

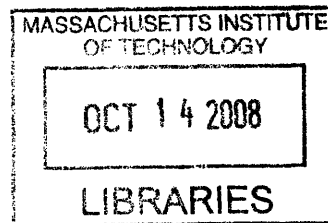
**Liberalism and Ethical Life: On Equality, Neutrality, and Culture**

by

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Submitted to the Department of Linguistics and Philosophy  
in Partial Fulfillment of the Requirements for the Degree of

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## **Abstract**

Liberalism faces an apparent paradox. Its commitments to values such as neutrality and tolerance seem to recommend a hands-off attitude toward a society's ethical life. It seems the state should not regulate the value systems that underlie a society's ethos, group interests, or individual lives. Yet plausible sociological claims suggest that to respect liberal values, the state should interfere with ethical life. So, liberal justice appears to recommend sharply conflicting attitudes to ethical life. In three chapters, I argue that liberalism should adopt a limited hands-on attitude toward ethical life that avoids the apparent paradox.

In the first chapter, "Meanness, generosity, and Rawlsian distributive justice," I contend that the liberal state should shape ethical life to respect the value of *equality*. A hands-off attitude blinds the state to its effects on the market ethos. These effects can interfere with distributive justice—e.g., if the ethos is marked by extreme greediness. A state that attends to its effects on ethical life may promote less greed and thereby a more just distribution.

In the second chapter, "Examining the hoopla over opera: liberal neutrality as justified interference," I argue for liberal *neutrality* as neutrality of justified interference. This view permits constrained interference with ethical life, but permits no interference that is itself inadequately justified. I reject two other approaches: neutrality of justifications, which does not hold the state accountable for its interference with ethical life, and neutrality of interference, a consequentialist view that requires the state maintain a status quo with respect to ethical life.

In the third chapter, "Confessions of an army brat—an outsider's insight into liberal egalitarianism multiculturalism," I suggest liberalism should better respect the value of *culture*. The problem is practical—it is difficult to appreciate and weigh both the value of cultural belonging and the threat that the state's interference with ethical life poses to cultures. A hands-off attitude toward ethical life allows too much interference with cultures, while too little interference conflicts with justice. Thus I propose a liberal multiculturalist principle that places the priority of culture (presumptively) above many secondary goods but below liberty and equality.

Co-Thesis Supervisor: Joshua Cohen  
Title: Professor of Philosophy

Co-Thesis Supervisor: Sally Haslanger  
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## Table of Contents

|   |           |
|---|-----------|
| <b>Chapter 1: Meanness, generosity, and Rawlsian distributive justice.....</b>  | <b>6</b>  |
| <b>§1 Introduction: greed and liberal justice.....</b>                          | <b>6</b>  |
| <b>§2 Some preliminaries.....</b>   | <b>8</b>  |
| <b>§3 The relevance of the market ethos to Rawlsian justice.....</b>            | <b>10</b> |
| 3.1 An argument from fairness .....   | 12        |
| 3.2 An argument from the content of DP .....                                    | 15        |
| <b>§4 Cohen’s internal criticism .....</b>                                      | <b>17</b> |
| 4.1 Initial dilemma .....   | 18        |
| 4.2 Fundamental dilemma .....   | 19        |
| 4.3 Making room.....  | 21        |
| 4.4 Pattern of actions.....   | 22        |
| 4.5 Everyday actions of individuals .....                                       | 25        |
| <b>§5 Objections.....</b>   | <b>26</b> |
| 5.1 Dworkinian objection .....  | 27        |
| 5.2 The role of metaphysics in the dilemma objection.....                       | 28        |
| 5.3 The coercive/non-coercive institutions objection .....                      | 29        |
| <b>§6 Conclusion .....</b>  | <b>32</b> |
| <br>  |           |
| <b>Chapter 2: Examining the hoopla over opera—</b>                              |           |
| <b>liberal neutrality as justified interference.....</b>                        | <b>33</b> |
| <b>§1 Introduction: Liberal neutrality and limits on interference.....</b>      | <b>33</b> |
| <b>§2 What do we want from liberal neutrality?.....</b>                         | <b>36</b> |
| 2.1 Liberal neutrality and legitimate political goals.....                      | 37        |
| 2.2 Restricting unduly biased interference with conceptions of a good life..... | 41        |
| 2.3 Two housekeeping notes.....   | 46        |
| 2.3.1 Dismissing neutrality of motivation .....                                 | 46        |
| 2.3.2 MIA distinctions .....  | 47        |
| 2.4 Taking stock: what we want from neutrality .....                            | 50        |
| <b>§3 Neutrality of justifications.....</b>                                     | <b>53</b> |
| 3.1 The basics.....   | 53        |
| 3.2 Does NJ measure up?.....  | 57        |
| 3.3 Verdict on neutrality of justifications.....                                | 59        |
| <b>§4 Neutrality of interference.....</b>                                       | <b>60</b> |
| 4.1 The basics.....   | 60        |
| 4.2 Does NI measure up?.....  | 65        |
| 4.3 Verdict on neutrality of interference .....                                 | 68        |
| <b>§5 Neutrality of justified interference .....</b>                            | <b>69</b> |
| 5.1 The basics.....   | 69        |
| 5.2 Does NJI measure up? .....  | 74        |
| 5.3 Verdict on neutrality of justified interference.....                        | 76        |
| <b>§6 Conclusion .....</b>  | <b>76</b> |

|   |            |
|---|------------|
| <b>Chapter 3: Confessions of an army brat— an outsider's insight into liberal egalitarianism multiculturalism .....</b> | <b>80</b>  |
| <b>§1 Introduction.....</b>   | <b>80</b>  |
| <b>§2 Multiculturalism within liberal egalitarianism .....</b>  | <b>85</b>  |
| <b>§3 Step one: The presumptive priority of cultural belonging.....</b>   | <b>95</b>  |
| 3.1 Cultural belonging is a significant and nearly irreplaceable good .....   | 97         |
| 3.1.1 Diffuse goods: white privilege and cultural belonging .....   | 98         |
| 3.1.2 Military brat experience helps us grasp the value and near irreplaceability of cultural belonging .....           | 102        |
| 3.1.3 Iceberg model provides insight into the diffuse good of cultural belonging.....                                   | 107        |
| 3.2 The interference of political arrangements with culture puts cultural belonging at risk .....                       | 112        |
| 3.2.1 Threat: Political arrangements can cause diffuse harm to culture.....   | 113        |
| 3.3 The presumptive priority of cultural belonging—where we are.....  | 119        |
| <b>§4 Liberal egalitarian multiculturalism .....</b>  | <b>120</b> |
| <b>§5 Step two: A distinct principle of multiculturalism .....</b>  | <b>123</b> |
| <b>§6 Objections and replies.....</b>   | <b>131</b> |
| <b>§7 Conclusion .....</b>  | <b>135</b> |
| <b>Bibliography.....</b>  | <b>139</b> |

# Chapter 1: Meanness, generosity, and Rawlsian distributive justice<sup>1</sup>

## §1 Introduction: greed and liberal justice

Imagine two societies: Fairland, populated by generous, egalitarian-leaning folks and Greedyland, populated by utterly mean, stingy, non-egalitarian stinkers (not to betray any bias).<sup>2</sup> *Because of* Fairland's egalitarian market ethos, people demand small or no inequality producing incentives to perform work that increases productivity. As a result, Fairland operates efficiently while maintaining smallish differences in how well the least advantaged fare compared to the most advantaged—the average dishwasher earns \$2 to the software mogul's \$3. Greedyland is equally efficient, but *because of* Greedyland's self-maximizing market ethos, people demand large inequality producing incentives to perform work that increases productivity—there, the average dishwasher earns only 30¢ to the mogul's \$3.

I assume that, absent some bizarre explanation, we judge Fairland to be a better place, a more distributively just place, than Greedyland because the least well off are better off. In any case, G. A. Cohen would affirm that Fairland is the more just society. On his view, because one society achieves greater equality through its ethos, it also achieves greater distributive justice. And on this ground, in *Where the Action Is, On the Site of Distributive Justice*, he faults John Rawls's theory of justice (Cohen, 1997, p. 3-30).

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<sup>1</sup> A slightly different version of this chapter appeared as Roxanne Marie Kurtz, "Meanness, Generosity, and Rawlsian Distributive Justice," in *Ethical Issues for the Twenty-First Century* (Charlottesville, Va.: Philosophy Documentation Center, 2005), pp. 321-339. This chapter included here with permission based on acknowledgment of that publication.

<sup>2</sup> For their valuable comments and conversations about earlier versions of this chapter, I would like to extend my sincere thanks to Norman Daniels, Thomas Scanlon, Jacqueline Taylor, and especially Joshua Cohen who helped me find some of my best points. In addition, I would like to give a hearty thanks to participants of the M.A.T.T.I. group, the 2001 Kent State Graduate Philosophy Conference, the 2001 APA Morality for the Twenty-First Century Conference, and the 2003 IWM Summer School.

Briefly, he argues that Rawls faces a dilemma when trying to deal with the place of a greedy ethos, or other market ethos, in a just society—do the principles of justice apply to the ethos or not? He concludes that any answer here by a Rawlsian looks inconsistent or arbitrary, leaving the Rawlsian without the resources to call Greedyland unjust unless she rejects the basic Rawlsian claim that the principles of justice do not apply to the everyday actions of individuals. (Everyday actions exclude actions that create, or are necessary for conforming to, the institutions designed to satisfy the principles of justice.)

If Cohen's criticism stands, it would be a significant challenge to Rawlsian justice, which comprises a set of lexically ordered principles of justice as follows. **LIBERTIES** protects basic liberties. **FEO** ensures fair equality of opportunity for offices to which inequalities are attached. And, the difference principle (**DP**), at issue here, ensures that social and economic inequalities are arranged to the greatest benefit of the least advantaged. On this view, **LIBERTIES** trumps **FEO** trumps **DP** (Rawls, 1999).

The standard Rawlsian view is that a society is just, if and only if, the institutions, laws, policies, etc., constituting its *basic structure* satisfy these principles and individuals uphold the principles. So, in an important way, everyday market-related actions of individuals fall outside of the realm of distributive justice.

Thus, what is at stake for the Rawlsian in her dispute with Cohen are the moral tenability of her view *and* its conception of social justice as a feature of the basic structure of society. For, if Rawlsian principles of justice cannot distinguish between Fairland and Greedyland, then the view would face a significant moral challenge that would weigh heavily against it. Thus, it is plausible to conclude that if the only way to acknowledge the importance of ethi means scrapping the Rawlsian conception of social justice in favor of one

that places everyday actions under the purview of principles of justice, then the Rawlsian has a strong *prima facie* reason to do so.

Perhaps most at stake for Cohen is his justice-based concern with the everyday actions of individuals. Can he import this concern with everyday actions into Rawlsian justice, once he gets Rawlsians to countenance including the market ethos in the domain of social institutions to which principles of justice apply?

Against Cohen, I aim to show that a Rawlsian may coherently endorse the claim that a society's market ethos matters to justice insofar as institutions can permissibly affect it. I seek to escape his dilemma without sacrificing the Rawlsian conception of justice. If I succeed, this will not reconcile the differences between Rawls and Cohen, but it will supply a defense for Rawlsians against an intuitively compelling criticism.

## **§2 Some preliminaries**

With the claim that Fairland is the more just society in the balance, I hope that you will bear with me through some preliminaries.

I understand an ethos to be a public, shared, value system of implicit and explicit rules, sentiments, and moral intuitions that has the power to influence the behavior of individuals by influencing things like their actions, attitudes, preferences, and beliefs. A *market* ethos is an ethos that influences the behavior of individuals in the direction of, for example, meanness or generosity, particularly by influencing the kinds of incentives demanded by members of the society in exchange for productive work, and which thereby affects the distribution of goods in the society.

Generally, the term “incentives” refers to non-compensatory and compensatory incentives. However, I restrict “incentives” to capture only the incentives at the heart of the debate between Cohen and Rawls. I exclude two types that both sides could agree are consistent with distributive justice: compensatory incentives that compensate the loss of one primary good (e.g., leisure time) with another (e.g., money) without generating inequality, and limited incentives that allow one to pursue some reasonable range of personal prerogatives without causing large inequalities.<sup>3</sup> I also exclude incentives above the wage at which someone would agree to work, which both could agree are inconsistent with justice.<sup>4</sup> Thus, in my sense, incentives are inequality producing non-compensatory wages at the level one actually requires to agree to work. But they are not necessary—the person could choose to work for less, she simply would not. This fact may be to some measure caused by the market ethos at work in the person’s society.

So, my aim is to make the small point that the effects of a society’s market ethos on its incentive structure matters to Rawlsian justice. But what would this entail?

I have borrowed from Cohen when speaking of mean vs. generous societies, and their associated ethi, but market ethi reflecting other values may have similar effects on the incentives structure. Cohen recognizes this when he suggests that a Protestant ethos may promote egalitarianism (Cohen, 1997, p. 14). This distinction between the effects of an ethos and the values underlying it is crucial to understanding the scope of my project. It is only the effects of the ethi that I argue are relevant to Rawlsian justice.

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<sup>3</sup> See for example Estlund (1998).

<sup>4</sup> Such incentives would point to a flawed implementation of **DP** because incentives above reservation wages could be used to benefit the least advantaged.

Thus, I leave open whether a Rawlsian can make an argument from justice that chooses between a generous market ethos and a Protestant market ethos when they lead to the same effects. If Cohen contends that Rawlsian justice should also attend to the content of the ethos, then I provide no direct response.<sup>5</sup>

Finally, the conclusion of Cohen's internal criticism of the Rawlsian view is that its conception of social justice as a feature of basic structures is untenable—that Rawlsian social justice needs to encompass ethi and actions. My reply is responsive to the internal criticism. But Cohen may grant all I say, yet be fundamentally unmoved. For reasons beyond Rawls's framework, he holds that basic structures, ethi, and actions all matter to social justice (Cohen, 1997, p. 12). Thus, he may grant the coherency of my Rawlsian view, but still contend that it involves a morally indefensible conception of justice.

Now, back to Fairland and Greedyland. I first argue that a society's market ethos matters to Rawlsian justice, then I present and confront Cohen's argument that purports to show that this move means that everyday actions also matter to justice, and to finish I respond to two criticisms of my view generated by Cohen's paper.

### **§3 The relevance of the market ethos to Rawlsian justice**

I aim to support, from within a Rawlsian framework, the thesis that a society's market ethos matters to Rawlsian justice insofar as institutions can permissibly affect that ethos. My broad argument turns on the issue of whether Rawlsians should accept the following principle of justice:

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<sup>5</sup> For reasons to think he does hold this view, see Cohen (1997, p. 14). A hint at an indirect response: At times Cohen's view seems to suggest that in a Rawlsian society, the most just ethos would be the maximally egalitarian-promoting ethos inspired by DP. I believe that this traces to a value monism that a Rawlsian may reject.

**PROMOTE**: If a society's institutions can and may promote an egalitarian market ethos to restrict inequalities harmful to the least advantaged, then the society does promote an egalitarian market ethos.

In this formulation, by "can" I mean practically possible. By "may" I mean that promoting an egalitarian ethos will not violate **LIBERTIES** or **FEO**. So, 'may' imposes important constraints on the role of institutions in promoting an egalitarian ethos. A society that stomps on the liberties of its citizens or violates fair equality of opportunity to promote an egalitarian ethos will not satisfy **PROMOTE**. Now, my argument:

- (1) If **PROMOTE** is a corollary to **DP** then a society's market ethos matters to Rawlsian justice insofar as institutions can permissibly affect that ethos.
- (2) **PROMOTE** is a corollary to **DP**.
- (3) A society's market ethos matters to Rawlsian justice insofar as institutions can permissibly affect that ethos.

My thesis follows from premises (1) and (2). Premise (1) is unobjectionable. So, convincing a Rawlsian that she really ought to accept (2) will suffice to establish my thesis. Below I offer two arguments to justify **PROMOTE**. But let me pause to say that while my thesis could draw Cohen closer to Rawls, or Rawls closer to Cohen, distance will remain. Cohen would regard a society with an inegalitarian ethos as unjust, even if institutions have done as much as they permissibly can to move the ethos in an egalitarian direction. He would contend that a market ethos that is alterable only via means beyond whatever counts as the Rawlsian basic structure (perhaps introspection, social movements, or religion) would also be relevant to social justice. Nothing I say will suggest that Rawls would follow Cohen down that path.<sup>6</sup>

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<sup>6</sup> But nothing I say suggests that Rawls could not follow Cohen down that path, assuming the distributions resulting from such ethi were too radically egalitarian. For more on the ideas that lurk behind this note, see J. Cohen (2001).

### *3.1 An argument from fairness*

This intuitive moral argument appeals to the moral principle that arguably justifies the principles of justice, **FAIR**.

**FAIR** Society should be a fair system of cooperation among free and equal moral agents.

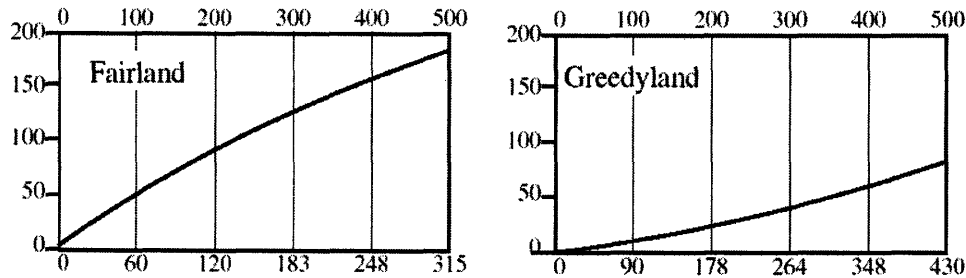
Another Cohen, Joshua Cohen, argues for the claim, that **FAIR**, at bottom, morally justifies the principles of justice. Briefly, his idea is that a Rawlsian society will be a fair system of cooperation: **LIBERTIES** ensures cooperation in a way that respects freedom. **EQUALITY** ensures treatment of people as equals with respect to offices and positions. And **DISTRIBUTION** ensures a distribution of primary goods consistent with treating people as equals.

**DISTRIBUTION** is consistent with treating people as equals because it permits only those inequalities that benefit the least advantaged. Thus, J. Cohen contends, the least advantaged should assent to them—they would be worse off without them. He writes:

If the well-being of the least advantaged is maximized, the least advantaged have no reason to complain. And if the least advantaged have no reason to complain, then how, consistent with accepting the equality of citizens, could anyone have good reason to complain? (J. Cohen, 2000)

The initial idea to take away is that in a society that satisfies **FAIR**, the least advantaged *lack good reason* to complain. But the key to my next move is the Rawlsian assumption, as argued for by J. Cohen, that a society satisfying the principles of justice will satisfy **FAIR**. So, Rawlsians maintain the least advantaged *lack good reason* to complain in a society that satisfies the principles of justice. In particular, they lack good reason to complain about inequalities, because all those permitted would benefit them.

Where is this all going? I argue that unless we accept **PROMOTE** as a corollary of **DP**, then the least advantaged would have good reason to complain. To see why, let us return to Fairland and Greedyland, beginning with a look at graphs of their contribution curves.



The contribution curves show how egalitarian a society is, the steeper the curve, the more egalitarian the society. The upper x-axis shows the amount of primary goods available for distribution, the size of each society's pie. The lower x-axis represents the amount of primary goods going to the better off. The y-axis represents the amount going to the least advantaged. So, in Fairland when the primary goods pie is 100 slices, the better off receive 60 slices and the least advantaged get 40. In Greedyland, though, the better off get 90 slices and fork over a measly 10 to the least advantaged.

Now, assume that the difference between the curves is fully explained by the fact that Fairland promotes an egalitarian ethos through its institutions while Greedyland does not. So, Fairland is more egalitarian *because* it promotes an egalitarian ethos.

Also, assume that both societies satisfy the principles of justice as fully as they can without also satisfying **PROMOTE**. So, the only possible difference in terms of justice is that Fairland satisfies **PROMOTE** while Greedyland does not. If **PROMOTE** is *not* a corollary of **DP**, then each society should be equally just.

I mean this to be a clean case in which the least advantaged clearly fare better in Fairland, and in which each society can and may promote egalitarian preferences to achieve a distribution like Fairland's.

With this case in mind, I can move forward with the intuitive moral argument from fairness for **PROMOTE**.

- (1) If **PROMOTE** is not a corollary of **DP** then Greedyland satisfies the POJs.
- (2) If Greedyland satisfies the POJs then Greedyland's least advantaged *do not have* good reason to complain.
- (3) Greedyland's least advantaged *have* good reason to complain.
- (4) Thus, **PROMOTE** is a corollary of **DP**.

Premise (1) follows from our second assumption about Fairland and Greedyland—that each society is as just as possible without satisfying **PROMOTE**. Premise (2) depends upon accepting that a society satisfying the principles of justice also satisfies **FAIR**, and thus gives the least advantaged no good reason to complain. While I have not said enough to convince someone who rejects this view, many Rawlsians would accept it, so it fits within a Rawlsian framework. Thus, the argument turns on premise (3). Fortunately, our intuitions strongly support (3).

In Greedyland the least advantaged have *good reason* to complain. Society is failing to do something permitted by **LIBERTIES** and **FEO** that would make them better off no matter the size of the primary goods pie. After all, Greedyland's institutions could promote an egalitarian ethos to achieve a contribution curve as steep as Fairland's. Indeed, given that possibility, any flatter curve seems unjust. All in the society have their liberties protected and enjoy fair equality of opportunity. What possible reason could one give to the least advantaged to justify the failure to design institutions in a way that would make them better

off? “We wanted more!” or “Well, we didn’t bother to think about it,” or “It’s not like we planned it,” hardly seem satisfactory responses. Anything along those lines shows a lack of respect for people as equal moral agents because it allows the natural and social lotteries to have an arbitrary effect on the distribution of goods in a society. This tells the least advantaged that, through no fault of their own, society sees them as less deserving of a reasonably good life.

Thus, Greedyland’s least advantaged should complain: their institutions could be designed to increase their welfare without infringing on others’ liberties or fair equality of opportunity. The remedy is for Greedyland to promote an egalitarian ethos. So, for **DP** to be consistent with **FAIR**, our understanding of it should be one under which **PROMOTE** follows from it.

Thus, we see that a society’s market ethos is relevant to whether Rawlsian justice obtains. An ethos matters when institutions can affect it in a manner that helps to improve the position of the least advantaged without running afoul of the other principles of justice. The Rawlsian has more resources at her disposal than G.A. Cohen thinks she has to criticize a society of stinkers. Next, I try to very quickly establish this same conclusion without appealing to an outside moral principle.

### *3.2 An argument from the content of DP*

In this second argument, I argue that **DP\*** is a schema for conditions on satisfying **DP**, and then take an instance of **DP\*** to get **PROMOTE**.<sup>7</sup> The Rawlsian view requires that a society’s basic institutions are structured so as to satisfy **DP**.

---

<sup>7</sup> A weak reading of **DP** permits inequalities that maximize the position of the least advantaged *given* how things are. So, if a person will as a matter of fact accept a job that increases productivity in a way that

**DP** “Social and economic inequalities are to be arranged so that they are . . . to the greatest benefit of the least advantaged.” (Rawls, 1999, p. 72)

We can derive some rules for conditions on what it takes to satisfy **DP**, such as **DP\***.<sup>8</sup>

**DP\*** If a society’s institutions can and may  $\phi$  to restrict inequalities harmful to the least advantaged, then the society does  $\phi$ .

**PROMOTE** If a society’s institutions can and may promote an egalitarian market ethos to restrict inequalities harmful to the least advantaged, then the society does promote an egalitarian market ethos.

Ever so briefly, **DP\*** is a schema for conditions on satisfying **DP**. If not then it looks as if **DP** would be vacuous—yes, it would permit inequalities to benefit the least advantaged, but it could also permit inequalities not to their benefit.

The important aspect of the schema is that the move from [can and may  $\phi$ ] to [does  $\phi$ ] in **DP\*** is justified. For suppose [can and may  $\phi$ ] did not imply [does  $\phi$ ], then a society that can and may  $\phi$  to *restrict* harmful inequality, can fail to  $\phi$ , yet still satisfy **DP**. But then a harmful inequality under the purview of **DP** might or might not be restricted. So, unless [can and may  $\phi$ ] implies [does  $\phi$ ] in our corollary schema, **DP** would again be empty of normative content.

**PROMOTE** is a simple instance of our schema, **DP\***, and thus, a simple corollary of **DP**. End of argument.

---

improves the position of the disadvantaged only if she receives incentives, though she could choose to do otherwise, then the weak reading permits the resulting inequality. A strong reading of **DP** permits only those inequalities that are *metaphysically necessary* for maximizing the position of the least advantaged. So, in the case above, the resulting inequality would not be permitted because the person could choose to accept the work without incentives.

The interpretation of **DP** underlying the upcoming schema treads the middle ground. It permits only those inequalities that maximize the position of the least advantaged, *given* institutions have done what they can and may to create conditions conducive to maximizing that position. So above, if institutions could be permissibly designed to lower incentive demands, then the middle ground interpretation would not permit inequalities resulting from higher incentives.

<sup>8</sup> Another obvious schema: If a society’s institutions can and may  $\phi$  to permit inequalities which benefit the least advantaged, then the society does  $\phi$ .

Thus, at least two Rawlsian lines of argument support **PROMOTE**, either of which may suffice to demonstrate to Rawlsians that they ought to accept the thesis I set out to establish in this section: a society's market ethos matters to Rawlsian justice insofar as institutions can permissibly affect that ethos.

This result allows the Rawlsian to shield herself to some reasonable degree from the moral untenability of a view of justice that cannot tell us Fairland is more just than Greedyland. This, I take it, is a favorable outcome (though I do not expect I can convince all Rawlsians of this). But the threat posed by Cohen's criticism looms. Can we both accept my arguments for **PROMOTE** and continue to exclude the everyday actions of individuals from the realm of Rawlsian distributive justice?

#### **§4 Cohen's internal criticism**

Cohen argues via two dilemmas that coherency requires Rawlsians to recognize the relevancy of both the market ethos and individual actions (in addition to institutions) to social justice. In broad strokes, the underlying arguments work like this, where X=actions and Y=ethos, or X=ethos and Y=actions:

- (1) **DP** should apply to X.
- (2) If **DP** should apply to X, then it should apply to Y.
- (3) Thus, **DP** should apply to Y

Cohen's justificatory strategy for the first step is to argue that institutions are morally on a par with one of the action/ethos pair, thus justice should include that member of the pair. To justify the second step, Cohen appeals to a *metaphysical connection* between ethos and action from which a sort of *value monism* is supposed to follow. The value monism makes morally arbitrary any distinction drawn between ethos and action with respect to justice. But

ultimately it is Cohen's metaphysical position that justifies his monism and thereby sustains his dilemmas.

#### ***4.1 Initial dilemma***

Cohen's first step here is to argue that the way in which *institutions* should be structured and the way in which one should *act* are morally on a par with respect to distributive justice. He asks the Rawlsians: Suppose I affirm that justice requires **DP** to apply to institutions. Should I also affirm that justice requires me to apply it in everyday life? Cohen argues that if we should limit inequalities to those that improve the position of the least advantaged, then it cannot matter morally whether this goal is furthered by institutions or through my everyday actions. If we agree, then we are forced onto the "yes" horn of the initial dilemma. But in doing so, we allow actions into the sphere of justice, altering the content of Rawlsian social justice (hence the dilemma).

The immediate Rawlsian reply to step one, Cohen recognizes, is that it has mistaken the site of distributive justice. Rawlsian social justice is a feature of the basic structure, the objection goes, so just citizens need merely "conform" to **DP** to "count as faithfully upholding it . . . *because* that principle requires those rules" (Cohen, 1997, p. 11). Thus, Rawlsians can deny that just citizens must also *affirm DP* as a guide to their own daily lives.

Cohen grants that a Rawlsian may successfully use this "basic structure objection," on one interpretation of Rawls's requirement that "the citizens of a just society are themselves just" (Cohen, 1997, pp. 14, 17; see also Rawls, 1996, p. 257-288). If conforming to institutions in the basic structure satisfies the requirement, then Cohen allows that everyday actions of individuals can remain outside social justice.

However, by direct appeal to Rawls, he notes that at times Rawls has a richer view of just citizens. On Cohen's interpretation of Rawls, citizens demonstrate fraternity by not seeking advantage over others and act from a sense of justice to realize their moral natures and to recognize the dignity of the least advantaged. Cohen concludes that Rawls may sacrifice this richer understanding of just citizens to dissolve the initial dilemma only at high cost: "it means that the ideals of dignity, fraternity, and full realization of people's moral natures can no longer be said to be delivered by Rawlsian justice" (Cohen, 1997, p. 17).

But Cohen's conclusion comes too quickly. Rawls is not obviously forced to abandon the richer understanding of just citizens. Arguments closely paralleling those for **PROMOTE** may show the ideals can remain relevant to Rawlsian justice insofar as institutions can and may affect them.<sup>9</sup>

Nevertheless, let us grant Cohen his point: escaping the initial dilemma means rejecting the rich conception of just citizens. We may bypass Cohen's second step, which is relevantly similar to the second step below. But we must still tackle his second reply to the basic structure objection, his fundamental dilemma.

#### ***4.2 Fundamental dilemma***

Here, Cohen's first step is to argue that the way in which *institutions* should be structured and how the *ethos* should affect the distribution of goods in society are morally on

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<sup>9</sup> Thanks to Joshua Cohen for this point.

Moreover, J. Cohen (2001) argues that Rawls assumes certain results will obtain if his principles are implemented, but if such assumptions fail, it would be open to Rawls to revise his principles. So, if we take as a Rawlsian assumption that the rich conception will describe just citizens, then, if the assumption fails, Rawls could revise his principles to preserve the rich conception.

Cohen might reply that any such revision of principles would sacrifice the basic structure objection. If so, and it is not immediately obvious to me that it is so, it would still not be an un-Rawlsian move to make, given his constructivism. G.A. Cohen's contention that a Rawlsian view would have to sacrifice the richer idea, at bottom, turns on his rejection of Rawlsian constructivism.

a par with respect to distributive justice. Drawing on Rawls, he appeals to what we may call the *profundity criterion* to show that the market ethos should be part of the basic structure of society, and as such, subject to the principles of justice (Cohen, 1997, p. 21; Rawls, 1999, p. 7).

**PROFUNDITY CRITERION:** the basic structure of a society comprises those institutions that have profound and pervasive effects on the distribution of goods that affect life chances and opportunities.

Cohen challenges: If the normative reason for limiting justice to the basic structure is that the institutions it comprises have profound and pervasive effects on the distribution of goods, then how can we countenance excluding the market ethos which has the same effects? He concludes the Rawlsian cannot. For, to exclude the ethos from the basic structure would require a morally arbitrary distinction between institutions and ethos at odds with the moral value underlying the profundity criterion. If we insist on excluding the ethos from the basic structure, then social justice as a feature of the basic structure loses its normative justification.

This is a powerful argument made within the Rawlsian framework. We might even say, a bit awkwardly, that Fairland and Greedyland are the contribution curves that chart a thousand words. So, I think we must accede. Social institutions and ethi that profoundly and pervasively affect the distribution of goods are morally on a par. As such, both should be subject to **DP**.<sup>10</sup> Yet, we have not been forced to agree that everyday actions should also be subject to **DP**.

Indeed, things at this point seem quite the opposite. The profundity criterion, which led us to agree that institutions and market ethi are morally on a par, gives us a strong *prima*

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<sup>10</sup> I recognize that there is a tension here with my earlier arguments intended to show that **DP** applies to market ethi only insofar as they are subject to the influence of institutions. I return to this later.

*facie* moral reason to distinguish between ethos and action. For, the actions of one individual conforming to the principles of justice do not have profound and pervasive effects on the distribution of goods in a society. My actions cannot meaningfully change the distribution pattern. And, it is a plausible Rawlsian assumption that not even the actions of a very wealthy person, or a greedy, incentive demanding person, in a society operating under the principles of justice, would profoundly and pervasively affect the distribution. Moreover, the same can be said about the effect of one individual's actions on the ethos.

So, why does Cohen conclude that letting in the ethos means letting in actions? In his second step, Cohen argues that the market ethos is so “bound up,” so tightly metaphysically connected with actions that there could be no principled reason to distinguish between them from justice. Any reason to include the ethos in the basic structure, he contends, must be a reason to include actions. This is the value monism that emerges from the tight connection between ethos and action. We have already accepted the move that says when two things are morally on a par, and one is subject to **DP**, the other should be as well. Value monism places ethos and action on a par, and if we resist making the same move here, our view looks unprincipled.

I aim to make space for a Rawlsian view that admits the ethos, but not actions into justice, by undermining the claim that value monism follows from the metaphysics.

#### ***4.3 Making room***

I deny that it is reasonable to construe the system of the market ethos in a way that gets a tight enough metaphysical connection to yield Cohen's value monism. But what is the metaphysics?

In trying to explain the link, Cohen draws an analogy between the informal structure of the ethos and of the family. He tells us that “the usages which constitute informal structure (think, again, of the family) are bound up with the customary actions of people” (Cohen, 1997, p. 20). But what are we to make of this? The relationship between ethos and action sometimes sounds as though it is one of identity or constitution, at other times as though it is a tight causal relationship. Also, he seems to slide between talking about an individual’s actions, and the set or pattern of actions in a society. So, the entity that is supposed to stand in relation to the market ethos remains vague.

#### ***4.4 Pattern of actions***

Let us begin under the assumption that the metaphysical link is between the ethos and the pattern of actions. (Though, I find this line a bit of a strawman position. Taking the ethos and patterns of actions as the relation poses no immediate problem for Rawls. Letting **DP** apply to the pattern does not entail applying it to everyday actions.)

*Identity*: If we understand the link to be one of identity, it would make obviously true the claim that a line between ethos and action must be arbitrary.<sup>11</sup> If a market ethos *literally just is* the pattern of actions in a society, if they are identical, then a distinction between them would necessarily be arbitrary. We could agree with the kind of value monism Cohen relies upon follows from this extremely tight link.

But there is a problem here. An ethos is not a pattern or a set. They have different properties. We understand an ethos to be something that guides or influences behavior, a pattern or set of actions need not guide behavior. Thus, the two cannot be one.

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<sup>11</sup> Cohen writes that the distinction between informal structure and the choices made within it “though conceptually intelligible, collapses extensionally.” This sounds as though only one social entity is at issue, and it just happens to have two definite descriptions. That entity here would be the ethos, viz., actions.

*Constitution:* Suppose instead that the pattern of actions constitutes the ethos.<sup>12</sup>

Metaphysical constitution entails complete overlap. If this is the link, then we can see why one may expect some difficulty in finding a moral distinction between the ethos and actions. The overlap may mean that the two possess the same causal powers on the distribution of goods in a society. (If I drop a statue and the clay that constitutes it, both get squashed, though they differ in properties.)

Though, it is perhaps worth pushing this point. We could hold that neither sets nor patterns possess the relevant causal power. But this reply turns on controversial views about causality and constitution. So, let us grant that *if* the pattern of actions constitutes the ethos, then the pattern would play the same causal role in determining distributions, and that this would justify Cohen's value monism.<sup>13</sup>

However, it would be a mistake to assert as tight a relation as identity or constitution between ethos and action, as Cohen himself recognizes. Cohen: "what people ordinarily do supports and *partly* constitutes . . . the informal structure of society" (Cohen, 1997, p. 28, emphasis added). Moreover, he allows for "moral pioneers" who act against the prevailing ethos, and who may thereby change it, and he discusses how an ethos can influence the desires of individuals (Cohen, 1997, pp. 26-27).

*Causal relationship:* What seems most important for Cohen with his focus on the market ethos is that the ethos influences the actions of individuals and, thus the distribution

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<sup>12</sup> Cohen: "behavior is constitutive of non-coercive structure." (Cohen, 1997, p. 20) Also, "Informal structure is not a behavioral pattern, but a set of rules, yet the two are so closely related that, so one might say, they are *merely* categorially different." (Cohen, 1997, p. 29)

<sup>13</sup> Though, it is perhaps worth pushing even this point when speaking of a relationship of constitution. If "actions" refers to a set or pattern of actions, we could hold that neither sets nor patterns possess the relevant causal power. But this reply turns on controversial views about causality and constitution. If instead "actions" picks out an individual's action(s), then the claim that actions have the same causal power as an ethos seems patently false.

of goods. So, perhaps the metaphysical link is primarily via causation. The ethos *sometimes* plays a causal role in determining actions, actions *sometimes* play a causal role in determining the ethos. More strongly, perhaps actions are the sole cause of the ethos.<sup>14</sup>

If this is the connection between ethos and action, *if* the pattern of actions alone shapes the ethos, then any line between the two may be arbitrary. We agree that the ethos matters to distributive justice insofar as it ultimately affects the distribution. So, why would the ethos matter to justice and the pattern of actions not, when the pattern determines the ethos? One answer might be that a set or pattern of individuals' actions do not an ethos make, they must occur minimally, in the context of a society. But I think the better move is to reject the assumption.

*Complex causation:* Indeed, I find each construal of the metaphysical link too simplistic. Actions are not the sole influence on an ethos. A society's institutions affect its market ethos, and affect the pattern of actions and the actions of individuals. Likewise, actions of individuals and patterns of action affect both ethos and institutions. And, the ethos itself influences both institutions and actions. There is no simple causal story to be told here about the relationship between institutions, ethos, and actions.

Rawls writes about the important role that institutions play in shaping and maintaining an ethos:

More generally, the basic structure shapes the way the social system produces and reproduces over time a certain form of culture shared by persons with certain conceptions of their good. (Rawls, 1996, p. 269)

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<sup>14</sup> Cohen would likely say of the ethos that "it has the character it does only because of the choices that its members routinely make." He makes this comment about the family, but I think he would agree that it also applies to the ethos. (Cohen, 1997, p. 20)

Now, if we accept that the market ethos system involves this kind of complex interaction, then room opens to find non-arbitrary reasons to claim that a just society applies **DP** to the market ethos, but not actions. The effects of the ethos on distributions that trace to institutions are not identical to the effects of the ethos that trace to actions of individuals (singly or collectively). There may be good reason for justice to concern itself only with the effects that come via institutions. The door opens a crack and the Rawlsian can put her foot in. To dissolve Cohen's dilemmas, a Rawlsian need not deny that actions are bound up with the market ethos, only that that's the whole story, to thereby block the quick move from metaphysics to value monism.

#### ***4.5 Everyday actions of individuals***

So, what happens if we instead take the relation to be the ethos and the everyday actions of individuals?<sup>15</sup>

*Identity and constitution:* Neither identity nor constitution can be the metaphysical link between ethos and action. My market related actions are not the market ethos, nor do they completely overlap with the ethos.

*Causal relationship:* What if the idea is that sometimes an individual's actions partially cause the ethos? This would be hard to deny, think of Martin Luther King, Jr.'s influence, for example.

Even so, the causal power of the ethos on distributions in virtue of which it has profound effects does not extend to my actions, nor even to King's. King's influence was not merely a factor of his actions, but also of his followers' actions. (A statue may inspire artistic

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<sup>15</sup> To support the idea that the actions in question are the actions of individuals, we can read in Cohen "Expectations determine behavior, behavior determines expectation," and "the personal is indeed political." (Cohen, 1997, p. 28, 24)

awe, while its individual atoms will not.) Thus, the metaphysical link on this understanding looks far too weak to yield Cohen's value monism.

*Complex causation:* Certainly, my actions can fit into the complex causation model sketched above, but this model does not deliver value monism.

Thus, I conclude that the metaphysical link between action and ethos does not justify Cohen's value monism. The Rawlsian gains her wiggle room. Of course, the failure of metaphysics to deliver monism does not prove it false, but it shifts the burden of proof back onto Cohen. Nevertheless, I recognize that for a compelling justification of the ethos/action line, the Rawlsian needs to offer a principled reason that explains it.

Here are two quick suggestions. The first derives from the profundity criterion, the second from an idea of what autonomy would be in a plural society.

- An ethos profoundly affects the distribution in a society, but an individual's actions do not directly, nor indirectly through the ethos. So, there is a principled reason to draw the line at the actions of individuals.
- For a pluralistic society to be a just society, justice needs to leave space for people to pursue their own conceptions of the good. If the principles reach all the way down to actions, the room left for varying conceptions of the good in a just society becomes too compressed.

Either option, or any other that non-arbitrarily distinguishes ethos from action, lets Rawlsians condemn that society of stinkers, Greedyland, without agreeing that **DP** applies to everyday actions. However, I will not argue for either of these options here. My aim was only to show that we may escape Cohen's dilemmas.

## **§5 Objections**

I have presented a happy outcome for the Rawlsian view, but Cohen would no doubt say I have reached this point too easily. Within his text lurk (at least) three criticisms of my

arguments herein, the first targets my argument for **PROMOTE** and the remainder my arguments against his fundamental dilemma.

### ***5.1 Dworkinian objection***

I claim that the market ethos should be subject to **DP** insofar as it can and may affect it. Strongly reminiscent is a proposal that Cohen attributes to Ronald Dworkin that “a Rawlsian government might be thought to be charged with a duty, under **DP**, of promoting such an ethos,” where such an ethos refers to a “social *ethos* that inspires uncoerced equality-supporting choice” (Cohen, 1997, p. 13).

Cohen concludes that such an interpretation would make Rawlsian justice incoherent. Unfortunately, the details of Dworkin’s proposal are unavailable to me. But we can construe Cohen’s argument against Dworkin as an argument against **PROMOTE**.

As I understand him, Cohen argues that a Rawlsian cannot coherently accept **PROMOTE** as a principle of justice because if institutions failed in their attempts to influence the ethos, a Rawlsian could not claim that the result were less just than if the institutions succeeded. But why? A tax code that attempts to maximize the position of the least advantaged, but fails because an alternative tax code would better achieve the end would not satisfy **DP**, and thus would be unjust. Merely attempting to create an institution to satisfy a principle does not suffice for justice. Likewise, an institutional design that attempts to shape the ethos to maximally benefit the least advantaged, but fails because alternative permissible designs that we could have chosen would better achieve this end would not satisfy **PROMOTE**, and thus would be unjust.

This is not to say there is nothing to what Cohen says. On my view the above-mentioned failure matters to the extent that the institutions could and may have done

otherwise to generate a more egalitarian ethos. But there is a different kind of failure.

Suppose we assume that the institutions have successfully shaped an egalitarian ethos to the degree that it is within their power. The ethos may yet remain far from egalitarian even though the principles of justice, even supplemented with **PROMOTE**, are fully satisfied. Setting aside J. Cohen-like worries (see footnote 20), this failure lies beyond the reach of Rawlsian justice. But the failures in the previous paragraph remain matters of Rawlsian justice.

So, it is a bit puzzling why Cohen concludes that any efforts by institutions to shape the ethos must lie beyond Rawlsian justice. I interpret Cohen as assuming that the ethos is irrelevant to satisfying the principles of justice. But this begs the question. Accepting the irrelevancy of the ethos to Rawlsian justice amounts to a rejection of **PROMOTE**. Thus, I conclude that Cohen's argument against Dworkin's suggestion is unpersuasive and leaves us with no reason to reject **PROMOTE**.

### *5.2 The role of metaphysics in the dilemma objection*

The first challenge to my attack on Cohen's fundamental dilemma is an obvious one.

Cohen writes:

What is more, even if behavior were not, as I claim it is, constitutive of non-coercive structure, it will come in by direct appeal to the profundity-of-effect criterion for what justice governs. (Cohen, 1997, p. 21)

The challenge here is that if we accept the profundity criterion, then we will not only have to recognize that the ethos is on a moral par with institutions, but that so too are behavior or actions. Here, if we understand behavior to mean the actions of individuals, I appeal to my comments above on why the criterion gives us reason to distinguish between ethos and

action. If instead, we take his remark to refer to the pattern of actions, then I appeal to my comments above on why placing patterns on a par with the ethos poses no immediate threat to Rawlsians.

### ***5.3 The coercive/non-coercive institutions objection***

In recasting Cohen's fundamental dilemma, I neglected to mention the prominent role the distinction between coercive and non-coercive institutions plays in it. Regardless of the profundity criterion, Rawls is ambiguous on exactly which institutions count as belonging to the basic structure, whether they include only coercive or also non-coercive institutions (Cohen, 1997, p. 21).

Cohen understands coercive institutions to be those that inform the "broad coercive outlines of society," that determine what citizens are required to do to satisfy the principles of justice "irrespective of the constraints and opportunities created and destroyed by the choices that people make within the basic structure" (Cohen, 1997, p. 19). Let us call the actions in this last bit justice-based actions, for lack of a better term, to contrast them with everyday actions. In his Endnote, he explains that coercive institutions can be specified by a set of rules that are not touched by everyday actions, but only by justice-based actions. Thus, he sees a clear opposition between coercive institutions and everyday actions.

Cohen maintains that there is no such opposition between non-coercive institutions and everyday actions. He writes: "by contrast, the identity of informal structures is less separable from practice: no distinction is sustainable between widespread practices which manifest or represent informal structure and widespread practices which do not." Put another

way, any rules specifying the non-coercive structure are tied to (patterns of) everyday actions.<sup>16</sup>

So, Cohen concludes that the role of everyday action demonstrates that the ethos cannot be a coercive institution—if it belongs to the basic structure, it must be a non-coercive institution. But he argues, if it is a non-coercive institution subject to the principles of justice, then everyday actions also matter to justice because they determine the rules of the ethos.

I have been mum about whether the basic structure includes only coercive or also non-coercive institutions, both in my argument for **PROMOTE** and in my criticism of Cohen's fundamental dilemma. Moreover, I slid from the position that the ethos is a matter of justice insofar as institutions can and may affect it, to the ethos being itself an institution. So, it may appear that my earlier success turns on what looks to be vacillation (though it was simplification). I am not ready to take a firm stand on the coercive/non-coercive institution issue, or whether the ethos is itself an institution. Thus, it is important to argue that my position is plausibly defensible on any combination of these two factors. To this end, I gesture at possible defenses in the following table.

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<sup>16</sup> Here, Cohen assumes the tight ethos/action, or non-coercive structure/action metaphysical link that I argued against above. But we can grant him this distinction. Even under my complex causation picture, everyday actions play a substantive role in determining non-coercive institutions that they do not play in determining coercive institutions.

|   | <i>Ethos a matter of justice as an institution</i>   | <i>Ethos a matter of justice insofar as it is influenced by institutions</i>   |
|---|--|--|
| <i>Basic structure includes only coercive institutions</i>                  | <p>An ethos cannot be a coercive institution in an unrestricted sense.</p> <p>However, if we grant, which I think we should, that the rules governing ethi are set by <i>both</i> everyday actions and justice based actions, then we can say that the ethos is a partially coercive institution.</p> <p>There is no obvious incoherence in maintaining that an institution is partially subject to justice.</p> | <p>Influence of coercive institutions cannot define the shape of an ethos.</p> <p>However, it can have two sorts of influence: that of institutions on the ethos—think here of the effects of a bill of rights on the ethos; and, that of justice-based actions.</p> <p>So, we can say that insofar as the ethos is influenced by the coercive structure, it is a matter of justice. Again, we may coherently hold that the limited influence makes the ethos only partially subject to justice.</p>   |
| <i>Basic structure includes both non-coercive and coercive institutions</i> | <p>Unless we are going to quibble about semantics, it seems we can include the ethos as a non-coercive institution.</p> <p>Again, on my view it can only be partially subject to justice because the means that a state can and may employ will not be the sole cause of a particular ethos.</p>   | <p>Influence of coercive and non-coercive institutions cannot define the shape of an ethos.</p> <p>However, if the basic structure includes non-coercive institutions, its influence on the ethos will be greater than above. In addition to the two sorts of influence delivered by the coercive structure, there is also the influence of non-coercive institutions.</p> <p>So, we can say that insofar as the ethos is influenced by the coercive and non-coercive structures, it is a matter of justice. Again, we may coherently hold that the limited influence makes the ethos only partially subject to justice.</p> |

I see no contradiction in the table's cells, thus I think a Rawlsian may recognize the relevance of ethi to justice in several ways. But Cohen would likely press me on the shared feature of the cells in the table. Each has it that the ethos is only partially subject to justice, and this commonality arises because I exclude everyday actions. On what grounds can I exclude the relevance of everyday actions? Here, I appeal to my arguments above as to why there is room for a Rawlsian to reject the value monism that would force me to include everyday actions in justice.

## §6 Conclusion

I have argued that a society's market ethos matters to Rawlsian justice, at least insofar as institutions can permissibly affect that ethos to promote equality.<sup>17</sup> It matters to justice that a society has a greedy rather than a generous ethos. Moreover, I have argued that the metaphysical link between ethos and action at the heart of Cohen's internal criticism is insufficient for the value monism that would force the moral parity in terms of justice of ethos and everyday actions.

To return to the basic issues at stake, if my arguments succeed, then they partially protect the Rawlsian view from the morally intuitive criticism that would arise if it could not deem Fairland more just than Greedyland. They make room for a view that applies **DP** to the market ethos, but not actions. Thus, the Rawlsian framework can take an interest in the market ethos of a society without expanding its conception of justice to include the actions of individuals in everyday life.

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<sup>17</sup> It may strike liberals as dark business indeed to think that justice requires governments to put an ethos that contributes to shaping our decisions on the national agenda. Such a move will almost certainly make values not to everyone's liking a matter of state business. However, what looks scarier to me is to not do so. Assuming that institutions already affect *ethi* in deep and important ways, then to do so blindly in ways that may lead to outcomes harmful to both the least and more advantaged seems far worse than making principled decisions about how institutions should influence them.

One may object that human sciences of psychology, sociology, and political science are not advanced enough to allow us to accurately predict how institutions will shape ethical life, so we ought not allow them to try. It would be foolhardy to claim that social sciences have reached a level where we can decisively say how different institutions will affect an ethos. (Few other than Asimov would speculate that this is even possible.) But this is not to say that we have no idea, or that we cannot learn. Attention and intention toward the effects of institutions on *ethi* thus seems to be the appropriate stance to take, especially given that the full set of principles of justice constrain how we may structure institutions.

## Chapter 2: Examining the hoopla over opera— liberal neutrality as justified interference

### §1 Introduction: Liberal neutrality and limits on interference

Liberalism faces an apparent paradox. Its core commitments to freedom and equality suggest that a just state should not interfere with conceptions of a good life in a way that favors some conceptions over others. But the fact is that political arrangements necessary for a liberal state to meet the demands of justice and to pursue other legitimate political goals do favor some conceptions over others.<sup>18</sup> For instance, achieving equal opportunity may require political arrangements that disfavor racist conceptions. Thus, it seems liberalism requires political arrangements that are at odds with liberalism. The practice of liberal neutrality properly construed eliminates the threat of paradox by rejecting the first premise. Proponents of neutrality contend that some interference with conceptions of a good life that favors some conceptions over others is acceptable as long as the state remains "neutral on what might be called the question of the good life" (Dworkin, 1985, p. 191-192).<sup>19</sup>

Understood in this way, liberal neutrality is a principle of *limited* interference. It permits political arrangements required to achieve legitimate political goals even if the arrangements interfere with conceptions of a good life. We can say that in this way, liberal neutrality is *liberal*. For the acceptance of some interference is what allows the state to

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<sup>18</sup> Rawls suggests a paradox like this when he writes: "Historically one common theme of liberal thought is that the state must not favor any comprehensive doctrines and their associated conception of the good. But it is equally a common theme of critics of liberalism that it fails to do this and is, in fact, arbitrarily biased in favor of one or another form of individualism" (Rawls, 1996, p. 190-191). Even Wall (2001), a supporter of neutrality of interference, agrees that we cannot expect political arrangements to equally interfere with conceptions of a good life.

<sup>19</sup> For a useful edited collection that contains the most influential statements of liberal neutrality see Klosko & Wall (2003), see especially Ackerman (2003), Dworkin (2003), Larmore (2003), and Rawls (2003) See also Nozick (1975, pp. 272-273)

pursue projects deemed legitimate within a liberal framework. Still, liberal neutrality insists upon the exclusion of political arrangements that are *unduly* biased in favor of some conceptions of a good life over others. In this way, liberal neutrality is *neutral*. Neutrality does not entail a complete lack of bias (if we can even make sense of that idea). Instead, neutrality determines what counts as objectionable bias in a particular context. Liberal neutrality determines what counts as undue bias within a liberal framework.<sup>20</sup>

With this thin sketch of neutrality on the table, let us agree that the practice of liberal neutrality does its job in resolving the threatened paradox when it: (i) allows the state to pursue all and only legitimate political goals and (ii) restricts undue bias in the benefits and burdens that political arrangements impose across conceptions of a good life. I address several details of this claim in the next section. For now, let me roughly propose that if we assume that the other parts of liberal theory are doing their job, liberal neutrality should suffice to eliminate undue bias.

I argue that we should endorse a view of liberal neutrality that I call *neutrality of justified interference (NJI)*. On this view, *unjustified* interference that benefits or burdens some conceptions of a good life counts as undue bias. A state that is blind toward interference cannot stop undue bias in its political arrangements. Instead, neutrality dictates that the state should recognize and justify any benefits and burdens that political arrangements impose across conceptions of a good life. To let the state do less is to let the state favor some conceptions over others for no good reason from within liberal justice.

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<sup>20</sup> Compare: if a judge imposes an unfavorable sentence on a prisoner, we might call her decision biased in that it goes against the prisoner's own interests. But unless the judge breached judicial neutrality, it would not follow that the bias was objectionable.

**NJI** is distinct from three broad approaches to liberal neutrality—neutrality of motivations (**NM**), neutrality of justifications (**NJ**), and neutrality of interference (**NI**). The first two are sometimes conflated. I distinguish them and dismiss the first in the next section. This leaves me to describe and assess the two views most at issue in the literature, **NJ** and **NI**, before I develop and assess **NJI**. Broadly, I argue **NJI** keeps the best and loses the worst of each approach.

**NI** is a consequentialist approach to the question of when bias is undue bias. Typically, **NI** is cast and dismissed by its opponents as a view that requires equal interference with conceptions of a good life.<sup>21</sup> The focus of neutrality of interference is with the actual effects of political arrangements on people's lives. Both critics and proponents of neutrality quickly dismiss neutrality of interference as an untenable position because political arrangements simply do interfere unequally with people's lives. However, even if we agree that we ought not to strive to achieve equal interference with conceptions of a good life, this does not mean that we should avert our gaze from that interference altogether. But this is exactly what the next view recommends.

**NJ** is taken to be the plausible alternative to **NI**. According to **NJ**, if the justifications for political arrangements are neutral, then the interference of those political arrangements with people's lives is *not* unduly biased. Roughly, **NJ** requires accountability with respect to how political arrangements connect to legitimate political goals. But **NJ** is largely blind to further concern with how political arrangements interfere with conceptions of a good life.

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<sup>21</sup> It has also been construed as a requirement for political arrangements that make the pursuit of different conceptions of a good life equally available. For an example of the dismissal of **NI**, see Rawls (1996, pp. 192-193).

To defend **NJI**, I first consider what we want from an account of liberal neutrality. In addition to allowing the state to pursue its legitimate political agenda, I suggest that for neutrality to prevent undue bias, it should satisfy two conditions. First, neutrality should require the state to give serious consideration to the biased interference of its political arrangements in our lives. Second, neutrality should hold the state accountable for that bias. I then consider **NJ** and **NI**. While each has virtues in terms of what we want from neutrality, I ultimately reject both because they fall afoul of these conditions. **NJ** offends because it fails to hold the state properly accountable and requires little in terms of consideration. **NI** offends because it holds the state accountable in the wrong way and it asks nothing from the state in terms of consideration. I then develop **NJI** and argue that it gets things just right. It insists the state give serious consideration to any biased interference its political arrangements have in our lives. It holds the state fully accountable for that interference. I conclude that, given **NJI** delivers what I suggest we want from **NJ** or **NI**, then the burden of proof lands on defenders of either other approach.

## **§2 What do we want from liberal neutrality?**

Let's take a closer look at the two things we want from any plausible account of liberal neutrality. We want an account that best (i) allows the pursuit of all and only legitimate political goals<sup>22</sup> and (ii) restricts undue bias in the benefits and burdens that political arrangements impose across conceptions of a good life, given the other parts of the liberal framework function properly.

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<sup>22</sup> Consistent with this, the state may *achieve* goals that are not in the set of legitimate political goals without pursuing those goals. A public opera series may help someone achieve her goal to live in a cultured community without the state having pursued that goal.

## *2.1 Liberal neutrality and legitimate political goals*

We agreed that liberal neutrality should allow the pursuit of all and only legitimate political goals. Political arrangements are the means by which a state achieves political goals. Thus, neutrality should allow political arrangements required to achieve those goals and exclude political arrangements that obstruct or have no bearing upon those goals. In a moment, after a brief word on the scope of legitimate political goals, I say more about each of these three ways that neutrality should regulate bias.

Legitimate political goals are the state's ends that emerge when the state properly applies the best construal of a liberal framework to its circumstances to set its political agenda. Various parts of liberalism work together to set the scope of legitimate political goals. The parts include, for instance, the values that ground an account of liberal justice, claims about the proper method for respecting those values,<sup>23</sup> principles of liberty and equality, norms of reasonable freedom and equal treatment, the space a theory allows for public goods as well as for expressive, majoritarian and utilitarian concerns, the state's interest in general welfare, and so on.<sup>24</sup>

The parts of a liberal framework and their complex organization determine if a concern should be addressed through political means in the first place. They determine, for instance, if the state should enforce religious freedom, strive toward equal opportunity, combat sexism, protect the environment, uphold community standards with respect to noise or sex or dress, or support public arts. To arrive at the content of legitimate political goals

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<sup>23</sup> Philip Petit (1989) explores such claims in his work on whether values should be promoted or honored.

<sup>24</sup> Note that I assume a liberal egalitarian (as opposed to libertarian) view of justice, and assume that such views share a common framework. These views are grounded in some liberal value(s) (such as human flourishing, equality, autonomy, or choice) that justify various norms and goals (which must include protecting basic liberties, ensuring distributive justice, promoting equal opportunity and may include others such as encouraging autonomy or reducing sexism).

takes serious debate around a great many contentious issues. But I make no effort to settle those issues here. I merely note that a proper account of liberalism should determine the set of goals that the state may legitimately pursue in a specific social-historical context through political means.

Given the state has such goals, political arrangements are the means to those ends. We grant that liberal neutrality should make space for the state to achieve these goals. If liberal neutrality is to make such space, then this tells us at least three things about how it should regulate bias.

First, liberal neutrality should allow bias when a state must implement political arrangements that unavoidably interfere with some conceptions of a good life to achieve legitimate political goals. The interference might be a means to achieving the goal. For instance, laws that interfere with murderers and rapists serve to protect liberty. Or the interference might be an accidental side effect. For instance, equal opportunity might require a state to deliver high quality public education that lessens the appeal of a sitcom-rerun-watching lifestyle. If so, liberal neutrality should allow this interference with that conception of a good life. For, whether the interference is intended or not, excluding the biased political arrangements would undermine the state's ability to pursue legitimate goals. Thus, let us agree that political arrangements with unavoidably biased effects are not unduly biased if they are reasonably believed to be a required means to achieve legitimate political goals. This is not a contentious position. As we see later on, proponents of neutrality consistently point out that neutrality should not get in the way of the liberal project.

Second, liberal neutrality should allow bias that could be prevented only through political arrangements that obstruct legitimate political goals. For instance, the state may not

use, on an entire society, a mind-control program that eliminates a person's ability to perceive race or gender in the interests of equal opportunity. Mind control conflicts with the legitimate goal of the state to protect freedom of conscience. The practice of liberal neutrality should not require the state to control our minds even if such efforts would be less biased than other means. For instance, a public education campaign aimed at disrupting racist or sexist conceptions of a good life might be a preferable means, although it is significantly biased in that it clearly benefits some conceptions and burdens other conceptions. Thus, let us agree that political arrangements with biased effects are not *unduly* biased when it is reasonable to expect alternative means to conflict with legitimate political goals.<sup>25</sup>

Third, liberal neutrality should exclude all bias that results from political arrangements not germane to the achievement of legitimate political goals. Surely such bias is undue bias. The state may not willy-nilly do whatever it likes in terms of how it interferes with people's lives. Given the plausible assumption that *any* political arrangement favors some conceptions of a good life more than others, the force of this third point is that liberal neutrality should exclude all political arrangements that lack relevance to legitimate political goals. Thus, liberal neutrality takes political arrangements aimed at goals reasonably understood to be objectionable on liberal grounds off the table. For instance, neutrality should rule out political arrangements aimed at an illegitimate moralistic goal such as the eradication of homosexuality.

To sum up, we want an account of liberal neutrality that allows and excludes some bias in virtue of the relationship between some political arrangements and legitimate political

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<sup>25</sup> Here I assume that there is some mechanism to order conflicting goals. For instance, I have assumed in the mind-control example that liberty-based goals take priority over equal opportunity.

goals when that relationship is one of practical necessity, inconsistency, or irrelevance. Notice that to allow or exclude bias on these grounds does not require neutrality to pay particular attention to all the ways in which political arrangements interfere with conceptions of a good life. But, unless the exclusion of political arrangements irrelevant to or inconsistent with legitimate goals suffices to get rid of all unduly biased political arrangements, the task of liberal neutrality remains incomplete. In that case, to eliminate undue bias, liberal neutrality should also help us choose between political arrangements that remain on the table after such exclusions.

By taking the scope of legitimate political goals as given, my concern is with a practical kind of liberal neutrality focused on the interference of political arrangements with conceptions of a good life. The idea is that the proper practice of neutrality should guide public debate to prevent undue bias with respect to how political arrangements interfere with people's lives, *given the other parts of liberal theory establish the scope of legitimate political goals properly.*

Of course, one might suggest that a liberal theory's grounding values that support its principles, norms, or the space it marks for other sorts of political goals should also be neutral between conceptions of a good life. Perhaps this is the case; perhaps not. It is worth noting that there has been significant movement by Dworkin (2000, pp. 282-283) toward the view that non-neutral values that ground liberal theory support a concern with neutrality, rather than vice versa.<sup>26</sup> But I do not seek to settle this matter here. Rather, I set aside the issue of how liberal neutrality might also regulate the liberal framework at a more fundamental level than the choice of political arrangements.

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<sup>26</sup> Wall (2001) and Kymlicka (2002) also support this position.

I am not alone in entrusting other parts of liberal justice to determine legitimate political goals. For instance, Kymlicka (2002) suggests that liberal neutrality allows the state to promote a national religion to foster harmony. Yet, he follows that up with the claim that the requirement to protect religious freedom may nevertheless exclude plans to promote a national religion. I understand this to be a case in which harmony and religious freedom count as legitimate political goals. Plans to promote a national religion are relevant to harmony, but inconsistent with religious freedom. Thus, the priority of religious freedom over harmony rules out political arrangements (Kymlicka, 2002, p. 344-345). Nor am I alone with putting my focus on political arrangements. In case after case in the literature, it is the neutrality of political arrangements that is discussed.<sup>27</sup> Discussions that involve state-supported opera are a favorite in discussions on neutrality, as comes up below.

Thus, my target remains a narrow form of liberal neutrality that functions at the level of the state's choice of political arrangements, given the liberal framework and the legitimate political goals that flow from that framework. This *practical* approach makes liberal neutrality a principle that helps decide policy. Plausibly, this form of neutrality remains interesting whether the framework itself has neutral roots or not. It is a modest form of neutrality that should prevent unduly biased political arrangements, *given liberalism beyond neutrality functions properly*.

## ***2.2 Restricting unduly biased interference with conceptions of a good life***

The second thing we want from liberal neutrality is the exclusion of political arrangements that are unduly biased in favor or against some conceptions of a good life,

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<sup>27</sup> One main exception here are efforts to provide a neutral justification for liberal neutrality itself. See, for instance Larmore (2003). For a brief discussion of problems with these efforts see (1989, pp. 164-167).

given other parts of liberal justice are doing their jobs. In this section, I suggest ways in which neutrality should pay particular attention to the ways in which political arrangements interfere with conceptions of a good life.

Liberal neutrality should play a crucial role in respecting what I take to be two non-negotiable norms of liberal justice: a norm of treatment as equals and a norm of reasonable freedom. These norms are at the heart of liberal egalitarian thought. They require political arrangements that create conditions of reasonable freedom and that treat people as equals.

Any plausible account of liberal neutrality, however conceived, should incorporate respect for these norms. Roughly, first, to treat people with equal concern and respect, neutrality should require the state to consider seriously the bias in the burdens and benefits that political arrangements will impose across conceptions of a good life. Indifference toward this bias does not demonstrate concern or respect. Second, to foster conditions of reasonable freedom, liberal neutrality should require the state to be accountable for the bias in the benefits and burdens that political arrangements impose on conceptions of a good life. A laissez-faire attitude toward these benefits and burdens creates conditions under which some are more free than others for no good reason. In a nutshell, liberal neutrality should ensure that the state both sees and addresses the bias in political arrangements to respect the non-negotiable norms. If an account of neutrality fails in either task, then it fails to restrict unduly biased political arrangements that interfere with the lives people want to lead. To see these tasks more clearly, let us take a closer look at the connection between liberal neutrality and the two key norms of liberal justice at issue.

The first non-negotiable norm of treatment as equals requires all to be treated with equal concern and respect. Equal concern and respect could consist of neither of either

concern or respect. But I reject such an empty notion. Liberalism requires actual concern and respect to be paid to all individuals. In particular, it requires serious consideration for how political arrangements affect the lives of all individuals.<sup>28</sup> If the state is indifferent to how political arrangements interfere with people's lives, it hardly treats those whose visions for life its political arrangements derail with equal concern or respect. For example, if a state focuses on how road plans benefit drivers but ignores how they burden bicyclists, the state is not treating drivers and bicyclists with equal concern and respect.

Thus, if the state is to avoid unduly biased arrangements, I suggest the following as a necessary constraint on its choice of political arrangements:

**CONSIDERATION:** In its choice of political arrangements, the state should give serious consideration to biased burdens or benefits that political arrangements impose on any conceptions of a good life.

The practice of liberal neutrality should suffice to ensure that the state's choice of political arrangements satisfies **CONSIDERATION**. If not, then it fails in its task to guide the state to reject unduly biased political arrangements.

The second non-negotiable norm of reasonable freedom concerns how people's lives actually go. This norm requires that all be reasonably free to develop, pursue, and revise their own conceptions of a good life. The word "reasonably" does a lot of work in this norm. Libertarians, for instance, would contend that individuals are reasonably free just in case the state protects their formal liberties. In contrast, a liberal egalitarian view of the sort under consideration here offers a more demanding view of what constitutes reasonable freedom. It requires not just formal freedoms, but the means to make the exercise of those freedoms worthwhile. Therefore, reasonable freedom should include some measure of positive

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<sup>28</sup> On this view, neutrality is partially derivative from the norm of treatment as equals.

freedom. To put it in Rawlsian terms, to have positive freedom is to have both one's formal liberties and the fair value of those liberties protected.<sup>29</sup> Thus, for instance, conditions of fair equality of opportunity and distributive justice matter to positive freedom because they make the exercise of one's freedoms worthwhile. There is a great deal more to be said on the details of reasonable freedom on a liberal egalitarian view, especially with respect to how to achieve either equal opportunity or distributive justice.<sup>30</sup> But I leave such issues to the side. What matters for my purposes is that liberal egalitarian views insist that positive freedom is a component of reasonable freedom.

Plausibly, political arrangements that affect conceptions of a good life bear on positive freedom. Burdens imposed by political arrangements on conceptions of a good life lessen positive freedom of the individuals who hold the burdened conceptions. Benefits enhance positive freedom of those fortunate enough to hold the favored conceptions. Thus, to ensure that the state establishes and maintains conditions of reasonable freedom, the state must not be immune to responsibility for any burdens or benefits that political arrangements impose across conceptions of a good life. In particular, given that all should have reasonable freedom, then the state should be accountable for those aspects of political arrangements that favor some conceptions of a good life over others.

Consider an analogous case from the legal arena that involves racial bias rather than bias across conceptions of a good life. The sentencing guidelines for cocaine use are based on its form: powdered cocaine or crack cocaine. The sentences for the use of crack cocaine are harsher. The form of cocaine used varies by race. Thus, the sentencing guidelines are

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<sup>29</sup> See Rawls (1999) or see especially Kymlicka (2002, pp. 121-127) on substantive self-determination.

<sup>30</sup> For instance, see the whole equality of what debate including work by Dworkin (1981), Sen (1979), and Anderson (1999).

racially biased. The state should be accountable for this bias, and should have to explain or remedy the bias. The same is true of bias against conceptions of a good life. Suppose, for instance, that when it could have done otherwise a state lays roads that are unfriendly to bicyclists but are especially friendly to drivers. The state should be accountable for the roads favoring non-bicycling conceptions of a good life. It should explain the bias or eliminate it.

Thus, I suggest the following as a necessary constraint on the state's choice of political arrangements if it is to avoid unduly biased arrangements:

**ACCOUNTABILITY:** The state should be held adequately accountable for any bias in the distribution of benefits and burdens that political arrangements impose across conceptions of a good life.

The practice of liberal neutrality should suffice to ensure that the state's role in regulating the biased nature of political arrangements satisfies **ACCOUNTABILITY**. If not, then neutrality would allow the state to implement unduly biased political arrangements.

The **CONSIDERATION** and **ACCOUNTABILITY** constraints, combined with the discussion regarding legitimate political goals and liberal neutrality, tell us a fair amount about what we should seek in a view of liberal neutrality. Specifically, we want a view that suffices to exclude the sources of undue bias thus far described. These sources include political arrangements that lack relevance to, or interfere with, legitimate political goals as well as arrangements chosen or implemented by the state without serious consideration of, or adequate accountability, for their biased effects.

Perhaps there is more work for liberal neutrality to do to eliminate bias than I have mentioned. There likely remain unidentified features essential to a proper account of neutrality. I make only the weak claim that any plausible account of liberal neutrality should suffice for the state to conform to the **CONSIDERATION** and **ACCOUNTABILITY**

constraints and to allow the pursuit of all and only what we can reasonably take to be legitimate political goals on the correct account of liberal egalitarian justice.<sup>31</sup> My argument to support **NJI** hinges on the claim that **NJI** fares better than **NI** or **NJ** at these tasks.

### *2.3 Two housekeeping notes*

Before moving on, I address two housekeeping matters. First, I set aside one construal of liberal neutrality. Second, I explain the absence of three distinctions that appear regularly in discussions on neutrality.

#### *2.3.1 Dismissing neutrality of motivation*

I want to very quickly take a third approach, neutrality of motivation (**NM**), off the table. Some slur **NJ** and **NM** together and call them something along the lines of neutrality of reasons. I want to sharply distinguish the views. **NJ** requires neutrality with respect to the public justification of political arrangements. **NM** requires neutrality with respect to the motives that lurk behind justifications.

**Neutrality of Motivation (NM):** The confidential motives that legislators or citizens have to support or oppose political arrangements may not include the motive to favor some conceptions of a good life over others.

My interest is in a form of liberal neutrality that can serve as a practical tool to guide debates on political arrangements. In a political debate, we must consider and weigh publicly

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<sup>31</sup> By tying neutrality to the two non-negotiable norms, we might say, roughly, that I make liberal neutrality partly about liberty and partly about equality. There are interesting questions about how liberty and equality fit into a liberal egalitarian theory of justice. Rawls (1999, 176-180), for instance, puts liberty first and makes the value of equality all about the fair worth of liberty. Dworkin puts equality first and makes the value of liberty all about being able to establish the worth of goods so that we can achieve equality. Isaiah Berlin (1984) contends that the fundamental liberal values are all distinct from one another. The issue of connections between liberty and equality that determines their proper places in liberal theory is not trivial. But I take it to be beside the point in this chapter. What matters for my position is that liberal egalitarian views are strongly committed to both non-negotiable norms, even if they differ in their background stories for that commitment. Again, I trust other parts of liberal theory to do their jobs and focus narrowly on the biased aspects of political arrangements that interfere with free and equal citizens trying to pursue their own conceptions of a good life.

stated reasons provided to support or oppose particular political arrangements. At least right now, we lack reliable means to gain access to people's secret agendas. Thus, **NM** is not a practical tool to guide political debates. Perhaps in some sense a state in which no legislators or citizens hold private intentions to favor some particular view of a good life would be preferable to a society that includes legislators or citizens with biased intentions. But this would not seem to alter the terms for political debates. I agree with Wall and Klosko that, because of "[t]he difficulty of ascertaining the actual aims or intentions of state officials," we are better served to construe liberal neutrality in a different way than **NM** (Klosko & Wall, 2003, p. 7-8). Thus, for the remainder of this paper I set **NM** to the side.

### *2.3.2 MIA distinctions*

Three notable distinctions in the literature on liberal neutrality do not play a role in my argument.

First missing is discussion about how to separate the public sphere from the private sphere with respect to conceptions of a good life. On the view I develop, the distinction is irrelevant. Or we might say that, on **NJI**, a conception is in the public sphere insofar as interference with the conception is allowed by liberal neutrality, and in the private sphere otherwise. Either way, I count this as a virtue. The public/private distinction can be abused to perpetuate oppression in the private sphere or to allow manipulation in the public sphere. Let us have interference when it is needed for liberal justice and other legitimate political goals, ensure the relevant burdens and benefits are constrained in the right way, and be done.

Second missing is anything more than cursory attention to whether the biased interference of political arrangements in our lives is intentional or accidental, instrumental or a side effect, and so on. This kind of distinction lacks relevance except for the view of

neutrality I quickly dismiss: neutrality of motivations. On the view I develop, the burdens and benefits that trace to political arrangements must be scrutinized and justified, no matter why they trace to those arrangements. Burdens or benefits that are accidental or side effects may be excusable; however, they are not, nor should they be, automatically excused by liberal neutrality.

Third missing is a concern with the divide between sufficiently liberal and insufficiently liberal conceptions of a good life used by both proponents of **NJ** and **NI**.

To conceive of liberal neutrality as a doctrine of complete neutrality that requires no conceptions of a good life to be favored more than others is to cast neutrality as a strawman position.<sup>32</sup> A strawman version of **NJ** would require that justifications for political arrangements mesh equally well with *all* conceptions of a good life. A strawman version of **NI** would require that political arrangements impose equal benefits and burdens across all conceptions of a good life. But political arrangements must be biased in favor of some conceptions of a good life if the state is to pursue legitimate political goals. The state must, for instance, interfere with rapists and murderers to protect liberty.<sup>33</sup>

Serious proponents of **NI** and **NJ** agree—liberal neutrality allows *some* conceptions of a good life to be favored over others. Liberal neutrality is not supposed to be neutral among *all* conceptions of a good life. Liberalism requires neutrality only among *sufficiently liberal* conceptions. The move here is to limit the scope of neutrality by an appeal to a

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<sup>32</sup> See, for instance, Waldron's (1993, p. 150) attack on **NI**.

<sup>33</sup> Here I leave open the connection between the activities of rape and murder and conceptions of a good life. There are at least three possibilities. Rape and murder might actually be parts of a conception of a good life for some very bad people. Alternatively, some people might rape and murder even if those activities interfere with their own conception of a good life. Finally, we might distinguish between type/token accounts of conceptions of a good life. There might be a type of good life that includes excitement and danger that appeals to some. Lives that include rape and murder might be tokens of these. On this account, the state could interfere with rape and murder, yet still leave an individual free to pursue many other lives that include excitement and danger.

distinction between sufficiently liberal/insufficiently liberal, or permissible/impermissible, or justice-respecting/justice-disrespecting conceptions of a good life.<sup>34</sup>

Theorists rely on the sufficiently/insufficiently liberal distinction to justify some biased political arrangements. But I would like to bypass some worries this distinction raises. Consider one worry. Either a conception of a good life is sufficiently liberal or it is not. Take an Amish conception, for instance. If we mark an Amish conception as sufficiently liberal, then it falls within the scope of neutrality; therefore, the state's political arrangements ought not to favor other such conceptions above it. But a legitimate concern with worker safety suggests that we should restrict minors from working in sawmills. Such a restriction is biased against Amish conceptions of a good life. Thus, it seems that we should instead count Amish conceptions as insufficiently liberal. If so, liberal neutrality will place no constraints on how biased the state may be toward the Amish, for in that case the Amish conception falls outside the scope of neutrality.

But this seems to be precisely the kind of case in which the state should be particularly concerned with the bias of political arrangements. It is a case in which, I presume, liberals seek to be tolerant of a conception of a good life that does not mesh well with liberal society. My point is that relying upon the distinction between permissible and impermissible conceptions at least appears to weaken neutrality to the degree that it does not engage precisely the cases that seem most troubling—namely cases in which there is significant tension between the involved conceptions of a good life and the liberal project. It

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<sup>34</sup> For examples, see Kymlicka (2002, p. 217-218) on "justice-respecting", or Rawls on "permissible" conceptions (1996, p. 193).

seems that liberal neutrality should shine as a tool to help us determine when biased political arrangements are acceptable in these cases.

For this reason I want to resist limits on the scope of neutrality. Instead I try to maintain the idea that liberal neutrality requires neutrality across *all* conceptions of a good life. Thus, I avoid the distinction. I take its purpose to be to allow the state to pursue legitimate political goals that could not be achieved through completely unbiased political arrangements (if there are such things). Thus, I build this purpose directly into my construals of both **NJ** and **NI**. My aim is to construe liberal neutrality as something that applies to *all* conceptions of a good life, even if it allows biased political arrangements.

#### ***2.4 Taking stock: what we want from neutrality***

So far, I have suggested that we want an account of liberal neutrality that allows the state to pursue all and only legitimate political goals while it excludes unduly biased arrangements in three ways. The proper practice of liberal neutrality should exclude arrangements that do not reasonably pertain to, or that plausibly obstruct, legitimate political goals. It should exclude arrangements chosen without serious consideration having been given to their bias. It should exclude arrangements with biased effects for which the state is not adequately accountable.

Consider an example that involves the state funding of opera. This example is meant to give us an intuitive sense of how this kind of liberal neutrality should restrict unduly biased political arrangements. While concerns about opera may not be of earth-shattering importance in the big scheme of liberal justice, judging by the prevalence of opera examples, opera nevertheless holds a place of fascination for theorists debating liberal neutrality. In this example, I draw on the opera-focused discussions of Arneson (2003, p. 198), a perfectionist

opponent of liberal neutrality, and Rawls (1999, p. 291) and Dworkin (1985, p. 233), defenders of NJ, and Wall (2001, p. 403-407), defender of NI, to develop a case in which the issue of liberal neutrality plays a central role in a way that bypasses several complicating issues.

#### **OPERA**

The liberal egalitarian state of Liberalopolis has a monetary windfall that may only be spent on a public music program. Perhaps a music lover donated the funds. Perhaps aliens beamed a house-sized chunk of gold to the statehouse to finance such a program. Let us assume that the details of the source of the funds do not raise red flags in this case. What matters is that the funds may only be applied to a public music program. For instance, they may not be used to address inequalities in income that exist in Liberalopolis.

The state's legislators engage in a debate on four proposals regarding how to use the available funds.

**Proposal 1:** The state should fund an annual public opera series.

**Justification:** Opera lovers are clearly superior people. So we should do anything consistent with liberty or distributive justice to support opera-loving conceptions of a good life.

**Interference:** The public opera series would significantly benefit opera-loving conceptions of a good life and burden other music-loving conceptions.

**Proposal 2:** The state should fund an annual public opera series.

**Justification:** A public music program would help to preserve the availability of the richness of the cultural structure.

**Interference:** The public opera series would significantly benefit opera-loving conceptions of a good life and burden other music-loving conceptions.

**Proposal 3:** The state should fund an annual public *music* series with content that varies by year (opera, jazz, soft rock, hip hop, folk music...)

**Justification:** A public music program would help preserve the availability of the richness of the cultural structure. We should note, though, that a program that varies content by year is less biased in favor of opera-loving conceptions than the regular opera series. Thus, assuming no further arguments in favor of the opera-only plan, we should choose the rotating series.

**Interference:** The public rotating music series would equally and mildly benefit a range of music-loving conceptions of a good life and burden no conceptions.

**Proposal 4:** The state should fund an annual public *music* series with content that varies by year (opera, jazz, soft rock, hip hop, folk music...)

**Justification:** Although music lovers in general are great folks, opera lovers are clearly inferior people. If the only viable alternatives are the opera-only series and the rotating series, we should choose the rotating series to *minimize* the promotion of subhuman opera-loving conceptions of a good life by the promotion of other forms of music.

**Interference:** The public rotating music series would equally and mildly benefit a range of music-loving conceptions of a good life and burden no conceptions.

The opera-only series and the rotating series advance the goal of preserving the richness of the cultural structure equally well. What one offers in depth of art, the other makes up for in variety of art.

If a state practices liberal neutrality as described in this section, then the political debate in Liberalopolis should conclude with the adoption of Proposal 3. Neutrality should exclude Proposals 1 and 4. They are not aimed at legitimate political goals, but at perfectionist proposals. Proposal 1 targets the goal of promoting particular conceptions of a good life deemed superior to others. Proposal 4 targets the goal of undermining particular conceptions of a good life deemed inferior. While there may be sticky cases of separating legitimate political goals from perfectionist goals, these are not among them.

Let us follow Dworkin and grant that the goal of preserving the availability of the richness of the cultural structure as a legitimate political goal (Dworkin, 1985, p. 221-233). Let us further agree that public funding of the arts can support this goal. If so, then before we consider the **CONSIDERATION** and **ACCOUNTABILITY** constraints, Proposals 2 and 3 remain on the table. However, once we bring in the two constraints, Proposal 3 is left as the only acceptable option. Proposal 2 gives no consideration to how the alternative proposals affect various conceptions of a good life. Nor would a state that implements proposal 2 demonstrate accountability for the heavy bias of the opera-only plan that favors opera-loving conceptions. In contrast, Proposal 3 both recognizes and regulates the bias of the means chosen to protect the cultural structure. We should expect no less from liberal neutrality.

It is worth emphasizing again that this thin account places the sole focus of liberal neutrality on biased burdens and benefits that interfere with conceptions of a good life. Thus, for instance, the role of liberal neutrality in respecting the non-negotiable norms of reasonable freedom and treatment as equals is limited to the regulation of such bias. We cannot expect the practice of liberal neutrality to do all the work when it comes to

establishing political arrangements that fully respect either of the two key norms. Liberal neutrality is not, after all, identical to liberal justice.<sup>35</sup>

In upcoming sections, I explore the strengths and weaknesses of **NJ** and **NI** before proposing **NJI** as an alternative that better delivers what we do and do not want from neutrality. **NJ** is the favored view among neutralists. **NI** is generally taken to be a nonstarter, though some few support the approach. But both approaches fall short. Neither alone nor combined do they achieve all that I contend we want out of an account of liberal neutrality. Given **NJI** succeeds, I shift the burden of proof onto those who would settle for less from liberal neutrality.

### **§3 Neutrality of justifications**

#### *3.1 The basics*

Neutrality of justifications allows or excludes political arrangements based on features of their actual justifications.<sup>36</sup> On this approach, liberal neutrality allows all and only political arrangements justified on neutral grounds. In this way, it seeks to avoid unduly biased arrangements by giving reasons for any bias in the benefits and burdens of political arrangements that favor or disfavor various conceptions of a good life.

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<sup>35</sup> Likewise, judicial neutrality is not identical to legal justice and the umpire's unbiased position is not identical to baseball.

<sup>36</sup> Demanding actual, rather than hypothetical, justifications may strike some as too demanding. But the view developed in this chapter is of liberal neutrality as a practical tool to guide actual political debates. So, there seems as little space for hypothetical justifications as for hidden intentions. Insisting on actual justifications raises a worry that deserves a brief note. For instance, suppose a perfectionist goal that appeals to the intrinsic superiority of the educated intellect was used to justify public education in Liberalopolis. Given such a justification, this account of liberal neutrality would deem public education in Liberalopolis a breach of liberal neutrality. But clearly there are many good liberal arguments for public education. Thus liberal neutrality should allow public education. The answer here is that liberal neutrality can allow public education in Liberalopolis as soon as a reasonable argument that involves a legitimate political goal is put forward for it.

A strawman version of this view would restrict neutral grounds to grounds consistent with all conceptions of a good life. In this way, it would equate undue bias with any bias. As noted above, all agree that this makes the view untenable. Liberal justice and other legitimate political goals require some bias in political arrangements.

For instance, suppose a state practicing this untenable version of neutrality tries to determine if enforcing equal property rights for women is just. The state asks why those rights should be enforced. When the answer turns on the controversial (to some) ground that men and women should have equal rights, then the property rights may not be enforced. But this gets things backwards—protecting equal rights is part of achieving liberal justice, not contrary to it. And so it goes for any grounds characterizing various strands of liberalism—all are at odds with some conceptions of a good life. (Indeed, it is hard to think of any grounds whatsoever that would not be at odds with some conceptions. Thus the strawman version of neutrality is a nonstarter.

I try to capture a more plausible version of **NJ** supported in the literature by neutralists like Rawls (1996, p. 192), Dworkin (1985, p. 183 and 2000, pp. 282-283), and Kymlicka (2002, pp. 217-218 and 344) that restricts neutral grounds to grounds that appeal to legitimate political goals.<sup>37</sup> I state it in two clauses.

**NJ:** A state practices liberal neutrality if—

- (i) The state justifies all political arrangements only by consistent appeal to legitimate political goals (except the goal of liberal neutrality itself).
- (ii) The state justifies the interference of political arrangements with conceptions of a good life solely on the grounds that the justification required by clause (i) suffices to eliminate unduly biased interference.

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<sup>37</sup> As discussed above, this is a bit different than other conceptions of **NJ** that discuss neutral grounds as those consistent with sufficiently liberal conceptions of a good life. But I think this version of **NJ** represents the view fairly and at the same time avoids some pitfalls of limiting the scope of neutrality to sufficiently liberal conceptions.

Compare this version of **NJ** to a more standard description of the view such as Kymlicka's. He writes: "State neutrality, therefore, simply rules out certain kinds of arguments or justifications—namely those which appeal to the ranking or the intrinsic merits of [sufficiently liberal] conceptions of a good life" (Kymlicka, 2002, p. 344).<sup>38</sup> Like **NJ**, Kymlicka's statement places the focus of neutrality clearly on justifications of political arrangements. However, **NJ** differs from Kymlicka's account and other accounts in two ways.

First, as forecast, it does not appeal to the sufficiently liberal/insufficiently liberal distinction. The appeal to legitimate political goals in clause (i) is meant to do the same sort of work as the distinction to allow and exclude political arrangements in ways properly connected to the liberal framework. It makes space for liberal neutrality to allow biased political arrangements required to achieve legitimate political goals. At the same time, **NJ** avoids the pitfall noted above associated with limiting the scope of neutrality to sufficiently liberal conceptions. On this construal of neutrality, there must be good reasons from within liberal justice for any biased political arrangements that interfere with anyone's conception of a good life. This seems to be a fair enough statement of the kind of neutrality Kymlicka supports as well.

Second, clause (ii) documents an explicit assumption held by proponents of **NJ** in regards to the state's role in the regulation of biased effects. Proponents of **NJ** agree that the state should not take a direct interest in the regulation of the biased interference of political

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<sup>38</sup> I have added the bracketed "sufficiently liberal" to limit the scope of neutrality as Kymlicka intends. See, for instance Kymlicka (2002, p. 218) where he writes that: "the sort of 'neutrality' endorsed by liberals is limited in scope to (justice-respecting) conceptions of the good."

arrangements with people's conceptions of a good life. Instead, **NJ** builds in a laissez-faire attitude toward the biased effects not excluded on other liberal grounds.

Let us take a look at a few views to see that clause (ii) belongs to the view that **NJ** proponents support. Rawls writes that it is impossible for political arrangements "not to have important effects and influences" on conceptions of a good life and that "*it is futile to try to counteract these effects and influences, or even to ascertain for political purposes how deep and pervasive they are*" (Rawls, 1996, p. 193, emphasis added).<sup>39</sup> Kymlicka specifically states that liberal neutrality is not neutrality with respect to consequences (2002, p. 218). He clarifies that neutrality allows biased political arrangements that favor, for instance, "a particular language, culture, or religion so long as 'neutral' reasons are offered for these policies" (2002, p. 344). Dworkin (2000, p. 282) also forcefully denies that liberal neutrality concerns itself with how the influence of political arrangements favors some conceptions over others. In clarifying his view, he makes clear that he "does not mean, of course, that liberal equality [neutrality] is ethically neutral in result or aims to be." He continues: "Any political and economic scheme will make some kinds of lives more difficult or expensive than they would be under other schemes." And, Dworkin refers to more than the biased interference that disrupts the plans of rapists and murderers. He excludes concerns about biased interference that favors or disfavors the plans of art collectors (and presumably opera enthusiasts).

Based on these remarks from proponents of **NJ**, it should be clear that dropping clause (ii) would be a significant departure from **NJ**. But clause (ii) creates the main

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<sup>39</sup> These quotes should make it clear that although Rawls (1996, p. 193) describes an idea of equal opportunity to advance any permissible conception, he does not have in mind something like **NI**. The equal opportunity he has in mind consists only of the background conditions in a state that conforms to his principles of liberty and distributive justice.

challenge for **NJ**. It makes **NJ** problematic rather than incomplete in terms of what we want from neutrality.

### **3.2 Does NJ measure up?**

Consider **NJ** with respect to what we want from neutrality. **NJ**'s clause (i) allows the state to pursue all and only legitimate political goals *if* the set of legitimate political goals is specified correctly. We might also say that clause (i) requires *some consideration* of the burdens and benefits that political arrangements scatter across our lives in this way: it excludes biased arrangements for which there are no good reasons from the liberal framework. For the moment I leave open if this level of consideration counts as serious consideration that should satisfy **CONSIDERATION**.

Clause (i) also holds the state *partially accountable* for the benefits and burdens its political arrangements impose across conceptions of a good life. As discussed above, because **NJ** allows the pursuit of all and only legitimate political goals, it allows some benefits and burdens necessary to achieve those goals and it excludes some benefits and burdens that obstruct those goals. So, **NJ** is accountable for benefits and burdens in those ways. But I argue that this partial accountability is *not* enough for adequate accountability. The problem here lies in clause (ii), not with clause (i). It is clause (ii) that prevents the state from being held adequately accountable for its interference in our lives.

To see why clause (ii) causes problems, recall **OPERA** in which Liberalopolis chooses among four proposals for a public music program. Could Liberalopolis be a state that successfully practices **NJ** and decides upon Proposal 3? Things start out well. **NJ**'s clause (i) easily rules out Proposals 1 and 4 due to their perfectionist justifications. But clause (ii) eliminates Proposal 3. The justification for Proposal 3 takes a distinct interest in

limiting the biased effects of the selected musical program. Clause (ii) requires indifference toward such reasons as irrelevant to the justifications of political arrangements. This is not unfair (or at least not obviously so) to proponents of **NJ**. Dworkin himself tells us that the state does *not* aim to be neutral in the effects of its political arrangements. Thus, proponents of **NJ** as construed here would select Proposal 2—the opera-only series.

Of course, a proponent of **NJ** could support the rotating music series on the same grounds as Proposal 2 without taking an interest in limiting biased effects. If so, both the opera-only series and the rotating music series would remain on the table. But **NJ** would *give us no reason to choose between them*. Either political arrangement is equally acceptable because its justification appeals to the same legitimate political goal of maintaining a rich cultural structure. **NJ** gives us no reason to prefer the rotating series program. In particular, it gives us no reason to prefer the rotating series in virtue of its less biased effects. Thus, **NJ** allows undue bias. All other things being equal, in its choice of alternative political arrangements, the state allows unduly biased political arrangements if it fails to choose the least biased arrangement. **NJ** does not hold the state accountable for this undue bias.

**NJ** *allows no further accountability* for whether the state selects the more biased opera-only series or the less biased rotating music series when bias is permitted, but not required or excluded by clause (i). More strongly, clause (ii) actually impedes accountability—it eliminates Proposal 3 from contention in virtue of the concern it demonstrates for limiting bias. Thus, **NJ** is at odds with **ACCOUNTABILITY**.

If you are with me so far, then it seems we should make a move away from **NJ** and reject clause (ii) to allow for accountability and then replace clause (ii) with a clause that requires accountability for biased political arrangements. This is precisely what I later

propose with **NJI**. But to be clear, this is definitely a move away from **NJ** as articulated by its proponents.

To properly reject clause (ii), we should identify a gap in the arguments **NJ** defenders offer in its support. The arguments are in fact those that lie behind the **NJ** proponents' rejection of **NI**. Thus, I confront those arguments in the next section and look for gaps that make space for us to reasonably reject clause (ii).

### *3.3 Verdict on neutrality of justifications*

Neutrality of justifications construed as **NJ** suffices to allow the state to pursue all and only legitimate political goals *unless* there are legitimate political goals ruled out by clause (ii). The practice of **NJ** requires the state to give some consideration to the burdens and benefits that political arrangements impose on conceptions of a good life and it holds the state partially accountable for those burdens and benefits. But I will argue in the remainder of the paper that we should demand more from liberal neutrality in terms of both consideration and accountability.

Although I suggest **NJ** falls short, I agree that clause (i) (in the absence of clause (ii)) is necessary for liberal neutrality. The state has no business interfering in our lives if its political arrangements are not in the service of political goals deemed legitimate by the liberal framework. Surely, on a liberal view, any such interference would be undue interference. Thus, clause (i) should remain part of any tenable account of liberal neutrality.

## §4 Neutrality of interference

### *4.1 The basics*

Neutrality of interference allows or excludes political arrangements based on features of the actual distribution of benefits and burdens that they impose on conceptions of a good life. On this approach, liberal neutrality allows biased political arrangements if they support a particular distribution of burdens and benefits that treats people the same way in some way. We might say that this is the slogan behind **NI**: unbiased treatment equals same treatment. If this version of neutrality is defensible, it gives us reason to reject clause (ii) of **NJ**.

On one version, the required distribution equalizes benefits and burdens the political arrangements impose across conception of a good life.<sup>40</sup> The idea here is that the state avoids playing favorites by helping and hindering all to the same degree. On other versions, the required distribution makes it equally easy to pursue various conceptions of a good life.<sup>41</sup> On this construal, proponents of liberal neutrality seek to avoid unduly biased arrangements by creating a state in which all have the same chance to pursue their various conceptions of a good life. In contrast to the first version, this may require helping or hindering some conceptions more than others. On both versions, the state should intervene to promote the "neutral" distribution of burdens and benefits across conceptions of a good life.

Both descriptions are quite rough. Clearly a liberal state may not create conditions under which *all* have the same chance to pursue their conceptions of a good life, including rapists and murderers and so on. To suggest that **NI** would require such a thing is unfair to

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<sup>40</sup> This version similar to Rawls's account of **NI** (the first construal of the "a." formulation of neutrality) that he rejects out of hand because it conflicts with justice (Rawls, 1996, pp. 192-193).

<sup>41</sup> This version similar to Rawls's version of **NI** (the second construal of the "a." formulation of neutrality) that he implicitly rejects because it relies on a meaning of equal opportunity more demanding than Rawls's own.

proponents of NI. Such an extreme version of neutrality would again count *any* bias as undue bias and place liberal neutrality in immediate opposition to liberal justice.

However, such attacks are quick, frequent, and generally taken in stride. Arneson points to the conflict between religious liberty and extreme NI because religious freedom undermines some religious outlooks. He writes that "[o]nce these distinctions among types of neutrality are made, it is immediately clear that nobody who wants to defend neutrality on the good would really want to defend neutrality of effect [NI]" (Arneson, 2003, p. 193). Kymlicka (1989, p. 884-885) rejects NI on the grounds that it leads to obvious injustice. He argues that NI is irreconcilable with the liberal commitment to protecting liberties and ensuring distributive justice. He notes, for instance, that NI is at odds with resource equality because resource equality will put some conceptions of the good at a relative disadvantage. There is also always the worry about rapists and murderers and the laws that interfere with their lives. But these arguments hold water only against a version of NI that is untenable from the outset. Both NJ and NI need to allow bias that is necessary to prevent conflict between the practice of liberal neutrality and liberalism. There is no reason to deny NI the same moves NJ takes to do so.

Thus, we should start with a moderate version of NI not subject to such easy attacks.

**NI-1:** The state practices liberal neutrality if the distribution of *benefits and burdens* that political arrangements impose across conceptions of a good life is *equal across conceptions* insofar as is possible without the sacrifice of legitimate political goals.

**NI-2:** The state practices liberal neutrality if the distribution of benefits and burdens political arrangements impose across conceptions of a good life makes *all conceptions equally easy and appealing to pursue* insofar as is possible without the sacrifice of legitimate political goals.

NI-1 and NI-2 capture two versions of NI. Waldron describes an approach to neutrality like NI-1. According to what he calls neutrality of consequences, "a neutral law must not increase the chances of, say, a hedonistic life-style flourishing at the expense of adherence to traditional Christian values. It must enhance or retard the prospects of these life-styles to the same degree" (Waldron, 1993, p. 150) This view may have a certain appeal—it denies that it is acceptable for the state to interfere in some lives more than others (except as required for legitimate political goals.)

Wall (2001, p.408), one of the very few defenders of NI, defends something along the lines of NI-2.<sup>42</sup> He writes, "The root idea behind neutrality of effect is that each person...has been denied a fair opportunity to pursue his conception of the good to the extent that he confronts disadvantages...that he would not confront under some alternative feasible set of institutions and public policies that did not impose equally grave or worse disadvantages on others."<sup>43</sup> In a nutshell, Wall's idea is that of all the available sets of political arrangements, the neutral set is the one that makes various conceptions of the good equally easy to pursue.<sup>44</sup> Here too, there may be a certain appeal. NI-2 denies that some should have a better chance to pursue their conceptions of a good life when the state could choose political arrangements that equalize their chances.

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<sup>42</sup> For another defense of NI, see Goodin & Reeve (1989, pp. 193-210)

<sup>43</sup> I am quite sympathetic to Wall's clear and well-considered defense of NI. He argues that the state is responsible for how the effects of political arrangements affect people's lives (Wall, 2001). This is quite similar to my concern for the state to be accountable for those effects. However, he takes things a step too far when he requires the state to act for the sole purpose of managing the distribution of benefits and burdens. For this reason (which is developed in the main body of this chapter), I take NI-1 and NI-2 to both conflict with the liberal project.

<sup>44</sup> Wall (2001) would likely resist a strong understanding of "equally easy" that required leveling down (making it harder for some to pursue their conceptions of a good life if it were impossible to make it easier for others.) Later in this chapter I discuss why this does not resolve the problems with NI.

These NI accounts clearly shift the focus of neutrality *off* of the justifications for political arrangements and *onto* the biased nature of their effects. Both statements require the state to intervene as necessary to achieve a particular pattern of effects. For simplicity's sake, I will use the term "neutral distribution" to refer to these patterns, although the two versions of NI recommend different distributions. My main point in this section turns on both versions having a fixed notion of what counts as a neutral distribution, so I will not pay much attention to the difference between the two views.

As before, my statements of this kind of liberal neutrality eliminate use of the sufficiently liberal/insufficiently liberal distinction. Wall clearly relies on this distinction to do important work with respect to the tenability of NI by making space for the state to conform to "principles" beyond neutrality (Wall, 2001, p. 390). I intend for the space I make for bias in the service of legitimate political goals in NI-1 and NI-2 to do the same kind of work (yet avoid some worries around the distinction.)

Before we consider how well NI measures up with respect to our guidelines for neutrality, I want to set aside two objections to the view (in addition to the easily bypassed objection that NI obviously conflicts with liberal justice noted above). When Waldron assesses his formulation of NI, he argues that we cannot establish baselines against which to measure change in how political arrangements affect conceptions of a good life, so that something like NI-1 is impossible in principle. Moreover, he contends that even if baselines could be established, it would be unreasonable to expect the state to choose political arrangements that maintain the status quo because the effects are too unpredictable, making it too impractical to be a tenable view of neutrality (Waldron, 1993, p. 150). This objection can be aimed at either NI-1 or NI-2.

Neither criticism seems very compelling. First, let us grant that there is no way to establish baselines accurately. This does not mean that we cannot in principle get a reasonable grip on whether political arrangements support some conceptions of a good life or undercut others. We can look at the benefits and burdens across conceptions of a good life that trace to political arrangements, at least when those effects are significant.

For instance, consider political arrangements that guarantee some level of healthcare to all. Such arrangements would not benefit individuals who refuse healthcare on religious grounds. Certainly, we can identify a rough differential in benefit across various conceptions of a good life in that case. For an even more obvious example, one would be hard put to deny that the political arrangements in the U.S. have disadvantaged Native Americans and their associated conceptions of a good life while advantaging Western European Americans and their associated conceptions. The burden of proof on one who wants to reject NI as unworkable in principle is on the person who wants to defend the outlandish claim that we cannot justify claims of bias in the absence of pre-political baselines.

Second, given that we can make justified claims about unequal burdens and benefits, then the state can strive to manage the burdens and benefits of political arrangements to achieve a particular distribution. Of course no state could perfectly equalize the effects of political arrangements across conceptions of a good life (as Wall (2001), for instance, freely grants). But the criticism that a political ideal can only be imperfectly implemented is not interesting—the ideal still serves as a reference point when evaluating political arrangements. So, if justice requires some version of NI, then even if we must in principle and in practice fail to achieve perfect neutrality, we can always strive for greater neutrality. Thus, I do not count these criticisms as serious threats to NI.

#### ***4.2 Does NI measure up?***

**NI** looks to shine in (at least) one way compared to **NJ**. Either version of **NI** holds the state fully accountable for the biases in its political arrangements. *All* benefits and burdens factor into determining whether or not a particular distribution of those benefits and burdens is unduly or acceptably biased. On **NI**, if any benefits or burdens do not serve the interests of promoting the neutral distribution, then they violate the requirements of liberal neutrality. Thus **NI** seems to be the clear winner when it comes to **ACCOUNTABILITY**. Yet at first blush **NI** does not seem to deliver much else of what we seek from liberal neutrality.

First, **NI** does nothing to limit the goals the state pursues in principle, if we understand, as I do, pursuit as an intentional activity. It limits only the effects of its efforts. Recall **OPERA**. The opera-only series creates more biased effects across conceptions of a good life than the rotating-music series creates. It more significantly benefits some conceptions and burdens others, while the rotating-music series more modestly benefits a wider range of conceptions and burdens none. Thus, if we assume that in this case greater bias does not serve to restore an equalizing pattern, then from the standpoint of **NI-1** and **NI-2**, Proposal 1 and Proposal 2 are unduly biased and thus unacceptable. But neither account of **NI** gives us reason to choose between Proposal 3 and Proposal 4. For these proposals support the same political arrangements that burden and benefit the same lives to the same extent. Given the sameness of the treatment, **NI** gives us no reason to prefer Proposal 3 to Proposal 4. But it should. In Proposal 4, the state pursues the perfectionist goal of limiting benefits to opera-loving conceptions of a good life because the state deems them deplorable and degrading. Thus **NI** allows the state to pursue illegitimate goals.

Second, **NI** does not require the state to give *any* consideration, let alone serious consideration, to how its political arrangements interfere with people's lives. It merely requires the achievement of a certain state of affairs in which the burdens and benefits conform to a certain pattern. The *path* the state takes to that outcome is not a concern of liberal neutrality. I take it that the level of *no consideration* fails to count as the serious consideration at issue in **CONSIDERATION**.

However, a sort of hybrid version of **NI** that incorporates clause (i) of **NJ** could fare as well as **NJ** on both counts. Such a move seems fair enough. It would seem to make liberal neutrality more demanding, yet leave intact the equalizing spirit of **NI**.<sup>45</sup> The addition of clause (i) to **NI** would take the problematic and perfectionistic Proposal 4 off the table. Finally we would seem to have a view of liberal neutrality that recommends Proposal 3 as the only proposal that does not offend neutrality with undue bias. Given **NI**'s performance with respect to the **ACCOUNTABILITY** constraint, it looks like we have strong prima facie reason to prefer **NI** to **NJ**.

Nevertheless, any such prima facie reason fails to stand and we should reject **NI**. Both versions of **NI** require a distribution of benefits and burdens that political arrangements impose on our lives that is at odds with the liberal project. Both versions require a distribution that *fixes the relative appeal and ease* of pursuing any particular conception of a good life. **NI-1** fixes the distribution to one that maintains the appeal and ease of conceptions to what it would be in the absence of the state (whatever that might mean, however it might be gleaned). **NI-2** fixes the distribution to one that equalizes the appeal and ease of

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<sup>45</sup> Wall (2001) seems to recognize this when he acknowledges that some kind of neutrality of justifications may be necessary for liberal neutrality.

conceptions (modulo concerns about legitimate political goals.) The successful argument against **NI** hinges on the fixed nature of the relative distribution of benefits and burdens that **NI** requires.

Against **NI**, Kymlicka writes: "Any society which allows different ways of life to compete for people's free allegiance, and which requires people to pay for the costs of their choices, will seriously disadvantage expensive and unattractive ways of life. Liberals accept, and indeed value, these unequal consequences of civil liberties and individual responsibility" (Kymlicka, 2002, p. 218). This is not a concern about practicality or possible epistemic access to important data points. Herein lies a principled resistance to **NI** that echoes a Millian concern with society being a free marketplace of ideas. This marketplace holds value to liberals precisely because it allows people to make progress on ideas around conceptions of the good life, even if it is not the state's role to point the way to such progress. Let us accept this position.

It forms the crux of the challenge to **NI** because it is at odds with market distortion. If liberal neutrality requires the state to fix the relative attractiveness and ease of conceptions of a good life, then it requires the state to distort the marketplace of ideas. Consider, for instance, that **NI** could require the state to promote the sitcom-watching couch-potato idea of a good life to compensate for the burdens that public education imposes on such a conception. Plausibly, public education might well impose those burdens on the couch potato lifestyle in virtue of exposing people to the marketplace of ideas. So, to counteract its effects

is to distort the market by undoing changes that the marketplace of ideas has brought about.<sup>46</sup>

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This distortion occurs with both versions of **NI**. **NI-1** requires the state to fix the attractiveness and ease of conceptions of a good life according to the (mysterious) baseline status quo. **NI-2** requires the state to fix them according to a less elusive status quo of equal ease and attractiveness of conceptions of a good life. But the free marketplace of ideas disrupts the status quo. It makes some conceptions easier and more attractive, others less so. I take as given here that liberal state aims to create conditions under which the free marketplace of ideas flourishes. Thus both **NI-1** and **NI-2** conflict with the progressive nature of liberalism.

### ***4.3 Verdict on neutrality of interference***

The verdict just delivered was clear. Neutrality of interference construed as **NI** fails as an account of liberal neutrality.

Nevertheless, I suggest that we ought not to dismiss altogether its attractions in terms of holding the state accountable for biased political arrangements. The argument against **NI** is supposed to amount to an argument against clause (ii) of **NJ** with the addition of one quick step: we should not support **NI**, thus we should not strive to regulate the distribution of the benefits and burdens that political arrangements impose across conceptions of a good life.

However, as we shall see in the next section, the argument that undermines **NI** based on the fixed nature of the distribution of burdens and benefits does not support clause (ii) of

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<sup>46</sup> A suggestive analogous case is one in which always giving opposing viewpoints equal time may distort perceptions (think of historians vs. holocaust skeptics).

<sup>47</sup> This is truly a kind of strong *anti*-perfectionism that suggests liberal neutralists should self-identify as non-perfectionists rather than anti-perfectionist. There is an interesting issue regarding the connection between neutrality and perfectionism that is worth exploring.

**NJ.** There is plenty of room for the state to be more fully accountable for the bias of its political arrangements even if we dismiss **NI** as a contender for the right form of accountability for state interference with people's lives.

## **§5 Neutrality of justified interference**

### *5.1 The basics*

The idea motivating **NJI** is that interference with conceptions of a good life is never justified when it burdens some more than any need be burdened or when it benefits some at others' expense. My aim in this section is to demonstrate that **NJI** improves on both **NI** and **NJ** with respect to what we want from liberal neutrality. Roughly, **NJI** is preferable to **NJ**. **NJI** increases both the consideration the state gives to the benefits and burdens it imposes across conceptions of a good life and the accountability of the state for their biased nature. It does so in a manner that avoids the problem raised by the free marketplace of ideas for **NI** while it retains some attractions of **NI**.

Neutrality of justified interference requires the state to justify both political arrangements and their interference with conceptions of a good life. In this way, it aims to exclude interference with conceptions of a good life to interference that arbitrarily favors any conception over any other conception of a good life.

**NJI:** A state practices liberal neutrality with respect to its selection of a political arrangement if—

- (i) The state justifies the political arrangement only by consistent appeal to a legitimate political goal or goals (except the goal of liberal neutrality itself).
- (ii) The state justifies the interference of the political arrangement with conceptions of a good life on the grounds that the interference is not unduly biased because compared to reasonable alternatives, the political arrangement first minimizes burdens on conceptions of a good life and second maximizes benefits on conceptions of a good life.

The first part of **NJI** should be quite familiar—it takes clause (i) directly from **NJ**. Its message here remains the same. Political arrangements not properly in the service of legitimate political goals have no business interfering with our lives in a liberal state. The practice of this form of neutrality excludes political arrangements that either obstruct or lack relevance to legitimate political goals without getting in the way of the state as it pursues those goals. At the same time, it resists the strawman attacks on forms of liberal neutrality on which neutrality conflicts with the liberal project.

The second part of **NJI** is reminiscent of **NI**. Both deal with the effects of political arrangements on conceptions of a good life (though **NJI** diverges from **NI** in important ways.) Both demand that the practice of neutrality not allow the state to simply ignore how its programs interfere with our lives. Instead, neutrality requires the state to strive to limit the burdens and share the benefits of political arrangements across conceptions of a good life to prevent the interference of unduly biased effects with our lives. For **NJI** this means specifically that relative to competing arrangements, neutrality should minimax the burdens and maximin the benefits.

Let us take a closer look at these limits to ascertain the desirability of **NJI**'s approach. I begin with two points of clarification. First, the "reasonable alternatives" to the political arrangement under consideration should be justifiable as required by clause (i) and on a par (or better) in terms of practicality and effectiveness.<sup>48</sup> Second, a political arrangement minimaxes burdens if it first minimizes the burden on those conceptions of a good life most burdened by it, it next minimizes the burden on conceptions next most burdened, and so on.

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<sup>48</sup> Of course any actual debate will likely be imperfect—it will likely fail to put all reasonable alternatives on the table. But this very human limit on our capacity to carry out just debates does not mean that **NJI** cannot serve to guide those debates toward more neutral results.

A political arrangement maximins benefits if it first maximizes the benefits on those conceptions of a good life most benefited by it, it next maximizes the benefit on conceptions next most benefited, and so on.

Distributing burdens and benefits in this way is attractive.<sup>49</sup> To minimax burdens has the virtue that it suggests no need to impose burdens *solely* to equalize burdens. At the same time it ensures that the greatest burden will hinder people in their pursuits as little as possible. To maximin benefits has the virtue that it suggests no need to avoid benefits *solely* to equalize benefits. At the same time it ensures that the least benefit will help people in their pursuits as much as possible.

The idea behind **NJI** is that if the state selects a political arrangement so that its interference with our lives conforms to the minimax/maximin clause, then the arrangement avoids *undue* bias. It avoids undue bias it requires the state to select the least biased arrangements available in this way: the arrangement leaves no conception of a good life more greatly burdened or less benefited than some conception must be for the state to pursue its legitimate political goals. This approach may sound similar to **NI**, but it differs in at least three ways.

The first way **NJI** differs is that it focuses on the justifications for effects of political arrangements that interfere with our lives. In this way, **NJI** seeks to frame political debates to *guide* the state to *choose* only political arrangements that are not unduly biased. **NJI** leads

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<sup>49</sup> Clearly this approach is inspired by Rawls's arguments for his Difference Principle (Rawls, 1999). One might question the attractiveness of such a view as follows: why should we allow almost unnoticeable reductions in burdens to rule out political arrangements that might have great benefits to many? I will say two things on this matter. First, it is not clear what a compelling case might look like that would be consistent with the state's pursuit of legitimate political goals. Second, whatever the merits of this challenge, it is not a challenge to the main thrust of **NJI**. **NJI** requires the state to care about how it distributes burdens and benefits across conceptions of a good life. One can agree with this and disagree about the metric used to evaluate the distribution.

the state to take a direct interest in the biased effects of arrangements. In contrast, **NI** focuses squarely on the effects themselves. It simply requires the state to have political arrangements that interfere in our lives according to a set pattern. In this way, **NI** ignores the political process to center solely on its results unless it is supplemented in some way. Because **NJI** governs the process with a watchful eye toward its results, it includes a requirement for the state to consider those biased results that **NI** lacked.

A second obvious but *not* terrifically important difference between clause (ii) of **NJI** and **NI** is that **NJI** asks the state to minimax and maximin burdens and benefits rather than to equalize them in some fashion. The difference here may well be more terminological than substantive. Notice that at the extremes, both strategies would equalize burdens and benefits—minimaxed burdens amount to zero burdens, maximined benefits amount to maximal benefits to all.

We might develop versions of **NI-1** and **NI-2** that exploit the virtues of the minimax and maximin strategies, yet retain the goal to maintain the relevant status quo. For instance, a sympathetic variant of **NI-1** might require an overall distribution that maximins burdens and minimaxes benefits that political arrangements impose on conceptions of a good life. But such a view would still aim at maintaining the status quo in terms of the relative ease and attractiveness of pursuing various conceptions of a good life.

The third and most important way that **NJI** differs from **NI** is with respect to this last point. **NI** is committed to the maintenance of some status quo as a requirement of neutrality. It is a *crucial difference* that **NJI** does *not* require the state to maintain some status quo through a fixed distribution of the benefits and burdens political arrangements impose across conceptions of a good life. **NJI** requires the state to look at multiple micro-level distributions

of benefits and burdens of single arrangements. It requires the state to be sensitive to the biased aspects of *each* arrangement. **NI** looks at the macro-level distribution. It requires the state to offset the biased aspects of some arrangements through biased aspects of other arrangements to try to maintain a status quo in terms of the comparative ease and attractiveness of conceptions of a good life.

The conflict between a free marketplace of ideas about conceptions of a good life and **NI** turns on precisely this feature. A free marketplace will make some conceptions of a good life harder and less appealing, others easier and more attractive. Yet, **NI** seeks to make the relative ease and attractiveness of conceptions static. Recall that **NI** suggests the state should find permissible ways to promote a couch-potato lifestyle if public education lessens its attraction. **NJI** requires no interference with the marketplace of ideas to restore the status quo. In this way, it bypasses the most compelling criticism of **NI**. It does so in a way that still makes the biased effects of political arrangements the direct business of liberal neutrality.

Before moving on I want to pause for a very brief aside involving perfectionism. Many proponents and opponents identify liberal neutrality with anti-perfectionism. But in light of the discussion above, it might be a good idea to be very careful with this identification. For, in an important way, **NI** is very strongly *anti*-perfectionistic. It regulates the marketplace of ideas in a way that *prevents* the evolution of conceptions of a good life toward better conceptions (whatever those might be). Assuming this to be unacceptable on liberal terms, proponents of neutrality might want to instead identify their views as *non*-perfectionistic.

## ***5.2 Does NJI measure up?***

Now moving on, with the statement of **NJI** now on the table, we may now see whether **NJI** fares better than **NJ** with respect to **CONSIDERATION** and **ACCOUNTABILITY**. If so, it will not be on account of its first clause. It repeats **NJ**'s clause (i). Thus, **NJI** allows the state to pursue all and only legitimate political goals given the correct set of goals, requires some consideration of the benefits and burdens that political arrangements impose across conceptions of a good life, and holds the state partially accountable for those benefits and burdens. However **NJI** delivers more consideration and accountability than **NJ** in virtue of its second clause.

Without further hoopla, let us return to **OPERA**. Could Liberalopolis be a state that successfully practices **NJI** and decides upon Proposal 3? Decisively yes. As with **NJ**, things start out well for **NJI**. The same clause (i) immediately excludes Proposals 1 and 4 due to their perfectionist justifications. But where **NJ** proved problematic, **NJI**'s clause (ii) requires the state to disallow Proposal 2.

**NJI** excludes Proposal 2 for precisely the reasons **NJ** finds at best irrelevant to liberal neutrality. Compared to the opera-only series, the rotating music series minimaxes burdens—where the opera-only series burdened some conceptions of a good life, the rotating music series burdens none. It also maximins benefits—it favors more conceptions albeit at a lower level than the opera-only series favors opera-lovers. If one practices **NJI**, both points favor Proposal 3 over Proposal 2 and thereby make the opera-only series unjustifiable. **NJI** offers us a good reason to prefer the rotating series program over the alternatives. So, the practice of **NJI** neatly leaves Proposal 3 as the lone acceptable proposal of proposals offered for debate.

Let us see what this means with respect to our two constraints on acceptable accounts of liberal neutrality. First, the state displays attentiveness to burdens and benefits that constitutes a *deeper level of consideration* than **NJ** requires. Because **NJI** asks the state to scrutinize burdens and benefits, it better meets **CONSIDERATION**'s demand for the state to give serious consideration to how it interferes in our lives. By comparison, the weak consideration built into **NJ** falls short. **NJ** lets the state ignore and even disregard biased interference. This is not the kind of serious consideration of interference with lives that treats people leading those lives with equal concern and respect. **NJ** allows the state to play favorites among conceptions of a good life as long as the state does not take favoritism as its goal. Here blindness is supposed to justify bias. In contrast, **NJI** makes the biased interference of political arrangements an object of direct interest to the state precisely because the state should attend to the interests of *all* in the choice of its political arrangements. Thus I conclude that **NJI** gets closer to the requirements of **CONSIDERATION** in terms of what we should want to count as serious consideration of biased state interference in our lives.

Second, **NJI** holds the state fully accountable for biased political arrangements. In this way it shares in the intuitively appealing aspects of **NI**. Whether a political arrangement is unduly biased hinges on *all* benefits and burdens that it imposes across conceptions of a good life. In particular, the practice of **NJI** insists that the state justify the interference of a political arrangement with our lives on the grounds that alternatives would impose excessive burdens or benefits. If any benefits or burdens of a political arrangement are excessive compared to the benefits and burdens of alternative means, then **NJI** holds the state

accountable for that undue bias. Thus between **NJI** and **NJ**, **NJI** is the clear winner when it comes to **ACCOUNTABILITY**.

### ***5.3 Verdict on neutrality of justified interference***

**NJI** proves to be the best approach to neutrality of those considered. **NJ** and **NI** fall short of delivering what I have suggested we want from an account of liberal neutrality, **NJI** succeeds. **NJI** retains the virtues of **NJ** yet incorporates attractive features of **NI** without its pitfalls. It allows the state to pursue all and only legitimate public goals. It requires the state give serious consideration to the benefits and burdens it will impose on conceptions of a good life through its political arrangements. It holds the state accountable for any bias in those burdens and benefits.

Given **NJI** better delivers what we want in each of these areas, I put the burden of proof on a defender of another approach to neutrality to explain why we should settle for less. For on its face, to settle for less allows the state to implement unduly biased political arrangements for no good reason from the liberal framework. Surely, if nothing else, we can agree that it is the task of liberal neutrality to prevent the state from favoring some conceptions of a good life over others in that way.

## **§6 Conclusion**

The practice of liberal neutrality does not protect a conception of a good life from interference by political arrangements. Instead, it protects it from unjustified interference. That is the view argued for in this paper. In this way, liberal neutrality proves to be not a doctrine of noninterference, but a doctrine of limited interference. Moreover, it is a doctrine of justified interference.

Given it is a viable view of neutrality, there is much more to be said about **NJI** and much more work to be done with respect to developing the implications of the view. The place of liberal neutrality in the framework of liberalism needs further attention. If we start with neutrality of the state's choice of political arrangements, we will need to address how far up the theoretical ladder liberalism should go—does liberal neutrality apply to goals, principles, norms, and /or values? The connections between neutrality, multiculturalism, and perfectionism may also be especially relevant to understanding the place of **NJI** in liberalism. Here I want to suggest one reason to think that the implications of **NJI** for such concerns may not be startling.

Perhaps one of the strengths of **NJI** is that it may be what we have wanted from liberal neutrality all along rather than something tremendously novel. Sometimes complaints are made about conflicting messages on liberal neutrality in works by leading political philosophers who consider the practice of liberal neutrality to be crucial to liberal justice—like Rawls, like Dworkin.<sup>50</sup> Perhaps if we viewed their work from the standpoint of **NJI**, the conflict would prove merely apparent. Such an analysis would be quite useful in terms of assessing **NJI** as a conception of liberal neutrality. Here I take a quick look at one suggestive example.

Dworkin considers whether or not liberal neutrality permits the state to interfere with the consumer economy to create a national park. At first, his discussion sounds like a straightforward version of **NJ**. He holds that neutrality permits the state to establish a national park only on suitably neutral grounds. For instance, neutrality would allow an

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<sup>50</sup> See for instance, Kymlicka (1989, p. 884) on Rawls's ambiguity and Waldron (1993, p. 15) on Dworkin's ambiguity.

appeal to the fair distribution of natural resources to justify a national park, but would exclude arguments that turn on the intrinsic superiority of nature-loving conceptions of a good life. Similarly, he suggests that the consumer economy itself should be justified on neutral grounds (such as its contribution to equality of resources. Again, this sounds like **NJ**. However, Dworkin then seems to want to make a further point. He suggests that neutrality might require the state to establish a national park because of the burdens the consumer economy imposes on some conceptions of a good life, such as nature-loving conceptions. This concern with the interference of political arrangements with conceptions of a good life suggests **NI** (Dworkin, 1985, p. 202). Thus the content of Dworkin's liberal neutrality may seem unclear.

Let us try to construe Dworkin as a proponent of **NJI**. We might describe his discussion as follows. Dworkin holds that a consumer economy and national parks may be acceptable means to legitimate political goals of two kinds of resource equality. He then sets aside the claim that the goal of a fair distribution of natural resources might help justify national parks. He turns instead to the question: does neutrality require the state to address the interference of the consumer economy with nature loving conceptions of a good life simply in virtue of that interference? His answer seems to be yes: the state should choose a regulated version of the consumer economy to limit the burdens it imposes on nature lovers. If this is a fair interpretation of Dworkin, then in this instance he reads like a proponent of **NJI**. Thus, we have at least some reason to think that proponents of liberal neutrality in general may already have good reason to endorse **NJI** over **NJ** or **NI**. To close, I say a quick word about two criticisms that one might raise against **NJI**.

First, we might wonder why we need an account of liberal neutrality at all. Why not rely on a principle of liberty to moderate the state's interference with conceptions of a good life? A principle of liberty can exclude a state religion aimed at the goal of peace on the assumption that the state promotion of religion conflicts with religious liberty. We might think that such a principle should do all the work to eliminate unduly biased political arrangements. However, I think we should resist this—it makes the concerns of liberty too broad. While the burdens and benefits at issue in **OPERA** seem noteworthy, they hardly seem to rise to the level of concerns about our basic liberties. Nevertheless if we interpret the interference with our lives at stake in **OPERA** to be a matter of basic liberty, liberalism will still require the tools to manage that interference. A principle of liberal neutrality would still look to be best suited to guide the state toward the best decision on how to manage that interference.

Second, like **NI**, **NJI** is subject to the criticism that it makes the practice of neutrality impossible or impractical. I grant that to understand all the benefits and burdens that may fall on any conception of a good life, and to accurately gauge their likelihood and impact is an unmanageable project. We cannot perfectly implement **NJI**. However, this does not mean that **NJI** fails. **NJI** can remain a very useful tool to help frame debates around political arrangements. Any debate that leads to a choice of political arrangements that could fairly be said to strive to be consistent with the practice of **NJI** will have to try to consider significant burdens and benefits that they impose on conceptions of a good life and to try to eliminate those that are unduly biased. It will require the state to at least try not to play favorites in its choice of those political arrangements as it pursues its legitimate political goals.

## **Chapter 3: Confessions of an army brat— an outsider's insight into liberal egalitarianism multiculturalism**

### **§1 Introduction**

Legislators in a liberal egalitarian town conduct an open debate regarding the distribution of fishing licenses for a local lake that is the only place to fish within one hundred miles. This is the first year fishing licenses will be required, and very few licenses will be available. All involved parties accept this change as a necessary and acceptable measure for preventing the collapse of the lake's ecosystem. Maurice and Rosalie—well-educated, free-thinking, confident, and competent adults with friends, families, jobs, and a number of important projects in their lives—arrive ready to contribute to the debate.

Maurice is a member of the majority culture in the town. Rosalie belongs to a small cohesive cultural group called the Fisherfolk. The culture of the Fisherfolk is quite distinct from the majority culture. The Fisherfolk lived in conditions of near isolation for centuries until advances in transportation connected the Fisherfolk more closely with the townspeople. Since that time, political arrangements have disrupted the Fisherfolk way of life many times. For instance, decency laws were enacted that made the Fisherfolk traditional form of dress illegal in public, roadways that cut across Fisherfolk land have been laid, a request to allow afternoon naps in schools to accommodate the common pattern of Fisherfolk days was denied, and so on. The fishing license issue is just one in a series of concerns about political arrangements that might have been otherwise designed to interfere less with the Fisherfolk way of life.

The following exchange takes place between Maurice and Rosalie:

## **FISHERFOLK**

Maurice: I suggest we distribute licenses by lottery among townspeople interested in fishing the lake. I'd love a license myself, but, of course, everyone deserves a fair shot.

Rosalie: No, the Fisherfolk, my cultural community, should get all the licenses. I don't fish myself, but fishing is an integral part of the Fisherfolk's way of life. If we are to adapt to limits on fishing while remaining a healthy, active community, we, the Fisherfolk, must receive all available licenses. Without those licenses, maintaining our way of life is going to be a real struggle.

Maurice: But I do not belong to the Fisherfolk, and I should have as fair shot at a fishing license as any one else interested in one.

Rosalie: Look, this is not just a matter of fishing. Limiting fishing will not impact your culture in any notable way. But my culture is at risk from the constant interference by politics with our way of life. Belonging to my culture is a very important part of my life.

Maurice: Granted. But you seem to miss my point that fishing is a very important part of my life, not a trivial interest. Each spring I revitalize myself by going to the same fishing hole I have used since I was a child. Fishing turns into a process of careful introspection. We both have a very important good at stake. We agree that the lake must be saved. Sacrifice will be required by one of us. Thus, to be fair, let us have the lottery.

Rosalie: Let me try again. I understand that fishing is an important part of your life. However, recreational fishing, even introspective recreational fishing, is simply not on a par with cultural belonging. Culture touches a person everywhere; it permeates one's life. Belonging really should take priority over fishing.

The debate between Maurice and Rosalie is multicultural in nature. Political multiculturalism is a demand for some political arrangements to be sensitive to cultural difference. Cultural accommodations are meant to meet this demand. In this chapter, my focus is on a narrow range of cultural accommodations. These accommodations are features of political arrangements that are designed to lessen the interference of the arrangements with a cultural community. They may take the form of exceptions for cultural membership, such as an exception to traffic laws that allows the Amish to use non-motorized vehicles on certain roads. Alternatively, they may be general aspects of political arrangements that do not

explicitly admit of exceptions but were nevertheless designed to be culturally sensitive, such as a law that requires all state materials to be written in two languages.

In our fishing license case, Rosalie asks for a cultural accommodation for the Fisherfolk. Maurice argues that the accommodation is unjustified. Assuming they are striving for liberal justice, should the legislators give special weight to Rosalie's concern with cultural belonging? To me, the answer seems obvious—yes, of course. But I must confess that I am an army brat who has consistently longed for cultural belonging since it became absent in my life upon my father's retirement from active duty as a bird colonel. My position is that liberal justice should require the accommodation for the Fisherfolk to respect the value of cultural belonging.

As "social chameleons"—outsiders who attempt to pass as civilians in the civilian world—military brats have a deep intuitive understanding of the importance of cultural belonging. For decades as adults, they yearn for roots and home in a way that has nothing to do with family or friends or stability or place, but with cultural belonging.<sup>51</sup> Military brats know that what is lacking from their lives is something they bump against in a great many dimensions of their lives.

As a brat, I have taken as a given the value of cultural belonging as a rare and significant good. Based on this understanding of cultural belonging and exposure to the philosophical debate around multiculturalism, the idea that multiculturalism should have a distinct place in liberal justice—a place that neither principles of liberty and equality nor

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<sup>51</sup> Mary Edwards Wertsch, a military brat with a similar ache, has explored its shape and depth in *Military Brats: Legacies of Children Inside the Fortress* (2006). This work is discussed later in this chapter. The common themes of brats discussed in her book about always being an outsider match my experience, match the message of a recent documentary on military brats, and match the themes running through narratives posted on military brat websites that form part of an interesting movement to build a virtual cultural community for military brats.

liberal neutrality can secure—seems to be to be both a desirable and straightforward conclusion. In the past, I have also taken as a given such a distinct place for multiculturalism in liberal justice. It is these two givens that I hope to defend in this chapter. For, apparently, my givens do not seem obvious to many civilians.

There is significant tension between my givens regarding culture and the place for multiculturalism typically identified within liberal egalitarian views.<sup>52</sup> Roughly, on that view, cultural belonging is either of enough significance that liberty and equality should directly address the state's interest in cultural belonging, or the practice of liberal neutrality should suffice for that task. If the former, then cultural belonging belongs on a par with goods like liberties, opportunities, and the various goods a liberal egalitarian state provides to all its citizens to ensure they have both the freedom and resources to reasonably pursue their own conceptions of a good life. If the latter, then cultural belonging is just one of many goods such that individuals should simply be free to pursue as one good among others (like fishing) by employing the liberties and resources governed by principles of liberty and equality. Certainly, individuals pursue conflicting goods at times; but with the availability of liberal neutrality, liberal justice already has the tools to handle such conflicts. Either way, according to the standard approach of liberal egalitarians, liberal justice does not need a principle of multiculturalism.

In this chapter, I argue that the state should take care not to interfere with cultural belonging. But the significance of belonging does not place it on a par with liberty or equality. Thus those principles should not be compromised to deal with multicultural issue

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<sup>52</sup> I became fully aware of this tension only after a wide range of people were generous enough to discuss various drafts and/or the topic in general with me, including Joshua Cohen Thomas Scanlon, Sally Haslanger, Sarah Song, Susan Okin, Brian Barry, Debra Satz, Larry May, and philosophy faculty and graduate students in a wide range of forums too numerous to mention.

that trace to belonging in itself. This would give too much weight to the value of cultural belonging within the liberal framework. Nor will leaving the state to manage belonging through liberal neutrality properly respect the value of belonging. For practical reasons, this would give too little weight to the value of cultural belonging within the liberal framework. Thus I suggest this gives us good reason to consider a distinctive liberal principle of multiculturalism that allows the state to better weigh the value of belonging properly. To do so, I argue as follows:

- (P1) To properly respect cultural belonging, belonging should have presumptive priority among secondary goods that individuals seek to include in their lives.
  - (P2) The best formulation of principles of liberty and equality and the best account of liberal neutrality do not give cultural belonging presumptive priority among those secondary goods that individuals seek to include in their lives.
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- (C) Thus, to properly respect cultural belonging, liberal views should include a distinctive principle of multiculturalism.

My strategy here is to give priority to cultural belonging as one good among other secondary goods. Secondary goods are those goods that individuals seek to include in their lives through the exercise of freedoms and the use of resources governed by principles of liberty and equality. Primary goods are the goods governed by principles of liberty and equality to ensure conditions of empowered autonomy.

Contrary to the standard liberal egalitarian view, I hold that liberal neutrality will not resolve conflicts between cultural belonging and other goods, nor will principles of liberty and equality. Respecting cultural belonging takes more than the standard tools of liberal egalitarianism. Thus, to defend (P1) and (P2), I proceed as follows.

First, I look at the commonly construed place of cultural accommodations in a basic liberal framework. Roughly, this place is constrained by the relevance of cultural

accommodations to two values—the value of empowered autonomy (explained later) and the value of limiting interference with conceptions of a good life. Second, I defend (P1).

Drawing on the experience of military brats, I develop the idea that cultural belonging should have presumptive priority among other secondary goods in a liberal society. Like other diffuse and pervasive social goods, cultural belonging is a good that is hard to see to those who possess it. It is also a nearly irreplaceable good. These factors combine to make it a significant concern for the state, a concern that creates a challenge for the liberal state for which the assignment of presumptive priority to belonging is a practical solution. Third, I reconsider the basic liberal framework to point to where I am recommending extra space be made for cultural accommodations. Fourth, I defend (P2). I draw upon some reasons that support distinct principles of liberty and equality in a Rawlsian view and extend those reasons to support my principle of multiculturalism. This move retains an important lesson from feminist critics of multiculturalism: cultural accommodations should not be allowed to encroach on empowered autonomy. For, empowered autonomy is a precondition on cultural belonging being a good in a liberal society. Finally, I consider and reply to two objections to my view.

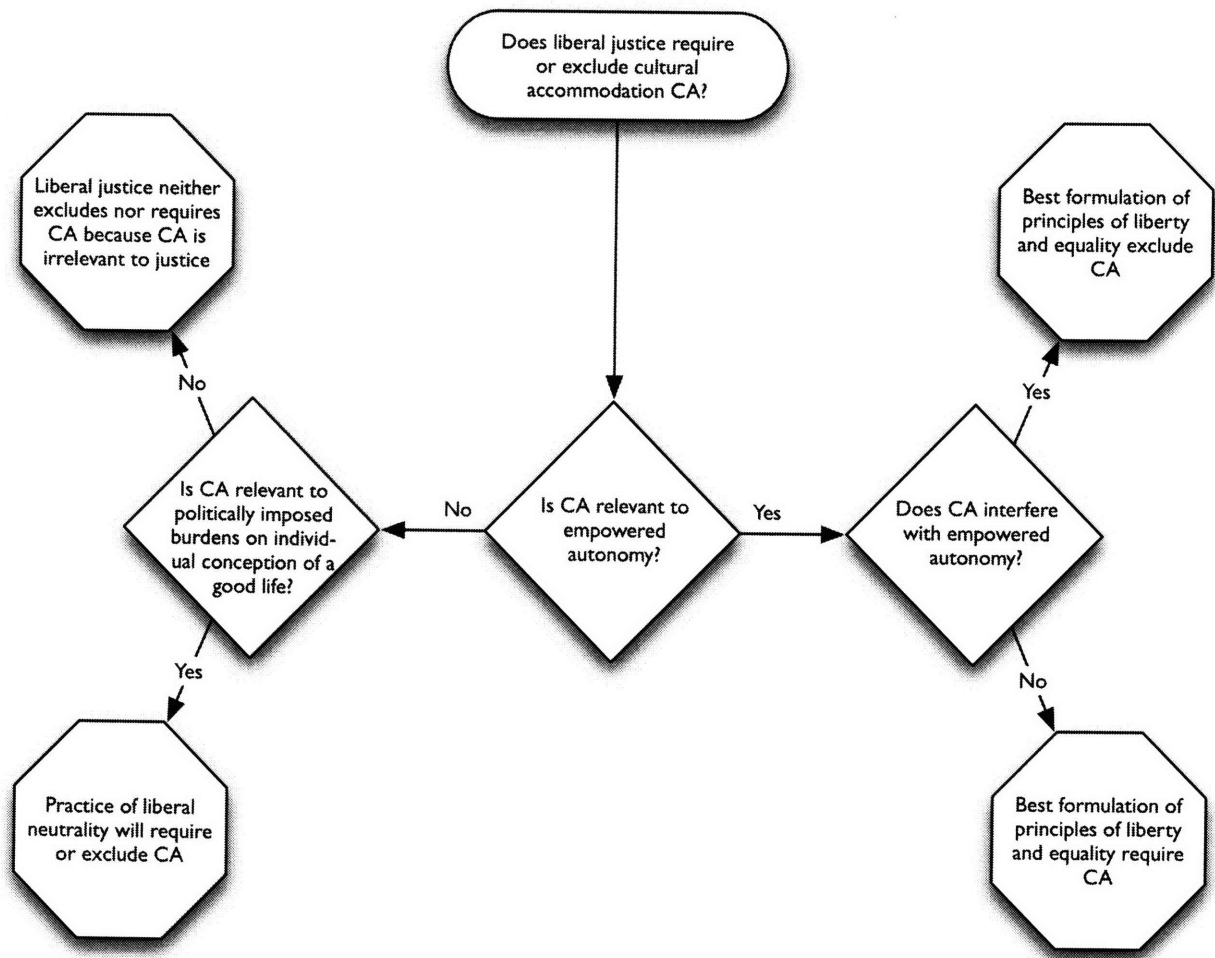
## **§2 Multiculturalism within liberal egalitarianism**

The liberal debate around multiculturalism has reached a point of broad consensus. Liberal egalitarianism has built-in demands for and limits on multiculturalism.<sup>53</sup> The liberal egalitarian idea is that cultural accommodations fall within the scope of liberal justice for two

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<sup>53</sup> Will Kymlicka has a particularly useful discussion on this point (2002, pp. 228-343). He holds that currently there is agreement that the goal of multiculturalism within liberalism "is to show that some (but not all) minority rights claims enhance liberal values," (p. 343) and he understands the relevant liberal values to be freedom and non-domination (p. 342).

sorts of reasons. As a preview, let us put these on the table. First, the accommodation matters to justice if it bears on empowered autonomy. Second the accommodation matters to justice if it limits that the interference by political arrangements with individual conceptions of a good life. Otherwise, cultural accommodations fall beyond the attention of liberal justice. The idea is that the best formulation of principles of liberty and equality should fully capture the concern of liberal justice with empowered autonomy, while the best construal of liberal neutrality should guide the state to properly limit state interference with our lives that is not required by principles of liberty and equality. On this sort of view, a state that conforms to the best formulation of principles of liberty and equality and practices the best construal of liberal neutrality thereby exhausts its concern with multiculturalism. In this section I develop what I take to be a fair picture of the built-in multiculturalism offered by liberal egalitarianism as described quite roughly here and as illustrated in Figure 1.



**Figure 1: Flowchart of Multiculturalism within Liberal Egalitarianism**

In this section I quickly step through the each of the four paths to show this kind of multiculturalism in action. In the remainder of the chapter, I challenge only one small part of the picture—what happens after we find ourselves on the bottom left arrow on the flowchart. It is there that I open this system to a principle of multiculturalism that changes the cultural accommodations that justice requires.

I use the term "empowered autonomy" to stand in for a somewhat vague, but rich, kind of autonomy that includes an ability to exercise free and independent critical thought to make choices about what one wants and the real world resources that it takes to reasonably

pursue those choices. I use "empowered" to emphasize that a system of formal freedoms such as those provided by a libertarian state do not yield the conditions that support the kind of autonomy at issue. I do not wish to take a stand on the details of empowered autonomy. Its content is itself up for debate as well as the political conditions that best support it.<sup>54</sup>

Suffice it to say that I have in mind a view of autonomy that involves the kind of freedom from oppression that Susan Okin supports and the substantive self-determination that Will Kymlicka endorses (Okin, 2002, esp. p. 207; Kymlicka, 2002, pp. 121-127). Okin's concern is specific to the freedom of women from oppression within a cultural community. Formal exit options do not suffice for this freedom on her view. Rather women need to be treated fairly within their own cultures. Against libertarianism, Kymlicka supports substantive self-determination as the only politically defensible form of self-determination. He contends the formal freedoms guaranteed by libertarians fall short. Alone formal freedoms cannot the conditions it will take for people to have a reasonable chance to determine the course of their own lives. Both Okin and Kymlicka point to a concern with autonomy that requires the state to empower individuals in a way that far exceeds formal freedom. On this rough picture, empowered autonomy includes (i) an ability to engage in an informed process of critical self-reflection to develop and revise one's conception of a good life and (ii) reasonable access to the freedom and resources that allow one a reasonable chance to pursue that life.

Empowered autonomy connects to liberal justice in the following way. The best formulation of principles of liberty and equality should require the state to protect freedom

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<sup>54</sup> For instance, see Kymlicka on the implications of the shift Rawls makes away from his idea of rational revisability in *Theory of Justice* to a much weaker idea in *Political Liberalism* for multicultural concerns (2002, pp. 240-244). For another example, consider the consequences of Okin's rejection of Kukathas's understanding of freedom from oppression for liberal multiculturalism.

and provide for the resources that create conditions that best support empowered autonomy. Assuming those principles are doing their jobs, empowered autonomy assumes (iii) a kind of flexibility in one's conception of a good life—individuals should be flexible enough to revise their conceptions as needed for liberal justice.

Though the terms used vary (recall Okin's freedom from oppression and Kymlicka's self-determination), a wide range of liberal arguments both in favor and against some cultural accommodations come at the issue through concerns connected to empowered autonomy. I quickly consider some of these in the following thumbnail views. Note that these sketches are minimal—they are intended to merely illustrate the placeholder for multiculturalism within liberal egalitarian views. Thus the detail and engagement with the issues here is curtailed so we may move quickly to the main issue in this chapter—space beyond the usual space for multiculturalism within liberalism.

To begin, consider three liberal egalitarian arguments *in favor* of accommodations. First, in *Multicultural Citizenship*, Kymlicka argues in favor of some cultural accommodations (such as language accommodations for the Quebecois) roughly as follows. To make meaningful choices, we must be able to ascribe value to goods. To value goods properly we must understand their value *within* a culture. Thus he concludes that "access to a societal culture" is required for "meaningful individual choice to be possible" (Kymlicka, 1989, pp. 83-84). Here we see Kymlicka make the strong claim that to make meaningful choices, a person needs a culture. Second, Millians argue in support of multiculturalism. Mill suggests that the existence of different ways of life is a valuable tool to help people consider,

try, and assess various "experiments in living" (1978, p. 54).<sup>55</sup> For such reasons, Millians support some accommodations as a means to keep a cultural marketplace thriving. On their view, the marketplace plays an important role in thinking critically about our lives because viewpoints from other cultures challenge our beliefs. These two arguments count cultural belonging or cultures as an instrumentally valuable means toward empowered autonomy.

The third argument in favor of accommodations gives no instrumental value to cultural belonging or culture. Brian Barry argues that some cultural accommodations, like hard-hat exemptions for Sikh workers, are required for the sake of equal opportunity simply as a practical matter (Barry, 2001, pp. 49-50). Basically Barry suggests that the state should allow the accommodation to limit the effects of cultural difference on Sikh's employment prospects because Sikh's would otherwise exclude themselves from certain opportunities. In this argument, there is no attempt to give special weight to cultural belonging or culture because of its importance to empowered autonomy.

Now let us glance at three liberal egalitarian arguments *against* accommodations. First, Okin (1999) argues against cultural accommodations from feminist concerns. She contends that even in liberal societies, to accommodate traditional cultures amounts to the support of discrimination of women in their homes and communities that "not only severely constrains their choices but also seriously threatens their well-being and even their lives." Because this discrimination has "cultural roots," Okin insists that accommodations oppose liberal justice (p. 21-22). Second, Martha Nussbaum argues against female genital cutting from the value of free informed choice (2000, pp. 118-129). Roughly, she contends that the

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<sup>55</sup> In Chapter 3 of *On Liberty*, Mill writes: "As it is useful that while mankind are imperfect there should be different opinions, so is it that there should be different experiments of living; that free scope should be given to varieties of character, short of injury to others; and that the worth of different modes of life should be proved practically, when any one thinks fit to try them" (1978, p. 54).

young girls and women who undergo female genital cutting are not in a position to rationally choose the procedure. Afterwards they have lost the option to choose particular forms of sexual enjoyment as adults. These authors both contribute to a powerful feminist critique of multiculturalism that demonstrates that culture and cultural belonging may hold great *disvalue* when it comes to empowered autonomy.

In contrast, Barry (2001) offers arguments against cultural accommodations that ignore the value of culture and belonging. On his view, to protect equal freedom requires denying most accommodations. For instance, he contends that we should not allow Jews to practice ritual slaughter unless we allow all to do so. Such an accommodation for ritual slaughter would give greater freedom to Jews than to others. On his account, culture and cultural belonging do not factor into the value of freedom (pp. 40-44).

In liberal thought, multicultural arguments on both sides of the issue that appeal more or less directly to empowered autonomy (like the six sketched above) ground conflicting conclusions about the demands of liberty and equality as principles of justice. The idea is that the best formulation of these principles will guide political debates toward those political arrangements that support empowered autonomy. In this way, most multicultural debates within liberalism trace to concerns connected to empowered autonomy and those two principles of justice.

The other half of the flow chart that links the question of accommodations to limits on politically imposed burdens on individual conceptions of a good life is less explored. The practice of neutrality aims to address conflicts between goods left unresolved by principles of liberty and equality, whether they are multicultural in nature or otherwise. For this discussion, let us simply grant that the liberal state is expected to try to stay out of the way of

people using their freedom, opportunity, and resources to pursue various goods. Thus, it should limit the politically imposed burdens that interfere with people doing what they want in some way. The job of liberal neutrality is to limit those burdens properly. Various accounts of liberal neutrality have very different results.<sup>56</sup> Some involve a particular distribution of burdens, others focus on the justifications underlying political arrangements, and still others concern the aim or intended effect of the political arrangements. In Chapter 2, I argue for a view that pays attention to the justification of the burdens. Here, I leave the proper content of liberal neutrality to the side.

With this bit of background material, let us consider the case of the Fisherfolk in the context of the flowchart. Does liberal justice require or exclude the accommodation that would give all the fishing licenses to the Fisherfolk? To decide, we must ask whether the cultural accommodation at issue bears on empowered autonomy. Let us begin with an affirmative answer to that question and consider two cases in which the accommodation bears on autonomy.

First, suppose the Fisherfolk are an internally oppressive group that interferes with the autonomy of Fisherfolk women. In this case, Okin-style concerns suggest the accommodation is relevant in virtue of its interference with empowered autonomy. This takes us through our next decision point that asks if the accommodation interferes with empowered autonomy (yes, in this case), to the top right result—the best formulation of principles of liberty and equality should exclude the accommodation.

Second, assume instead that the Fisherfolk are a very pleasant bunch of liberal egalitarians. Assume further that fishing limits will not interfere with the Fisherfolk's

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<sup>56</sup> For a discussion of approaches to liberal neutrality, see Chapter 2 of this dissertation.

religion, nor disrupt fair equality of opportunity, nor cause financial hardships. It will simply subtly disrupt their way of life a bit more than it has already been disrupted by political arrangements. Kymlicka might argue that the Fisherfolk need their culture to have the context for meaningful choice.<sup>57</sup> A Millian might defend the accommodation to promote cultural diversity for the sake of critical reasoning. If either line of reasoning is compelling, or another line that draws on empowered autonomy, then the accommodation bears on empowered autonomy. Further the accommodation supports autonomy, so we wind up at the bottom right result—principles of liberty and equality require the accommodation.

However we may not find such arguments compelling. It is not clear, for instance, that individuals require cultural belonging to exercise meaningful choice. Indeed as Okin has argued repeatedly, cultural belonging interferes with autonomy when the relevant culture is internally oppressive.<sup>58</sup> Diversity arguments may fail in any particular case. Even if cultural diversity provides a very important context for critical reflection, this does not mean that maximal cultural diversity is required, nor does it mean that a particular culture is required. Moreover, we have already stipulated that the Fisherfolk culture will continue, though it may struggle. If the survival of the culture is not at issue, then the arguments regarding meaningful choice and cultural diversity may not be pertinent. Thus, let us grant that under plausible circumstances, the Fisherfolk case may not be relevant to empowered autonomy.

In that case, we take a step to the left half of the flowchart and ask if the accommodation is relevant to politically imposed burdens on individual conceptions of a

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<sup>57</sup> This would turn on fleshing out the details of the Fisherfolk case to ensure it meets his standards for a "societal culture, (Kymlicka, 1995, pp. 76-77).

<sup>58</sup> Further, on a personal note, though I feel I lack cultural belonging, I do not think I suffer a lack of empowered autonomy. My ability to develop, pursue, and revise my conception of a good life is quite intact. Military brats seem to do quite well on that score.

good life. Again we have two possibilities. First, suppose the accommodation does not limit political burdens in our lives. This supposition takes us immediately to the top left result. The accommodation falls beyond the scope of liberal justice. Let us say fair enough. Plausibly, if the accommodation is not relevant to anyone developing, pursuing, or revising her conception of a good life or to limiting the interference of the state with our conceptions of a good life, then it is of no concern to justice.

Second, suppose instead that the accommodation is relevant to politically imposed burdens on conceptions of a good life. Both Maurice and Rosalie base their arguments on those burdens, arguing about the importance of the fishing licenses to their conceptions of a good life. One of them will have to accept a politically imposed burden. The question is: which one? This takes us to the bottom left result—the best construal of the practice of liberal neutrality will provide the answer as to who must endure the politically imposed burden. What this answer will be is far beyond the scope of this chapter. As noted above, it is far from settled what liberals should want from liberal neutrality. The important point here is that the fact that Rosalie's burden is multicultural in nature does not, in itself, give belonging any extra or weight or priority to help the debate go in favor of the accommodation.

This completes our glimpse of the picture of how the issue of multiculturalism is generally understood to fit into a sort of individualistic liberal egalitarian framework grounded in a value like empowered autonomy. In this framework, liberal multicultural debates focus on (i) the connections between cultural accommodations and empowered autonomy, (ii) the way that liberal principles of liberty and equality should govern accommodations in light of those connections, and (iii) the best way for liberal neutrality to deal with otherwise unaddressed cultural burdens.

Let us accept three paths in the picture. Most firmly and forcefully, yes, the feminist critique of multiculturalism (captured by the first path) that shows justice requires the exclusion of cultural accommodations that interfere with autonomy gets things right.<sup>59</sup> Further, yes, sometimes accommodations support empowered autonomy (the second path considered). Finally, yes, if accommodations lack relevance to empowered autonomy or relieve no burdens on individual conceptions of a good life, then they lack relevance to liberal justice (the third path).

It is the fourth path that I challenge. When culture does not connect to autonomy in a particular case we should not put cultural belonging on a par with all the other various goods one pursues in life. Instead, belonging to one's own culture should retain some kind of priority over those goods. Let me now try to convey why we should take this claim seriously.

### **§3 Step one: The presumptive priority of cultural belonging**

Cultural belonging is not like fishing, even introspective fishing, nor any other good that can be reasonably enjoyed in a variety of ways and places and times. Cultural belonging cannot be replaced with more friendships, with family, with extended family, and so on. For, it includes a kind of fit with one's society that is much broader than friends and family. It is precisely in the day to day interaction with others who are not in one's inner circle that cultural belonging matters—it involves a certain ease between members of a community in virtue of their shared culture. Because of the significance and scarcity of cultural belonging, its vulnerability to the effects of political arrangements gives the state good reason take proper measures to avoid political arrangements that interfere with cultures.

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<sup>59</sup> See the bibliography for further arguments by Okin, Nussbaum, and Marilyn Friedman that serve to support this critique well.

Cultural belonging is a rich good of subtle and pervasive significance. Its significance lies in the way it benefits people in multiple small ways in many aspects of their day-to-day lives. Belonging to one's own original culture is nearly irreplaceable because it requires a cultural fit that is rare due to the structure of culture. And, belonging can be put at subtle risk by the political arrangements of a liberal egalitarian society that interfere with the success of some cultures.

I hope to persuade some that cultural belonging *in itself* matters to liberal justice in ways not captured by principles of liberty and equality. This contrasts with most work on liberal multiculturalism as demonstrated by the model in the previous section. That work tends to focus on the importance of culture to identity, choice, or respect. I grant that in some cases at some level there are important connections between culture and identity, autonomy, and respect.<sup>60</sup> But here I emphasize the value of that belonging holds for us regardless of its instrumental significance with respect to those important goods. To focus on the value of belonging as a mere means to identity, autonomy, or respect trivializes the military brat's wish for belonging for the sake of belonging.

I argue as follows. Secondary goods contribute toward people living good lives. Cultural belonging is among those secondary goods that are of significant weight. Further, it is very difficult for someone without access to the good of cultural belonging to gain access to that good. Because cultural belonging is valuable and difficult to replace, the state should take care not to put it at risk. However, the interference of political arrangements with cultures puts access to cultural belonging at risk. The state should make an effort to moderate

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<sup>60</sup> Military brats have robust identities even in the face of being outsiders. They do not need to belong to a culture to reason about their lives, to choose goals, or to pursue them.<sup>60</sup> Military brats do not ache for recognition by civilians. They simply want to not always have to be the outsiders

this risk. But this is a challenge because of problems with properly assessing both the risks to and value of the goods at stake. I suggest that one *practical way* to help the state moderate that risk is give presumptive priority to cultural belonging over other secondary goods when conflicts arise between them.

### ***3.1 Cultural belonging is a significant and nearly irreplaceable good***

I combine three approaches to explore cultural belonging as a nearly irreplaceable good of great significance. First, I appeal to a parallel between the phenomenon of white privilege and cultural belonging to suggest why structural features make it difficult to appreciate the significance of belonging. Second, I explore the significance of belonging and its irreplaceability through its absence in the lives of army brats. (The discussion on white privilege is meant to show why exploration of belonging through its absence might be fruitful.) Third, I consider a model of culture that helps to cash out the content of cultural belonging through a closer look at its structure.

But first I pause to note a few things about my purpose. With respect to the value of belonging, I do not seek to show that it is of some transcendent value that determines the value of other goods in our lives. I do not want to suggest that belonging is the most important secondary good that we might want to pursue. I do not aim to establish that belonging should outweigh any other secondary good in every case. Rather I want only to suggest that cultural belonging is right up there with other very important goods in our lives, like family, friendship, and so on. It is of sufficient significance that a liberal state's interference with belonging is cause for careful concern.

With respect to the availability of belonging, I do not contend that belonging is by necessity accessible only via one's original culture. I grant that people can occasionally

change cultures and find a ready cultural fit. I grant that cultural marginality can slowly give way to cultural belonging as one becomes more and more psychologically embedded in a new culture. I grant that sometimes people can come together to create new communities from scratch. My moderate claim is that one will as a matter of fact find it extremely difficult to find cultural belonging if they lack it.

Now, let us move on to look at cultural belonging as a tremendously important (but not transcendent) good that is incredibly difficult to replace (but not impossible.)

### *3.1.1 Diffuse goods: white privilege and cultural belonging*

Consider the phenomenon of white privilege. It is a good that is brought out especially well by the White Privilege Checklist (McIntosh, 1988). The checklist aims to demonstrate that white privilege consists of a multitude of small ways in which skin color makes one's life go better. Built on that model is the Male Privilege Checklist (Deutsch, date unknown). Both checklists provide numerous examples of small benefits to members of a privileged group that show up in many aspects of their lives. Those who lack white or male privilege have little problem recognizing the importance of this subtle and pervasive privilege. But people who enjoy either form or both forms of privilege have difficulty recognizing its instrumental value.

When I give the checklists to students, I find that they help those in the unprivileged groups to articulate something they already know, but do little to get those in the privileged groups to recognize their privilege. Instead, they provoke enough discomfort to prompt defenses by privileged students on a point-by-point basis. A male notes a case in which he earned less money than a female. Another chimes in that it is unfair that he is expected not to cry. A white person complains that people assume she cannot dance well. Another complains

that she did not get points for being white when she applied to college. These students miss the point of privilege—it is broad, it is everywhere, it is generally consistent. It is a system of pervasive small advantages. To pick at them one by one is to miss seeing the instrumental value that systematic privilege has in the lives of those that benefit from it. Or, they totally ignore privilege and focus on discrimination. They complain: "whites [or males] have rights too," although their rights are not at risk by the acknowledgement of privilege. Non-racist, sincere, decent people miss the value of white privilege because it is structured as a good of pervasive small benefits. The subtlety of these benefits leaves them largely unrecognized.

Similarly, open-minded decent people miss the value of cultural belonging because it is structured as a good of pervasive small benefits that are overlooked because of their subtlety. Those well acquainted with the value of cultural belonging through its absence and those who miss its importance because of its subtle presence simply seem to talk past each other.

Like Maurice in the Fisherfolk case, individuals from the majority culture respond to concerns about cultural belonging with narrow point on point replies—the limits on fishing disrupt a good in Maurice's life too, not just a good in Rosalie's life. Such replies miss the systematic nature of cultural belonging. Another strategy people use is to appeal to their own culture even when its existence or health is not reasonably at stake—such as appeals to "the" American way of life in arguments against bilingual education. These appeals again miss the point because belonging is not seriously at risk. As with forms of subtle privilege, it is hard to convince people who do not appreciate belonging through its absence that it is something of great value in their lives.

Part of the problem in seeing the value of cultural belonging is explained by its being a diffuse good. The value of such goods is difficult to gauge because each time a bit of cultural belonging is enjoyed, its value will likely seem insignificant. But together the small moments of belonging form a social good that is quite valuable.

Consider diffuse goods in contrast to diffuse harms (which come up again later in this section). Diffuse harms are constituted by many small non-repetitive acts that are not harmful (or only negligibly so.) Feminist work on oppression focuses on how diffuse harms constitute oppression. Consider Marilyn Frye's famous and instructive birdcage analogy:

Consider a birdcage. If you look very closely at just one wire in the cage, you cannot see the other wires. If your conception of what is before you is determined by this myopic focus, you could look at that one wire, up and down the length of it, and be unable to see why a bird would not just fly around the wire any time it wanted to go somewhere. Furthermore, even if, one day at a time, you myopically inspected each wire, you still could not see why a bird would give trouble going past the wires to get anywhere. There is no physical property of any one wire, nothing that the closest scrutiny could discover, that will reveal how a bird could be inhibited or harmed by it except in the most accidental way. It is only when you step back, stop looking at the wires one by one, microscopically, and take a macroscopic view of the whole cage, that you can see why the bird does not go anywhere; and then you will see it in a moment. It will require no great subtlety of mental powers. It is perfectly obvious that the bird is surrounded by a network of systematically related barriers, no one of which would be the least hindrance to its flight, but which, by their relations to each other, are as confining as the solid walls of a dungeon."

It is now possible to grasp one of the reasons why oppression can be hard to see and recognize: one can study the elements of an oppressive structure with great care and some good will without seeing the structure as a whole, and hence without seeing or being able to understand that one is looking at a cage and that there are people there who are caged, whose motion and mobility are restricted, whose lives are shaped and reduced.

In this analogy, no single bar in the birdcage contains the bird. Rather, it is the system of bars that keep a bird trapped. Applying this to the diffuse harm of oppression, the idea is that individual instances of racism or sexism are not harmful in themselves (or negligibly so), but they nevertheless contribute to a system of pervasive racist or sexist acts that constitutes oppression. (Below we consider why the problem of how to handle diffuse harm is one that challenges liberalism.)<sup>61 62</sup>

Diffuse goods (as opposed to harms) are not much discussed except perhaps indirectly. For instance, the white and male privilege discussed above are forms of instrumental diffuse goods—they benefit those who possess them in virtue of many small instances of privilege none of which need matter much in isolation. Such goods are the flip side of oppression. As such, they are not goods a liberal society should seek to make available, but rather goods it should aim to restrict. Liberals seek to eliminate white privilege through the elimination of racial or gender oppression.

Cultural belonging is a diffuse good that shares the structure of the kind of diffuse harms Frye describes. In no instance do the benefits of cultural belonging seem particularly important. The pleasures of belonging generally come in the form of small moments of cultural ease—a missed moment of awkwardness, an unconsidered understanding of social norms, familiarity with social practices, a quick unnoted moment of connection between you and a stranger because of a shared background, a shared expectation of what time

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<sup>61</sup> Kernohan (1998), for instance, argues in favor of disrupting some cultures in virtue of the diffuse harm they have upon their members. His argument is quite interesting, but not relevant here because it falls squarely on the first path of the flowchart above.

<sup>62</sup> Such harms may be referred to as cumulative harms. I use the term "diffuse harm" as a name for a kind of cumulative harm to distinguish it from narrow or acute cumulative harms. This is in response to Joshua Cohen's example of a non-diffuse cumulative harm: "suppose I attach an electrode to you. I turn the knob up in small amounts, in fact so small that the differences at each step are indiscernible. But after I turn the dial 15 times you are in lots of pain."

commitments mean, a social roadblock anticipated and avoided almost without thought, not cringing at a moment of cultural clash, accuracy when it comes to implicit cultural assumptions, knowing what to expect, and simply not feeling stuck in the role of an outsider. But each small benefit is part of the structure that constitutes the significant yet diffuse good of cultural belonging. However, unlike white or male privilege, cultural belonging does not entail unfair treatment of others. Belonging can be a good that a liberal society should seek to make available.

To sum up, like those who benefit from white privilege, it is hard to raise the consciousness of cultural insiders to recognize the value of cultural belonging. For they have not lived as aliens without a home culture to return to at the end of the journey. And as with white privilege, the diffuse nature of belonging makes its true value hard to grasp. I next try to point to its value by focusing on the deep void that military brats feel because they lack access to cultural belonging. Sometimes absence is the best way to help us comprehend some properties.

### *3.1.2 Military brat experience helps us grasp the value and near irreplaceability of cultural belonging*

Military brats desire cultural belonging for itself. They do not seek it to exercise some kind of empowered autonomy or to be recognized by others outside the culture, but simply because belonging matters. They have come to understand that belonging is an elusive good—though abundant in the sense that it is widely enjoyed, it easily escapes the grasp of those who reach toward a culture not already their own. The experience of military brats demonstrates both the value and near irreplaceability of cultural belonging through its absence in their lives. Let us explore these aspects of cultural belonging in tandem.

When cultural belong is missing from one's life long-term, it is generally experienced as a painful void. Only cultural belonging can fill that void. And it is very difficult to get cultural belonging other than via the culture in which one was raised. To try to demonstrate this void and the difficulty of filling it, I appeal to the experience of military brats. But the brats serve merely as an example. The body of work that focuses on the painful effects of being a cultural outsider is substantial.<sup>63</sup> The void military brats experience because of an absence of cultural belonging in their lives is not idiosyncratic to military brats, nor is the difficulty of filling that void.

Growing up, military brats recognize their rootlessness. They envy kids with homes and friends and neighbors known for more than a year or two. They recognize the otherness that makes them outsiders in the civilian world. But it is when they find themselves excluded from their own culture that military brats lose access to cultural belonging. And most find themselves excluded. The culture the brat leaves behind is a closed culture. Most brats choose not to join up with the armed forces. So, upon a parent's retirement or a birthday that makes a brat too old to carry a military dependent's I.D., brats find themselves cast culturally adrift in the world of civilians, a world that never quite fits, a world in which cultural belonging seems something only meant for those that already have it. That is why military brats understand, through its absence, the deep value of cultural belonging as well as its irreplaceability.

Personal narratives perhaps best convey what it is like to live one's adult life as a cultural outsider and there are several rich resources for these narratives that demonstrate the

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<sup>63</sup> There are so-called third culture kids and global nomads who as adults lack access to their culture and experience the same painful void that only cultural belonging can fill. See for instance: Pollock & Van Reken, 2001; Ting-Toomey, 1999; Killguss, 2007; Britten, 2003.

consistency of their themes.<sup>64</sup> In *Military Brats: Legacies of Childhood Inside the Fortress* by Mary Edwards Wertsch, military brats consistently and passionately contend that a life without cultural belonging is missing something quite important. The pain voiced speaks to the value of cultural belonging. The pretty uniform lack of success of military brats to achieve a sense of belonging speaks to the near irreplaceability of belonging to one's *own* culture. Belonging is not, for instance, replaceable by friendships, or family, or stability, or familiarity with some place. Military brats often have plenty of all of these. These goods do not touch the problem of being a cultural outsider. Here are just a few words to begin to depict the experience of the cultural outsider.

"This is my paradox. Because of the military life, I am a stranger everywhere and a stranger nowhere. I can engage anyone in a conversation, become well-liked in a matter of seconds, yet there is a distance I can never recover, a slight shiver of alienation, of not belonging, and an eye on the nearest door. The word *goodbye* will always be a killing thing to me, but so will the word *hello*." (Pat Conroy in Wertsch, 2006, p. xxii)

"Most of the military brats interviewed for this book were asked an identical question: 'After all these years of living with civilians, do you feel like one of them?' The answer in almost every case was an emphatic *no*. 'I have always felt like a military brat,' said the son of an Air Force colonel. 'I will *never* feel like a civilian.' The son of an Air Force sergeant said, 'No, I don't feel like a civilian and I don't ever want to.' "(Wertsch, 2006, p. 300)

"The first legacy of military childhood transience is what might be called the psychological diaspora. As adults, most of us learn to slow or stop the moving—and yet we still find ourselves caught up in a strange migration. It is a migration of the soul, all the more mysterious because it has no clear origin and no certain goal.

There is only one antidote to the angst of the diaspora. Belonging. It is not easy for a military brat to learn what that even means, much less to find it. Yet belonging is the single greatest quest of our lives, a quest that lives in many of us as a powerful unnamed yearning.

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<sup>64</sup> One good source for first person stories is *Military Brats Online* (Baker).

My feeling is that it is crucial for military brats to put the right name to this yearning, face our unrequited need to belong, and address it as best we can." (Wertsch, 2006, p. 271)

Wertsch names the void in brats' lives: the "unrequited need to belong." Her book has served as a work of consciousness-raising in the brat community. It helps those who lack cultural belonging to recognize and understand a lack in our lives caused by an absence of something valuable.

A big part of her work focuses on the commonalities of brat culture. Although it is a way of life not tied to place or particular people, it is a rich culture filled with its own traditions, history, songs, pastimes, habits, lifestyle, value systems, ways of thinking, sharing, and caring, and ways of understanding time and place. By articulating the fact that brats truly did live in a different culture, it helps them to understand that they were cultural insiders at some point. When brats lose access to their culture, they lose access to cultural belonging. This loss points to the key place a specific culture plays in the *availability* of belonging.

A second major theme is that perhaps the hardest part of being an adult military brat is the profound and unmet desire for belonging that stems from their otherness in the civilian world. This desire is not satisfied by making new friends, living in the same place for a long time, moving close to family, or changing our accents or musical preferences. Belonging is denied to brats despite their best efforts (conscious and unconscious) to join the culture around them. The ongoing significance of the absence of belonging is a consistent feature of the lives of brats that *suggests its value*. The inability to become an insider in a new culture demonstrates the *near irreplaceability* of belonging when it is lost.

The consciousness-raising effects of the book have sparked an online community of military brats. In this community, people share their stories and insights and reconnect with the culture from their childhood. Brats are building a community of shared understanding where they are not aliens. It is a community that gives them a very welcome way to dampen a thirst for cultural belonging, though not to quench it.<sup>65</sup> The exquisite satisfaction from the tendrils of connectedness that come with mere contact with the virtual community *confirms the value* of cultural belonging that military brats understood at some level all along. That this is generally the only satisfaction of this sort in brats' lives also supports the idea that one's original culture may often be the *only source* for culture belonging.

Many military brats confess to tears of the relief of having their pain named—the pain of being an outsider, the pain of living without cultural belonging. They admit to tears of happiness when they connect again in some small way to belong again to a culture of their own. These are not uniformly or even mostly lonely, miserable people. They are happy and competent adults with families and homes and jobs who happen to belong nowhere, even in their own country. Their emotion *expresses the value* of cultural belonging. Their significant relief at finally gaining access to some small measure of belonging again points to its *scarcity* among those cut off from their cultures.

Thus, I conclude that the well-documented experience of military brats and other cultural outsiders offers persuasive evidence. Cultural belonging is a good of significant value. Moreover, it is a good that is exceptionally difficult to replace if one is excluded from one's own culture. But I do not wish to overstate either of these points. To reiterate, my

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<sup>65</sup> See, for instance, [www.militarybrats.com](http://www.militarybrats.com). This online forum allows brats more than fleeting contact with a feeling of belonging that might come with the odd reunion. Cultural belonging is sometimes recaptured at a high school reunion or a dinner party at which your parent's old army buddies bring their kids and everyone is at ease, even if the kids have never met before, but it is not a feeling that carries over into everyday lives.

suggestion is not the belonging is more valuable than any secondary good. Nor do I claim that one's original culture is necessary for belonging.

Let us now consider work from the social sciences that bears on both the significance and particular kind of scarcity of social belonging.

### *3.1.3 Iceberg model provides insight into the diffuse good of cultural belonging*

I noted above that the case of military brats is just one case among many cases of stubborn cultural marginality. Studies in the social sciences on cultural outsiders and/or intercultural relations examine the structure of culture. Culture is "a complex frame of reference that consists of patterns of traditions, beliefs, values, norms, symbols, and meanings that are shared to varying degrees by interacting members of a community." (Ting-Toomey, 1999, p. 10) Within the literature an oft-repeated metaphor for culture is useful here—the metaphor of culture as an iceberg. This metaphor helps explain the value of belonging and why it is so hard to replace.

The idea is that the small part of culture above the water line—the tip of the cultural iceberg (what Hooker (2006) calls the Western view of culture)—includes surface features of culture, such as music, dress, language, and so on. But the bulk of culture is deep culture that lies under the water line. The deep features of culture include ways of thinking and perceiving, norms, values, beliefs and so on.

Roughly, the thrust of the iceberg metaphor is that culture is a complicated structure that goes much deeper than the surface cultural marks of which we are most aware. If we belong to a culture, then we are at ease around others in our culture because they share multiple points of surface and deep culture with us. If we do not belong to a culture, then the

iceberg model helps to show the many points at which outsiders will face cultural dissonance while living in a culture not one's own.

I include several accounts of the contrast between surface culture and deep culture in the table on the following page to demonstrate the consistent message that it sends about the rich and complicated structure of culture.

|                        |   |   |   |   |   |
|------------------------|---|---|---|---|---|
| <i>Source</i>          | AFS Orientation handbook (AFS, 1984, p. 14)   | <i>Communicating across cultures</i> (Ting-Toomey, 1999, p. 10)   | <i>Third Culture Kids</i> (Pollock & Van Reken, 2001, p. 41)  | <i>Culture matters</i> (Storti et al, 1997, pp. 11, 233)  | <i>Culture and Business</i> (Hooker, 2006p. 8)  |
| <i>Surface culture</i> | <ul style="list-style-type: none"> <li>• fine arts</li> <li>• literature</li> <li>• drama</li> <li>• popular music</li> <li>• folk-dancing</li> <li>• games</li> <li>• cooking</li> <li>• dress</li> </ul>  | <ul style="list-style-type: none"> <li>• cultural artifacts (e.g., fashion, popular culture)</li> <li>• language and verbal symbols</li> <li>• nonverbal symbols</li> </ul>           | <ul style="list-style-type: none"> <li>• behavior</li> <li>• words</li> <li>• customs</li> <li>• traditions</li> </ul>            | <ul style="list-style-type: none"> <li>• facial expressions</li> <li>• religious rituals</li> <li>• paintings</li> <li>• literature</li> <li>• gestures</li> <li>• holiday customs</li> <li>• foods</li> <li>• eating habits</li> <li>• music</li> <li>• styles of dress</li> </ul>   | <ul style="list-style-type: none"> <li>• language</li> <li>• cuisine</li> <li>• dress, hairstyle</li> <li>• overt religion</li> <li>• pop culture</li> </ul>  |
| <i>Deep culture</i>    | <ul style="list-style-type: none"> <li>• notion of modesty</li> <li>• conception of beauty</li> <li>• ideals governing child raising</li> <li>• rules of descent</li> <li>• cosmology</li> <li>• relationship to animals</li> <li>• patterns of superior/subordinate relations</li> <li>• definition of sin</li> <li>• courtship practices</li> <li>• conception of justice</li> <li>• incentives to work</li> <li>• notion of leadership</li> <li>• tempo of work</li> <li>• patterns of group decision-making</li> <li>• conception of cleanliness</li> <li>• attitudes to the dependent</li> <li>• theory of disease</li> <li>• approaches to problem solving</li> <li>• conception of status mobility</li> <li>• eye behavior</li> <li>• roles in relation to status by age, sex, class, occupation, kinship, etc.</li> <li>• definition of insanity</li> <li>• nature of friendship</li> <li>• conception of "self"</li> <li>• patterns of visual perception</li> <li>• body language</li> <li>• facial expressions</li> <li>• notions about logic and validity</li> <li>• patterns of handling emotions</li> <li>• conversational patterns in various social contexts</li> <li>• conception of past and future</li> <li>• ordering of time</li> <li>• preference for competition or co-operation</li> <li>• social interaction rate</li> <li>• notions of adolescence</li> <li>• arrangement of physical space, etc.</li> </ul> | <ul style="list-style-type: none"> <li>• symbolic meanings</li> <li>• cultural norms</li> <li>• cultural values</li> <li>• cultural beliefs</li> <li>• cultural traditions</li> </ul> | <ul style="list-style-type: none"> <li>• beliefs</li> <li>• values</li> <li>• assumptions</li> <li>• thought processes</li> </ul> | <ul style="list-style-type: none"> <li>• religious beliefs</li> <li>• importance of time</li> <li>• values</li> <li>• childraising beliefs</li> <li>• concept of leadership</li> <li>• concept of fairness</li> <li>• nature of friendship</li> <li>• notions of modesty</li> <li>• understanding of the natural world</li> <li>• concept of self</li> <li>• work ethic</li> <li>• concept of beauty</li> <li>• general world view</li> <li>• concept of personal space</li> <li>• rules of social etiquette</li> </ul> | <ul style="list-style-type: none"> <li>• concept of authority</li> <li>• concepts of space and time</li> <li>• guilt vs. shame</li> <li>• rule-based vs. relationship-based</li> <li>• Apollonian vs. Dionysian</li> <li>• Management of information</li> <li>• universalizing rationality?</li> <li>• stress management</li> <li>• covert religion</li> <li>• fundamental conception of reality</li> </ul> |
| <i>Base</i>            |   | <ul style="list-style-type: none"> <li>• universal human needs</li> </ul>   |   |   |   |

**Table 1. Descriptions of the Cultural Iceberg (formatting and punctuation altered from originals.)**

The cultural iceberg table captures the distinction between surface culture and deep culture that is critical to understanding why the absence of belonging is felt so deeply. Belonging to a culture is not a matter of enjoying a particular set of narrow goods that one wants as part of a good life like certain foods or a style of dress or one's own language, though those things may certainly be appreciated and missed. They can even be enjoyed well cross-culturally, unlike cultural belonging. In contrast to the accessible narrow cultural goods, because one's own culture touches so much of one's life, culture becomes a diffuse good of great importance. Cultural marginality (living on the margins of a culture) and cultural belonging are important because they are always there, everywhere, in our lives. The cultural iceberg model illustrates why that is the case—culture is constantly at play in all, or almost all, facets of our lives.

The distinction between surface and deep culture is clearly at play in the lives of military brats. Military brats have difficulty belonging to a culture that looks like a fairly easy match on the surface because deep culture colors how we live in the world in every direction.<sup>66</sup> Brats really are different from civilians. In comparison, they are idealistic, loyal, strongly anti-racist, tolerant, peace-loving.<sup>67</sup> They have different ways of understanding friendship, place, time, authority, and community. For instance, military brats make friends quickly, perhaps too quickly for civilian society. They take emotional risks by sharing personal details to build intimacy quickly in ways that make civilians uneasy. They let go

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<sup>66</sup> In perceptions, values, loyalties, habits, military brats well into adulthood still feel distinctly different—even as they live civilian life-styles, marry into civilian families, raise civilian children." (Wertsch, 2006, p. 315)

<sup>67</sup> Like many other brats in the 1970s, I did not understand racism existed in the present until confronted by it in the civilian community as a young teen. This naivety does not trace to being raised in an all-white community. An army post is well-integrated. It is because skin color was about as salient to me as eye color or hair color before race-based fights in my junior-high school made it something of greater note. Perhaps others have had this experience. But it is a consistent theme among military brats (Wertsch, 2006, p. 337).

easily, perhaps too easily for civilian comfort. Civilians take the brats' ease with leaving relationships behind as a sign of a lack of caring. Brats frequently identify with their lost culture more strongly than with race, ethnic, or religious groups, the kind of commonalities that ground many other cultural communities. Theirs is a real culture that cuts deep into their lives. For, despite adjustments to superficial cultural appearance, in day-to-day interactions with civilians, it is the constant subtle confrontations with mismatches in deep culture that leave brats without a sense of cultural belonging.<sup>68</sup> It is this deep culture that explains why there is such an extensive network of small bits of cultural ease that amount to a social good of large importance.

Moreover, the iceberg model helps to illustrate why belonging is such a rare gift, even if most already have it. Consider how the distinction between deep and surface culture sheds light on the stubborn problem of cultural mismatch that faces brats despite their cultural flexibility and expertise.

Military brats know how to blend in and function. Military brats have great skills when it comes to the alteration of surface culture. Brats also have strong skills when it comes to grasping cultural differences that allow for the appreciation of various aspects of deep culture. This cultural know-how is what gives brats their oft-cited chameleon-like ability to rapidly adapt to significant cultural shifts. It makes natural cross-cultural diplomats out of even the most gauche brat. But the difficulty of fully penetrating deep culture, let alone of trying to internalize it (if that is even something that is or should be desirable), is a huge

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<sup>68</sup> A point that attests to this is that brats find it much easier to be an outsider when expected to be an outsider. When surface culture belies a deep cultural mismatch, it is more uncomfortable to be an outsider that to be a stranger in a strange land. It is the discomfort of being a stranger in one's own land that makes many brats go ex-pat.

psychological barrier to true cultural belonging. This psychological mismatch in deep culture makes it difficult for anyone to switch cultures, even if they want to do so.

The iceberg model highlights the structure of culture in a way that provides reasons why cultural belonging penetrates our lives in myriad if subtle ways that constitute a significant and nearly irreplaceable good. It is no wonder that military brats experience a profound and sustained longing for such a good. Let us now examine why the political arrangements in a liberal egalitarian society put that good at risk

### ***3.2 The interference of political arrangements with culture puts cultural belonging at risk***

I assume the claim I argued for above: cultural belonging is a very important secondary good that is hard to replace. I further assume that state should aim to limit properly the interference of political arrangements with very important secondary goods that are hard to replace. Even with these assumptions, a question remains: why should cultural belonging receive special treatment of any sort by the state? Certainly there are other very important secondary goods that are hard to replace, like one's family or friends or profession.

My answer is that cultural belonging should receive special treatment to address a practical problem a liberal state faces in efforts to moderate the interference of its political arrangements with cultural belonging. Note that the aim of special treatment here is narrow. . The point of the special treatment I recommend is *not to guarantee* cultural belonging, *nor is it to protect cultures* from other forces of change. The point is simply to limit the state's interference with cultural belonging.

### *3.2.1 Threat: Political arrangements can cause diffuse harm to culture*

Cultures are not static entities. They can grow, change, and evolve over time without disappearing. Present day culture in the U.S. is not like the culture of the 1950s, but it remains recognizably American culture. Political arrangements that influence cultures do not necessarily undermine cultures. But an entire network of culturally insensitive political arrangements can constitute a large but diffuse harm weakens cultures. Given that the lack of one's own healthy culture reduces the value and/or availability of cultural belonging, threats to cultures amount to threats to cultural belonging. Thus, the state's moderation of the threat to cultures is my immediate concern.

Let me be clear about the specific concern—it is with the state's interest in limiting effects of *political arrangements* that interfere with cultures *when those effects are not required by principles of liberty or equality*. I do not suggest that the state should aim to eliminate all political threats to cultures. We have already granted that empowered autonomy warrants interference with cultures. I do not suggest that the state should aim to preserve all cultures or create conditions equally friendly to all cultures. My focus is only on the multiple kinds of interference with a culture by the state that are not required to respect empowered autonomy.

Let us refer to the diffuse harm to cultures by political arrangements as the harm of politically-caused cultural drift.<sup>69</sup> Politically-caused cultural drift undermines a culture. However, the effects of any small part of that harm may not put the culture at risk, which makes it a difficult harm for the state to manage.

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<sup>69</sup> The idea is of a harm something akin to cultural imperialism. I avoid that term because it seems to build in active intent, suggests oppression or domination, and it is in general a historically loaded term.

Recall again the case of the Fisherfolk. The town's legislature has voted against many cultural accommodations that could have been built into its political arrangements. Decency laws could have been, but were not, made consistent with the Fisherfolk traditional form of dress. Roadways could have been, but were not, built in a way that avoided disrupting the Fisherfolk community. The town's schools could have, but do not, allow the children an afternoon nap that is part of the Fisherfolk way of life. Plausibly, the Fisherfolk culture may bend without breaking in any one of these cases. Perhaps Rosalie is wrong and the Fisherfolk culture will fare just fine even if the town denies the fishing license accommodation. But it is plausible that at some point the diffuse harm of politically-caused cultural drift will undermine the health of the Fisherfolk culture.<sup>70</sup>

A state that limits politically-caused cultural drift will limit its interference with the quality and availability of cultural belonging to those who belong to the affected cultures. But to limit politically-caused cultural drift poses a two-fold challenge to a state. Both epistemic and evaluative difficulties arise when the state tries to weigh the cost of preventing some bit of politically-caused cultural drift against the benefit of not affecting cultural belonging.

First, consider the epistemic difficulties in the Fisherfolk case. A great many political arrangements will contribute to politically-caused cultural drift in various ways. At some point, politically-caused cultural drift will reach a point that it begins to seriously undermine

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<sup>70</sup> Dworkin seems to recognize the possibility of a similar kind of diffuse harm when he discusses the possible harm of individuals having equal impact on political decisions. He writes: "The residents of sparsely settled sections of a country or state, for example, might have interests special to them that would be neglected or overridden in an election in which equality of impact was enforced to as great a degree as is technically possible. Over the course of many such elections or political decisions, their interests would be less well served than any plausible account of accuracy in the decision of choice-sensitive issues would allow. We might do better, in deciding such issues, to use some judicious gerrymandering..." (Dworkin, 2000, p. 205).

a culture. But it will be difficult for us to know precisely which political arrangements will be the ones that are most to blame. Will the napping issue be the straw that broke the camel's back when it comes to the health of the Fisherfolk culture? Or will it be the fishing licenses as Rosalie contends? If the napping accommodation had been granted would the fishing licenses matter? The explanation for how politically-caused cultural drift ultimately comes to undo a culture (in terms of its health or existence) will be in many cases an overwhelmingly difficult story to tell.

Second, consider the evaluative problem. The state will have to decide in any particular instance whether or not to grant a cultural accommodation to limit politically-caused cultural drift. In each instance, the state will have to weigh the goods at stake. How should the state weigh the disvalue of interfering with Maurice's introspective fishing against the value of not robbing Rosalie of cultural belonging of decent quality? On one hand, it seems like an easy problem. Certainly giving Maurice a fishing license is not worth the cost of stripping Rosalie of decent cultural belonging. On the other hand, the Fisherfolk culture may flex and bend just fine without the fishing accommodation, or the erosion of the culture might be quite small such that its effects on cultural belonging are trivial. Thus, to rule out Maurice having access to the good of introspective fishing because of such a cloudy concern seems troubling. Plausibly, in particular cases, the full weight of a diffuse good *should not* be brought to bear when making decisions. But if we reach this conclusion in every case that concerns the moderation of politically coerced cultural drift, then efforts to prevent or reduce the state's interference with cultural belonging will stall.

Furthermore, it is hard for the state to weigh valuable but unappreciated goods properly. This fact compounds the evaluative problem when it comes to cultural concerns.

For, the significance of the value of cultural belonging is itself difficult for many to recognize because they have not felt its absence. But again, to defend this point, as I have tried to do, is akin to efforts to get whites or males to recognize white or male privilege.<sup>71</sup> It is much easier to raise the consciousness of those who lack a good to recognize its importance than it is to raise the consciousness of those who take the same good for granted.

To sum up, the state faces a significant challenge if it seeks to limit the interference of its political arrangements with cultural belonging. The challenge arises because (i) the threat to cultural belonging comes in the form of a diffuse harm—politically-caused cultural drift; (ii) the threat is to a diffuse good that will have to be weighed against narrower more intense goods; and (iii) the value of the diffuse good at issue is difficult to appreciate. My conclusion is that these difficulties pose a worrisome challenge for the state that aims to limit its interference with cultural belonging. Too often cultural accommodations that might have helped to control the politically-caused cultural drift that puts cultures at risk will be denied.

We have already granted that the threat at issue is beyond the scope of principles of liberty and equality (as the goods at stake do not bear on empowered autonomy.) On the standard liberal egalitarian model, this leaves the practice of liberal neutrality to cope with the challenge of the effects of politically-caused cultural drift on cultural belonging. I contend that liberal neutrality falters here. It does not include the resources to address the current challenge that would prevent undue interference with cultural belonging.

As commonly construed, the practice of liberal neutrality is meant to guide the state's choice of political arrangements to prevent undue interference with individuals seeking to

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<sup>71</sup> A suggestion: There is likewise a similar relation between justifying affirmative action programs and justifying a principle that gives priority to belonging.

include various goods in their lives. But neutrality is not well suited to handle the diffuse harm to cultures caused by political arrangements that interfere with a diffuse good like cultural belonging.<sup>72</sup>

At issue here are accounts of liberal neutrality meant to be *practical* guides to state decisions on political arrangements. Of course we might also have a very thin account of liberal neutrality. For instance, we might hold that liberal neutrality should properly moderate the interference of political arrangements with conceptions of a good life. It would be hard to find grounds to argue with this account of neutrality. But at the same time it would be too thin to guide state action when it comes to real questions about how the state should moderate interference.

On its most common construal as a practical principle—neutrality of justifications—liberal neutrality requires the state to provide a neutral reason for any political arrangement, but it does not require the state to be specifically accountable for the interference of its political arrangements with various conceptions of a good life. Insofar as we seek to increase state accountability for its effects on cultures, this account of neutrality is unhelpful.

The second most offered approach to neutrality is neutrality of interference. On this construal, neutrality requires state accountability for the interference of political arrangements with various conceptions of a good life. The view of liberal neutrality for which I argue—neutrality of justified interference—likewise requires accountability. I set aside the merits of these competing views. For regardless of their merits, they do not adequately respond to the challenge of diffuse harm. They are not formulated to address the epistemic and evaluative problems at its source. The state must still grapple with the problem

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<sup>72</sup> Again, for more information on liberal neutrality, see Chapter 2.

of how to compare bits of diffuse harms to a culture to bits of a diffuse good of culture belonging and at the same time compare these to narrow goods.

One *practical measure* to help the state moderate its interference with cultural belonging properly is to add a principle of multiculturalism to the liberal egalitarian framework that gives presumptive priority to cultural belonging. Such a principle could effectively supplement a principle of liberal neutrality. The result would be two principles that work together to manage the interference of political arrangements with our lives in a way that would hopefully better respect the value of cultural belonging.

The details of a multiculturalism principle exceed the scope of this chapter. But presumably a principle could be designed that would help guide debates over political arrangements to shift the burden of proof off of those who seek to defend cultural accommodations and onto those who seek to deny cultural accommodations. For instance, to defeat the priority of belonging, a principle of multiculturalism could require the state to give compelling reasons to justify any claim that a political arrangement should not be designed to accommodate cultural differences in a particular case (assuming it is not at odds with empowered autonomy.)

The thought is that a move that demands something like strict scrutiny for any denied cultural accommodations provides an offset for the epistemic and value issues that threaten to leave cultural belonging undervalued in political debate. Any such principle should be a flexible tool. To give strict priority to cultural belonging would err too far in the other direction and too often overvalue belonging in debates.

My support for a principle of multiculturalism turns on the claim that such a principle helps compensate for a failure of liberal neutrality while it places concerns with cultural

belonging below issues of empowered autonomy. This answer to the question of how to handle cultural belonging within a liberal egalitarian framework respects the feminist critique of multiculturalism. Thus I suggest it is a solution friendly to both feminists and neutralists. (Cultural perfectionists, however, may have reason to complain.)

### ***3.3 The presumptive priority of cultural belonging—where we are***

In this section, I looked at the value of cultural belonging, its special kind of scarcity, and the kind of little harms to culture that risk putting belonging beyond the reasonable grasp of those who lack it. These three points are at the heart of my argument for the priority of cultural belonging over other secondary goods.

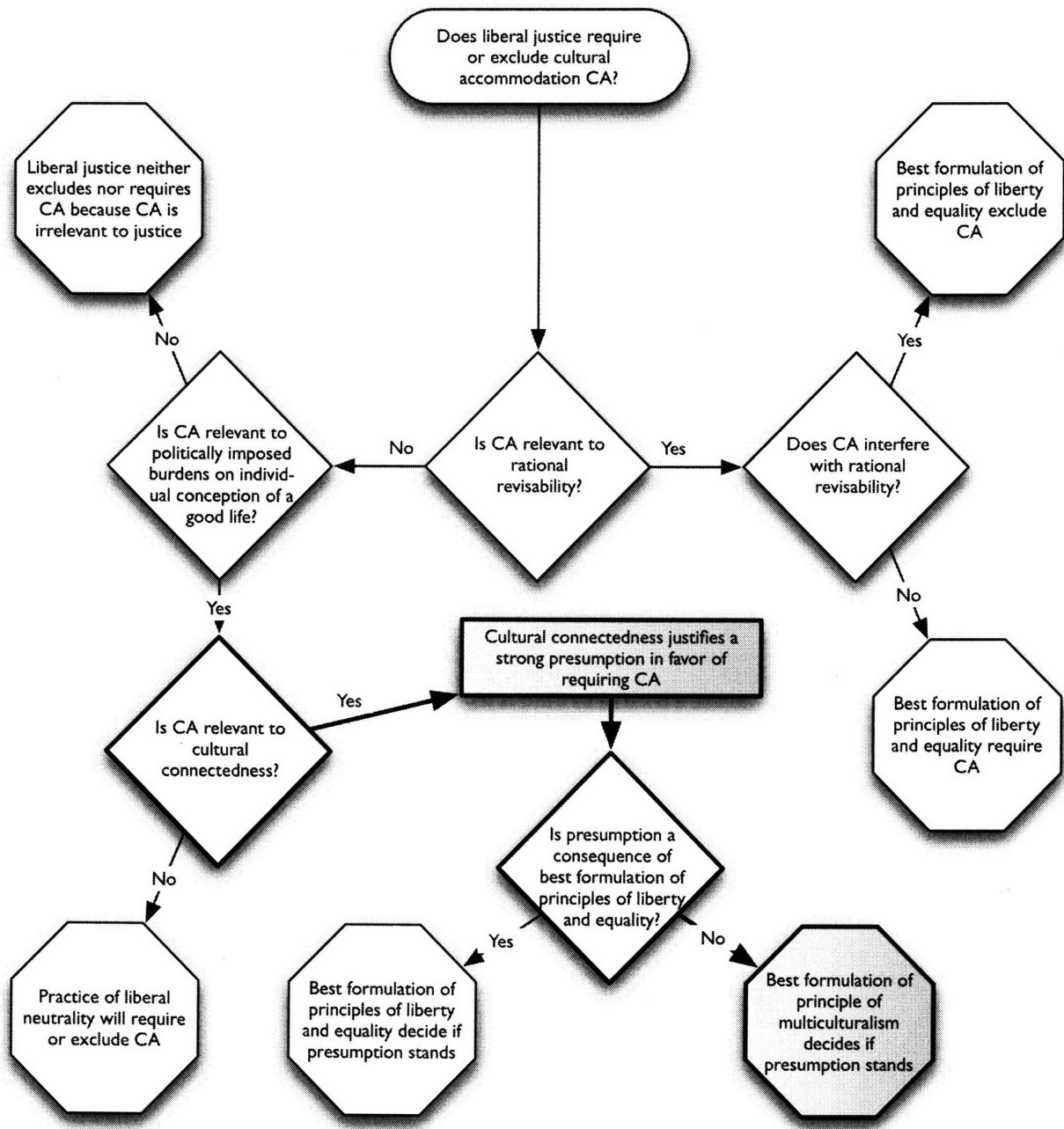
To summarize, in a liberal state, individuals should have reasonable access to those goods of great importance to a wide range of conceptions of the good life. Cultural belonging is such a good. However, cultural belonging is very difficult to procure for a person who does not already belong to a healthy culture of her own. Thus, for the sake of belonging, care should be taken in the design of political arrangements to prevent them from undermining cultures without good reason. Major disruptions may put cultures at risk, but so do negligible effects that pick away at the viability of a culture as they accumulate. It is this diffuse harm to cultures that makes it too easy to eliminate or undermine a culture if the harm is not adequately addressed.

If you grant me this much, then the usual liberal egalitarian model does not give enough space to multicultural concerns. That model takes special note of cultural belonging only if it has instrumental value or disvalue with respect to empowered autonomy. But we can make more space for belonging in the model without any disruption to the core liberal

egalitarian to empowered autonomy and principles of liberty and equality. A principle of multiculturalism that gives presumptive priority to belonging is one way to make that space.

#### **§4 Liberal egalitarian multiculturalism**

Placing serious emphasis on cultural belonging carves out a new place for multiculturalism to have a substantive role in liberal egalitarian multiculturalism. Figure 2 maps a view of multiculturalism that captures how this might work. Notice that the new place for multiculturalism requires cultural belonging to matter beyond its role in empowered autonomy. Instead of an appeal to autonomy, the view turns on the claim from the previous section that cultural belonging, in itself, should have presumptive priority over other secondary goods.



**Figure 3: Flowchart of Multiculturalism beyond, but not above Liberal Egalitarianism**

In this picture, only the bottom left path is modified from the previous flowchart. The items with heavy borders highlight the path to a unique space for a concern with belonging inside liberal egalitarianism. The two shaded items are the crucial steps. But before we turn to them, let us step through the picture with the Fisherfolk.

All remains the same as in the first liberal egalitarian flowchart until we hit the fourth path. As before, assume that the fishing accommodation is irrelevant to empowered autonomy, but relevant to politically imposed burdens on conceptions of a good life. These assumptions take us to the point of the new question raised in this picture. Is the accommodation relevant to cultural belonging? Yes. Both Maurice and Rosalie acknowledge the importance of the licenses to the Fisherfolk way of life. It is just the sort of accommodation that will help moderate the threat of diffuse harm that allows political arrangements to unnecessarily erode a culture. In this way, the accommodation contributes to maintaining the chances of Rosalie enjoying the good of cultural belonging within her own culture. This leads us to the first crucial step in the flowchart defended in the previous section: cultural belonging justifies a strong presumption in favor of requiring the fishing accommodation. On this picture, Rosalie's burden is a multicultural concern that receives special priority or weight, at least presumptively, because of the significance of cultural belonging.

If we accept this move, we next ask if principles of liberty and equality should generate the presumption in favor of cultural accommodations. I will argue for a negative answer below. But for a moment, suppose we affirm that this is the case and take the left branch from that decision point. In that case, the debate between Maurice and Rosalie should be decided by an appeal to principles of liberty and equality. This result is not wholly uninteresting. Making cultural belonging, in itself, relevant to those principles expands the place of culture in liberal egalitarianism beyond the one described in the first flowchart. It requires that the best formulation of principles of liberty and equality articulate the concerns of justice with empowered autonomy, they must articulate some concerns of justice with

cultural belonging unrelated to empowered autonomy. But it extends it in a way that does not require a new principle of multiculturalism.<sup>73</sup>

Now, if we instead take the right branch, then we take the second crucial step in my argument. We conclude that the best formulation of a distinct principle of multiculturalism should govern whether Maurice or Rosalie should decide the debate. Thus it results in liberal egalitarian *multiculturalism*.

What remains to complete my argument, then, is a defense of that crucial step. Why should we not allow principles of liberty and equality to govern decisions about cultural accommodations left undecided by appeals to empowered autonomy?

### **§5 Step two: A distinct principle of multiculturalism**

Suppose we agree that concerns about cultural belonging should have at least presumptive priority over concerns about other secondary goods that are part of one's determinate conception of a good life. If so, then the liberal egalitarian framework should articulate that priority to properly guide political debates. What is the best way to articulate that priority within a liberal egalitarian view? I suggest that liberal egalitarianism should be supplemented with a third principle of justice that handles cultural accommodations. First, I provide a brief account of some reasons why we should distinguish principles of justice from one another in the first place. Second, I contend that those reasons support a distinct principle of multiculturalism.

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<sup>73</sup> This may be what Kymlicka tries to do when he tries to elevate concerns about culture to the level of concerns about equality even when they interfere with empowered autonomy (Kymlicka, 1995, pp. 152-172). But on the picture of liberal egalitarian multiculturalism described here, there is no reason to threaten political arrangements that support empowered autonomy in order to make culture a special concern beyond autonomy.

Liberal principles of justice are meant to be *practical tools* to clearly set the terms for political debates. This requires crisp principles to answer practical demands. As such, they should articulate liberal concerns in the manner that best steers debates toward just conclusions and preempts settled debates from muddying the waters. Thus, in the choice of how to articulate and individuate principles, we should be mindful to embed the lessons from liberal philosophical theory into the principles. This goal gives us good reason to create separate principles of justice to handle distinct goods that involve different distribution schemes.

For example, consider Rawlsian principles of justice. Rawls is a liberal egalitarian. His principle of liberty is designed to protect the most extensive set of basic liberties compatible with like liberties for all. His principle of equality is designed to ensure equal opportunity and a fair share of primary goods. But why does he need two principles of justice—a principle of liberty and a principle of equality? Rawls distinguishes between liberty and the worth of liberty, but acknowledges that this distinction settles "no substantive question" (Rawls, 1996, p. 326). For, in a sense, his principles jointly govern the good of liberty. So, again, why does he use multiple principles? The answer is that he uses two principles to embed the useful conceptual distinction between liberty and its worth into his account of justice. His principle of liberty protects liberties (setting aside the special case of the worth of political liberty). His principle of equality ensures appropriate worth of those liberties. With nothing substantive at issue, presumably one principle could capture the substance of his view, something like: Society should maximin the worth of liberty. But such a paraphrase forfeits several pragmatic virtues of the Rawls's own formulation.

Consider five lessons on justice from Rawlsian theory and how the principles of justice embed those lessons:

| <i>Topic</i>          | <i>Lesson</i>  | <i>How captured by Rawlsian principles</i>  |
|-----------------------|--|---|
| <i>Subject matter</i> | Liberty and equality matter to justice (Rawls, 1996)   | The Rawlsian principles of justice address liberty and equality.  |
| <i>Weights</i>        | Liberty should trump equality (Rawls, 1996, pp. 366-368)   | The order of the principles demonstrates the priority of liberty. Issues of equality are off the table when basic liberties are at stake.         |
| <i>Distribution</i>   | Liberties should be distributed differently than other goods (Rawls, 1996, p. 296)   | Distinct principles capture settled debates concerning different distribution schemes. This forestalls rehashing issues that would muddy debates. |
| <i>Peace</i>          | "Determinate final ends and loyalties" should not alter what counts as an equal distribution of goods (Rawls, 1996, pp. 329-330) | Distinct principles clarify that determinate final ends (like one's religion) should not alter what counts as an equal distribution of goods.     |
| <i>Stability</i>      | A "clear and perspicuous" conception of justice enhances stability (Rawls, 1996, p. 317)   | The detail and order of the Rawlsian principles clearly articulate his conception of justice.   |

**Table 2: Practical reasons to distinguish liberty and equality**

Let us briefly look at each line in the table to see how Rawlsian principles embed a few of his lessons on justice. With respect to subject matter, Rawls's two principles clearly articulate the concern of justice with both liberty and equality. Concerning weights—the order of the principles leaves no doubt as to the priority of liberty.

As for the distribution of goods, while liberties are to be distributed equally, other primary goods may be distributed unequally. The principle of equality assigns distribution schemes to these primary goods. If primary goods were elevated to the level of liberties, it would become contentious once again why they may be distributed unequally while liberties must be distributed equally. To lessen the potential for debate on issues already settled within a particular liberal egalitarian view of justice, it makes sense to articulate separate principles

for goods that vary by distribution scheme. Remember, these principles are meant to frame political debates. One can always challenge the philosophy that informs those principles, but that debate occurs at a different level.

With respect to peace, Rawls contends that to avoid social divisiveness, justice should not allow determinate conception of a good life to affect the distribution of opportunities or primary goods. The two-principle system serves to separate determinate ends from the distribution of those goods. Note that large issue looms here with respect to religious freedom. Religion may seem to be a case in which a Rawlsian should not follow Rawls's rule. Some religious accommodations are arguably required for the free exercise of religion. Consider for instance an exemption from generally applicable laws on drug use to allow peyote use in religious worship. I suggest that we resolve this tension as follows: in the peyote use case, the accommodation is made for the sake of religious freedom, regardless of whether it advances anyone's determinate ends.

Finally, concerning stability, the detail and ordering of Rawlsian principles goes a long way toward making his conception of justice publicly accessible. It helps justice wear its content on its face far more than a higher-level principle like "treat all as free and equal citizens."

The addition of a principle of multiculturalism to the liberal framework offers five similar benefits.

| Topic          | Lesson   | Captured by principles of multiculturalism  |
|----------------|--|---|
| Subject matter | Cultural belonging matters to justice.   | A principle of multiculturalism explicitly recognizes culture as important to justice.  |
| Weights        | Empowered autonomy should trump cultural belonging.  | Giving priority to principles of liberty and equality over a principle of multiculturalism demonstrates that the state's concern with culture is secondary to its concern with empowered autonomy (given principles of liberty and equality adequately articulate the state's concern with empowered autonomy.) Issues of cultural belonging are off the table when basic liberties or equality are at stake. |
| Distribution   | Cultural belonging should be distributed differently than other goods  | A principle of multiculturalism facilitates introducing a distinctive distribution scheme for cultural belonging without re-inviting settled debates.   |
| Peace          | "Determinate final ends and loyalties" should not alter what counts as an equal distribution of goods (Rawls, 1996, pp. 329-330) | A principle of multiculturalism clarifies that determinate final ends (like belonging to one's culture) should not alter what counts as an equal distribution of goods.   |
| Stability      | A "clear and perspicuous" conception of justice enhances stability (Rawls, 1996, p. 317)   | A principle of multiculturalism articulates the concern of justice with culture in a way that would otherwise be lost.  |

**Table 3: Practical reasons to distinguish multiculturalism from liberty and equality**

Now, let us consider each line in the table to see how a distinct principle of multiculturalism helps to frame debates properly. The earlier section on cultural belonging is meant to establish that cultural belonging matters to justice. A principle of multiculturalism captures a concern with culture and community that is not articulated by principles of liberty and equality in the standard liberal egalitarian framework.

Next, I suggest that a principle of multiculturalism that is posterior to principles of liberty and equality allows us to capture the idea that empowered autonomy should trump cultural belonging. This claim turns on two assumptions made in this chapter.

The first assumption ties principles of liberty and equality to empowered autonomy. I assume that the best formulation of principles of liberty and equality fully articulates the state's interest in empowered autonomy. Roughly, a principle of liberty guarantees the conditions for autonomy and a principle of equality guarantees the conditions for exercising that autonomy. If a particular principle fails either task, then it should be reformulated.

The second assumption justifies putting empowered autonomy ahead of cultural belonging. I take as given that the feminist criticism of multiculturalism stands. Culture can get in the way of empowered autonomy. It is a brute fact that many traditional cultures oppress women in both obvious and subtle ways. In such cases, we should not extend cultural accommodations that support oppression. Cultures can include practices that we take to be gross violations of personal liberty (such as female genital cutting) and practices that subtly undermine autonomy (such as styles of dress that mark women as subordinate to men.) Precisely when a cultural practice is at odds with autonomy is a difficult question, but that multicultural debate must engage that question is clear. As noted above, body of work on this issue is substantial and I will not delve into it further than I have thus far (in particular in discussing the first path on the liberal egalitarian flowchart). The important lesson for proponents of multiculturalism to draw from that critique is *not* that cultural accommodations should be off the table altogether, but that cultural accommodations that conflict with empowered autonomy should be excluded.<sup>74</sup> Again, achieving the conditions for empowered

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<sup>74</sup> Okin in her writing, and when asked directly at an MIT Colloquium, contends that accepting this lesson excludes all, or very nearly all cultural accommodations because (almost) all of them support the oppression of women. However, this part of her argument against multiculturalism is unsatisfactory. There are plenty of cultures that are no more oppressive than the majority cultures around them. For an interesting case of this, read Helleiner (2000) on the travelers in Ireland. And as Kymlicka (2002) notes, the debate around accommodations for liberal cultures is quite active.

autonomy is a condition on the acceptability of any cultural accommodations implemented for the sake of belonging.

If we accept both assumptions, then it follows that empowered autonomy should trump cultural belonging. If we articulate concerns about cultural belonging through a separate principle of multiculturalism, then this keeps those concerns distinct from the concerns with empowered autonomy articulated by principles of liberty and equality. If we then give priority to liberty and equality over multiculturalism, this frames debate so that autonomy will in fact trump belonging in practice. It also sends a clear and powerful message—the good of individuals will not be sacrificed for the good of the community.

With respect to distribution, I have suggested no fixed distribution scheme for cultural belonging. Instead, I suggest that belonging should receive presumptive priority over certain other goods. These are the goods, like fishing, that are part of a determinate conception of a good life over which the practice of liberal neutrality decides conflicts. Notice that liberties, opportunities, and resources critical to empowered autonomy are excluded from this set because principles of liberty and equality decide conflicting claims to those goods. With those principles above a principle of multiculturalism, striking a deal to exchange some liberty, opportunities, or primary goods for increased cultural belonging is off the table.

However, if we elevate cultural belonging so that it is a good that principles of liberty or equality govern, it would muddy the waters. It would become a matter of contention why a small bit of liberty, a few opportunities, or a chunk of income should not be interchangeable with some amount of belonging. The answer is that to allow such exchanges threatens empowered autonomy. The addition of a principle of multiculturalism to the two-

principle system builds in the force of this answer. In doing so, it lessens the potential for debate on the issue already settled within liberal thought that cultural accommodations should not support oppression. A distinct principle of multiculturalism avoids enlarging issues of liberty and distributive justice in ways that would only serve to confuse the debate.

Recall Rawls's contention that, for the sake of peace, justice should not allow determinate ends to affect the distribution of opportunities or primary goods. Giving a principle of equality priority over a distinct principle of multiculturalism prevents that distribution from being influenced by the determinate end of belonging to a particular culture. It makes sense that this would foster peace. Imagine the social divisiveness of denying Native Americans resources and opportunities because their traditional culture practices a way of life that is less demanding of those goods than the majority culture. Envision elite gated communities demanding more than their fair share of those goods on the grounds that preserving their way of life is more costly. Consider the claims of Indian subcultures that seek greater levels of goods to maintain a traditional caste system. Clearly, countenancing arguments that tie a fair share of opportunities or primary goods to culture would indeed foster social divisiveness. Thus, a distinct principle of multiculturalism serves to advance peace by clearly announcing that such arguments have no place in a just liberal debate.

Finally, if a "clear and perspicuous" conception of justice promotes stability, then a distinct principle of multiculturalism promotes stability. It articulates the state's concern with culture in a way that would otherwise be lost, a concern that deserves clear notice in a society that exists in a context of reasonable pluralism.

Because of these five benefits of including a distinct principle of multiculturalism within the liberal debate framework, I conclude that such a principle is the best way to recognize and respect the special place we have identified for cultural belonging.

### **§6 Objections and replies**

Objections to my view might come from two sides—on one side, liberal egalitarians might resist giving belonging special weight within a liberal framework. On the other side, multiculturalists might push for a stronger kind of multiculturalism that gives even greater priority to belonging. I consider one objection from each side.

Those reluctant to enlarge the space for multiculturalism within liberalism might oppose my first step. Such opponents might grant that belonging is more important than fishing, even introspective fishing, yet argue as follows:

(P1) Plenty of secondary goods are more important than cultural belonging.

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(C) Thus, liberals should not give cultural belonging presumptive priority among secondary goods.

I fully grant the major premise. A great many goods hold more value than cultural belonging holds—for me, the practice of philosophy, for instance. Even so, the conclusion against the priority of cultural belonging does not follow from the major premise.

The argument requires something like:

(P2) To assign presumptive priority among other secondary goods is to put some goods more important than cultural belonging at serious risk.

There are two problems with (P2). First, liberal egalitarianism minimizes risks to the bulk of other secondary goods. Second, the priority of cultural belonging is defeasible.

A liberal egalitarian state minimizes risks to other secondary goods. If a liberal egalitarian state conforms to principles of liberty and equality, then a very wide range of

goods should be accessible in a very wide range of ways. At times, people will be expected to be flexible in their determinate ends. We expect Maurice, for instance, to seek another way to enjoy nature and introspection. Perhaps Maurice could canoe on the lake, rather than fish, for instance. Liberal egalitarians count this expectation of flexibility as an acceptable cost for conditions of empowered autonomy secured by principles of liberty and equality.

Plausibly, the best formulation of those principles would exclude accommodations that would create a substantial barrier to practicing philosophy. A cultural accommodation might require increased flexibility in some areas, but it is unlikely to leave someone without other reasonable options to pursue most narrow secondary goods. So, if I have the skills and motivation to practice philosophy, then I should have a reasonable range of options to do so, even if a cultural accommodation slightly reduces those options. If not, then this suggests a critique of principles of liberty and equality, rather than a problem with the principle of multiculturalism.

Of course the importance of cultural belonging matters in terms of making it a concern that should be taken seriously. But the difference between many other important goods and cultural belonging is that belonging is a diffuse good that is both difficult to replace and threatened by the diffuse harms of political arrangements that are insensitive to cultural differences. In contrast, narrow individual goods are generally well protected by principles of liberty and equality. In most cases if liberal principles of liberty and equality do their jobs, we will have so many options and opportunities available to us when we build our lives that we should not pursue one particular conception of a good life that can only come at the cost of another's culture.

Second, I grant that some goods of greater importance than cultural belonging may be put at risk by a principle of multiculturalism if it requires all accommodations permitted by liberty and equality. One reason to think this is possible is that a narrow secondary good may be very important and exceptionally rare, yet not be relevant to empowered autonomy. I allow this possibility, though I can think of no compelling example. I can imagine narrow very important goods that should trump belonging. For instance, plausibly we should deny a cultural accommodation that would prevent access to an herb that constitutes the only cure for Alzheimer's. But access to a cure for Alzheimer's strikes me as very relevant to empowered autonomy that should be governed by a principle of equality.

Another reason to grant that belonging should not always outweigh other secondary goods is that cultural accommodations may themselves cause diffuse harm that affects access to other goods. For instance, in the Fisherfolk case, the lake's ecosystem might be at serious risk if too many of the Fisherfolk's practices are accommodated. While no single practice would cause environmental disaster, together, several practices might ruin the ecosystem. But the principle of multiculturalism allows plenty of room for such concerns to be addressed. It simply requires a strong case be made to override the presumption in favor of belonging—an argument needs to be made in a particular case that a good should gain priority over belonging because it is both important and at significant risk.

Those who agree with me on the priority of belonging may want to take that priority even farther. They may wish to enlarge the space for multiculturalism within liberalism so that it reduces the space for liberty and equality. Such opponents might reject my second step, asking: why we should not trade a little freedom or a little equality for more cultural belongingness? Sometimes, an accommodation might be incredibly important to a culture,

yet have a trivial cost in terms of liberty or equality. My opponent continues: insistence to rigid adherence to liberal principles excludes too many accommodations that should be permitted if liberalism is going to take a true interest in culture.

I take this to be an argument against particular formulations of liberty and equality. It is the beginning of an argument to justify redefining principles of liberty and equality to lessen their demands. Or, it is an illiberal position, and at some point the liberal must dig in her heels when it comes to admitting concerns about culture within the sphere of justice. In either case, it is not the principle of multiculturalism that is at stake.

Thus, I would reply to such an opponent as follows. Either the demands of freedom and equality that are up for sacrifice are not relevant to empowered autonomy or they are relevant.

If the requirements bear on autonomy, then weakening principles of liberty and equality to allow such sacrifices comes at the cost of empowered autonomy. If we accept the feminist criticism of multiculturalism, then this is an unacceptable cost.

If the requirements lack relevance to empowered autonomy, then arguably we should reconfigure principles of liberty and equality because they are too demanding. (So, for instance, on these grounds, one might advocate for a sufficientarian principle of equality rather than a Rawlsian difference principle.) Reducing the demands of liberty and equality would create greater space within a liberal view for multiculturalism. It would reduce the accommodations excluded by more stringent accounts of liberty and equality. But this move enlarges multiculturalism by reducing liberty and equality. It does not elevate cultural belonging to the level of either.

## §7 Conclusion

I have made a case for multiculturalism based on the importance of belonging and its distinctive nature as a rare diffuse good that is subject to diffuse harms through political arrangements. Supplementing the liberal framework with a distinct principle of multiculturalism is a practical way to respect the value of belonging while maintaining a framework that does its job in guiding political debates. If such a framework guided the debate about fishing and the Fisherfolk culture, Rosalie's concerns about her culture would have presumptive priority. The burden would fall on Maurice to show why his interests in fishing outweigh the state's interests in creating conditions that provide reasonable access to the highly valuable good of cultural belonging.

With the addition of multiculturalism, a rough framework for liberal egalitarian multiculturalism looks something like this:

|  |
|--|
| <b>Principles to guide state's concern with empowered autonomy</b> |
| Principle of Liberty   |
| Principle of Equality  |
| <i>Principle of Equal Opportunity</i>                              |
| <i>Principle of Distributive Justice</i>                           |
| <b>Principles to guide state's concern with non-interference</b>   |
| Principle of Multiculturalism                                      |
| Principle of Neutrality  |

**Table 4: Lexically ordered principles in the liberal debate framework**

As the table demonstrates, a principle of multiculturalism enlarges the space for cultural concerns within liberal frameworks, but does not disrupt liberalism's core commitments to liberty and equality. Giving priority to belonging sends a clear message—culture matters deeply within a liberal view. The form of social connectedness that comes with cultural belonging is a good that liberals can respect. But the value of belonging in a

liberal society goes only as far as it is compatible with all people in that society living together as free and equal citizens. Articulating the concern with belonging through a distinct principle of multiculturalism helps clarify that these are the terms for the debate. It puts cultural accommodations on the table as matters of justice. Cultural minorities would no longer be at the disadvantage of having to argue for "special" exceptions to accommodate their cultural differences. Yet, by assigning only presumptive priority, the principle forestalls objections that multiculturalism requires special rights that interfere too severely with other important goods.

To approach multiculturalism in this way helps to organize the debate among liberals about multiculturalism. First, it eliminates the need for a troublesome distinction. Liberal egalitarian multiculturalists often take the distinction between liberal and illiberal groups to be central to multicultural debates: liberal groups should be accommodated; illiberal groups should not. The liberal/illiberal approach turns on judgments as to whether or not a *group* is liberal. To focus on group features creates tension with liberalism's individualism. The framework sketched above avoids this tension. It requires no advance judgment about group status. An accommodation is scrutinized to see if it supports or undermines the empowered autonomy of individuals. If the accommodation plays no role in autonomy, but lessens interference with some conceptions of a good life, then the burden of proof falls on those who would deny the accommodation. Removing the question of group status from the debate prevents confusions about concerns for groups in themselves with liberal concerns about the importance of groups to individuals.

Second, it eliminates pressure to deal with the importance of culture by trading it with equality. Cultural belonging in this framework has a clear place without a need to elevate it

to the level of equality (or liberty) for it to have priority among secondary goods. Tomasi (2001) looks at the value of cultural membership as part of a good life. He argues for its importance and tries to make room for it in a liberal egalitarian view, but he does so at the cost of trading equality for culture. Kymlicka (1995) strives to offer a form of multiculturalism firmly grounded in the liberal tradition. But he founders when it comes to some illiberal groups. He contends that some accommodations for illiberal groups are important, and wants to allow them in some cases even when autonomy appears at risk (pp. 152-172). One explanation for this is that both theorists try to grapple with the good of belonging in itself and falter in efforts to fit it into the part a liberal theory of justice that deals with belonging as an instrumental to liberty or equality in virtue of its connections to empowered autonomy. With this expanded framework, to some degree both can have their cake and eat it too. Some cultural accommodations may be required to protect empowered autonomy. Some cultural accommodations irrelevant to empowered autonomy may be required simply because the significance of cultural belonging in our lives. As this framework shows, there is no need for artificial pressure to get culture to matter to liberal justice by making it a matter of equality when it is not playing a role in autonomy. After all, empowered autonomy is the tool for figuring out in which cases a liberal can appropriately say that cultural belonging has positive value in the first place. So, pushing belonging up into concerns about autonomy sacrifices the very tool liberals need to gauge its worth before making belonging itself a matter of justice.

Finally, the expanded framework highlights critical differences between cultural issues on the one hand and race and gender issues on the other hand. Often culture, race and gender are slurred together as groups that seek differential treatment. However, struggles

against racism and sexism clearly combat forms of oppression that interfere with empowered autonomy. In contrast, limiting the effects of political arrangements on cultures simply does not always rise to that level of importance. To acknowledge that racism and sexism are bigger threats to liberal justice than being a cultural misfit does not diminish the worth of belonging. Of course Rosalie's voice should be heard. Of course the Fisherfolk should be accommodated. Belonging is a deep, rich, pervasive good in one's life to which we should all have access, even if its value is best appreciated by its absence.

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