants, as the Quebec Government itself realized when it backed down on this rule. This restriction could not be justified even on cultural grounds (it is unduly oppressive and not necessary for the protection of Quebec culture) and hence the “presumptive” trump of individual rights holds in this case.

To pursue and illustrate the above point, let me consider two global cases, one general and the other quite specific, where internal restrictions are (supposedly) defended in the name of external protection. The first is the commonly heard general argument that democracy must be suspended in underdeveloped countries for the purpose of economic development and sustenance. Political dissent, multi-party politics, the right to organise and hold strikes, minimum wage and other labour laws, will destabilise the economy and discourage badly needed foreign investment, it is said, and hence the need to restrict these freedoms and rights. Now, while this argument is not traditionally presented as a cultural argument, it can easily be given a cultural component. Its defenders have said that economic growth is essential for promoting collective interests and social stability which are highly valued goals, more so than individualistic ones, in some cultures.⁴⁴ Also, it could be added that a society stands a chance of

protecting and supporting its cultural way of life if it also has a strong and stable economy.

However, the general thesis that democracy is incompatible with economic growth has been amply discredited by many philosophers and economists, and I shall not belabour this point.⁴⁵ Indeed, the contrary has been argued, for example by Jean Dreze and Amartya Sen in their comparative study of China and India, that democratic institutions are better able to avert economic mismanagement in general and large scale famine in particular, "that political pluralism can play [a positive role] in the eradication of hunger and deprivation. The contribution of political pluralism relates to the importance of adversarial politics and social criticism in influencing state action in the direction of greater sensitivity to the well-being of the population."⁴⁶

At any rate, even if it can be demonstrated that a trade-off is necessitated by a country's dire economic or other circumstance, this provides, at best, a short-term justification for curtailing rights. As the communitarian Daniel A. Bell concedes, "Once the economic or political troubles are more or less successfully overcome, then according to the government's own logic the denial of rights is no longer justified."⁴⁷ Accordingly, countries which have attained a certain level of development cannot continue to restrict democracy in the name of development. Internal restrictions for the purpose of insuring external protections are justifiable, if at all, only as long as the relevant conditions (i.e., external threats) prevail.⁴⁸

The specific and more challenging case I have in mind takes us to the remote Himalayan Buddhist Kingdom of Bhutan. The Bhutanese state protests that its national culture is being threatened by large-scale (illegal) migration of Hindu Nepali-speakers from the overpopulated plains of Nepal into the foothills of Bhutan, which has over the past decade reduced the Bhutanese to a "fast-dwindling majority that is now about 60%" in their own country."⁴⁹ The Bhutanese government's fear of cultural annihilation is not overstated. In neighbouring Sikkim, a sister Buddhist Kingdom, Nepali immigrants became a majority and in 1975 overthrew the Sikkimese monarchy and voted to be incorporated into India. Other former Himalayan kingdoms, most notably Tibet and Ladakh, have not fared very well either, having

being annexed by China and India respectively.⁵⁰ As King Jigme Singye Wangchuck lamented, Bhutan is "really the last bastion of Himalayan Buddhism."⁵¹

One protective strategy the Bhutanese state has adopted is the (nearly-complete though not successfully enforced) closure of its borders both to prospective immigrants and even short-term visitors.⁵² While this may deprive immigrants from a poorer country (who see Bhutan as a relatively prosperous country) the opportunity for bettering their lives,⁵³ and possibly contradict the idea of freedom of movement, I grant that this ban on immigration is arguably a just means of external protection.⁵⁴

But the Bhutanese state has also, more contentiously, imposed certain restrictions on its residents, including limiting foreign and local media, restricting dissent, requiring by law that all residents (including non-ethnic Bhutanese) dress and wear their hair in the traditional Bhutanese fashion, requiring that private and public buildings conform to Bhutanese architectural styles, requiring all residents to swear allegiance to the King (which carries a strong religious overtone), and banning the use of other ethnic languages in schools and discouraging their use elsewhere.⁵⁵ As the Himalayan scholar A.C. Sinha reports, "The Bhutanese reasoned with reality and found that their only chance to keep the southern Bhutan in effective control is through an aggressive policy of cultural assimilation of the Nepalese."⁵⁶ In defence of these internal restrictions, the Bhutanese Foreign Minister was quoted as follows: "If we were spotted owls, the world would care about us. Can't you see that we're an endangered species, too?"⁵⁷

A more detailed study on the ground may suggest otherwise, but taking the case as presented, most of the cited internal restrictions are hard to justify. In my view, it is highly improbable that regulations concerning manner of dress or how one does one's hair serve any end towards preserving a cultural identity in any meaningful sense; yet these are rather intrusive measures against personal choice. Not providing public funds for minority languages is one thing; discouraging or even banning their use is quite another. Restricting further immigration may be warranted but this is quite different from limiting ideas and information from outside. We need more conclusive and definitive evidence that the Bhutanese

culture stands to decay if it does not forcibly assimilate its minorities (and exact conformity from dissenting Bhutanese) before we can approve of these restrictions. It is reasonable to hold that continued migration will pose an external threat to Bhutan's national identity, but less so with regard to individual freedoms in manner of dress and the like within Bhutan. Absent an argument to the contrary, the reason why we are ready to allow Bhutan to close its borders, namely for the sake of protecting its cultural identity, is reason also why Bhutan should not impose its national culture on minority cultures already residing in the country. If membership in their own cultural community is an important good for the Bhutanese, it too must be, to be consistent, an important good for the Nepalese minority. To suggest that the Nepali-Hindu culture will survive outside Bhutan is no consolation at all to the very individual immigrants already within Bhutan being deprived of their own culture.

Hard Cases and The Limits of Ideal Theory

But let us for the sake of discussion accept that certain restrictions are necessary for protecting the Bhutanese national culture, a moral dilemma which may in reality arise if the Bhutanese effort to curb illegal immigration remains unsuccessful.⁵⁸ Under this scenario, we can plausibly suppose that the external threat against Bhutanese culture persists and that the only available counter against this is to aggressively assimilate all (both legal and illegal) immigrants. In this less than ideal situation (i.e., a situation of non-compliance and unfavourable condition), it is plausible that coming to the defence of individuals whose liberties are restricted by Bhutan's assimilationist campaign will compromise the cultural context of choice for the Bhutanese, while permitting forcible assimilation will undermine individual liberty (of the Nepalese minority already settled in Bhutan). Liberals sensitive to culture appear to be caught between a rock and a hard place here, and "[i]t seems unlikely in this case that any claim or set of claims has absolute priority over others, since the conflicting values really are interdependent."⁵⁹

What should be done in hard cases of this sort? One relevant factor to consider is the duration of

these restrictions in relation to their probable success in protecting (or averting the decay of) a culture. Here one could appeal to a "utilitarianism of rights" account, holding that in the case of a conflict of rights, the course of action which results in a "net enjoyment of those rights" is the preferred one.⁶⁰ Or one may say that those rights whose exercise results in greater net utility are to be preferred over others when they conflict (perhaps affirming the idea that some rights count for more than others). But the above suggestions involve very difficult calculations and inferences, and may invoke more problems than solutions. In any case, whether we choose a general utilitarian approach or not, not much can be said in the abstract without a detailed investigation of the specifics of these specific cases. As Kymlicka says of these non-ideal scenarios: "These are complex issues in which our intuitions are pulled in different directions, and I don't see how any simple formula could cover all the relevant cases."⁶¹

But this concession to hard cases is no reason at all to reject our ideal theory. Difficult and tragic conflicts are part and parcel of political life — Isaiah Berlin long ago forcefully made this point⁶² — and their best resolutions may be no more than a pragmatic or diplomatic compromise, with the open-mindedness that such compromises are liable to revisions when conditions change and/or when new facts emerge.⁶³ Conflicts between rights are common features of the democratic political landscape, and in difficult cases, some rights have to give way; even liberal-democracies are not exempt from having to make difficult choices of this sort.⁶⁴ As Chantal Mouffe notes, "[p]olitics in a modern democracy must accept division and conflict as unavoidable, and the reconciliation of rival claims and conflicting interests can be partial and provisional."⁶⁵ Such conflicts are matters for politicians to resolve on a case-by-case basis; philosophers cannot offer any general guiding principle here. Nonetheless, ideal theory still sets the bounds and limitations for these compromises and temporary solutions. True, an ideal theory is plainly flawed if it arrives at its limiting point very early on, i.e., if it cannot make general recommendations for much of what goes on in practice. However, I have tried to show throughout this chapter that the liberal view I defend arrives at this limiting point only in rare and extreme cases, that for the most part it is able

to reconcile the rights of groups and individuals.

More importantly, our confrontation with hard cases should move us to ask why such tragic conflicts arise in the first place. Concerning internal restrictions within some minority cultures in liberal states, these restrictions are in no small regard the result of pervasive social inequalities between groups.

As Raz explains,

[t]he insecurity of existence in multicultural societies, especially where there is real or perceived discrimination against the group, tends to encourage conservative elements in cultural groups, resisting all change in their culture which is equated with its dilution to the point of extinction. They also tend to increase pressure on members of the group to turn inward and reduce their contact with the external world, as an inward outlook is perceived as the only guarantee against defection from the group.

Similarly, Kymlicka write: "Even when minority leaders express a hostility to liberalism, it is important to remember the political context. These leaders may simply be responding to the fact that liberals have been resisting the minority's claims for self-government, or other external protections."⁶⁶

That inequalities (and the resulting hostility) between groups are largely responsible for restrictions within weaker groups holds, a fortiori, in the global context for the obvious reason that inequalities here are more pronounced and pervasive. As Thomas Pogge notes, most domestic rights violations can be partly traced to the current global structure:

Relative poverty breeds corruptibility and corruption. Powerful foreign governments support their favourite faction of the local elite and often manage to keep or install it in power.... Third-World politicians are bribed or pressured by firms from rich societies to cater to their sex tourism business, to accept their hazardous wastes and industrial facilities, and to buy useless products at government expense.... [I]t is indisputable that the oppression and corruption in the poorer countries ... is by no means entirely homegrown.... It is entirely unrealistic to expect that such foreign-sponsored corruption can be eradicated without reducing the enormous differentials in per capita GNP.⁶⁷

This causal connection between global inequality and internal restrictions holds especially for the hard cases of the type we are considering. In the Bhutan example, the major motivation for Nepalese migration is poverty, and the threat this cultural influx posed to the Bhutanese national identity is exacerbated due to Bhutan's own impoverished condition. This tragic scenario would not arise within a more egalitarian

global framework. The dilemma of child-labour presents another vivid example of how serious poverty gives rise to violations of children's rights, the effective correction of which requires seriously confronting the problem of global inequality. Attempts at banning child-labour without addressing the fundamental issue of global inequality and poverty will only hurt the victims themselves.⁶⁸

If hard cases, and the moral dilemmas they pose, arise largely because of global inequality, then liberals have another pressing moral reason, besides the more familiar ones, to mitigate this inequality. A sincere and complete effort at promoting a liberal world order would therefore require remedying the current structural inequality between countries.

Conclusion

I rejected political liberalism on the ground that it fails to live up to the liberal commitment to individual liberty. This is because its tolerance of nonliberal groups is in tension with this commitment. In this chapter I considered the objection that while comprehensive liberalism may not face this tension, it may seem to some to face a different tension, namely that its commitment to individual liberty, on the one hand, and its commitment to cultural membership, on the other, set conflicting demands. But my response is that real instances of such conflicts are very rare for two reasons: First, in most instances of nonliberal cultural practices, these practices may be reformed or even abandoned without harming the identity of a culture. Second, when it is objected that some cultures are inherently nonliberal such that reforming their nonliberal practices imply changing these cultures, I argue that such claims are difficult to substantiate, and in most cases plainly false.

I concede though that in the rare case, protecting a cultural identity may entail restricting certain individual liberties. At this point, I admit that comprehensive liberalism has no general solution to offer, that we have reached the limiting point of our ideal theory. The resolution of these hard cases is a matter of pragmatism and diplomacy, better left to politicians than to philosophers. But is theoretical limitation a

serious flaw for my liberal theory?

Compared to the very real problem political liberalism faces, I contend that all things considered, the liberal view I am advancing is more acceptable despite this theoretical limitation. Normative political theories aim to be action-guiding, specifically with respect to how we should design, assess and reform basic social and political institutions. On this count comprehensive liberalism comes out ahead despite the identified limitation. This limitation, because it is rarely realised in practice, affects little its action-guiding potential; and in the rare event of hard cases, it still plays a part in setting the perimeters for compromises. On the other hand, the tension political liberalism faces, as I have argued in earlier chapters, practically incapacitates it from the start.

Lastly, I said that one important cause for difficult cases -- when they do arise at all -- is the perverse inequality between countries. If the problem of inequality is in principle resolvable or ameliorable, my optimism that the aforementioned limitation of my theory can be minimised in practice is further warranted -- the frequency of possible real-life hard cases would be significantly reduced. And given the well-documented causal connection between global inequality and domestic human rights violations, that comprehensive liberalism is more suited than political liberalism to address the problem of inequality -- as I shall be arguing next -- will be another point in its favour.

ENDNOTES

1. See Henry Shue, Basic Rights (Princeton: Princeton Univ. Press, 1980); and Rawls's reference to these rights in "The Law of Peoples," in On Human Rights, ed. Stephen Shute and Susan Hurley (New York: Basic Books, 1993): 41-82, p. 62.

2. Michael Walzer, "The Moral Standing of States: A Response to Four Critics," Philosophy and Public Affairs 9/3 (1980): 209-229, p. 218.

3. As an example of limited religious freedom, the Indonesian government does not endorse marriages outside one of the five recognized faiths in the country -- Islam, Catholicism, Protestantism, Hinduism and Buddhism — even if that religion is not explicitly banned. See "Confucian Couple Fights for Recognition," Jakarta Post Aug 1 1996, p. 2.

4. To recap, Rawls holds that "reasonable persons see that the burdens of judgement set limits on what can be reasonably justified to others, and so they endorse some form of liberty of conscience and freedom of thought. It is unreasonable for us to use political power, should we possess it, or share it with others, to repress comprehensive views that are not unreasonable." Political Liberalism (New York: Columbia Univ. Press, 1993), p. 61.

5. See the liberal rights Rawls exempts well-ordered hierarchical societies from in "The Law of Peoples," pp. 62-63.

6. Walzer, pp. 210-16.

7. Joseph Raz, "Multiculturalism: A Liberal Perspective," in Ethics in the Public Domain (Oxford: Oxford Univ. Press, 1995): 155-76, p. 170.

8. "Inherently" here should not be thought of an endorsement of an 'essentialist' view of cultural identities as atemporal, static and given. Plainly, I mean by "inherently nonliberal culture" a culture whose distinguishing practices (i.e., those features which differentiate it from other cultures, those which allow it to be identified as a distinct culture) are nonliberal and so reforming these practices necessarily involves changing the identity of that culture. Given, as is my claim here, that few cultures are inherently nonliberal, it will be easier to illustrate this point with an illiberal example. A cultural group which is distinguished from others solely by its genocidal and racist aims is a cultural group which must necessarily take on a different identity (and offer a radically different context of choice for its adherents) when forced to renounce this practice. Even then, few cultures are inherently illiberal in this sense, perhaps the Aryan nation (if we could even for a moment grant it the status of a cultural entity) would be one rare example.

9. Will Kymlicka, Liberalism, Community and Culture (Oxford: Oxford Univ. Press, 1989), pp. 169-71.

10. See Will Kymlicka, Multicultural Citizenship (Oxford: Oxford Univ. Press, 1995), pp. 94-95.

11. Quoted in P.N. Chopra, The Ocean of Wisdom: The Life of Dalai Lama XIV (New Delhi: Allied Publishers, 1986), p. 100, my stress.

12. Hilary Putnam, "Objectivity and the Science/Ethics Distinction," in Realism With A Human Face (Cambridge, Ma.: Harvard Univ. Press, 1990), p. 177. See also p. 176.

13. David Miller, On Nationality (Oxford: Oxford Univ. Press, 1995), p. 127, my emphasis.
14. Tariq Modood, "Anti-Essentialism, Multiculturalism and the 'Recognition' of Religious Groups," Conference on Citizenship in Diverse Societies: Theory and Practice, Toronto, 4 Oct. 1997, TS. 5.
15. Frank Cunningham, The Real World of Democracy Revisited (Atlantic Highlands, N.J.: Humanities Press, 1994), p. 106.
16. Bhikhu Parekh, "British Citizenship," in Citizenship, ed. Geoff Andrews (London: Lawrence and Wishart, 1991): 183-204, pp. 194-95, my stress.
17. See, e.g., Cunningham, pp. 103-05, 108.
18. Miller, pp. 127-28.
19. Samuel P. Huntington, The Clash of Civilization and the Remaking of World Order (New York: Simon & Schuster, 1996), pp. 41, 45. While the Asian Values argument has since been co-adopted by some Muslim countries in South-East Asia, the Asian Values initially extolled were East Asian values, namely Confucian values (under one interpretation), and was a position initiated by states whose populations share a close affinity to this particular civilizational world view. These countries include China, Hong Kong, Japan, Korea, Singapore and Vietnam. This is not to say that there are no minorities within these countries -- indeed there are sizable minority populations within China and Singapore who do not share the Confucian tradition. There are also notable counter-examples of Asian leaders who reject this position. President Lee Teng-hui of Taiwan is one Asian leader who denounces the Asian Values position: "I don't think there are distinctly Asian values. There are human values.... Some talk of Asian Values. I say that Asian peoples have rights just like in the United States." Quoted in "Freedom, Asian Values and a 'New' Chinese Culture," in The Straits Times May 15 1996, p. 29. But I grant the position by leaving aside these difficulties for now.
20. For the kinds of restrictions rationalised by Asian Values see, e.g., Diane K. Mauzy, "Singapore in 1994," Asian Survey Vol XXXV/2 (1995): 179-185; and Huntington, pp. 107-09. For a historical and evaluative survey of the Asian Values discourse, see Peter R. Moody Jr., "Asian Values," Journal of International Affairs 50/1 (1996): 166-92.
21. As the Singaporean leader Lee Kuan Yew says, "The more communitarian values and practices of the East Asians -- the Japanese, Koreans, Taiwanese, Hong Kongers, and the Singaporeans -- have proved to be clear assets in the catching up process.... The values that East Asian cultures upholds, such as the primacy of group interests over individual interests, support the total group effort necessary to develop rapidly." Quoted in Samuel P. Huntington, p. 108. The current economic crisis engulfing much of South-East Asia at the time of writing has surely put a damper on this argument, but I will not push this point here.
22. Bilahari Kim Hee P.S. Kausikan, "An East Asian Approach to Human Rights," Buffalo Journal of International Law 2 (1995-96): 263-283, p. 277.

23. Minimally, there are the negative duties of forbearance. Kant long ago wrote that "if a certain use of freedom is itself a hindrance to freedom in accordance with universal laws (i.e. wrong), coercion that is opposed to this (as a hindering of a hindrance to freedom) is consistent with freedom in accordance with universal laws, that is, right. Hence there is connected with Right by the principle of contradiction an authorization to coerce someone who infringes upon it." Kant, The Metaphysics of Morals, trans. Mary Gregor (Cambridge: Cambridge Univ. Press, 1991), p. 57. Among contemporaries, it is familiar that Rawls's first principle puts it clearly that each person's scheme of liberties is to be "compatible with the same scheme for all."

24. Kausikan, p. 277.

25. This distinction has been made by liberals in a variety of ways, in terms of "individualistic" versus "individualism" (Kymlicka, Liberalism, Community and Culture, chap. 14) or "individuality" and "individualism" (Dewey, as noted in Karen Detlefsen, "Diversity and the Individual in Dewey's Theory of Democratic Education," Educational Theory (Summer 1998, forthcoming)). But the general distinction sought is I think clear.

26. Egalitarian liberals like Rawls, Ronald Dworkin and others have long rejected the idea of an unregulated free market economy. Indeed the egotism nonliberal countries so hastily accuse liberals of engendering is rampart in their own societies. See Daniel A. Bell "A Communitarian Critique of Authoritarianism: The Case of Singapore," Political Theory 25/1 (1997): 6-32; and Aryeh Neier, "Asia's Unacceptable Standard," Foreign Policy 92 (1993): 42-51, pp. 42-43. Melanie Chew, "Human Rights in Singapore: Perceptions and Problems," Asian Survey XXXIV/11 (1994): 933-948.

27. As Cunningham reminds us, "this attitude is conceptually confused. Whatever social-theoretical stand one takes on the metaphysical status of groups entities, it must be recognised that it is individuals and not social groups who actually experience the benefits of democracy or suffer the oppression of autocracy." Cunningham, p. 40.

28. Julia Ching, "Human Rights: A Valid Chinese Concept?", in Human Rights in China and Islam, ed. D.C. Maguire (Washington: 1995): 2-22, p. 9.

29. Lee Teng-hui, "Chinese Culture and Political Renewal," Journal of Democracy 6/4 (1995): 4-8, p. 8.

30. A full investigation of such matters may require a close study of the recent debates in the so-called "post-colonial" discourse which is out of my reach now.

31. James Gomez, rev. of To Catch a Tartar by Francis Seow, Human Rights Quarterly 18 (1996):507-510, p. 509.

32. Gomez, p. 509.

33. Annette Marfording, "Cultural Relativism and the Construction of Culture: An Examination of Japan," Human Rights Quarterly 19/2 (1997): 431-448, pp. 447-48.

34. *Ibid.*, p. 433, emphases added. Miller makes a similar point, pp. 40-41.

35. *Ibid.*, p. 446.

36. As an illustration, the common assertion that East Asian societies are consensus-seeking is not at all verifiable in practice in some of these societies given their restrictions on liberty. As Aryeh Neier observes, "'consensus imposing' [rather than consensus-seeking] is a more fitting description of some governments in East and Southeast Asia" given the lack of democratic freedoms in these countries. Aryeh Neier, "Asia's Unacceptable Standard," Foreign Policy No. 92 (1993): 42-51, p. 43.

37. It is well-known that in Saudi Arabia, e.g., "women faced institutionalized discrimination affecting their freedom of movement and association and their right to equality in employment or education." Human Rights Watch World Report 1997 (New York, 1996), p. 227.

38. Reported by Seth Mydans, "Blame Men, Not Allah, Islamic Feminists Say," The New York Times 10 Oct. 1996, A4.

39. Laith Kubba, "Recognizing Pluralism," Journal Democracy April 1996: p. 86.

40. Reported in "Mahatir: Let's Practice Islam the Same Way," The Straits Times 21 July 1997, p. 2. Mahatir rejects the way in which some clerics in his own country have interpreted the huddud [Islamic Criminal Code]: "A woman who has been raped, and is unable to produce four witnesses, would not be able to have the rapist punished even if she knows who he is. On the other hand, she would be guilty of zina (adultery) and could be punished by stoning to death. By no stretch of the imagination can this be considered justice." Quote from S. Jayasankaran, "Blunt Message: Mahatir meets Islamic Opposition Head-on," Far Eastern Economic Review 8 Aug. 1996, p. 22.

41. The above cases are reported by Elaine Sciolino, "The Many Faces of Islam," The New York Times 13 Oct. 1996 D4. I am assuming here that most liberal egalitarians would reject polygamy. Some may dispute this of course. But the main issue here is that under one interpretation of the Koran, polygamy is impermissible. For more on liberalism and Islam, see Joseph Carens and Melissa S. Williams, "The Rights of Islamic Minorities in Liberal Democracies: The Rhetoric of Inclusion," 1994 Annual Meeting of the American Political Science Association, New York; see also Leila Ahmad, Women and Gender in Islam: Roots of a Modern Debate (New Haven: Yale Univ. Press, 1992).

42. Leila Ahmad, pp. 151, 152.

43. Kymlicka, Multicultural Citizenship, Chap. 3.

44. For one very familiar example, leaders of China often say that social and collective interests (including economic performance) take priority over individual civil and political liberties in their culture.

45. For some examples, see Rhoda Howard, "The Full-Belly Thesis: Should Economic Rights Take Priority Over Civil and Political Rights?," Human Rights Quarterly (1983); Jack Donnelly, Universal Human

Rights in Theory and Practice (Ithaca: Cornell Univ. Press, 1989), chaps. 9 & 10; Henry Shue, Basic Rights, 2nd ed. (Princeton: Princeton Univ. Press, 1996). As Donnelly says, "so much of what passes for developmental repression reflects instead regime maintenance, or even the personal interests of officials, and has only the most tenuous connection to development strategy." p. 189. While many defenders of this view point to the case of Singapore as a living proof, Singapore is more an exception rather than the rule. There are several counter-examples of countries which have both done well economically and managed to permit a greater degree of democratic freedoms than has Singapore (Hong Kong, Taiwan and South Korea are examples); indeed it seems more often the case that countries with poor democratic records also fared poorly economically (e.g., dictatorships in the Philippines, in many authoritarian African states and so on).

46. Jean Dreze and Amartya Sen, Hunger and Public Action (Oxford: Oxford Univ. Press, 1989), p. 278. See especially Chap. 11. The present economic crisis in Asia has been used by some as further evidence of how undemocratic politics hurt rather than bolster the economy.

47. Daniel A. Bell, "The East Asian Challenge to Human Rights: Reflections on an East West Dialogue," Human Rights Quarterly 18 (1996): 641-667, p. 650.

48. This could be one reason why leaders of the Newly Industrialized Countries in South East Asian had to turn to the Asian Values position in the recent past in their opposition to liberal values.

49. Barbara Crossette, "Bhutan Struggles to Stop Militants," The New York Times 14 April 1991, 1, 9:1.

50. See, e.g., Nari Rustomji, Bhutan: The Dragon Kingdom in Crisis (Oxford: Oxford Univ. Press, 1978), pp. 7ff.

51. Quote taken from Crossette, "Bhutan Struggles."

52. This closure includes strictly limiting and regulating tourism, which for a impoverished country with a huge potential for drawing travelers is a substantial opportunity-cost.

53. As The New York Times reports, "Although the Bhutanese are statistically among the world's poorest people, the standard of living in agriculture villages appears higher than in India, Pakistan, Nepal or Bangladesh.... It is also an underpopulated country where food is plentiful." Barbara Crossette, "Now Tries To Be Then in the Land of Thunder Dragon," The New York Times 3 June 3 1990, 1, 20:1

54. For a liberal defense of open borders, see Joseph Carens, "Aliens and Citizens: The Case for Open Borders," Review of Politics 49/3 (1987): 251-73.

55. These restrictions are noted in Crossette, "Now Tries To Be Then in the Land of Thunder Dragon;" A.C. Sinha, Bhutan: Ethnic Identity and National Dilemma (New Delhi: New Reliance Publishing House, 1991), pp. 239-40; and Parmanand and Saroj B. Khanna, "Ethnicity in Bhutan: Causes and Effects," Journal of South Asia and Middle Eastern Studies XVII/1 (1993): 76-94.

56. Sinha, p. 240.

57. Quoted in Bertil Lintner, "Stateless in Shangri-La," Far Eastern Economic Review 25 July 1996: 30-31, p. 30. There are also reports of illiberal violations in Bhutan, including detention without trial, suppressing political opposition, torture and forceful deportation of settled immigrants. See, e.g., Michael Hutt, "Refugees from Shangri-La," Index on Censorship 22 (1993): 9-14; also Amnesty International Annual Report 1995, pp. 72-73. But these are measures all liberals would condemn and so we need not discuss them here.

58. As Lintner reports, "Slipping across India's 720-kilometre, virtually unguarded border with Bhutan has always been simple.... Bhutanese authorities could do little to stop this influx, mainly because Thimphu [the capital of Bhutan] has very poor access to the lowlands." p. 30.

59. Kymlicka, Liberalism, Community and Culture, p. 199.

60. Robert Nozick, Anarchy, State and Utopia pp. 28-29, cited in Kymlicka, Liberalism, Community and Culture, p. 198.

61. *Ibid.*, p. 199.

62. See, e.g., Isaiah Berlin, "The Pursuit of the Ideal" in The Crooked Timber of Humanity (London, John Murray Publishers, 1990). As he says in a more recent article, "To demand or preach mechanical precision, even in principles, in a field incapable of it is to be blind and to mislead others." "On Political Judgement," New York Review of Books Vol XLIII/15 (Oct 1996): 26-30, p. 30.

63. For this last remark, see, e.g., David Dyzenhaus, "Liberalism After the Fall," Philosophy and Social Criticism 22/3 (1996): 9-37.

64. Rawls himself accepts trading off certain individual liberties for the purpose of public security. In a state of emergency, Rawls writes, "[c]itizens may affirm the law [which, say, holds that sufficient evidence for conviction is that weapons are found in the defendant's property] as the lesser of two evils, resigning themselves to the fact that while they may be held guilty for things they have not done, the risks to liberty on any other course would be worse." A Theory of Justice, (Cambridge: Harvard Univ. Press, 1971) p. 242. (This reference was pointed out by Thomas Pogge). In recent history, even liberal-democracies like Canada have been forced to suspend civil liberties.

65. Chantal Mouffe, "Liberalism and Modern Democracy," in Democracy and Possessive Individualism, ed. Joseph Carens (Albany: SUNY, 1993).

66. Raz, p. 171; Kymlicka, Multicultural Citizenship, p. 171.

67. Thomas Pogge, "An Egalitarian Law of the Peoples," Philosophy and Public Affairs 23/3 (1994): 195-224, pp. 213-14).

68. See Owens Bowcott, "When Work is the Lesser of Two Evils," [The Guardian Weekly](#) 26 Oct 1997. Witness thus the tragic story of children who were sacked from clothing factories because of international pressure. Instead of enrolling in schools "which do not open up an immediate avenue to employment, many resorted to hazardous forms of work, such as sorting rubbish, street scavenging, prostitution, brick-breaking, or leather work. The number of homeless children also increased."

CHAPTER SEVEN

JUSTICE AND EQUALITY

One of John Rawls's chief contributions in his seminal A Theory of Justice (henceforth Theory) was his "reconciliation of liberty and equality."¹ Equality and liberty were long thought to be conflicting ideals, and it was once a common perception that liberals opted for liberty over equality. Theory departs from this classical conception of liberalism, proposing an egalitarian form of liberalism, "a liberalism for the least advantaged, a liberalism that pays moral tribute to the socialist critique," as one commentator puts it.² This commitment to equality in Rawls's theory is expressed in his famous two principles of justice.³

As Rawls explains, "the two principles of justice express an egalitarian form of liberalism by virtue of [the following] three elements:"

- a) the securing of the fair values of political liberties in more than a formal sense,
- b) the fair (and more than formal) equality of opportunity, and
- c) the difference principle which allows for social and economic inequalities attached to offices and positions when these inequalities are to the greatest benefit of the least advantaged members of society.⁴

But in extending his theory of justice to the global context, Rawls explicitly retracts these egalitarian commitments. As he puts it in "The Law of Peoples," "[t]o some degree the more general [i.e., global] liberal ideas lack the three egalitarian features of the fair value of the political liberties, of fair equality of opportunity, and of the difference principle. These features are not needed for the construction of a reasonable law of peoples and by not assuming them our account has greater generality."⁵

We have already objected to Rawls's rejection of the fair value of political liberties as a global ideal (Chapter 2). My focus in this chapter is on his rejection of the fair equality of opportunity and the difference principle (i.e., his second principle of justice); in short, our discussion of Rawls's egalitarian

retraction here concerns the issue of global social and economic inequalities.

Some critics have argued that the equality of opportunity as articulated by Rawls's second principle is not sufficiently egalitarian; yet others have thought that this equality offends individual liberty.⁵ My purpose here is not to defend the egalitarian liberalism advanced by Rawls against these critics; that would require more space than I have here.⁷ Nor do I intend to delve into the finer philosophical debate regarding what exactly we should equalise -- I will take it for granted that Rawls's primary goods like income, wealth, power and social status are appropriate for our purposes.⁸ Rather, my limited aim is to show that a liberal theory of justice concerned with social and economic inequalities in the domestic sphere should not abandon this concern when it moves to the global context. However, my criticism is not directed solely at Rawls's global liberal theory. I will go on to argue that this egalitarian retraction is already evident in Rawls's shift from comprehensive liberalism to political liberalism, his objection to the contrary.⁹ Thus in so far as Rawls's egalitarian omission is not accidental to his global theory but has its source in the idea of political liberalism itself, we have another reason to withhold assent from that idea.

The Challenge of Global Inequality

According to the United Nations Development Program's Human Development Report 1996, 17 million people in developing countries die each year from curable infectious diseases; 800 million do not get enough food; and 500 million are "chronically malnourished". 1.3 billion individuals (that is roughly 25% of the world's population, and mostly women and children) live in absolute poverty. Infant mortality rate in these countries remains at 6 times that of developed countries. And life expectancy is on average 51 years in the developing world compared to 74.3 years for developed countries.¹⁰

Yet it is a well known fact that many people in the world make do with less than adequate nourishment, clothing, housing, health care, education and other basic human needs not because of an

absolute shortage of global resources but because of an unequal distribution of these resources. Inequality in distribution of resources in turn determines what Amartya Sen calls a person's entitlements to these basic needs (e.g., the money with which to purchase food).¹¹ That a fifth of the world's population consumes more than four-fifths of the globe's resources and own more than 80 percent of its wealth attests to this perverse global disparity in entitlements.¹² So while poverty and inequality are distinct concepts, it is indisputable that much of global poverty is caused and sustained by a pervasive inequality in the distribution of the globe's resources.¹³

That it is the lack of equitable entitlement which gives rise to poverty and not an absolute global shortage shows that global poverty is a legitimate moral concern. Given that "ought implies can", there would be no basis otherwise for arguing that we have a duty towards those in dire need. But as has been amply shown by many, the Neo-Malthusian metaphor of earth as a lifeboat rapidly arriving at the limits of its carry capacity (made most famous by Garrett Hardin) is a dramatic misrepresentation of the global situation.¹⁴ As Sen and Jean Dreze put it:

Hunger is ... intolerable in the modern world in a way it could not be in the past. This is not so much because it is more intense, but because widespread hunger is so unnecessary and unwarranted in the modern world. The enormous expansion of productive power that has taken place over the last few centuries has made it, perhaps for the first time, possible to guarantee adequate food for all, and it is in this context that the persistence of chronic hunger and the recurrence of virulent famines must be seen as being morally outrageous and politically unacceptable.¹⁵

Many liberals have thus offered various persuasive arguments why the debilitating poverty and its resultant human miseries described above are pressing universal concerns. Not least is the argument that the serious deprivation of fundamental human needs violates the basic rights of persons to security and subsistence.¹⁶ Other liberals, taking a duty-based approach, argue that if the protecting and promoting of moral agencies of persons are important moral concerns, we have positive duties to help those whose moral agencies are being undermined by their lack of basic needs such as food and shelter.¹⁷ Yet others, beginning from utilitarian premises, point out that if we can ameliorate human suffering without

sacrificing anything morally significant on our part (and we can do this because of the drastic inequalities in global conditions), we have the duty to do so.¹⁸ For these liberals, our positive duties towards those afflicted by poverty are universal in that they extend beyond our own national and state boundaries.

John Rawls, as I noted, advanced an egalitarian brand of liberalism in *Theory*, a liberalism committed to a fair equality of opportunity. His "[second] principle holds that in order to treat all persons equally, to provide genuine equality of opportunity, society must give more attention to those with fewer native assets and to those born into the less favourable social positions. The idea is to redress the bias of contingencies in the direction of equality."¹⁹

Although Rawls himself was mostly concerned with domestic justice in *Theory*,²⁰ Rawlsians like Charles Beitz and Thomas Pogge have shown us, albeit with variation in details, the global implications of Rawls's equal opportunity principle. They point out that if Rawls holds a person's race, gender, social status and other socially contingent factors about her to be "arbitrary from a moral point of view", and therefore to be factors that should not unfairly advantage or disadvantage her choice and pursuit of the good life, then neither should one's nationality and citizenship similarly advantage or disadvantage one. As Pogge argues,

Nationality is just one further deep contingency (like genetic endowment, race, gender, and social class), one more potential basis of institutional inequalities that are inescapable and present from birth. Within Rawls's conception, there is no reason to treat this case differently from the others. And so it would seem that we can justify our global institutional order only if we can show that the institutional inequalities it produces tend to optimize (against the backdrop of feasible alternative global regimes) the worst social position.²¹

In addition to the above well-known arguments for greater global equality, we saw in the previous chapter why liberals have another important reason for addressing the problem of global inequality. To recall, liberals concerned with protecting individual rights universally may be obstructed in this task by the claims of national or state self-determination. Yet both the demands of collective self-determination (under the relevant conditions) and individual rights, as we have seen, are legitimate liberal demands. But,

as I mentioned then, the dilemma here between protecting individual rights on the one hand and respecting the collective claim of a society on the other, should it arise, is to a large degree generated by the pervasive social and economic disparity between societies. Weaker and poorer societies are more prone to imposing restrictions on their own members because of external pressures, felt or real. We may remember Pogge's observation that relative poverty breeds corruption, provides avenues for exploitation by outside interests (e.g., multinational corporations) with the help of local elites. Unequal relations between countries influence the kinds of governments installed in poorer countries, the narrow range of options these governments have and the lack of tolerance of these regimes towards internal dissension given the real global threats against their societies.²²

The dilemma of child-labour provides one stark illustration. As *The Guardian Weekly* reports, "In Bangladesh, a country where 67 percent of those under five are classified as malnourished, it is often extreme poverty which drives parents to send their own infants out to augment pitiful incomes."²³ Given this fact, global legislation outlawing child-labour is unlikely to be successfully enforced at best, and, worse yet, may hurt the very children it is intended to protect. The root cause of this problem is poverty and, as one commentator notes, attempts to protect the rights of children "will fail unless the international community is committed to combatting poverty through supportive action."²⁴

So, Rawls's observation that "[t]he great social evils in poorer societies are likely to be oppressive government and corrupt elites; the subjection of women abetted by unreasonable religion, with the resulting overpopulation relative to what the economy of the society can decently sustain" (LP, pp. 77, 228n) is only partly true; it overlooks the role of global conditions, in particular that of extreme poverty, in breeding domestic corruption.²⁵ A universal commitment to human rights should therefore be critical of the global conditions which compel the infringement of these rights.

Indeed, given the intricate global interdependence in today's world, in as far as global inequality can be shown to be perpetrated and perpetuated by global institutions which all of us are responsible for

supporting by our participation in them, we have the additional duty to make amends for our causal role in engendering these inequalities. As Pogge writes, "[w]e are causally involved in that we are significant actors in a world of tight global interdependence, in which our conduct decisions ... reverberate throughout the world." Consequently, "[w]e are asked to be concerned about human rights violations [and deprivations] not simply insofar as they exist at all, but only insofar as they are produced by social institutions in which we are significant participants."²⁶ Citizens of richer countries are therefore more strongly implicated in the ills of strangers in different parts of the world than they tend to think via their participation in unjust global institutions. We therefore have the duty to replace or reform these institutions. One may disagree (as I do) that we have these duties "only insofar" as we are causally responsible, but this line of argument provides in any case another reason why we should be morally concerned about global inequality and the poverty it generates.²⁷

Rawls's Egalitarian Retraction

Given the perversity of global inequality and its effects, and given the growing interest on the part of liberals in addressing this problem, it is thus disappointing that Rawls should retract his egalitarian commitments in "The Law of Peoples". The egalitarian omission here is two-tiered. First, Rawls's law of peoples fails to address inequality within some states (namely, the well-ordered but hierarchical states). Indeed liberal states too received much leeway on how they are to address the inequality problem within their own borders. Second, it fails to address the problem of inequality between states. The failure to address inegalitarian practices within states has already been criticised in Chapter 2. Our concern in this chapter is with the problem of inequality between states.

To start, we should note that Rawls is not advocating a cold-hearted policy (one which is, alas, adopted by much of the developed world) which regards assistance to poor countries solely as a matter of charity and hence entirely at the discretion of donors. He allows that we have duties of humanitarian

assistance to foreigners in times of need, and indeed he is critical of the fact that liberal countries are failing miserably in this respect.²⁸

Rawls retracts his egalitarianism in the following sense: while he staunchly defends in his domestic justice, via his second principle, an egalitarian "basic structure" (i.e., the basic political, social and economic institutions of society) and not just a humane interpersonal morality to mitigate social and economic inequalities, he does not make a similar demand of the global basic structure. In other words, Rawls's domestic egalitarianism is directed at the basic institutions of society; his second principle provides liberals with a basis against which to assess and critique these institutions, and to reject institutional arrangements which perpetuate and legitimise inequality of opportunity between citizens. But in his global theory Rawls accepts, it appears, the present global institutional status quo as a given and urges only that countries assist one another in times of need within this existing scheme. It is in this crucial sense of not insisting on a more egalitarian global structure that Rawls's global theory lacks an egalitarian component. As he puts it plainly, "the basis of the duty to assistance is not some liberal principle of distributive justice" (LP p. 76).

But as has been soundly argued by many global egalitarians, to effectively mitigate global inequality and poverty requires reforming our primary global institutions rather than taking these as acceptable baselines. Kai Nielsen, for instance, argues that as long as the global economic structure remains fundamentally capitalistic, many will continue to be exploited and be deprived of their basic human needs.²⁹ Pogge, although more accepting of a global market economy, argues persuasively that certain institutional reforms are required, and that other institutional schemes must be established to counteract the social defects of the global marketplace. He proposes a global resource tax (GRT) which will tax better-endowed countries for extracting natural resources in their own territories and that the revenue from these taxes be channelled towards a development fund. This GRT, he shows us, is one consequence of a faithful application of Rawls's second principle to the global context.³⁰ Other global

economic structural reforms which have been suggested include the establishing of formal mechanisms for regulating and monitoring the activities of Multinational Corporations under whose dictate many poor countries operate;³¹ regulating global currency and commodity speculation;³² restructuring international institutions like the International Monetary fund as is commonly called for, and conducting technology transfers from wealthy countries to poor ones.³³

In short, global egalitarians object not just to the present specific functioning and policy-goals of extant global institutions like the International Monetary Fund, the World Bank, the General Agreement on Tariffs and Trade and so forth, but also to the underlying global laissez-faire principles driving these institutions and their practices. The global basic economic and social structure of concern to egalitarians thus includes specific international organs as well as the general ideals that informed them.

None of the above denies that humanitarian assistance and aid are important as well. But as long as these take place within the present global arrangement, they serve only to treat the symptoms of injustice rather than tackle the underlying cause of it. As Andrew Belsey puts it, "of course, in the face of hunger and starvation both development aid and relief aid should be provided, but the cause of justice is best served by a structural transformation away from unequal global relations based on exploitation and towards equality based on recognition of common similar needs."³⁴ Likewise Shue stresses the relevance of institutional changes for protecting basic rights: "[W]e need better international institutions. We will not know what our duties are, nor will we know what rights people can expect to enjoy, until we have constructed these institutions. Meanwhile, our common humanity requires at the very least ... that we participate in the conversations about the institutions that might protect basic rights."³⁵ Thus a sincere commitment to equality of opportunity calls for some reformation, if not a drastic overhaul, of the global basic economic and social structures.

But Rawls believes that a liberal global theory cannot impose this egalitarianism for the following reason:

[T]here are various kinds of societies in the society of peoples and not all of them can reasonably be expected to accept any particular liberal principle of distributive justice; and even different liberal societies adopt different principles for their domestic institutions. For their part, the hierarchical societies reject all liberal principles of domestic justice. We cannot suppose that they will find such principles acceptable in dealing with other peoples (LP p. 75, my emphasis).

As evinced by this passage, Rawls worries that an egalitarian law of peoples would not only be reasonably rejected by nonliberal societies, but would also be reasonably rejected by liberal societies which may have different ways of articulating their egalitarian commitments.²⁶ These are two quite different concerns which we should look at separately.

Let us look first at the demands that a liberal theory of justice imposes on nonliberal societies. Is it true, as Rawls believes, that just because a well-ordered hierarchical society "reject[s] all liberal principles of domestic justice" it will also reject all liberal principles of international justice? The answer is both yes and no. With regard to the more familiar liberal ideals like individual rights and freedoms, it is probably correct that nonliberal states, because they uphold nonliberal political and social institutions, will find it difficult to endorse these as binding global principles. This is clear: accepting liberal ideals of rights and freedoms (e.g., freedom of speech and association, right to political participation, etc.) as having global validity will have repercussions on the domestic arrangements of nonliberal societies. But recall my arguments in Chapter 2 why the rejection of these ideals as global ideals, contra Rawls, cannot be seen as reasonable from a liberal view point.

At any rate, our main concern in this chapter lies elsewhere, with the liberal principle of distributive justice. And with regard to this principle, it is false to say that nonliberal societies will reject this as a global ideal. What reasons do we have for thinking that a society which rejects equality among its own citizens will also reject equality between societies? It is, on the contrary, more plausible (and more probable to my mind) that a society which believes that certain economic and social inequalities among its citizens are justified will still insist, nevertheless, that it is entitled to a fairer share of the world's resources. Notice that this conclusion remains plausible even if we were to accept Rawls's two-

stage original position procedure (where only delegates of societies are represented at the second and global stage -- delegates, the elites of society, stand to gain from inequality at home and therefore also from acquiring more global resources).³⁷ Indeed, given Rawls's earlier claim that "A people sincerely affirming a nonliberal conception of justice may still think their society should be treated equally in a just law of peoples, even though its members accept basic inequalities among themselves" (LP p. 65), his present apprehension that nonliberal states may not endorse a global distributive principle seems incongruous.

Thus, nothing about a people's belief that distribution within their society should be unequal entails that they believe also that they as a society should get less than other societies. A society which rejects the liberal principle of distributive justice as a domestic principle can still endorse it as a global principle. In fact, one reason a hierarchical society might offer for its domestic inequality is that it has less than its fair entitlement of the globe's resources, and is therefore unable to distribute whatever little it has equally among its own people. But should there be a more equitable global distribution, its argument continues, a more equitable domestic distribution will follow. On the contrary then, it is all the more likely that this society will agree to some global distributive principle rather than rest content with the present inegalitarian global status quo. Its domestic inequality therefore, instead of being a reason against, is in fact a motivation for endorsing a global principle of distributive justice. This point has been argued by Pogge, and is confirmed in international practice -- leaders of developing nations often point out that inequality in their countries is the result of their being poor countries.³⁸ Accordingly, because nonliberal societies tend to be in reality the less well-off societies compared to liberal ones, they stand to gain from an egalitarian global theory and therefore, pace Rawls, will readily endorse this ideal.³⁹ It seems therefore that nonliberal societies will embrace at the very least a global equivalent of the Rawlsian difference principle, if not more.⁴⁰ Expediency from the nonliberal countries' point of view should urge their endorsement of some global distributive principle.

On the other hand, because liberal societies (being the better endowed ones generally) will be called on to bear most of the burden of a global principle of distributive justice (they will have to give up some of their resources which they have hitherto taken for granted to be theirs or at least pay a resource tax for the extraction of these), any resistance to a global principle of distributive justice is more likely to come from liberal quarters than nonliberal ones.⁴¹

That it is liberal states which will bear the burden of a global distributive principle leads to an interesting observation: the demands of a fully liberal global justice are neither one-sided nor culturally biased then. Liberal justice makes demands, this is true, on nonliberal societies which will be pressured to liberalise some of their domestic political practices. But on the other hand, it will also impose significant demands on liberal states -- they are to accept global institutional arrangements which will call on them to transfer resources, which they have taken for granted as rightfully theirs, to less endowed countries.

A critical reading of Rawls's global theory could therefore charge him with infringing his own provision that liberalism ought not to be stable in the wrong way, that is, to be a mere modus vivendi for accommodating existing diversity.⁴² It would say that his law of peoples makes concessions to both liberal and nonliberal states. For the former, Rawls abandons his own egalitarian commitments; for the latter, he relaxes the conditions for liberal toleration (Chapter 2). On this reading, as liberal states get an overly generalised global theory which will not call on them to sacrifice too much economically, so nonliberal states get a liberal theory which will forgive, on purportedly cultural grounds, their restrictions on individual liberties.

Nonetheless, it is not clear that liberal states would endorse a global theory which permits the restricting of quintessential liberal rights (as I argued in Chapter 2), and that nonliberal states would be enticed by a nonegalitarian global theory (as I argue now). So Rawls's hope that his generalised law of peoples, with a more relaxed criterion of toleration and no strong egalitarian feature, can actually win

global endorsement is groundless.

In short, Rawls wants to show that his law of peoples is both a) just and b) stable. But we see now how Rawls fails on these two (of his own) counts. Chapter 2 and the above discussion on inequality show that his law of people fails the first (and crucial) count; and because of its failure to address the economic concerns of poor countries, which is a major issue (more so than civil liberties and freedoms in extreme cases) for the majority of the world, it is less stable a global theory than he thinks. So, if there are any covert concessions to both liberal and nonliberal states in Rawls's law of peoples, these concessions are all for nought.

Egalitarianism in Political Liberalism

Rawls's other reason for not insisting on a global distributive principle is his belief that liberal societies themselves may reasonably disagree on the kinds of distributive principle to endorse. An examination of this point will show that Rawls's egalitarian omission is not accidental to his global theory but is in fact symptomatic of a fundamental shortcoming in political liberalism itself. If my following assessment is sound, we have another reason to be sceptical of political liberalism.

In Political Liberalism, Rawls says:

A principle specifying the basic rights and liberties covers the second kind of constitutional essentials [which regulate matters of distributive justice, equality of opportunity, social and economic inequalities and so on]. But while some principle of opportunity is surely such an essential, for example, a principle requiring at least freedom of movement and free choice of occupation, fair equality of opportunity (as I have specified it) goes beyond that and is not such an essential. Similarly, though a social minimum providing for the basic needs of all citizens is also an essential, what I have called the 'difference principle' is more demanding and is not (PL pp. 228-29, my emphasis).

This is because

whether the aims of the principles covering social and economic inequalities are realized is far more difficult to ascertain. These matters are nearly always open to wide differences of reasonable opinion; they rest on complicated inferences and intuitive judgements that require us to assess complex social and economic information about

topics poorly understood. Thus, although questions of both kinds are to be discussed in terms of political values, we can expect more agreement about whether the principles for the basic rights and liberties are realized than about whether the principles for social and economic justice are realized. This is not a difference about what are the correct principles but simply a difference in the difficulty of seeing whether the principles are achieved (PL pp. 229-230, my emphasis).

So Rawls now tells us that his celebrated second principle is no longer an essential for every liberal society because of the fact of reasonable disagreement over the efficacy of this principle. While the general idea of equality of opportunity, which will include the principle of freedom of movement and free choice of occupation, remains an essential, how this idea is to be articulated (e.g., in its content and detail) is open to discretion. Liberals dispute over how best to realise the equal opportunity principle, and therefore to insist that all (liberal) societies adopt the second principle will be too demanding. So, unlike the first principle (articulating the equal basic rights and liberties of citizenship) which "can be specified in but one way, modulo relatively small variations" (PL p. 228) and which therefore remains an essential for all liberal societies, the second principle is now, evidently, optional. It therefore cannot be a globally valid ideal even for a world of liberal states.

Rawls thus unabashedly rejects the universal validity of his second principle even for liberal societies. But what he is less explicit about (or perhaps what he is unaware of) is that this inadvertently entails an abandonment of the second principle as a binding principle for any liberal society. If political liberalism does not insist on the validity of the second principle for all liberal societies because of the fact of reasonable disagreement -- because "[t]hese matters are nearly always open to wide differences of reasonable opinions," that "they rest on complicated inferences and intuitive judgements that require us to assess complex social and economic information about topics poorly understood" -- then it seems to me that it also must not insist on it as a binding domestic principle for any liberal society. Given his own starting assumption about the reasonable pluralism within any given liberal-democracy, "a permanent feature of the public culture of democracy" and not a "mere historical fact that may soon pass away" (PI.

p. 36), Rawls must accept that the second principle will also be "open to wide differences of reasonable opinions" within a domestic liberal society for the very same reasons he says it is open to wide differences of opinion between liberal societies. Notice that Rawls does not say that different liberal societies will disagree over the efficacy of the difference principle because of their different public-political cultures or historical contexts. Rather, disagreement arises because of "reasonable" divergent general intuitions and opinions about these "poorly understood" matters. Yet these divergent intuitions and opinions are as present within a pluralistic society as between different societies. Citizens of a pluralistic democracy holding different reasonable comprehensive doctrines (say a Marxist or even a liberal Millian comprehensive philosophy and a Lockean one) will surely argue vehemently over how best to realise the general idea of equal opportunity. In short, Rawls must admit that any principle explicating the ideal of equal opportunity can never be the focus of an overlapping consensus in a pluralistic society.

It seems, therefore, that Rawls's new concern with reasonable pluralism and with presenting liberalism as a 'freestanding' political morality detached from any particular comprehensive doctrine has forced him to rescind (even if inadvertently) the egalitarianism he so strongly defended in his earlier works. Because of political liberalism's reluctance to endorse any particular comprehensive moral or philosophical doctrine (including liberal ones), it deprives itself of the basis upon which to justify the Rawlsian second principle, or any principle explicating and specifying the general idea of equal opportunity for that matter. Thus, for the political liberal, there can be no second principle, no equality of opportunity principle of any sort however this may be expressed; every prospective principle can be contested given the fact of reasonable pluralism. Hence Rawls's assurance in the opening of Political Liberalism that the egalitarian features defended in Theory and their bases are still in place is too hastily offered. The worry of "some [who] have thought that [his] working out the ideas of political liberalism meant giving up the egalitarian conception of Theory" (PL p. 7n) does indeed have some basis, Rawls's protest to the contrary.

To round out my above criticism, let me state categorically the dilemma confronting the political liberal. As we have seen, the reasons Rawls gives for rejecting the second principle as having universal validity are reasons also for denying the validity of the second principle itself. So, either the political liberal rejects these reasons and maintains that the second principle has universal validity, in which case she concedes the untenability of the ideas of political liberalism; or she accepts these reasons as entailed by political liberalism and thereby rejects the second principle (or any articulation of the equal opportunity principle) both in the global and domestic contexts. But if the latter, political liberalism is seriously deficient from a liberal egalitarian view point, and we have yet another reason to renounce it.

A global theory based on comprehensive liberalism, besides being better able than political liberalism to protect individual rights against oppressive states (as we saw in Chapter 4), is also, as is now evident, more sensitive to the problem of inequality between states. As theorists like Beitz and Pogge have shown us, extending the comprehensive liberal commitments of Theory to the global context entails certain institutional changes and reforms to equalise global social and economic relations. Comprehensive liberalism remains fully committed to the second principle (or at the very least some alternative to it) whether in its domestic or global application; it is able to defend a universal principle explicating the fair equality of opportunity.⁴³

The root of this difference between political and comprehensive liberalism lies in how each regards the liberal principle of toleration. The political liberal worries that imposing the second principle (or any alternative to it) on all liberal societies would be insensitive to disagreements over how best to realise the ideal of equal opportunity and hence a violation of the principle of toleration itself. These disagreements are reasonable in the eyes of the political liberal so long as they do not impinge on the liberties protected by the first principle.⁴⁴ For the comprehensive liberal, on the other hand, the toleration principle is derived from the more fundamental liberal commitment to individual autonomy, and so in as far as autonomy is a posteriori underminable by social or economic inequalities, she will insist on some

principle of distributive justice, disagreements over the content of this notwithstanding. She will appeal to liberalism's own comprehensive moral commitments to defend her stance if need be. In fact, it was the defence of the 'worth of liberty' which motivated Rawls's commendable reconciliation of liberty and equality in *Theory*.⁴⁵ But in treating the liberal commitment to liberty strictly as a political conception which should not encroach too much upon different comprehensive doctrines, Rawls now, apparently, sees the reconciliation of equality and liberty as secondary to the idea of toleration.⁴⁶

Finally, and very importantly, because of its commitment to global egalitarianism, a comprehensive liberal global theory is better able than Rawls's law of peoples to win global endorsement in spite of its unwillingness to tolerate restrictions on individual liberties. As I noted earlier, a comprehensive liberal global theory makes demands on both nonliberal and liberal societies; yet both of these parties stand to gain in different ways from endorsing it. Nonliberal states are asked to reform their domestic practices but in turn get a fairer share of the world's resources; liberal states sacrifice some of their GNP, but get a global system of rights consistent with their moral philosophy.⁴⁷ The point here, I should stress, is not that this global theory is legitimate only because it can win global endorsement. Rather, that it can be endorsed only shows how such a global theory, which I have argued to be a more consistent and just interpretation of liberalism, can also be stable with respect to justice.

Two Objections to Global Egalitarianism

A) Laissez-Faire Capitalism

In this section, I will counter two possible objections to a global principle of distributive justice. The first objection: some may take issue with my claim that a concern for global justice requires reforming the global basic structure (e.g., reformations along the lines of the Rawlsian second principle). They will counter that what is needed to combat poverty and inequality among peoples is more extensive and rigorous application of free market principles, for example, freer trade between countries, rather than

more market regulations and trade restrictions. It is trade restrictions and other restrictions on the free movement of goods and services between state borders that stunt the growth of some countries. Thus, as a familiar example, note the Adjustment Programmes the International Monetary Fund imposes on ailing countries (in return for a bailout package), which include trade liberalization, reducing the state's role in the economy, cutting food subsidies, increasing privatisation, the opening of domestic financial markets to global competition, all of which are characteristically market-oriented reforms undertaken in the name of restoring their flagging economies.

While this defence of global laissez-faire capitalism could be understood as a "globalised" libertarian position, and a complete defence of global egalitarianism must no doubt rise to this challenge, a debate between liberal egalitarianism against libertarianism is out of the bounds of this chapter -- recall that my limited aim is to show that liberals must accept an egalitarian global theory. Moreover, it is conceivable that one who rejects laissez-faire capitalism as a domestic ideal may nonetheless accept it as a viable global ideal for whatever reason. So our immediate quarrel here is not with libertarians in general, or with anyone who opposes economic equality per se, but with those who accept some form of egalitarianism as a normative aspiration, but think that an unrestricted global free market (rather than the kinds of restructuring and regulations I noted earlier) is how we can narrow the gulf between the North and South.⁴⁸

The idea that a global economy based on the principles of free market is most conducive to meeting the needs of developing and underdeveloped countries informs the present global economic structure. Lynn H. Miller writes that while "[t]he international economic regime established after World War II did not exactly turn its back on the problems of ... the South, ... the international system was built upon several general assumptions, often more implicit than explicit, in keeping with the precepts of laissez-faire liberalism." One assumption "was that development in poor countries would follow the revitalization of the rich, since growing demand in the North would presumably stimulate increased

production in the South."⁴⁹ Another was that underdeveloped countries will come to their own industrial revolutions in their own natural course if market forces are given free rein. Yet another laissez-faire principle taken for granted was the "theory of comparative advantage", the thesis that poor countries would improve their performance by specialising on the commodities they are especially well suited to produce and export.⁵⁰

But, as L. Miller points out, recent history has since shown these assumptions to be blatantly mistaken. To be sure, trade is especially crucial in providing developing countries with much needed investment capital. But to stay competitive in the global market, many developing countries are forced to specialise in particular commodities for export, and to import in return finished or manufactured products from developed countries. Consequently, poor countries are made even more dependent and hence more vulnerable to the economic policies of developed countries. The fall in commodity prices (in the 1980s), in no small measure exacerbated by price speculation by commodities traders in affluent countries, destroyed many fledgling economies overnight.

Moreover, even if increased demands for manufactured goods in rich countries stimulate industrial growth in developing countries, this, rather than improving the lot of poor countries, tends to worsen it. Manufacturing countries industrialised at the cost of becoming food importers as their traditionally agrarian population is relocated from the agricultural sector to manufacturing. This accentuates the vulnerability of poor countries as they are now dependent on the outside world for basic subsistence.⁵¹ Add to this dependency the detrimental effects of large migration from rural areas into third world cities, pollution and large scale environmental degradation and it becomes patent that rather than bettering the lives of the ordinary person, large scale industrialisation has in numerous cases worsened her lot.⁵²

So, although proponents of laissez-faire capitalism may point to the economic successes of countries like Hong Kong, Singapore, South Korea and Taiwan as evidence of the success of a free

market global economy, there are several failures on the other hand as a result of global laissez-faire capitalism. "[T]hey fail to notice that these 'Tigers' total only 2 percent of the third world's population, that there are already strains on their limited-product, export oriented economies, and that what 'success' they have enjoyed has been accompanied by appalling conditions of work and enormous debts."⁶³ For the majority of countries in the continents of South America and Africa, their economic growth rates compared with their population increases have actually declined during the past decade.⁵⁴

In fact, the economic crisis afflicting many Southeast Asian economies at the time of writing, while yet to be fully assessed and whose effects have yet to be fully appreciated, has prompted some leaders in that region to temper their faith in laissez-faire global capitalism, and to call for regulating certain aspects of the global economic practices, in particular the speculating of currencies, and the role and free-market policies of the International Monetary Fund.⁵⁵

Finally, even if global capitalism does succeed in bringing about growth in some countries, their increased GNPs come at the expense of increased inequality within their borders. As the Human Development Report 1996 notes, "There are also winners and losers within countries. Income inequality is clearly on the rise in many countries that have opened their economies." Take for instance China whose Gini Coefficient rose from 0.33 in 1979 (lower than that of any other East Asia country) to 0.38 by 1988 (surpassing those of Indonesia and the Republic of Korea) after it "began to unleash market forces, privatize its economy and reality and rapidly open up to international trade and finance."⁶⁶ A serious commitment to egalitarianism even as just a domestic ideal would be sceptical of global laissez-faire capitalism especially with respect to developing countries.⁵⁷

As long as countries compete on different terms, as long as the global economic order favours some (powerful) countries over others, allowing market forces a free hand is not going to bridge the gap between the rich and poor but in fact widen it. As Noam Chomsky tells us, "the gap between the rich and poor nations doubled from 1960 through 1989. These results are attributable in large part to the dual

policies pursued by the rich rulers: "free market" principles are imposed on the poor via structural adjustment programs dictated by the IMF and World Bank", forcing them to open up their markets to the developed world.⁵⁸ The market-orientation of the International Monetary Fund has been duly exposed and criticised by the United Nations Children's Education Fund:

Most of these adjustment programmes did not reverse the adverse developments in the conditions of children, nor, in many, did they lead to resumed economic growth.... Direct negative effects on some vulnerable groups arose from policies towards the exchange rate and producer prices, associated with rising urban food prices, cuts in food subsidies (which were an element in one-third of the adjustment packages), and cuts in social expenditure per capita which occurred in over half the Third World countries between 1980 and 1984.⁵⁹

Unsurprisingly, many developing countries "see the IMF as little more than an instrument to soften up [their] economies for US [further] domination."⁶⁰

Another instance of how free market forces improve the lot of the rich by worsening that of the poor is the monstrous debt burdening many developing countries. Because of an initial imbalance in the wealth of countries (due to the contingencies of history, colonialism etc.), many developing countries were compelled to accept loans from First World governments and banks, and then channel much of their earnings to the servicing of these debts, thereby facilitating ironically a transfer of wealth from the poor to the rich.⁶¹

The idea of fair competition which underlies the free market ideal is thus largely a myth, especially with regard to the global context. As the United Nations recently reports, "Contrary to the post-Uruguay Round image of the world Agricultural market as a level playing field, the major exporters, notably the European Union and the United States, have continued to subsidized production and exports.... As poor countries open their economies, they expose many poor agricultural producers to overwhelming and unfair competition."⁶² It is also well documented that dominant Multinational Corporations enjoy intimate ties with their respective state governments who in turn can tilt the global playing field in their favour, often by resorting to despicable tactics.⁶³ Until the basic economic structure

is restructured to be essentially fair, relying on free market principles will only permit some countries to be further impoverished.

It could be objected that any regulation of free-market forces would not only be wasteful (one could say here that regulating agencies need to be staffed and are costly to administer) but could also be misdirected to the advantage of corrupt regimes who might otherwise be unable to sustain their positions of power. These are genuine worries, but it seems to me that wastage and corruption are not unavoidable or, at the very least, not unrectifiable. It is beyond my means to present a detailed solution here, but many global egalitarians have argued that there are different (and alternative) channels for transferring resources without deploying unwieldy and bloated bureaucracies and without handing these smack into the hands of corrupt rulers. Non-Governmental Agencies, carefully targeted resource transfers, carefully discussed and thought out conditions imposed on such transfers and so forth are possible means of minimising wastage and misuse and abuse of resources.

B) The Priority of Nationality

The second objection I shall look into is a more fundamental one. It begins from the belief that we have special duties to our compatriots and co-nationals. Accordingly, the objection continues, in as far as these special duties can conflict with the needs of strangers, our quest for global equality ought to be to this extent limited. One of the more plausible and common justifications of this "priority thesis" (the phrase is Charles Beitz's) is the communitarian defence of nationality. I shall consider here the recent argument advanced by David Miller.

Before tackling Miller's objection, I should first note that Miller focuses his discussion on the duties of nationality rather than citizenship as such. But even if Miller succeeds only in showing that there are special duties between co-nationals and not necessarily between citizens, he succeeds in limiting global egalitarianism. Conversely, because the communitarian argument is one of the strongest defences

available to statisticians who hold that citizens take priority (see Chapter 4), if I succeed in showing the communitarian position unsound, the statist position is consequently considerably weakened.

Let me start with an extended quote from Miller:

The duties we owe to our fellow-nationals are different from, and more extensive than, the duties we owe to human beings as such. This is not to say that we owe no duties to humans as such; nor is it to deny that there may be other, perhaps smaller and more intense, communities to whose members we owe duties that are more stringent still than those we owe to [fellow nationals at large]. But it is to claim that a proper account of ethics should give weight to national boundaries, and that in particular there is no objection in principle to institutional schemes that are designed to deliver benefits exclusively to those who fall within the same boundaries as ourselves.⁶⁴

So from the point of view of more powerful nations, the present global economic arrangement which facilitates the promotion and protection of their "national interests" is not necessarily morally objectionable if Miller's thesis is sound.

Miller rejects what he calls ethical universalism, the view that moral "principles are [fundamentally] universal in form [and therefore] only general facts about other individuals can serve to determine my duties towards them."⁶⁵ He favours, instead, ethical particularism, the view that "relations between persons are part of the basic subject-matter of ethics, so that fundamental principles may be attached directly to these relations." By way of illustration, the claim "because he is my brother" or "because he is my co-national" can serve as a basic reason for action for the ethical particularist but not for the ethical universalist.

As we can see, Miller does not say that we owe no duties at all to foreigners, nor does he say that those who favour a more universalistic view of ethics must reject the idea that we owe special duties to co-nationals. The ethical particularist can derive universal commitments for "[t]here is nothing in particularism which prevents me from recognizing that I stand in some relationship to all other human beings by virtue of our common humanity and our sharing of a single world" (p. 53). Likewise, the ethical universalist can say that we owe special duties to certain persons because of the voluntary contracts we have entered into or because special duties are effective strategies for fulfilling our universal obligations

to humanity at large (pp. 51-52).⁶⁶ So in practice, at the level of policy, there can be a fair degree of convergence between these two fundamentally different ethical starting points Miller speaks of.

The serious divergence between the ethical universalists and particularists occurs when providing for the needs of co-nationals conflicts with providing for the needs of foreigners. The particularist would be inclined in this case to give priority to the former over the latter precisely because of her belief that our duties to strangers are weaker and less extensive than those to co-nationals (pp. 77-78). So, if Miller's ethical particularism is sound, the liberal aspiration for greater equality is going to be limited by the special demands our co-nationals place on us. It will seem, in this case, that only after we have discharged all special obligations to co-nationals, which may be an endless task itself, are we obliged (or even permitted) to fulfil the needs of strangers. Much is at stake thus, for global equality depending on whether we begin from an ethical particularistic or universalistic ethical standpoint. For one, a global Rawlsian second principle or any principle of global distributive justice would be ruled out in this view.⁶⁷

One of Miller's reasons for rejecting ethical universalism is already familiar to us. He argues that ethical universalism ignores the way our moral agency is constituted and engendered by our respective national identities. He quotes Alasdair MacIntyre approvingly here: "[ethical universalism] requires of me to assume an abstract and artificial -- perhaps even an impossible -- stance, that of a rational being as such, responding to the requirements of morality not qua parent or farmer or quarterback, but qua rational agent who has abstracted him or herself from all social particularity, who has become not merely Adam Smith's impartial spectator, but a correspondingly impartial actor, and one who in his impartiality is doomed to rootlessness, to be a citizen of nowhere" (p. 57).

But we saw in Chapters 1 and 4 that this communitarian rejection of ethical universalism is unfounded. That we must be constituted within specific communities qua moral beings does not imply that we are therefore incapable of adopting an ethical universalistic standpoint. To recall, "the question of moral learning and motivation are distinct from that of the nature of morality.... [T]he fact that our

communal relationships play a major role, even a constitutive role, in defining us as moral agents does not imply that we are, or should regard ourselves as, incapable of achieving the degree of detachment or objectivity that the notion of [universalistic morality] requires.⁶⁸ Moreover, as pointed out by Thomas Hurka, MacIntyre's attempt to justify loyalty to one's nation as a universally worthy virtue presupposes ethical universalism. That is, the nationalist's own claim that co-nationals take priority is itself accepted as universally binding.⁶⁹

However, Miller offers us a second, and more challenging, reason for rejecting ethical universalism. He thinks that the universalist will have difficulty accounting for many classes of special duties, in particular the class of special duties between co-nationals. But because we do ordinarily accept that we owe special duties to some which we do not owe others, the universalist position is fundamentally flawed. Notice that Miller is not saying here that the universalists accept that compatriots have priority always (in fact they clearly deny this), but they do accept at least that all things being equal compatriots can permissibly count for more. But, Miller says, it is not clear how the universalist can justify this moral intuition. A consistent universalist, he concludes, must be committed to the unappealing and counter-intuitive view that it is always wrong to give special preference to one's own fellows (p. 64).

But to my mind, Miller has not offered us any convincing argument why ethical universalism cannot ground special duties between compatriots. There are different plausible strategies available to the universalist to justify special duties. One strategy is to argue along with Robert Goodin that "[s]pecial responsibilities are ... assigned merely as an administrative device for discharging our general [i.e., universal] duties more efficiently."⁷⁰ That is, special duties mediate universal duties; they allocate the otherwise daunting and myriad list of obligations we owe to all others by parcelling out and assigning particular duties to specific persons or institutions. So special duties are easily generated by universal duties as a method of efficiently dividing our moral labour. In Goodin's words, "A great many general duties point to tasks that, for one reason or another are pursued more effectively if they are subdivided

and particular people are assigned special responsibility for particular portions of the task."⁷¹ The universalist can therefore justify special duties between co-nationals on this instrumental ground. As an illustration, it is for the most part more efficient and manageable to assign Canadians the special responsibility for the health care of fellow Canadians than if this duty remained general and left to some unspecified "humanity". Indeed the added advantage of Goodin's general strategy is that it can justify special duties between citizens as well (and not just co-nationals), whereas Miller's ethical particularism at best can only explain duties between co-nationals.⁷²

Miller rejects Goodin's "useful convention" justification of special duties on the ground that there is no assurance on this view that those assigned to protect these rights, namely co-nationals, are indeed the most competent or qualified to undertake this task. Physical proximity and administrative ease are not good reasons, he says, because "[n]either of these have any intrinsic connection with nationality" (p. 63). But more devastatingly, he thinks, nations are in fact radically unequal in their capacity to provide for their own members and so contradicts the universalist's claim that dividing up our moral labour amongst nations is an effective strategy for fulfilling our universal obligations.

But Miller's attempted refutation of Goodin's argument, it seems to me, mistakes his premise for his conclusion. Goodin is not arguing that all nations are equally capable of undertaking their special responsibilities to their own peoples. His whole point in wanting to show that the special duties between co-nationals are derived rather than basic is exactly to support his conclusion that when some nations fail in their duties to their own peoples for whatever reasons (global inequality being his main concern), this moral obligation is not vitiated but remains in force and falls onto other nations. So to use Miller's own example, Goodin will wholeheartedly agree that it is wrong to say that Swedes, with a per capita annual income of \$24,000, have no obligation whatsoever to Somalians, who claim only a per capita annual income of \$120 (pp. 63-63). Swedes, to be sure, are better able than Somalians to take care of the needs of their fellow Swedes on the instrumental argument. But it will be a mistake to think that Somalians can just

as aptly take care of the needs of their own without help from, say, Swedes and others as well-off.

Precisely because the special duty between co-nationals is generated in the first place by a general duty on the part of all humanity, the duty to aid Somalians reverts to the rest of humanity should their co-nationals be unable to rise to this demand.

In showing how national commitments can be derived from a universalistic standpoint, Goodin only needs to show how it is possible for such special commitments to have universalistic underpinnings. That they do not hold occasionally only shows, and this is Goodin's point, how the duty allocation has failed in those particular instances and why, therefore, others are morally obliged to pick up the slack. And with regard to Miller's rebuttal that physical proximity and administrative ease are not good reasons for grounding special duties between co-nationals because there is no "intrinsic connection" between proximity, administration and nationality, the universalist need only suggest that there is nonetheless a strong contingent association between nationality and physical proximity.⁷³ Indeed we may remember Miller's own account of a nation -- a territorial component was an important criterion for nationhood in Miller's own view (pp. 24-25; also Chapters 4 and 5 here). Thus surely Miller has to concede that physical proximity is one factor the universalist could appeal to in showing why allocating special duties to co-nationals is efficacious. As a matter of fact, many special duties are in force only between co-nationals residing in a geographical space (or duties between citizens and even permanent residents who are not of the same nationality). For example, a German national who renounces her German citizenship and migrates to Canada no longer enjoys special rights vis-à-vis her fellow German nationals -- she is no longer entitled to welfare, health-care, education and so on from German tax-payers. She still retains her German nationality, ethno-culturally speaking, but that in itself does not guarantee her any special rights among Germans; on the contrary, Canadians are now expected to assume these special duties towards her.

We see, therefore, that a universalistic approach can comfortably justify special duties among co-nationals. But more importantly, given its method of justification it can also simultaneously endorse an

egalitarian theory of global justice. When the assigned duties are appropriately fulfilled, the universalist can accept the idea that co-nationals take priority -- this is after all a very efficient way of dividing up our duties. But when things go awry, when those assigned these special duties fail in their tasks, then these duties become universal duties once more and must be fulfilled somehow or reassigned. In a world in which many nations and countries are less than able to adequately fulfil their duties for reasons beyond their control (the global economic structure being an example of one of these reasons) to their own peoples, it is evident that these responsibilities should be transferred or reassigned to countries or institutions more capable.

If defenders of the "priority thesis" insist that even in such a condition of drastic inequality co-nationals must take priority, then it is they who contradict ordinary morality. Ordinarily, we do accept that one's own take priority but only against a background condition that is more or less equal.⁷⁴ We will say, with Bernard Williams, that all things equal it is permissible (and indeed perhaps obligatory) to save one's own child even if this means letting another die.⁷⁵ But surely our moral intuitions say something quite different if it is a matter of killing another child in order to save one; or if it is a matter of providing your child with new toys against letting your neighbour's starve to death. It is not difficult to show that giving priority to co-nationals (especially in the case of affluent nations) is more akin to the latter set of examples than the former. Given current global realities then, it is the view that compatriots (especially of affluent nations) take priority which is absurd and indefensible. But if we understand these special commitments to be instrumental in the above sense, then we can see why they can be overridden for the sake of universal duties in times when special and general duties conflict.

What I have said above applies as well to special duties between citizens. An ethical universalistic position can justify special ties between citizens along the same lines noted above; and likewise it will hold that these special duties are secondary to the more basic universal duties which generated them. Hence, while it is reasonable to say that one has special duties to one's fellow citizens,

these special duties can be overridden by the universal duties one owes to human beings at large. In short, the ethical universalist can be committed to both local and universal goals and yet be able to prioritize these goals in a principled fashion.

So Miller's claim that "obligations corresponding to these basic rights turn out to fall primarily on co-nationals" and that foreigners are therefore not placed under an equally strong obligation to fulfil these rights when co-nationals fail in their duties (pp. 76-77, 79-80) turns out to be only partly right. It is true that obligations to protect the basic rights of nationals or citizens fall primarily on co-nationals or fellow citizens. But if this is because making co-nationals the primary bearers of duties is one effective strategy of dividing our moral labour, then non-nationals are under as strong an obligation to perform these duties when co-nationals fail in their respective undertaking. These unperformed duties revert to the rest of humanity and remain as binding and salient as before. To be sure, such duties may have to be reallocated before they can be successfully performed, but this only shows that the international society has the immediate obligation to reassign these universal duties to some one or institution, which is very different from saying that they may be left unfulfilled.⁷⁶

I have countered the claim that co-nationals ought to take priority, especially given the present state of our world. But would my normative view not overtax our "strains of commitments"? Perhaps what is at the base of arguments like Miller's, at the end of the day, their appearance notwithstanding, is the question of what we can realistically rather morally expect of individuals. Rawls's has explicitly expressed doubt here in a recent lecture: "Another reason for not extending the difference principle to the law of peoples is that the motivational support for following it presupposes a degree of affinity among peoples, and a sense of social cohesion and closeness, that cannot be expected even in a society of liberal peoples -- not to mention in a society of all just and decent peoples -- with their separate languages, religions, and cultures."⁷⁷ If it is sheer futility and wishful thinking to realistically expect people to acknowledge that they have duties to strangers, is all our talk of global justice not mere speculation then?

Would liberal states themselves, ironically, not find the strong egalitarian demands of liberal globalism so burdensome as to compel them to withhold any assent to such a global ideal even if this means retracting also the liberal demand that nonliberal states respect the liberties of their citizens? So, is my earlier enthusiasm that a comprehensive global theory can better win global endorsement than can political liberalism too quickly voiced? I shall examine the viability of global egalitarianism and the other ideas argued for in this dissertation in the final chapter.

ENDNOTES

1. John Rawls, *A Theory of Justice* (Cambridge: Harvard Univ. Press, 1971), p. 204.
2. Amy Gutmann, quoted in Steven Lukes, "Equality and Liberty: Must They Conflict?" in *Political Theory Today*, ed. David Held (Stanford: Stanford Univ. Press, 1991): 48-66, p. 52n.
3. The two principles are: 1) Each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others, 2) Social and economic inequalities are to be arranged so that they are both a) to the greatest benefit of the least advantaged, consistent with the just savings principles, and b) attached to offices and positions open to all under conditions of fair equality of opportunity (*Theory*, p. 302).
4. Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), pp. 6-7. The two principles are modified slightly in *Political Liberalism*. See Rawls's explanation of these changes in *Political Liberalism*, pp. 291-92.
5. John Rawls, "The Law of Peoples," in *On Human Rights*, ed. Stephen Shute and Susan Hurley (New York: Basic Books, 1993): 41-82, pp. 51-52. Because this chapter frequently cites "The Law of Peoples" and *Political Liberalism*, subsequent references to these works will be noted in parenthesis in the text itself. "The Law of Peoples" will be denoted by LP, and *Political Liberalism* by PL.
6. For the former, see Kai Nielsen, "Capitalism, Socialism and Justice," in *And Justice for All*, ed. Tom Regan and Donald VanDeVeer (New Jersey: Rowman and Littlefield, 1982): 264-286; for the most famous example of the latter, see Robert Nozick, *Anarchy, State and Utopia* (New York: Basic Books, 1974).

7. For counter objections to the claim that liberal egalitarianism does not go far enough, see Will Kymlicka, Contemporary Political Philosophy: An Introduction (Oxford: Oxford Univ. Press, 1990), pp. 85-90; for counter objections to the libertarian position, see his chap. 4.

8. Theory, p. 61. These primary goods are indisputably lacking in a very plain way for many individuals in the world today. For a quick survey of the question "Equality of What", see Frank Cunningham, The Real World of Democracy Revisited (Atlantic Highlands, N.J.: Humanities Press, 1994), pp. 63-65; and his references, especially G.A. Cohen, "On the Currency of Egalitarian Justice," Ethics 99/4 (1989).

9. This last point suggests that Theory could be understood as a comprehensive liberal conception which Rawls now rejects. This is not an unfair suggestion for Rawls himself admits as much: "Although the distinction between a political conception of justice and a comprehensive philosophical doctrine is not discussed in Theory, once the question is raised, it is clear, I think, that the text regards justice as fairness and utilitarianism as comprehensive, or partially comprehensive, doctrines" (PL p. xvi).

10. United Nations Human Development Program: Human Development Report 1996 (New York: Oxford Univ. Press, 1996), p. 20.

11. Amartya Sen, Poverty and Famines: An Essay on Entitlement and Deprivation (Oxford: Oxford Univ. Press, 1981), Chap. 1.

12. It is commonplace that "[w]ith only 4.5 percent of the world's population, the United States uses about 25 percent of the earth's resources and contributes more than 20 of global emissions of carbon dioxide". Paul R. Ehrlich et al., "No Middle Way on the Environment," The Atlantic Monthly Dec 1997: 98-104, p. 104.

13. As Sen notes: "It is, of course, quite a different matter [from holding them distinct] to recognize that inequality and poverty are associated with each other, and to note that a different distribution system may cure poverty even without an expansion of the country's productive capabilities." Sen, p. 15.

14. Garrett Hardin, "Lifeboat Ethics: The Case Against Helping the Poor," in World Hunger and Morality, ed. William Aiken and Hugh LaFollette, 2nd ed. (New Jersey: Prentice Hall, 1996): 5-25. For one rejection of this view, see Nielsen, "Global Justice, Capitalism and the Third World," in Justice and Economic Distribution, ed. John Arthur and William H. Shaw, 2nd ed. (New Jersey: Prentice Hall, 1991): 228-241, pp. 229-232.

15. Jean Dreze and Sen, Hunger and Public Action (Oxford: Clarendon Press, 1989), pp. 3-4.

16. Henry Shue, Basic Rights: Subsistence, Affluence and US Foreign Policy, 2nd ed. (Princeton: Princeton Univ. Press, 1996).

17. See, e.g., Onora O'Neill, Faces of Hunger: An Essay on Poverty, Development and Justice (London: George Allen and Unwin, 1986), chaps. 7 and 8. She says, "[A] Kantian conception of material justice would begin with ways of organizing both production and distribution to meet needs, including

material needs, which destroy capacities or power to act autonomously." p. 149. See also Robert N. Van Wyk, "Perspectives on World Hunger and the Extent of Our Positive Duties," Public Affairs Quarterly 2/2 (1988): 75-90.

18. See Peter Singer, "Famine, Affluence and Morality" in World Hunger and Morality: 26-38.

19. Rawls, Theory, pp. 100-01.

20. Only a short section (pp. 377-382) in that massive work touched on global issues, and even then mainly the question of conscientious objection to war.

21. Pogge, Realizing Rawls (Ithaca: Cornell Univ. Press, 1989), p. 247. Also Beitz, Political Theory and International Relations (Princeton: Princeton Univ. Press, 1979). Beitz treats natural resource endowment in the global scenario to be akin to one's natural talents in the domestic, and therefore no inequality resulting just because of natural resource distribution is permitted at all in his view. The detailed differences between Beitz and Pogge, and between the different approaches to liberal global justice identified above, are important but they do not affect the general discussion in this chapter and so need not detain us. I save discussion of these different views for another time when a more in-depth exploration of global distributive justice will be undertaken.

22. Pogge, "An Egalitarian Law of Peoples," Philosophy and Public Affairs 23/3 1994: 195-224, pp. 213-214; "Bounds of Nationalism," MS. 23-27.

23. Owens Bowcott, "When Work is the Lesser of Two Evils," The Guardian Weekly 26 Oct 1997, p. 8.

24. James Cooper, "Child Labour: Legal Regimes, Market Pressures, and the Search for Meaningful Solutions," International Journal LII/3 (1997): 411-30, p. 429.

25. Pogge, "An Egalitarian Law of Peoples," pp. 213-14.

26. Thomas Pogge, "An Institutional Approach To Humanitarian Intervention," Public Affairs Quarterly 6/1 (1992): 89-103, p. 100; p. 93.

27. An important question concerns the limits to any global distributive principle. Some liberals worry that rather than feel obligated to act on demands issuing from the demands of a global distributive principle, people from wealthy countries may feel overburdened by this demand and so "reject the view that they have any obligation at all." Ian Shapiro, "A Note on the Philosophical Psychology of 'ought Implies Can'," in NOMOS LCI: Global Justice (New York: New York Univ. Press, 1999), MS 4. A detailed study of this question requires more space than I have, although I consider one common argument for limiting global justice in the last section of the present chapter.

28. Rawls, "The Law of Peoples," p. 76. In a follow-up lecture on the law of peoples, "Philosophical Problems of the Law of Peoples," Rawls says more explicitly: "We must hold in mind that our world, with

its many societies burdened by unfavourable conditions and many injustices and evils, is not a world in which the duty of assistance has been fully satisfied" (Princeton University, 1995, MS. 80). For 1993-94, Canada, for example, contributes only 0.15% of its GNP to Overseas Development Aid (ODA), and the United States only 0.04%; both are far off the modest 0.7% mark suggested by the United Nations. Human Development Report 1996, p. 199.

29. Nielsen, "Global Justice," pp. 228-41.

30. Pogge, "An Egalitarian Law of Peoples," pp. 199-205.

31. See Lynn H. Miller who notes that "[b]y 1980, the top 43 economic actors in the world were MNCs and not states." Miller, Global Order (Boulder: Westview Press, 1994), pp. 146, 146-148.

32. As has been suggested by many including the Prime Minister of Malaysia Mahathir Mohamad. See "Free Market Derails Nations, Malaysian PM Charges," The Globe and Mail 25 Nov 1997 A12)

33. As proposed, say, in Principle 9 of the Rio Summit's Agenda 21. See The Global Partnership for Environment and Development: A Guide to Agenda 21 (New York: United Nations, 1993), pp. 3ff.

34. Andrew Belsey, "World Poverty, Justice and Equality," in International Justice and the Third World, ed. Robin Attfield and Barry Walkins (London: Routledge, 1992): 35-49, pp. 47-48.

35. Shue, p. 180, my stress.

36. Recall Rawls's "fact of reasonable disagreement"; see Chap. 2 in this dissertation.

37. To recall Rawls's two-stage original position, see Chap. 2. As Pogge argued, if Rawls treats delegates to the original position as being concerned with the well-being of their citizens and also cognizant of the connection between global inequality, poverty and internal inequality or corruption, he would see that they would adopt a global theory of justice with a strong egalitarian component. Pogge, "Egalitarian Law of Peoples", pp. 210-11.

38. Pogge, "Egalitarian Law of Peoples," p. 218.

39. There are exceptions of course. India is poor and underdeveloped though constitutionally a liberal-democracy. But such exceptions do not affect my point -- these poor liberal- democracies will all the more want a more egalitarian liberal global order.

40. This is, in fact, the case in the real world -- developing nations (which are often nonliberal) are calling for changes in the global economic structure, for a more equitable distribution of the world's wealth between countries, for the free transferring of technology from the rich to poor nations and so on. They, it is apparent, want a global distributive principle of some sort.

41. Pogge, "Egalitarian Law of Peoples," p. 218. Again, witness the reluctance of liberal states to affirm such a global ideal as expressed, say, by the right to development, proposals in the Rio Summit in 1992 which called for free transfer of technology to developing countries in exchange for resources extracted there, and international regulations on seabed mining. See Pogge, "Bounds of Nationalism" for an account of the latter.

42. See, e.g., Stanley Hoffman who says that Rawls's law of peoples is implicitly a *modus vivendi* rather than a real consensus around liberal justice. Hoffman, "Dreams of a Just World," New York Review of Books (2 Nov. 1995): 52-57. To recall the difference between being stable with respect to justice and a *modus vivendi*, see Chap. 2.

43. I insert the parenthesis so as to not prejudice my discussion. I have not shown why the Rawlsian second principle should be that equal opportunity principle for comprehensive liberals rather than some other alternative. The purpose here was to show that the political liberal cannot endorse this or any principle explicating the idea of equal opportunity.

44. Just to recall, the basic liberties covered by the First Principle are "political liberty (the right to vote and to be eligible for public office) together with the freedom of speech and assembly; liberty of conscience and freedom of thought; freedom of the person along with the right to hold (personal) property; and the freedom from arbitrary arrest and seizure as defined by the concept of the rule of law." Rawls, Theory, p. 61.

45. Rawls, Theory, pp. 204-05.

46. Some liberals have made the stronger argument that political liberalism has to abandon even Rawls's first principle. For example, David Dyzenhaus says that "reasonable people will disagree with the claim that the limits of the right -- the limits of public reason (as Rawls would put it) -- should be set as political liberalism wants them set." Dyzenhaus, "Critical Notice: Charles Larmore, The Morals of Modernity," Canadian Journal of Philosophy (MS. 20, forthcoming). I leave this matter aside here.

47. As has been pointed out to me, these are "different orders" of trade-offs: the first appeals to self-interest, the second to morality. While an appeal to moral consistency may move philosophers, whether such an appeal is sufficient to motivate state policies remains to be seen. I return to this point in the next chapter.

48. For discussion on libertarianism and equality, see Section on "Liberty and the Market" in Justice and Economic Distribution.

49. Lynn H. Miller, p. 137.

50. *Ibid.*, pp. 137-38.

51. The above discussion borrows from L. Miller, pp. 140-43.

52. See, e.g., the stark scenario reported in "Across Asia, a Pollution Disaster Hovers", The New York Times 28 Nov. 1997, A1.

53. Cunningham, p. 152n. See also his references. The strains he speaks of are now being revealed in some of these economies.

54. L. Miller, pp. 239-40.

55. See, again, "Free Market Derails Nations, Malaysian PM Charges." Others have asked "what is the IMF for -- to help the people of Asia, or Wall Street and the American multinationals?" Larry Elliot, "On Collision Course with Disaster," The Guardian Weekly, 18 Jan. 1998, p. 19.

56. United Nations Development Program Human Development Report 1996, p. 59. The Gini Coefficient ranges from 0 to 1, with 0 being perfect equality and 1 complete inequality. The report also notes that income inequality has risen in Mexico since it began to liberalise its economy, and in Chile as well.

57. For one reporter's account of how "[c]apitalism works only for the few in today's Russia," see David Hoffman, "Only the Elite Benefit in 'People's Capitalism,'" The Guardian Weekly 25 Jan. 1998, p. 15.

58. Noam Chomsky, World Orders Old and New (New York: Columbia University Press, 1994), p. 129. According to Ehrlich et al., "In 1960 the ratio of the income of the richest 20 percent of humanity to that of the poorest 20 percent was 30:1; ... it was nearly 80:1 in 1994" (p. 104). These ratios are between the average income in the richest versus the poorest countries, hence significantly understating income inequality among human beings. For an accessible account of how the IMF's 'adjustment' program supports world capitalism to the advantage of the rich countries and destroy the lives of many in the third world, see Paul Valley, Bad Samaritans: First World Ethics and Third World Debt (London: Hodder and Stoughton, 1990), chap. 5.

59. Giovanni Andrea Cornia et al., Adjustment With a Human Face: Protecting The Vulnerable and Promoting Growth (A Study by UNICEF), (New York: Oxford Univ. Press, 1987), p. 288. See especially chapters 1, 2, 15 and 16.

60. Andrew Higgins, "Washington Shatters Asia's Dreams," The Guardian Weekly 25 Jan. 1998, p. 1.

61. Consider the following figures to have a rough idea of the amount involved: "In the years from 1980 through to 1987, developing countries paid more than \$10.5 trillion in interest on their external debt. Brazil and Mexico paid more than \$70 billion each. The twelve largest developing country borrowers paid \$325 billion in interest. These are stupendous sums. And they represent interest alone. Since 1984 there has been a real transfer of resources -- wealth -- from poorer countries to richer ones, from the developing world to the developed world. The cumulative net transfers in the five years from 1984 through 1988 amounted to \$143 billion." Seamus O'Cleireacain, Third World Debt and International Public Policy (New York: Praeger, 1990), chap. 1, p. 3. For a normative assessment of the origins of the debt crisis, see Paul Valley, especially chapters 4 & 5; see also Barry Wilkins, "Debt and Underdevelopment: The Case for Canceling Third World Debts" in ed. Robin Attfield and Barry Wilkins, International Justice and the Third World (London:

Routledge, 1992): 169-192.

62. United Nations Development Program Human Development Report 1997, (New York: Oxford Univ. Press, 1997), p. 86, Box 4.2.

63. One well-documented appalling case of governmental intervention in a weaker country on behalf of corporate interests is United States's intervention in Central American countries. For one criticism, see Stephen Schlesinger and Stephen Kinzer, Bitter Fruits: The Untold Story of the American Coup in Guatemala (New York: Anchor Books, 1983).

64. David Miller, "In Defence of Nationality," Journal of Applied Philosophy 10/1: p. 5.

65. David Miller, On Nationality (Oxford: Oxford Univ. Press, 1995), p. 50. References to this work shall henceforth be cited in parenthesis in the text.

66. So "he is my brother" can be a principle for action for the ethical universalist if this principle is derived (and not basic) from a more universal claim, perhaps one which says that persons are in a sort of contractual relationship with their siblings, or it is expedient from a universal moral point of view that each one of us gives special considerations to those whom we know intimately. Recall my discussion in Chap. 5.

67. Miller explicitly rejects the second principle as a global ideal on p. 108.

68. Charles Beitz, "Sovereignty and Morality in International Affairs," Political Theory Today, ed. David Held (Stanford: Stanford Univ. Press, 1991): 236-254. p. 253. See also Kymlicka, Liberalism, Community and Culture (Oxford: Oxford Univ. Press, 1989), chaps. 4 and 5.

69. Thomas Hurka, "The Justification of National Partiality," in The Morality of Nationalism, ed. Robert McKim and Jeff McMahan (Oxford: Oxford Univ. Press, 1997): 139-157, pp. 143-144.

70. Robert Goodin, "What Is So Special About Our Fellow Countrymen?" Ethics 98/4: 663-86, p. 685. Cited also in Miller, p. 62.

71. Goodin, p. 679.

72. That is, the instrumental approach has the option of arguing that it is efficient to assign people to be primarily responsible for their fellow citizens for a variety of reasons -- proximity, administrative ease, contractual relationship and so on. A communitarian approach like Miller's which stresses deep enduring ties and common ends as the bases for special duties cannot be as easily extended to cover the case of citizenship in a diverse society.

73. Goodin's strategy does not need anything stronger than contingent claims about nationality. Indeed for any instrumental justification of particular duties, it is precisely because it is contingently true that assigning some with special duties facilitates the fulfilment of universal duties.

74. Pogge, "Bounds of Nationalism," MS. 3-12.

75. Bernard Williams, Moral Luck (Cambridge: Cambridge Univ. Press, 1981), Chap. 1.

76. Daniel Weinstock makes an interesting counterpoint against the national priority argument, that the idea that foreigners may count for less can have corrosive effects on our views about justice between co-nationals. Weinstock, "National Partiality: Who, What, Why?", Montreal/Toronto Colloquium, Department of Philosophy, University of Toronto, 6 March 1998. Allowing us to ignore the plight of foreigners may dilute our empathy and feelings of solidarity with co-nationals within our own borders, particularly so in an increasing competitive world.

77. "Philosophical Problems with the Law of Peoples," MS. 82.

CHAPTER EIGHT

FROM THEORY TO PRACTICE

In this final chapter, I shall present the beginnings of some arguments to support the practicability and feasibility of the normative global theory I have been defending.

To begin, let me offer a quick review of the central points made earlier. I argued that a global theory of justice should be based on liberalism understood comprehensively rather than politically. The reason for this is not just that political liberalism fails qua global theory, but more importantly it fails even as a general liberal political morality. The main fault we found with it was that it has too relaxed a criterion for liberal toleration. In treating toleration as the more fundamental liberal value than the ideal of individual autonomy, political liberalism compromises individual liberty and freedom, as when it grants toleration to certain nonliberal (but 'reasonable') cultural and societal practices.

I showed next that a global theory based on comprehensive liberalism, because it conceives individual autonomy as the fundamental liberal value, is more willing to take a stance against oppressive national cultures and state regimes, and so is more fully committed to protecting the rights of individuals universally. It will therefore be critical of the idea of state sovereignty as this is currently practised and understood in international relations. But a comprehensive liberal theory of global justice is not one which is radically cosmopolitan in the sense of being unreceptive to the idea of peoples' rights (e.g., the so-called third generation of human rights) as is commonly believed, a belief no doubt fuelled by the hostile reception of these group-based rights by certain nominally liberal countries. Many liberal theorists have argued, contrary to this common liberal practice, that to the extent that cultural membership has (intrinsic and/or instrumental) worth for individuals, culture is an important liberal good. And granting some cultures special consideration (by way of group-differentiated rights) does not offend liberal equality if the reason for this consideration is to compensate for the unequal conditions against which

different cultural groups interact. Extending this line of argument to the global context, we saw easily why the idea of peoples' rights can and ought to be endorsed by liberals.

Finally, I returned to Rawls's political liberalism and showed that its failure to propose an egalitarian global theory is not merely a contingent omission but has its source in how political liberalism regards the principle of toleration. Rawls's protest notwithstanding, I showed that in his move towards political liberalism, he abandons his commitment to social and economic equality which was the hallmark of his earlier liberal theory of justice. I concluded that a comprehensive liberal theory retains this egalitarianism and will therefore insist on reforming the global basic structure which currently sustains and widens the inequality between countries. We will now turn to the question: Can these proposed ideals be implemented in the real world?

Universality: Origin and Application

It is often said that liberalism stems from a specific cultural and historical tradition, and hence its claim to universality is not only culturally biased but also impracticable. This point is often invoked by leaders of illiberal and nonliberal states to deflect criticisms of their restrictions against liberty. And as we saw, the belief that it would be unreasonable to expect all societies to embrace the ideal of individual autonomy domestically was Rawls's reason for proposing that a liberal global theory be sufficiently general so as to not hold this expectation of all societies.¹ As critics of liberal universalism like Bhikhu Parekh have pointed out, "Liberals find such restrictions [of individual liberty] unacceptable, but most members of traditional societies do not. Unless we assume that liberalism represents the final truth about human beings, we cannot indiscriminately condemn societies that do not conform to it."²

Even philosophers partial to liberal democracy have denied its universality. Richard Rorty, for example, wants "to replace both religious and philosophical accounts of a suprahistorical ground or an end-of-history convergence with a historical narrative about the rise of liberal institutions and customs."³

Indeed, Rorty thinks that "liberal institutions would be all the better if freed from the need to defend themselves in terms of such foundations -- all the better for not having to answer the question 'In what does the privileged status of freedom consist?'"¹⁴ Applying his brand of anti-foundationalism to the global context, he "urge[s] the construction of a world order whose model is a bazaar surrounded by lots of exclusive private clubs." In the face of diverse, and presumably nonliberal, societies, liberals are advised to "smile a lot, make the best deals you can, and, after a hard day's haggling, retreat to your club."¹⁵

But this common rejection of the universality of liberalism commits the fallacy of equivocation by conflating two different senses of universality. It begins from the premise denying the universality of the origins of liberalism to the conclusion denying the universality of its application. But clearly, non-universality in the former sense need not entail non-universality in the latter. A political morality starting from a particular and specific historical or cultural origin need not thereby be confined to that context in its application. As a matter of fact, one of the aspirations of liberalism is its universalising tendency; it is a political morality which aspires to include within its moral community as much of the community of humanity as possible. Joseph Carens puts this point neatly: "the fundamental question is not really what do they think is right, but rather what we [liberals] do think is right.... Our conception of justice includes respect for cultural difference as one of its components, but one that is balanced against concerns for human rights and gender equality among other things."¹⁶ Or as Charles Beitz writes, "One might say that we are compelled to take a global view in matters of social justice by features internal to our conceptions of moral personality, however parochial it may be."¹⁷ This universalising aspiration itself could be home-grown but this fact alone does not tell us anything about whether it is or is not realisable.

So, while it is right to claim with Rorty and Parekh that liberalism has its roots in a specific historical or cultural context (e.g., the Enlightenment and the philosophy of, say, Kant or Mill) and so does not rest on universal first principles or a final truth about human nature, it would be too hasty to enjoin with them that liberalism cannot therefore have universal scope. That the purported ahistorical and

universal first principles of liberal theory have been found wanting does not necessarily undermine the potential universal applicability of its ideals; the question concerning the implications of these principles for other societies remains pertinent. Thus, as Will Kymlicka has argued, those who deny the universal relevance of liberalism have unduly foreclosed the argument. The crucial question is not where our moral world begins (this as a historical fact is hard to dispute) but where it could end.⁸ We do not need to pretend to have started from first principles; we can admit that we must begin from where we are situated but nonetheless strive to see what kinds of universal principles we can infer from our specific starting points.

One might insist that the origins of a belief confine both the belief and those who harbour it in such a way that the terms used to express the belief retain their meaning only in that very context within which the belief originated. To bring these terms outside their respective sites of origin is to take them out of their meaning-inducing context and hence to render them quite meaningless. This objection is somewhat analogous to that which denies the distinction between the "context of discovery" and "context of justification" in the natural sciences. I shall however ignore such a radical relativistic view leading as it does to a thoroughgoing skepticism even regarding the most mundane of beliefs, each of which must have some unique historical origin. It implies that ideas like liberal-democracy, liberty, individual rights and freedom are non-translatable, that the very terms which express these ideas are meaningful only within very specific historical and social contexts. That this is quite implausible and in fact unrealistic needs no saying.⁹

This distinction between universal origin and universal application is also evident in Rawls, although he puts the distinction in terms of universality and universal in reach.¹⁰ In what he calls the 'constructivist view', liberal principles need not begin from "universal first principles having authority for all peoples everywhere and holding of moral necessity in all cases."¹¹ Rather, constructivism works outwards from a particular context (in this case that of a liberal domestic society) to the global context by

examining how a set of locally conceived ideas can be generalised in order to have universal application, to have universal reach.¹² "Thus, a constructivist liberal doctrine is universal in its reach once it is extended to give principles for all politically relevant subjects, including a law of peoples for the most comprehensive subjects, the political society of peoples."¹³ That is, once successfully extended with the appropriate modifications, liberalism can claim universal status; we will have arrived at universal principles from our very specific (cultural) starting point.

Returning to Rorty's bazaar metaphor, in haggling with the members of the other clubs in his global bazaar, Rorty himself is doing no less than attempting to extend the boundaries of his moral community. He wishes to sway members of these other "exclusive" clubs to join his club and to appreciate the liberal values and ideals it affirms. The real difference between Rorty's approach and Rawls's constructivism is that Rorty thinks that we should not attempt to extend our moral community by searching for universal principles for he believes that there is none to be found. Instead, he feels that a more fruitful approach is to inculcate in others the appropriate kinds of sentiments, specifically, the types of sentiments cherished by liberals.¹⁴

But while Rorty is right to remind us of the importance of cultivating the right sentiments in people in our quest for a better world, he is mistaken in hoping that we can do this without any appeal to principles. What sorts of sentiments are we talking about here? How do we critically reflect on these sentiments? How can we promote them in a consistent and principled manner? And how do we justify our efforts -- to ourselves and others -- and our belief that we are right in cultivating these sentiments universally? Just saying "because it is our belief" or "this is how we have been brought up to feel" does not take the liberal vision very far. It is patent that these questions cry out for a guiding principle of some sort, a principle assumed to be universally valid because of the global scope of the liberal project. In short, the project of instilling a universal sentiment of humanity necessitates a concurrence on some universal guiding principle. So, to my mind, Rorty's plea that we help forward the progress of liberal

sentiment tells only part of the story. Sentiment-raising speaks only to our strategy, but does not define or justify our goal.¹⁵

Here it might be said on Rorty's behalf that universal principles must be defended by appeal to philosophical foundational claims of which Rorty insists there are none to be had. Thus unless I produce the philosophical underpinnings of the universalism I am advancing, I am merely pushing the debate back one step. There are two responses available to the universalist liberal here. First, there is no necessary relationship between a belief in universalizability and a belief in foundationalism. Ernesto Laclau, who supports the anti-foundationalism of Rorty, argues nonetheless that "the impossibility of a universal ground does not eliminate its need. It just transforms the ground into an empty place that can partially be filled in a variety of ways."¹⁶ In plainer language, even if there are no foundational philosophical truths, we still need a standard (a "beyond" as Laclau puts it) to define the limits of pluralism; and we can find this in a general consensus among differences, "a universality reached through equivalence [between particular demands]," and which gets its contents through particularistic expressions.¹⁷

Secondly, even if the universalistic aspirations and principles of liberalism must necessarily rest on some foundational claims, just because these claims are not (yet) substantiated, it does not follow that they will never be obtained. That many prominent liberals (Kant and Mill historically, and Ronald Dworkin currently) have attempted to base the universalism of liberalism on foundational theories suggests that such a quest cannot be as blatantly misguided as Rorty thinks. Indeed these attempts are very much integral to the tradition Rorty himself defends and in terms of which he defends his own (liberal) beliefs. So unless Rorty risks becoming a relativist unable even to appeal to his own tradition, he must entertain more seriously these attempts to ground liberalism. As Frank Cunningham argues, "Surely these [realist or foundationalist] tenets have not been 'weeded out' [contra Rorty] but continue to inform the efforts of a great many of the world's philosophers [including those in Rorty's own tradition]."¹⁸ We may thus turn the table on Rorty and leave him to show us how he could reject the philosophical underpinnings

of his tradition without jeopardizing his confidence in that tradition itself. Even Rawls, as we saw, acknowledges that the comprehensive philosophical claims of liberalism cannot be avoided entirely, that to defend liberalism ultimately, one may need to resort to invoking the foundational claims.

Parekh, unlike Rorty, rightly acknowledges the need to appeal to universal principles: "The dissenters, the oppressed minorities and the ill-treated masses of the world over appeal to international public opinion for support, and we cannot respond to them without the help of general principles to guide our judgements and actions.... All this calls for a body of moral and political principles that are both universally valid and capable of accommodating cultural diversity and autonomy."¹⁹ But Parekh thinks liberal principles, because they are culture specific, cannot fill this role. Instead, he believes the Universal Declaration of Human Rights equal to this task.

Now given Parekh's rejection of liberalism qua universal morality, his accession to the Universal Declaration is incongruous because the Universal Declaration itself has very strong liberal underpinnings (which Parekh himself notices). But Parekh agrees to its universality nonetheless because he believes that 1) it was drafted and assented to by a large number of different countries, 2) it has been revised on the urgings of new (non-Western) members states via the introduction of the two International Covenants on Human Rights, 3) and it has been appealed to by the oppressed the world over. He went on to say that the general principles of the Declaration, the most significant ones in his view, are

principles [which] relate to vital human interests valued in almost all societies and have a genuinely universal core, such as respect for human life and dignity, equality before the law, equal protection of the law, fair trial and the protection of minorities. Liberalism does, of course, deeply cherish and place great value on these principles, but they are not unique to it. They are found in classical Athens and Rome and many a medieval kingdom, are emphasized in the sacred texts of all great religions, and were widely practised in many non-western societies.²⁰

But all of this only shows that liberalism, despite its culturally specific origins, can become universal in reach and be universally assented to. That there is a convergence between liberalism and other cultural views regarding "vital human interests" simply reinforces my contention that there is great

potential for reconciling these other views with liberalism, that liberal criticisms directed at political institutions which thwart these vital interests could become universally valid criticisms. Moreover, we have seen how liberalism can be "capable of accommodating cultural diversity and autonomy" (contra Parekh). Of course, the liberal tolerance of diversity is going to be limited, but this limitation will be very similar to that imposed by the Universal Declaration. Again, the mistake it seems to me is that Parekh thinks that just because liberalism is culturally specific, it cannot have universal application and therefore must be distinct from the Universal Declaration in spite of the latter's undeniably liberal character.

Parekh also refers to the tempering of the Universal Declaration by the introduction of the International Covenants, in particular the Covenant on Economic, Social and Cultural Rights, as evidence of how nonliberal countries have attempted to tone down the liberal bias in the Declaration. But I have argued that this Covenant is required by liberalism correctly interpreted and should not be thought of as a counter to liberalism. Thus, in the end, it is quite puzzling how Parekh could say that countries may "remain free to choose their own appropriate forms of [nonliberal] government"²¹ within the limits of the Declaration, when a wholehearted affirmation of the Declaration should enjoin a liberal democratic order of some form.²²

My quarrel with Rawls's political liberalism was with its attempt to detach liberalism from its comprehensive moral commitments and not with his constructivist project per se. I rejected his claim that it would be unreasonable from a liberal view point to require all comprehensive views (including national cultures) to fully uphold the ideal of autonomy. Rawls's constructivism is already evident in A Theory of Justice where liberalism was understood as a comprehensive ideal.²³ Thus a comprehensive liberal conception can just as well adopt the constructivist approach. But instead of beginning from the belief that toleration is primary, it will start from its comprehensive commitment to individual autonomy, understood and acknowledged as a locally conceived ideal, and endeavour to see how far outwards towards a universal law this ideal can be extended, and what the implications are of thus extending this

ideal.²⁴

The crucial question for our purpose, therefore, is not whether the liberal ideal of autonomy originated from a specific cultural context or from some universal truths, but whether this ideal can be incorporated into other (non-western) cultures, whether different cultures can provide their own foundations for the ideal of autonomy. We saw in Chapter 6 that cultural (or civilizational if we like) views generally thought to be inherently anti-individualistic (e.g., Confucianism) have within their own traditions beliefs about individual freedom and liberty, even if these beliefs are latent or not fully articulated. If it is correct that these individualistic ideals, and those of other vital human interests Parekh identifies, are present in most cultural views, then the liberal aspiration to extend the reach of liberal morality is not hopelessly utopian nor culturally imperialistic.

Admittedly, more work needs to be done here. How can latent individualism be fully developed and nurtured to sustain the liberal ideal of autonomy? What are the different substantive forms political institutions can take within a liberal parameter? How are the needs of some individuals to be weighed against the needs of others? These questions remain to be answered. But these can be understood as questions to be sorted out within a comprehensive liberal framework. The relevant point here is that the claim liberalism has a specific cultural origin is not by itself a sufficient argument against the universality of liberal theory.

Also, none of the above presupposes that we can avoid the question of philosophical foundation for all cases, even if we can do so for the most part in practice (by appealing to commonly shared touch-stone values, even if latent, or to some other extra-philosophical agreements). In extreme situations where liberalism is itself challenged (as when these touch-stone values are opposed), the comprehensive liberal is compelled to appeal to the philosophical foundations of liberalism (by appealing to Kant or Mill, e.g.) to defend her position (even if only to provide herself with a rationale or self-justification for putting down the challenge). But this need to rest ultimately on some foundational claim about 'truth' is something

no political philosophies can avoid (Dworkin). This includes the political liberalism of Rawls as we may well recall (Chapter 3). So if it is indeed the case that no such philosophical foundations are discoverable (assuming we grant Rorty his claim), political liberalism is no better off than comprehensive liberalism in this regard; in which case my thesis that comprehensive liberalism is to be preferred over political liberalism in general, and as a theory of global justice in particular, is unaffected.

Problems with Liberal Practice

So the cultural particularity of liberalism is not necessarily an obstacle to its having universal applicability. If there is a problem with liberalism in this regard, it has more to do with how liberalism is being practised than with how it has been conceived.²⁵ Let me point out two common and serious flaws in liberal practice which have hurt its own global advancement.

A) Cultural Insensitivity

One of these practical flaws is the lack of cultural sensitivity on the part of liberals in their attempts to extend the reach of liberal morality. Given the uncritical self-assurance and sense of cultural and moral superiority with which liberals enforced what they took to be universal truths the world over during the colonial era, the current opposition of nonliberal societies to the universalising posture of liberalism is quite understandable.

To be precise, there are no obviously and neatly demarcated cultural entities involved here. Few states, as we have stressed many times, are culturally distinct and homogenous. But the divide between the once colonial and dominating "West" and the colonised and subjugated others tends, nonetheless, to reflect a distinction between cultural types or at least a division between one (Judeo-Christian) civilisational view and all others. That the once dominant civilizational or cultural view is now also the one insistent on a universal morality unsurprisingly arouses the suspicion of cultural imperialism on the

part of once subject peoples.²⁶

Unfortunately, this suspicion and scepticism about the universalising stance of liberalism is not assuaged by the manner in which some liberal states and even non-governmental organisations criticise human rights violations today. The seemingly arbitrary and culturally biased (in the eyes of many nonliberal societies) preoccupation of liberal states and various Non-Governmental Organisations with selected civil and political rights to the exclusion of economic and social rights even when advances are made in the latter is a case in point. As one human rights scholar points out, Amnesty International, while greatly to be commended for its efforts, continues to "focus [only] on a very specific range of civil and political rights".²⁷ A Malaysian delegate to the United Nations illustrates this complaint: "The North's persistent attacks on China, for example, have ignored the fact that the nation's gross domestic product has grown from \$215 billion in 1986 to \$817 billion in 1996. The number of people below the poverty line has come down from 250 million in 1975 to 65 million in 1996. Possibly, never before in the field of human affairs has so much been done for so many in so short a time."²⁸ Insensitive criticisms lend some basis to protests of the sort voiced by the Indonesian Foreign Minister:

we don't deserve to be put into a corner and to say, "You are a pariah nation and we must clobber you all the time because of East Timor"... You can criticise us about human rights; no country is beyond criticism on human rights.... [But] we would prefer that you don't criticise us by shouting from the roofs, but that you sit down and as a friend say: 'Look, we don't like the way you do things. You better change because you are getting in trouble.'²⁹

In the area of gender rights, Islamic feminists are often "disheartened by the way in which Arab and Muslim 'oppression' of women is invoked in Western media and sometimes in scholarship in order to justify and even insidiously promote hostility towards Arabs and Muslims." As Leila Ahmad regrets, the "old story" is repeated or implied, even among Western liberal feminists, "that Arab men, Arab culture, and Islam are incurably backward and that Arab and Islam societies indeed deserve to be dominated, undermined, or worse."³⁰ As I mentioned in Chapter 6, such insensitive posturing feeds the common misconception that liberating Muslim women entails the wholesale rejection of Islam.

As a start, therefore, it is important that criticisms are offered not from a sense of cultural and moral superiority but from a genuine concern to assist oppressed individuals. Thus when criticising a society for violating rights, we must not give the impression that we regard all of its culture as unworthy. As we noted in Chapter 6, it is important that defenders of rights focus on specific cultural practices and not condemn an entire cultural way of life with a broad brush. Disregarding the culture of an entire people will simply put members of that community (even potential reformers) on the defensive and render any such critique counterproductive.³¹

Criticism need not preclude acknowledging the worth and distinctiveness of a cultural way of life. And where applicable, criticising shortcomings in some areas of a society should be complemented by an acknowledgement of progress and other positive aspects in other areas of that society.³² When a criticism is balanced by recognition of and respect for a culture's worth, any concern that this critique is fuelled by a sense of cultural superiority is mollified.

If it is correct that a consistent liberal stance must endorse the idea of cultural rights (or the rights of peoples), then liberalism has within itself the conceptual resources to ameliorate the (real or perceived) cultural insensitivity in its practice. Liberals can remain committed to protecting individual liberty; but worries about cultural partiality in this regard can be offset if they are committed also to protecting cultural diversity, and demonstrate this commitment by supporting global institutions to this end. The commonly seen reluctance of liberal societies to endorse cultural rights must be overcome then. As for the concern that endorsing cultural rights may lead to contradictory commitments, we saw in Chapter 6 why this concern was largely unfounded.

It is also "important to refrain from moral and political judgements about disputes [over rights] until one has acquired detailed knowledge of local political circumstances and relevant cultural outlook."³³ Note that this is not an affirmation of Michael Walzer's stronger claim that only members can ever acquire the local knowledge requisite for sensible criticism (as discussed in Chapter 4). It is just that

often enough, well-intentioned criticisms are offered out of the larger social and cultural contexts, and nothing calls more into doubt the credibility and the sincerity of a well-meaning criticism than if it distorts (even if unintentionally) basic (even if extraneous) facts. Failures to appreciate basic social and economic conditions of a country before making recommendations can lead to absurd propositions. Take, as a grotesque example, the recommendation by an international organ that the Bhutanese government upgrade its prison facilities to include hot running water and other facilities commonplace in the developed world. "For a country that is not [even] in a position to provide basic necessities such as safe drinking water, health care, and education to many of its rural subjects, and whose prison guards live in huts without plumbing", it is not at all surprising that the insistence that prisoners be provided these luxuries "amazes the Bhutanese."³⁴

Local knowledge will also prompt liberals to look first to the specific traditions of respective societies for potential sources of reforms, which is an essential aspect of a culturally sensitive criticism. To do otherwise, to suggest that others should accept our values just because we do (or for the same reasons we do), is bound to attract the charge of cultural imperialism and paternalism. But also, strategically speaking, reforms are more likely to succeed in the long term if they can find their basis and justification in the customs and beliefs of a given society itself. If our earlier observation that most cultural views, including those normally thought to be inherently anti-individualistic, endorse (even if in some latent form) the ideals of individual freedom and liberty is defensible, the recommendation that we ought to appeal foremost to a culture's own tradition to find the strength for reform is feasible in most real world cases.³⁵

We can see now that the real lesson to be drawn from exposing the cultural particularity of liberalism is not that its application must be confined to its site of birth, but that liberals should exercise tact and caution in their attempts to universalise their morality, that they be less self-assured and unreflective when engaging other (cultural) points of view. So, unlike their colonial predecessors, liberals

today must adopt a more self-critical and tentative attitude. They should be ready to see flaws in their own views in light of what other views can tell them, and be prepared to admit mistakes and be ready to revise their commitments in light of new arguments or facts. Liberals do have plenty to learn from other viewpoints, and they have in recent times benefited enormously by heeding these lessons. As we saw, it was the communitarian challenge that provoked liberals to restore the community to its rightful place in their discourse. In the latter half of this century, the socialist objection inspired an egalitarian interpretation of liberalism. Feminist critiques too have moved liberals to examine certain issues long overlooked, like justice within the family and the question of free speech with regard to pornography. In the international arena, the stress many nonliberal societies place on individual responsibility, a point many liberal practitioners tend to miss in their zeal to protect individual rights, has likewise reminded liberal states of their practical failings with respect to cultivating responsible citizenship.³⁶ None of these lessons compelled an abandonment of liberalism in its entirety; but they set in motion important revisions or debates within liberal thought and practice, revisions and debates which have helped strengthen the liberal position by making it more alive to new agendas and challenges.

B) Double Standards

Another failing on the part of liberals which has undermined efforts towards a liberal global order is the double standards rife in liberal practice. Firstly, liberal states often turn a closed-eye to illiberal practices within their own or other so-called liberal countries. As I have mentioned, no societies, even if classified as liberal, are entirely without illiberal practices. Consider the citizenship policies of Germany and Japan which discriminate against some residents on the basis of ancestral birth; or consider the fact of systemic inequality, poverty and racial and gender discrimination in rich liberal countries like the United States and Canada. These illiberal practices and policies warrant criticisms as do illiberal practices in nonliberal states; yet we rarely see these failures in liberal countries addressed in global forums. Double standards of

these sorts call into question the intentions of attempts by liberal states to protect rights elsewhere. Not doing enough against pervasive racism in liberal countries, for instance, underscores the developing world's perception and suspicion of racist undertones beneath rights talk; permitting gender inequality at home belies the sincerity of the West's efforts to promote that ideal elsewhere.

Another common case of double standard is the granting of special amnesty or immunity to oppressive regimes favoured by dominant liberal states for trade or strategic reasons. By exempting these 'client states' from criticisms for their human rights abuses, and in assisting in these abuses in some cases, liberal states not surprisingly have lost much credibility in the eyes of nonliberal societies.³⁷ One troubling and familiar example here is the United States's and Canada's willingness to overlook human rights atrocities in China for the sake of mutually beneficial trade deals.³⁸ It has often been suggested that trade cooperation is one way of beginning a dialogue on human rights. This, arguably, could be so but the reality is that rights concerns are swept under the rug while economic and business interests are entertained.³⁹

But, in my opinion, the most blatant failure to apply liberal standards even-handedly is the reluctance of liberal states to confront global inequality. We saw in the last chapter why a commitment to global equality follows from a faithful application of liberal morality. Unfortunately, witness the rejection by the United States and other rich liberal states of the proposed right of peoples to development.⁴⁰ The failure of many liberal states to come even close to meeting the United Nations' modest recommendation that developed countries contribute 0.7% of their GNPs to developmental assistance is another case in point.⁴¹ It would be a different story if the reason for this omission were human rights violations in potential recipient countries (and even then there are other avenues of more selectively providing aid, e.g., through Non-Governmental Organisations rather than through corrupt governments). But in reality, the situation is more often the other way around. Countries with (military) dictators and atrocious rights records often receive assistance from nominally liberal states to clampdown on democracy movements,

while fledgling democracies not only get cutoff from aid but are actively worked against.⁴² As long as liberals refuse to address the problem of structural global inequality, their attempts to protect civil and political rights globally are not only going to be unsuccessful in the long-run, but the intention and sincerity of these attempts are going to be doubted by the less well-off (nonliberal) countries.⁴³

So until liberal states expunge the double standards that have corrupted liberal practice, and, most significantly, accept the responsibility to combat global inequality as a matter of justice, the impasse between those who proclaim the universality of liberalism and those who reject it will remain.

Towards a Liberal Global Order

Crucially then, a liberal global order would require more than political reforms within nonliberal and illiberal societies; it requires foremost a global setting in which rich and poor countries can come together as equals and with mutual trust and respect. Yet mutual trust and respect requisite for a more open global society are understandably lacking in a global order which conduces to the coercion and deception of vulnerable (i.e., the poor) countries. Attempts on the part of liberal states, which tend to be the ones benefiting from the present unfair arrangement, to protect individual liberty within the existing global framework will be justifiably read as self-serving and hypocritical and cannot win the consent of the majority of the world. Thus, it is incumbent upon liberal societies to take the first step towards a global order conducive to liberalism. But why should rich developed countries take the plight of the poor seriously? Is my earlier conjecture that liberals will accept a liberal order just because it would be consistent with their morality perhaps too optimistic? Justice and reason dictate a certain world order; but the question remains whether there is the will to take us there.

Rawls famously stressed that a viable theory of justice must take into account the "strains of commitment", that we are to "avoid those agreements [on principles of justice] that [we] can adhere to only with great difficulty."⁴⁴ And he recently expressed the worry that applying his second principle of

justice to the global context will indeed overstrain our commitment to justice (Chapter 7). He shares the common belief that our moral concern diminishes with distance, that the world is just too large to be co-extensive with our sense of moral community.⁴⁵ Indeed some philosophers have asked whether our commitments are not already over-stretched in a pluralistic liberal-democratic society. But allow me to beg off this question (to examine this undoubtedly important point here would take us too far afield); let us assume that the solidarity requisite for a just society is evident within societies and struggle only with the more common notion that this sense of solidarity ends at our national borders.

Granting this psychological claim about human nature, I want to offer a tentative argument why I think a vision of a liberal global order is not hopelessly utopian, why a liberal global community need not necessarily overstrain our commitments. The basis of my belief generally has to do with the fact that distances are no longer effective in morally insulating 'us' from 'them' in the modern world. In an increasingly interdependent and interconnected global arena, social, economic and environmental failures and exploitations are no longer the confined problems of isolated states but have severe repercussions beyond state borders. As Cunningham writes, "the first world is no longer able to isolate itself from its ecological and economic effects on the third. Exploitation of third world workers creates unemployment in the first world and the social and economic strains of forced migration. Destructive ecological practices are felt world wide."⁴⁶ It seems then that the demands of justice and those of self-interest are beginning to converge in a world rapidly 'shrinking' largely due to technological advances.

Consider the case of global poverty. There are considerable self-interested reasons why the rich North should be motivated to ameliorate this problem: "Poverty drives people to engage or acquiesce in ecologically destructive activities, for instance those leading to deforestation. Poverty also creates political instability which obstructs cooperative worldwide action and, being war prone, fuels the diversion of much-needed resources into military expenditures, not to mention the destruction caused by wars themselves."⁴⁷ The large-scale destruction of rain forests (a destruction whose scale is made by

possible modern machinery) by poorer countries in South-East Asia and South America has devastating regional and even global environmental consequences. The world-wide social and economic effects and costs of any modern war need not be stated.

As another illustration, the massive debt burdening many developing countries is not a problem for debtor countries alone but has severe economic repercussions for creditor countries also. It is now common knowledge that given the intricate nature of the global economic system, "[t]he debt burden punishes [the creditor country's] economy as well. When developing economies are squeezed dry to pay off foreign bankers, less money is left to import products; according to some experts, the drop in [the United States's] export to Mexico alone since 1982 has cost at least a quarter of a million Americans their jobs."⁴⁸ While justice would demand writing-off much of the Third World debt, self-interest was catalytic in motivating creditors to begin negotiating for a mutual resolution to this crisis. We are, to be true, far from a fair resolution of the debt crisis, but that these negotiations are even taking place shows how prudence on the part of the developed world have necessitated their giving some consideration to the problems of the poor.⁴⁹

Concerns for the environment have also forced cooperative efforts and dialogue between the rich and poor. The now general realisation that all of humanity inhabits a single and very fragile ecological system, and that therefore the rich have a stake in how the developing world treats its forests and rivers and disposes of its waste has, paradoxically, given the developing world a strong bargaining chip in global negotiations. Witness, for example, the increased leverage, and the confidence which comes with it, acquired by developing states during the Rio Earth Summit. In exchange for sounder environmental policies, poor countries are able to demand economic and technological assistance from developed economies. The global playing field is still far from level, but this common concern over the environment has restored this imbalance slightly, and I believe will restore it further as environmental issues grow in priority.⁵⁰

The awareness that environmental disasters need no passport has been forceful also in countering the traditional absolutist idea of state sovereignty. Even among countries which traditionally maintain a strong reading of sovereignty, recent ecological disasters have provoked them to reconsider this ideal. Witness the reaction of the Association of South-East Asian Nations (ASEAN) towards the forest mismanagement on the part of the Indonesian government which led to a regional environmental crisis last fall (1997). While the official statements and demands made were tactful and cautious as expected, there is no denying that the belief long held sacred in this region that state sovereignty is inviolable has been strained.⁵¹ The need to share common natural resources, like rivers, has also forced cooperation between countries normally jealous of their sovereignty, and even between traditionally antagonistic ones.⁵² Treaties between countries for the sake of conserving migratory animal resources, like fish stocks, or joint-ventures for the sake of creating wildlife corridors and ecological parks are also helping corrode further the Westphalian idea of sovereignty.⁵³

In sum, technological advances and growth in human population have made global justice a pertinent topic. Were the world inhabited by insulated and isolated pockets of humanity, talk of global justice would be of fascination to the speculative mind but of no practical import (as, say, talk of intergalactic justice now would be). But because we do affect each other's lives in important measures globally in a myriad of ways, questions concerning how we relate to those outside our immediate community have become poignant and morally pressing. And as we move from a world in which our decisions affect one another to a world in which our interests get more and more interdependent and common, global justice moves from being a pertinent topic to a goal within reach if only out of our sense of self-preservation.

Perverse as it may sound then, justice and self-interest could work together towards realising a better world. Justice dictates our goal; our self-interests could take us there. This possible coming together of reason and self-seeking inclinations was long ago noted by Kant in his vision of perpetual peace:

Thus that mechanism of nature by which selfish inclinations are naturally opposed to one another in their external relations can be used by reason to facilitate the attainment of its

own end, the reign of established right. Internal and external peace are thereby furthered and assured, so far as it lies within the power of the state itself to do so. We may therefore say that nature irresistibly wills that right should eventually gain the upperhand. What men have neglected to do will ultimately happen of its own accord, albeit with much inconvenience.⁵⁴

Kant accepted that considerations of justice alone may not be sufficient to move humanity in the right direction, but he thought human nature and its self-seeking inclinations would come to the rescue here, providing the motivation for the "universal and rational human will, so admirable in itself but so impotent in practice."⁵⁵

Our world has come to resemble more the cooperative scheme which Rawls associated only with domestic society. My point though, and this must be stressed, is not that justice is relevant only in a cooperative scheme (contra Rawls and early Beitz); doing right by people remains morally relevant whether or not we are engaged in some joint enterprise with them. My claim here is that a cooperative scheme will aid the realisation of the ideals of justice. The objection that our ideal global theory will overtax our commitments is overcome by the realisation that the welfare of each one of us is more closely dependent on the welfare of all of humanity than we tend to think, and will continue to grow more dependent.

So while the global theory I am defending can incorporate and rely on self-interests to achieve its ideals, it is quite different from theories which begin from and are justified by self-interested considerations. And I do not deny here that our idealism is going to be limited as long as we count on self-interest alone to take us there, as long we do the right things for the wrong reasons. The realisation of the ends of justice in this way is too dependent on contingencies, and global justice will remain too tenuous even when achieved.

But here, I want to give some reasons for doubting the psychological claim about humanity we granted a while back. Without attempting to paint too rosy a picture of humanity, I tend to agree with philosophers who suggest that the idea of human nature as primarily and innately self-interested, callous

and possessive is exaggerated.⁵⁶ Cunningham aptly refers to C.B. Macpherson's thesis that the 'possessive individualist culture' is the result of the lack of democratic empowerment and can therefore be corrected by increasing democratic practices within developed countries. He notes how people, even in a competitive capitalistic order, have demonstrated the capacity to "extend the boundaries of what they consider a community worth preserving" to include other countries as well.⁵⁷ I conjecture that one reason for this is perhaps the bringing closer (and into our living rooms quite literally) the sufferings and miseries of 'strangers' via modern communication. Perhaps another reason is that in an increasingly mobile and intermingled world, our loyalties are not confined to a contained locale but are multiple and reach out to different parts of the world. This multiple loyalty and the accompanying multiple sense of moral belonging is most vivid among immigrant citizens. For these new citizens, their moral communities tend to extend beyond the borders of their adoptive country to encompass also their native homes (where friends and relatives and the past have remained behind).

It can be reasonably hoped that an "instrumental" concern for strangers can in time mature into an "intrinsic" concern, that we may start to care for others because we care for them. Just as democrats believe that democratic practices will eventually engender democratic attitudes, so I think doing right by others for self-interested reasons can eventually transform into doing right for the right reasons and with the right attitude.⁵⁸ We can recall for ourselves here Aristotle's famous dictum that one becomes good by doing good.⁵⁹ As we find the boundaries of our social and economic community extended, so too must we eventually be moved to genuinely extend our moral boundaries.

The insensitivity and hypocrisy which are hampering liberal practice exposed in the earlier section can therefore be overcome in the first instance by self-interested considerations, but ultimately also, one may reasonably hope, by a genuine extension of our moral community to cover those outside our immediate national borders. It is in this last regard that ordinary citizens of liberal societies can have a significant contributing role. While state governments can be entrusted to act on national interests, this

driving motivation can also press them to implement insensitive and hypocritical foreign policies when interests and morality do not fortuitously coincide, as they need not, especially in the short-run. But it is commonplace that "individuals' feelings of responsibility for 'the poorest he', wherever located, seems to run well ahead of the policies of many governments."⁶⁰ Thus, if it is mainly governments of liberal societies (and institutions like Multinational Corporations) that are failing to live up to liberal expectations, ordinary citizens and intellectuals of these democracies have the important responsibility, and ability -- thanks to the democratic freedoms they enjoy and their powers as consumers -- of pressuring their own governments (or even electing new governments) and businesses to conform to liberal standards in their dealings with other countries. Unlike citizens of nondemocracies, democratic citizens are more empowered to contribute towards a better world than is normally thought -- they can certainly do more than offer token donations to charity and non-governmental organisations. If "the major impediments to a global partnership derive, sometimes quite directly, from the activities of developed-world economic and political forces, democratic politics in the developed world to curtail these forces can significantly contribute to third world [and global] democracy."⁶¹ In short, increasing democratic participation in liberal countries, giving citizens more control over the policies (in particular the foreign policies) of their own governments, which currently are often enacted without public consultation, and giving them greater control over how private corporations do business, is one crucial step towards greater global democracy. The profound implications of local participation for global justice has the welcome effect of rendering the quest for a better world order less intangible and daunting for the ordinary person, of making this goal more within her reach -- her concrete and immediate task is to sustain and increase democratic politics in her own country.

Conclusion

As I mentioned in the **Introduction**, I do not claim to have offered a full-fledged defence of global

liberalism. What I have done is to defend one view of liberalism over another, and I now outline why I think this interpretation of liberalism can be implemented and endorsed in the real world. One reason why liberalism has come under attack is because of certain misconceptions about it, misconceptions which are in turn largely the result of conflicting conceptions of liberal theory and, worse yet, inconsistency on the part of liberals between theory and practice. A first stage towards a complete defence of liberalism needs then to sort out its internal theoretical differences. I tried in this dissertation to defend what I think is the stronger of two prominent conceptions of liberalism, political and comprehensive liberalism. Among other things, I showed that this conception of liberalism can reconcile the two apparently conflicting norms of particularism and universalism in international relations theory, and in as far as one common reason for opposing liberalism is its perceived hostility towards particularistic moral claims (including the rights of peoples to self-determination and development), one major obstacle on the path towards global liberalism is removed. But theoretical house-cleaning is just one part of the effort. To the extent that inconsistency between theory and practice often detracts from the worth of a theory (at least in the eyes of its opponents), and to the extent that practice seems to be the only way the viability of a political theory is demonstrable, it is crucial that liberal practitioners (in particular liberal state agents) live up to the demands of their own theoretical commitments. Only then can the strongest interpretation of liberal political morality be held up against its competitors, and only then can we begin a fair and thorough evaluation of theories of global justice.

ENDNOTES

1. John Rawls, "The Law of Peoples," in On Human Rights, ed. Stephen Shute and Susan Hurley (New York: Basic Books, 1993): 41-82, 220-230, pp. 51-52.

2. Bhikhu Parekh, "The Cultural Particularity of Liberal Democracy," in Prospects for Democracy, ed. David Held (Stanford: Stanford Univ. Press, 1993): 156-75, p. 169.
3. Richard Rorty, Contingency, Irony and Solidarity (Cambridge: Cambridge Univ. Press, 1989), p. 68.
4. *Ibid.*, p. 57.
5. Richard Rorty, Objectivity, Relativism and Truth (Cambridge: Cambridge Univ. Press, 1991), p. 209.
6. Joseph Carens, "Complex Justice, Cultural Difference, and Political Community," in Pluralism, Justice and Equality, ed. David Miller and Michael Walzer (Oxford: Oxford Univ. Press, 1995).
7. Charles Beitz, "Cosmopolitan Ideals and National Sentiment," The Journal of Philosophy 80 (1983): 591-600, p. 596, emphases mine.
8. Will Kymlicka, Liberalism, Culture and Community (Oxford: Oxford Univ. Press, 1989), pp. 67-69.
9. For a summary and criticism of the denial of the distinction between the "context of discovery" and the "context of justification" in the natural sciences, see Israel Scheffler, Science and Subjectivity (Indianapolis, Indiana Univ. Press, 1969), chap. 4, p. 69ff. This possible objection, the phrasing of it and its rebuttal are suggested to me by Frank Cunningham.
10. It is a testimony to the wealth of Rawls's philosophy that while one may find crucial elements to disagree with, there are also other fundamental aspects one can agree fully with.
11. Rawls, "Philosophical Problems of the Law of Peoples," Princeton Univ. 1995, MS. 27; see also "The Law of Peoples," p. 46.
12. "The Law of Peoples," pp. 43-7. Constructivism and the distinction between universality and universal in reach is further elaborated in "Philosophical Problems." MS. 25-30.
13. Rawls, "The Law of Peoples," p. 46. We may recall that it is essential, in Rawls's view, that political liberalism be demonstrated to have this universal reach so as to show that its conception of justice "is not historicist and to apply only to societies whose political institutions and culture are liberal" (p. 44). See Chap. 2 of this work.
14. See Rorty, "Human Rights, Rationality, and Sentimentality," On Human Rights, ed. Stephen Shute and Susan Hurley (New York: Basic Books, 1993): 111-34.
15. There is therefore, it seems to me, a fundamental difference between Rorty's anti-foundationalism and Rawls's, Rorty's claim to the contrary. (see e.g., Rorty, "The Priority of Democracy to Philosophy" in

Objectivity, Relativism and Truth). Rawls attempts to draw out general and universal principles from his specific starting point; Rorty refuses to seek after principles. Moreover, there are other important differences between the two which have been pointed out by various commentators. Rorty's anti-foundationalistic liberalism stems from a philosophical skepticism regarding foundations; Rawls aims only to present liberalism detached from its philosophical foundations for political not epistemological reasons. This fundamental difference between Rawls and Rorty is clearly expressed by Rawls himself: "it would be fatal to the idea of a political conception to see it as skeptical about, or indifferent to, truth, much less as in conflict with it." Political Liberalism, p. 150.

16. Ernesto Laclau, "Subject of Politics, Politics of Subject," in Justice and Democracy: Cross-Cultural Perspective, ed. Ron Bontekoe and Marietta Stepaniants (Honolulu: Univ. of Hawaii Press, 1997): 363-379, p. 373.

17. *Ibid.*, pp. 367, 369. Indeed Laclau's main thesis in this paper was to argue that only an-anti-foundationalistic universalism can be reconciled with the demands of pluralism --"a universality reached through equivalence [between particular demands] is very different from the universality that results from an underlying essence or an unconditional a priori principle" (p. 369-70). According to him, "Only the critique of a universality that is determined in all its essential dimensions by the metaphysics of presence, opens the way for a theoretical apprehension of the notion of '[particularistic] articulation'" (p. 373). I do not endorse this stronger claim, but I shall leave this matter aside for now. Another philosopher who defends universalism without foundation is Kai Nielsen. See his Naturalism Without Foundations (Amherst: Prometheus Books, 1996).

18. Frank Cunningham, The Real World of Democracy Revisited (Atlantic Highland, N.J.: Humanities Press, 1994), p. 81.

19. Parekh, pp. 172-73.

20. *Ibid.*, p. 174.

21. *Ibid.*, p. 175.

22. The Universal Declaration, besides the basic rights to life and security, upholds the freedom of speech and expression (Article 19), right to political participation (Article 21) and other quintessentially liberal individual rights. It is hard to see how a state could endorse these rights without endorsing some form of liberal democracy. While we may want to discard some of the individual rights propounded in the classical liberal view (e.g., the inalienable right to property), and Parekh is surely right to draw this point to our attention, our option is not restricted to a complete abandonment of liberalism. The other possible course of action is to reevaluate these rights against the core values of liberalism and see if we should not reform this classical understanding of liberalism. Egalitarian liberals like Rawls and Ronald Dworkin, for example, have done exactly that.

23. The constructivism there was most neatly encapsulated by the "origin position" method of justification.

24. To recap, unlike political liberalism which takes the idea of toleration to be a fundamental idea to be extended, thereby arriving at a liberal global theory which condones certain restrictions on individual liberties, comprehensive liberalism wants the ideal of individual autonomy to be the guiding principle, thereby arriving at a global theory critical of nonliberal political institutions.

25. Of course, there are other reasons why some societies reject the universal validity of liberalism, an important one being the desire of corrupt governments to retain power over their citizens. But there is no debate here over what to do with these -- they should be exposed for what they are.

26. This perceived sense of cultural superiority on the part of the liberal West is partly responsible for the reactions of nonliberals against criticisms of their societies. Thus one Asian statesman complained: "America and Britain succeeded in cutting China down to size.... The apparent reason was 'human rights.' The real reason was political, to show Western political clout." Lee Kuan Yew, quoted in Samuel P. Huntington, *The Clash of Civilizations and the Remaking of World Order* (New York: Simon and Schuster, 1996), p. 197.

27. Philip Alston, "The Fortieth Anniversary of the Universal Declaration of Human Rights: A Time More for Reflection than for Celebration," in *Human Rights in a Pluralist World*, ed., Jan Berting et al. (Hague: Netherlands Commission for UNESCO, Middelburg: Roosevelt Study Center, London: Meckler, 1990): 1-13, p. 8. Alston of course recognises that an NGO can only do so much. But "it is time for [Amnesty] squarely and openly to address the issue of how it can best combat the risk of being perceived to endorse an unduly selective conception of human rights, while at the same time maintaining its core focus which can be justified in terms of manageability, legal specificity and operational potential" (p. 9). Given the clout and influence of Amnesty International, Alston thinks that it shoulders this responsibility which smaller and more limited NGOs do not.

28. Hishammuddin Hussein, "Calm Approach to Rights," *Far Eastern Economic Review* 9 Oct 1997, p. 39.

29. Peter Moody Jr. tells us that the "Asian values discourse is part of the reaction [of nonliberal societies] against the Post-Cold war western triumphalism." Moody, "Asian Values," *Journal of International Affairs* 50/1 (1996): 166-192, p. 189.

30. Leila Ahmad, *Women and Gender in Islam: Historical Roots of a Modern Debate* (New Haven: Yale Univ. Press, 1992), pp. 246-247.

31. See Daniel A. Bell, "The East Asian Challenge to Human Rights: Reflections on an East West Dialogue," *Human Rights Quarterly* 18 (1996), 641-667, pp. 658-59. National cultural pride is such that it is often said that one would prefer to be oppressed by a regime comprising one's co-nationals than to be free under a foreign rule. Thus notes Isaiah Berlin: "So much can I desire this, that I may, in my bitter longing for status, prefer to be bullied and misgoverned by some members of my own race or social class, by whom I am, nevertheless, recognized as a man and a rival -- that is an equal -- to being well and tolerantly treated by someone from some higher and remoter group, who does not recognize me for what I wish to feel for myself to be.... It is this desire for reciprocal recognition that leads the most authoritarian democracies to be,

at times, consciously preferred by its members to the most enlightened oligarchies, or sometimes causes a member of some newly liberated Asian or African state to complain less today, when he is rudely treated by members of his own race or nation, than when he was governed by some cautious, just, gentle, well-meaning administrator from outside." Berlin, "Two Concepts of Liberty", in Four Essays on Liberty (Oxford: Oxford Univ. Press, 1969), pp. 157-58. Note also John Stuart Mill's distinction between self-determination and self-government.

32. As an example, while the lack of political and civil rights in some East Asian countries should be criticized, positive elements in those societies, like the emphasis on education, communal responsibility, and care for the elderly should be recognised as worthy and indeed useful lessons for some liberal states.

33. Daniel A. Bell, "Minority Rights: On the Importance of Local Knowledge," Dissent (Summer 1996): 36-41, p. 36.

34. Reported by A.C. Sinha, "Bhutan in 1994: Will the Ethnic Conflict be Resolved?" Asian Survey xxxv/2 (1995): 166-170, pp. 169-70. The international body involved here was the United Nations High Commissioner for Refugees. Of course, it does not follow from this that all aspects of Bhutan's prison system are beyond criticism. But an informed criticism will not impose conditions with a broadbrush.

35. See, e.g., the discussion in Bell, "The East Asian Challenge to Human Rights: Reflections on a East West Dialogue," pp. 652-660.

36. Some nonliberal states have proposed a United Nations Universal Declaration of Human Responsibility as a counter-balance to the Universal Declaration of Human Rights. While I do not think that the idea of individual responsibility is fundamentally philosophically different from the idea of rights but is indeed the flip-side of the same idea -- to be coherent, individual rights must presuppose corresponding responsibilities on the part of other individuals; and to be consistent one who accept that she has rights must also accept responsibilities on her part -- the coming into force of a Declaration of Human Responsibility will nonetheless counteract the general emphasis in liberal practice on rights to the detriment of duties and responsibilities (without which rights cannot be claimed).

37. As Hussein complains on behalf of nonliberal countries: "Human rights must be applied nondiscriminately and even-handedly. Double standards hurt. Targeting some while turning a blind eye on others is untenable. For example, it is unreasonable to ostracize Burma on the one hand while coddling Israel on the other. The debacle in Bosnia reveals another gross inconsistency. The passivity of seemingly powerful European nations to genocide on their doorstep has torn away any shred of moral authority that the North had arrogated for itself." Hussein, p. 39.

38. Prime Minister Jean Chretien was reported to have retorted: "We can be the boy-scout if we want. If you want us to be the only country in the world boycotting China, fine. But we'll lose a lot of business, a lot of jobs." Quoted in the Globe and Mail 28 Oct 1996 A11.

39. For a quick overview of the double standards in the United States' current human rights policy, see Aryeh Neier, "The New Double Standard," Foreign Policy 105 (1996-97): 91-101.

40. The United States voted against the United Nations Declaration of the Right to Development (Resolution 41/128) when it came before the United Nations General Assembly in 1986. In its explanation of vote, "the United States delegation ... disagreed with the view that development was to be principally achieved by transfer of resources from the developed to the developing world." The eight countries abstaining, including the Nordic countries, the United Kingdom, Japan and the (then) Federal Republic of Germany, argued that "the provision of development assistance could not be seen as an obligation under international law." See Roland Rich, "The Right to Development: A Right of Peoples?" in The Rights of Peoples, ed. James Crawford (Oxford: Oxford Univ. Press, 1988):39-54, pp. 51-52; quotes are from p. 52. Indeed the United States has yet to ratify the International Covenant on Economic, Social and Cultural Rights. Human Development Report 1997 (New York: Oxford Univ. Press, 1997), p. 231. See also liberal rights theorists like Jack Donnelly who rejects such a right: "To recognize a human right of states to development will merely undercut the ability of victims of repression to advance effective human rights claims against their governments. Even a right of peoples to development presents similar dangers, because of the near universal role of the state as the legally recognized representative of a people." Donnelly, "Human Rights, Individual Rights and Collective Rights," in Human Rights in a Pluralist World, ed. Jan Berting et al., (Hague: Netherlands Commission for UNESCO, Middelburg: Roosevelt Study Center, London: Meckler, 1990):39-63, p. 47. (But see my counter-argument in Chap. 6).

41. In fact there has been a decrease in liberal countries' contribution to Official Developmental Assistance (ODA). Canada contributed 0.38% of its GNP in 1995, down from 0.5% in 1984/85; the United Kingdom down to 0.28% from 0.33%; and the United States 0.10% from 0.24%. Figures provided in United Nations Development Program Human Development Report 1997 (New York: Oxford Univ. Press 1997), p. 214.

42. A quick survey of the United States's foreign policy after World War II will provide the reader with abundant examples of this perversity. Just to cite some of the more notorious ones: military backing for dictatorship in Indonesia and its invasion of East Timor; support for Reagan's "Freedom Fighters" in Nicaragua, the intervention in Vietnam, and the various covert interventions in Central and South America. All were carried out in the name of fighting communism and all involved supporting violent dictatorial regimes (in many cases after democratically elected ones were unlawfully deposed).

43. Thus the scepticism of developing countries towards the international labour laws proposed during the World Trade Organisation 1996 conference in Singapore. Developing countries saw these proposals of the rich countries as a plot to keep their economies subordinated.

44. Rawls, A Theory of Justice, p. 176.

45. The Nigerian author Ken Saro-Wiwa lampooned this human failing thus: "It is well known that a boil on one's nose is more painful to the afflicted than an earthquake which happens thousands of miles away killing thousands of people." A month and A Day: A Detention Diary (London: Penguin Books, 1995), p. 167.

46. Frank Cunningham, The Real World of Democracy Revisited (Atlantic Highlands, N.J.: Humanities Press, 1994), pp. 146-47.

47. *Ibid.*, pp. 143-44.

48. The New Yorker, 4 July 1988, p. 16. See also Seamus O'Cleireacain, Third World Debt and International Public Policy (New York: Praeger, 1990), p. 4.

49. For descriptions of some of these proposals (with their failures), see Paul Vallely, Bad Samaritans: First World Ethics and Third World Debt (London: Hodder and Stoughton, 1990), Chap. 8.

50. I do not think it will be exaggerating to say that the Rio Summit was the first global conference in which the concerns and demands of the poor South were taken seriously, even if not all their proposals were in the end accepted.

51. This culminated in the unprecedented offering of a regional apology by Indonesian President Suharto at an ASEAN meeting. As one Malaysian speaking of this environmental crisis says, "It creates a clash between the notion of the sovereignty of state and the right of the international community." Quoted by Murray Hiebert and John McBeth, "Trial by Fire: Smog Crisis Tests ASEAN's vaunted cooperation." Far Eastern Economic Review 16 Oct. 1997, p. 16.

52. For just one example, witness the treaty between India and Bangladesh. John F. Burns, "Sharing Ganges Waters, India and Bangladesh Test the Depth of Cooperation," The New York Times, 25 May 1997 A10.

53. Note, for example, the easing of border tensions between Guatemala and Mexico when the two countries signed an agreement in 1989 establishing the UNESCO sponsored Maya Biosphere Reserves. As the then President Carlos Salinas of Mexico said, "[Y]ou see no border because the forest is the same on both sides". Report and quote from Wilbur E. Garrett, "La Ruta Maya," National Geographical 176/4 (Oct 1989): 424-478, p. 478.

54. Kant, "Perpetual Peace: A Philosophical Sketch," in Kant: Political Writings, trans. and ed. Hans Reiss, 2nd ed. (Cambridge: Cambridge Univ. Press, 1991): 93-130, p. 113.

55. *Ibid.*, p. 112. Kant went on to famously say: "so man, even if he is not morally good in himself, is nevertheless compelled to be a good citizen. As hard as it may sound, the problem of setting up a state can be solved even by a nation of devils (so long as they possess understanding)."

56. Hume is one famous example of a philosopher who rejected the psychological egoism thesis.

57. Cunningham, pp. 148-49.

58. *Ibid.*, p. 148.

59. Aristotle, Ethics, trans. J.A.K. Thomas (Middlesex: Penguin Books, 1966), p. 56.

60. Giovanni Andrea Cornia et al., Adjustment With a Human Face: Protecting The Vulnerable and Promoting Growth (A Study by UNICEF) (New York: Oxford Univ. Press, 1987), p. 274.

61. Cunningham, p. 148.

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