Getting Multiculturalism Right: Deontology and the Concern for Neutrality

Matthew Johnson*

DOI 10.1515/culture-2017-0004
Received December 23, 2016; accepted April 15, 2017

Abstract: In recent years, the notion of pluralism or, as it is often termed, “multiculturalism,” has been subject to critique by a range of public figures on the right of the political spectrum, such as David Cameron, Angela Merkel and Donald Trump. While “multiculturalism” is presented as being antithetical to the traditions of Western societies, it is, in fact, grounded in the same liberal tradition of individual rights as that invoked by those on the right. This article aims to outline the intellectual tradition of deontological or rights-based pluralism, demonstrating that it is an inherent part of the liberal political tradition upon which modern liberal democracies are formed. By tracing ideas derived from John Locke and Immanuel Kant and developed in the modern world by Will Kymlicka, John Rawls and Chandran Kukathas, this article seeks to enable those beyond the discipline of political philosophy to understand the ways in which rejecting pluralism means rejecting core commitments to equality, neutrality, respect and fairness.

Keywords: multiculturalism, pluralism, liberalism, deontology, neutrality

Introduction

The term “pluralism” denotes, as Barry puts it, “a political programme that aims to institutionalise cultural difference by segmenting society” (Culture and Equality 23). In recent years, politicians primarily on the conservative right of the political spectrum, such as former UK Prime Minister, David Cameron, and current German Chancellor, Angela Merkel, have argued that pluralism or “multiculturalism” constitutes a concerted effort to undermine the national character of liberal democratic countries and to institutionalize the public status of non-Western groups. Pluralism is presented as antithetical to the pre-existing cultural homogeneity of liberal societies. As the 2016 UK Referendum on Membership of the European Union and US Presidential Election campaigns have demonstrated, at a time of concern over terrorism and migration, defences or programmes of pluralism are presented, often implicitly, as anti-patriotic (see Calhoun). However, pluralism has sat at the heart of liberal democracy from the outset. Indeed, it reflects the cultural character of liberal societies (see discussion in Carens, Culture, Citizenship and Community). Its foundations were lain by John Locke, who is often cited by the conservative right in defence of private property and gun rights (see Lund), as well as Immanuel Kant, whose commitment to treating people as ends in themselves, rather than as means to ends, is the basis for modern rights-based thinking. From these foundations, contemporary liberals, such as Will Kymlicka, John Rawls and Chandran Kukathas, have defended the liberty of individuals to pursue a plurality of ways of life.

While there are literatures on “multicultural education,” (see Callan and Reich) teaching about diversity (see Park and Ofori-Dankwa), dealing with and promoting diversity (see, for example, Gehrig, Macleod and MacNaughton and Hughes) teaching within diverse environments (see, for example, Olguin),
Getting Multiculturalism Right: Deontology and the Concern for Neutrality

immigration (see Carens, *The Ethics of Immigration*), citizenship and naturalization (see Orgad, Sachar), there are few clear resources for those outside the discipline of political philosophy to explain the liberal tradition of pluralism in terms of that tradition. This can lead to confusion of concepts and literatures and the erroneous conclusion that pluralism or “multiculturalism” is derived from sources alien and hostile to Western societies. In what follows, I present a narrative of the most prominent liberal tradition of pluralism, focusing less on the fact of pluralism or the existence of difference and more on the reasons for liberal states’ creating mechanisms which, indirectly in many cases, protect and uphold pluralism. It is not, however, intended as a defence of the intellectual tradition itself. Rather, it is an attempt to clarify that tradition in order to enable clear, coherent discussion of its nature, content and implications.

I proceed by outlining first the work of Locke and Kant. The importance of their work lies in Locke’s separation of the public and private sphere and Kant’s defence of respect for persons. These foundational deontological commitments forge the basis for state neutrality which provides the foundation for three contemporary deontological defences of pluralism by Kymlicka, Rawls and Kukathas. Deontological approaches are concerned with the derivation of moral law and ethical conduct (duties and obligations) from reason. I follow Rawls (Rawls, “The Priority of Right and Ideas of the Good”) in understanding the term to denote the belief that the right is prior to, or independent of, the good, that acts are right or wrong in themselves, and that, in Kantian thought, humans are morally entitled to duties of respect. The schemas which attempt to objectify this programme have in common the following: an opposition to tyranny; a qualified and varying commitment to state neutrality between ways of life; a rejection of universalist assimilation; a commitment to the autonomy of equal individuals, and an affirmation of mutual toleration as a means of actualizing the aforementioned principles in a condition of *modus vivendi* or mode of co-existence between individuals and groups. The differences between the approaches represent divergent perspectives on the best means of upholding these commitments, rather than different intellectual paradigms.

The commitments covered can be seen in other proponents, but not as clearly and not with the same influence on public policy debates. The point of this article is not to expound exhaustively contributions or to reconsider existing critiques of such positions, but to articulate, clearly and cohesively, to those beyond the realm of political philosophy the relationship of three key contemporary accounts of pluralism to founding commitments. Other contributions reflect different and less influential intellectual geneses. For example, Levy’s *Multiculturalism of Fear* is derived from the work of Montesquieu, among others, and has found less fertile ground in debates on the practise of pluralism. The need for clarification of the intellectual history of pluralism as outlined here lies in the way in which it is consistently misconceived and viewed in isolation as a means of responding to debates on immigration, naturalisation and recognition. These questions are subsumed by the intellectual commitment to neutrality. Dealing with those questions is a secondary task, insofar as there is a duty to uphold the rights of citizens to pursue conceptions of the good. In essence, we have to understand effectively the basic premise of neutrality to understand the way in which approaches to diversity are grounded in a quintessentially liberal tradition. I begin by outlining Locke’s defence of the separation of church and state.

Locke: Dividing the Public and Private Spheres

Locke’s contractarian deontology is founded upon the “Natural Rights” of life, liberty and property,” which he derives, largely, from Scripture. These rights are held even in the pre-political “State of Nature” among “equal and independent” individuals “born to all the same advantages of Nature, and the use of the same faculties” (Locke, *Two Treatises of Government* 271; 271; 269). The feudal belief in a monarch’s “Divine Right to absolute power,” and the perpetual struggle for doctrinal purity which became synonymous with it, ensured that humanity was denied “a Right to natural Freedom,” subjecting all “to the utmost Misery of Tyranny and Oppression” (Locke, *Two Treatises of Government* 142).

To overcome these miseries, Locke distinguishes the public functioning of the state from the private sphere of religion. Believing that “True Religion” consists of “Holiness of Life, Purity of Manner, and Benignity and Meekness of Spirit” achieved “not by Force, but by Love,” Locke argues, in his *Letters*
Concerning Toleration, that religious oppression and the desire for dominion are “much rather Marks of Men striving for Power and Empire over one another, than of the Church of Christ” (23). The invocation and enforcement of religion by corrupt and selfish public figures not merely “offend[s] God,” it also prevents the salvation of men’s souls. This is because meaningful belief can never be imposed upon an individual (Locke, Letters Concerning Toleration 37-39; 43, 39). Acceptance of God must be voluntary for it to be sincere. If imposed tyrannically, through duress and fear, religious adherence is merely superficial.

Locke’s reluctance to impose religion does not imply a rejection of objective truth, or belief in a plurality of means of salvation, though. In his eyes, there is only “one way to heaven” (Locke, Letters Concerning Toleration 27). His point is that, “neither the care of the Commonwealth nor the right of enacting Laws, does discover this way that leads to Heaven more certainly to the Magistrate, than every private man’s Search and Study discovers it unto himself” (Locke, Letters Concerning Toleration 36). Accordingly, if the good of man lies in the personal development, it is:

necessary to distinguish exactly the Business of Civil Government from that of Religion . . . If this be not done, there can be no end put to the Controversies that will be always arising, between those that have, or at least pretend to have, on the one side, a Concernment for the Interest of Mens Souls, and on the other side a Care for the Commonwealth... [which] seems to me to be a Society of Men constituted only for the procuring, preserving, and advancing of their “own Civil Interests [which] I call Life, Liberty, Health, and the Indolency of Body; and the Possession of outward things, such as Money, Lands, Houses, Furniture, and the like. (Locke, Letters Concerning Toleration 26)

Separating the private church and the public state prevents tyrannical perversions of God from impinging upon natural rights, and enables individuals (the bearers of rights) to pursue, freely, their divine ends.

The settlement is made practicable by the subscription of the agents of religion, with their fellow citizens, to a social contract in which they “lay down toleration as the foundation of their own liberty” and accept that “liberty of conscience is every man’s natural right . . . and that nobody ought to be compelled in matters of religion either by law or force” (Locke, Letters Concerning Toleration 51). This condition of mutual toleration (in which people agree not to prevent acts with which they disagree and which they have the capacity to prevent) allows for the development of a free-market of belief in which the discovery of truth is achieved through evolutionary change. Individuals are free to support and develop successful doctrines while abandoning groups “erroneous in the Doctrine, or incongruous in the Worship” (Locke, Letters Concerning Toleration 28) which, bereft of state support, can then perish. Through this evolutionary praxis, all citizens glean objective benefit.

The only justifiable constraints upon this free market of belief lie in the proscription of atheists, on the grounds that they are bound by no divine compulsion to abide by “Promises, Covenants and Oaths” and “by their atheism undermine and destroy all religion,” (Locke, Letters Concerning Toleration 51) and those, such as Catholics and members of Islamic empires, who are encumbered by their obligations to foreign sovereigns. Such obligations may inhibit their fulfilment of the public obligations of their country of residence and render them burdensome aliens. While this may be seized upon by the conservative right to defend opposition to Islamic migrants, for example, there are good reasons to view this stance within the obviously anachronistic approach to atheists and Catholics and, given the work of subsequent thinkers, to reject the claim outright as an example of historical, cultural neurosis. The overarching principle, though, is that the state ought not to impose a particular conception of the good on its citizens and ought to act only when the state itself is threatened by a particular group.

Kant: Reason and Respect for Persons

Whereas Locke grounds natural rights in scripture, Kant (Groundwork for the Metaphysic of Morals e.g. 102-103) seeks to establish a deontological approach founded in human reason. He begins by arguing that humans are uniquely rational beings, with the capacity for self-determination and the use of non-rational “things” as means of satisfying needs and wants (Kant, Groundwork for the Metaphysic of Morals 104-107). As we are all human, and as we all share this human nature, it follows, for Kant, that we should
seek to develop moral law according to an objective analysis of our unchanging needs and interests (Kant, *Groundwork for the Metaphysic of Morals* 102). This tenet is called the categorical imperative. It allows principles to be developed according, not to hypothetical conditions based on subjective ends pursued by individual “impulsions” but, rather, to “motives valid for every rational being” (Kant, *Groundwork for the Metaphysic of Morals* 105) The test of the categorical imperative, and “the general canon for all moral judgment of action,” is that “We must be able to will that a maxim of our action should become a universal law” (Kant, *Groundwork for the Metaphysic of Morals* 100). If we are unable to conceive of the universal application of our actions we understand our actions to be subjective and in contradiction to reason and the interests of others. This thought experiment forces us to challenge our naturally “unsociable,” (Kant, *Groundwork for the Metaphysic of Morals* 44, 46) self-interested character, which leads us to subjectivity whenever we perceive an opportunity for the furtherance of our interests. It makes explicit our attempts to constrain others, while freeing ourselves (Kant, *Groundwork for the Metaphysic of Morals* 101).

Historically, while unreasonable, dangerous and subjective, these contradictions also constitute, indirectly, the dynamic of human progress. Self-interested, “unsociable” individuals, forced together in search of resources found only in society, seek to outperform one another in order to receive goods such as status, “honour, power, or property” (Kant, *Political Writings* 44). For Kant, this competition instigates the social development of discipline, order and expertise, which together engender, gradually, modern civilisation: “All the culture and art which adorn mankind and the finest social order man creates are fruits of his unsociability. For it is compelled by its own nature to discipline itself, and thus, by enforced art, to develop completely the germs which nature implanted” (Kant, *Political Writings* 46). However, just as subjective competition produces progress, it also brings the anxiety, cruelty, brutality, violence and deceit of an anarchic Hobbesian state of nature in which all every individual is enemy to every other and all are simultaneous free from constraint and unfree by virtue of the condition of war (Hobbes). Therefore, Kant (Kant, *Political Writings* 46) argues that the individual “requires a master to break his self-will and force him to obey a universally valid will under which everyone can be free.” This master cannot, however, hold the centralized, authoritarian powers of Hobbes” *Leviathan*. As Locke argued, such autocratic orders are liable, not to bend an individual’s self-will towards objectivity, but to embolden partiality, and enable the bearers of power to foist subjective and erroneous doctrines on an oppressed populace (Kant, *Political Writings* 46). Therefore, “The highest task which nature has set for mankind” has been the establishment of “a perfectly just civil constitution” in which “freedom under external laws” is “combined to the greatest possible extent with irresistible force” (Kant, *Political Writings* 45-6). This remit of this contractarian order is universal and binds objectively people to duties derived from reason.

Most important among these duties, is the overriding duty to respect persons. This means to acknowledge that “man, and in general every rational being, exists as an end in himself, not merely as a means for arbitrary use by this or that will: he must in all his actions, whether they are directed himself or to other rational beings always be viewed at the same time as an end” (Kant, *Groundwork for the Metaphysic of Morals* 105). For Kant, this ethical tenet rests on the belief that each individual seeks, rationally, to exercise and protect their natural, autonomous facets against the malign, “unsociableness” of others. In essence, this provides for recognition of individuals as autonomous beings. When articulated through the classical liberal freedoms of speech, association, and enterprise, it provides guidance for contact between citizens. Moreover, as in Locke, the products of these freedoms, such as mutual, critical expression, act against subjective tyranny to protect social progress and objectivity by engaging reason in dialectical conflict. As Kant puts it:

Reason must subject itself, in all its undertakings, to criticism, and cannot limit the freedom of such criticism by prohibitions, without harming itself and incurring a damaging suspicion. There is nothing, however useful, however sacred it may be, that can claim exemption from the searching examination of this supreme tribunal, which has no respect of persons. The very existence of reason depends upon this freedom; for the voice of reason is not that of a dictatorial and despotic power, it is rather like the vote of the citizens of a free state, every member of which must have the privilege of giving free expression to his doubts, and possess even the right of veto. (Kant, *Critique of Pure Reason* 483)
With this, toleration assumes great importance. This is because it is the means by which authority and substance is granted to objective reason, by allowing free public discourse to affirm or renounce the validity of social practice (O’Neill 37-9). Beliefs, mores and practices may remain, for some considerable time, fluid and under attack, but the contractual settlement itself may not, with individuals acknowledging the overwhelming force of objective, mutual obligation and finding sufficient room to engage in fair and bounded competition. While he enthusiastically expounds the rational foundation of this order, Kant admits, reluctantly, that “Nature only enjoins us to the approximation of this” “highest task” (Kant, Political Writings 46-7). This is because Kant famously argued that the realization of an objective system insured by a “guarantor” would be “the hardest task of all; indeed, its perfect solution is impossible; from such warped wood as is man-made, nothing straight can be fashioned” (Kant, Political Writings, 46)

However, humans ought, as far as possible, to pursue that end. In doing so, however, later thinkers in the liberal tradition were confronted with an emerging paradox.

The Liberal Paradox

Noting the responses of liberal governments to mass migration in the 20th century, many deontic liberals began to challenge the consistency with which the tenets of Lockean and Kantian thought were applied. The liberal order, they argued, had failed to protect free and equal individuals from tyrannical state imposition. A belief in the superiority of liberalism, had led Western states to foster a homogenising and monolithic social liberalism, bulwarked by rights which promoted the individual to the detriment of the group (Young 12; 166). Miller’s (Citizenship and National Identity 48-49; see also Miller, Strangers in Our Midst) republican critique of “Militant liberalism” suggests that liberals promote the virtue of a socially liberal life, but fail to recognize the subjectivity of their efforts, ignoring the possibility that their actions merely replicate those of tyrants denounced by Locke. They contradict the categorical imperative and, through hypocrisy, alienate non-liberals. Accordingly, pluralists have held that the classical liberalism of freedom, autonomy and objectivity has, paradoxically, engendered a path of oppression, interference and subjectivity, reducing some people, de facto, to the status of second-class citizens (Kelly 62-80). As Kymlicka puts it:

diversity was ignored or stifled by models of the “normal” citizen, which were typically based on the attributes of the able-bodied, heterosexual white male. Anyone who deviated from this model of normalcy was subject to exclusion, marginalization, silencing, or assimilation. Thus, non-white groups were often denied entry to Western democracies, or if admitted were expected to assimilate to become citizens; indigenous peoples were either shunted into isolated reserves and/or forced to abandon their traditional lifestyles. (Kymlicka, Contemporary Political Philosophy 327)

For modern pluralists, the implementation by “militant” classical liberals of a self-professed superior social order failed to afford non-liberals the respect due them as humans. They argued that this is because an essential obligation of Kantian respect for humans is the demonstration of respect for people’s cultural choices, as “to undermine and despire their beliefs is simultaneously to undermine and despire their selves” (Jones 689). This link between culture and the self is twofold. Firstly, cultural identities, beliefs and structures are the expressions of autonomy. When we inhibit these cultural choices, we inhibit the rights of individuals to their autonomy. Secondly, by giving value to things, culture provides individuals with the structures, mores and social forums needed properly to make informed choices, satisfy need and access the good (Kymlicka, Multicultural Citizenship 80-93). When culture is undermined or destroyed, so too are the choices and goods that it substantiates for the humans it shapes (Kymlicka, Multicultural Citizenship 89).

There have been several responses to the paradox. In what follows, I discuss three contemporary examples grounded in the deontic tradition of Locke and Kant. I begin with the approach of Will Kymlicka, described by Patten as “liberal culturalism,” (Patten 4) who has sought to recognise, and protect individuals from, the cultural coercion of the state.
Multicultural Rights

If culture is important, it follows that the historical promotion of liberal culture by western liberals is important to the social liberals of those societies. Political communities are not truly neutral but, rather, conditioned by the national culture of the people promoting them (Kymlicka, *Multicultural Citizenship* 87-93). As Kymlicka puts it, “political life has an inescapably national dimension, whether it is in the drawing of boundaries and distributing of powers, or in decisions about the language of schooling, courts, and bureaucracies, or in the choice of public holidays . . . [T]hese inescapable aspects of political life give a profound advantage to the members of majority nations” (Kymlicka, *Multicultural Citizenship* 194). In order that the neutrality of the state be upheld, Kymlicka argues that the political powers of national self-determination must be checked. Minorities should not be harmed or impeded by the cultural propagation of the majority and should be able to perpetuate their own culture, so long as their doing so do not endanger the cultural existence of the majority (see also Miller, *Citizenship and National Identity* 62). Individuals should not be disadvantaged by public laws with which, in substantial number, they disagree, and from which they can reasonably be exempted without inflicting harm on others (see commentary in Caney). “Without such measures,” Kymlicka argues, “talk of “treating people as individuals” is itself just a cover for ethnic and national injustice (Kymlicka, *Multicultural Citizenship*, 194).

There are two practical examples of reasoning which illustrate this point. The first concerns the position of Jews and Muslims in relation to legislation restricting commercial opening hours. Exemptions are sought on the grounds that Christian commitments penalise, economically, non-Christians for the private beliefs of the majority. Because Jews and Muslims have their own holidays and Sabbaths, legislation curtailing trading hours on Christian holidays means that they are impeded economically on two days for every one that Christians observe (see Caney 88-9). The second, more famous case, is that of the exemption of Sikhs from legislation making mandatory the wearing of motorcycle and police helmets, on the grounds that such garments cannot simultaneously be worn with the turban, which is worn as a result of the prohibition on cutting hair – one of the five Sikh articles of faith (Parekh, “Barry and the Dangers of Liberalism” 136). Without an exemption, Sikhs would, *de facto*, be prevented from riding motorcycles and gaining employment in professions, such as the police force, which are affected by the legislation (Kymlicka, *Multicultural Citizenship*, 114-15). As such, Parekh argues that the state inflicts a “disabling” inequality on the group which diminishes practically their ability to exercise choice and access opportunities (see Barry 34-8). The “disabilities” of minorities are overcome by freeing “conscientious objectors” from the obligations of the majority. By allowing Jews and Muslims to trade on Sundays, they are able, simultaneously, to observe their Sabbaths and trade for the same number of hours as Christians. By exempting Sikhs from the wearing of helmets, they are able to utilise the same forms of transport and enter the same professions, as the majority. It is argued that, in both cases of exemption, the majority, and other minorities, are unharmed. By attempting to carve space for minority groups through exemptions, the state upholds neutrality. By upholding neutrality, the state upholds equality, insofar as checking partiality means removing inequalities.

In order that exemptions can be negotiated, and shared needs of individuals expressed, multiculturalists seek to develop group rights of representation. This adds a multicultural tier to democracy, enshrining cultural plurality within the state. A possible, even logical, consequence of this political recognition of pluralism is that, in order to meet the specific needs of cultural entities, public funds and resources are distributed to groups, rather than individuals. Indeed, the likes of Parekh (“Barry and the Dangers of Liberalism” 114) call for the administration of public funds for the provision of welfare and health care to be devolved to cultural groups, on the grounds that they are better able to understand and satisfy the needs of group members.

Attentive to such arguments, many western governments have allocated to groups, resources for the funding of cultural, community, housing and pedagogical projects and introduced quota systems to achieve multicultural participation in public life (Parekh, *The Future of Multi-Ethnic Britain*, for instance, 166-171; 176-191; 182-83; 201-203). The UK Labour Governments of 1997-2010, for example, consistently supported, through the formation of “faith schools,” the qualified devolution to religious groups control
over pedagogical policy. Throughout controversy surrounding the policy, the Government sought to accentuate the compatibility of multicultural devolution with liberal democracy, emphasising the sort of grounding principle articulated by Kymlicka in the following: “It is... important to stress the limits of rights ...: minority rights should not allow one group to dominate other groups; and they should not enable a group to oppress its own members. In other words, liberals should seek to ensure that there is equality between groups, and freedom and equality within groups” (Kymlicka, Multicultural Citizenship, 194). The Labour Government, like Kymlicka, expressed a commitment to a tolerant, inclusive, heterogeneous liberalism bounded by individual rights which curtail those “multicultural excesses” that threaten the inviolable autonomy and liberty of the individual (Parekh, “Barry and the Dangers of Liberalism” 139).

The practice most commonly cited as an example of “multicultural excess,” is Female Genital Mutilation (FGM), which Kymlicka (Politics in the Vernacular 172-76) has deemed irreconcilable with liberal-democracy, and which the Labour Government sought to outlaw through the Female Genital Mutilation Act (2003) and amended by the Serious Crime Act (2015). Although it may—at least conceivably—be an expression of autonomous choice, multicultural deontics find FGM intolerable because, once practised, it diminishes and contravenes the inviolable equality and autonomy of the individual. In order to protect individuals, multicultural pluralists refuse the right of exemption to FGM practising peoples from human rights legislation which bounds the actions of the whole of society. The guiding principle of this pluralism, therefore, is that the choices of individuals should be respected only in so far as they demonstrate respect for others.

For Kymlicka, the species-wide need for respect and cultural founding ensures that deontic pluralism is, objectively, universally applicable. However, the content which grants meaning and structure to life in each multicultural society is constituted, subjectively, by the cultural choices of national self-determining people. Multicultural orders of this sort are bulwarks against tyranny, for they ensure, everywhere, that the rights of individuals are respected, while simultaneously enabling free individuals, in self-determining regions, to organise and promote their cultural choices. In Kymlicka’s eyes, the spread of such principles is of particular benefit to the “emerging democracies in Eastern Europe, Africa, and Asia,” where “the status of national minorities and indigenous peoples” are presently determined by “xenophobic nationalists, religious extremists, and military dictators” (Kymlicka, Multicultural Citizenship, 194, 195). For the likes of Kymlicka, a world of multicultural states would be one in which despotic “excesses” were curtailed and ameliorated by the deontic right to choose one’s way of life on the basis that all others also get to choose.

Kymlicka’s approach has been advanced further by the likes of Allen Patten (Equal Recognition), who has argued that acknowledging the importance of culture provides the basis for a defence of “recognition.” Recognition is a concept advanced most clearly by Hegel and those influenced by Hegel, such as Anna Elisabetta Galeotti (Toleration as Recognition), and is proximate to the notion of affirmation rather than toleration. Liberal proponents, such as Patten, argue that the state ought to recognise constituent features of a person’s culture in order to uphold respect for that person as an individual. Mere civic toleration does not prevent groups’ being disadvantaged – indeed, the objection integral to toleration may actively harm groups by virtue of diminishing their self-esteem. The state can uphold neutrality by recognising as official, people’s languages, festivals and beliefs, affirming every individual’s culture, rather than remaining neutral by eschewing evaluation. This, of course, has been challenged both on the basis that recognition requires, in contrast to the tradition outlined above, that the state endorse conceptions of the good and that some forms of recognition may be insincere and counter-productive insofar as neutrality dictates that all ways of life are endorsed (Jones “Equality, Recognition and Difference” and “Toleration, Recognition and Identity”). As such, while recognition has gained traction in elements of the literature on pluralism, it has often been rejected for deontic, liberal reasons. The approach extends beyond what would usually be expected of a neutral, liberal state, proactively affirming ways of life, rather than, in Kymlicka’s approach, reactively creating space for culture. A purer, Kantian approach has been invoked by John Rawls.
Rawls and Justice as Fairness

A Theory of Justice is Rawls' most influential attempt to construct a conception of the ideal state through the application of a Kantian categorical imperative. Rawls begins by developing the conception of human nature found in Kant in order to identify means of codifying universal principles of justice. Emphasizing the natural “plurality and distinctiveness of individuals” (Rawls, A Theory of Justice 26) in terms of taste, talent and interest (Rawls, A Theory of Justice 257), he argues that humans universally seek the “primary goods” of wealth, liberty and self-respect (Rawls, A Theory of Justice 54-5; 78-81; Rawls, Political Liberalism 181; Rawls, The Law of Peoples 13; 61). These goods are pursued through a conception of the good which, as in Kymlicka's account of culture, provides structure and direction to life (Rawls, “A Kantian Conception of Equality” 255; Rawls, The Law of Peoples 61). Our choice of the conception of the good is determined by knowledge of our talents, class and gender which enables us, subjectively, to endorse systems of governance which best promote our interests. A demonstrative example here might be that of a white, male, slave owner who is led, from knowledge of his facets, to support a racially divided, slave-owning, patriarchal society. While the choice benefits individuals imbued with pertinent characteristics, it may often disadvantage those with different qualities such as, to use a popular example, black, female slaves. These unfortunate individuals may be denied their autonomy and “primary goods” by an oppressive order that treats them, not as humans, but as “things.” Were circumstances to differ—substantially and implausibly—it may be that the slave owner would suffer for the choices of black women. Accordingly, our innate “unsociability,” compounded by knowledge of our facets, inhibits the creation of an objective, universal order.

To create a just social contract, we must be stripped of the subjectivity that such knowledge entails (Rawls, “Justice as Reciprocity” 214; 222-23). Accordingly, for Rawls (A Theory of Justice 11; 17; 118-121), we must first be placed beneath a “veil of ignorance” which denies us knowledge of our talents, assets, social standing, the conception of the good and the status of that conception within society. In this “original position” we know only that we wish to pursue primary goods, do not wish to be discriminated against or denied our humanity, and that we are disinterested in the affairs of others, except where their interests may clash with those of others (Rawls, A Theory of Justice 12). That is, we have knowledge only of those objective elements that we share with other individuals.

For Rawls (A Theory of Justice 121-123; 221-227), this “original position” is “implicit” in Kantian ethics, because it levels the status of each rational, autonomous individual and liberates them from the burden of subjectivity. It enables the creation of objective, universalizable principles because, being ignorant of their qualities and facets, individuals are unable to seek “unsociable” exemptions (Rawls, “Justice as Reciprocity” 202-203). As they do not know the status of the conception of the good to which they belong, and would not wish to belong to a disadvantaged group if they did, they are unlikely to promote an order which arbitrarily penalises sections of society (Rawls, A Theory of Justice 134-35). Therefore, the veil of ignorance plays upon risk aversion to engender support for “justice as fairness.” This marries “the idea of citizens as free and equal persons” (see Rawls, Political Liberalism 41-2) with the idea of a well-ordered society as a society effectively regulated by a public political conception of justice” (Rawls, Political Liberalism 35).

For Rawls, these two concepts are codified in two principles: “Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar scheme of liberty for all,” and “Social and economic inequalities are to be arranged so that they are both: (a) to the greatest benefit of the least advantaged . . . and (b) attached to positions and offices open to all” (Rawls, A Theory of Justice 266). Rawls places these principles of justice within a universalist context by outlining the criteria for the fulfilment of the categorical imperative in “The Formal Constraints of the Concept of the Right” (A Theory of Justice 112-118). They are seen to fulfill Kantian objective criteria in the following respects: They are general, in that they are “unconditional,” “always hold” and “to understand” them does “not require a knowledge of contingent particulars” or “reference to individuals or associations” (Rawls, A Theory of Justice 114). They are “universal in application,” “hold for everyone in virtue of their being moral persons” and are not put forward as “self-contradictory, or self-defeating, for everyone to act upon” (Rawls, A Theory of Justice 114). They are seen to fulfill a condition of “publicity” because, given knowledge of them, contractors would find them “desirable” and conducive to the “stability of social cooperation” (Rawls, A Theory of
Moreover, Rawls imposes an “order on conflicting claims” of the right (Rawls, *A Theory of Justice* 115) through the “First Priority Rule,” which grants liberty priority over the socio-economic concerns of the “Second Principle,” ensuring that the social contract avoids contradiction. Lastly, Rawls imposes finality on the principles: “There are no higher standards to which arguments in support of claims can be addressed; reasoning successfully from these principles is conclusive” (Rawls, *A Theory of Justice* 116). The principles “override the demands of law and custom, . . . social rules generally” (Rawls, *A Theory of Justice* 116), and even “considerations of prudence and self interest” (Rawls, *A Theory of Justice* 117). Therefore, it is assumed that the principles of justice are intended for objective, universal application (Rawls, “Justice as Reciprocity” 224).

Critics, particularly communitarians, such as Sandel (“The Procedural Republic and the Unencumbered Self” and *Liberalism and Its Discontents*), have long challenged the empirical foundations of this universalism, arguing that Rawls’ “universal” human nature is gleaned, subjectively, from an analysis of the individualistic West. Where else, for example, would individuals be “mutually disinterested” and “conceived as not taking an interest in one another’s interests” (Rawls, *A Theory of Justice* 12). In other societies, self-interest is conceived of as indivisible from the interests of the group which gives meaning and structure to life (see, for example, Kenyatta, “Facing Mount Kenya). For the likes of Sandel, constructing a contract founded upon ignorance of these interests, relationships and meanings, in order to avoid subjectivity, is to deny individuals the ability to live within a system of justice suited to their moral ends (Sandel, *Liberalism and its Discontents* xi; Miller, *Citizenship and National Identity*, 47-9). This is because, in the first place, individuals lie naturally within a system of justice from which they are removed by the Kantians. In the second, the contract most suitable to non-Western or non-liberal peoples would be one which codifies their pre-existing culture, knowledge of which is denied to them in the original position. Rawls’ failure adequately to acknowledge such societal structures in *A Theory of Justice*, makes his analytical claims erroneous, and the hypothetical contract and his conception of the right, impertinent, subjective devices for the justification of individualism (see, for example, Gray, *Endgames* 52-3; *Two Faces of Liberalism* 15-17).

Addressing these criticisms, Rawls revises his position in *Political Liberalism* to acknowledge “the fact of reasonable pluralism,” in which reasonable citizens are characterized by their willingness to offer fair terms of social cooperation among equals” and “doctrines are reasonable provided they recognize the essentials of a liberal democratic regime and exhibit a reasoned ordering of the many values of life (whether religious or nonreligious) in a coherent and consistent manner” (Rawls, *The Law of Peoples* 87). The intention is to create “a political conception of justice . . . that can be endorsed by widely different and opposing through reasonable comprehensive doctrines” (Rawls, *Political Liberalism* 38). In this respect, the classical liberal belief in an objectively or latently individualistic populace is replaced by the notion of a pluralist society in which “there is no reasonable religious, philosophical, or moral doctrine affirmed by all citizens.” Rawls follows multiculturalists like Kymlicka in stating that the culture or comprehensive doctrines which demarcate such pluralist societies represent the expression of autonomy and provide individuals with a structure for the realisation and consumption of primary goods. As such, to repeat the arguments of the multiculturalists, to deny an individual’s right to their chosen comprehensive doctrine is to deny their autonomy, equality and access to primary goods such as self-respect.

To prevent such injustice, Rawls (*Political Liberalism* 38) pursues, not Kymlicka’s schema of national public culture combined with the multicultural exemption, but an extension and objectification of the minimalistic state in order to strip the public sphere of any cultural colouring. Refuting the nationalist sentiments of Kymlicka, he argues that “public reason” must be bereft of “nonpolitical aims and values” (Rawls, *Political Liberalism* 43) and that the overarching “conception of justice must be limited to . . . the domain of the political” and its values” (Rawls, *Political Liberalism*, 38). In this, the comprehensive doctrine of liberalism, with a commitment to the Millian “cultivation of individuality” is rejected, and a socially minimal “political liberalism” endorsed, as the foundation of justice. This revision, Rawls argues, does not entail an abandonment of “justice as fairness.” Rather, it marks the natural conclusion of the Kantian project:
Justice as fairness does not seek to cultivate the distinctive virtues of the liberalisms of autonomy and individuality, or indeed of any other comprehensive doctrine. For in that case, it ceases to be a form of political liberalism. Justice as fairness honours, as far as it can, the claims of those who wish to withdraw from the modern world in accordance with the injunctions of their religion, provided only that they acknowledge the principles of the political conception of justice and appreciate its political ideals of person and society. (Rawls, *Political Liberalism* 201)

Political liberalism enables the objectification of the freedom and equality denied by social liberalism to non-liberals. Individuals are able to pursue any “reasonable” life, liberal or non-liberal, that their autonomous faculties select, as they are not coerced in the public sphere by any form of social perfectionism. They are regulated by a political conception of justice which demands only that informed, free and equal “citizens who affirm reasonable but opposing comprehensive doctrines belong to an overlapping consensus” and “generally endorse that conception of justice as giving the content of their political judgments on basic institutions,” while “unreasonable comprehensive doctrines . . . do not gain enough currency to undermine society’s essential justice” (Rawls, *Political Liberalism* 39).

In Lockean and Kantian fashion, Rawls seeks objectively to ensure the latter by permitting “The encouraging or discouraging of comprehensive doctrines” when “their associated ways of life may be in direct conflict with the principles of justice” (Rawls, *Political Liberalism*, 196). Rawls gives two examples of circumstances requiring such intervention. The first is in the case of “repression or degradation of certain persons on, say, racial, or ethnic, or perfectionist grounds” as in “slavery in ancient Athens, or in the antebellum South” (Rawls, *Political Liberalism*, 196). A second is when a certain, possibly religious, comprehensive doctrine “may be admissible but fail[s] to gain adherents under the political and social conditions of a just constitutional regime” and “can survive only if it controls the machinery of the state and is able to practise effective intolerance” (Rawls, *Political Liberalism* 196-97). These are quite substantial constraints upon diversity. Most, if not all, of the “multicultural excesses” cited in Kymlicka, may face proscription by the first principle, and many, particularly messianic, religious groups may face prohibition by the second.

In both cases, the justification for intervention lies in Kantian respect for persons and traditional, Lockean distrust of statism. By intuition, the proponents of such paradigms deny, in some cases, that the existence or proliferation of non-liberal groups is a good (Gray, *Two Faces of Liberalism* 5). Indeed, they may naturally be disposed to the rejection of non-liberal orders, and the placing of constraints on non-liberals suggests that toleration is strictly finite. However, their deontic separation of the good and the right means that they are unwilling to foist explicitly and completely their comprehensive doctrine and its good on people who choose to live bounded non-liberal lives. Whatever is left, and there may be little, is tolerated because they believe that it to be wrong or unjust to force autonomous individuals to realise “good” or “true” lives. This line of reasoning is extended yet further by Chandran Kukathas.

**Kukathas: Increasing the Number of Umpires**

Analytically, Kukathas begins by following Rawls” (and, of course, Kant’s) claim that “Persons are separate; and given appropriate circumstances will separate from the group” (Kukathas, *The Liberal Archipelago* 71). Stripped of circumstance and contingency, the individual is, universally, “a rational agent, motivated by desires and governed by conscience” (Kukathas, *The Liberal Archipelago* 71). For Kukathas, conscience must guide the construction of practicable deontological principles of justice, because it is the faculty which links the recipient of rights to the good. Kukathas demonstrates this link by arguing that the universal “interest that any human agent may have is that he has an interest in living a good life and that the good life would be at least acceptable to conscience” (Kukathas, *The Liberal Archipelago* 71). His emphasis on conscience is an attempt to make explicit the object of deontological respect, replacing Rawls’ “conception of the good,” which seems semantically to emphasise something less innate, organic and psychological. However, the overall equation remains the same: we must respect and tolerate freedom of conscience to demonstrate respect for autonomous persons.
This is vital to the proper functioning of humans because, although we remain, fundamentally, individuals, we demonstrate a need for social interaction guided by conscience. We rely upon relationships to satisfy our needs and are disadvantaged when we become isolated from groups. Conscience develops and regulates these relationships by providing individuals with a common understanding of the right and the good (Kukathas, *The Liberal Archipelago* 73). Accordingly, “Without the capacity to live according to conscience the possibility of friendship disappears. Conscience must be left alone if the individual is not to be left alone” (Kukathas, *The Liberal Archipelago* 73). Toleration of conscience, and the means it provides for binding individuals together is, therefore, the foundation of Kukathas’ conception of justice.

This toleration is granted more significance than in Rawls because of the role Kukathas assigns to it in relation to public reason. Toleration may not promote reason, but it does “uphold or honour” it, “since it forsweares the use of force in favour of persuasion (whether by argument or by example)” (Kukathas, *The Liberal Archipelago* 130). In this respect, the development of toleration and reason are “interdependent,” as the presence of the former allows the latter to influence human action (Kukathas, *The Liberal Archipelago* 128). Conversely, humans imbued with reason may be more prone to accept the former because they realise that the free expression of ideas is “the condition which gives judgments worth” (Kukathas, *The Liberal Archipelago* 126). Here, Kukathas follows the practical, evolutionary strain of Kantian thought, believing that the dialectical competition of ideas provides social practice with a legitimacy that can always reasonably be challenged (Kukathas, *The Liberal Archipelago* 127-28). So long as toleration is respected, even unreasonable individuals who belligerently choose to ignore public discourse can be influenced by examples of successful practise and lifestyle (Kukathas, *The Liberal Archipelago* 129).

This same process enables the creation of just *modus vivendi* or a mode of coexistence within and between societies by drawing, voluntarily, diverse groups into the discourse over issues of common concern. This practical, evolutionary development of justice necessarily contradicts the hypothetical, thought experiment model employed by Rawls (Kukathas, *The Liberal Archipelago* 128). Kukathas (*The Liberal Archipelago* 125-30) justifies this contradiction on the grounds that Rawls’ desire to establish “a common established standpoint” ignores the particularities of circumstance. Rawls’ distinct separation of the right from the good ensures the unreasonable rigidity of hypothetical orders that will, often, be rejected in practice. Kukathas seeks to make the Rawlsian separation practicable by emphasising, merely, the priority of the right of objective, mutual toleration of conscience. This is to enable free individuals to pursue a form of justice and good pertinent to their consciences and contingencies of life (Kukathas, *The Liberal Archipelago* 128-131).

The minimalism of this conception of justice challenges the “selective toleration” of Rawlsian liberalism. It denies liberals the widely accepted right to interfere in the affairs of non-liberals to prevent suspected internal oppression and multicultural excesses like female genital cutting or forced marriages (see Kukathas, *The Liberal Archipelago* 135). Liberals who believe that intervention to prevent such “repugnance” is justified by reason demonstrate the need to extend non-liberal challenges to “moral certitude” (Kukathas, *The Liberal Archipelago* 126-27). For liberals and non-liberals alike, it “is a mistake to assume that reason is honoured or upheld by giving anyone the authority to maximise it” (Kukathas, *The Liberal Archipelago* 130), as intolerance will almost certainly achieve the opposite. As Kukathas puts it:

‘If the concern [of intervention] is oppression, there is just as much reason to hold (more) firmly to the principles of toleration – since the threat of oppression is as likely to come from outside the minority community as it is from within. . . . [W]e should be wary of conceding to established authorities the right to intervene in the “intolerable” practices of minorities because there is little assurance that the power will not be abused…. For one thing, minorities have often been demonised, with horrible practices attributed to them in order to justify persecution. . . . Even in cases where there is clear evidence of terrible practices, however, there is a good reason not to give established authority the right to intervene. (Kukathas, *The Liberal Archipelago* 135-36)

This does not mean that Kukathas condones non-liberal practice—he shares the concerns of interventionist liberals (see Kukathas, “The Life of Brian” 194-199 and *The Liberal Archipelago* 140-43)—but, simply, that he finds reason to avoid the oppressive consequences associated with the liberal interventionism of someone like Brian Barry (see Barry, *Culture and Equality* and Kukathas, “The Life of Brian” 191). While interventionist
praxis may be well intentioned, it may seldom account for the true consciences of those presumed “victims” of non-liberal communities. Much better, for all involved, that the intervention be instigated by the “victims” themselves. In this way, the consciences of all individuals are protected, rather than second guessed.

To enable this state to exist, Kukathas qualifies the overriding freedom of conscience with freedom of association. This allows individuals to enter into, and exit from, groups of collective conscience (see, similarly, Barry, Culture and Equality 148-53). Individuals who wish to practise FGM or promote Nazism are free to join with others to do so, so long as those who do not are entitled to relinquish membership of the group (see example in Kukathas, The Liberal Archipelago 114). Should dissenters be prevented from exiting, the state is justified in intervening to protect the fundamental freedoms of conscience and association of the individual (see Kukathas, The Liberal Archipelago 114-16). Similarly, Kukathas follows Locke in stating that all groups are bound, also on pain of intervention, by prior agreement to tolerate opponents. In this way, the two freedoms of conscience and association follow reason and toleration in achieving interdependence.

These principles do not merely govern the private sphere. Individuals require the power of self-determination to be substantial for conscience fully to be actualized. FGM is not in any way a hobby, but a practice of great public significance to its practitioners. Groups require public power to perpetuate their collective consciences, and Kukathas argues that it is liberal to grant it to them:

> The liberal solution. . . has been to divide authority and separate power . . . In a liberal polity . . . there are more ways still of dividing and separating authority [than exist today]: for authority may be held by a host of other institutions, associations, and communities, none of which is completely subordinate to any other single power, or compelled to abide by a single, common standard of justice . . . The important thing is not that there be more umpires for their own sake but that there be less possibility of any one umpire dominating or existing so completely unchecked that he is able to act tyrannically. (Kukathas, The Liberal Archipelago 265)

In this move, Kukathas conflates Locke’s division of the public and the private, moving every organisation of collective conscience from the private sphere, into a series of separate public spheres, each with their powers of collective autonomy. With the single, substantive, overarching constitution of Kant and Rawls dissolved, a multitude of voluntary “clubs,” “households,” “communities,” “religious or cultural affiliations,” “states” and “provinces” take on the role of governing publicly the conduct of members (Kukathas, The Liberal Archipelago 143). Individuals can be subject to government by several orders simultaneously as the heterogeneity of roles they perform, and interests they pursue, lead them from one sphere to another. This means that, in every aspect of life, individuals “have to coexist with others, and find some modus vivendi . . . and to accept the authority of some third party who will adjudicate disputes” (Kukathas, The Liberal Archipelago 143). However, in keeping with his concern for the avoidance of tyranny, he does not seek to ensure that the third party has transcendental authority to adjudicate on matters of conscience throughout society, preferring instead, to “let people cultivate their own gardens” (Kukathas, “The Life of Brian” 194).

This self-determination ensures, for Kukathas, that the content of public life is constituted by individual conscience, expressed through voluntary and atomised authorities. In Kantian terms, public reason develops dialectically through competition between the lives that these authorities regulate. This may lead the collective entities of society to move closer to each other and towards homogeneity. However, it may not: society may become as disparate and diverse as the disparity and diversity of its constituents’ consciences (Kukathas, The Liberal Archipelago 147). The selective toleration of Rawls is replaced by a modus vivendi of mutual toleration and reason, in which the authority of the state is limited to the protection of freedom of conscience and association, while the day to day running of affairs is granted to formerly private bodies.

For Kukathas, this epitomises the liberal defence of the individual against the coercive forces of the state and the majority. Indeed, it is the true culmination of the Kantian project pursued by Rawls (Kukathas, The Liberal Archipelago 263). Kukathas states that, while the former still contains conceptions of liberal justice surreptitiously at its core, the Liberal Archipelago does not. At state level, it is apolitical, permitting non-liberal conceptions of justice to coexist simultaneously with liberal notions. In this respect, Kukathas’ modus vivendi appears to demand of citizens the most substantial form of toleration discussed thus far, as there are few criteria of palatability to diminish it. This raises serious practical concerns, not least over the ability of the unreasonably intolerant to respect the principles of justice, as well as over the ability of a state to prevent harm.
if they do not. Moreover, it asks liberals to relinquish their ability to express, politically, their deontological defence of the individual through intervention, while positing the deeply contentious argument that it is preferable to permit internal tyrannies than engaging in the popular intolerance of “repugnance.”

My discussion of deontological pluralism has moved, therefore, from the national culture and exemption system of Kymlicka, through the social minimalism of Rawls, to the diffusion of power in Kukathas. The order in which the thinkers are covered reflects the extent to which liberalism is permitted predominance over society and the state. In the end, the position (Kukathas’) which constrains most fully liberal intervention in society, is also the one which is presented as being the most objectively universal in application. That is to say, although the content of public life may differ, the guiding principles of just societies—freedom of conscience and association, toleration and reason—remain the same.

Conclusion

Liberalism rests upon the belief in the intrinsic worth of individuals, the importance of respecting those individuals and the imperative of ensuring that the state does not prevent those individuals from pursuing their own ends, so long as those pursuits do not actively hinder the pursuits of others. The foundational work of Locke and Kant has influenced a deontic tradition of pluralism committed to upholding the neutrality of the state in order that the equal worth of individuals be upheld. In this respect, liberalism is acutely concerned with fairness and has been the intellectual basis for the freedoms around which modern societies are shaped. Liberal concern for dealing publicly with pluralism is not an attempt to advantage non-liberal groups, as some on the right have claimed, but an attempt to ensure that human beings, irrespective of their background, are afforded the same rights and freedoms as their fellow citizens. Liberals have adopted a range of strategies to achieve that end. Those outlined above illustrate attempts to institutionalise “fairness.” The point, in each case, is that the institutional arrangements pursued are aimed at preventing precisely the sort of tyranny, oppression and coercion which critics from the right claim to oppose in other societies, as well as their own. These institutional approaches are attempts to ensure that liberal states continue to avoid the ills of their non-liberal ancestors and to continue to represent places of safety for people with beliefs over which they may or may not have a choice in holding.

At a time of refugee crises, protests against migration and the rise of ISIS and other forms of fundamentalism, it is essential that we understand the intellectual bases of contemporary policies of multiculturalism. It is essential that we recognise the individualistic basis of such thinking and the way in which this reflects the traditions of liberal societies. Too often, multiculturalism is understood outside of this context. While there have been many multicultural societies, the forms taken in liberal democracies are specifically liberal and culturally European. These approaches stem from the same tradition as that which has provided the intellectual and moral basis for the protection of the free market and private property; both predicated on respect for individuals. If we are to debate “multiculturalism,” we have to debate it on the basis that it is inseparable from a whole raft of commitments at the heart of liberal democracy. In clarifying this point, this article serves, not to defend deontological forms of pluralism, but to ensure that discussion in a range of fields occurs on sound footing—enabling appreciation of the full implications of claims and acceptance of the fact that the challenges with which pluralists grapple are those with which liberals have grappled from the very beginning of their endeavours.

Works Cited


