Toward a Substantive Right of Exit

by

Kurt Cihan Murat Mertel

A thesis submitted to the Department of Philosophy

in conformity with the requirements for

the degree of Master of Arts

Queen's University

Kingston, Ontario, Canada

September, 2007

Abstract

This paper deals with an important problem in contemporary political thought: the problem of 'minorities within minorities'. The problem lies in the fact that, on one hand, while illiberal cultural or religious groups may seek to impose internal restrictions on their members which violate their basic rights as citizens - in the name of the freedom of religion/conscience, and/or cultural preservation– the state has a responsibility to protect the members of such groups from harm. On the other hand, the state would be overstepping the boundaries of legitimate authority - ignoring the freedom of association and conscience - if it intervened in the affairs of such groups to forcibly change their internal structure to cohere with liberal values.

The necessity of a right to exit one's inherited religious or cultural community has been widely acknowledged by philosophers as a solution to the problem of internal minorities, in that, it is seen both as a means to protect individuals from oppressive cultural and religious practices, as well as, establishing the necessary threshold groups must meet in order to be immune from state intervention. But while there may be a broad consensus on the necessity of the right of exit, there is significant disagreement over the specific content of a right: some philosophers support a 'minimalist' or formal conception while others endorse a more substantive formulation, which involves supplementation with other negative and positive rights.

The aim of this paper is to provide an outline of a substantive right of exit. The conception I defend involves the provision of an array of negative and positive rights and is based on a consistent and unequivocal commitment to autonomy, manifested in its most important element: the provision of a liberal (multicultural) education for minimal autonomy. The upshot of the education requirement for my conception of the right of exit is that it possesses considerable *transformative* power in addition to an enhanced *protective* role. The distinctiveness of my

account revolves around its emphasis on the transformative function of exit, which seeks to

address the underlying problem by focusing on the long-term challenge of 'liberalizing' cultures.

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Chapter 1
Introduction

Your own mind, the Mind of the universe, your neighbour's mind – be prompt to explore them all. Your own, so that you may shape it to justice; the universe's so that you may recollect what it is you are a part of; your neighbour's, that you may understand whether it is informed by ignorance or knowledge, and also may recognize that it is kin to your own

(Marcus Aurelius)

Over the course of the 20th century, Western societies have undergone significant demographic changes due to a steady influx of immigrants from all over the world. As a result, one of the fundamental characteristics of most contemporary liberal democratic states has been cultural, religious, and ethnic diversity. It is not surprising, therefore, that contemporary political philosophers have been concerned with the implications of this new diversity, and with the problem of accommodating the demands of religious and cultural minorities for group rights, or special exemptions, in order to protect the distinctiveness of their identities and cultures. In fact, many minority groups have been successful at obtaining such rights or exemptions in the name of religious freedom or the protection of their cultural identity (e.g., Amish, Hutterites, Aboriginal groups, etc).

Some religious and cultural groups, however, have used this freedom to impose internal restrictions upon the individual rights and freedoms of their members and engaged in practices that are widely considered incompatible with liberal values, such as forced marriage, genital mutilation, gender discrimination, and restrictions on the education of children. However, even where special minority rights are not recognized, liberal-democratic states have had to face the problem of protecting individuals from cultural oppression nevertheless; often basic liberal

freedoms such as the freedom of conscience and association have been invoked to justify

tolerance of such practices, which suggests that liberal values may sometimes come into conflict.

This represents an important problem in contemporary political thought, which is the

central focus of this paper - namely, the problem of 'minorities within minorities'.[1] More

specifically, the problem lies in the fact that, on one hand, while illiberal cultural or religious

groups may seek to impose internal restrictions on their members which violate their basic rights

as citizens - in the name of the freedom of religion/conscience, and/or cultural preservation– the

state has a responsibility to protect the members of such groups from harm. On the other hand,

the state would be overstepping the boundaries of legitimate authority - ignoring the freedom of

association and conscience - if it intervened in the affairs of such groups to forcibly change their

internal structure to cohere with liberal values: e.g. forcing Catholic priests to perform marriage

ceremonies for homosexual couples, requiring religious groups to select their leadership

democratically, or prohibiting religious ceremonies/rituals that involve the use of banned

substances.

After all, the freedom of association and freedom of conscience are also fundamental

rights to which citizens in a liberal society are entitled, which provide cultural and religious

groups with a degree of freedom to organize and run their internal affairs in pursuit of legitimate

collective goals and interests. To demand that all groups 'mirror' liberal society in its

organization and values would be unreasonable and unduly infringe upon these basic freedoms. It

is worth noting at the outset that the problem of internal minorities, as conceived here, does not

necessarily arise out of the fact that minorities ought to be granted distinctive minority rights,

which in turn creates the potential for the oppression of internal minorities.[2] Rather, the problem

emerges as a result of the basic civil liberties guaranteed by liberal-democratic societies (e.g.,

freedom of conscience, association, etc.) and as such, even states which do not recognize special

minority rights will still face the problem of how to protect internal minorities.

This leads us to consider the following dilemma: how does the liberal state protect vulnerable individuals and internal minorities from cultural or religious oppression without imposing comprehensive liberal-democratic values on religious and cultural groups? Or, to put it differently, how can the liberal state balance respect for individual autonomy with the freedom of association/conscience? This also leads to the following questions: What can or should the state do to protect individuals from the oppressive practices of their community? To what extent should the state tolerate such illiberal practices and under what conditions can the state intervene in the affairs of minorities that mistreat their members?

The necessity of a right to exit one's inherited religious or cultural community has been widely acknowledged by philosophers - across the communitarian and liberal spectrum - as a solution to the problem of internal minorities, in that, it is seen both as a means to protect individuals from oppressive cultural and religious practices, as well as, establishing the necessary threshold groups must meet in order to be immune from state intervention. That is, it indirectly establishes the legitimacy of internal restrictions by serving as an indicator of the voluntariness of a cultural or religious group. According to Oomagh Reitman (2005), the right of exit plays three main roles: basic, protective, and transformative. To this, we may add an 'expressive' role (Green: 1998).[3]

While there may be a broad consensus on the necessity of the right of exit, there is significant disagreement over its specific content: some philosophers support a 'minimalist' or formal conception while others endorse a more robust formulation, which involves supplementation with other negative and positive rights. As a result, there is also considerable disagreement over whether the right of exit is sufficient to adequately deal with the problem of internal minorities.

Several formulations of the right of exit have been made in the literature, which I will divide into four broad schools of thought: the 'minimalists' (Chandran Kukathas and Avishai Margalit and Moshe Halbertal), liberal pluralists (Jeff-Spinner-Halev and William Galston),

autonomy liberals (Joseph Raz, Will Kymlicka, Leslie Green etc.), and feminists (Susan Moller Okin and Ayelet Shachar). These schools of thought differ from one another on two main issues: the specific content of the right of exit and the fundamental value of liberalism. As such, there are those who endorse a minimalist conception of the right of exit versus those who defend a substantive or 'realistic' right of exit and there are those who claim the value of toleration should be protected above all else, while for others it is personal autonomy or cultural and religious pluralism.

Perhaps no other theorist places as much importance on the right of exit as Chandran Kukathas (2003). According to his libertarian theory based on the value of toleration and the freedom of conscience, as long as individuals possess a formal right of exit - and there is a wider society to exit to - this is sufficient not only to enjoy a substantive right of exit, but also to justify toleration of internal restrictions by cultural or religious groups. For Kukathas, the right of exit is justified as necessary to protect what he considers to be the fundamental liberal values: freedom of conscience and toleration and thus rejects the primacy of the value of autonomy. The right of exit, therefore, is the lynchpin of Kukathas' theory: it serves both to protect freedom of conscience and promotes toleration by providing the justification for a principle of non-intervention into the affairs of religious and cultural groups. As long as groups respect the formal right of exit, their authority is deemed to be consensual and therefore legitimate; if one does not exercise one's right to exit, it is assumed one chooses to remain voluntarily.

The right of exit plays a similar role in the work of Avishai Margalit and Moshe Halbertal (1994). The key difference between their accounts lies in the fact that Margalit and Halbertal derive the justification of the right of exit from their belief that individuals have a fundamental right to (their own) culture. That is, the existence of the right of exit justifies the kinds of internal restrictions illiberal groups they consider necessary for their survival and thus for the protection of their right to culture. Thus while Margalit and Halbertal endorse state funding for separate

educational institutions, Kukathas prefers a 'laissez-faire' policy based on 'pure tolerance' which allows groups to educate their children as they see fit.

These 'minimalist' conceptions of the right of exit have been widely contested, and some philosophers like Jeff Spinner-Halev (2005) argue that in order for a right of exit to be substantive, certain "minimal standards" must be in place in addition to a market society, such as basic health care and nutrition, freedom from physical abuse, and the provision of a minimum standard of education, etc. As such, he does not believe Kukathas goes far enough to ensure that group members have a realistic exit option. While Spinner-Halev believes autonomy is the central liberal value, this is tempered by his general aim to defend the autonomous choice to lead an illiberal way of life. As a result, his position can be best characterized as an implicit form of 'diversity liberalism' or 'liberal pluralism', since he is concerned with protecting religious and cultural diversity for the sake of greater individual choice. William Galston (1995) is another prominent defender of liberal pluralism who adheres to the ideal of the 'Diversity State'. However, unlike Spinner-Halev, his rejection of autonomy in favour of pluralism is explicit and thus argues that the latter ought to be the central liberal value.

Moreover, it can be argued that the conditions of a substantive right of exit outlined by Galston in fact presuppose a commitment to autonomy and imply a more robust right of exit than that endorsed by Spinner-Halev. As a result, both philosophers have been criticized for the apparent inconsistency of their respective theories: Spinner-Halev, for not taking his commitment to autonomy seriously enough in that his minimal standards are too minimal – especially his education requirement – to ensure the effective exercise of the right of exit, thus tipping the scales in favour of pluralism; Galston, for the fact that while he explicitly rejects autonomy in favour of pluralism, his conditions for a realistic right of exit imply a commitment to the value of autonomy.

Unlike the 'minimalists' and the 'liberal pluralists', autonomy liberals like Joseph Raz (1986), Will Kymlicka (1995), and Leslie Green (1998) endorse autonomy as the fundamental

liberal value and thus reject the legitimacy of internal restrictions on individual rights and freedoms. However, they are reluctant to endorse coercive intervention in the affairs of illiberal groups, preferring instead to encourage liberal reform from within groups. Green endorses a robust right of exit that includes a variety of positive and negative liberties, but unlike Spinner-Halev, he does so on the basis of an unequivocal commitment to individual autonomy and freedom; the provision of a substantive right of exit takes precedence over the potential consequences it may have for religious and cultural diversity. For Kymlicka, national minorities in particular, such as aboriginal groups, should enjoy protection from state intervention through the provision of external protections. As a result, he and Raz have been accused of inconsistency for not following through on what is presumed to be the logical consequences of a staunch commitment to individual autonomy.

Brian Barry's (2002) liberal-egalitarian theory, while rejecting the value of autonomy as the central value of liberalism in favour of equality, is strongly committed to uphold the rights of individuals against the claims of groups and endorses a 'realistic' right of exit, involving the provision of a liberal education. Nevertheless, it is not clear to what extent his account differs from autonomy liberals, especially with regards to his views on the right of exit and his education requirement for 'living well'. He is equally unwilling to go as far as to argue that individual rights must always 'trump' group rights and thus concedes that in some cases other liberal values may have to prevail.

Lastly, feminist philosophers such as Susan Okin (2002) and Ayelet Shachar (2002) also argue for the necessity of a realistic exit option, motivated by the concern that it is often women who are the most vulnerable members of illiberal groups and therefore are less capable of exercising their right than men. Okin's trenchant criticism of the public/private distinction, rejection of group-differentiated rights, and her claim that a realistic right of exit should trump any group right implies, in principle, the strongest commitment to intervention in the affairs of religious and cultural groups. Shachar's proposed solution is distinctive in that it tries to enhance

the transformative function of exit by providing an incentive for illiberal groups to change through an institutional approach that divides legal authority between illiberal groups and the state on certain issues (e.g. marriage).

The current literature on internal minorities generally suffers from formulations of the right of exit that are too weak to protect individuals from oppression and/or possess little transformative power to address the underlying problem of illiberal cultures. In contrast, the aim of this paper is to provide an outline of what I call a *substantive right of exit* which possesses an enhanced protective role -- placing considerable limits on the authority of cultural and religious groups over their members -- through supplementation with an array of negative and positive liberties, in addition to an enhanced transformative role through the provision of a liberal multicultural education for minimal autonomy. The conception I endorse can be generally described as a form of the 'minimal standards argument' of Spinner-Halev, in that it involves the provision of an array of negative and positive rights. However, the fact that my conception is based on a consistent and unequivocal commitment to autonomy – manifested in its endorsement of a robust (liberal) education requirement – ultimately means that it shares more in common with Green, Kymlicka, and Raz.

Indeed, our accounts differ in significant ways, most importantly on the issue of the level of education necessary to produce citizens capable of effectively exercising their right of exit. In order for individuals to be able to effectively exercise their right of exit, they must possess the necessary cognitive and intellectual capacities to be able to critically assess and revise one's inherited beliefs, values, commitments; they need to have achieved a certain degree of autonomy. Therefore, any coherent and consistent right of exit must ensure all citizens have an equal opportunity to develop the necessary capacities to exercise their right to exit, through the provision of a minimum standard of education. As we will see, Spinner-Halev's account suffers from a serious inconsistency, since his education requirement is too minimal to produce citizens who are sufficiently autonomous to effectively exercise their right of exit.

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The most important element of my conception of the right of exit – the provision of a liberal multicultural education for minimal autonomy – on the other hand, overcomes this inconsistency by ensuring that individuals develop the necessary capacities to be sovereign and self-governing citizens and thus to effectively exercise the right of exit. The upshot of the education requirement – inspired by the thought of Robert Reich and Hans-Georg Gadamer – is that it possesses considerable *transformative* power in addition to an enhanced *protective* role in comparison with that of Spinner-Halev and 'minimalists' like Kukathas. Indeed, the distinctiveness of my account revolves around its emphasis on the transformative function of exit, which seeks to go beyond being a short-term, 'after the fact' measure, by addressing the underlying problem and focusing on the long-term challenge of 'liberalizing' cultures.

As such, my account is duly focused on enabling individuals to develop the necessary capacities to authentically appropriate and interpret their traditions in order to contribute to an 'enlightened re-constitution of tradition', thus contributing to its continued development, renewal, and survival. It recognizes that authenticity at the communal level presupposes authenticity at the individual level; the empowerment of individuals through education will allow for the mobilization of creative possibilities inherent within all traditions: 'illiberal' groups can indeed become what Rawls calls 'reasonable comprehensive doctrines'. As a result, my conception of the right of exit makes a distinctive contribution to the debate through its re-conceptualization of the transformative function of exit and through its sensitivity to the dialectic of individual/ community, sameness/difference, universal/particular, generated by a dialogical model of selfhood and its underlying notions of culture and authenticity inspired by philosophers such as Hans-Georg Gadamer, Jurgen Habermas, and Anthony Appiah. The project pursued in this paper also seeks to enrich and build upon the work of autonomy-liberals on exit rights by elaborating on the educational and transformative implications of a substantive right of exit – which has mostly remained underdeveloped, thus expanding the scope of the debate to encompass broader reflections on the nature of culture, identity, and authenticity at the individual and communal

level. Moreover, it does not presuppose any substantive account of minority rights above and beyond the basic civic and political rights of liberal-democratic citizenship and, as such, remains agnostic on the issue of the legitimacy of minority rights.

This paper is divided into four chapters. In chapter two, to help clear the ground for my substantive conception of the right of exit, I will provide a summary and critique of Kukathas' 'minimalism' and its philosophical foundations, as outlined in *The Liberal Archipelago*. I will attempt to show that freedom of conscience provides an inadequate foundation for liberalism and, therefore, needs to be supplemented with a concern for individual autonomy. I will then argue that an autonomy-based liberalism generates a different conception of tolerance than the 'unlimited' tolerance endorsed by Kukathas, one that necessarily limits the authority of cultural and religious groups to impose internal restrictions on basic rights and freedoms. Lastly, I will demonstrate why this more demanding conception of tolerance leads to a different, more robust conception of the right of exit that involves supplementation with an array of positive and negative liberties, such as the freedom of expression, religion, mobility, etc. – the most important being the right to a minimum standard of education.

In the third chapter, I will provide an outline of the model of education I consider necessary to produce citizens capable of effectively exercising the right of exit. As a result, I will address the following questions in order: Why is the provision of a minimum standard of education so important? What should the aim of this education be? And what kind of education is best suited to achieve this aim? I will argue that the provision of a minimum standard of education is important, because a right of exit cannot get off the ground unless individuals are provided with the opportunity to develop the necessary capacities for its effective exercise; it is incoherent to argue that the right of exit is necessary and reject the conditions for its exercise. The goal of this education should be the cultivation of the capacities necessary for individuals to be minimally autonomous: self-governing citizens capable of critically assessing, evaluating, and revising ends, values, beliefs, etc., and thus able to direct and give shape to their lives through

authentic choices.[4] The kind of education best suited to achieve this goal is a liberal *multicultural* education, because it helps to fulfill the conditions necessary for the exercise of autonomy. It contributes to the development of the necessary intellectual capacities by exposing children to a variety of different cultures, beliefs, and values that stimulates comparisons, evaluations and critical thought. As a result, it also provides children with a meaningful range of potential options to choose from.

In the process, I will attempt to show why this model, based on Robert Reich's theory, can also accommodate the concerns and aims of the political or civic models of education endorsed by Amy Gutmann and Stephen Macedo, since the capacities required for minimal autonomy are also essential for good citizenship. The final section of the chapter will be devoted to highlighting the important ways in which my conception of the right of exit differs from that of Spinner-Halev – centered around the education requirement – as a foil to bring out the distinctive character of my right of exit: its focus on and re-conceptualization of the transformative function of exit as well as its dialectical sensitivity.

In the fourth and final chapter, I will further develop the implications and strengths of my conception of the right of exit by considering an objection that has often been made in the literature, most recently by Dwight Newman (2007) namely, that autonomy-liberals cannot accommodate "deep diversity": cultural or religious groups can only be tolerated if they are 'decaffeinated', or purged of their 'illiberal' contents. This is an important issue that will help to elucidate some of the underlying assumptions about the nature of culture and cultural identity upon which my conception of the right of exit is predicated, in addition to those of the critics. I will respond in part by elaborating upon the non-coercive character of the position I defend, which will lead to the consideration of another important objection that raises the following question: given the commitment to the value of autonomy and the rejection of the legitimacy of internal restrictions, does this commit me to a form of coercive interventionism into the affairs of illiberal groups? If not, can such a position be coherent? My response will be 'no' to the first

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question and 'yes' to the second. This is because not only are there non-coercive ways for the

liberal state to enable exit and promote reform and the internalization of liberal values from

within, but intervention is likely to be counterproductive since it may lead to resentment, mistrust,

and ultimately, a conservative backlash, which will only make groups more resistant to change.

Notes

[1] By 'minorities within minorities' I do not mean just minorities within cultural and religious groups that are recognized as minorities by the state and which enjoy special minority rights. The term encompasses minorities within both what Kymlicka (1995) calls 'national minorities' as well as ethnic (immigrant) groups. For example, a Christian member of the Pueblo nation would count as an 'internal minority' as would a young Hindu girl in the Netherlands who wants to marry outside of her faith.

[2] This is not to say that certain minority rights may not, in practice, facilitate the oppression of internal minorities either. The conception of the right of exit I endorse neither presupposes a particular conception of minority rights, nor is it necessarily incompatible with or hostile to the provision of minority rights. Thus, I do not defend the right of exit as a means to indirectly legitimate internal restrictions that may potentially arise from the provision of certain minority rights.

[3] The first refers to the formal existence of the right of exit as an option that is a feature derived from the social order of contemporary liberal democratic states. The second sees the right of exit as a means to protect members of cultural or religious minorities from oppression. The third claims that the right of exit can help remedy the underlying causes of oppression by exerting pressure to bring about the reform of illiberal and oppressive practices within a group. And the fourth regards exit as means of expressing dissent and dissatisfaction with the practices of the group.

[4] The substantive right of exit I propose, grounded in the value of freedom and autonomy, is designed to enable individuals to make *authentic* choices, which must be respected by the state. This implies the recognition of the paradox of liberalism i.e., that the very capacities that enable one to exercise autonomy can be used to reject liberal values.

Chapter 2

Clearing the Ground for a Substantive Right of Exit

The frog in a well knows nothing of the high sea

(Japanese proverb)

Kukathas' 'Minimalist' Right of Exit

Chandran Kukathas' *Liberal Archipelago* deals comprehensively with the problem of internal minorities, and the minimalist conception of the right of exit he defends as the proper solution is perhaps the most ambitious and controversial formulation to be found in the literature on exit rights.[1] Perhaps no other theorist privileges the right of exit in their theory as much as Kukathas, and it would not be altogether inaccurate to claim that several formulations have emerged as a response to his account. Consequently, it provides a useful point of departure for the purposes of our discussion. As we will see, his position is rather extreme both in its commitment to a formal as opposed to a substantive right of exit, and in its prizing of tolerance over autonomy as the ultimate foundation of liberalism. By exposing the shortcomings of Kukathas' approach, I hope to show why a more robust right of exit is essential, thus clearing the ground for developing my particular conception of a substantive right of exit – to which the rest of this paper will be devoted.

The exposition of Kukathas' right of exit and its philosophical underpinnings will proceed as follows: I will begin by discussing his minimalist conception of the right of exit as a response to the problem of internal minorities and the general problem of diversity; I will then proceed to show how it reflects Kukathas' underlying theory of liberalism which prioritizes freedom of conscience over autonomy; Finally, I will show how this commitment to freedom of

conscience yields the norm of toleration – the fundamental liberal value, for Kukathas – which in turn serves as the cornerstone of his conception of an ideal society: the 'liberal archipelago'.

The right of exit plays a fundamental role in Kukathas' libertarian theory as a means to protect freedom of conscience, which in turn provides the justification for the primacy of the principle of toleration over autonomy. For Kukathas, in a world characterized by diversity and disagreement over fundamental questions of the good, the solution to the problem of internal minorities – a consequence of diversity – is to allow people the unlimited freedom to associate and dissociate. As long as individuals possess the formal right of exit and there is a wider society to exit to, this deemed sufficient to justify toleration of all kinds of internal restrictions on individual rights and freedoms.

Why should such internal restrictions be tolerated? According to Kukathas, "in all of these cases, individuals who find their liberty restricted suffer these restrictions because they have voluntarily accepted membership" (ibid., pp. 94). While he acknowledges one does not always choose to be a member of a religious or cultural group, he argues that in a society based on an unlimited right of association and exit, one can always choose to leave if the terms of membership are deemed unsatisfactory (ibid, pp. 95). Groups and associations have authority over their members as long as the members recognize this authority as 'legitimate', and the only evidence of recognition required is that members have not left their community (ibid.) As a result, Kukathas assumes the failure to exercise the right of exit implies voluntary consent to remain a member of a particular group.

Indeed, Kukathas openly acknowledges the considerable freedom his theory accords groups to oppress its members, "this view of the rights of the individual gives a great deal of authority to the association of which the individual is a member" (ibid., pp. 96). He is also forthright with some of the practical implications of according such freedom to groups on the most vulnerable members of society, i.e., women and children: "there would in such a society be (the possibility of) communities which bring up children unschooled and illiterate; which enforce

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arranged marriages; which deny conventional medical care to their members (including children); and which inflict cruel and 'unusual' punishment (ibid., pp. 134)". Therefore, the only 'protection' afforded to individuals oppressed by their communities is the recognition of their right to exit, but it can do nothing to mitigate the injustices and discrimination that often make exit difficult and costly; nor can it combat 'invisible' barriers to exit: "it does not protect individuals from being conditioned (or educated) to have preference which make them little more than accomplices in their subordination to the norms of their societies" (ibid., pp. 109).

Why should the state not uphold individual rights and freedoms, above and beyond the freedom of association and dissociation, and provide some minimum standard of education that may make exit a more realistic option? It is because Kukathas believes the formal right of exit and the existence of a wider society to exit to is sufficient to allow individuals to effectively exercise their right, regardless of their relative standing within society. Anything beyond this would be considered a violation of the freedom of association and thus constitute an illegitimate use of authority by the state; a "politics of indifference" or "benign neglect" must prevail.

Furthermore, the cost of exit, no matter how high, does not undermine the freedom of an individual to exit their community and, therefore, does not affect the voluntary status of an association. Thus, while Kukathas concedes that exit can be "extremely costly", the "magnitude of the cost does not affect the freedom" (ibid., pp. 107). In other words, while cost may play a role in one's decision-making process, it has no direct influence on the ability of an agent to make and carry out that decision (ibid). To illustrate this point, Kukathas asks us to imagine a CEO who is offered a billion dollars not to leave his company in order to become a professor (ibid). For Kukathas, while the cost of exit may have been dramatically increased, the CEO is nevertheless as free as "he ever was" and that "all costs are, in the end, opportunity costs" (ibid).

Lastly, it should also be noted that Kukathas believes the threat constituted by the right of exit "will give individuals the de facto ability to question communal authority" (Kymlicka 1992: 143). As a result, he regards his minimalist conception of the right of exit to possess significant

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transformative power: "Once the individual has the option to leave, the nature of his community is transformed, particularly if the formal right comes with more substantive opportunities" (Kukathas 1995: 249). The "substantive opportunities" he mentions, however, do not amount to anything more than the existence of a market society to exit to. In Kukathas' model society the provision of public goods such as minimum standards of education, access to health care, etc. – measures that would make exit a more realistic option – are explicitly rejected since it would "encourage" exit through "especial support" to individuals "who want to go their own way" (ibid, pp. 238; Kukathas 2003: 93). Consequently, it seems that if one has the misfortune of being born on an 'island of tyranny', and one wishes to escape, the message is "tough luck, you're on your own".

Freedom of Conscience vs. Freedom of Choice/Autonomy

From the discussion above, it would appear that Kukathas' proposed solution to the problem of internal minorities is counter-intuitive; one may arrive at the conclusion that far from solving the problem, it may very likely exacerbate it. Indeed, Kukathas is forthright in his acceptance of the 'extreme' label that has been placed on his position. But this is considered to be a logical consequence of his commitment to a particular brand of tolerance and freedom of conscience, which he believes ought to form the core of liberalism. In other words, Kukathas insists that the demands of consistency – to which he exhibits an admirable commitment – necessarily leads to an endorsement of a minimalist conception of the right of exit which most theorists would reject. On Kukathas' view, a more robust right of exit would threaten these fundamental liberal values by licensing state (coercive) intervention into the affairs of cultural and religious groups, thus promoting intolerance of dissent and conscience. As a result, by examining Kukathas' views on toleration and freedom of conscience, we can better understand why they are deemed to be the underlying values of liberalism.

Kukathas summarizes the role tolerance, freedom of conscience, and freedom of association play in his theory, thus providing a useful starting point for the discussion of conscience:

> A liberal regime is a regime of toleration. It upholds norms of toleration not because it values autonomy but because it recognizes the importance of the fact that people think differently, see the world differently, and are inclined to live – or even think they must live – differently from the way others believe they should. It upholds toleration because it respects liberty of conscience. It upholds toleration by protecting the freedom of association so people can live as the think they should-as conscience dictates (ibid., p. 39). [2]

What does Kukathas mean by 'conscience' and why is the freedom of conscience so important? He admits the concept is indeed problematic but believes its virtues ultimately outweigh its disadvantages (ibid., pp. 70). To possess a conscience is simply to possess "a sense of right and wrong - a sense of what ought or ought not to be done" (ibid.). The content of one's conscience and the way in which it was acquired is of little import: it may be the product of custom, inherited religious beliefs, or conscious self-reflection (ibid., pp. 77). What matters is that all people have "a sense of propriety", and what is deemed to be an advantage of employing the term 'conscience' "is that it carries with it an implication that this sense is the property of people as individuals" (ibid.).

Why the appeal to such a thin conception of 'conscience'? According to Kukathas, "the point it is seeking to make is that even unreflective persons, or conformists – those who live the unexamined life – have a moral life and possess an integrity which ought to be recognized" (ibid.). This is an important point, which forms the basis of his critique of autonomy liberalism that will be discussed shortly. The reason freedom of conscience is so important is that, "if there are any basic human interests, that interest is *at a minimum*, an interest in living in accordance with the demands of conscience. For among the worst fates that a person might have to endure is that *he is unable to avoid acting against conscience* – that he be unable to do what he thinks is right" (ibid., pp. 55).

As a result, living according to conscience is intimately linked with human well being and a meaningful life; it is a basic interest shared by all humans regardless of race, culture, ethnicity, etc. (ibid.). It follows that, for Kukathas, humans do not have a fundamental interest in forming and revising ends and in living a life that is a product of authentic choices because, while it may be in the interests of *some* individuals to be able to exercise their autonomy, we cannot move from particular cases to a general claim about human interests (ibid., pp. 57-58). This is because there is no guarantee that living an autonomous life will result in a better one since, in fact, it may make "life go worse" (ibid.). As such, Kukathas argues that many people do not have an interest in forming and revising ends, especially those who have invested a great deal of time in their personal projects (ibid.).

The example he provides to illustrate this point is that of the fisherman from Kelantan: a devout Muslim since birth, unlikely to possess the capacities necessary for the exercise of autonomy since he has little knowledge of the world outside of his village and has not read much outside of the Qu'ran (ibid., pp. 59). He is not wealthy but lives comfortably, has a good family and social life, and his religion provides him with a secure identity and, as such, he may consider himself to be living a 'good' life (ibid.). According to Kukathas, he has no interest in revising his ends; if anything, it would be more plausible to claim he has an interest in avoiding any influences that could "damage his world-view" (ibid.). What is the moral of the story? Kukathas' response is to subvert the Socratic ideal: "The point here is that the unexamined life may well be worth living" (ibid.). Kukthas concludes, therefore, that "the good life is not the chosen life, or a life within which there are opportunities for choice; but it cannot be a life a person finds he can, in conscience, only reject" (ibid., pp. 64).

Kukathas' rejection of the link between autonomy and freedom of conscience – drawn by autonomy liberals such as Kymlicka and Green – further highlights the importance of the former to his theory. According to Kukathas, because there will inevitably be situations where these values conflict, i.e., when a 'stalemate of conscience' occurs, it would be no less illiberal to force

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the majority to act against their conscience than it would be to force the individual to do the same (ibid., pp. 36).[3] It is thus assumed that the only way for autonomy-liberals to deal with such a dispute is to privilege the individual over the group and thus force the majority to compromise their beliefs or to impose liberal values through coercive intervention: "if rejection [of internal restrictions] means not-condoning or not-accepting, however, it must mean intervention" (ibid., pp. 37, 185). This is a solution Kukathas rejects: "All that can be concluded in cases of such conflict is that no party has the right to bind the other's conscience; and both have the right to exit the association of which they are a part. There is, of course, a further question of who should actually *leave*" (ibid.).[4]

This is why we ought to reject the value of autonomy in favour of toleration, since it presumably requires that the individual's autonomy and freedom of conscience trump that of the community – usually through coercive intervention – and no authority enjoys a privileged standpoint from which it could legitimately make such a decision. Taking freedom of conscience seriously means all that can be done in such cases is to allow the disagreeing parties to part company, rather than having the state take sides in the name of autonomy; respect for freedom of conscience generates the norm of 'pure' toleration, which should trump the freedom of choice and autonomy. According to this logic, however, the only choice for the individual in such cases is to 'love it or leave it'.

Kukathas' doctrine of 'pure' toleration
This brings us to the value of toleration and its role in Kukathas' theory. For Kukathas, toleration is the fundamental liberal value and a society is deemed liberal to the extent it is tolerant of dissent or difference (ibid., pp. 23). It is worth noting that the conception of toleration endorsed by Kukathas is, by his own admission, incredibly thin or "undemanding" virtue; it does not have to be based upon respect for others nor upon knowledge and understanding and as such, "it is perfectly consistent with a contempt for everything for which they (illiberal groups) stand, as well

as an unwillingness to engage them in rational dialogue, or even to understand them. Tolerators need not sit down with the tolerated; but they will stand them" (ibid; parenthesis added).

What makes toleration crucially important as the "core" of Kukathas' theory, is the fact that we live in a world of diversity and disagreement over questions of justice and morality: "It recognizes that people differ, and that their commitments to their moral belief matter crucially to them, and that political institutions should afford them the capacity to live by those beliefs, even if this means, in the end, their living separately" (ibid., pp. 119). As a result, when disagreement occurs between individuals and their communities, or between associations and the state, the only stance to adopt "is one of 'live and let live'", and both parties should be allowed to go their separate ways (ibid.). The solution to the problem of diversity thus lies in allowing differing moral standards to *coexist* rather than making them *cohere*, and this can only be achieved under "a regime of toleration" (ibid.).

Taking toleration seriously thus means "liberal societies should tolerate illiberalism in their midst" (ibid., pp. 120). The former Soviet Union, modern China, and the Amish community are examples of illiberal societies because of their hierarchical structure and centralized authority, which leaves little independence to 'subsidiary authorities' and little room for dissent (ibid., pp. 27). What makes these societies illiberal is that they do not uphold the freedom of association and dissociation and are thus intolerant of dissent and diversity. Consequently, a society can be composed entirely of such illiberal communities and associations and yet still be considered to be *liberal*, nevertheless, as long as members possess the formal right to exit (ibid., pp. 25, 98). But while the acid test of a liberal society is the degree to which it can accommodate difference and diversity, diversity is not considered a value but a fact of life: the source of the problem that Kukathas seeks to solve (ibid., pp. 30)

The 'Liberal Archipelago' as the ideal society

We have established thus far that Kukathas' minimalist conception of the right of exit is a manifestation of his underlying conception of liberalism in which freedom of conscience takes precedence over individual autonomy, which in turn generates the norm of tolerance, the core value of liberalism. The value of tolerance, in turn, forms the cornerstone of Kukathas' vision of an ideal society: the 'liberal archipelago'. A free society is an open society that should take for granted the propensity of humans to associate and dissociate and thus be ordered to account for the full range of human arrangements and associations (ibid., pp. 4). As such, "the fundamental principle describing a free society is the principle freedom of association. A first corollary of this principle is the freedom of dissociation. A second corollary is the principle of mutual toleration of associations" (ibid). The freedom of association and dissociation trump all other rights since they are "the individual's only fundamental right, all other rights being either derivative of this right, or rights granted by the community" (ibid. pp. 96).

An implication of this view is that political society is "no more than one among other associations", which "does not subsume all other associations" thus relegating the role of the state to merely being "a transitory political settlement whose virtue is that it secures civility" (ibid. pp. 4, 15). Kukathas thus employs the metaphor of the 'liberal archipelago' to characterize his idea of a free society: a "society of societies" – with multiple, overlapping jurisdictions – none of which is subject to the control of a single authority but governed by a uniform set of libertarian rules (ibid., pp. 22).

As such, it is important to point out that Kukathas differs from most contemporary liberal political philosophers in that he places little or no significance on social unity, rejects the nation-state, or what he calls a "closed society" as a point of departure; he denies the existence and legitimacy of any group or cultural rights and chooses to cope with the problem of diversity, not through an appeal to principles of justice and equality, but through toleration of any and all types of associations (ibid., pp. 4-5). The point of departure of Kukathas' theory also differs from most

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contemporary liberal theorists operating within the Rawlsian framework, in that it focuses not on the question of what the state should do or on what the rights, duties, etc. of individuals living in a just society are, but on the question of *who* should have authority, *how* it should be constrained, and what the boundaries of legitimate authority should be (ibid., pp. 5, 7). Kukathas is thus concerned with the scope of legitimate authority and the legitimacy of state actions or institutions (ibid). Considering that diversity and disagreement are taken as a given and his concern with constructing a free society that can accommodate this diversity, this leads to the question: "What is the place of authority in a free society?" (ibid., pp. 7).

The answer can be found in the manner in which authority is distributed such that "there will be a multiplicity of authorities, each independent of the others, and sustained by the acquiescence of its subjects. A liberal society is marked by respect for the independence of authorities, and a reluctance to interfere in their affairs" (ibid., pp. 7-8). That this conclusion follows from the fundamental principles of association, dissociation, and mutual tolerance of associations, is clear. Different people have different conceptions of the good and a propensity to associate with various groups in pursuit of their interests, consistent with the dictates of conscience. As a result, individuals should be free to disengage from groups which no longer serve their interests or whose rules contradict the 'demands' of one's conscience and as long as these associations are voluntary (do not prevent exit), they must be tolerated and immune from state intervention. Intervention into the affairs of groups would thus be an illegitimate exercise of power, since the state is merely an "authority among authorities" whose responsibility is to "keep the peace" among groups, not to impose a comprehensive conception of the good.

A Critique of the Philosophical Foundations of the Liberal Archipelago
My critique of Kukathas' minimalist conception of the right of exit and its philosophical foundations will proceed as follows. First, I will attempt to show that freedom of conscience provides an inadequate foundation for liberalism and, therefore, needs to be supplemented with a

concern for individual autonomy. I will then argue that an autonomy-based liberalism generates a different conception of tolerance from the 'unlimited tolerance endorsed by Kukathas, one that necessarily limits the authority of cultural and religious groups to impose internal restrictions on basic rights and freedoms. Finally, I will demonstrate why this more demanding conception of tolerance leads to a different, more robust conception of the right of exit that involves supplementation with an array of positive and negative liberties such as the freedom of expression, religion, mobility, etc. - the most important being the right to a minimum standard of education.

The problem of 'conscience'

Kukathas' appeal to the notion of conscience is fraught with serious problems. To begin, it is not entirely clear what he means by the term. Recall earlier that at one point, Kukathas states that what he means by conscience is merely a sense of what is right or wrong: a sense of propriety (Kukathas 2003: 70-71). But in other places he talks about the "dictates" of conscience or what "conscience demands", reflected in his remark "the claim that conscience is what drives us seems simply unfalsifiable" and in his claim that we need to protect "the freedom to think, to believe, to speak, as conscience dictates" (ibid., pp. 39, 70, 131). This is rather confusing. From the characterizations above, it would seem 'conscience' is one of two things: either the set of beliefs one has about what is morally right and wrong, or some independent entity within us that determines our beliefs about what is right and wrong. If it is the former, the freedom of conscience is merely the freedom to live according to one's beliefs about morality. But this is exactly what the proponents of autonomy endorse. Why then would we need to posit tolerance as an independent value?

If it is the latter, then more argument is required to justify its inclusion in our social/moral ontology. The latter alternative, however, must surely get things the wrong way around. It is our beliefs about what is right or wrong that determine what our 'conscience' can accept, not the

other way around. And there is textual evidence to support that Kukathas indeed believes it is the latter: "*Liberty* of conscience is enjoyed when the individual can indeed live his life under the guidance of conscience (which identifies right and wrong conduct) and is not impeded by others from doing so" (ibid., pp. 114). Is it our conscience that guides us, or our beliefs about what is right and wrong? Or are they the same thing? Do our moral beliefs, whether acquired through reflection or inherited from one's tradition, help us to identify right and wrong conduct, or does something else 'inside us' help us to do so? Kukathas' answer is unclear, so it is difficult to pin down exactly what is being referred to when he appeals to the notion of 'conscience'. But if it is merely the set of moral beliefs possessed by an individual, it can be subsumed under the concept of personal autonomy; respect for autonomy entails respect for individual conscience.

Furthermore, while Kukathas seems to emphasize conscience being an individual and private concept, he often speaks of conflicts of conscience between an individual and his/her community (ibid., pp. 71, 115). If cultural or religious groups have no intrinsic value and are the sum of their individual parts, as Kukathas claims, how there can be a 'collective conscience' in a sea of 'deep cultural diversity' remains unexplained. Indeed, Amy Gutmann echoes this concern when questioning the validity of a similar "metaphysical assumption" about democratic society constituting a 'collective self': "The ideal of democracy is often said to be collective self-determination. But is there a "collective self" to de determined? Are there not just so many individual selves that must find a fair way of sharing the goods of a society together? It would be dangerous (as citizens often charge) to assume that the democratic state constitutes the "collective self" of a society, and that is policies in turn define the best interests of its individual members" (Gutmann, 1999: 289). This explanatory 'gap' has potentially devastating consequences for Kukathas' theory: if he cannot show how a group can possess a 'conscience', he must concede that the claims of the individual dissenter must take precedence (or at least deserve equal consideration) over the claims of the group. Kukathas would thus be led down a path he would be loath to follow.

Lastly, the important, age-old problem of erroneous conscience is brushed aside much too casually. Autonomy-liberalism can deal with this problem through its commitment to providing individuals with the capacity to revise their ends and beliefs. Kukathas, however, must accept that even an "erroneous conscience has binding force. Thus, one does wrong in acting against conscience" (ibid., pp. 115). But this leads to absurd consequences. For example, this would mean a boy raised in a doomsday cult and systematically brainwashed to believe the world will end by the time he reaches 18 and thus kept illiterate by his parents, should simply be left to die at the hands of the cult because his conscience is supposedly his 'possession' and has 'binding force'– regardless of the fact he has been brainwashed. However, it is clear his conscience and the life he leads are *not* his 'own'; it lacks 'binding force' because it is not the product of a free and autonomous choice. That is precisely why members of cults must be 'de-programmed' in order to be re-integrated into society.

Let us now turn to Kukathas' claim that human beings do not have a fundamental interest in revising ends, but rather to live a life that does not contradict the demands of conscience. Kukathas appears to misunderstand the main thrust of the argument for autonomy. Supporters of autonomy-based liberalism, I would argue, do not claim that exercising one's capacity for autonomy must necessarily lead to a better life. The argument for autonomy does not primarily appeal to its *instrumental* value, but rather to its *intrinsic* value. That is, autonomy is a "constitutive element of the good life" and, therefore, having the freedom to be the author of one's life has value independent of whether or not that life is successful (Raz 1986: 408). Kukathas' conception of a 'good life' thus seems to be predicated upon a crude consequentialism. The exercise of autonomy does not necessarily lead to success; it may actually lead to bad choices and consequences but this does not necessarily diminish its value. The point is, however, that if people are deprived of their autonomy, this negatively affects their well being in that there would be something significantly lacking in such a life. So it is not as if the Muslim fisherman from

Kelantan must necessarily be living an unsatisfying and oppressive life, but that there is something important *missing* in his life that could enhance it.

Moreover, while the fisherman may indeed think he is living a 'good life', one must ask: good in comparison to what? The fisherman has no frame of reference outside of his village and religion to reasonably make such a claim: he lacks the requisite cognitive capacities and information to make an intelligent assessment of his values and way of life. His worldview may also be the product of adapted preferences and of an uncritical adherence to the precepts of his religion. The value of a life, therefore, must not simply be determined by "what there is in it but by how it came to be" (ibid., pp. 371). Furthermore, Kukathas ignores the fact that autonomy is a matter of *degree*: one does not have to live a life of pure reflection to be autonomous.

What is important is that not only may the fisherman never know whether his life could have been significantly different and perhaps better, but that he may also be deprived of the opportunity to acquire a deeper appreciation of his own tradition. Indeed, suppose the fisherman were to develop the capacities for autonomy. After a period of critical self-reflection, he may just decide that, all things considered, it is best for him to stay in his village with his family and friends. He would be secure and happy with his decision because he has been able to gain new insight into his own tradition and thus acquire a deeper appreciation of it by examining what other ways of life have to offer. This would be a paradigmatic example of an *authentic* choice. How then, does being able to revise his ends harm him? Why this possibility must be ruled out *tout court*, is difficult to comprehend. And the underlying assumption that the acquisition of these capacities can only have destabilizing and traumatic consequences is simply false.

The implications of 'pure' tolerance

We have seen so far that respect for freedom of conscience yields the norm of "pure toleration", the implications of which must now be considered. Kukathas openly admits his theory gives considerable freedom to cultural and religious groups to oppress their members, which is a

consequence of according toleration the status of the supreme liberal value. As such, the practical consequence of his theory is that religious or cultural minorities can oppress their groups with impunity in the name of liberalism, at the expense of abandoning "the standard liberal safeguards for individuals against abuse by groups" (Barry 2002: 131). Again, if the liberal legal-institutional framework is itself "up for grabs" in the name of the liberal value of toleration, and the interests of groups are systematically favoured at the expense of individual rights, then the liberal status of Kukathas' archipelago must be seriously doubted (ibid.).

Indeed, Kukathas believes the upshot of his doctrine of toleration is that it is able to accommodate "deep cultural diversity", unlike other rival liberal theories. But if all that is required for the toleration of internal restrictions by groups is the existence of a formal right of exit, it follows that "whatever can be done for culturally prescribed reasons can be done for any reason whatsoever" (ibid., pp. 143). But presumably the reason behind Kukathas' rejection of cultural rights is that cultural or religions motivations should be irrelevant in determining the legality of an action (ibid., pp. 144). As such, cultural practices such as genital mutilation cannot just be legally permissible for the specific groups that practice it, but it must be permissible for all citizens. This is because Kukathas' regime of toleration, based on a universal set of libertarian rules, does not recognize cultural or religious rights and, therefore, it is unable to justify special exemptions on religious or cultural grounds: "But in a 'tolerant' regime without special cultural rights, there would be no basis on which similar mutilation could be punished if it were carried out by parents as an act of pure sadism" (ibid.). Kukathas' theory, therefore, simply does not allow for any limit on the kind of oppression, violence, and discrimination that could be perpetrated by groups against their members, compatible with "keeping the peace" between groups and legitimated by the formal possibility of exit (ibid.).

This is clearly a consequence both of Kukathas' "laissez faire" conception of the state, as an "umpire" whose sole purpose is to adjudicate disputes and maintain civility and his minimalist right of exit (ibid., pp. 213). After all, permitting religious and cultural groups to oppress their

members with impunity is consistent with "keeping the peace", and as long as these groups do not allow conflict to 'spillover' to the wider community, their practices warrant toleration (Kukathas 1997: 70). And as long as individuals possess a formal right of exit, this is sufficient to justify toleration of all kinds of internal restrictions by cultural and religious groups and thus be immune from state intervention. That is, it establishes the minimum threshold for the toleration of illiberal groups and practices by ensuring the status of such associations as voluntary and their authority as legitimate, based on the 'consent' of its members. Such practices as we have seen, include forced marriage, the denial of parents to provide life-saving blood transfusions to their children, genital mutilation, and ritual scarring (ibid.).

This leads one to question the adequacy of the appeal to a mere formal right of exit to legitimate the imposition of internal restrictions. The view that the right of exit is both necessary and sufficient to protect individuals from oppression – assumes that everyone has more or less the same ability or opportunity to exercise that right and thus ignores important factors, such as gender, age, and socialization. As Andrew Fagan points out, all cultures are not "similarly amenable to their members seeking exit" (Fagan 2006: 9). Moreover, while Kukathas acknowledges the need for a place to go, he fails to recognize "one must have the capacity to get there" (Okin 2002: 228). For example, it is difficult to see how a 15-year old uneducated Hindu girl, forced to marry a man twice her age, and raised in a largely patriarchal culture, could effectively exercise her right to exit (ibid, pp. 220). As Fagan notes, drawing from the work of Sawitri Saharso on Hindu women in the Netherlands, "While Hindu women share the same legal opportunities to divorce their husbands as all other married women, *de facto* opportunities for leaving the marriage are, in effect, non-existent since Hindu religion strictly forbids divorce and remarriage" (Fagan 2006: 11). Such examples are not confined to Hindu societies; women all over the world suffer from patriarchal cultures which conceive of a women's role as subordinate to men. (Okin 2002: 217).

The same, of course, applies to the case of children. It is difficult to see how a boy, deprived of the necessary surgery to save his life due to the religious beliefs of his parents, could simply 'walk away', or how a young girl facing genital mutilation could do the same. This seems to lead to a paradox: while the right of exit is designed to protect individuals from cultural oppression – by upholding the freedom of conscience - its existence also serves to satisfy the minimum threshold for the toleration of the very illiberal practices that cause members to want to leave their groups in the first place. In other words, the right of exit simultaneously plays the role of saviour and oppressor: what is designed to make individuals 'free' also serves to justify toleration of their oppression.

As Leslie Green points out, Locke recognized that only consent based on "mature individual reflection" (personal autonomy) is sufficient to place an individual under the authority of a church (Green 1998: 172) However, the circumstances of birth, family, culture, religion, etc., may not create favorable conditions to enable such reflection (ibid., pp. 172). Thus, as seen in the case with women raised in patriarchic cultures, socialization from an early age within a particular religion can lead one to simply accept what they are raised to believe, making it "difficult for members to get an adequate perspective on the groups that contributed to their formation" (ibid).

This, in turn, also raises the issue of 'adaptive preferences', whereby an individual's preferences are shaped by the environment in which they are raised; if this environment is illiberal and oppressive, it may be that the preferences of such people "need not be respected when they are adaptive to unjust background conditions; in such circumstances it is not even clear whether the relevant preferences are authentically "theirs" " (Sunstein 1999: 88).[5] Cultural factors, therefore, play an important role in disempowering and undermining the ability of the most vulnerable members of society -women and children - to exercise their formal right of exit; factors that are left unaccounted for and trivialized by Kukathas as 'opportunity costs'.

The assumption, therefore, that possession of the formal right of exit entails equal ability to exercise that right is empirically false. Furthermore, it is not the case, for the same reason, that

one can assume by the mere fact that a member of a religious or cultural group has not left, that

he/she remains voluntarily; often the most vulnerable members have no choice but to *stay*. Ayelet

Shachar recognizes this: "Kukathas' blindness to individual differences of position within cultural

community hierarchies thus allows him to condone state inaction with respect to minority groups'

affairs, even in the face of group sanctioned, systemic maltreatment of certain classes of group

members" (Shachar 2001: 70).

It would thus appear from this discussion that Kukathas' minimalist conception of the

right of exit is incapable of adequately performing its protective function. It fares no better with

regards to the 'expressive' function. If we limit the expression of dissent to exit, we severely

undermine the ability of group members to effectuate change from *within* by leaving those most

able to bring about change with no other option but to leave (Green 1998: 184). The potential

result is the strengthening of the conservative forces within a group at the expense of the

disempowered potential reformers, who can only resort to "a crude, and mute response to

dissatisfaction" (Okin 2002: 214; ibid). Indeed, while a substantive right of exit can make the

threat of exit more credible, it can also make remaining within a group a more viable option,

which may stimulate internal processes of reform. Restricting the options of dissenters to either

'love' or 'leave' their groups, not only amounts to favouring the majority at the expense of the

minority, but seriously undermines the transformative function of the right of exit.

Moreover, Kukathas' assumption that failure to exercise one's right to exit entails

acceptance of *all* the practices of one's group, forces members contemplating exit to make an 'all

or nothing' choice between their culture and a new life. This makes the prospect of exit especially

traumatic because it ignores the fact that people have multiple affiliations and loyalties beyond

the group, and that groups are not organic wholes but internally contested (Shachar 2001: 70-71;

Benhabib 2002: 16). This is a direct consequence of the fact that the existence of a formal right of

exit allows groups to enforce and impose a rigid conception of identity, such that to reject one

particular practice is to reject the culture altogether; little incentive is provided for the illiberal

groups to change. Kukathas' right of exit, therefore, cannot perform its transformative role, which means there is no realistic hope cultures will become more liberal and thus sufficiently flexible to accommodate authentic interpretations of cultural or religious identity. Indeed, if individuals are systematically deprived of the basic rights and freedoms that make dissent possible, Kukathas' claim that the mere existence of a right of exit will give individuals the 'de facto' ability to question communal authority is difficult to comprehend; the presence of a formal option to exit does not 'automatically' transform the nature of groups since they are free to impose any restriction necessary to make the effective exercise of the right to exit impossible.

Autonomy-liberalism: an alternative conception of tolerance

It is clear that the freedom of conscience and the kind of 'pure toleration' it generates provide an inadequate foundation for liberalism: supplementation with a concern for individual autonomy is essential. Before addressing the question of why autonomy-liberalism yields a different conception of tolerance, however, it is important to briefly outline what a commitment to the value of individual autonomy involves.

I am committed to the view that individuals are capable of forming, assessing, and revising their inherited moral values and beliefs and have a basic interest in exercising this capacity. This, in turn, generates duties for the state to secure the necessary social conditions for the exercise of autonomy. According to Joseph Raz, the three conditions of autonomy are: the possession of appropriate mental capacities, an adequate range of meaningful options to choose from, and independence, characterized as freedom from both physical and psychological coercion (Raz 1986: 372). Therefore, a liberal society is one that "not only allows people to pursue their current way of life, but also gives them access to information (through freedom of expression), and indeed requires children to learn about other ways of life (through mandatory education), and makes it possible to engage in radical revision of their ends (including apostasy) without legal penalty" (Kymlicka 1995: 92).

As Raz points out, the ideal of autonomy is one of self-creation, to be the author of one's life, a life that is freely chosen (Raz 1986: 370-371). Therein lies the value of autonomy: in empowering individuals to form and pursue their own conceptions of the good life, to lead a life they *endorse*, and that is a product of *authentic* choices. It is also in the interest of individuals to be able to revise their ends in the event they find them no longer worth pursuing, or to correct previously held (erroneous) beliefs. After all, as Raz notes, the metaphor of the autonomous individual as being the 'author' of his/her life, "is not that of the regimented, compulsive person who decides when young what life to have and spends the rest of it living it out according to plan" (Raz 1986: 370). People change and their projects, goals, dreams, beliefs, – essential to give life value and meaning – change accordingly. To deprive individuals of the capacity for autonomy is to harm and damage their well-being.

As such, I agree with Dworkin when he remarks, "lives do not go better by being led from the outside, in accordance with values the person does not endorse" and that "it is implausible to think that someone can live a better life against the grain of his profound ethical convictions than at peace with them" (Kymlicka quoting Dworkin 1995: 81; Dworkin 1989: 486). Furthermore, it can be argued that autonomy has an even deeper significance: that it is what *defines* us as *human beings*, which is eloquently captured by Mill: "the privilege and proper condition of a human being, arrived at the maturity of his faculties, is to use and interpret experience in his own way. It is for him to find out what part of recorded experience is properly applicable to his own circumstances and character" (Mill 1989: 58).[6] As a result, autonomy is intimately tied to our individual well-being; it is an important component of living a good life and, as such, "to inhibit people from questioning their inherited social roles can condemn them to unsatisfying, even oppressive lives" (Kymlicka 1995: 92).

It follows that autonomy-liberalism necessarily generates a more robust conception of toleration: one that balances the freedom of association and collective worship with a concern for individual freedom and well-being, which necessarily circumscribes the authority of groups to

oppress their members. As a result, it is able to avoid the undesirable consequences yielded by a theory predicated upon the primacy of the freedom of conscience, such that the community 'conscience' must always trump individual conscience and freedom in the name of tolerance and the accommodation of 'deep' diversity. Will Kymlicka (1995) has raised an objection, endorsed by other philosophers such as Leslie Green (1998), which I believe is decisive in demonstrating that the liberal values of autonomy and tolerance cannot be separated in the way envisioned by Kukathas. Kymlicka employs the example of the Ottoman Empire, whose *millet* system was tolerant toward the different religious minorities – Christian, Jewish, and Muslim – by providing them considerable autonomy to govern their own affairs and to enforce their traditional (religious) legal systems (Kymlicka 1995: 156). As stable and tolerant of religious and *group* differences as the system was, it clearly did not respect *individual* freedom of conscience, because the self-governing minorities were free to impose all sorts of internal restrictions of individual freedoms and to suppress dissent by criminalizing heresy and apostasy (ibid., pp. 157). As a result, Ottoman citizens were often forced by their own communities to live a particular way of life, which was tolerated by the empire (Green 1998: 176).

This gives rise to the following question: if exit rights are required to uphold the value of tolerance, what kind of tolerance? Clearly, toleration of group differences at the expense of individuals is insufficient from a liberal standpoint. As Kymlicka notes, the kind of tolerance historically endorsed by liberals is one that plays a dual role, both protecting groups from state persecution and the individual right to dissent: "it limits the power of illiberal groups to restrict the liberty of their own members, as well as the power of illiberal states to restrict the liberty of collective worship" (Kymlicka 1995: 158). Consequently, it is difficult not to draw the same conclusions as Kymlicka and Green, namely that not only are tolerance and autonomy intimately linked, but the justification for freedom of conscience is best provided by the value of personal autonomy: "This shows, I think, that liberals have historically seen autonomy and tolerance as two sides of the same coin. What distinguishes *liberal* tolerance is precisely its commitment to

autonomy-that is, the idea that individuals should be free to assess and potentially revise their existing ends" (ibid., pp. 158; Green 1998: 176).

Furthermore, the protective and expressive roles of the right of exit can be justified to enhance the capacity of individuals to exercise their autonomy by enabling them to form and revise their ends and live a life they endorse and, as such, "exit is necessary not for stability, utility, or even tolerance, but to secure individual autonomy" (Green 1998: 176). Since autonomy also allows a person to develop life-plans and projects that help to give life meaning and purpose: "the contribution of autonomy to a person's well-being explains why coercion is the evil it is" (Raz 1986: 376). Therefore, the importance and necessity of tolerance is derived from the respect for individual autonomy: that one should not have one's choices coerced and goals thwarted (ibid.). This can be seen further when we consider that, in order for one to be able to lead an autonomous life, one must have access to an adequate range of morally meaningful and often conflicting options. The fact that different people value different things and different ways of life, commits the defender of autonomy to supporting value pluralism (ibid., pp. 398-99). Respect for the value of autonomy means individuals ought to be free to pursue different conceptions of the good, which in turn requires toleration of different ways of life which result from free choices. Therefore, I do not deny the right of exit is a fundamental right, only that "it is a right grounded in the recognition of the individual as an autonomous person entitled to the exercise of rights" (Benhabib 2002: 171).

Toward a substantive right of exit

What I believe follows from this discussion is that adherence to the value of autonomy generate rights and duties - independently of its connection with the right of exit - but also that the right of exit, itself, requires similar background conditions for its exercise in order to be substantive (Green 1998: 177). Indeed, the intimate connection between individual autonomy and the right of exit is manifested by the fact that the background conditions required for the exercise of

autonomy are equally required for the effective exercise of the right of exit. As such, the more robust conception of tolerance prescribed by autonomy-liberalism also yields a more robust right of exit, which goes beyond being a formal option. Therefore, a *substantive* right of exit that follows from the premises of an autonomy-based liberalism is one that is supplemented with an array of positive and negative liberties.

At the risk of stating the obvious, it is worth noting at the outset that a substantive right of exit requires a wider (liberal) society to exit to: members of cultural and religious groups must have somewhere to go, a society that will welcome them if exit is to be a realistic option. This can take the form of mainstream liberal society, which ideally will help members of illiberal cultural and religious groups to make the transition to a completely new way of life (e.g. deprogramming, job training, education, etc) either through private or public organizations. Consistent with the third condition of autonomy outlined by Raz, individuals must also be free from physical and psychological coercion, in order to effectively exercise their right of exit. A person who is repeatedly injured, psychologically traumatized, or brainwashed would be unable to effectively exit their inherited community.

Among the most important positive and negative liberties required for a substantive right of exit would include the freedom of expression, the right to mobility, to a fair share of common resources, and to a minimum standard of health care (ibid, 177-178; Spinner-Halev 2005: 160). The first is crucial to allow one to acquire the information required to make an informed and intelligent assessment of the group, in addition to enabling one to voice dissent with a view to promoting change from within the community (ibid). This implies that members of religious and cultural groups should not be barred from acquiring information and knowledge of other ways of life. The second arises out of the fact, that in order to leave the jurisdiction of a group, one must be allowed to travel freely, which involves being able to secure proper travel documents and having access to transportation that will allow one to cross borders (ibid).

The third is required in order to reduce the cost of exit so that it is not unduly punitive (ibid). Indeed, the state ought to ensure that the cost of exit does not undermine the effective exercise of the right of exit by ensuring that dissenters are not burdened with what Barry calls "external costs" (Barry 2002: 150). External costs are essentially costs imposed illegitimately, e.g., a devout Catholic employer who fires one of his employees for having been excommunicated (ibid., pp. 151).[7] This means that groups such as the Amish and Hutterites, for example, ought to set up an 'exit fund' to compensate members for the automatic loss of property and resources that result from leaving these communities. As Jeff Spinner-Halev points out, the amount of compensation should not be so high as to encourage exit, but enough to ensure that members can follow through with their decision (Spinner-Halev 2000: 77-78). Lastly, the right to a minimum standard of health care is required since one can neither contemplate exit nor successfully leave one's community if one is constantly ill.

Freedom of conscience is also important in that people ought to be free to change their inherited religion without fear of reprisals (apostasy). To this list, the freedom of voluntary self-ascription must also be included so that members of cultural or religious groups are not forced to accept the automatic ascription of identity by their group by virtue of birth: an identity which they had no role in constructing (Benhabib 2002: 16). The imposition of what Anthony Appiah (1994) would call tight "cultural scripts" is a form of oppression that can be overcome in large part through upholding the freedom of expression and association, in addition to the provision of a minimum standard of education, to help ensure that group membership permits "the most extensive forms of self-ascription and self-identification as possible" (ibid.). As we will see in chapter three, education is essential for the development of the requisite capacities for the authentic appropriation of tradition and the construction of an authentic identity.

To conclude, it follows from this discussion that positive and negative liberties, outlined above, are essential elements of a substantive right of exit designed to *relieve* rather than *eliminate* the burden of exit. As a result, Kukathas' minimalist conception of the right of exit

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ought to be rejected, if not for the deficiencies of its underlying philosophical justification, then for the magnitude of the potential human costs it tolerates. It is the central component of a substantive right of exit, to which we now turn– education.

Notes

[1] It may be useful to briefly discuss what a right of exit in practice entails and what is meant by a formal or 'minimal' right of exit. In practice, a right of exit means being free to leave one's cultural or religious group origin without fear of reprisals and without the imposition of costs or penalties that would make exit practically impossible. For example, a member of the Hutterian Bretheren ought to be able to leave his community with more than just the clothes on his/her back, and should have the opportunity to develop the necessary intellectual capacities that would allow him to reflect upon and potentially revise his inherited beliefs, values, ends, etc. i.e., to contemplate exit in the first place. Or a Muslim girl ought to be able to exit her community by marrying someone outside of her religion without being threatened with death for supposedly damaging her family's 'honour'. The effective exercise of the right of exit thus requires that one be free from both physical and psychological coercion or from 'external' and 'internal' obstacles, which involves the provision of negative and positive rights above and beyond the right of exit (and in the case of the Hutterite, some financial compensation). For example, one cannot reasonably exit one's inherited group if one is consistently beaten or threatened with bodily injury, or if one is brainwashed or kept illiterate. According to a minimalist conception of the right of exit, the existence of a formal right of exit is enough to ensure its effective exercise. That is, as long as the right of exit is a part of the legal-constitutional framework of society, i.e., fulfills its 'basic' role, then this is all that is deemed necessary for citizens to effectively exercise their right. On this conception, persons threatened with bodily injury if they try to leave the group or illiterate individuals are nevertheless 'free' to exit their community. The claim made here is that if exit is reduced to a formal option, the right of exit, for all intensive purposes is meaningless, not much more than a 'paper tiger'. Thus, while an individual may be free to leave in principle, exit may be next to impossible in practice, hence the appeal to a 'realistic', 'meaningful' or 'substantive' right of exit as opposed to a 'formal' or 'minimalist' one. As a result, while I know of no liberal democracy in which the formal right of exit is absent, exit is nevertheless a problem due to the various factors that may undermine its exercise, the most important being the 'invisible' obstacle of (illiberal) socialization. Honour killings are a prime contemporary example of ethnic or religious groups not respecting the right of exit, a problem which numerous liberal democratic countries have been confronted with. See also Andrew Fagan 's (2006) discussion of Hindu women in the Netherlands. He points out that while they may share the same rights to marriage and divorce as all other women, *do facto* opportunities for marrying outside the religion or for divorce are limited due to the patriarchal nature of the religion. As such, another way of characterizing the problem of exit is in terms of turning a *de jure* right into a *de facto* right.

[2] It is worth noting that Kukathas appeal to toleration, as the fundamental liberal virtue, is also based on what he believes is a return to the original concerns of liberalism that emerged in the wake of the European wars of religion and embodied in Locke's *Letter Concerning Toleration* and Bayle's *Philosophical Commentary* (Kukathas: 2003: 39). Indeed, Kukathas takes great pains to establish the liberal character of his theory by making frequent references to what he believes to be the 'original concerns' of liberalism. But even if tolerance was the original concern of liberalism this does not establish that it *ought* to be the concern of contemporary liberal thought. This nostalgic appeal to the value of liberal toleration endorsed by Bayle seems to be anachronistic in the modern era. Perhaps contemporary liberal philosophers are not very concerned with toleration because they feel it is no longer an important issue in the sense that it is taken for granted –can be derived from the value of autonomy- and thus feel that a stronger basis for modern citizenship in the modern polity must be sought in the place of an "undemanding indifference". The separation of church and state did wonders in post-Westphalia Europe to quell both interstate and intrastate religious conflict and thus to establish the religious tolerance that was so desperately needed. The

development of the nation-state subsequently strengthened national identities and the rise of democracy provided a stronger foundation for social unity and solidarity. To endorse a 'model' society kept together by a threadbare conception of tolerance would seem to be not only a step backwards but also to throw in the towel in the face of the challenge of diversity. Now, the extent to which the 'fact of life' of diversity is turned into a problem by Kukathas proposed 'solution' is another valid question that cannot be pursued further here.

[3] The example he offers is when an individual asserts his right to revise his beliefs and to live by these newly-formed beliefs in the name of the freedom of conscience but which clearly conflict with the prevailing beliefs of the majority in the religious or cultural group in question (Kukathas 2003: 36-37). While the dissenter should not be forced by the group to abandon his or her beliefs if the freedom of conscience is to be respected, we cannot at the same time, force the majority to compromise or give up their beliefs because "it is not only the consciences of the dissenters that is at stake" (ibid., pp. 37).

[4] The stalemate he describes, however, is deceiving because the notion that the group has the option to 'leave' the dissenter behind is unreasonable. The only other alternative is for the group (majority) to expel the dissenter, and Kukathas' theory clearly provides cultural and religious groups the authority to do so with impunity. Indeed, this is why Kukathas is often charged with endorsing a theory that collapses into a form of communitarianism or diversity liberalism: precisely because of the considerable autonomy it provides to cultural and religious groups to impose all kinds of internal restrictions incompatible with liberal values. See Kymlicka (1996: 8-11).

[5] It is not that Kukathas is blind to factors of acculturation and socialization which put into question whether the 'choices' of individuals to remain in their communities are truly 'free', only that the state does not have the legitimate authority to "impose" liberal values and thus "regulate" cultural diversity.

[6] Indeed, the argument developed in this paper could have been equally made by appeal to the term 'individual agency' or better still, 'authenticity'. The quote from Mill nicely captures what philosophers in the Continental tradition would refer to the authenticity of man's being-in-the-world. That is, authenticity requires that one interpret the world in one's own way from one's own standpoint i.e., according to one's interests, desires, character, and historical circumstances. For more on the notion of humans as self-interpreting beings see Benhabib (2002).

[7] See the American Supreme Court Case of *Corporation of Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints v. Amos*, where a janitor at a Mormon-owned gymnasium was fired for not meeting the eligibility test required for attendance at Mormon temples (Barry 2002: 166).

Chapter 3

Education, Exit, Transformation

> The ethical principle which is conjoined with the natural generation of children, and which was assumed to have primary importance in first forming the marriage union, is actually realized in the second or spiritual birth of children – *in educating them to independent personality*
>
> (G.W.F. Hegel)

The importance of education for a substantive right of exit

In the previous chapter, I argued that while the right of exit is in essence a negative right – a right which generates a duty on others not to prevent one from doing X – its effective exercise requires that one enjoy certain positive liberties, the most important being the right to a minimum standard of education (Spiecker et al. 2006: 314). The view that some form of education is a precondition for a meaningful right of exit is one that is widely shared among theorists. There exists considerable disagreement, however, about the degree or the sort of autonomy required for the effective exercise of the right of exit, and the kind of education best suited to achieve it.

It is possible to place the range of positions on this issue within three broad categories, or schools of thought: the civic or autonomy 'minimalism' of diversity liberals, such as William Galston and Jeff-Spinner-Halev; the more robust 'minimal' autonomy view, endorsed by autonomy liberals such as Robert Reich, Eamon Callan, and Meira Levinson; and the civic/political model adopted by Amy Gutmann and Stephen Macedo. The first view recognizes that children do have an interest in having some choice over their lives, but defines the cognitive/intellectual requirements (autonomy) minimally, providing parents with considerable scope to educate their children in their inherited culture or religion. Galston is generally

motivated by a desire to protect diversity within liberal society and thus advocates deference to parental authority in education, while Spinner-Halev wants to defend the autonomous choice of individuals to live an illiberal life, which includes raising one's child according to illiberal doctrines. Spinner-Halev also argues that the education requirement can be scaled back because the pervasiveness of mainstream society ensures that members of illiberal groups are aware of the existence of other ways of life, regardless of whether this is a component of the school curriculum, and as such, it is an important factor in ensuring the effective exercise of the right of exit.

The second view can also be characterized as endorsing a 'minimal' conception of autonomy. However, it is in fact considerably more robust than the first view, manifested by a commitment to developing in children the capacities for critical reflection, a commitment that circumscribes parental authority over education. Thus, according to this view, interests in preserving religious or cultural diversity cannot 'trump' the interest in achieving minimal autonomy. Finally, according to the civic/political model, the development of civic virtues necessary for active participation in public affairs and democratic deliberation ought to take precedence over the development of personal autonomy. As such, the interest in developing the virtues necessary for citizenship in a liberal-democratic society also limits the scope of parental authority over the education of children.

In this chapter, I will defend a form of the second view, drawing in particular from the work of Robert Reich. I will first establish why the provision of a minimum standard of education is an essential component of a substantive right of exit. I will then argue that the proper aim of such an education should be the development of the capacities for minimal autonomy, and that the kind of education best suited to achieve this goal is a liberal *multicultural* education, along the lines conceived by Reich. Finally, I will end the chapter with a discussion of the differences between my conception of the right of exit and the 'minimal standards argument' of Spinner-

Halev – particularly revolving around the education requirement – to highlight the distinctiveness of my position and its contribution to the debate.

Education as an essential component of a substantive right of exit

Why is the provision of a minimum standard of education so important? Well, the list of rights enumerated earlier, including the right of exit, can be considered as necessary background conditions for the *exercise* of autonomy but the effective exercise of these rights presuppose an autonomous agent. That is to say, these rights only facilitate the exercise of autonomy and the right of exit, but they do not *educate* one to be autonomous; they do not foster the development of the requisite intellectual abilities that allow one to critically form, assess, revise, and ultimately pursue one's ends (Reich 2002: 119). Clearly, people are not born autonomous, which means that the production of (minimally) autonomous citizens in a liberal democratic society – crucial to its continued stability, vitality, and survival – cannot be secured through a policy of 'laissez faire'.[1] Spinner-Halev rejects the notion that liberal citizenship is "self-perpetuating": "It is precisely because becoming an autonomous citizen is hard work that we need liberal institutions to encourage the liberal virtues in citizens. If too many citizens lack the liberal virtues, then liberal institutions are no longer sustainable" (Spinner-Halev 2000: 106).

The right of exit, as mentioned above, is a right that presupposes an autonomous agent. It implies that one possesses the capacity to make an independent and *authentic* choice, which in turn presupposes at least a minimal level of autonomy (Spiecker et al. 2006: 322). As such, in order for one to be able to leave one's cultural or religious community, one must first be able to critically reflect upon and assess one's tradition –without being subjected to physical or psychological coercion – in light of exposure and knowledge of other ways of life in order to decide for *oneself* whether continued allegiance is worthwhile. Because autonomy is, as argued earlier, both an intrinsic and instrumental good – a constitutive element of the good life required not only for the pursuit of one's conception of the good, but to be a functioning citizen capable of

active participation in civic affairs – the state has a duty to ensure that citizens develop the requisite capacities for achieving a sufficient degree of autonomy and to secure the background conditions necessary for its exercise.

As a result, for the sake of consistency, if one is to endorse the view that the right of exit is a basic right all citizens should enjoy, then one must also endorse the provision of a minimum standard of education that provides individuals with the opportunity to develop the requisite intellectual capacities for its effective exercise. This, in turn, implies that one must also be committed to support a liberal education that aims at some minimum degree of autonomy since "autonomy underwrites the very idea of a right of exit. To exit a group people must be able to reflect critically and independently on their commitments, values, desires, beliefs, and so forth, and to choose something new from a range of meaningful options. Thus, in defending the right of exit, Galston, Margalit and Haberthal, and Kukathas are actually supporting and respecting a conception of minimalist autonomy" (Reich 2002: 110). Indeed, Rob Reich goes further to argue that any right of exit that does not include the provision of a minimum standard of education is incoherent:

> But unless education is provided that does not indoctrinate, that does not systematically adapt one's preferences and, over time, one's very character to uphold cultural norms, the right of exit strategy inevitable fails. If the right of exit is even to be coherent, individuals must acquire the capacity to question the value of continued allegiance to cultural norms and practices, and ultimately to the group itself (and, of course, to the larger state as well). This is necessary simply to begin the process of deciding for oneself whether exiting the group is, all things considered, a desirable pursuit (2005: 212).

The effectiveness and coherence of the right of exit strategy thus revolves around the provision of a minimum standard of education, an education that aims at the development of the capacities for autonomy. Combining the right of exit with a fairly robust conception of education for autonomy also stems from the recognition that the right of exit is a right for (autonomous) *adults*. Because children do not choose the type of community into which they are born, it is unjust to condemn them to remain in their community for perpetuity since "the child's position does not fit the model of voluntary association" (Spiecker et al. 2006: 316). Furthermore, children

cannot be considered as the possession of their parents since they possess distinct interests and rights i.e., in becoming independent, functioning adults capable of living their lives the way they see fit, and to obtain the basic care (nutrition, health care, etc) essential for development.

The fact that children are vulnerable and unable to pursue or articulate these interests means the state has an interest and right to ensure that children – the future citizens and rights-holders of society – develop the necessary capacities so that they may be able to exercise their right to exit in the future, if they so wish, and to intervene in cases of physical abuse and neglect (ibid; Barry 2002: 200-201). Indeed the kind of citizens the state produces is a common concern of all citizens. It follows that illiberal religious or cultural groups do not have a right to systematically disempower its members to the point that exit is rendered effectively impossible; the liberal state cannot turn a blind eye to practices that may undermine the future exercise of the right of exit. From this we can derive a normative and a factual premise, namely: "Liberal societies have a legitimate interest in regulating both public and private associations in order to produce liberal citizens" and "Liberal citizens are more likely to be produced by associations that hold liberal beliefs and that conduct their affairs and advance their views according to liberal principles" (Strike 1998: 346).[2]

William Galston has provided four conditions for a substantive right of exit – which I believe my conception satisfies – that limit the authority of illiberal groups and parents over their members and children respectively: a knowledge condition, whereby one must at least be aware of ways of life other than one's own; a capacity condition, according to which one must possess the necessary intellectual *capacities* to critically assess one's tradition in light of these alternatives; a psychological condition, which refers to the fact that one must be free from severe forms of psychological coercion (e.g. brainwashing) in order to make a critical assessment of one's group; and a fitness condition, which requires one to be able to function and participate in alternative ways of life in the wider society, should one decide to leave (Galston 1995: 553-554).[3] These conditions, in turn, reveal the different barriers to exit: knowledge, intellectual/cognitive,

economic, and psychological. While it is clear by what has been said thus far that the first two barriers are the primary concern of a liberal education for autonomy, the other barriers also help to demonstrate why supplementing the right of exit with an education requirement is so important.

Indeed, my recognition of the importance of a liberal education for autonomy is motivated by a concern for the economic and psychological barriers to exit. One of the most important impediments to exit, which undermines the voluntary status of religious and cultural groups, is the fact that the members of such groups receive an education (or in some cases, no education at all) that only prepare them for life within their community. Consequently, even if a young adult member of the Amish community, for example, wanted to leave, he or she would face enormous difficulty in trying to successfully function in the wider society with only a grade eight education and presumably without any financial assets, which makes the cost of exit unduly prohibitive. To take another example, women in illiberal communities are often denied an education or provided one that is inferior to the education provided to men, which makes them dependent on their families or husbands for financial support. Thus when we consider that young girls in illiberal groups are often forced to marry older men, they are reduced to a position of total dependency on their husbands because they lack an education that would give them a fighting chance to survive and function in mainstream society, should they manage to leave. What this shows is that we should not lose sight of the way in which a liberal education can empower and enable members of illiberal communities to exercise their right of exit through the development of capacities and skills that can be put to use in the wider society.

The importance and need for a minimum standard of education is equally accentuated when we consider the psychological or 'invisible' barriers to exit. In chapter one, I discussed the ways in which illiberal groups often socialize their members – e.g. through indoctrination that leads to ethical servility and the systematic adaptation of preferences – such that their ability to even contemplate exit is severely undermined. And even if one could, the emotional and

psychological costs are often deemed too much to bear. This has led some to argue that this in fact represents a near fatal blow to the protective function of the right of exit: "Even once the material difficulties of exit are addressed, the socio-psychological costs endure and they are likely to do so for as long as the underlying patriarchy endures. In these circumstances, the protective properties of exit are seriously circumscribed" (Reitman 2005: 196). It suffices to say here that the substantive right of exit I endorse, combined with a robust liberal education for autonomy, can effectively deal with this challenge by empowering individuals to critically and independently assess their inherited beliefs, values, desires, goals, commitments, etc. and to revise them if necessary: to make *authentic* choices that are expressive of the beliefs, values, goals, etc. and endorsed as a result of such independent reflection. Not much more can be done to empower individuals to face the psychological and emotional difficulties that often accompany a decision to exit one's native religious or cultural group; the state can do little to compensate for what Barry calls the "intrinsic costs" of exit (Barry 2002: 150).[4]

Hence, an adolescent girl raised to believe that all she could ever do with her life was to loyally serve a husband and children, can discover at school that she has a talent for fine art or an aptitude for the physical sciences, and decide she wants to become a physicist. A boy who has been groomed from an early age to follow in his father's footsteps as a fisherman since that is how 'it has always been' in his family, can discover that he is a gifted athlete or musician and wish to be the first in his family to go to college. It could very well be that the boy ultimately succumbs to the loyalty he has to his father, and that the girl overcomes the influence of her parents to become a successful physicist, or vice versa, or both could fail or succeed. What is important is the fact that while a liberal education cannot completely negate the effects of illiberal socialization, this does not undermine its value and importance; at the very least, it gives individuals a fighting chance to leave their communities if they so wish.

Indeed, it would be naïve to think a liberal education could do so, or that the state could do much more in dealing with the problem of socialization than to demand respect for a

substantive right of exit, outlined in this paper, that involves the imposition of a minimum

standard of public education on all citizens.[5] All that can be expected from the education

requirement is that it *offset* or *compensate* for illiberal socialization, rather than negate or

eliminate its effects altogether; to ask for more would require the state to enter and monitor every

home, which would not only be practically impossible but also an undesirable step toward

tyranny. Therefore, the state's vital interest in public education – to produce liberal citizens for

the continued stability and survival of liberal-democratic institutions – and the crucial importance

of liberal education for a substantive right of exit remain unaffected by the inability of this

education to 'liberalize' all citizens.

What emerges from this discussion thus far is that the provision of a liberal education for

autonomy is an essential component of a substantive right of exit. What remains to be established

is the level of autonomy citizens must attain in order to effectively exercise their right to exit. I

will argue that a liberal education must aim for developing the capacities for 'minimalist'

autonomy along the lines of the conception proposed by Robert Reich, in order to enable citizens

to exercise their right of exit in addition to being able to flourish and actively participate in social,

economic, and political life. This, in turn, raises the question of precisely what kind of education

will best meet this aim. My response will be that a liberal *multicultural* education can best meet

the goal of minimal autonomy. In the final section of this chapter, I will highlight the way in

which my conception of the right of exit, coupled with the provision of a robust liberal education

for autonomy, while similar in form, differs from the 'minimal standards' argument of Spinner-

Halev to help illustrate the distinctiveness of my position. The most important way in which my

conception of the right of exit is unique, however, is the emphasis placed on its *transformative*

function as a solution to the long-term and often overlooked problem of the 'liberalization' of

illiberal cultures.

An outline and justification of a conception of 'minimalist autonomy'

Spiecker et al. rightly point out that there is a paradox involved with allowing children to be raised in illiberal communities: while children are considered too young to make long-term, all things considered decisions and judgments, an upbringing by parents who have no interest in autonomy may ensure they may never develop this capacity even after having reached the age of legal maturity (Spiecker et al 2006: 314). Their solution to the problem is one I endorse: the provision of a liberal education that aims for a 'minimal' level of autonomy. What do I mean by a 'minimalist' conception of autonomy and what does it involve? Let me begin by stating what it is *not*. The Kantian and Nietzschean conceptions of autonomy must be rejected at the outset; the former is often referred to as 'moral autonomy', whereby an individual is both the legislator and the subject of universal moral laws that one equally prescribes for oneself and for others; the latter largely refers to the ideal of 'self-creation' characterized by the radical individualist who shuns conventional norms and customs in order to carve out a wholly unique 'character' and way of life that reflects his/her particular mode of being (Reich 2002: 97-98).

The reason these two conceptions of autonomy must be ruled out as the proper aim of a liberal education is because they are simply too demanding, in that most people in society would not qualify as autonomous agents by these standards (ibid.). Few if any persons could seriously claim to be autonomous in the Kantian sense; to subject every decision to sustained rational scrutiny to ensure the satisfaction of the criteria of universality is probably beyond the capacity of most human beings. The Nietzschean ideal, on the other hand, suggests a radically individualistic ideal of autonomy which would require a person to detach herself from society in order to fashion an entirely authentic existence (whether it is even possible is doubtful). Few people would be willing to give up their social and community ties for the sake of this romantic ideal, and it is questionable whether anyone could achieve the sort of complete self-reliance it requires (ibid.). Furthermore, it ignores the fact that many aspects of our lives are unchosen: the time, place, and circumstances of our birth, race, gender, ethnicity, culture, nationality, etc. According to this

conception of autonomy, social and communal ties cannot be reconciled with being an autonomous agent and is therefore unsatisfactory.

In short, both these conceptions represent a form of 'overkill' for our current purposes. Surely one does not have to be autonomous in the Kantian or Nietzschean senses in order to possess the capacity to critically assess and revise one's beliefs, values, and commitments etc. necessary for the effective exercise of the right of exit. Ideally, a middle ground must be found whereby autonomy is neither an unattainable or impractical ideal, nor so undemanding that anyone could be considered autonomous. This middle ground, I argue, can be found in Reich's conception of 'minimalist' autonomy, which is a variation of Dworkin's 'procedural autonomy'. However, that is not to say there is a consensus on what constitutes minimalist autonomy even among its advocates. I will consider one alternative conception that of Spiecker et al., based on the framework of Lawrence Kohlberg's developmental 'stages', articulated in his *Essays on Moral Development*, to provide a contrast that will be useful in clarifying the conception of minimalist autonomy I defend.

Clearly, Spiecker et al. are right to argue that the effective exercise of the right of exit requires cognitive, affective, and volitional capacities in addition to a degree of moral reasoning that corresponds to Rawls' second moral power: the capacity for a conception of the good (Spiecker et al. 2006: 320). According to Kohlberg's development model, stage three is characterized by "conformity to stereotypical images of what is majority behaviour", and thus they correctly argue that a child at that level does not possess sufficient cognitive, affective, and moral capacities for the effective exercise of the right of exit (ibid.). This is especially true since the decision to exit is a highly personal and existential matter that presupposes the ability to make an independent and authentic choice. According to Spiecker et al., at stage four, a person is able to personally commit to an authority, whether legal or religious, for the sake of maintaining the prevailing social order and, as such, can effectively exercise the right of exit and be morally accountable for the decision (ibid., pp. 320-21). Such a person can decide to live his/her life

according to the rules and norms of his/her community, which implies that he/she could, in principle, choose to do otherwise; those who have reached this stage of development are considered to be "autarchic" (minimally autonomous) persons (ibid., p. 321).

It is important to note that, according to Kohlberg's model, stage four still falls within the level of *conventional* morality and that the post-conventional level properly corresponds to what is presumably considered a higher degree of autonomy: "The essential difference between autarchy (Kohlberg's stage 4) and autonomy (stage 5) is located in the ability and tendency to reflect critically on the validity of moral rules. The autarchic person is convinced that her moral rules are valid and justified but she is not necessarily disposed and able to give a rational justification for these rules; for her the fact that a moral rule is part of a tradition can itself be a good reason for complying with it" (ibid.). But surely persons at stage four, as characterized above, cannot be considered to have achieved the degree of autonomy necessary for effectively exercising their right of exit. This is because Spiecker et al.'s claim amounts to saying one can justify a decision to live in the way prescribed by one's tradition, because that is what it prescribes as best, and still be considered to have made a sufficiently autonomous choice.

The level of autonomy required for the effective exercise of the right of exit is, in fact, revealed in the quotation above; according to Spiecker et al.'s own framework, *autonomy* not *autarchy* ought to be the goal of a liberal education. It is doubtful whether a person who is at a stage which can be characterized as "conventional morality" and who cannot rationally justify the rules by which she supposedly 'chooses' to live her life other than to say "because my tradition says so", can be considered sufficiently autonomous to effectively exercise the right of exit.[6] It is not as if the person had arrived at a decision to lead a traditional way of life after a period of independent reflection and critical assessment of his/her own tradition in light of possible alternatives, since that is only possible for a person at stage five: *the post-conventional* stage. This of course would be a clear indication that a person has achieved the requisite degree of autonomy for the effective exercise of the right of exit: one must be able to go beyond one's inherited moral

framework by subjecting it to rational scrutiny in light of meaningful alternatives. Consequently, while we share a common perspective (autonomy-based liberalism) and aim (to construct a substantive right of exit), Spiecker et al.'s conception of minimal autonomy is too minimal for the effective exercise of the right of exit.

Although I have traced the broad contours of my conception of minimalist autonomy required for the effective exercise of the right of exit, a more detailed elaboration is required. On this account, a person who has achieved minimal autonomy is a *self-determining* or *sovereign* individual who lives a life that is not subject to external intervention, such that he/she controls her own destiny (more or less); sovereign individuals are able to make important personal choices about the direction of their lives in addition to critically reflecting upon their beliefs, values, commitments, desires, goals, etc. and to revise them if necessary, thus shaping their lives through a succession of authentic choices (Reich 2002: 98). This conception of autonomy is entirely compatible with maintaining deep social and communal ties and loyalties, and leaves open the possibility that one may be autonomous and yet choose to live a non-autonomous way of life. For example, I consider a person who chooses to go to Tibet and live life as a Buddhist monk to have made an autonomous and authentic choice, if the decision was based upon independent and critical reflection upon one's values, desires, goals etc. from a range of meaningful options, was arrived at under conditions free from psychological (e.g. brainwashing) and physical coercion. Moreover, such a life can be considered to have an autonomous character because it is the product of an *authentic* choice: a choice that reflects the values, desires, beliefs, etc. that one endorses as one's own. Minimalist autonomy is thus a character ideal that is realistic and attainable, and is more than merely a set of skills and capacities one employs from time to time (ibid., pp. 103).

It follows that this conception of minimalist autonomy "places no prima facie restrictions on the kind of life a person may lead" (ibid.). Thus an education for minimalist autonomy can also be understood as an "autonomy-facilitating education" since, as Harry Brighouse rightly

points out, "it does not try to *ensure* that students employ autonomy in their lives, any more than Latin classes are aimed at ensuring that students employ Latin in their lives" (Brighouse 1998: 734). As a result, it is immune to the charge of being a 'comprehensive' doctrine since it neither prescribes nor values a particular way of life over another: what matters is that one's life is the product of authentic choices not the content of that life and thus it is consistent with any conception of the good. Reich calls this variation on the Dworkinian notion of procedural autonomy "weak" procedural autonomy, since it "marks the fact that it is logically possible for a person autonomously to come to endorse any way of life, including a non-autonomous way of life" (Reich 2002: 103).[7] As such, the fact that many aspects of our lives are unchosen does not undermine the ability of a person to achieve minimal autonomy, since he/she is at least capable of reflecting upon these aspects (ibid., pp. 104).

It should be noted, however, that the capacity to critically reflect upon one's first order desires is a necessary but not sufficient condition for minimal autonomy, since it also requires a meaningful range of options to choose from. Consequently, a minimalist conception of autonomy involves both critical and evaluative capacities in addition to the ability to *act* upon one's judgments and evaluations: "The development and exercise of autonomy, then, implies conditions of both negative and positive liberty, a self that is both free from others and *internally empowered* in important ways" (ibid., pp. 106; italics added). Minimal autonomy is not only compatible with but may also be enhanced and enriched by deep and enduring social and communal ties, since they provide one with a strong sense of belonging and identity; the lack of such a foundation can in fact hamper the development of autonomy (ibid., pp. 107).

Indeed, critical reflection upon the kind of person one wants to become presupposes that already one has a sense of self, an identity; reflecting upon different ways of life or conceptions of the good presupposes that one already has a moral framework with which to evaluate them. This view can be traced to the Hegelian insight that all understanding is self understanding and to subsequent developments in the phenomenology of Heidegger and Gadamer, who emphasize the

importance of what they call the 'forestructure of the understanding': the idea that we always interpret and understand another person, text, artwork, etc, in light of our pre-existing knowledge, beliefs, values, etc.

At this point, it should be clear that an individual who achieves minimal autonomy in the sense outlined above is capable of effectively exercising their right of exit, in addition to the array of basic rights outlined in chapter one which help make it substantive. Consequently, a liberal education for minimalist autonomy can be given a broader justification: on both an individual and civic/political level. As discussed in chapter one, autonomy is a constitutive element of the good life and, by making a liberal education for minimal autonomy mandatory, the state can ensure all citizens have an equal opportunity to develop the necessary capacities to pursue their own conceptions of the good and live flourishing lives, in an "autonomy-friendly" society. To condemn children to a substandard level of education in the misguided hope that it will preserve cultural diversity and protect the freedom of religion, is to seriously stunt their development as future citizens and right-bearers thus damaging their well-being.

As mentioned earlier, children are not the possessions of their parents and have distinct interests as the *subjects* of education. This is not to say parents have no legitimate interest in their children's upbringing, only that "parental authority must end when its exercise compromises the development of their children into adults capable of independent functioning or when it disables or retards the development of minimalist autonomy in children. This marks the outer boundary of parental authority over children" (Reich 2002: 160). To keep children confined in communities into which they were born in the name of preserving cultural and religious diversity is a prime example of how good intentions can lead to disturbing consequences.

A liberal education for minimal autonomy also has an important civic/political justification since, as mentioned earlier, a liberal society cannot endure and thrive without liberal citizens who are able to actively participate in civic life and political institutions. A liberal-democratic order is based on the free and informed consent of its citizens and, as a result, it is in

the public interest that all citizens achieve minimal autonomy; to obstruct its development in children would thus "undermine the conditions of legitimate consent and stability in a liberal society" (ibid., pp. 156). As Stephen Macedo points out, "we have every reason to take seriously the political project of educating future citizens with an eye to their responsibilities as critical interpreters of our shared political traditions – that is, as participants in a democratic project of reason giving and reason demanding" (Macedo 2000: 165). It is not difficult to see how the critical and evaluative capacities fostered by an education for minimal autonomy can serve as the foundation for the civic and political virtues required for active participation in public life. According to Amy Gutmann, the most important virtue for democratic citizenship is the virtue of deliberation, which encompasses the skills of critical thinking, contextual knowledge, understanding, the appreciation of other perspectives, and the virtues of veracity, nonviolence, and practical judgment (Gutmann 1999: xiii).

A minimally autonomous person will possess all the necessary intellectual tools to be a good citizen. He or she will be able to critically assess and analyze proposed legislation and the platforms of political parties to vote intelligently, be resistant to demagoguery and manipulation; to make decisions and judgments that take into account the legitimate interests of others and thus to arrive at commonly acceptable solutions – reflecting a recognition of Rawls' "burdens of judgment" – as well as engage in democratic debate and deliberation and justify claims by appealing to publicly acceptable reasons, thus exhibiting the virtue of reciprocity (Macedo 2000: 171). In short, the minimally autonomous agent will be empowered to further the cause of justice in a liberal society and to participate in what Gutmann calls "conscious social reproduction": the deliberate and continued shaping and re-shaping of public institutions through the collective efforts of citizens.

Indeed, the aforementioned civic and political virtues all seem to depend upon autonomy. This would indicate that a liberal education for minimal autonomy could effectively accommodate the aims of the civic and political models of education endorsed by Gutmann and

Macedo respectively: the former considers civic virtue as trumping autonomy as the primary goal of education, and the latter attempts to restrict autonomy to the political sphere out of a concern to avoid the imposition of a 'comprehensive moral doctrine' on all citizens. Gutmann seems to suggest as much when she remarks, "Deliberative citizens may be the unintended by-product of educational efforts that aim at something else. A good liberal arts education, for example, is likely to cultivate many deliberative skills and virtues out of a commitment to critical enquiry" (Gutmann 1999: xiv). Macedo appears to make a similar concession: "The fact is that a broad (not comprehensive) commitment to critical thinking is inseparable from the core civic capacities of good liberal citizens" (Macedo 2000: 239).

Therefore, the grounds for rejecting the primacy of civic virtues over autonomy can be discerned from above quotations since it is possible for an autonomous individual to be a poor or indifferent citizen, but it is rather unlikely that a person who lacks the capacities for minimal autonomy could be a good citizen.[8] While a liberal education for minimal autonomy should promote the value of liberal citizenship, it cannot guarantee all students will turn out to be good citizens; in fact, the possibility some may autonomously choose to be "neglectful citizens" should be allowed since, as Spinner-Halev points out, "the liberal state can easily survive if some citizens do not live up to these virtues" (Spinner-Halev 2000: 21-22). The claims of political liberals should equally be rejected simply because autonomy is not something that can be turned on in public and off in private. The same capacities that can be employed in one's 'public' life, can equally be employed in one's 'private' life, which suggests that the compartmentalization of the public and private spheres is deeply problematic.[9]

Consequently, the apparent tension and opposition between private and public autonomy conceived by political liberals is illusory: both presuppose one another and thus are intimately connected (Habermas 2001: 82-84). This tension is resolved in a liberal education for minimal autonomy that recognizes the dual, interdependent functions of autonomy and thus acknowledges that a liberal citizen is properly characterized by a successful reconciliation of the public and

private realms. Therefore, according to the model of minimalist autonomy sketched here, a minimally autonomous agent is able to authentically choose to be devout Muslim, Christian, Jew, etc. and, at the same time, recognize that the authority of his/her community is legitimate as long as it does not violate the principles of justice around which the institutions of a liberal-democratic order are structured; such a person can effectively operate in both what Rawls calls, the "morality of association" as well as the "morality of principle" (Spiecker et al. 2006: 323). A liberal education that aims for minimal autonomy can thus empower citizens to be both the authors of their lives and co-authors of their communities.

The case for a liberal multicultural education

It has been established thus far that for a right of exit to be substantive, the provision of a minimum standard of liberal education that aims for minimal autonomy is required for all citizens. What is yet to be considered is precisely the *kind* of education that will be most effective in achieving this goal. It is my contention that a liberal *multicultural* education is best equipped to do so. Michelle Moses defines multicultural education as "a broad educational policy in which students learn what is necessary in order for them to prosper in a culturally diverse society" (Moses 1997: 375). This definition is appropriately flexible to account for the various ways in which a multicultural education can be delivered and cashed out along the lines suggested by Reich: namely, at some point in their education, students should be exposed to and intellectually engage with the history, traditions, practices, etc. of different cultures and religions, especially those represented in the country's population (Reich 2002: 131). A multicultural curriculum is one that teaches students about the history and values of other cultures and religions through the standard range of classroom tools: books, films, etc (ibid.).[10]

 How does a multicultural education promote the development of minimalist autonomy? It does so by contributing to the fulfillment of both its preconditions: the capacity for critical reflection and the condition of having an adequate range of meaningful options to choose from

(ibid., pp. 132). It helps to develop the critical and evaluative capacities of children by providing opportunities and space for independent reflection and constructive cross-cultural dialogue. It does so by exposing children to the values, beliefs, and practices of cultures and religions different from their own, which in turn stimulates comparisons, evaluations, and independent thought. By intellectually and critically engaging with other traditions, students not only can achieve a better understanding and appreciation for other cultures, but also gain a deeper appreciation of their own cultures and identities. Recall earlier that in order to critically assess one's own culture, one must have access to a range of meaningful alternatives; that was the problem confronted by Kukathas' Muslim fisherman: he had no frame of reference outside his own narrow cultural horizon with which to evaluate his inherited values and way of life, and as a result, he could not properly judge its value. As argued in chapter one, the fact that students will be able to critically reflect upon and potentially revise their beliefs, values, goals, etc., does not mean that this will necessarily result in the rejection of their inherited tradition, but may in fact lead to its affirmation based on a deeper appreciation and understanding.

As such, I agree with Reich that the pedagogical implication of a liberal multicultural education that aims for minimal autonomy is what he calls "hermeneutic pedagogy", influenced by Gadamer's model of understanding and concept of the "fusion of horizons" (ibid., pp. 184-190).[11] A "fusion of horizons" essentially refers to the integration of different perspectives or standpoints toward an improved understanding or the correction of previous misunderstandings or distortions. Although Reich and other philosophers such as Charles Taylor employ it in the context of multicultural theory, as primarily a normative term, it is intended as a phenomenological description of what happens when two people successfully understand one another. That is, whenever two people with two different perspectives come to understand one another, a fusion of horizons can be said to take place: the attainment of a common perspective, thus occupying a shared and expanded horizon of intelligibility. As a result, it is not necessarily a special kind of understanding that requires unique skills or capacities. It thus demands more than

just understanding the view of the other from one's own standpoint, but also from the standpoint of the other so that both views may ultimately be fused into a common horizon of understanding.[12]

For Gadamer, a fusion of horizons primarily takes place through dialogue and the dialectic of question and answer by opening oneself and one's horizon of understanding (one's pre-existing beliefs, values, etc.) to the potential truth of the viewpoint of the other, thus foregrounding one's prejudgments so that they can be subjected to rational scrutiny and possibly abandoned.[13] Therefore, by engaging in cross-cultural dialogue students may acquire a heightened awareness of their inherited beliefs and values, and evaluate them through the lens of other viewpoints, potentially arriving at a shared perspective that will alter their self-understanding in relation to their newly-expanded horizons. A liberal multicultural education should thus provide an environment which encourages students to critically engage with different cultures and religions, so that they may authentically interpret their own traditions in light of others and thus shape their own identity, beliefs, values, etc. Such hermeneutic dialogue also encourages mutual respect and enables students to develop the skills required for democratic deliberation, in that, in order to be able to make decisions that account for the interests of others, one must first have knowledge of and understand those interests; it is difficult to provide publicly acceptable reasons and justifications if one is ignorant of the legitimate interests and viewpoints of others in a multicultural society (ibid., pp. 136-7).

The way in which a multicultural education helps to promote the second condition of autonomy should now be clear: by exposing students to different values, beliefs, and ways of life that can serve as meaningful options from which to potentially choose. The autonomy of students will be enhanced through exposure to a variety of cultures and religions that will expand their cultural and evaluative horizons and provide them with a range of meaningful options to choose from. Students will thus possess a wide cultural base from which to fashion an authentic and potentially 'hybridized' identity, drawing from a combination of various cultures and ways of

life. This in turn will help promote a more global or cosmopolitan outlook supportive of liberal-democratic citizenship in a multicultural society.[14] Reich nicely encapsulates the hermeneutic and multicultural character of the liberal project of multicultural education: "multicultural education is a hermeneutic endeavour in which the youngest citizens of a multicultural state enter into dialogue with that which is culturally different but of equivalent standing politically. The result is not only the possibility of self-transformation but an enhanced capacity for participating in civic deliberations through public reason" (ibid., pp. 137).

Lastly, there is another important reason to endorse a liberal multicultural education other than for its instrumental value. Multicultural education is valuable in itself because it simply provides a better reflection of the current cultural, ethnic, and religious makeup of any multicultural society, thus correcting the chauvinistic and ethnocentric nature of education in the past, whereby the achievements of Anglo-Saxon or Western European peoples were exalted at the expense of other peoples and cultures (ibid., pp. 131). As a result, a multicultural education can help alleviate the problem of non or misrecognition that Charles Taylor and others have shown to be a form of harm against minority groups that have been historically oppressed and discriminated against by the liberal state.[15]

Does the appeal to a liberal multicultural education for minimal autonomy imply a defense of the current educational practices of liberal-democratic societies, or is it a call for reform? While I think the current public educational system in Canada, for example, does an adequate job overall at producing minimally autonomous individuals, this does not mean there is no room for improvement. There are several areas in which I believe the model of liberal multicultural education outlined in this paper can help shed light on the ways in which the system may be improved. First, from my own first-hand experience as a student and as a teaching assistant, it would seem that cultural and moral relativism is rather prevalent among high school and even undergraduate students. While I do not pretend to conclude from this that the problem is

systematic, it does suggest that the encouragement of more classroom dialogue, along the hermeneutic model endorsed here, may be helpful in staving off a potentially problematic trend.

Second, the practice of a 'multi-track' public high school education, whereby students take courses either at an 'advanced' (university-track), 'general', or 'basic' level must be seriously re-examined, if not eliminated wholesale. This is because it has been my experience that often students are pigeon-holed into a particular category too early in their academic career, which has serious ramifications on the student's future prospects; often students of lower-income families or of visible minorities are relegated to these lower streams. There are considerable differences between the levels in terms of the quality of education received and thus of the quality of the subsequent career prospects. Furthermore, it is questionable whether the 'general' or basic' stream does an adequate job at producing minimally autonomous citizens. Even if many if not all high schools have now become 'destreamed', sincere efforts must be made to prevent 'hidden' streaming from within destreamed classes: students from all cultural, religious, and socio-economic backgrounds ought to receive equal encouragement and attention to achieve academic excellence and expectations should not be lowered for students from different backgrounds. In other words, all students ought to be geared for success at the 'advanced' level, which will not only provide them with the best career and educational prospects but also make the achievement of minimal autonomy more likely. The model of liberal multicultural education for autonomy endorsed here certainly goes beyond the three R's and vocational training, which implies that perhaps the 'general' and 'basic' categories ought to be eliminated altogether, or at least collapsed into one stream which combines an enhanced academic content with preparation for college level education and/or vocational training.

Lastly, the vital importance of education not only for the effective exercise of the right of exit but for individual well-being, and the production of liberal citizens, suggests that the legitimacy of educational exemptions for cultural and religious groups such as the Hutterites or the Amish, should be seriously questioned. It also implies that the private school

system/curriculum not deviate from the public system to the extent that the development of the capacities necessary for minimal autonomy is significantly undermined. That is, the private system, including home schooling, should not be conceived of as a refuge for the parents of illiberal groups who object to the requirements of a liberal multicultural education for minimal autonomy. This is not to say that there may not be different methods to achieve the same goal (minimal autonomy). The Catholic school system in Canada is a case in point and there is nothing in principle that makes home schooling, for example, inimical to the development of minimal autonomy, provided it is properly regulated. Taking the legitimate transformative aims of liberal-democratic societies and the problems posed by illiberal cultures seriously means that the state cannot afford to turn a blind eye to the way in which its future citizens are being educated.

The transformative power of a substantive right of exit

Having provided the outline of a substantive right of exit, wedded to a robust conception of a liberal multicultural education of minimal autonomy, I would like to conclude this chapter by underlining the distinctiveness of my conception within the literature on the problem of minorities within minorities. The differences between Kukathas' minimalism grounded in freedom of conscience and pure toleration, and the autonomy-based conception involving supplementation with a robust array of positive and negative liberties I endorse, should now be clear. The ways in which the model of liberal education I defend differs from the civic or political model were also discussed, which I believe demonstrate the primacy of the former, especially in light of my primary concern: the capacities required for the effective exercise of the right of exit. While my position can be generally characterized as a form of the 'minimal standard' argument put forth by Jeff Spinner-Halev. there are significant differences, however, between our respective conceptions of the right of exit that can be found in the details and it is important they be made explicit to bring out the distinctiveness and strength of the model I endorse.

While Spinner-Halev claims that autonomy is the central liberal value, his position often seems to waver between a commitment to autonomy and a commitment to cultural and religious diversity (as if they must necessarily be in conflict with one another). This ambivalence and inconsistency is manifested in his account of the minimum standard of education required to make the right of exit substantive, which presumably arises out of a concern to reconcile the tensions between the educational aims of conservative parents with the educational aims of the liberal state. Indeed, as Spiecker et al. rightly point out, on the one hand, Spinner-Halev argues that children require a minimum standard of education and freedom from coercion in order to have some choice and control over their lives but, "on the other hand, he constricts the content of the mentioned conditions and educational intentions in a rather inadmissible way" (ibid.). What is "inadmissible" about Spinner-Halev's education requirement is that it is far too minimal to make the right of exit a realistic option because it is merely enough that children be aware that other ways of life exist and know *that* they possesses the right of exit but they do not have to learn *how* to exercise it:

> Most religious conservatives, even those in insular groups, *know* they have choice about their lives and so meet the minimal requirements of liberal autonomy. They *see* other people around them living different kinds of lives. Members of insular groups leave all the time. Members of these groups may have psychological difficulties in leaving but there is little liberalism can do about that. What the liberal state should ensure is that members of insular communities have a right to exit and that they *know* they can exercise this right (Spinner-Halev 2000: 72, 74).

Indeed, for Spinner-Halev a lot of the educational work required for a substantive right of exit is actually done by the pervasiveness and allure of mainstream society. In fact, the problem he sees with conceptions of the right of exit based on a "robust" conception of autonomy like the one defended here, is that "it fails to recognize that in the consumer, materialist societies of the West, the lure of exit is always present. It is partly because our societies are so materialist, including our public schools in many ways, that some people retreat to religion" (Spinner-Halev 2005: 162). Let us deal with the first claim. Spinner-Halev's conception of the minimal standard

of autonomy required for a "meaningful" right of exit for an Amish teenager, for example, can in effect be reduced to the following formula: knowledge that one possesses a right of exit + a glance at a newspaper or at a television in a store window, or having heard a conversation in town about a different way of life, etc. = minimal autonomy.

Even if we grant that contact with mainstream society is more frequent, this cannot be enough to meet the minimum threshold of autonomy for the effective exercise of the right of exit, which Reich recognizes: "If mere knowledge were sufficient then even a casual glance at television, a drive down a city street, or a look at the newspaper would conduce to autonomy. But this is silly. To cultivate the capacity for critical reflection students need sustained intellectual engagement with diverse values and beliefs" (Reich 2002: 162). Thus one must not only possess knowledge but the capacity to employ that knowledge critically in making all-things-considered judgments and evaluations among a range of meaningful options; knowledge *that* must be supplemented with knowledge *how*. The Amish teenager in question cannot be said to possess meaningful options nor the capacity to critically assess them since Spinner-Halev considers an education that provides a basic literacy in the 'basic' subjects as sufficient for the effective exercise of the right of exit (ibid., pp. 160).[16] Even if the teenager were to possess the requisite critical capacities for minimal autonomy and wanted to leave his community his only alternative would be to venture out into the unknown (mainstream society) completely unprepared.[17] Clearly what is required for a substantive right of exit, therefore – unless we are to entrust the crucial task of producing liberal citizens to the gravitational pull of popular culture – is a liberal multicultural education for minimal autonomy along the lines sketched in this paper.

This is, in effect, an issue of consistency. Spinner-Halev claims to take the requirements of a meaningful right of exit seriously and yet his position essentially collapses into a form of diversity liberalism: his stance on education reveals that his concern for the preservation of diversity trumps the value of autonomy. Indeed, much of *Surviving Diversity* is devoted to a defense of the legitimacy of internal restrictions in the name of preserving diversity which he

justifies in the name of autonomy; it appears the threshold for the toleration of internal restrictions is reduced to favour diversity at the expense of the demands of minimal autonomy and thus of a meaningful right of exit. Indeed, the following remarks lend support to this assessment: "Pluralism and autonomy are not very meaningful if the only pluralism that is available is completely compatible with the ruling public philosophy. Meaningful choices means having the choice to belong to a hierarchical religion. If all private groups are remade in the image of the liberal state, then everyone's choices are reduced. *If we are to take toleration and diversity seriously*, then we have to be willing to put up with private groups with illiberal values" (Spinner-Halev 2005: 165; italics added).

These remarks further illustrate the chasm that separates our respective conceptions of the right of exit. The position I defend is indeed concerned with diversity but not with all kinds of diversity, but rather, with *legitimate* diversity. One of the strengths of my formulation of the right of exit is that it recognizes the liberal state cannot seriously tolerate all kinds of religious and cultural groups, if it is to survive and prosper; it must place some limits on the kind of diversity that can be reasonably tolerated with this aim in mind. It is, therefore, forthright and realistic in its acknowledgment that a society like ours, structured around the value of autonomy, cannot be equally hospitable to all ways of life; it will favour autonomous individuals and cultural and religious groups that have successfully reconciled their practices with the legal-democratic framework of liberal society, and thus respect the conditions of a realistic right of exit outlined in this paper. This further implies that some ways of life may simply not be worthwhile, which suggests that its gradual erosion may not be something to be lamented; surely if a Talibanesque religious group were to disintegrate in the faces of the pressures exerted by mainstream society, this would not diminish the range of meaningful options available to citizens.[18] What is important for the minimalist conception of autonomy I endorse is not the quantity of options but the *quality* of options.

As a result, I believe the conception of the right of exit outlined in this paper sets a reasonable threshold for *legitimate* diversity that stems from a serious commitment to what is required to make it substantive – a combination of negative and positive liberties – which implies a commitment to the value of autonomy. Religious and cultural groups that respect the conception of the right of exit, sketched in this paper, will help promote and contribute to the kind of common political culture – the importance of which is often overlooked – necessary for the continued survival and vitality of liberal-democratic institutions, because they will have successfully reconciled the demands of group membership with that of liberal citizenship. As such, they will be able to make a unique contribution to public discourse, one that is informed by their particular tradition and which makes a legitimate claim to universality on the basis of public reason.

Furthermore, the right of exit I defend allows for a consistent defense of a principle of non-intervention – one of the cornerstones of Spinner-Halev's own theory – into the affairs of cultural and religious groups, precisely because it provides an education that produces autonomous citizens. That is, a principle of non-intervention or anti-paternalism is properly grounded in a respect for individual autonomy which delineates the boundaries of private sphere; but a state cannot respect the autonomy of citizens if they are not autonomous in the first place. Does all this mean the conception of the right of exit I defend raises the bar so high such that diversity is threatened? Spiecker et al. provide a response that follows from the premises of my position: "The answer is 'yes', if diversity were to include groups who systematically ignore the right of exit. If we conceptualize diversity as *legitimate* diversity, which is *essentially connected to the right of exit*, the answer must be 'no'" (Spiecker et. al 2006: 325).

This intimate connection between the right of exit and legitimate diversity reveals the most distinctive aspect of my conception: its emphasis on the *transformative* function of exit. Indeed, I am forthright in my contention that the right of exit I endorse, based on the liberal value of autonomy, is designed to contribute to what Abdullah An-Na'im (1990) calls "the enlightened

re-constitution of tradition". What motivates this ambitious aim is the recognition that the right of exit, in most of its formulations in the literature on internal minorities, is essentially a short-sighted, 'after-the fact', strategy that seeks (legitimately) to alleviate the burden of exit, but does little to address the underlying problem so that fewer people will ultimately have to rely on it.[19] The problem that will continue to be the thorn in the side of liberal-democracies is the existence of illiberal groups whose practices and beliefs deeply conflict with fundamental liberal values. The transformative function of the right of exit is all too often reduced to a hope that, if the threat of exit is credible enough, the leaders of a cultural or religious community will be responsive to the demands of their members and change their ways to prevent mass defections. Oonagh Reitman thus rightly notes that the most prominent defenders of the right of exit, such as Kukathas, Shachar, Barry, Spinner-Halev, and Raz among others, "who see in exit a transformative potential tend to rely on minority groups displaying group self-preservation instincts, which would cause evasive action to be taken to prevent women from exiting" (Reitman 2005: 196).

Kukathas, as we have seen, claims that the mere possession of a formal right of exit constitutes a threat serious enough to potentially force the group to change its practices. But this threat is hollow without the conditions outlined in this paper. And he is not the only philosopher to adopt this view. As Reitman points out, the view that "the simple power to threaten exit allows one greater voice in influencing the course of events so as to take way the need for exit" represents, "a thesis which has inspired similar arguments in the minority context, with regards to minorities within minorities" (ibid.). Again, the same cast of philosophers mentioned above is implicated with this view. There are two problems with this assumption. First, as we have seen, most conceptions of the right of exit are incapable of providing a credible threat – largely due to insufficient education requirements, which does little to overcome the external and internal barriers to exit. Second, it is naïve to assume that the leaders of conservative groups will be responsive to the needs of the minority: often the response is not one of reform and

accommodation but of an intensification of oppressive practices, which Ayelet Shachar (2002) calls, "reactive culturalism". That is, the leadership of an illiberal group may conceive of 'survival' differently than the proponents of the common conception of the transformative properties of the right of exit (ibid., pp. 197).

Providing citizens with an escape valve, therefore, is only a band-aid solution that fails to address the long-term challenge of 'liberalizing' cultures. The substantive right of exit I defend, can make a significant contribution to the gradual transformation of illiberal cultures by empowering members from within those communities to authentically interpret and appropriate their own traditions, and thus to challenge the rigid interpretations of group identity and religious doctrine that is the source of both the oppression of group members and the tension with the liberal state. Indeed, the liberal multicultural education model outlined in this paper, in addition to the array of basic rights discussed in chapter one (e.g. the freedom of speech, right to mobility, etc.) empowers individuals both internally and externally and thus makes the threat of exit more credible by reducing economic dependence on the group (or on one's spouse) and by staving off ethical servility. As such, it also makes the option for members of insular religious and cultural communities to *remain* more viable – regardless of whether the leadership exhibits a reactionary response or not – which means the members most able to make a positive impact will have a voice that is not restricted to exit; for example, liberal subgroups may be formed which challenge the legitimacy of the dominant majority. We should also consider the possibility of group members exiting – perhaps temporarily, with the intention to ultimately return – in order to marshal the resources of mainstream society, i.e., the media and public opinion to exert pressure from the 'outside'; only this pressure is not being applied by 'outsider(s)', per se, and thus can perhaps do a more effective job at stimulating reform from without rather than through state intervention.

These examples reflect ways in which members of insular groups can stimulate the transformative process, but which do not fit the classic paradigm of 'exit' and 'threat': terms in

which the transformative function is usually conceptualized. What this shows is that the transformative function of exit must be re-conceptualized to account for the way in which the decision to remain in the group to work for gradual change, and how a creative, authentic re-interpretation of tradition at the individual or collective level can contribute to the transformation of a cultural or religious group.[20]

My formulation of the right of exit is grounded upon the recognition that the transformation of cultures, religions, and societies begins at the level of the individual. As a result, it thus aims at the empowerment of individuals through the cultivation of the capacities necessary to flourish both as an individual and as a citizen and thus to carry out the responsibility we have as inheritors of a particular cultural tradition: to authentically interpret it with a view to contributing to the continued cultural development and renewal of a society that is always coming-into-being. Consequently, individuals are provided with the tools for reconciling the demands of cultural or religious membership and democratic citizenship, essential for sustaining a common political culture that underwrite liberal-democratic institutions. This requires that one engage in a 'double-hermeneutic' so to speak: to authentically interpret one's inherited tradition and define what it means to be a member of one's group for oneself and to interpret that tradition and identity within the normative liberal framework of the political community, based upon the principles of justice and the value of autonomy. Consequently, I believe my conception of the right of exit makes a further, unique contribution to the debate surrounding the problem of minorities within minorities by displaying a much-needed sensitivity for the dialectic of individual and community, sameness and difference, universal and particular.

Notes

[1] Indeed, Kukathas theory simply assumes that children are somehow born with the capacities to exercise their right to exit. This is also a consequence of his rejection of autonomy in favour of freedom of conscience and pure toleration, which forces him to endorse an untenable position vis a vis the necessity of education for a realistic exit option. Although he does not appeal to the term in the *Liberal Archipelago*,

Libertarian theories built around the concept of 'self-ownership' face similar problems with regards to the status of children, i.e., how does one become a self-owner? Thus the acquiescence of a child to the authority of the community is taken to be equivalent to the acquiescence of an adult. Stephen Macedo is thus right to note that "A prudent solicitude for the system of individual liberty does not counsel a stance of laissez-faire, but rather a willingness to intervene (gently and indirectly where possible) to promote shared liberal values and civic virtues" (Macedo 2000: 5).

[2] Similar to Strike, I do not argue that the factual premise is necessarily true, but it suffices that its intuitive plausibility be granted. To a large extent, the burden of proof lies on the shoulders of those who would challenge this premise. An excellent current example that illustrates the question of the extent to which the state has an interest in regulating the activities of religious or cultural association is the debate in the UK about whether certain Islamic organizations ought to be outlawed.

[3] What this also shows is that Galston, a paradigmatic diversity liberal, must also rely upon a value he rejects as central to liberalism: autonomy. Indeed the conditions he outlines for a substantive right of exit simply cannot be met by the kind of minimal civic education he envisions, designed to promote diversity over autonomy. For an incisive critique of Galston's civic pluralism, which I believe is successful in showing that his position ultimately relies upon the value of autonomy, see Eamonn Callan (2006).

[4] It is strange that Reitman, in her recent critique of the right of exit strategy conceives the provision of education as addressing only the *material* obstacles to exit (Retiman 2005: 196). But upon further consideration, this is not surprising, since the main theorists she considers in her paper - the paradigmatic defenders of the right of exit strategy combined with some minimal standards, i.e., Spinner-Halev and Galston – endorse a standard of education that I as well as other autonomy liberals argue is too minimal to make a right of exit substantive. Indeed, Spinner-Halev believes that knowledge that other ways of life exist is sufficient and Galston endorses a civic education that promotes tolerance through an exposure to different cultures and religions in service of the value of pluralism but at the same time, wants to shield them from critically engaging with these traditions (in fact, Callan (2006) and Reich (2002) argue that Galston's civic education ultimately depends upon autonomy). In short, the criticism may have some force when applied to Spinner-Halev and Galston, but largely misses the mark in relation to my conception of the right of exit.

[5] The situation of national minorities such as native and aboriginal peoples complicates the picture due to their status as autonomous, self-governing nations. Combined with the historical experience of oppression at the hands of the liberal state that has had devastating effects on their culture and way of life, aboriginal groups can be legitimately exempted in principle, from this requirement.

[6] Consider the following remarks by Reich: "To make such a statement would be to say, in effect, I value my way of life because it is mine and not some other group's. But a world in which value rested simply on the fact of *possession* would be a very strange and subjectivist place, leading directly, it would seem to me, into a pit of circular reasoning and relativism" (Reich 2002: 133).

[7] According to the "strong" version, a person will not be favourably predisposed toward any particular conception of the good; but this is highly unlikely since people who possess an autonomous character will tend to favour ways of life that will allow them to exercise their autonomy. An advantage of this minimalist conception of autonomy along the lines of weak procedural autonomy is that it leaves open the possibility that people may choose non-autonomous ways of life, even though this may not occur frequently (Reich 2002: 104). Another strength of this conception is that it is fully compatible with conceptions of the 'socially embedded', narrative/dialogical model of the self, which does away with the notion of the abstract, atomized individual, divorced from the social, material, and cultural conditions of life.

[9] Another troubling consequence is the suggestion individuals can and should live their lives in a perpetual state of self-deception and inauthenticity, which is an unreasonable demand.

[10] There are two ways in which students can receive a multicultural education: formal (via school curriculum) and informal (through interactions with students from different cultural and religious backgrounds) (Reich 2002: 131). Since it may not always be possible for schools to have a multicultural student body, the former clearly takes priority and as a result, the state ought to regulate both public and private school curriculums to ensure they are appropriately multicultural in character. To secure both, of course, would be ideal since informal interactions can be just as effective in expanding the cultural and evaluative horizons of students and thus to foster the development of minimal autonomy.

[11] See Hans-Georg Gadamer's *Truth and Method*.

[12] It should be clear that this is not a view that leads to cultural relativism but there is no room here to defend Gadamerian hermeneutics from a critique that began with Habermas' review of *Truth and Method* and that has been since continued by critical theorists of a neo-Habermasian persuasion. For Gadamer's main response to Habermas see his 'On the Scope and Function of Hermeneutic Reflection'. For a contemporary recapitulation of Habermas' original critique see Axel Honneth (2002). For a contemporary defense of Gadamer, see Gianni Vattimo (2002).

[13] As Gadamer remarks in *Philosophical Hermeneutics*, "Thus only through hermeneutical reflection am I no longer unfree over and against myself but rather can deem freely what in my preunderstanding may be justified and what unjustifiable" (Gadamer 1979: 38).

[14] I do not share Reich's view that a liberal multicultural education should necessarily encourage a cosmopolitan outlook and that students identify themselves as "citizens of the world". I think such an expansion in the moral outlook of children is a natural by-product of a liberal multicultural education and identifying oneself as a Canadian, German, Italian, etc. patriot is compatible with a genuine concern for global justice and for the fate of humans beyond our borders. I would also emphasize the importance of foreign language instruction far more than Reich does since he tends to overlook the fact that Gadamer's model of understanding revolves around a *shared language*. If we agree with Gadamer that to possess a language is to possess a *world*, the positive effects of a bilingual education for the development of minimal autonomy, individual well-being, and liberal citizenship would be immeasurable.

[15] See Taylor, (1994).

[16] Presumably the equivalent of an eight-grade education since he supports the court's decision in the case of Yoder v. Wisconsin to exempt Amish children from having to attend high-school. But how this can be considered to be sufficient for the effective right of exit is unclear. It would not even meet the standard of what Barry calls a 'functional' education: an education that sufficiently prepares students to function in mainstream society.

[17] What makes Spinner-Halev's educational requirement all the more 'minimal' is the fact that he provides conservative parents with the authority to pull their children from the public system whenever it conflicts

with their legitimate aims of providing them with a religious upbringing. Since he does not endorse substantial state regulation of the private school system, it is unclear why conservative parents would opt to send their children to public schools in the first place.

[18] To tolerate internal restrictions that curb the development of children into minimally autonomous citizens not only undermines the case for non-intervention into the affairs of cultural and religious groups but is tantamount to providing them with a guarantee of perpetual survival. If what Spinner-Halev says about the ubiquity and gravitational pull of liberal mainstream society is correct, one can conclude that religious and cultural groups that rely upon oppressive measures to ensure the survival of their community are essentially operating on borrowed time. According to his logic, the more pervasive popular culture becomes, the more illiberal groups will be forced to fight a rearguard battle that will require the gradual increase of internal restrictions for survival. One wonders how long illiberal groups can successfully remain in 'splendid isolation' in an attempt to keep their community and its values, customs, practices, etc. frozen in time and away from the supposed corruptive effects of liberal values. One also wonders whether such groups deserve to be kept on life-support if they stubbornly refuse to adapt to the demands of an autonomy-based culture. Authenticity demands that an individual or community interpret its tradition in a way that reflects the historical contingencies of each generation (i.e, in light of the prevailing social, economic, and political conditions of the time that shape the way we understand and interpret the world). Indeed one of Hegel's most profound insights was that understanding and interpretation is historically *mediated*. Thus a cultural or religious community that depends on the preservation of a rigid, unmediated, understanding of its values, practices and identity and thus upon the suppression of individual authenticity, is, on this account, *inauthentic* and most likely doomed to extinction unless it exhibits an openness to change (Freud's famous remark that "resistance to change is the first characteristic of neurosis" is particularly illuminating in this context). Change, here, does not entail complete assimilation or loss of identity; it is deemed essential for the preservation of an *authentic* identity and culture that is able to endure the test of time. In other words, individuals as well as traditions must be true to themselves but what authenticity requires today, may not be the same as tomorrow. As a result one must pause to consider whether the champions of cultural and religious diversity are really doing a service to the groups they presume to 'protect'.

[19] By 'after the fact' I simply mean that the right of exit, in most of its formulations, only alleviates the oppression and harm *already* done to individuals; it does little or nothing to *prevent* it from occurring in the first place.

[20] Consider the way in which the Roman Catholic Church evolved from being a bastion of authoritarian, reactionary conservatism, to a champion for democracy worldwide since the 1960's-70's: a veritable example of an "enlightened re-constitution of tradition". Stephen Macedo points out that this transformation was brought about, at least in part, through the efforts of influential reform-minded American bishops, who were the products of an American Catholic Church that "has always been relatively flexible and open to the values of the larger liberal democratic society" (Macedo 2000: 132-133). Indeed, this led Rome to characterize "this Catholic embrace of liberal democratic values as the "heresy of Americanism" because this tendency was especially characteristic of the American Catholic Church" (ibid., pp. 130). Moreover, the fact that these changes also roughly coincided with the liberalization and democratization process of Western European Catholic countries such as Portugal, Spain, and Ireland - stimulated by the EEC accession process – should not be discounted. The following remarks of Macedo about the transformation of the Roman Catholic Church perfectly illustrate the transformative potential of my conception of the right of exit informed by a dialectical awareness: "The importance of this story can hardly be overestimated. The suggestion is that the Catholic encounter with America contributed to the *eventual liberalization* of the Catholic Church itself, making that institution a positive and in many places decisive force for *liberalization* around the world. *In this way the indirect, educative effects of American liberal democracy may have helped alter not only the beliefs of American Catholics, but also the official doctrine of the Roman Catholic Church, and thereby the beliefs of Catholics worldwide.* After centuries of often quite effective opposition to the basic tenets of liberal democracy, the Catholic Church became a powerful and indeed revolutionary vehicle for the spread of liberalism around the world. The

transformation within the Catholic Church was also a product of longstanding *internal* debates and no doubt a host of other factors. Nevertheless, in some measure *the story represents a dramatic triumph of the transformative potential of civic liberalism* (ibid., pp. 133-134; italics added).

Chapter 4

Conclusion:

Reflections on Culture, Diversity, and Intervention

To a free spirit, a free universe

(Zen Koan)

This paper has sought to confront a particularly important and complex problem in contemporary debates on multiculturalism, namely the problem of 'minorities within minorities'. As we have seen, the problem lies in the fact that, on one hand, while illiberal cultural or religious groups may seek to impose internal restrictions on their members which violate their basic rights as citizens – in the name of the freedom of religion/conscience, and/or cultural preservation – the state has a responsibility to protect the members of such groups from harm. On the other hand, the state would be overstepping the boundaries of legitimate authority - ignoring the freedom of association and conscience - if it intervened in the affairs of such groups to forcibly change their internal structure to cohere with liberal values: e.g. forcing Catholic priests to perform marriage ceremonies for homosexual couples or religious groups to select their leadership democratically. Surely not all groups must 'mirror' liberalism in its organization and values.

This leads us to consider the following dilemma: how does the liberal state protect individuals from cultural or religious oppression without comprehensively imposing liberal-democratic values on religious and cultural groups? Or, to put it differently, how can the liberal state find a balance between respect for individual autonomy and the freedom of association/conscience? The right of exit is a commonly proposed solution to this problem: it is seen both as a means to protect members of religious and cultural groups from oppression, as well as, providing a reasonable threshold for the toleration of illiberal practices in that its presence is taken to be an indicator of the voluntariness of membership. While there is a broad consensus on

the necessity of the right of exit, we have seen there is substantial disagreement over the content

of a right of exit and whether it is sufficient to adequately deal with the problem of internal

minorities. The range of views on the issue span from Kukathas' minimalist conception at one

end, Spinner-Halev's 'minimal standards' argument somewhere near the middle, and a more

substantive conception of the kind I endorse closer to the opposite end, with other positions

falling in between these general points on the spectrum.[1] I hope to have shown that Kukathas'

minimalist conception is far from sufficient to ensure the effective exercise of the right of exit and

that, while Spinner-Halev's minimal standards argument represents a positive step in the right

direction, his education requirement is too minimal to provide a realistic exit option.

In this paper, I have attempted to sketch the outlines of a substantive right of exit that

involves the provision of negative and positive rights – the most important being the provision of

a liberal multicultural education for minimal autonomy – which possess considerable

transformative power in addition to an enhanced protective role. Indeed, the distinctiveness of my

account revolves around its emphasis on the transformative function of exit, which seeks to go

beyond being a short-term, 'after the fact' measure, by addressing the underlying problem of

illiberal cultures thus focusing on the long-term challenge of bringing about an 'enlightened re-

constitution of tradition'. Consequently, my account is duly focused on enabling individuals to

develop the necessary capacities to authentically appropriate their traditions in order to contribute

to its continued development, renewal, and survival; authenticity at the individual level is

intimately connected to authenticity at the communal level. As such, my conception of the right

of exit also makes a distinctive contribution to the debate through its recognition for the need to

re-conceptualize the transformative function of exit and through its dialectical sensitivity.

Autonomy-liberalism and the charge of 'decaffeinated diversity'

Having said this, there are those who would raise the objection that the substantive right of exit

outlined in this paper endorses a solution that does not strike a balance between conflicting values

but, rather, systematically favours autonomy at the expense of religious freedom and tolerance. For example, Dwight Newman has recently raised the following questions for the kind of position I endorse: "Ought we to insist on liberalizing illiberal groups by the back door, reasoning from allegedly necessary rights of exit to substantial liberalization of illiberal groups? Is pluralism only acceptable so long as it is *'decaffeinated', purged of any illiberal element within plural groups*?" (Newman 2007: 45). Galston has similarly argued that "To place an ideal of autonomous choice…. at the core of liberalism is in fact to narrow the range of possibilities available within societies. In the guise of protecting the capacity for diversity, the autonomy principle in fact represents a kind of uniformity that exerts pressure on ways of life that do not embrace autonomy" (Galston 1995: 523). Spinner-Halev echoes the sentiment that autonomy-based arguments "flatten out too many communities in a way that will make them more similar" (Spinner-Halev 2000: 50). I have already addressed Newman's first question in chapter two. For the purposes of this final chapter, I will focus on the second claim since it will allow me to further develop the implications of the position I defend, ultimately leading to a discussion of why it does not lead to coercive interventionism to assimilate illiberal groups.

Before I begin, however, I should point out that I am rather confused by Newman's "back door" reference by which, I imagine, he means a mandatory liberal education. If that is indeed the case, then two brief points can be made to dismiss the claim. First, if by "back door" Newman means a liberal education is an "indirect" means of shaping the beliefs and preferences of children, then I would agree with him. But the term also has connotations of (malicious) duplicity or surreptitiousness that are unwarranted. The proponents of the transformative ambitions of a liberal education – e.g. Macedo, Reich, Levinson, Gutmann, Callan, etc. – are forthright in their admission that education ought to be the primary vehicle for producing liberal citizens. There is no hidden agenda here.

Second, the argument presented in this paper did indeed proceed from the necessity of a right of exit to the considerable liberalization of cultural and religious groups. However, this

move was *contingent* upon the fact that focus of the paper was on determining the level of autonomy required for the effective exercise of the right of exit. That is to say, the case for the production of liberal citizens – which in turn entails the indirect liberalization of illiberal groups through the provision of a liberal, civic, or political education – could have been made independently of considerations about the educational requirements for a substantive right of exit. As argued in chapter two, there are significant individual and civic grounds for the provision of a liberal education for minimal autonomy that overrides any supposed interest in preserving 'deep diversity', and circumscribes what Newman and others perceive to be the unlimited authority of parents to be the sole arbiter of their child's future.

Deconstructing cultural essentialism

Addressing Newman's "decaffeinated" claim first requires situating this metaphor -- borrowed from Slavoj Zizek -- in its original context in order to draw out its pernicious implications when applied to cultural and religious groups. In recent interviews promoting his latest book, a critique of modern society and values, Zizek discusses the way in which our society seeks to provide for the gratification of basic desires through products that are divested of their *essential* properties: properties without which an object would not be the object it is. Hence, we have chocolate laxatives, cybersex, sugar without the sugar (artificial sweetening), and coffee without caffeine, beer without alcohol, virtual reality or video games instead of the real activity, etc., to name just a few examples. According to Zizek, society's message used to be "everything in moderation": it is permissible and normal for one to have sex, consume alcohol, eat sweets, etc. in moderate amounts, but excess would be harmful to one's health and well-being.

Today, however, the message is one of unlimited gratification/pleasure, since the activities and products in question have been emptied of their essential elements, which made them satisfying and safe in moderation, but dangerous in excess. Having presumably removed the 'danger' or 'risk' factors, one can now drink as much decaf and non-alcoholic beer as one wants,

engage in as much cybersex as one wants, and play as many virtual sports as one wants. The irony, however, lies in the fact that enjoying unlimited amounts of these 'guilt-free' products, or spending endless amounts of time on these activities, does not provide the kind of pleasure and satisfaction – nor are they as conducive to our mental health – as moderate consumption of the 'real thing' and participation in the actual activity.

How does this relate to Newman's claim of 'decaffeinated' pluralism? Well, the question raised by the discussion of Zizek's metaphor that one must pose to Newman can be formulated as follows: "do cultures and religions have 'essential' properties in the way coffee, wine, beer, or sugar do"? Or, to put it differently, can Zizek's remarks about coffee, laxatives, etc. – considered as symptoms of the ills which plague contemporary culture and society – be extended to cultures as such? Does it make sense to talk about "decaffeinated" cultures or "decaffeinated" pluralism"? According to Newman, the answer would be 'yes', if we take his appropriation of Zizek's metaphor seriously –and he provides no reason for us not to –which would commit him to endorsing a form of *cultural essentialism*: the view that cultures, religions, ethnicities, etc. have an essential nature that is fixed and immutable, as opposed to being the contingent product of social and material forces. It suffices to say the conception of the right of exit, I endorse, is diametrically opposed to such a view, since it sees cultures and traditions as well as the identities of individuals as dynamic, fluid, works-in-progress, continually making and remaking themselves (intersubjectively), ever in the mode-to-come. As Anthony Appiah astutely points out, it is neither monological, nor essentialist: complete self-creation is a chimera, and there is simply no essence or 'nugget' of individuality inside all of us waiting to be discovered (Appiah 1994: 158).

Newman would have us believe that subtracting a particular belief or practice from a culture or religion would be tantamount to its destruction, a view that is deeply problematic since "it presupposes conceptions of collective identity that are remarkably unsubtle in their understandings of the processes by which identities, both individual and collective, develop" (ibid., pp. 156). While there is no room here for an argument refuting essentialism in general, I

will proceed to follow some of the implications of this view when applied to cultural and religious groups, which will highlight why a form of diversity-liberalism that depends on such a notion ought to be rejected.

Let us examine Newman's essentialism further in the context of his discussion of the 'Hutterian Brethren', a Christian sect. According to Newman, since the 1500's "the central tenet of this faith has been a belief that 'God from the beginning ordained naught private for man, but all things to be in common', with the baptismal vows taken by members including an acknowledgment 'that no one shall have any private possessions any more'"(Newman 2007: 65-66). From this, Newman concludes that "To impose on such a religious community a requirement that it provide for 'realistic rights of exit' would be tantamount to calling for the abandonment of an article of faith and would insist upon an end to the very purpose for which the group exists" (ibid., pp. 66). Newman further argues that the same conclusion could be drawn regarding the Amish's wish to obtain educational exemptions and to Aboriginal groups taking measures to limit voice (ibid.). Newman's error of conflating the Hutterites or the Amish with Aboriginal groups aside, the assumption behind this argument is that there is a Hutterian, Amish, or Aboriginal 'essence' embodied by particular practices or beliefs, and therefore the state must tolerate the imposition of internal restrictions to protect this 'essence' in the name of cultural preservation and pluralism. In effect, Newman wants the state to guarantee the perpetual survival of cultural and religious groups.

There are several reasons why this is unjustifiable. First, Newman's essentialism leads him to an endorsement of the imposition of what Appiah calls 'tight cultural scripts' upon the members of cultural, religious, or ethnic groups, which is a type of oppression since "The larger collective identities that call for recognition comes with notions of how a proper person of that kind behaves" (Appiah 1994: 159).[2] If a cultural or religious identity is based entirely on a rigid interpretation of a particular belief or practice, such that to be a member is to hold that particular belief or engage in that particular practice, then it is not surprising that oppressive measures will

be required to ensure its survival. Indeed, one must question whether such a group is worth keeping alive through a form of 'life support' if it is so resistant to change, which Barry recognizes when he remarks that, if illiberal cultures "are unfair or oppressive to at least some of their members, it is hard to see why they should be kept alive artificially" (Barry 2002: 135).

The influence of Gadamer's hermeneutics and concept of *Bildung* (moral education) on the underlying assumptions about culture and tradition, which underlie my conception of the right of exit, is manifested by my belief that language and culture are "fields of potentially endless innovation" (Taylor 2002: 282). Consequently, there is no reason why the Hutterites or any other religious or cultural group could not re-interpret their tradition in a way that would be more accommodating of individual diversity – without undermining its distinctiveness – so that their members are not faced with an all or nothing, 'love it or leave it' choice. Newman's essentialism, on the other hand, places members of cultural and religious groups into neat and static categories from which there is little prospect of escape and thus contributes to the perpetuation of stereotypes: a result which presumably ought to trouble the champions of cultural diversity. Needless to say, this is not the kind of diversity my conception of the right of exit seeks to promote and, as such, it does not apologize for the fact that "collective identities disciplined by historical knowledge and philosophical reflection would be radically unlike the identities that now parade before us for recognition" (Appiah 1994: 156). The claim of 'decaffeinated' pluralism does not get off the ground precisely because cultures do not have essential properties in the way substances such as water have.[3]

The difference between Newman and myself on the issue of diversity can also be summed up as follows. Because my conception of a substantive right of exit is based (partially) on a belief in the potentially endless creative possibilities inherent within tradition, it is not conceived as a *threat* to survival of cultural and religious groups, but rather as a way to ensure that the members of these groups be free from oppression and develop the necessary capacities to contribute not only to the survival of their traditions, but to their vitality and enrichment via

incorporation into public discourse. Newman, on the other hand, wants to protect cultural and

religious groups from extinction artificially –whether through special exemptions or state

toleration of oppressive practices - because he believes this is the only way to secure their

survival: illiberal groups must stubbornly resist change and remain in a perpetual state of

inauthenticity to survive because change necessarily entails extinction.

There is a more fundamental reason why a state guarantee for the perpetual survival of

cultural and religious groups is unjustified. Newman ignores the fact that this is not only an issue

of autonomy but also a matter of justice and equality. Is it just for the state to allow or enable

cultural or religious groups to ensure that members of future generations will have no choice in

the kind of life they will live for the sake of group survival? Is it fair to deny the future

generations of a certain section of the population the opportunity to access an education that will

enable them to have some choice over their lives and to function as free and equal citizens? As

such, does the state not have a responsibility to try to compensate for some of the negative

consequences that arise from the unchosen circumstances of birth? Appiah answers these

questions in the negative and thus rightly rejects the goal of guaranteed survival:

> It seems to me not at all clear that this aim is one that we can acknowledge while
> respecting the autonomy of future individuals. In particular families it is often the case
> that parents want the children to persist in some practice that those children resist. This is
> true for arranged marriage for some women of Indian origin in Britain, for example. In
> this case, the ethical principles of equal dignity that underlie liberal thinking seem to
> militate against allowing the parents their way *because we care about the autonomy of
> these young women*. If this is true in the individual case, it seems to me equally true
> where a whole generation of one group wishes to impose a form of life on the next
> generation – and a fortiori true if they seek to impose it somehow on later generations. Of
> course, speaking abstractly, survival is perfectly consistent in this sense with respect for
> autonomy, otherwise every genuinely liberal society would have to die in a generation. *If
> we create a culture that our descendants will want to hold onto, our culture will survive
> in them* (ibid., pp. 158; italics added).

By endorsing a brand of state tolerance that leaves current and future generations with

little choice but to adopt the beliefs, values, and way of life of their inherited cultural and

religious communities, Newman is in effect proposing that we use these individuals as a means to

an end: to preserve cultural and religious diversity. Indeed, even if we grant that my account

amounts to the imposition of a comprehensive liberal doctrine on citizens and thus is insensitive to freedom of religion/conscience, on Newman's account, state toleration of the imposition of internal restrictions by cultural and religious groups amounts to the imposition of illiberal comprehensive doctrines by proxy. The difference between our accounts would thus lie in the fact that government officials can be held accountable and laws can be changed through the collective efforts of citizens but that the same cannot be said of religious leadership.

If the cultures Newman is dedicated to protecting are indeed as valuable as he claims and are capable of satisfying the service principle in their own way, then he should not be afraid of exposing them to the reflective scrutiny and authentic interpretations of its members. My substantive right of exit enables individuals to authentically interpret their traditions for themselves and thus to contribute to the gradual transformation of the tradition, such that they will be able to identify with and see themselves reflected in the values, practices, and institutions of the group. It allows, therefore, each generation to contribute to the continued development of the tradition through the conscious, reflexive efforts of its participants. This is all the state can do to provide a substantive right of exit that not only protects individuals from cultural oppression, but that gives cultures the best chance at continued survival in an autonomy-based environment. Jurgen Habermas correctly dismisses the logic of conceiving cultures as 'endangered species', which threatens the autonomy of future citizens:

> The ecological perspective on species conservation cannot be transferred to cultures. Cultural heritages and the forms of life articulated in them normally reproduce themselves by convincing those whose personality structures they shape, that is, by motivating them to appropriate productively and to continue the traditions. *The constitutional state can make this hermeneutic achievement of the cultural reproduction of lifeworlds possible, but it cannot guarantee it. For to guarantee survival would necessarily rob members of the very freedom to say yes or no that is necessary if they are to appropriate and preserve their cultural heritage. When a culture has become reflexive, the only traditions and forms of life that can sustain themselves are those that bind their members while at the same time subjecting themselves to critical examination and leaving later generations the option of learning from other traditions or converting and setting out for other shores. This is true even of relatively closed sects like the Pennsylvania Amish* (Habermas 1994: 131; italics added).

If diversity is to be given its due, it is more likely to occur through the empowerment of individuals to authentically appropriate their traditions and to articulate their interests, informed by that tradition, as free and equal citizens in public discourse and debate. This in turn, is the only way to ensure the survival of cultures amidst rapid social change in an autonomy-enhancing environment. As such, isolation from mainstream society and contact with other cultures is not a strategy that can be pursued indefinitely and is ultimately counterproductive. Therein lies the irony of the positions defended by Newman and other liberal pluralists. The tolerance of internal restrictions they see as vital to guarantee the survival of cultural and religious groups for the sake of pluralism, – legitimated by the presence of a minimal right of exit with little transformative power – essentially amounts to making the extinction of these groups an inevitability by keeping them frozen in time, deprived of the necessary resources that will allow them to change and thus survive. Therefore, it is not the autonomy-based liberalism endorsed in this paper that is likely to precipitate the dissolution of cultural and religious groups; it is the inauthentic traditionalism endorsed by diversity liberals that condemns cultures to a slow death:

> *The accelerated pace of change in modern society explodes all stationary forms of life. Cultures survive only if they draw the strength to transform themselves from criticism and secession. Legal guarantees can be based only on the fact that wtihin his or her own cultural milieu each person retains the possibility of regenerating this strength.* And this *in turn develops not only by setting oneself apart but at least as much through exchanges with strangers and things alien.* In the modern era rigid forms of life succumb to entropy. Fundamentalist movements can be understood as an ironic attempt to give one's own lifeworld ultrastability by restorative means. *The irony lies in the way traditionalism misunderstands itself. In fact, it emerges from the vortex of social modernization and it apes a substance that has already disintegrated* (ibid., pp. 132; italics added).

It is clear that these conclusions can be derived from the premises upon which my conception of the right of exit is predicated. As argued in chapter two, having access to a rich culture is essential for the development and exercise for autonomy: it provides a context for meaningful choice, it is a source of a stable identity and sense of belonging, and it provides a normative framework with which to interpret the world and to evaluate other viewpoints. A culture that is allowed to stagnate and remain in a state of perpetual inauthenticity cannot provide

the context required for autonomy to flourish. Consequently, my conception of the right of exit makes it possible for rigid and dogmatic traditions to be re-interpreted and liberalized from within in a way that is more accommodating of individual diversity and may potentially provide its members with more meaningful life options – perhaps through interaction with other cultures.[4] As such, one can be a devout Hindu without having to accept an arranged marriage, or a proud Sikh that chooses not to wear religious garb, or a devout Muslim bank executive. The possibilities are virtually endless. This avenue, however, is closed to Newman, Spinner-Halev, Galston, etc., because they insist on the preservation of cultures *as is* rather than look for ways in which these cultures may be transformed and enriched so that they may better serve the needs and interests of their members. Indeed, this represents a significant 'blind spot' in most formulations of the right of exit.

One might raise the objection, however, as Spinner-Halev has, that greater diversity at the individual level necessarily leads to a diluted and weak sense of group identity. But it would seem there are strong grounds for suggesting the reverse is true. Kymlicka raises the examples of Quebec and Spain, both devout Catholic societies, which underwent a process of economic modernization and liberalization during the 1960's (Kymlicka 1995: 88). The result was that both societies became more internally diverse, such that not everyone shared the same comprehensive conception of the good; Quebec's political culture, however, came to resemble the wider Anglophone culture in its core values, and Spain's to that of the secular-democratic states of France and Germany, for example (ibid.). But this move toward greater universality has not meant the loss or weakening of national identity – especially in the case of Quebec. What this example shows is that the cultivation of authenticity at the individual level may likely lead to greater universality and solidarity at the national or cultural level. This is a development that should be embraced rather than lamented, since it illustrates the way in which a common political culture –necessary for the continued survival and dynamism of a liberal-democratic society - may

emerge through the cultivation of individual autonomy via the transformative power of the kind

of liberal education endorsed in this paper.[5]

Another consequence of the liberalization of Catholic societies such as Quebec and Spain

is that they have become generally more tolerant of cultural and religious difference. Indeed, it is

unlikely a country ruled by the kind of groups Newman et al. seek to protect would be as tolerant,

because they endorse exclusive comprehensive doctrines that dogmatically resist change,

criticism, and interaction with other beliefs and faiths. Consequently, it would also seem that the

best way to promote mutual tolerance between individuals, groups, and groups and the state is to

cultivate individual autonomy and the authentic appropriation of tradition, since it is more likely

to lead to a transformation of illiberal cultures into what Rawls calls 'reasonable comprehensive

doctrines' that are more open to civilized dialogue and debate:

> Fundamentalist worldviews are dogmatic in that they leave no room for reflection on
> their relationship with the other worldviews with which they share the same universe of
> discourse and against whose competing validity claims they can advance their positions
> only on the basis of reasons. They leave no room for "reasonable disagreement". In
> contrast, the subjectivized "gods and demons" of the modern world are distinguished by a
> reflexive attitude that does more than allow for a modus vivendi-something that can be
> legally enforced given religious freedom. *In a spirit of tolerance a la Lessing, the non-*
> *fundamentalist worldviews that Rawls characterizes as "not unreasonable*
> *comprehensive doctrines" allow for civilized debate among convictions, in which one*
> *party can recognize the other parties as co-combatants in the search for authentic truths*
> *without sacrificing its own claims to validity.* In multicultural societies the national
> constitution can tolerate only forms of life articulated within the medium of such non-
> fundamentalist traditions, because coexistence with equal rights for these forms of life
> requires the mutual recognition of the different cultural memberships: all persons must
> also be recognized as members of ethical communities integrated around different
> conceptions of the good (Habermas 1994: 133).[6]

The case against coercive interventionism

It would thus appear that the substantive, autonomy-based right of exit endorsed in this paper is

not susceptible to the charge that it leads to the flattening of diversity as a result of its insufficient

regard for religious tolerance. It is in fact better positioned to promote these goals because of its

emphasis on the transformative function of exit, based on individual empowerment and the

gradual, internal transformation of cultures toward greater tolerance for internal and intercultural

diversity. Indeed, it is precisely this non-coercive aspect of my conception of the right of exit that

merits attention in this final section not only to provide further grounds for rejecting the earlier

claim of Newman et al., but also to allay fears that the commitment to the value of individual

autonomy necessarily commits one to an endorsement of coercive interventionism into the affairs

of illiberal groups.

It should be clear by now that state coercion and forcible assimilation contradict the logic

behind the transformative aim of my formulation of the right of exit, which seeks to promote the

peaceful and *gradual* transformation of traditions from *within*.[7] It is thus based on the recognition

that an 'enlightened re-constitution of tradition' can be brought about primarily through for the sole

efforts of the members of cultural and religious groups, rather than through third-party (coercive)

intervention. Internal reform is always preferable since it is more legitimate and thus more likely

to be stable; coercive intervention is more likely to force groups into a reactionary, conservative

shell. What is thus called for is a *redefinition* of identity *within* tradition as opposed to a radical

break with tradition, continuous with the most important customs and reference points of a

cultural or religious group. The goal of the transformative function of my conception of the right

of exit is to promote the effective internalization of liberal values, in a way that is consistent with

particular cultural and religious traditions.[8]

Consequently, it is difficult to situate the claim that the ultimate solution endorsed in this

paper is one that provides little scope for religious freedom and flattens diversity, within my

account of a substantive right of exit.[9] In short, the core idea behind the transformative project of

my right of exit is one of gradual, peaceful, internally stimulated change which is further borne

out by the fact that the provision of a liberal education for minimal autonomy – an indirect and

non-coercive measure – is intended to be the primary vehicle for achieving this goal.[10]

The right of exit defended here is also based on the recognition that the decision to exit

one's cultural or religious community is ultimately one that is of a *personal* and *existential*

nature; a decision in which the state has no right to intervene and which cannot be made for

individuals without violating their autonomy. It is precisely for this reason that Green remarks: "Even to contemplate leaving requires enough cognitive and emotional distance to understand and envision a new future. Achieving that is a great challenge and it explains why rejecting one's family of origin, abandoning one's religion, or coming out of the closet are typically wrenching and life-transforming experiences" (Green 1998: 172). Exiting one's group of origin, therefore, is never 'easy' regardless of the extent to which a substantive right of exit is in place; the psychological, emotional, and existential dimensions of the decision are such that the 'intrinsic costs' of exit are next to impossible to compensate for. As a result, it is important to stress the state cannot *make* the decision to exit for individuals, but at best, can only provide them with the opportunity to develop the necessary capacities that will *enable* them to make such a decision if they so wish: "It is the special character of autonomy that one cannot make another person autonomous. One can bring the horse to water but one cannot make it drink" (Raz 1986: 407).

This leads to perhaps the most important reason why my conception is indeed respectful of diversity and tolerance and does not lead to coercive interventionism. As a argued in chapter two, a principle of non-intervention is properly grounded in a respect for individual autonomy since respecting the autonomy of another "proscribes paternalistic actions and prescribes discriminating toleration, even when people's actions affect others in less than beneficial ways; *it delimits a sphere of individuality around individuals permitting them to pursue the kind of life they wish to lead*" (Reich 2002: 99-100; italics added). My endorsement of a liberal education that aims to produce minimally autonomous citizens is thus properly based on the recognition that the state cannot respect the autonomy of its citizens unless they are – to some degree – autonomous in the first place: "respect for autonomy presupposes the capacity for its exercise. It would make little sense to respect a person with all the implications that follow from it, for a capacity which she did not possess." (ibid., pp. 108).

As a result, my position ultimately commits me to a tolerant, non-interventionist stance into the affairs of groups. Furthermore, the substantive right of exit outlined in this paper will

likely *reduce* the need for state intervention precisely because of its enhanced protective and transformative function. This means, rather ironically, that I am better positioned to defend a principle of non-intervention than its most ardent supporters, as Reich recognizes: "In rejecting the exercise of autonomy they necessarily import a respect for it. The more vociferously they argue that the state should not interfere with autonomy-neglecting cultural groups, the more strongly they imply a respect for the autonomy of individuals in those groups" (ibid., pp. 110). This is not to say that the substantive right of exit defended here is intended to justify the imposition of internal restrictions that may result out of a (legitimate) provision of special minority rights, since it remains silent on the issue. Non-intervention into the affairs of cultural or religious groups is based on the respect for individual autonomy and on the right of an individual to autonomously choose a conservative or illiberal way of life. That this right does not translate into the automatic right to impose this way of life on one's children is clear, but this in turn, does not imply that my conception of the right of exit is necessarily incompatible with minority rights.

Having said this, I do not pretend to claim that the problem of internal minorities can be dealt with exclusively at the level of principle. Abstract principles must always be related to practice and practice must reflect the principle in its concrete interpretation and application to real-world contexts. This implies, however, that the move from principle to practice (intervention) is far from automatic and has to be "mediated by practical considerations" (Barry 2002: 138). As such, a context-sensitive approach is required which takes into consideration relevant factors such as the severity of rights violations, the level of consensus within the community for an illiberal practice, the capacity of dissenters to exercise the right of exit, the existence of relevant historical agreements, relevant historical data, etc (Kymlicka 1995: 169). This does not mean, however, that we should lose sight of the proper principled foundation of a right of exit – individual autonomy – when determining whether intervention is necessary. What it does mean is that there may be different ways to achieve the same aim, that another liberal

value such as the freedom of association may have to prevail, or that there may be stronger countervailing (pragmatic) reasons which make intervention undesirable.

As a general principle, the state ought to intervene to protect citizens from physical harm – torture, genital mutilation, etc. – particularly where such harm is being perpetrated against children as well as in the extreme, systemic cases of genocide, ethnic cleansing, slavery, etc. However, we should not make the mistake of conceptualizing harm solely in physical terms.[11] Clearly, cases of psychological control (e.g. brainwashing) or coercion sufficient to stunt the normal development of children are, in principle, a matter of state concern; depriving children of an education is a form of harm. Nevertheless, coercive intervention into the affairs of minority groups should be considered a last resort, since relations between the majority and minority ought to be conducted peacefully through dialogue and negotiation as a basis for agreement (ibid, pp. 167). Inter-cultural dialogue should thus be encouraged as a means for greater mutual understanding in order to arrive "generally acceptable norms of conduct" (Phillips and Dustin 2004: 532).

However, as Oonagh Reitman points out, even on the basis of such dialogue, intervention may still be problematic because the state might base its decision solely on dialogue with local elites who seek only to consolidate their authority, or with the dissenters themselves, which might undermine the authority of the local elite and provoke "reactionary resistance" (Reitman 2005: 2004).[12] As a result, it is important that a balance be sought to ensure that representation of group interests are not confined to the majority leadership or local elite.[13] For example, if a group's leadership has no female members and/or pays no heed to the interests of women, its judgments cannot be taken as authoritative; equal respect and treatment for all citizens' demands that the voice of internal minorities be heard. The transformative aim of my right of exit provides an appropriate approach to the problem in that it seeks to accommodate the interests, views, and concerns of cultural and religious groups within the public sphere, by enabling members to conceive of themselves as individual bearers of rights so that they may actively pursue their own

interests – free from dependency upon the local elite. Engaging religious and cultural groups in constructive dialogue with a view to understanding issues on *their* terms is the best way to demonstrate and cultivate mutual respect, which may lead to a compromise that will avert the use of coercive intervention; persuasion is always preferable to coercion. As a result, I concur with Macedo when he remarks, "Fastening our bayonets should be a last resort. There is plenty to discuss before we get to that point" (Macedo 2000: 228).

There are also important practical considerations that militate against the use of coercive intervention to consider. To begin, the external imposition of liberal values will likely be perceived as unduly paternalistic and imperialistic because, like foreign states, "national minorities form distinct political communities, with their own claims to self government (Kymlicka 1995: 167)". As such, it would most likely result in resentment and a conservative backlash, which "will simply create a new set of dissenters, those who dislike the new changes", thus potentially exacerbating the oppressive practices of the group (Spinner-Halev 2005: 164). This is especially true of minorities, such as aboriginal groups who have historically suffered from oppression at the hands of the liberal state (Weinstock 2005: 229). It is also likely to be counterproductive in the long run because regular intervention would only perpetuate the dependency of victims of oppression on the state to 'rescue' them, rather than empower them to effectuate change from within and to be in a position to right "human wrongs" (Spivak 2004). Again, the emphasis should be placed on non-coercive measures that may stimulate processes of internal reform in which education plays a vital role:

> All that seems possible to surmise is that the redressing work of Human rights must be supplemented by an education that can continue to make unstable the presupposition that the reasonable righting of wrongs is inevitably the manifest destiny of groups-unevenly class-divided, embracing North and South-that remain poised to right them; and that, among the receiving groups, wrongs will inevitably proliferate with unsurprising regularity (Spivak 2004: 530).[14]

Anne Phillips and Moira Dustin provide an empirical case of public intervention into the affairs of South Asian minorities in the UK in the form of regulations to curb forced marriage,

which ultimately equated all overseas marriage with forced marriage (Phillips and Dustin 2004: 545). The result was that "In effect, if not in letter, it discriminates against ethnic minority citizens, for even when the regulations are framed in race-neutral terms, the main consequence is to reduce the incidence of marriage with spouses from Africa or Asia (ibid)". This relatively modest case of public intervention confirms the concerns raised earlier, as Phillips and Dustin argue that such intervention "is also counterproductive, as it threatens to confirm the not-so-latent suspicion in Britain's South Asian communities that the forced marriage initiative is driven by racist immigration agenda. This makes it that much harder for other initiatives to secure their trust (ibid)". Consequently, by resorting to intervention, the state may potentially undermine the very trust of the communities it wishes to accommodate and integrate within the liberal polity. Clearly, groups that resent and mistrust the state will be more likely to adopt a defensive posture and thus be more resistant to change. Gurpreet Mahajan confirms this assessment by appealing to the Indian experience whereby the Muslim community's mistrust of the state – partly fueled by communal violence – has played into the hands of conservative leaders:

> It is only when the state is not perceived as a hostile entity that communities become less resistant to change and more open to the task of accommodating voices of dissent internally. When the state is viewed with mistrust, as has happened in the case of the Muslim community in India, protecting and consolidating the community identity becomes the primary concern. This has worked to the advantage of the religious leadership; it has enabled them to resist external interventions as well as expressions of differences within. It is also necessary to add that in India the experience of communal violence has added to the process. It has privileged the religious community identity, making it exceedingly difficult for individual members to take up agendas that question the way identity has been defined in recent times (Mahajan 2005: 111).

What this shows is that the issue is not merely one of principle versus pragmatism; it is also partly *empirical*. That is, if an overwhelming amount of data and case-studies about public intervention into the affairs of cultural and religious groups – similar to the one provided by Dustin and Phillips – showed that intervention simply does not work, this would provide powerful grounds against the use of coercive intervention. Even in the case of intervention on behalf of the interests of children it is not easy to determine whether intervention will have the

desired effect; it may end up causing more harm than good, which is why the burden of proof should lie with the state to provide sufficiently strong grounds to justify intervention. Spiecker et al. correctly point to the difficulties surrounding intervention in the case of suspicions of child neglect: where parents seek to inculcate the child into ethical servility (Spiecker et al. 2006: 324). As argued in chapter two, the most the state can hope to achieve in such cases of 'neglect' is to offset its effects by making a liberal education for minimal autonomy compulsory; coercive intervention into such matters would represent a step toward tyranny. Consequently, Spiecker et al. rightly argue that while the endorsement of an education for autarchy (minimal autonomy in my case), necessary for the effective exercise of the right of exit allows them to defend in principle, the state's right to intervene on behalf of children in cases of neglect, such a position should nevertheless be rejected:

> On practical and utilitarian grounds for it will damage the well-being of both children and parents (and in the end the state) instead of serving it. First, it would lead to a policing state, because children themselves are not able to report the neglect as they can – in principle – in the case of physical abuse, for it demands precisely the capacities that they do not have. Second, it is questionable if intervention would be more beneficial to the child than non-intervention. Thus, we want to defend a second, milder position. *The liberal state can only try to compensate this form of neglect by making civic education compulsory* (ibid; italics added).

Ruling out coercive intervention as undesirable and counter-productive, however, does not mean the only option available to the liberal state is to "stand by and do nothing" (Kymlicka 1995: 168). The intervention-inaction dichotomy ought to be rejected as overly simplistic since it does not reflect the range of non-coercive options at the disposal of the liberal state for promoting liberal reforms (ibid.). For example, the European Union has employed the incentive of membership to promote liberal-democratic reforms in Eastern Europe with considerable success (ibid.). Indeed, options for non-coercive measures and incentives abound which include providing support to various regional or international instruments for protecting human rights and to NGO's that promote humanitarian/human rights agendas.

Another example of an international mechanism for the promotion of human rights is CEDAW (the Convention for the Elimination of all Forms of Discrimination Against Women), which has been adopted as a result of the collaborative efforts of government representatives, NGO's, women's solidarity groups and international lawyers (Benhabib 2005: 758). According to Seyla Benhabib, the document has stimulated public discourse and condemnation of domestic violence in Poland, Israel, and Turkey, which indicates, "Such human rights documents create spaces for action and communication *within* as well as *beyond* national boundaries (ibid.). Thus, the fact that intervention may not be an option does not imply that the liberal state must remain silent in the face of the oppressive practices of illiberal groups: "Liberals have a right, and a responsibility, to speak out against injustice" (Kymlicka 1995: 168). Benhabib echoes this sentiment "I reject that the alternatives are between the imposition of 'liberal beliefs' beyond 'our borders' on the one hand and withholding of normative judgment, on the other (Benhabib 2005: 757)".

Inaction/intervention, diversity/uniformity, autonomy/tolerance, either/or, all/nothing, love it/leave it, etc.,…..This paper has been as much about overcoming rigid dualisms that obstruct rather than contribute to progress on the problem of internal minorities, as it has been about highlighting the importance of a substantive right of exit that protects individuals from cultural oppression and promotes an 'enlightened re-constitution of tradition', which seeks to address the underlying problem of illiberal cultures and thus to confront the long-term challenge faced by liberalism in modern liberal-democratic societies. Its contribution to the debate precisely revolves around its transformative power and the relative sophistication in approach reflected by its sensitivity to the dialectic of individual and community, sameness and difference, universal and particular. In general, I hope to have cultivated in the reader a sentiment of optimism and hope: change is indeed possible and is to be embraced, not feared or resisted and a move toward universality does not entail the obliteration of cultural difference. Authenticity is not just an individual ideal but also one which cultural and religious communities and groups can equally

aspire to. This does not require a radical *break* with the past but rather the recognition of *continuity* with the past, which implies an open-ended notion progress best captured by Gadamer as a *teleology* without a *telos*.

Notes

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[1] This 'spectrum' is only intended to 'map out the territory' so to speak. I do not mean to imply that the position I defend is 'extreme', only that it goes further than Kukathas and Spinner-Halev for example, in supplementing the right of exit in order to make it more substantive.

[2] It is not important, in this context whether groups like the Hutterites seek political recognition per se. What is important here is that they impose a rigid conception of group identity on their members, one that one must accept 'all the way down' or cease to be a member altogether. The importance of the freedom of voluntary self-ascription re-emerges in this context.

[3] Consider the example provided in chapter two about the transformation of the Roman Catholic Church. Before the transformation, Catholicism was synonymous with reactionary authoritarian conservatism but later became a staunch defender of democracy in the post-Cold-War era.

[4] It should be noted that nothing in my account of a liberal education for minimal autonomy rules out in principle, the possibility that children may first receive a more traditional primary education in a more culturally or ethnically homogenous school environment to be followed by a liberal multicultural education as outlined in this paper in the latter formative years i.e., from high school onward. I do not see any reason why this may not be another way to achieve the goal of minimal autonomy especially in light of the importance of culture for providing children with a secure identity and framework with which to interpret the world and evaluate other points of view (as long as the primary education does not cultivate ethical servility through blind obedience to group norms).

[5] As I argued in chapter two, my concern is not with any from of diversity for its own sake but with *legitimate* diversity. Moreover, it is a mistake to confuse diversity with *group conformity* Spiecker et al. 2006: 322). Consider Macedo's comments on the effect of the transformation of the Roman Catholic Church in the 1960's-70's on diversity: "The range of significant normative diversity in America and in the world has been reduced by this transformation in the Catholic Church. For that matter, a world without the Inquisition is a world with less diversity; it is in a sense a less interesting world (in the sense of the old Chinese curse "May you live in interesting times"). *Who needs this kind of interest? What we want is healthy forms of diversity, and from a political standpoint that means forms of diversity supportive of basic principles of justice and a liberal-democratic civic life"* (Macedo 2000: 134; italics added).

[6] This is not to say that I find Habermas' way of lumping traditions into 'fundamentalist' and 'non-fundamentalist' camps particularly useful. It is an oversimplification that does not take into consideration the fact that, as Kymlicka points out, cultures contain both 'liberal' and 'illiberal' elements –some being more liberal than others - and as such, he rightly argues that "To talk as if the world was divided into completely liberal societies on the one hand and completely illiberal societies on the other, inhibits a constructive dialogue between cultures" (Kymlicka 1995: 171).

[7] This is not to say that internal minorities may not have to engage in political struggles to resist majority oppression. But the overcoming of what Habermas calls the "dialectic of *de jure* and *de facto* equality", for example, may be achieved peacefully (e.g. the feminist movement). What is important is that a liberal education for minimal autonomy provides internal members with the tools to organize themselves as well as articulate and defend their interests (Habermas 1994: 113-114). Forcible assimilation in practice would amount to depriving ethnic or religious minorities of the opportunity to practice their religion by closing down places of worship and/or imposing the majority religion on minority children through public education. It would also amount to denying minorities the opportunity to maintain their native culture by

banning all non-majority language publications, media programs, cultural organizations, and language courses. Another example of an assimilationist policy would be the changing of the family names of minorities, e.g. the 'Slavicization' of ethnic Turks in Central Asia and Bulgaria.

[8] Kymlicka rightly points to the colonial legacy in Africa as a prime example of the ineffectiveness of the external imposition of liberal values and institutions: "The plight of many former colonies in Africa shows that liberal institutions are likely to be unstable and transient when they have arisen as a result of external imposition, rather than internal political reform. In the end, liberal institutions can only really work if liberal beliefs have been internalized by the members of the self-governing society, be it an independent country or national minority" (Kymlicka 1995: 167). This is also acknowledged by Barry (2002: 159).

[9] Indeed, a respect for the integrity and creative potential within every tradition permeates my entire account. Therefore, to endorse the external imposition of liberal values by force - when all that needs to be done is to activate the capacities of individuals for the creative and authentic appropriation of tradition – would clearly contradict the logic behind the most crucial element of my right of exit.

[10] As Spiecker et al. point out, "To establish the *legitimacy of diversity* a *consistent* conception of the right of exit must be used" (2006: 319). I believe my conception of the right of exit is successful in this regard.

[11] Spiecker et al. rightly raise this objection against Spinner-Halev (2006: 319).

[12] Gurpreet Mahajan provides an illustrative example of this phenomenon in India (2005: 111)

[13] This represents a limitation of the accounts of diversity liberals: they often take the articulation of group interests by the leadership at face value without questioning whether the leadership is legitimate and thus whether it truly represents the interests of its members. Newman does not confront this important issue by endorsing a form of 'epistemic abstinence' i.e., we must take what groups say at face value because they are best positioned to know the interests of their group members and therefore, know the best way to satisfy the service principle. What is required is a serious examination of its claims in light of testimony of internal minorities and underprivileged segments of that society. A 'hermeneutics of suspicion' would thus be useful here.

[14] While Spivak's remarks were made in the context of a discussion of the promotion of international human rights in the developing world, they are equally germane to a discussion of internal minorities.

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