

## LIBERAL MULTICULTURALISM AS POLITICAL PHILOSOPHY: WILL KYMLICKA

The fact that certain versions of multiculturalism conflict with basic democratic and liberal principles should no longer come as a surprise. Rather, it may be taken to define “hard” multiculturalism in contradistinction to “soft” multiculturalism—such as Jens-Martin Eriksen and myself argue in the forthcoming *The Democratic Contradictions of Multiculturalism*.<sup>1</sup> As an example, Charles Taylor seems willing to go some way in the direction of renouncing general liberal principles and may thus count as a “hard” multiculturalist (even if one with scruples). A philosopher who has, to a greater degree, attempted to involve core liberal ideas of individual rights and tolerance is the leading theoretician of multiculturalism in political philosophy, the Canadian Will Kymlicka. With *Multicultural Citizenship* (1985) he produced a new classic in the field, recently continued in *Multicultural Odysseys* (2007). Kymlicka is especially interesting because he directly addresses the question about the relation between multicultural norms and general principles of liberal democracy—such as is indicated by the subtitle of his chef-d’oeuvre: “a liberal theory for multiculturalism.” His explicit idea is that it is possible to articulate a multiculturalism which constitutes a further development of basic liberal ideas of democracy, human rights etc. and thus is not only compatible with liberalism but may even be seen as a higher stage of liberalism. It might be expressed more problematically in a way with which he may not himself be satisfied: Kymlicka seeks a middle road between culturalism and liberalism.

His project rests on an attempt to reconcile some of the ontological presuppositions of “culturalism,” according to which individuals are thoroughly determined by their culture and may only lead a satisfying life within the confines of that culture,<sup>2</sup> with a basically liberal political philosophy—by trying to develop the former out of the latter. His concept of

culture is obviously culturalist: he delimits it from the broad and more indistinct use of the notion of culture comprising “gay culture” or “Western culture” (18) by focusing upon what he calls “societal culture” specifically: “a culture which provides its members with meaningful ways of life across the full range of human activities, including social, educational, religious, recreational, and economic life, encompassing both public and private spheres.”<sup>3</sup>

This forms a relatively unmodified version of the all-embracing concept of culture in culturalism—even if we notice the conspicuous absence of adjectives like “juridical” and “political” in his list of the full range of human activities in such a culture. He emphasizes that such a full culture necessarily exists in institutional incarnations. If a culture should be able to survive and develop in the modern world, it must necessarily be such a “societal culture,” he claims (80), and the intimate connection of such a culture with the concept of liberty forms the basis of the central argument axis in the book. This goes as follows: “freedom involves making choices amongst various options, and our societal culture not only provides these options, but also makes them meaningful to us . . . . And to have a belief about the value of a practice is, in the first instance, a matter of understanding the meanings attached to it by our culture.” (83) As is evident, this is a variant of basic culturalist ideas: the claim that thought and value systems originate exhaustively from culture. Kymlicka even goes so far as to quote Margalit and Raz with acclamation for their claim that “familiarity with a culture determines the boundaries of the imaginable” (89)—the Wittgenstein-like idea that the limits of my culture form the limit of fantasy. This is a really hard and conservative version of culturalism.

To the same complex of ideas also belongs the radical idea that the self-esteem of persons is determined by what dignity their culture is ascribed.<sup>4</sup> Kymlicka’s aim is now to connect this hard culturalism—appearing in much multiculturalism—with a basic liberalism with its emphasis on individual autonomy and liberty. His key idea here is that it is culture that provides for the individual the series of options that makes him or her free.<sup>5</sup> In a certain sense, then, the individual has no other liberty than that which his culture provides.<sup>6</sup> To Kymlicka, the individual does have the liberty of choice, but only between the options provided by his or her culture. But yet Kymlicka the liberal does not want to subscribe to the communitarians’ (like Michael Sandel) idea that a community defines a common good which it is beyond the power of individuals to problema-

tize. He realizes that persons in one and the same culture may have widely differing ideas about the good life. So Kymlicka does not want to give up the core idea of liberalism that man is free to problematize and revise his own ideas.

The idea that any notion of “the good life” is fallible and thus open to revision is a cornerstone of the liberal tradition from Mill to Rawls and Dworkin, and Kymlicka does not intend to give in on this point. The individual has the possibility of “stepping back” from his actual actions and purposes and critically evaluating them (81). But if the individual may actually do this—contrary to the claim of the communitarians—then why should culture, at the same time, be taken to be the only provider of possible human choices? Kymlicka does not solve this tension, which is wrapped up in a weak compromise which pops up again and again in his more concrete proposals. Do immigrants, for instance, need a whole “societal culture” of their own? We were just taught that a wholly developed “societal culture” with full institutions was required for running a culture (80), but at the same time Kymlicka admits that immigrant groups do *not* have a full culture and most often must make do with a “symbolical ethnicity” (98). At the same time, he seriously considers the utopian possibility of empowering immigrants from poor countries and compensating for our lack of ability to combat their inequalities by recreating a full “societal culture” for them in immigration countries (99). Both are not possible, of course, and the latter would in reality consist in the support for fully separate parallel societies with their own institutions including language, religions, legislation, courts, police forces—a consequence which Kymlicka does not explicitly draw and never discusses—but which becomes openly relevant in cases like Malaysia with different legal systems, police forces and real estate prices for different groups.<sup>7</sup>

Elsewhere, Kymlicka makes the more sober observation that in many modern liberalized societies, both minorities and majorities give up on moral values, common ideas of the good, as well as other cultural traditions, and *yet* remain strongly connected to their “language and culture” (whatever “culture” now may mean in this context, no longer referring to a fully developed “societal culture” with full institutions, but rather to something restricted like a folkloristic repetition of traditional gastronomy, dress, and folk dance, etc.). Another problem indicated by Walker (1997, 230) is that Kymlicka describes cultures in terms of past-oriented

preservation and thus overlooks the future orientation of cultures or nations that may even contain very problematic claims (“Le Québec aux Québécois!”). Cultures are seen as mere harmless conservators of traditions—not political agents with clashing claims pertaining to future policies. Kymlicka never really succeeds in creating a stable synthesis of his all-embracing culturalist culture concept, on the one hand, and his liberal contention about individual autonomy and liberty on the other. This does not, however, prevent him from presenting some interesting ideas as to the constraints on multiculturalist group rights—precisely motivated by a liberal restraint on the total concept of culture.

A central distinction in Kymlicka is between two types of minorities—one is “national minorities” which have been present since the foundation of the state and typically inhabit a well-defined part of the territory, and the other is immigrant groups of more and less permanent kind. Kymlicka argues that the two types are fundamentally alike—even if the notion of multiculturalism is most often used in discussion of the latter.<sup>8</sup> The former, however, have a greater right to special treatment than the latter, which have typically arrived recently and voluntarily, and thus must be expected to assimilate to a greater degree than the former. He now makes a distinction between three types of such liberally legitimate group rights:

1. Self-government rights
2. Polyethnic rights (such as exemptions for British Sikhs from motorcycle helmet regulations, because their religion claims to oblige them to wear turbans)
3. Special rights of group representation (such as Affirmative Action or special parliament quotas)

Points 1) and 3) are especially relevant for national minorities; 3) and especially 2) for immigrants (societies with immigrant groups are termed “polyethnic states”). Among the latter may be mentioned political campaigns against racism and discrimination, special rules for education, some kinds of “affirmative action,” exemption from laws that offend religious practices, state support for cultural and religious practices.<sup>9</sup> All three types of rights, however, contain possibilities of clashes with general democratic and rule-of-law principles—such as equality before the law.

Kymlicka tries to contain this problem by a distinction between two basic types of motivations or needs in a minority: external protection and internal restriction. The outer protection refers to the exemption of the minority from legislation and practices of the majority society that are unequal for their members—this is to Kymlicka the main motivation and legitimation for any group right. Internal restrictions that may be desired by (parts of) the minority to hold for their own members do not have the same legitimacy (of course, they directly clash with individual liberty) and they ought to be used only to a limited extent or not at all. As to 3), it is also relevant for immigrant groups, Kymlicka claims, because legislative bodies are overwhelmingly composed of “middle-class, able-bodied, white men,” (32) which is why it is a legitimate political aim to reduce those “barriers” that prevent women, ethnic minorities, poor, disabled persons etc. from representation. Kymlicka remains silent about which “barriers” he refers to (generally, in modern democracies, there are no legal or political barriers against the running and election of such persons), and the only means he proposes to make up for this problem is that of “proportional representation” (32). He does not develop this train of thought further—should we really believe he will reserve quotas of parliament seats for groups characterized by income, race, gender, and ability, in analogy to national minority representations?

As to the decisive point, the liberal basis for group rights, Kymlicka lists four arguments. (1) The equality argument claiming that certain group rights augment equality so that “true equality” should be reached by treating different groups differently—and that the lack of such rights may leave a social group “culturally disadvantaged” and incapable of fully participating in society; (2) historical special rights (relevant especially for national minorities, not for “polyethnic” groups); (3) cultural diversity as a good in itself (Kymlicka is rather skeptical of this argument) and (4) the unity of society supported by integration. Kymlicka imagines that cultural identity is supplemented, on the social level, by a “civic identity” common to all cultural groups (points (1–3) are developed on 107–23; (4) on 173ff).

The equality argument builds on the observation that majority society is not in all respects “colorblind,” but involves a series of cultural choices (language, education curricula, and the ever recurrent example of official holidays) which disadvantage minority groups. They should be accordingly compensated with special group rights for language teaching

and other education (114; he never proposes a solution as to holidays, even if it is probably the most frequently quoted example in the book to prove the dominance of majority culture).<sup>10</sup> Another of his recurrent examples: the permission for Sikhs or orthodox Jews to wear their special religious head-dresses in the police and military as a modification of uniform requirements is supported by an analogous argument: if such a concession was not made they would have unequal opportunities for a career in those bodies. As is evident, the concrete examples discussed are remarkably modest as compared with Kymlicka's bombastic culturalism on the theoretical level. These examples, though, force Kymlicka to say that the liberal doctrine of "benign neglect" of cultural differences is nothing but a myth. Given his own self-declared liberalism and the rather thin list of examples, might it not just as well be argued that the principle of "benign neglect" remains fine as a regulative idea, which—as all such ideas—must entertain certain compromises when realized piecemeal in the real world? The widespread argument about "diversity" as a good in itself is not outright rejected. But Kymlicka hesitates to ascribe to it any central role because it does not—as opposed to the criteria of equality and history—constitute any obligation for the majority culture but seeks to "fool" the majority by dressing up multiculturalism as if it were in its own interest. This interest is real indeed, he claims, but fairly modest, even if it may be seen as a state interest parallel to support for the arts, public service TV, and the like. (123).

The final argument, however, discussed in the concluding chapter of the book, is that of social cohesion. Kymlicka's idea here is that cohesion is strengthened by group rights and what he does not hesitate to call "differentiated citizenship" (174). This proposal immediately clashes with the general democratic principle that it is the *same* citizenship that provides a strong integrative power between different groups in society, making it evident that they constitute parts of one and the same social entity with the same political and legal rights and duties. Should segregation really be the key to better social cohesion? Paradoxical as this claim may sound, it is not corroborated by reference to specific cases supporting the argument. The argument is rather motivated by references to emotions and intentions, and it is somewhat difficult to judge who exactly is supposed to be the bearers of those feelings: "Groups that *feel* excluded want to be included

in the larger society, and the recognition and accommodation of their ‘difference’ is *intended* to facilitate this” (176, our italics). Here lie several problems. 1) The fact that somebody “feels” excluded is not in itself any proof of the fact that they *are*, in any politically interesting sense, so excluded (and why should this feeling not have its proper release in the voting for certain candidates in the ordinary parliamentary election process?) 2) Should state or society “recognize” certain groups at all, if they so wish? Many different groups organize themselves in clubs, associations, and lobbies which exert political pressure—is such activity sufficient for “recognition”?—and if not, why not? 3) The most important point: Is it really in all cases correct, as Kymlicka assumes over and over again, that the demand for group rights is really motivated by the wish for integration into the “mainstream” of society? Could this demand not quite as well be motivated from exactly the opposite direction; namely the wish to distinguish oneself from that mainstream and form separated parallel societies? Kymlicka does not even address this issue, but when it comes to the discussion of national minorities (as opposed to polyethnic immigrant groups) he is in fact aware of the slippery-slope argument: “there seems to be no natural stopping point to the demands for increasing self-government” (182) of such groups. By contrast to the immigration issue, Kymlicka thus surprisingly remains radically pessimistic with regard to the long-term problem of national minorities to which he does not see any general solution. Switzerland and his own Canada may serve as ideals, but there is a foreboding scale of problematic cases stretching from Belgium to the ex-Soviet states and to worst-case scenarios such as ex-Yugoslavia and Rwanda that may be quoted as counterexamples.

National minorities are of course not our issue here—but the strange thing is why Kymlicka does not consider a similar slippery-slope argument with regard to polyethnic rights. If more wants more, when it is about self-government, why is it not the same for polyethnic rights? Is there a “natural stopping point” for ethnic special rights? And if so, where? If you have gained language rights, affirmative action, and a long series of other special rights and exemptions, then why not wish for special legislation and courts just as the imams of Canada, Denmark, Germany and many other places explicitly desire, and which are already reality in Malaysia and to some degree in the U.K.? Why not crave special police forces, like

Swedish Muslims have aired and which have been introduced in German cities? Not that such a slippery-slope argument necessarily holds in all cases—but it is striking that it is not even considered.

This leads to the very central problematic knot of the whole edifice—where the tensions in Kymlicka’s compromise between culturalism and liberalism really stand the test: the limits of tolerance and the issue of anti-liberal cultures.<sup>11</sup> Here his interesting hypothesis is that of two limits which must constrain group rights. The first is that group rights serving “internal restrictions” in the group rights ascribing power to the group to restrict the basic democratic rights of the individual group member—should not be allowed. Group rights should only serve the external protection of the group against the wider society’s decisions and powers. Here is added a second restriction: such rights should be awarded only in so far as these rights do not make it possible for a group to suppress or exploit another. Group rights must thus be delimited by “*freedom within* the minority group, and *equality between* the minority and majority groups” (152) as Kymlicka’s basic motto.

His argument is interesting. “Internal restrictions” should not be allowed because they go against the liberal reasons for protecting groups: the fact that it is the membership of those groups which give individuals informed choice options for how to conduct life (153). But the group does not stop doing this only because it excludes certain choices. Rather, it must be said that *any* culture excludes some options for the individual—otherwise it would be no culture at all. Some of the attraction of cultures probably lies exactly in this: they *relieve* the individual from a measure of difficult and painful choices and liberate time and power for other things than choosing. Options excluded from a culture are, *eo ipso*, not options in that culture—so they must necessarily be supernumeral as compared with the choices specific to this “societal culture.” It is for that reason that what is interesting is not only the exclusion of certain options for the cultural individual—but rather the active pressure against options *outside* of that culture (such as the ban on apostasy in many Muslim groups).<sup>12</sup>

Kymlicka’s idea that it is culture as such that provides the options for the individual here appears as an impossible contradiction. Either the culture is characterized by opening a specific cluster of possible choices, and no more—or else *all* choices, including those outside that culture, must be open to the individual. But then the culture would no longer be

the culture it was.<sup>13</sup> Kymlicka's example is the Pueblos in the U.S. who practice a sort of theocracy where only tribe members taking part in the traditional cult enjoy full rights—not covering, for instance, protestant Pueblos. This is condemned by Kymlicka—and rightfully so. But is a protestant Pueblo a “real” Pueblo, given the culturalist notion of a societal culture? Is this discrimination not exactly a measure taken in order to protect Pueblo culture? If that is the case, the sharp distinction between Kymlicka's two categories, outer protection and inner restriction, is not so easily drawn in practice, and in many if not most cases specific measures serve both aims at the same time. The right to leave a minority group is naturally a grave threat to its collective right to uphold its own cultural traditions—to that extent, there is a tension between liberal individual principles on the one hand and inner restriction *as well as* outer protection on the other.

Other liberals may take a more laissez-faire-like approach to antiliberal groups—such as the anarcho-liberal Chandran Kukathas whom Kymlicka argues against. According to Kukathas, the larger society should not interfere in offenses against individual rights within cultural groups (one might then ask if you could not just invent a group to be a member of if you want your crime against somebody to go unpunished). Consequently, the state must allow female circumcision or permit Jehovah's Witnesses to deny important medicine to their children. To Kukathas, the defense for such illiberal practices of cultural groups does not depend on respect for cultures or anything like that—but on the freedom of association that obliges the state not to interfere in associations but to tolerate what goes on (Brian Barry correctly objects that this tolerance should then also be extended to cover similar crimes, from female circumcision to killing, in nonreligious groups and associations; 2001, 319).

This problem with antiliberal groups forces Kymlicka to discuss an important problem: what is more basic to the liberal? Tolerance or autonomy? Both have long ancestral lines in liberal history of ideas. Kymlicka here takes the Ottoman “millet” system as his example—which has been seen by many naive observers as an anticipation of, or even an ideal of, religious tolerance. Here, the governing Muslim majority allowed other organized book religions to survive: Judaism as well as Greek Orthodox and Armenian Orthodox Christianity. They were permitted to continue their religious cults and the internal political structures of the groups of

believers—but no new churches or synagogues could be built, no mission undertaken, and conversion (to, not from these religions) was prohibited. The believers had to pay an extra poll tax and other obligations to which Muslims were not subject.

Here, according to Kymlicka, we see full tolerance—but no personal autonomy. The individual does not have liberty to choose his religion, but the single religious organization has freedom within its own ranks. The kind of “freedom” found in such systems seems to attract many antiliberal minorities, and, as Kymlicka realizes, it is often such a system that is desired when “tolerance” is demanded from such groups (158). But it is important to realize that this has nothing at all to do with tolerance in the liberal democratic use of the word, where the emphasis is on the autonomy and freedom of the individual.<sup>14</sup> In that sense, Kymlicka chooses autonomy—and tolerance must be of that special kind which follows from autonomy.<sup>15</sup> On this point, his liberalism defeats his culturalism—which is also why he devotes some thought to how antiliberal groups may be integrated. To what extent may society demand of such groups that they assume liberal principles? Kymlicka does not think liberalism should force such groups—this would to him be equal to “secteric liberalism”—but it may seek to promote “liberal principle, through reason or example, and liberals outside should lend their support to any efforts the group makes to liberalize their culture” (168). Even if he clearly finds the exception clauses of the Pueblos and different American sects (Amish, Mennonites, Hutterites, etc.) despicable, his culturalism becomes the shield that protects them against state enforcement of consequent individual rights within them. In practice, the final consequence of this chain of arguments ends close to Kukathas: the state should not interfere in antiliberal groups’ suppression of their own members, it should merely avoid directly supporting such “restrictions.” Liberally oriented groups should do nothing more than support whatever currents of liberalization in antiliberal groups that may occur. Kymlicka is thus quite aware of many offenses against democratic principles, such as slavery, genocide, mass torture and expulsion, which necessitate interference with antiliberal groups—but he backs off from giving any criteria for when such an interference is valid, neither in the international case of other states, nor in the national case of minorities. The former is not an easy question indeed: the interference in the autonomy of sovereign states. The latter

seems somewhat more strange—in reality it depends upon how much emphasis is put on culturalism and liberalism respectively. Also Barry finds that Kymlicka, in this conclusion, proves considerably more culturalist than liberal: “It is an illiberal theory with a bit of liberal hand-wringing thrown in as an optional extra” (Barry 2001, 140).

Kymlicka’s argumentation is not rich in examples, but the introduction of some concrete cases might shed some light upon the problems in his mild version of hard multiculturalism. Take the Danish Cartoon Crisis where a widespread argument from Danish Muslim organizations (and their defendants among Danish intellectuals) was that Danish Muslims constitute a persecuted minority which has, for that reason, a right not to be insulted by caricatures of the prophet. Now Danish (and generally, Western) law does not recognize a general right not to be offended, and attempts at having the drawings convicted for blasphemy have failed. But what status would this idea have in Kymlicka’s system? It is not, of course, based on legislation. Only few Danish protagonists have imagined a change in the free-speech clause of the Danish constitution. But other examples in Kymlicka (such as state campaigns against racism) are also extralegal remedies. Would a right not to be offended be an outer protection of a minority (so that Danish Muslims avoid the offence of seeing or knowing that other people see the drawings in *Jyllands-Posten*)—or would such a right be an internal restriction (so that Danish Muslims are not informed about criticism of Islamist use of terror—and are forced not to ridicule the prophet themselves)?

The idea of a right against offence is not easy to place exhaustively in one of Kymlicka’s two categories. Something similar holds for the comprehensive Muslim special legislation in Malaysia (which is claimed to be “intended” as a protection of Islam). The ban on apostasy constitutes, of course, a severe curtailment of individual rights (reminiscent of the Millet system) and would thus be criticizable according to Kymlicka’s criterion (1),<sup>16</sup> but the most widespread argument for this proscription is the protection of Islam—that is, the protection of a group against the surrounding society. If conversion or apostasy were allowed, Islam might envisage a gradual seeping of believers to other faiths, to agnosticism or atheism, which is prevented by the Malaysian prohibition. So this rule is also difficult to place unambiguously in Kymlicka’s distinction between internal restriction and external protection.

Of course, an extra criterion might be introduced, saying that if some rule falls under both categories it will be, in all cases, liberally indigestible so that the avoidance of internal restriction trumps the desire for external protection (it is conceivable that Kymlicka may mean such a thing). But would it not be a relatively small subset of pure protection initiatives that do not also have effects of internal restriction that would remain? A problem here is also that “internal restrictions” is no precise term. It may be taken in a narrow sense where the ethnic group demands formal, recognized exemptions from some general law in order to restrict its members and suppress other groups. Examples here could be the Malaysian apostasy ban, Malaysian divorce and marital law, discriminating against women and non-Muslims, and the Malaysian legislation about lower prices on real estate for Muslims. But “internal restrictions” may also be taken in a broader sense where the suppression of group members and other groups take place in a less legalistic sense—that is, if women are expected to be satisfied with half an inheritance, even if it is not codified by law, or if children are raised to despise democracy and enlightenment. As one of Kymlicka’s central arguments for group rights at all is exactly that there may be inequalities which have a nonlegal character and are not prevented by the existing equality legislation, it becomes obvious to interpret the “internal restrictions” in the same, non-legalist way. But this entails, ironically, a large measure of hesitation with regard to group rights because they may easily be put to use in “internal restriction” even if their purely legal consequences only seem to pertain to “external protection.”

Kymlicka’s recent book *Multicultural Odysseys* (2007) looks back on the recent international destiny of the multiculturalism concept and thus constitutes a welcome concretization of the often very general principal claims of *Multicultural Citizenship*. The tone is initially triumphalist because older ideas such as homogenization and assimilation seem to be in the process of giving way internationally to cultural and religious accommodation of immigrants—also insofar as international organizations have adopted variants of multiculturalism and incite and even put pressure on states to adopt multiculturalist policies, just as they sanction states for assimilation initiatives (3). Multiculturalist discourse spreads and attempts are made to codify it in international legislation. Kymlicka sees, in a paradoxical formula, this development as a natural further development of existing human rights—and at the same time as

something that goes on within the confines of those rights (7). At the same time he realizes that this development gives rise to certain problems addressed by the new book. Should multiculturalism constitute one set of policies for all groups—or should it refer to different policies for different groups, national minorities, indigenous groups, or immigrant groups? Should it be “generic,” valid for all cases, or should it be “targeted” in each specific case? Can multiculturalism be introduced before a democratic state is established? This question is connected to the balance between justice and security: “Is the goal to open up space for a vibrant democratic multiethnic politics, or is the goal to suppress and contain destabilizing ethnic mobilization?” (8–9). Already in *Multicultural Citizenship*, “vibrant” was a recurring plus-word that surprisingly stood out against Kymlicka’s otherwise cool, scholarly prose. These goals may, in many cases, coincide and give rise to related or identical policies. Worse is the possibility that they may, in other cases, conflict—as always when security clashes with other policy goals, there is a tendency for safety and security to come out victorious. Kymlicka also observes that even if many international organizations have adopted different variants of multiculturalist terminology, they may mean rather different things by it. (22)

The basic development towards a more “different-friendly” approach in international organizations has, according to Kymlicka, its base in the reinterpretation of the UN *International Covenant on Civil and Political Rights* from 1966 (art. 27):

In those states in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language. (quoted from Kymlicka, 34)

After originally having been interpreted as referring to the granting of the same ordinary rights for minorities as for other citizens, this article became reinterpreted during the 1980s to pertain to special minority rights. Kymlicka deals at length with these changes in international organizations, which he—differently from Finkelkraut (1988)—conceives of as a unanimously democratic progress. The very text of the article remains, however, absolutely ambiguous: what does it mean, more precisely, to have the right to practice your religion and culture in community with other group members? What does it comprise? Collective prayers or pro-

hibition against blood transfusion? Ritual meals or female circumcision? Apostasy ban or capital punishment? How are borderline cases regulated? How about clashes with other groups and other rights? The fact that Kymlicka realizes this problem appears only indirectly from his problems in relating the development of the race issue in the U.S. from forced segregation to civil rights and to new segregation in terms of identity politics:

In most countries, however, the situation of minorities needing protection differs from that of African-Americans, and so too do the sorts of civil and political rights they require. African-Americans were involuntarily segregated, solely on the basis of their race, excluded from common institutions and opportunities to which they often wanted access. Many minorities, however, are in the opposite position: they have been involuntarily assimilated, stripped of their own language, culture, and self-governing institutions. (91)

Revealing is the double use of “involuntarily.” If segregation is involuntary, it should be criticized; if assimilation is involuntary, that should be criticized. This implies that the free will of the group—whatever that is and however it may be measured—is the decisive criterion, not segregation or assimilation in themselves. As Kymlicka’s theory is not against segregation per se—rather the opposite—it must be the involuntary character of it he refuses. But this implies that the possible tension between cultural group rights and human rights which was addressed in *Multicultural Citizenship* is now bluntly refused as follows:

The leaders of minorities can appeal to the ideals of liberal multiculturalism to challenge their historic exclusion and subordination, but those very ideals also impose the duty on them to be just, tolerant, and inclusive. (93)

This indeed sounds beautiful and refers to the already mentioned ideal of a cultural/multicultural double consciousness—but attention should be paid to the reference to “leaders of minorities.” Here lies part of the problem, for how do you qualify to become such a leader? The figures who act as such, and are often also treated by the surrounding world as such, only rarely have any explicit mandate, and in many cases they may be suspected of not being representative or even displaying autocratic tendencies. That the ideal of such a double identity often does not hold in practice is admitted by Kymlicka in the following section, where he considers the possibility that the use of rights lingo may be merely strategic and

refer to the wish of a minority to fight the dominant majority at the same time as it wants to extend its own dominance over internal minorities—the tension between external protection and internal restriction again. But now, this tension is rejected with a legalist argument: “Put simply, there is no legal space for minorities to set aside human rights norms in the name of multiculturalism, and, in the case of most minorities, there is no wish to do so” (ibid.).

This argument is double—and paradoxical: no legal space exists for rejecting human rights—and moreover, most minorities do not do it! But if just a few minorities do it in reality, then there *is, eo ipso*, a space, be it legal or not. A strangely sloppy approach to human rights violations on Kymlicka’s part is seen here. Could it cover the fact that a more considered reflection on the issue would require restrictions against ethnic groups and “cultures” which systematically violate human rights? This “legal space” is constituted by the fact that only court practice (or further legislation) can decide the unresolved tension between the original, individual human rights and the multiculturalist group rights between which Kymlicka wants to compromise.

This makes, however, Kymlicka anno 2007 realize a problem he did not address in 1995 and forces him to argue directly against a type of problematical multiculturalism which emphasizes cultural identity and authenticity—that which Amartya Sen strikingly calls “communitarian” and “conservative.” Here, Kymlicka sharpens the “liberal multiculturalism” position from 1995, which deftly avoided giving a name to the implicit opponent of “illiberal multiculturalism.” This antiliberal multiculturalism is now placed directly in opposition to his own, allegedly, liberal multiculturalism: “The liberal view of multiculturalism is inevitably, intentionally, and unapologetically transformational of people’s cultural traditions.” (99)

Multiculturalism is no longer only a defensive ring allowing for the preservation of unchanged cultures, but is “transformational.” It forces cultures to enter into new mutual relationships, learn new concepts, and it changes deeply the identity and behavior of people (ibid.)—a decidedly liberal sharpening of the 1995 position.

Here, Kymlicka realizes in fact a series of the problems which “conservative” multiculturalism inherits from culturalism, but which he earlier passed over in silence: (1) the “conservative” multiculturalism is anthro-

pologically naive, because “cultural authenticity” is very often a late and highly constructed artifact in cultural groups, a result of traditionalist identity construction (of dogma, dress, rituals, etc.), in some cases a direct “invention of tradition” which may serve to separate the group and give it a new identity; (2) the “organic” character of cultural groups often glosses over deep inner tensions and struggles within the group; (3) a decidedly antiuniversalist culturalism as that expressed in the protest note addressed by the American Association of Anthropologists (A.A.A.) against the U.N. Human Rights Declaration group in 1947, a case to which Kymlicka now refers;<sup>17</sup> and (4) cultural identity may be used as discussion stopper rather than as a part of a dialogue—any problematization of identity may be interpreted as disrespect for the person and his cultural identity.<sup>18</sup>

Kymlicka now admits, to a much greater extent than in 1995, the dangers in such a conservative “authenticity” multiculturalism—still, he maintains this criticism is irrelevant for his own position which he now identifies closely with Canadian multiculturalism. His argument (103–105) that this position is not hit by that criticism is, however, strange and indirect. He resorts to a metalevel and asks: how should a conservative policy be possible in a West obsessed by human rights? The empirical existence in Canada of an individualist and egalitarian left, supporting women, gay, and minority rights, is taken by Kymlicka as the decisive proof that these points of view are, in fact, consistent with his Canadian multiculturalism. But it is really no argument for the consistency of ideas that empirical persons exist who actually believe in all of them at one and the same time. People may be inconsistent, maybe they are more often than not. You could argue for the democratic character of Nazism along the same lines: how should Nazism have appeared in a Western Europe occupied with liberal and democratic ideals, if it was not itself democratic? Kymlicka overlooks the banal fact that ideas may just as well appear as a reaction against other ideas as an inspiration from them.

What Kymlicka ought to have done here, of course, is to clarify what is the deep difference between the conservative, anthropological, naive multiculturalism which he now attacks and his own, far more sophisticated liberal version. Instead, he quickly turns to explanations of the spread of multiculturalism in terms of power politics. Just as the original U.N. 1948 Human Rights charter can be interpreted as having a partial motivation in the attempt of the Allies to win over the people of the world against Nazis

and fascists, the spread of multiculturalism can be seen as an attempt at the “desecuritization” of minorities, so that they cease to appear as security risks (this argument pertains in the first place to national minorities who might get the idea of joining another state, like the Sudeten Germans or the Bosnian Serbs). Such dangers have disappeared from the west with the establishment of NATO, and more remote threats such as Islamic jihadism or China have, according to Kymlicka, no support among national minorities.

Another issue, of course, is immigration groups, and it is the multiculturalism relevant for them that Kymlicka now sees threatened by a throwback because of a wide “resecuritization” of the relation between states and Muslim immigrant groups, especially in Europe. Kymlicka gives “free-floating anxiety about ‘the other’,” as well as racism and xenophobia dressed up as criticism of multiculturalism, the bulk of the responsibility for this re-emergence of security connected to immigration. He remains serious enough, though, to mention that it might also have something to do with a change in the immigrant groups themselves—some groups now “are perceived as high risk” (127), as he enigmatically writes—high risk for what? Is this risk merely “perceived” or is it real? This could not refer to much else than 9/11 and the growth in Islamism and Islamist terror since 1995, with links to immigration groups in Europe and the US, but none of these issues are explicitly mentioned at all.

In the next chapter, Kymlicka turns towards an evaluation of multiculturalism in practice. Here he admits a possibility that was not discussed in 1995:

We can expect the different factions within immigrant groups will compete to control the institutions and programs established under multiculturalism policies. And this raises the potential that the infrastructure of liberal multiculturalism will be captured and abused for illiberal or undemocratic processes. (160)

Here, Kymlicka suddenly admits the existence of that “legal space” he denied above—but now it is claimed insignificant because Western democracies have, since the seventeenth century, known the paradox of antiliberal abuse of democratic possibilities. Such abuse of liberal multiculturalism can be—and already is—fought with the same means:

1. citizen education and political socialization which creates a culture based on human and civil rights.

2. mechanisms which identify and publish actual and potential abuse.
3. legal and constitutional guarantees which give the state power to hinder or act against such abuse. (161)

Kymlicka seems to find that such mechanisms actually function satisfactorily—and refers to a Canadian case with the rejection of sharia courts in Ontario. Kymlicka cannot address the introduction of sharia in the U.K., however, which is a later development. Examples from the actual discussions of different strategies regarding radical Muslim immigrants in France, Germany, and England and other European countries are absent.<sup>19</sup>

The conclusion of the book naturally considers the prospects for the further propagation of the multiculturalist idea. Either you can go back to before 1990 when minority issues had a low priority in the international community, or you can go further to articulate proper international principles and rules for a liberal multiculturalism. No surprise that Kymlicka, prophet of the concept, prefers the latter. The great problem, he says, remains the lack of criteria for “targeted” policies aimed at specific groups which constitutes the core of multiculturalism—the criteria for when and to what extent which policies need to be added on top of the universal principles of multiculturalism (which are hard to distinguish from ordinary, basic liberal rights).

These “targeted” rights are oriented towards identifying and rejecting standard threats against unjust treatment of groups—but he has no precise proposals of how such rights should be shaped after the character of the problem, apart from the idea that they should be combined with short- and long-sighted policies as needed! It can be added that it is not clear how specific this “targeting” should be. That Sikhs are exempted from the headdress regulations of the British police force is a highly specific version of a “targeted” special treatment—and it does not entail any right for other believers or different groups to wear kepis, tiaras, or hooligan outfits when in the police force. What is the argument for the “targeting” of Sikhs but not for other believers or groups? Another case of a “targeted” multiculturalism is the idea of special legislation aimed at protecting certain religions against offence—this is an example of a very general but still “targeted” special group treatment. What these two examples have in common, however, is that they demonstrate that it is indeed very difficult to see what the *general* argument for this type of

special rights should be. If the Sikh turban should be permitted, then why not other religious or nonreligious headdresses, hats, and flat-caps? If certain religions and religious persons should be protected against insult, then why should not all believers be so protected, and why should not nonbelievers be protected against the constant insults from believers and their threats that the infidels will burn in hell? If the “self-image” forms the core of culture, why should not all kinds of social groups be protected against bad representations of their self-images? And, in the absence of criteria for applying “targeted” multiculturalism to a specific demand on behalf of a cultural group, how should it be avoided that it is merely the group which lobbies the best or shouts most loudly which succeeds in being “targeted”? Or even worse—how can it be avoided that it is the group which best manages to employ threats or acts of violence which is awarded with special rights? Kymlicka is very far from solving or even realizing such problems with “targeted” multiculturalism. The lack of criteria for what counts as a proper target is almost complete. Maybe this is so for conceptual reasons: “general targeted principles” seems to be a contradiction in terms, because the targeting should be, *eo ipso*, specific to each group and hence not generalizable.

A fallback position, of course, is to focus upon the development of minimum criteria for the “generic” (nontargeted) multicultural rights which may be applied in all cases, full freedom of assembly and freedom of speech plus a minimum of “efficient participation” in the political process of the state (310)—in reality a falling back to ordinary, safe version 1.0 liberalism without much “hard” multiculturalism. Kymlicka is not amused. “Targeted” multiculturalism, of course, forms its very core, and it appears rather disappointing that he, the foremost spokesman for liberal multiculturalism, is unable to suggest the least criteria for its use. And this at the same time as he thinks the adoption of such criteria in international law is the most pressing issue for multiculturalism! But if Kymlicka is unable to articulate proposals for such criteria, then who can?

The central problem remains that the “generic” minimal multiculturalism with the same criteria for all groups is very hard to distinguish from ordinary liberal basic principles.<sup>20</sup> The more ambitious “targeted” multiculturalism aimed at the specific needs of single cultural groups is difficult to articulate clearly, left to a pragmatism whose principles are never made clear, and, on the top of that, very difficult to conceive of as a further de-

velopment of liberal first principles, despite Kymlicka's constant claims to the contrary. He has now grown acutely aware of the dangers in going too far in the direction of "conservative" multiculturalism ripe with romanticism, authenticity, inertia of tradition, and internal group repression, but it remains difficult to see any clear conceptual boundary between this and his allegedly completely different, liberal multiculturalism.

Clearly, it is Kymlicka's intention that it should appear as liberal, but his arguments constantly vacillate between liberalism and culturalism—and the lack of a rich list of examples of well-argued, legitimate, "targeted" group rights adds to the doubt about whether the sympathetic project of a "liberal multiculturalism" is feasible at all or whether it is rather one, big, hopeful *contradictio in adjecto*. Liberal multiculturalism is increasingly difficult to tell apart from full, normal, liberal, rule-of-law democracy with civil and human rights.

Maybe it is simply identical with it?

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#### NOTES

1. The book makes an argument against "hard" multiculturalism along three lines: one is a case study of Malaysian multiculturalism, another is the charting of the history of ideas of culturalism from early American anthropology via the U.N. to actual political philosophy, and the third is a critical analysis of received concepts in multiculturalist discourse. The present paper forms a version of the analysis of Will Kymlicka's doctrine in the book which is due to appear with Telos Press early 2012.

2. Parts of the history of culturalism, from Herder, through American anthropology to the U.N. and multiculturalism, are outlined in the second section of *The Democratic Contradictions of Multiculturalism*.

3. P. 76. It is a problem whether this concept of "societal culture" covers, at all, the central cases of minority cultures and immigrant cultures which hardly, in any case, possess this full range of societal institutions (cf. Benhabib 1999; Schuster 2006). Correspondingly, it must be pointed out that the concept fits badly Kymlicka's descriptions of "culture," which may shift between notions based on territory and on society, on objective and subjective notions, on linguistic or ideological notions (Vermeulen and Slijper 2000).

4. P. 89. Kymlicka's type of culturalism is sharply diagnosed by Benhabib (1999) where she counts four central dogmas in multiculturalism: its cultural holism, and the implications flowing from it: the exaggeration of the socialization of individuals; the radical perspectivism; and the suspicion against anything universal. These dogmas make impos-

sible a crucial ability of imagination in democratic politics: the faculty of individuals and groups to take account of the point of view of others, to see a case with others' eyes.

5. You could say polemically: did Nazi Germany give the individuals of this "societal culture" all the "options" they could chose between? Or did they receive options from elsewhere which this culture tried to prevent from being available? Similar questions could be asked today regarding the cultures of Iran, Pakistan, Saudi Arabia, etc.

6. As Walker (1997, 221–22) says, it would not be correct to say that a Québécois uses his membership of the French speaking group of Canadians as the actual "context of choice" for his options. He does not act, reflecting upon what a typical Montrealer would now do—he acts, exactly like other modern individuals, with reference to a long series of needs, arguments, desires—referring, if at all, to different institutions, media, organizations, education, religions, of which many are transnational. Québec—the favorite example of Canadian multiculturalism—is already cosmopolitan and hardly fits the culturalist picture of a "culture."

7. See the first section of *The Democratic Contradictions of Multiculturalism*.

8. A strong objection here is that Kymlicka's distinction between these two types of group is much too narrow because of his focus on the culturalist notion of "ethnicity." There are many other groups in society which might also demand special treatment—what about the classic peasants' culture in most Western societies that has come close to extinction during recent generations, as Walker asks (217–18). Or what about communities oriented around neighborhoods, fishing towns, subcultures, etc.? Kymlicka wants to delimit his investigation and rule out such groups by means of his notion of "societal cultures," but that concept is so narrow that most of his two groups, national minorities and immigrants, do not even qualify.

9. Joppke (2001, 435) reasonably asks why such very concrete policies should merit the general name "rights"—would it not be better to call them "contingent policies"?

10. As Barry remarks, Kymlicka constructs something of a myth about the repression inherent in liberal society in order for this equation to fit—as when he laments over the fact that it was only accepted during the 1970s in Canada, Australia, and the U.S. that "immigrants should be free to maintain some of their old customs regarding food, dress, religion, and recreation and to associate with each other for those purposes" (quoted from Barry 2001, 317). As Barry adds, it is not his impression that the Italian immigrants in the U.S. have ever been prevented from eating pasta, being Catholics, or playing boccea.

11. As observed by MacDonald 1997, 302–303.

12. As to the role of apostasy in Islamic legislation, see Mayer 2007.

13. MacDonald 1997 also remarks how the culture as a "context for choice" stands in opposition to the specific cultural practices of that culture. The liberal side of Kymlicka, which does not want culture to be defined only by shared values, must naturally prefer the former.

14. Cf. Israel (1999, 2001).

15. Brian Barry (2001, 118ff) rejects this distinction between tolerance and autonomy as a feigned opposition. The task of the liberal state is not to propagate autonomy—only to create political institutions that make autonomy possible if people so wish.

16. In Malaysia, we also encounter the argument that the ban on apostasy should protect the individual (presumably against the implication of apostasy that the road to Paradise is blocked). This illustrates very well how Kymlicka's distinction between internal restriction and external protection withers if you involve the self-understanding of the "cultures."

17. As head of the A.A.A. Melville Herskovits sent and published a protest against the preparation of the U.N. Human Rights Declaration led by Eleanor Roosevelt in 1947—an early example of the tension between culturalism and rights universalism. The case is covered in more detail in *The Democratic Contradictions of Multiculturalism*.

18. The routine rejection of many Islamic organizations of any criticism—including criticism based on democratic and liberal principles—as “Islamophobia” constitutes a typical example of such a discussion stopper.

19. One of the reasons for this omission might be Kymlicka’s considerable naivety as to the democratic character of Muslim areas in Asia, Africa, and the Middle East—we need here only refer to the Malaysian example. The actual, homogenized policies in postcolonial states, he says, “are clearly inconsistent with the historical traditions of the peoples and cultures of Asia, Africa, or the Middle East. Most of the political systems that predated European colonization had complex systems of inter-ethnic tolerance and co-existence” (253). He writes as if he had never heard about caste systems, wars of conquest, subjection of nonbelievers, forced conversions, slave trade, and a manifold of other suppressive political practices in those areas very far from “interethnic tolerance;” as if he had not himself, in 1995, described the Ottoman “Millet” system as the direct opposite of liberal tolerance, and as if central countries of the area such as Iran, Afghanistan, Turkey, and Saudi Arabia had not escaped colonization.

20. As Schuster (2006) says, Kymlicka’s compromise position between liberalism and multiculturalism always tends to “return” to liberalism.

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