

Self-Determining Peoples Against the Myth of the Civic Nation

by

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B.A., Université Laval, 2007

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Abstract

My thesis relies on the idea that *members of a culture should be able to secure the survival and flourishing of their own culture*, or, in other words, that *they should be self-determining*. The collective will to take charge of its own destiny is the sign that a political community exists. The development of this subjectivity is made possible by a shared culture. I argue for conceptualizing self-determination in a way that recognizes both the autonomy of cultural groups and the necessity for people-to-people relations between groups. The people-to-people relations are necessary for allowing the coexistence of different peoples with the same right to self-determination. Although the contemporary discourse of liberal multiculturalism is sympathetic to cultural self-determination, it tends to undercut its own commitment by linking itself to the current systems of nation-states and specifically Western liberal ideas about recognition and empowerment. I will argue that *the nationalist discourse that is specific to the literature on liberal multiculturalism intends to empower self-determining peoples, but ultimately reinforces a hierarchy of peoples in which minorities' nationalism is instrumental to the achievement of the myth of an overarching civic nation that is embodied in the liberal state*. (T1). The myth of the civic nation has its origins in the liberal principles of individualism and neutrality of the state. In the context of a multinational state, attempts to create an overarching civic nation result in efforts to domesticate and assimilate diversity. My thesis will also argue that *the survival and flourishing of cultures requires both questioning the universality of the state model and developing a post-nationalist framework that would acknowledge the legitimacy of a great diversity of political communities, as such diversity is representative of the diverse cultures that sustain these political communities*. (T2).

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Introduction

Cultures represent a crucial challenge and site of analysis for the field of political theory. Cultures are an essential feature of human life and, because they make possible the living together of a community through processes of contestation and negotiation, cultures *are* political and not simply objects of politics. A dynamic culture is a necessary condition for the existence of a political community. Consequently, and for reasons that will be explained in more detail below, my work relies on the idea that *members of a culture should have the possibility to secure the survival and the flourishing of their culture*, or, in other words, that *they should be self-determined*.

I argue that such a thing as a right to self-determination relies on a subjective idea of *being* a self-determining people. Thus to act and think as a self-determining people is the beginning of self-determination. The collective will to take charge of its own destiny is for me the sign of a self-determined political community, and the development of this subjectivity is made possible by a shared culture. The term “self-determination” is not employed here in its most common use – that is, in a legal understanding as articulated in the United Nations Charter. In a legal framework, the right to self-determination is traditionally associated with the term “people” understood as “nation.” Since nation and state are thought in relation to one another, this right of self-determination is granted to groups presenting the characteristics of a state (such as territory, population density, or recognized sovereignty, for instance). I will question the legitimacy of this logic in my thesis.

In many ways, my interpretation is similar to that of James S. Anaya, who argues that “the concept of self-determination derives from the philosophical affirmation of the human drive to translate aspiration into reality, coupled with postulates of inherent human equality.”¹ More precisely, Anaya argues that “in essence, self-determination entails a standard of governmental legitimacy based upon core precepts of human freedom and equality.”² For the specific purpose of my thesis, I argue that political legitimacy is culturally specific and, therefore, political institutions should reflect the culture of its people. The imposition of a foreign model of political institutions and particularly the imposition of an external authority is contrary to self-determination. In this sense the creation of a sovereign state as a unique remedial prescription³ for peoples whose right to self-determination has been denied is opposed to the norm of self-determination as defined by Anaya.

It needs to be clear that what is at stake in my argument for political autonomy is not the rejection of relations *tout court* but the rejection of relations of domination. No group can live in isolation and, although this fact is often presented as a feature of today’s life, I argue that interconnectedness is rather an enduring attribute of our world. This is crucial, for we have the obligation to share the territory and resources that are necessary to the survival and flourishing of cultures. Because I challenge the legitimacy of a political model that relies on the premise of territorial sovereignty, I argue for a conceptualization of self-determination that allows cultural groups to be autonomous

¹ James S. Anaya, *Indigenous Peoples in International Law*. New York/Oxford: Oxford University Press (1996), p. 75.

² James S. Anaya, “A contemporary Definition of the International Norm of Self-Determination”, *Transnational Law and Contemporary Problems*. Vol. 3 (Spring 1993), p. 134

³ *Ibid.*, p. 160.

while allowing the development of a people-to-people relationship. The development of such an ongoing relationship is necessary for sharing resources and to address the numerous issues that concern humanity as a whole but not only that. The relationship itself is necessary for allowing the coexistence of different peoples having the same right to self-determination.

I believe the Two-Row Wampum principle, as described by Taiaiake Alfred, well represents the type of relationship that is respectful of an equal right to self-determination. Alfred argues that the belt and its image of “two vessels, each possessing its own integrity, travelling the river of time together”⁴ represent this ongoing relationship between two peoples. He explains further:

The Kanien’kehaka Kaswentha (Two-Row Wampum) principle embodies this notion of power in the context of relations between nations. Instead of subjugating one to the other, The Kanien’kehaka who opened their territory to Dutch traders in the early seventeenth century negotiated an original and lasting peace based on coexistence of power in a context of respect for the autonomy and distinctive nature of each partner.⁵

To make it clear, I do not mean to say that all peoples should conform to an Indigenous understanding of people-to-people relationships. In the Western political tradition, for instance, genuine federalism could serve as an equally valid model. But no matter the model chosen, no people can escape the obligation to enter into a relationship with other peoples and this is what regulates their respective right to self-determination. This focus on the interconnectedness of our world in defining self-determination challenges the common dichotomy opposing internal and external self-determination.⁶

⁴ Taiaiake Alfred, *Peace, Power, Righteousness: an Indigenous Manifesto*. Oxford: Oxford University Press (1999), p. 52.

⁵ *Ibid.*

⁶ James S. Anaya, *Indigenous Peoples in International Law*. New York/Oxford: Oxford University Press (1996), p. 81.

It is a very difficult task, then, to find the right balance between respect for each partner's right to be autonomous and self-determined and the relationship itself. In the context of an argument for the importance of developing political models that are adapted to cultures, which rejects the idea that something like a universal political model could exist, attempting to develop the principles that would regulate such a norm of self-determination is a tremendously difficult task. Yet, this is inevitable if we want to mediate and reconcile conflicting rights to self-determination.

These conflicts can happen internally between different sub-groups or between individuals. They can also happen externally, meaning between different self-determining peoples or in other words through intercultural relations. In this sense, it is important to keep in mind that I am not making an argument for arbitrariness and that my project is not opposed to the rule of law. The problem is when one is unable to conceive of the rule of law outside of the state model. If the rule of law means developing principles that allow respectful interactions between groups or individuals, and if the rule of law can be interpreted in a manner that is adapted to different contexts, then it is consistent with my argument. It is crucial to establish a parity of participation in the elaboration of those regulating principles. This is a very complex problem and it is certainly not my intention in introducing my thesis to leave the reader with the impression that I will provide a final resolution.⁷ The object of my thesis is rather to demonstrate the limits of the nationalist discourse that is specific to the literature on liberal multiculturalism and of its corollary the legitimacy of the state in setting the terms

⁷ The task of developing regulating principles of a norm of self-determination falls beyond the scope of this thesis. In the chapter four of this thesis I will briefly address the problem of the regulation of internal self-determination. As for the external aspect of self-determination it will require further inquiry and I intent exploring this question during my doctoral studies.

of recognition, in empowering self-determining peoples and in developing the possibility of a meaningful people-to-people relationship.

Before developing my argument any further, I wish to say a word about the type of definition of the state I am working with. The most common definition of the state is inspired by the work of Max Weber. The state is said to be a “legal territorial entity composed of stable population and government; it possesses a monopoly over the legitimate use of force; its sovereignty is recognized by other states in the international system.”⁸ While this definition is technically correct, it does not reveal much of the dynamics by which the unity of the people is created.

My focus is on the liberal conception of the state. Since World War II, liberals have paid very little attention and even denied the importance of culture to privilege a civic or, from their point of view, a universal definition of the state. Michel Seymour explains as follows the link between liberalism and the nation state. For liberals the supreme value is individualism. To be liberal means promoting individual rights and liberties. Seymour argues “these principles cannot be overruled by any other principles and must therefore have an absolute priority over the particular interests of groups.”⁹ Within the nation state, the only political community, or people that is recognized is the majority nation in its perfect mapping with the boundaries of the state. This community exists for the sake of the liberal state and ignores cultural characteristics that might unite or, on the contrary, differentiate its members. The liberal conception of the state also implies a standard of neutrality that is required by the liberal ideal of freedom. Citizens

⁸ John Baylis and Steve Smith, *The Globalization of World Politics: An introduction to international relations* (Third Edition). Oxford: Oxford University Press (2006), p.780.

⁹ Michel Seymour, “Collective Rights in Multi-nation States: From Ethical Individualism to the Law of Peoples”, *The Fate of the Nation State*, p. 106.

are considered fundamentally free to decide for themselves what a good life is. The state exists to secure conditions under which individuals can make free choices as to how to live their life. This illusion of neutrality that is made of the two related problems of individualism and freedom results in a specific articulation of the community which I call the myth of the civic nation.

Today, it is increasingly admitted that the state can never be neutral, and liberal multiculturalism has acknowledged the multinational character of most states. While the latter represents a salutary move away from blind, assimilative theory of the state, the myth of the civic nation and the idea that the state is a universal political model are still very much alive. Liberal multiculturalism has the state as a point of departure and the advancement of liberalism as a universalizing project. The state is a central actor in maintaining and reproducing the order inherited from the Peace of Westphalia that has now been supplemented with a normative dimension made of the liberal principles of good governance, democracy and human rights. Liberal multiculturalism aims at the recognition of self-determining people within this framework only and is therefore unable to challenge the unfair balance of power between some nations which happen to form a state and other stateless peoples. My main concern is that this approach relegates cultures to a position where their protection and ability to flourish are conditional upon their inscription within a broader project of promoting liberalism.

More precisely, the myth of the civic nation is embodied in the two related problems of domestication and assimilation into one single political model. The problem of domestication refers to policies of multiculturalism that are attempts by sovereign states to contain and manage cultural claims in order to ensure that these claims do not

infringe upon but rather contribute to the construction of an overarching national identity that is necessary to the unity of the state. The majority nation, which remains in control of the state institutions, is considered neutral enough to be able to integrate the nationalisms of other peoples within its own national imaginary. In this thesis, I will argue that *the nationalist discourse that is specific to the literature on liberal multiculturalism intends to empower self-determining peoples, but ultimately reinforces a hierarchy of peoples in which minorities' nationalism is instrumental to the achievement of the myth of an overarching civic nation that is embodied in the liberal state.* (T1).

Beyond the problem of domestication, I wish to address the related problem of the assimilation of self-determining peoples into one single model of political organisation: nationhood in its relation to the state. The state structure itself is indeed considered to be a universal political model to which all cultures can adapt. There is an irresolvable tension between the value of culture and the very idea that such thing as a universal political model might exist. I believe every culture should rather find in itself the standards of its own political life. Yet, our ability to conceive politics is greatly limited by the statist organization of our world and political legitimacy is hardly thought outside of state framework. As such, my thesis will also argue that *the survival and flourishing of cultures require both questioning the universality of the state model and developing a post-nationalist framework that would acknowledge the legitimacy of a great diversity of political communities, as such diversity is representative of the diverse cultures that sustain these political communities.* (T2).

One could object that the state sovereignty is less and less significant in this era of accelerated globalization. While I agree that, despite the totalizing aspirations of state

sovereignty, locuses of power are fragmented and numerous, I believe the sovereign modern state is still the apparatus that is privileged by liberals. Within this broader project of promoting liberalism other liberalizing institutions are there to supplement the state if this one fails to its duty of maintaining and reproducing the liberal international order. In my argument the state is not an ultimate goal in itself but rather the most sophisticated instrument for the liberalization of the world and as such it is inadequate for, and even prevents, the empowerment of self-determining peoples. As my work relies on the value of culture to its people as well as on the political relevance of culture it is crucial to provide the definition of culture I will be working with.

The definition of culture

The term culture is an ambiguous one that has different meanings according to different contexts and different periods of time. According to Raymond Williams, author of *Culture and Society*, the word has taken four main different meanings in Anglo-Saxon societies since the industrial revolution:

from the culture of something [to] *culture* as such, a thing in itself. It came to mean, first, 'a general state or habit of the mind', having close relations with the idea of human perfection. Second, it came to mean 'the general state of intellectual development, in a society as a whole'. Third, it came to mean 'the general body of the arts'. Fourth, later in the century, it came to mean 'a whole way of life, material, intellectual and spiritual'.¹⁰

The type of definition I adopt is situated within the realm of this fourth perspective, and yet requires a qualification of Williams' statement. When speaking of cultures as whole ways of life that include the material, the intellectual and the spiritual,

¹⁰ Raymond Williams, *Culture and Society: 1780-1950*. London: Chatto & Windus (1958), p. xvi.

Williams does not mention that what gives substance to these ways of life and, from my point of view, justifies protecting them, is the attachment that the members of a culture have to *their* ways of life. Such an attachment, exemplified by the way people mobilize for the defence of their cultures, exists because all these things Williams is listing in the fourth instance are built upon a system of beliefs which gives them a specific meaning. Having said that, I believe it is equally important to recognize the material and political aspects of any culture. As I have already mentioned above, The belief that cultures, because they mean so much for their members, must survive and flourish cannot be divorced from the material and political means that would enable such survival and flourishing.

So it is within Williams' very broad fourth approach that the type of cultures that I am interested in are situated. So too, I argue, is Clifford Geertz' concept of culture as defined in *Thick Description: Toward an Interpretive Theory of Culture*. The conception of culture I work with is inspired by Geertz' cornerstone definition: "man [is] an animal suspended in webs of significance he himself has spun, I take culture to be those webs, and the analysis of it to be therefore not an experimental science in search of law but an interpretative one in search of meaning."¹¹

This definition marked an important moment for the discipline of anthropology and it is worth resituating it in context of the debate occurring in the field at that time. According to Richard Parker, Geertz was also arguing for anthropology "to abandon, once and for all, the Enlightenment's search for a "*consensus gentium* (a consensus for mankind)"—that the true significance of what it is to be generically human may well be

¹¹ Clifford Geertz, "Thick Description: Toward an Interpretive Theory of Culture", *The Interpretation of Cultures: Selected Essays*. New York: Basic Books (1973), p. 5.

found not in the formulation of sweeping generalizations but in an examination of cultural particularity and difference (1973b, 38).”¹² To do so Geertz emphasized the incommensurability of cultures. He also argued against the objectification of cultures as fixed wholes to be observed and explained through the application of a scientific method borrowed from natural sciences.

In an article entitled *Conceptualizing Culture: Possibilities for Political Science*, Lisa Wedeen critiques Geertz’s concept of culture and argues that there is a tension in his work due to the “dual connotations of culture as an already given community and as a symbolic system.” For Wedeen, because of the tremendous influence of Geertz’s work, this tension has often been indiscriminately reproduced by many culturalists in political science.¹³ She further argues, “the insistence on semiotic coherence led Geertz to possible discrepancies between the representation of events, conditions, and people and the ways in which such representations were received, negotiated, and subjected to risks by those who produced and consumed them.”¹⁴ Again following Wedeen, I believe it is important to acknowledge that both “practices and signification are defined and generated in reference to each other, yet can come into conflict, both conceptually in their meanings and causally in the world.”¹⁵ She further argues,

"Meaning" connotes intelligibility, which is produced through and compounded by repeated, context-dependent use that is observable. Language and symbols are intelligible insofar as they are made manifest through practices. Practices make sense because they are reproduced historically and conceptualized through language.¹⁶

¹² Richard Parker, “From Symbolism to Interpretation: Reflections on the Work of Clifford Geertz”, *Anthropology and Humanism Quarterly*. Vol. 10, No. 3, p. 63.

¹³ Lisa Wedeen, “Conceptualizing Culture: Possibilities for Political Science”, *The American Political Science Review*. Vol. 96, No. 4 (December 2002), p. 716.

¹⁴ *Ibid.*

¹⁵ *Ibid.* p. 719.

¹⁶ *Ibid.* p. 723.

When trying to articulate a defense of a right to self-determination, one must be careful not to fall into the pitfall of essentialism in defining culture itself. To essentialize cultures means referring to them as fixed entities and targeting some of their features as absolute values that cannot be transformed. Yet, I believe it is possible to acknowledge the essential and universal human need for culture without falling into essentialism that is rightly denounced by Wedeen, among many others. The critique of essentialism is not to be taken lightly, yet one must keep in mind that this problem is inherent to any debate on identity and, in my opinion should not be used as an ultimate argument to reduce the importance of the attachment peoples have to their cultures.¹⁷ It is important to place the ability for cultures to be changed and adapted overtime in relation to the need for people to control the transformation of their culture. Too often this feature of adaptability is used to justify inaction in protecting minority cultures, especially when this ability to adapt would presumably favour their liberalization. Yet, I believe it is the main reason for protecting cultures and securing their survival. Because cultures are changing it is crucial to allow their members the freedom to transform their culture with respect to their specific determination.

While rejecting the possibility of a perfect internal coherence of cultural systems, and while acknowledging with Wedeen the importance of power struggles and interactions in their developments, it is also crucial to recognize that cultures enjoy some undeniable, although not total, stability. It is not to conceive cultures as frozen entities to acknowledge that a substantial part of our cultural baggage is inherited and that, most of

¹⁷ On this debate, see, among others, Sheyla Benhabib, *The Claims of Culture: Equality and Diversity in the Global Era* and Nikolas Kompridis's critique of Benhabib: Nikolas Kompridis, "Normativizing Hybridity/Neutralizing Culture", *Political Theory*, Vol. 33 No. 3 (June 2005), pp. 318-343.

the time, we use “webs of significance” that have been spun by our predecessors and then transmitted to us. Cultures are collective phenomena that reproduce themselves through a context of life. Contestation and negotiation of culture happen on a common ground, using terms that may be open for debate but which nonetheless have meaning and significance with which all interlocutors involved can engage. For these reasons, it is crucial to adopt a definition of culture that acknowledges both the heterogeneous and transformative character of cultures but also some form of stability and cohesion.

For these reasons, I adopt a definition of culture that is situated on a middle ground between Geertz’s definition and Wedeen’s critique, and which frames culture as a process of meaning creation through *contestation* and *negotiation*. This process, which makes possible the interpretation of reality, results in a complex set of practices and beliefs. I wish to stress the normative feature that defines the kind of cultures which are the focus of my thesis. I am interested in cultures that develop into self-determining peoples. Indeed, politics which requires diversity is already happening from within these cultures. I see the political community, the one which projects itself into the future and wants to act over the course of its destiny, as necessarily diverse. This point is important and I will say more about the necessary diversity of all self-determining peoples in chapter four.

It is also important to keep in mind that cultures are not constructed in isolation. In this sense, I cannot endorse one aspect of Geertz’s claim that we are incapable of genuinely understanding other cultures. What is crucial in the argument on the incommensurability of cultures is that no culture should ever be judged on the basis of supposedly universal criteria that are rather culturally specific, an assertion that does not

necessarily imply the impossibility of meaningful interactions between cultures. In this sense, Geertz's position on the incommensurability of cultures is too radical and carries the risk of promoting isolation, an implication opposite to my intentions with this thesis. In *Strange Multiplicity*, James Tully rightly argues that "cultures are also densely interdependent in their formation and identity. They exist in complex historical processes of interaction with other cultures. The modern age is intercultural rather than multicultural."¹⁸

A last important point needs to be made in order to clarify the definition of culture that will be the object of my thesis. As argued by Rita Dhamoon, countless factors of identification exist. With this work on the importance of culture for people I do not pretend to account for all of what is potentially relevant for identity politics. And following Bhikhu Parekh, I believe it would be a mistake to approach the problem of multiculturalism as if it were "about difference and identity *per se* [rather than being] about those that are embedded in and sustained by culture."¹⁹

For Parekh, there are three prominent forms of cultural diversity to be found in what he calls modern societies. First, there is an immense variety of what he calls "subcultures," and what I call "micro-cultures," meaning that while their members "share a broadly common culture, some of them either entertain different beliefs and practices concerning particular areas of life or evolve relatively distinct ways of life of their own."²⁰ Among countless examples I mention gay cultures and artistic lifestyles

¹⁸ James Tully, *Strange Multiplicity: Constitutionalism in an Age of Diversity*. Cambridge: Cambridge University Press (1995), p. 11.

¹⁹ Bhikhu Parekh, *Rethinking Multiculturalism: Cultural Diversity and Political Theory*. Cambridge: Harvard University Press (2000), p. 2.

²⁰ *Ibid.*, p. 3.

organized around modes of creativity. Second, there is what he calls “perspectival diversity,” which has to do with groups within a culture that are critical of some of the organisational principles of the dominant culture, such as feminists for instance. In Parekh’s words, these groups represent “intellectual perspectives on how the dominant culture should be reconstituted.”²¹ Finally, “communal diversity” is explained by the following: results from the fact that

Most modern societies also include several self-conscious and more or less well-organized communities entertaining and living by their own different systems of beliefs and practices. They include the newly arrived immigrants, such long-established communities as Jews, Gypsies and the Amish, various religious communities, and such territorially concentrated cultural groups as indigenous peoples, the Basques, the Catalans, the Scots, the Welsh and the [Québécois].²²

Cultures mentioned within the first two categories and taking the form of microcultures or perspectival diversity, even if they do not provide the same all-encompassing system of meanings, cross over the ones, more complete, that I wish to focus on in my research project and that are contained in Parekh’s third instance. The reason for this choice is that these groups associated with the concept of communal diversity are more likely, given the broader range of issues they are concerned with, to develop into a political community claiming effective autonomy over the full spectrum of these issues. Yet, one should keep in mind that all those types of culture intertwine, sometimes in agreement, sometimes in dispute and it is certainly not my intention to deny the political significance of other identification factors. These identity groups often claim autonomy in some specific spheres of activities. While all these cultures do indeed play an important role in the process of identity construction, my thesis employs a narrower

²¹ *Ibid.*, p. 3.

²² *Ibid.*, p. 3-4.

definition of the concept and I will thus focus on stateless peoples which are often auto-defined as nations and which I call self-determining peoples.

One could object that this choice to focus on self-determining peoples is representative of the very statist logic to which my thesis intends to object. I am tempted to attribute this objection to the strong influence of such statist model over the type of discourse minorities will endorse. I see no reason to assume that in a post-nationalist world the groups that are today called micro-cultures could not also transform into self-determining peoples. Similarly, I see no reason to assume that a people that was once self-determining could not choose to assimilate itself to a dominant and retain autonomy over a limited range of issues. For example, the future of the Breton people could unfold in either direction. On the one hand, this people could decide to integrate to France and to claim autonomy over limited matters or, on the other one, it could develop into a fully self-determining people. What I denounce is the interference of France in trying to influence this choice and to force the integration of Brittany into the republic.

In the first chapter of my thesis, I will consider Will Kymlicka's theory of cultural identity. In this chapter, I wish to highlight the limits of Kymlicka's theory in empowering of self-determining peoples. His work represents a crucial contribution to the liberal theory of cultural rights and I see in it the problems that I wish to address. In Kymlicka's work, the state is both the starting point and the main tool for his goal: the further spreading of liberalism. On the basis that culture provides a context of choice, Kymlicka wants to convince liberals to expand their theory and to consider the rights of the groups he calls national minorities within the state. More recently, he has enlarged

the realm of his contribution, addressing the responsibility of international organisations in promoting the rights of cultural minorities in non-liberal states.

The recognition of the significance of culture in an individual's life and, therefore, the recognition of the multinational character of most states represents the most recent step in fostering the international order. Yet, articulating the state both as a premise and as a goal results in a very standardized definition of culture. Kymlicka's argument on the importance of culture being only directed at what he calls societal cultures, he ends up working with an equally standardized conception of the political community, namely the national minority. In this sense, Kymlicka's work is representative of a tendency to necessarily associate culture and nation. Following from his association between culture and nation, my second chapter will address the broader literature on nationalism.

There are many different accounts of how the nation relates to the state, and the literature on nationalism is immensely vast and diverse. My intention is not to elaborate here on the history of the idea of the nation nor of nationalism as an ideology but to look at how current accounts of the nation are reinforcing the position of the liberal modern state in the broader project of liberalization of the world. I identify two distinctions in the literature on nationalism. The first distinction is between traditional nationalist movements that seek the achievement of the nationalist principle – i.e. the idea that each nation should have its own state – and new nationalisms that have renounced such an ideal but that still think of themselves as a distinct nation within a bigger state. For some of the latter it was never a goal to form an independent state. Some others were forced to abandon the project out of necessity, not meeting the basic requirements for the creation of a state, such as a defined territory. Finally, some political communities simply

accepted the evidence that the international system would not allow the nationalist principle to apply. No matter the reasoning for adopting a traditional form of nationalism or, on the contrary, for renouncing the creation of an independent state, both options are actually related since they are both consequences of an obligation to comply with the stability requirement of the international order.

The other distinction is the enduring distinction between civic nationalism and ethnic nationalism, and concerns both conventional and new nationalisms.²³ In the context of this thesis, this is used as an analytic tool rather than a presumption of an empirical reality. Indeed, many authors highlight the fact that such a thing as a pure civic nationalism probably never existed and that even the ethnic version of nationalism always implies some subjective features to supplement the ethno-cultural traits that are said to be objective.²⁴ Having earlier defined culture as a process of meaning creation through contestation and negotiation the, same logic must be applied to these supposedly objective features composing the ethnic definition of the nation. Further, both civic and ethnic accounts of the nation will be considered as construction.

In the last section of the second chapter I will return to Kymlicka's work to argue that it exemplifies, at best, a conceptualization of national minorities that is instrumental to the state logic itself embedded in the meta-norm of the liberal world order. I will therefore expose how these two distinctions – traditional/neo-nationalism and civic/ethnic – are at play in a vertical manner in his argument, and show how this ultimately

²³ Michel Seymour, Jocelyne Couture and Kai Nielsen, "Introduction: Questioning the Ethnic/Civic Dichotomy", *Rethinking Nationalism* (ed. Michel Seymour, Jocelyne Couture and Kai Nielsen). *Canadian Journal of Philosophy*, Supplementary Vol. 22, p. 2.

²⁴ *Ibid.*, p. 3.

reinforces a hierarchy of peoples that places the majority nation in its relation to the state in an elevated position, where it is said to embody in the myth of the civic nation.

International institutions are at the top of this hierarchy in case the state would fail to its liberalizing role.

In the third chapter I will turn to the work of Johann Gottfried Herder who is considered by many contemporary authors to be the father of the ethnic version of nationalism. I believe there is a crucial need to engage with this side of the literature that is regularly dismissed for being ethnic, which has resulted in a denial of Herder's relevance. Interpretations of Herder's political thought vary greatly and in this chapter I will situate my own reading among a few of them. Most of all, I will dissociate myself from authors who have mistaken Herder for an ethnocentric thinker. It is indeed common in the literature on nationalism to associate political movements that rely on culture with features of exclusion, intolerance and violence. At the other extreme, Herder's work is sometimes interpreted as strictly cultural and therefore as apolitical. I also dissociate myself from such an interpretation.

I rather privilege a more nuanced reading of Herder's thought represented by authors such as F. M. Barnard and Vicki Spencer. Both of them highlight the political significance of Herder's thought and his critique of the state. Barnard and Spencer's work also represents a break with the argument according to which Herder was a conservative attempting to freeze cultures into their traditions. Indeed, they argue for a reading that acknowledges the subjective and changing quality of both the cultural and political communities found in Herder's work. Ultimately, there are two things to retain from the work of Herder: his argument according to which *all* cultures are worth respect,

based on the idea that they are of a crucial importance to their members, and his notion that the state as a mechanical form of political organization is alien to *any* culture. The specific political standards that shall emerge from the cultural community are the only legitimate rules of political organization for a given group.

Although I argue that the political empowerment of self-determining peoples necessitates a critique of the nationalist discourses of both minorities and states, I believe that in doing so we must address the most serious objections to nationalism, which could easily be transposed to a theory that attempts to recognize the political significance of culture. In the fourth chapter, I will address the fear of instability of the international order. This fear has two distinct yet related facets: the risk of an uncontrolled multiplication of claims for self-determination and the presumed risk that it would lead to ethnic violence and to the oppression of new minorities. I believe these fears of the instability and violence are mainly caused by two misconceptions that are found, although not exclusively, in Kymlicka's work.

First, there is a false dichotomy between what is thought to be the stable international order based on the sovereign state and its contrary, ethnic violence. Such opposition fails to acknowledge the coercion used by the state in maintaining and reproducing itself, coercion that is hidden behind the sanitized concept of legitimate violence. This opposition also fails to concede that the imposition of a unique and standardized political model, as well as the obligation for all cultures to adapt to this model, also represents a form of violence. Second, to privilege an institutional definition of culture that is developed in reference to the state, like the one found in Kymlicka's work, also leads us to conclude to a risk of ethnic violence. In this chapter I will also

stress the necessary diversity of all cultures that I have defined as a process of meaning creation through contestation and negotiation. While this is not enough to prevent conflicts between groups, I believe this normative aspect to my definition of cultures offers some interesting perspectives for guiding a peaceful resolution of conflicts within cultures.

Chapter 1

Will Kymlicka is one of the most important authors in the literature on multiculturalism. His theoretical work on the cultural rights of minority groups in the liberal paradigm is of a great importance, for it not only stimulates the debate among academics but also influences the way Western political leaders address diversity issues in their respective states. The fact that his work is not only consistent with but even legitimates the sovereignty of the state certainly explains, at least in part, its popularity among political leaders of the Western world. While recognizing the tremendous importance of his contribution to the debate on identity politics, my intention is to demonstrate that because his theory starts with the sovereign legitimacy of the liberal state as a premise, Kymlicka's argument offers a very limited possibility of empowerment for what he calls national minorities. In the second chapter of my thesis I will explore how, when considering the distinctions between ethnic and civic nationalisms and between traditional nationalism versus neo-nationalism, one can appreciate his concept of the national minority is instrumental to the state and therefore hierarchizes nations. But in this current chapter, I wish to present an overview of his argument on the importance of culture and to highlight how his very standardized concept of societal culture leads to an equally standardized concept of national minority. I explain this by demonstrating that Kymlicka develops both concepts in relation to the state. Ultimately, it is the state that enables and limits his ability to conceptualize national minorities.

I will be focussing mainly on his earlier work presented in his books *Liberalism, Community, and Culture* and *Multicultural Citizenship*. In the first section, I will present the reasons why, according to Kymlicka, cultural rights should be considered a primary good by liberal theorists. In the second section, I will look more in depth at the definition of societal culture he uses to justify recognizing a people's full right to enjoy its culture. This leads to a distinction between old and new minorities²⁵ or, in other words, between what he calls national minorities and the ones resulting from immigration. I will finally consider the argument found in his 2007 book, *Multicultural Odysseys*, in which he emphasizes the need to export the liberal concern for respecting cultural diversity within the state through the intervention of international organizations.

In his earlier work Kymlicka gives an account of debates occurring between different contemporary political theories with regards to the recognition of the importance of cultural rights. At the time both *Liberalism, Community, and Culture* and *Multicultural Citizenship* were published, these debates were mostly divided between two polarized positions: the individualist justification versus a more collective or communitarian one. Taking part in this debate, Kymlicka is attempting to justify, from a liberal point of view, the recognition of collective cultural rights as a necessary development of the individual human rights doctrine. Because liberalism is the dominant ideology in the Western world, and in order to defend a position that is politically strong, Kymlicka believes in the importance of confronting "liberal fears about minority rights."²⁶ As mentioned by Patchen Markell in his book *Bound by Recognition*,

²⁵ Will Kymlicka, *Multicultural Odysseys: Navigating the New International Politics of Diversity*. Oxford: Oxford University Press (2007), p. 226.

²⁶ Will Kymlicka, *Liberalism, Community, and Culture*. Oxford: Oxford University Press (1991), p. 153.

Kymlicka's writing are also works of persuasion, which attempt to influence policy and public opinion, and whose assumptions, examples, and arguments are meant both to justify multiculturalism philosophically *and* to respond to the "deeply felt anxieties" multiculturalism arouses among some of his colleagues and fellow citizens.²⁷

In doing so, Kymlicka's primary intention is to clarify the basic building blocks for a liberal approach to minority rights.²⁸ More precisely, Kymlicka believes that the non-recognition of minority rights creates injustices and exacerbates ethno-cultural conflicts.²⁹ In the same vein, in his most recent book, *Multicultural Odysseys*, which presents a stronger concern for *realpolitik* than his earlier works, he ambitiously argues that "liberal multiculturalism rests on the assumption that policies of recognising and accommodating ethnic diversity can expand human freedom, strengthen human rights, diminish ethnic and racial hierarchies, and deepen democracy."³⁰

The importance of culture in the liberal tradition

According to Kymlicka the importance of culture was acknowledged in the liberal tradition long before the recent liberal infatuation with multiculturalism. He argues, "for most of the nineteenth century and the first half of the twentieth, the rights of national minorities were continually discussed and debated by the great liberal statesmen and theorists of the age."³¹ Indeed, up to the period following the Second World War, minority rights were considered a concern of primary importance for most liberals. In this respect the Charter of the League of Nations was an attempt to address the challenge of

²⁷ Patchen Markell, *Bound by Recognition*. Princeton and Oxford: Princeton University Press (2003), p. 155.

²⁸ Will Kymlicka, *Multicultural Citizenship*. Oxford: Oxford University Press (1995), p. 1-2.

²⁹ *Ibid.*, p. 5.

³⁰ Will Kymlicka, *Multicultural Odysseys: Navigating the New International Politics of Diversity*. Oxford: Oxford University Press (2007), p. 18.

³¹ Will Kymlicka, *Multicultural Citizenship*. Oxford: Oxford University Press (1995), p. 49.

multinational empires and represents a strong commitment to the recognition of minority rights.

Two liberal concerns were at the origin of this defence of minority rights. Firstly, and this is of a fundamental importance for Kymlicka, the idea that individual freedom depends on the belonging to a national group. The second idea is that equality would be better achieved if minorities were recognized and entitled to certain rights.³² The fact that some liberals were defending, even at that time, these two principles – individual liberty within groups and equality between groups – is not an anachronism for Kymlicka. He states, “A system of minority rights which respects these two limitations is, I believe, impeccably liberal. It is consistent with, and indeed promotes, basic liberal values.”³³

For Kymlicka, even the liberals who were opposed to the recognition of minorities were not defending the notion of benevolent neutrality that seems today to be the alternative to differentiated citizenship. The necessity of having a national culture that would give substance to the state was a shared conviction among classic liberals. For Kymlicka, this idea that the state owes and is even able to offer mere benevolent neutrality to its citizens is not only an illusion but a novelty.³⁴ This idea is really important for Kymlicka’s argument, as well as for the purpose of this thesis. He argues,

None of these earlier positions endorses the idea – championed by many contemporary liberals – that the state should treat cultural membership as a purely private matter. On the contrary, liberals either endorsed the legal recognition of minority cultures, or rejected minority rights not because they rejected the idea of an official culture, but precisely because they believed there should only be *one* official culture.³⁵

³² *Ibid.*, p. 52.

³³ *Ibid.*, p. 153.

³⁴ *Ibid.*, p. 50.

³⁵ *Ibid.*, p. 53-4.

Kymlicka makes reference to John Stuart Mill as one of the authors who refused to recognise the legitimacy of sub-state cultures. Indeed, in *Considerations on Representative Government*, Mill argues, “where the sentiment of nationality exists in any force, there is a prima facie case for uniting all the members of the nationality under the same government, and a government to themselves apart.”³⁶ In the same paragraph, he makes his position even more clear: “free institutions are next to impossible in a country made up of different nationalities. Among a people without fellow-feeling, especially if they read and speak different languages, the united public opinion, necessary to the working of representative government, cannot exist.”³⁷

This ideal of the perfect association of the nation and the state, coupled with the widespread belief that some nations are more advanced than others in the progress towards civilization, led some classic liberals to propose secession and the creation of a new state as a solution to the “problem” of diversity, but more often they were promoting the assimilation of national minorities. Kymlicka, quoting Mill, recalls that he “insisted that it was undeniably better for a Scottish Highlander to be part of Great Britain, or for a Basque to be part of France, 'than to sulk on his own rocks, the half-savage relic of past times, revolving in his own little mental orbit, without participation or interest in the general movement of the world'.”³⁸

³⁶ John Stuart Mill, *Considerations on Representative Government in On Liberty and Other Essays* ed. John Gray. Oxford: Oxford University Press (1991), p. 428.

³⁷ *Ibid* p. 428.

³⁸ Will Kymlicka, *Multicultural Citizenship*. Oxford: Oxford University Press (1995), p. 53.

Culture as a context of choice

To be consistent with liberal theory, Kymlicka's defence of cultural minorities must rely on an individualist argument, itself rooted in the liberal tradition and its ideal of liberty. More specifically, there are two main aspects to this ideal that inform Kymlicka's position in favour of a group-differentiated citizenship. First, individuals have a universal right to be free to choose their own meaningful ends. For Kymlicka, "our essential interest is in living a good life"³⁹ and the autonomy to make choices about *how* to achieve this goal is a fundamental principle of liberalism. Imposed ends cannot be pursued with conviction and dedication and, he affirms, "a life only goes better if led from the inside."⁴⁰

Secondly, liberalism is also based on a belief that individuals must have the possibility to revise their choices. Indeed, for Kymlicka, "leading a good life is different from leading a life we *currently believe* to be good."⁴¹ Liberalism requires that we all have a genuine possibility to question our ends, and this possibility can only be provided by a cultural environment. Indeed, rather than defending a negative conception of liberty, he insists on the importance of securing the existence of different cultures. The core of his argument for the recognition of a right to enjoy one's culture is based on the belief that individual liberty and the true possibility to make autonomous, meaningful choices that are, potentially, subject to revision "[depend] on access to a cultural structure."⁴²

³⁹ Will Kymlicka, *Liberalism, Community, and Culture*. Oxford: Oxford University Press (1991), p. 10.

⁴⁰ *Ibid.*, p. 12.

⁴¹ *Ibid.*, p. 10.

⁴² Will Kymlicka, *Multicultural Citizenship*. Oxford: Oxford University Press (1995), p. 84.

Such a defence of culture is not without difficulty for a liberal. As argued by Markell in *Bound by Recognition*, there is an unavoidable tension between “culture as a field of choice and the idea of culture as a source of constraint.”⁴³ On the one hand, to ground the right to culture in the liberal principle of free choice leads to “a picture of culture as something that is constantly being remade through the reflective decisions of those who participate in it.”⁴⁴ On the other one, it also presents culture as a “distinctive way of life of a group, which precedes and determines its members’ activities.”⁴⁵ This is especially problematic when considering illiberal cultures, and Kymlicka attempts to reconcile his theory with these illiberal cultures by providing a distinction between the existence of a culture and its specific character at any given time. The former, the existence of a culture, is what has to be protected and what enables individual freedom. The range of specific choices available at a precise moment, namely the character of a culture, should not be warranted unconditional protection.

Moreover, Kymlicka has in mind a very specific type of culture when making this causal connection between culture and liberty. Societal cultures, in his theory, are the only cultures that can potentially promote individual liberty; he says, “I believe that societal cultures are important to people’s freedom, and that liberals should therefore take an interest in the viability of societal cultures.”⁴⁶ When arguing for a liberal defence of culture, it is only insofar as this culture respects the criteria of a societal culture:

[Societal culture] provides its members with meaningful ways of life across the full range of human activities, including social, educational, and economic life,

⁴³ Patchen Markell, *Bound by Recognition*. Princeton and Oxford: Princeton University Press (2003), p. 161.

⁴⁴ *Ibid.*, p. 155.

⁴⁵ *Ibid.*, p.155.

⁴⁶ Will Kymlicka, *Multicultural Citizenship*. Oxford: Oxford University Press (1995), p. 80.

encompassing both public and private spheres. These cultures tend to be territorially concentrated, and based on a shared language.⁴⁷

It is important to mention that, contrary to the position defended in this thesis, Kymlicka does not value the importance of cultures for the system of norms and beliefs they provide or to the attachment people have for their culture. Indeed, his focus is rather on the institutional aspect of cultures and the context of choice they represent. Kymlicka says,

Ronald Dworkin has said that the members of a culture have “a shared vocabulary of tradition and convention” (Dworkin 1985: 231). But that gives us an abstract or ethereal picture of cultures. In the case of societal cultures, this shared vocabulary is the everyday vocabulary of social life, embodied in practice covering most areas of human activities. And in the modern world, for a culture to be embodied in social life means that it must be institutionally embodied – schools, media, economy, government, etc.⁴⁸

Kymlicka also argues that “given the pressures towards the creation of a single common culture in each country,⁴⁹ the most resilient cultures will be further institutionalized while the most vulnerable ones tend to be marginalised.

Kymlicka recognises the existence of micro-cultures that share some similarities with the cultures that are at the core of his theoretical project, but specifies, “I am not including the sorts of lifestyle enclaves, social movements, and voluntary associations which others include within the ambit of multiculturalism.”⁵⁰ The decision to exclude these *micro*-cultures from his defence of multiculturalism is in some respects consistent with the way I define culture in my thesis. However, I think Kymlicka overestimates the impermeability of cultures and overemphasises their institutional dimension.

⁴⁷ *Ibid.*, p.76.

⁴⁸ *Ibid.*, p. 76.

⁴⁹ *Ibid.*, p. 80.

⁵⁰ *Ibid.*, p. 19.

The right to enjoy one's culture

According to Kymlicka, multiculturalism, here understood as a given fact rather than a policy, has two origins: national minorities (sometimes called old minorities) which possess a societal culture and groups resulting from immigration (sometimes called new minorities). This last aspect of diversity is for Kymlicka a challenge states must address by finding the just balance between differentiated rights that will facilitate the integration of these new minorities and rights and obligations that apply to everyone without distinction. I believe that Kymlicka's distinction between national minorities and groups resulting from immigration is misleading. Instead, we require a distinction between colonialism and immigration. While Kymlicka addresses this latter distinction, his treatment of it is unsatisfactory. He argues that colonialism is based on a collective intention to export a culture as opposed to the phenomenon of immigration, which is based on the idea of integration. I believe this distinction is limited to experiences of voluntary migration. Further, nothing in Kymlicka's thought prevents the recurrence of colonialism. Moreover, some groups with colonial pasts are legitimized by Kymlicka's work as providers of recognition. I intend to critique Kymlicka's articulation of this distinction between national minorities and groups resulting from immigration in the next chapter.

For now I wish to focus my attention on what it takes for members of a group to qualify for a full right to enjoy their culture. This right potentially goes as far as full political autonomy and even secession in some ultimate circumstances. Within Kymlicka's theoretical framework, only national minorities are entitled to this right. Cultural groups are national minorities if they have a shared history, are territorially

concentrated, and have a past (or current) experience of being sovereign.⁵¹ Kymlicka also defines a nation as a “historical community, more or less institutionally complete.”⁵² It seems fair to conclude that Kymlicka makes a strong connection between the nation and a very specific understanding of culture. In *Multicultural Citizenship* he claims that the concepts culture, nation and people are synonymous.⁵³ Moreover, these criteria for the definition of a national minority help in *delimiting* cultures and their political implications.

If Kymlicka acknowledges the fact that any culture can be developed and raised up to the rank of societal culture, he also affirms that some conditions must be met and that the failure to do so explains why ethnic communities have not been able to qualify for the status of national minorities. Kymlicka assumes that immigrant communities have willingly abandoned their culture, as demonstrated by their decision to immigrate to a new country.⁵⁴

One could object that the concepts of old and new minorities are unable to adequately account for the reality of many groups. For instance, the Roma, the Jews and the descendants of African slaves do not fall in either of the two categories. This is well acknowledged by Kymlicka himself; as Gillian Brock points out, Kymlicka provides some more nuanced categorizations in his more recent work.⁵⁵ Along the same lines, in *Multicultural Odysseys* Kymlicka argues that international organisations should develop a more targeted approach in their response to cultural claims, considering the difficulty of

⁵¹ Will Kymlicka, *Multicultural Citizenship*. Oxford: Oxford University Press (1995), p. 10.

⁵² *Ibid.*, p. 11.

⁵³ *Ibid.*, p.18.

⁵⁴ *Ibid.*, p. 96.

⁵⁵ Gillian Brock is referring to the book *Politics in the Vernacular*. Gillian Brock, “Can Kymlicka Help Us Mediate Cultural Claims”, *International Journal on Minority and Group Rights*, Vol. 12 (2005), p. 277.

creating a generic category that suits all the groups in need of protection. Taking the example of what he considers to be the success of different international organizations in developing a category for indigenous rights at the international level, he stresses the superiority of specific categories. I believe this is consistent with the logic denounced by Rita Dhamoon, which treats cultures as very clearly identifiable wholes for which we can develop a very specific and self-contained model.⁵⁶

In spite of this new concern for a more targeted intervention from international organisations, in *Multicultural Odysseys* Kymlicka reaffirms the need for the criteria of history and territory and, in doing so, also reaffirms the relevance of a distinction between old and new minorities.

Indeed, far from defending the legitimacy and necessity of targeted norms, many of these experts and advocates have defended the shift to a generic approach by implying that it is inherently 'arbitrary' to insist that groups meet some test of historic presence or territorial settlement in order to qualify as 'national minorities' [...] From my perspective, this is a grave mistake [as] the logic of liberal multiculturalism does attach importance to facts of history and territory.⁵⁷

Thus, even if Kymlicka acknowledges the relevance of some more precise distinctions, these are always conceptualised in respect to a prior division between national minorities (which he considers to have a legitimate right to territory) and immigrants.

According to Kymlicka, in Western democracies those ethnic minorities resulting from immigration should only be entitled to limited cultural rights in order to enable them to maintain their culture in the private sphere while facilitating their integration within the national culture. This strong position in favour of integration is based on the assumption that immigrants do not possess a societal culture. Indeed, Kymlicka believes

⁵⁶ Rita Dhamoon, "Shifting from 'Culture' to 'the Cultural': Critical Theorizing of Identity/Difference Politics", *Constellations*. Vol. 13, No. 3 (Sept. 2006), p. 357.

⁵⁷ Will Kymlicka, *Multicultural Odysseys: Navigating the New International Politics of Diversity*. Oxford: Oxford University Press (2007), p. 226.

that immigrants *voluntarily* abandoned their societal culture *as* societal culture when they made the choice to leave their country.⁵⁸ He states that immigrants have “historically accepted integration [because] they have already voluntarily left their own cultures with the expectation of integrating into a different national society.”⁵⁹

Obviously, the case of refugees who clearly did not choose to leave their country, as well as the problem of great economic disparities in our world, represent a serious challenge to this argument and this is recognized by Kymlicka himself. To this challenge he opposes the moral obligation of wealthy states to partly redistribute their wealth, and to use their influence to help improve the social, political, economic situation of developing countries. It seems that, for Kymlicka, this is a problem that can be easily summed up as a matter of distributive justice. To be consistent with the precepts of liberal theory, it is more important for a liberal state to invest in foreign aid than to provide their refugee citizens the necessary conditions for maintaining their societal culture.⁶⁰

Of a greater concern for Kymlicka is the eventuality that his liberal theory would lead to the crystallisation of illiberal national minorities or that it would be used as an argument to allow pockets of illiberal practices to be installed in liberal Western societies. There is indeed an unavoidable tension between, on the one hand, a theory recognizing one’s right to enjoy her culture and, on the other one, the strong liberal principles in which this right is rooted.

⁵⁸ Will Kymlicka, “Dworkin on Freedom and Culture”, *Dworkin and his Critics with Replies by Dworkin* (ed. Justine Burley). Oxford: Blackwell Publishing (2004), p. 120.

⁵⁹ Will Kymlicka, *Finding Our Ways*. Oxford: Oxford University Press (1998), p. 35.

⁶⁰ Will Kymlicka, *Multicultural Citizenship*. Oxford: Oxford University Press (1995), pp. 98-100.

The unavoidable tension between cultural rights and liberal principles

Cultural rights, as defined in Kymlicka's theory, require the establishment of a differentiated citizenship that is in contradiction with a traditional liberal understanding of the concept of equality. Even more difficult, for Kymlicka, is addressing the problem of defending illiberal cultures as a context of choice. Kymlicka does not recognize groups' right to enjoy their culture based on its consistency with liberal principles, but on the basis of whether this culture is societal or not. Nonetheless, the distinction between groups that are mostly liberal in their practices and groups that are mostly illiberal in their practices is explicitly articulated.

The distinction between liberal and illiberal cultures in Kymlicka's theory is conceptualized in terms of thin versus thick cultures.⁶¹ A thin culture is one that has gone through a process of liberalization. In doing so, different cultures become a lot more similar to each other. Kymlicka explains, "that is, as a culture becomes more liberal, the members are less and less likely to share the same substantive conception of the good life, and more and more likely to share basic values with people in other liberal cultures."⁶² However, Kymlicka rejects the idea, defended by other liberals (among whom he mentions Michael Ignatieff and Stéphane Dion,) that national identities would eventually disappear.⁶³ Kymlicka mentions the example of Québec where, as he argues, the Quiet Revolution represents a certain process of liberalization but where, during the same period of time, the attachment to the nation became more and more significant.⁶⁴

⁶¹ Will Kymlicka, *Multicultural Citizenship*. Oxford: Oxford University Press (1995), p. 87.

⁶² Will Kymlicka, *Multicultural Citizenship*. Oxford: Oxford University Press (1995), p. 87.

⁶³ *Ibid.*, p. 88.

⁶⁴ *Ibid.*, p. 87-8.

Ultimately, the difference between illiberal and liberal cultures lies in the way they use internal constraints and external protections. Internal constraints, for Kymlicka, are illiberal since they aim at limiting the individual liberties of the members of a nation for the sake of protecting its culture and preventing it from changing. On the contrary, external protections are acceptable since their purpose is to protect the integrity of minority cultures from external groups that could represent an assimilative threat. External protections tend to preserve individual liberties of the group members by preserving the context of choice they need to live freely.⁶⁵ Kymlicka affirms that liberals “can and should endorse certain external protections, where they promote fairness between groups, but should reject internal restrictions which limit the right of group members to question and revise traditional authority and practices.”⁶⁶ As mentioned by Avigail Eisenberg, this is not without difficulty since one can hardly think of any example of external protection that does not imply some form of internal restriction.⁶⁷

Nonetheless, Kymlicka cannot allow for the defence of a theory of cultural pluralism at the expense of individual liberty, since such liberty represents the very premise of his thought. In this sense it is the liberals’ privilege to determine the character of which cultures should be protected as such and which ones should be reformed. Kymlicka affirms, “liberals cannot endorse cultural membership uncritically.”⁶⁸ However, recognizing the attachment people have for their culture⁶⁹ and taking liberalism

⁶⁵ *Ibid.*, p. 35-7.

⁶⁶ *Ibid.*, p. 37.

⁶⁷ Avigail Eisenberg, “The Limited Resources of Liberal Multiculturalism”, *Ethnicities*, Vol. 5 (2005), p. 126.

⁶⁸ Will Kymlicka, *Multicultural Citizenship*. Oxford: Oxford University Press (1995), p. 94.

⁶⁹ *Ibid.*, p. 94.

to be both historically and conceptually linked to tolerance⁷⁰, Kymlicka argues that liberals should not wish the disappearance of illiberal cultures but rather aim at their liberalization.⁷¹

In maintaining that all cultures should comply with liberalism Kymlicka argues for an important degree of assimilation. He affirms that all liberal nations have an illiberal past and that if they have been able to evolve for the “best,” the same should happen to currently illiberal culture and argues “To assume that any culture is inherently illiberal, and incapable of reform, is ethnocentric and ahistorical.”⁷²

I only agree with part of Kymlicka’s last argument. It is indeed right that other cultures are often represented as frozen in traditional modes of living and in pre-modern time. I believe, with Kymlicka, that to represent these cultures as unable to change is to adopt an ethnocentric stance. Considering the definition of culture that I put forth in the introduction – i.e. culture as a process of meaning creation through contestation and negotiation – I do not think such a thing as a fixed culture could ever exist. Yet I doubt we should conclude from there that the development of all cultures will necessarily be along the lines of liberalization. I believe that all cultures have the potential to reform or transform themselves on their own terms.

⁷⁰ *Ibid.*, p. 155.

⁷¹ *Ibid.*, p. 94.

⁷² *Ibid.*, p. 94.

The internationalization of minority rights

In *Multicultural Odysseys*, Kymlicka focuses his attention on attempts by various international organizations to internationalize the minority rights doctrine. He identifies two major strategies that have been developed by international institutions to advance minority rights: the best practice strategy and the norms and standards strategy. The former consists in convincing non-Western countries of the advantages to recognizing minority rights by exposing the experiences of Western democracies. He thus examines the conditions under which such multiculturalism policies have been successfully developed within Western states and argues for these to be reproduced abroad. He mentions the widespread attachment to the human rights doctrine, demographic endurance of minority groups, the possibility for safe political mobilization and a desecuritization of identity issues as factors explaining the success of multicultural policies.⁷³

The second approach, more efficient according to Kymlicka, consists in determining in advance some general standards and norms for the state's obligation to protect and promote diversity. This raises the problem that I mentioned above of the categories that are used by international organizations in articulating these new sets of norms. Categories are usually either generic or "targeted." Kymlicka notes that generic approaches have been insufficient in advancing rights of minorities, which explains the development of targeted categories. Meanwhile he regrets that the development of the

⁷³ Will Kymlicka, *Multicultural Odysseys: Navigating the New International Politics of Diversity*. Oxford: Oxford University Press (2007), p. 133.

few targeted categories that do exist has been undertaken in an *ad hoc* manner, leaving gaps in coverage and “a tendency to universalize what in fact are regional specificities.”⁷⁴

I mention this aspect of Kymlicka’s work because I believe international institutions play an important role in framing minority rights; in maintaining and reproducing what I call the myth of the civic nation at the expense of self-determining cultural minorities and for the further advancement of liberalism. International institutions represent the upper level of a hierarchical structure. In theory, they represent the ultimate protection for minority rights but international institutions also represent the ultimate example of the myth of the civic nation against which the nationalism of minorities clashes. I will address this point in a more detailed manner in last section of chapter two. The material I have presented in this chapter constitutes a complete overview of Kymlicka’s theory of cultural rights with a focus on the rights of self-determining peoples, which he himself labels national minorities.

From this overview there are mainly two things that I wish the reader to keep in mind as I will focus more specifically on nationalism in chapter two. First, with this current chapter I wanted to highlight how Kymlicka’s definition of societal culture is determined and limited by a statist logic as well as a project of expanding liberalism, which infuses all of Kymlicka’s thought. Second, and as a consequence to the first point, is that this definition of culture results in a very limited conception of the political community that is also subject to the statist logic, namely the nation.

⁷⁴ Will Kymlicka, *Multicultural Odysseys: Navigating the New International Politics of Diversity*. Oxford: Oxford University Press (2007), p. 175.

Along the same lines, in chapter two I will explore the broader literature on nationalism to identify two distinctions that I believe are relevant for analyzing the implications of the adoption, in relations to the state, of a nationalist discourse by self-determining peoples. I will argue that both the distinction between traditional and neo-nationalisms and between civic and ethnic nationalisms operate in a vertical manner in Kymlicka's work, although I believe it applies to the literature on liberal multiculturalism in general.

Chapter 2

In this thesis I argue that the adoption of a nationalist discourse by self-determining peoples tends to create a hierarchy of peoples on which relies the state system that is necessary to the liberal international order. By adopting a discourse that is dominated by and articulated for the state as the ultimate sovereign power, minorities risk being caught up in a logic that reaffirms both the privileged position of the state in managing diversity and their own subaltern position. Nationalism is here defined as a political movement aiming at the achievement of self-government for each nation. This is a vague statement that could be interpreted in many different ways and, accordingly, the literature on nationalism is extremely vast and diverse. Conceptions of what a nation is and, consequently, what nationalism is, may change a great deal, but it is possible, in my belief, to identify at least two main distinctions.

The first distinction, simpler than the second, divides nationalist movements into two groups. On the one hand there are traditional nationalisms aiming at the achievement of the nationalist principle, i.e. the creation of an independent state for each nation. On the other hand there are some neo-nationalist movements, which seek political autonomy over a more or less broad range of issues while remaining part of a multinational state.

The second distinction is between civic and ethnic nationalisms. I mentioned above that this distinction is more complex and this is the case for two main reasons. First, the civic/ethnic dichotomy runs across the one between traditional and neo-nationalisms. It matters not whether a nationalist movement is pursuing the project of establishing a state or if it is trying to achieve self-governance within a state; nothing

allows us to presume whether its nature is predominantly civic or ethnic, this despite the fact that the state is still strongly associated with the myth of the civic nation. I say “predominantly” and speak of the “myth” of the civic nation because it is today well known that no nationalist movement is or has ever been purely civic or purely ethnic. This leads me to expose a second reason that this dichotomy is more complex, i.e. an apparent inconsistency considering that in the empirical reality such a dichotomy does not *actually* exist and yet it recurs in theory. This dichotomy remains a privileged analytic tool in the literature on nationalism even though the great majority of authors recognize that the reality is more complex on the ground.

After having argued how both traditional and neo-nationalism reify the state and thus create a normative difference between majority and minority nations, I will consider the justifications for the recurrence of the civic/ethnic dichotomy and its relevance for my research project. I intend to demonstrate that while civic nationalism becomes the only legitimate form of nationalism, it fosters both the myth of the civic nation in its association to the state as well as the majority nation’s dominant position in setting the terms for recognition of self-determining peoples. To exemplify this phenomenon, I will return to Kymlicka’s work in the last section of this chapter and argue that in his theoretical framework both distinctions between traditional and neo nationalisms and between civic and ethnic nationalisms operate in a vertical manner and result in a hierarchy of peoples. For Kymlicka, the maintenance and further stabilization of the international order goes through a widespread movement of liberalization for which the recognition of cultural rights is instrumental. This is demonstrated by the obligation of the state to recognize and respect its internal diversity in order to comply with liberal

precepts. One must keep in mind that he does not problematize the relationship between the majority nation and the state and, in this regard, the majority nation has civic political obligations that surpass the ones of minorities. These minorities are recognized by virtue of being a distinct societal culture (which in Kymlicka's work is defined in objective terms) and, therefore, will always be more ethnic than the civic state.

The distinction between traditional and new nationalisms

The nationalist principle remains a very powerful ideal that one should bear in mind in studying nationalist movements. After World War One the nationalist principle, in its Wilsonian reformulation, was pushed forward in an attempt to create states that would map nationality and language to replace the old dismantled empires.⁷⁵ However, by the end of the Second World War and in reaction to Hitler's nationalist madness, the nationalist principle was disavowed by a majority. The beginning of the 1990's, with the collapse of the Soviet Union, saw a resurgence of the nationalist principle, but generally speaking there is a consensus on the impossibility of creating a state for each nation given their number in the world.

Yet, if the principle does not apply in its most radical form any more, its logic remains influential even in the context of a resurgence of stateless nationalist movements. Indeed, the distinction between traditional and new nationalisms is mostly articulated around the concept of territoriality that is corollary to the nationalist principle. This is demonstrated by Keating in *Nations Without States: The Accommodation of Nationalism*

⁷⁵ E. J. Hobsbawm, *Nations and Nationalism since 1780: Programme, Myth, Reality*. Cambridge: Cambridge University Press (1990), p. 132-3.

in the New State Order, in which he provides a comprehensive theorization of these new nationalist movements that are aiming at the achievement of self-determination within a state. Keating argues that, in an era of globalization, territory is more and more important,⁷⁶ and believes that we are witnessing a reterritorialization of social and political movements.

More precisely, these movements are made of conjunctions between two key elements, identity and territory. Keating presents a classification of the manner in which these two elements are connected; this classification goes from purely ethnic movements having no link at all with any territory, to purely regional movements for which identity has no relevance. In between are found different nationalist movements, which, according to Keating, involve the necessary combination of identity with territory. In this classification, all movements are defined by their relation to territory. Indeed, it is by a negative relation with territory that some identity groups are judged to be ethnic as opposed to national. The permanence of the association of sovereignty with territory for nationhood highlights the endurance of a certain way of conceiving politics that has been inherited from the modern era. In 1648, with the Treaties of Westphalia, sovereignty became the ultimate standard of political life in Europe and was then imposed as such to the rest of the world through the colonial project of European empires. The subsequent process of decolonization further accomplished the crystallization of this international order. As a consequence, the political stability of our world is thought through the idea of sovereignty displayed in territorial terms.

⁷⁶ Michael Keating, "Nations without States: The Accommodation of Nationalism in the New State Order", *Minority Nationalism and the Changing International Order* (ed. Michael Keating and John McGarry). Oxford: Oxford University Press (2001), p. 26-8.

This does not mean that the ideal of stability relies merely on a spatial organizational factor. Today, the ideal of stability requires more than the stable repartition of territory between states. Indeed, it has a powerful normative dimension that is made of the ideals of democracy and good governance for which the recognition of minorities is essential. Nonetheless, sovereignty over territory remains an essential condition for the achievement of these norms. In an attempt to think about different modes of political organization, it is important not to reproduce this statist logic by which our ideal of peace assumes a closed, policed territorial unit. I reject the association of sovereignty with territory for the state, and so do I for the post-nationalist framework I wish to see developed in the future. I see how my argument can provoke anxiety as to the risk of conflict if we are to reject the idea that a people's government can have absolute authority over a territory. Yet, I believe the actual system, coupled with an argument in favour of self-determining peoples, carries an even greater risk of ethnic cleansing. I emphasize the obligation we have to enter in relation with the peoples we are sharing a land with and to embrace the risk of politics. I do so without minimizing the complexity of the politics that such a relationship implies, and intend to work further on this delicate question in the future.

In her article, Nootens also argues that liberals interested in developing a theory of cultural rights for minorities, such as Kymlicka or Yael Tamir, fail to appreciate that the interaction between, on the one hand, the requirement for the modern state to have its sovereignty affirmed over territory and, on the other one, the ideal of popular sovereignty (or, in other words, the need for a nation to bring substance to the state,) leads to a

perpetuation of what Nootens calls the “statist assumption.”⁷⁷ By this expression she refers to the fact that,

Even when they recognise the multinational character of most states and justify some rights for minority nations, many liberals actually believe that there must be some kind of overarching “national” identity within a national state (in this model, the connection between sovereignty and territory underwrites the bounding of political power to statehood).⁷⁸

Nootens’s point is important for my upcoming argument concerning the vertical articulation of the traditional/neo-nationalism dichotomy in the literature on multiculturalism. I mentioned above that the civic/ethnic dichotomy runs across the dichotomy between traditional and new forms of nationalism. Accordingly, it is difficult to explore the effect of the later distinction without referring to the former. At this point let say that this project of an overarching inclusive nation and its necessary *enracinement* in territory shows the appeal to the myth of the civic nation and that a renewed version of the civic myth implies dealing with rather than ignoring minority nationalisms. Yet, the maintenance of the international order and the liberal ideal of good governance and democracy occur not only through the imperative of securing sovereignty over territory, but also through the incorporation of these new nationalist stateless movements in the myth of the liberal state and its ability to comply with internal diversity. Accordingly, the majority nation that is embodied in the state has the ability to include these new nationalisms into its own national imaginary. This is to a large extent due to the tremendous influence of liberals like Kymlicka and Charles Taylor and I will return to the work of the former in the last section of this chapter.

⁷⁷ Geneviève Nootens, “Liberal Nationalism and the Sovereign Territorial Ideal”, *Nations and Nationalism*, Vol. 12, No. 1 (2006), p. 36.

⁷⁸ *Ibid.*, p. 45n3.

For now, and before I explore the civic/ethnic dichotomy, I just want to summarize the argument that I have made in this section. On the one hand, when endorsing a traditional conception of nationalism that aims at the creation of their own state, stateless peoples legitimize the conditions of existence of the sovereign state and thus reinforce its dominant position in determining the terms of legitimate political interactions. On the other one, when aiming at achieving self-determination within the boundaries of a multinational state, those stateless peoples are caught up in this myth of the civic nation that is based on the duty of a truly liberal state to recognize and accommodate diversity. Ultimately, this also reinforces the position of the sovereign state and limits the possibility for these minorities to truly be self-determined.

The civic/ethnic dichotomy

As mentioned above, the civic/ethnic distinction is theoretically more complex than the one between traditional and new nationalisms and thus requires more careful attention. This dichotomy runs through the first one and it is interesting to see how, even though it is not a distinction that can be empirically observed, theorists of nationalism are constantly referring to it (whether explicitly or implicitly). In this section I will first explain what civic nationalism and ethnic nationalism are in theory. I will then expose an argument developed by Michel Seymour, Jocelyne Couture and Kai Nielsen, which aims to explain the reasons for the dichotomy to remain a privileged analytic tool in the study of nationalism.

In the mid-nineties Seymour, Couture and Nielsen argued that the theory of nationalism was in dire need of the development of new approaches. They claimed the civic/ethnic dichotomy was responsible for some oversimplified misconceptions of nationalisms⁷⁹ and highlighted the normative consequences of perpetuating this “distorted understanding of the complex phenomenon that nationalism has become.”⁸⁰ I believe they are right in saying, “it is by relying upon a certain conception of the nation that we adopt a certain behaviour or a set of attitudes toward nationalism. There are thus important moral consequences that follow from endorsing a particular account.”⁸¹ I share their view that the distinction between civic and ethnic nationalisms is responsible for the bad press against minority nationalism, especially when the latter is built around a concern for the survival and flourishing of a fragile culture and thus is associated with ethnicity. Yet, despite several attempts to transcend the dichotomy, no other approach has imposed itself as a serious alternative.

Civic nations are said to be subjective because they are the result of individuals’ entry into a voluntary association in order to create for themselves a state. According to the theory on civic nationalism, it is the political community that “binds together the nation.”⁸² Seymour, Couture and Nielsen retrace the origins of this theoretical account of the nation back to Ernest Renan and to his famous *Qu’est-ce qu’une nation?*, presented in

⁷⁹ Michel Seymour, Jocelyne Couture and Kai Nielsen, “Introduction: Questioning the Ethnic/Civic Dichotomy”, *Rethinking Nationalism* (ed. Michel Seymour, Jocelyne Couture and Kai Nielsen). *Canadian Journal of Philosophy*, Supplementary Vol. 22, p. 2.

⁸⁰ *Ibid.*, p. 2.

⁸¹ *Ibid.*, p. 4.

⁸² *Ibid.*, p. 2-3.

1882 at the Sorbonne.⁸³ Civic nationalists do not recognize the nationalist principle: “they only accept a principle which asserts the ‘sovereignty of the people’. A nation is viewed principally as a purely legal and political reality.”⁸⁴ This belief that a civic nation is made of a voluntary association is seriously undermined by the fact that, in reality, people have a very limited possibility of choosing their civic nation. In *Are there good and bad nationalisms?* David Brown argues,

The extent to which [people] can choose entry into another civic nation may be just as limited by legal citizenship restrictions (even for entry into liberal UK, USA, Australia etc.), as it might be by variable barriers to (and costs of) cultural assimilation in the case of cultural nations.⁸⁵

Nonetheless, in opposition, the ethnic nation is supposedly an entity based on objective characteristics. Johann Gottfried Herder is considered to be the initiator of this ethnic understanding of the nation.⁸⁶ Today the characteristics listed for the definition of a nation are often cultural rather than racial (for example, language, religion or common values and so on), and the objectivity of such criteria is contested as culture itself is more and more frequently defined as a construction. Accordingly, for the purpose of my work, it would be more accurate to speak of the cultural nation, as I see no need for this racial discourse to be part of an argument for the value of cultural belonging. I wish to dissociate myself from any argument based on race or on the idea of a common origin.

⁸³ Ernest Renan, *Qu'est-ce qu'une nation?*, Conférence faite à la Sorbonne le 11 mars 1882. http://agora.qc.ca/reftext.nsf/Documents/Nation--Quest-ce_quune_nation_par_Ernest_Renan

⁸⁴ Michel Seymour, Jocelyne Couture and Kai Nielsen, “Introduction: Questioning the Ethnic/Civic Dichotomy”, *Rethinking Nationalism* (ed. Michel Seymour, Jocelyne Couture and Kai Nielsen). *Canadian Journal of Philosophy*, Supplementary Vol. 22, p. 7.

⁸⁵ David Brown, “Are there good and bad nationalisms”, *Nations and Nationalism*, Vol. 5, No. 2. (1999), p. 292.

⁸⁶ Michel Seymour, Jocelyne Couture and Kai Nielsen, “Introduction: Questioning the Ethnic/Civic Dichotomy”, *Rethinking Nationalism* (ed. Michel Seymour, Jocelyne Couture and Kai Nielsen). *Canadian Journal of Philosophy*, Supplementary Vol. 22, p. 3.

This type of race-based argument is inconsistent with the subjective definition of culture that forms the basis of my thesis (process of meaning creation through contestation and negotiation). One could object that in most cases cultural groups *do* share a common origin. My response to this objection is that the argument of a common origin, whether the purported origin is founded on a reality or a well perpetuated myth, does not prevent us from addressing the more complex set of relations and practices upon which are build the cultural community. Features of contestation and negotiation are certainly more difficult to grasp but of a greater concern for political science. I believe it is time to break with this ethnic tradition that is in search of an objective criterion that could be opposed to the disembodied civic tradition. Rather, I argue for the need to embrace the subjectivity of culture without losing sight of the primary goal that is the empowerment of self-determining peoples.

Along the same lines, the way the civic/ethnic distinction is at play in Keating's work shows that thinking cultural factors in primordialist terms offers a very limited possibility for explaining the resurgence of nationalist movements. As Keating phrases it, cultural justifications of the nation offer "a non-explanation by arguing that things have always been this way."⁸⁷ In this sense, Keating opposes ethnicity to nationalism, which is here conceived of as a product of modernity that is always civic in some ways. He states, "It is true that the new nationalisms have emerged where there are existing fault lines or raw material for the construction of identity. However, the identities often

⁸⁷ Michael Keating, "Nations without States: The Accommodation of Nationalism in the New State Order", *Minority Nationalism and the Changing International Order* (ed. Michael Keating and John McGarry). Oxford: Oxford University Press (2001), p. 6.

undergo important changes in conditions of modernity."⁸⁸ To illustrate his point, Keating mentions the case of the Québécois and of the Flemish people both of whom have undergone a conversion of their ethnic identity into a national identity. As mentioned previously, for Keating it is the absence of a connection between identity and territory that sets ethnic movements outside the margins of nationalism. Keating does not deny that cultural features are involved in nationalist movements, as is demonstrated by the interaction of *both* identity and territory, yet his understanding of nationalism remains determined by the relationship of a people to the land. I do not share Keating's view as I believe that rejecting a primordialist approach should not result in a denial of the importance of cultural factors.

In this sense Seymour, Couture and Nielsen provide an accurate account when noting that both the civic and the ethnic accounts of the nation were always charged with subjective *and* objective features. Against the idea that there ever was such thing as a purely subjective or a purely objective nation they argue,

A careful reader of Renan and Herder will protest that this is an oversimplification of their views, for both authors integrate objective and subjective features in their characterization of the nation. For instance, Renan describes the nation as "a soul, a spiritual principle." [...] As far as Herder is concerned, we must acknowledge that he does not altogether reject the civic aspects of a nation. [...] Herder's views are much closer to what could be described today as 'cultural nationalism', and this conception is much less problematic than a purely ethnic conception.⁸⁹

Along the same lines, I suggest we can see in Renan's conceptualization of the nation, and in the value he finds in a common experience of suffering as one of the most

⁸⁸ Michael Keating, "Nations without States: The Accommodation of Nationalism in the New State Order", *Minority Nationalism and the Changing International Order* (ed. Michael Keating and John McGarry). Oxford: Oxford University Press (2001), p. 6.

⁸⁹ Michel Seymour, Jocelyne Couture and Kai Nielsen, "Introduction: Questioning the Ethnic/Civic Dichotomy", *Rethinking Nationalism* (ed. Michel Seymour, Jocelyne Couture and Kai Nielsen). *Canadian Journal of Philosophy*, Supplementary Vol. 22, p. 3.

powerful factors of cohesion of a nation, a strong sign that a civic nation can never escape a reliance on some emotional bonds even though such factors are usually associated with the ethnic definition of the nation.⁹⁰ As for Herder, I believe he should not be dismissed for defending a conception of the nation that was certainly ethnic in many ways. His works remains a relevant defence of the idea that nations should not be judged in function of universalist principles that do not acknowledge the value of their specificity.

To conclude this section, it is interesting to note that although a civic nation is said to be composed of equal citizens, Eugene Kamenka in *Political-Nationalism: The Evolution of an Idea* argues that “while minorities organized as communities can be subjects, modern history has shown that it is very difficult for them to be citizens.”⁹¹ As nations they are part of a phenomenon of which Isaiah Berlin once said “it is only by a conscious effort of the imagination that one can conceive a world in which it played no part.”⁹² Yet as self-determining peoples, or as national *minorities*, they clash against one of the most systematic and powerful expression of the nationalist phenomenon. This is consistent with my upcoming argument on the limitations of Kymlicka’s theory (and of liberal multiculturalism in general) in significantly empowering minorities in their unequal struggle against the state.

⁹⁰ Ernest Renan, *Qu'est-ce qu'une nation?*, Conférence faite à la Sorbonne le 11 mars 1882. http://agora.qc.ca/reftext.nsf/Documents/Nation--Quest-ce_quune_nation_par_Ernest_Renan

⁹¹ Eugene Kamenka, “Political-Nationalism: The Evolution of an Idea”, *Nationalism, the Nature and evolution of an Idea* (ed. Eugene Kamenka). Canberra: Australian National University (1973), p. 15.

⁹² Isaiah Berlin, “Nationalism: Past Neglect and Current Power”, *Against the Current, Essays in the History of Ideas* (ed. Henry Hardy). Oxford: Oxford University Press (1981), p. 337.

The national minority and its subjection to the myth of the civic nation

In this last section I argue that both distinctions presented above are articulated in a vertical manner, meaning that they have the effect of reinforcing the dominant position of the state and its majority nationalist movement meanwhile keeping national minorities and other stateless peoples in the lower stage of this hierarchy of nations. Such an articulation would not be possible without the enduring myth of the civic nation. This is ironic since Kymlicka rightly argues that no state can ever be neutral. All of them must rely on some cultural features to make possible the living together of their citizens. Laws must be written in a certain language and they will always reflect the culture of the majority in some ways. This is an important premise in his work because from there the state has the duty to facilitate the integration of immigrants and to recognize that, like the majority, national minorities should have the opportunity to fully enjoy their culture just like the majority. This is where the multinational nature of the state gets put forward. This is also where the myth of the civic nation gets restated and Kymlicka fails to acknowledge that a difference can be deduced between what he describes as minority nationalism and his ideal of the inclusive majority nationalism.

Considering the first distinction between traditional and new nationalisms, the liberal state is a project that looks much like a traditional form of nationalism. This is the case despite the possible recognition of its multinational character and despite the fact that in *Finding Our Ways*, Kymlicka attempts to “break the link between nation and state – to challenge the presumption that an independent state is the only or the best form for

national self-government.”⁹³ Consequently, most national minorities have to adopt a renewed nationalist programme that does not challenge the integrity of the state. One could reasonably object that there is, ultimately, a right to secession for national minorities in Kymlicka’s theory. While this is technically correct, the possibilities for acting upon this right are minimal considering the requirements to preserve the stability of the international order.⁹⁴ For Geneviève Nootens, “this is so because [liberals’] work is built on an a priori assumption on behalf of the sovereign territorial ideal embodied in the modern state. [This assumption] results in a corresponding presumption on behalf of majoritarian (state) nationalism.”⁹⁵ In the introduction of *Multicultural Citizenship* Kymlicka himself opposes the recognition of group-differentiated rights for minority cultures to the risk of secession. He argues that rights to self-government do pose a threat to social unity.

[rights to self-government] *encourage the national minority to view itself as a separate people with inherent rights to govern themselves.* However, denying self-government rights can also threaten social unity, by encouraging secession. Identifying the bases of social unity in multinational states is, I believe, one of the most pressing tasks facing liberals today.⁹⁶

It clearly appears in this quote that if a right to secession exists it is only as last resort that will be counter-balanced by the civic nationalism of the multinational state (and, here, I use the term civic nationalism in its classic understanding – i.e. as a project of uniting a political community that is composed of several sub-nations). I think it is also relevant for my purpose to emphasize that this right to self-government is not

⁹³ Will Kymlicka, *Finding Our Ways*. Oxford: Oxford University Press (1998). p. 132.

⁹⁴ Geneviève Nootens, “Liberal Nationalism and the Sovereign Territorial Ideal”, *Nations and Nationalism*, Vol. 12, No. 1 (2006), p. 39.

⁹⁵ Geneviève Nootens, “Liberal Nationalism and the Sovereign Territorial Ideal”, *Nations and Nationalism*, Vol. 12, No. 1 (2006), p. 39.

⁹⁶ Will Kymlicka, *Multicultural Citizenship*. Oxford: Oxford University Press (1995), p. 9. Emphasize added.

presented by Kymlicka as being inherent. It is rather through the recognition of a right to self-government that national minorities are encouraged to view themselves as having such a right. The possibility of secession is contained by the response of the liberal state towards national minorities. Kymlicka argues, “At the extreme, nations may wish to secede, if they think their self-determination is impossible within the larger state.”⁹⁷

Concerning the distinction between civic and ethnic nationalisms, Kymlicka makes clear his belief that such a thing as a purely civic nation is impossible⁹⁸ and rather distinguishes between the civic, inclusive nations and the ethnic ones that are closed and based on a common race.⁹⁹ This is what leads me to believe that the civic/ethnic dichotomy operates in a vertical manner in Kymlicka’s theoretical framework. Indeed, the majoritarian culture in a liberal state is seen as more likely to accommodate the presence of other nations within the state. The evolution of liberal cultures into “thinner” cultures is supposedly making these cultures “less likely to share the same conception of the good life.”¹⁰⁰

Another sign of the vertical articulation of the civic/ethnic distinction in Kymlicka’s work is found in the responsibility of the liberal state to protect members of national minorities in the case of non-respect of their individual liberties. This is especially true if they compose a minority within the minority. If Kymlicka makes clear that liberals should never aim to impose by force the respect of liberal values, his position is equivocal as to the type of protection illiberal national minorities should be granted. At one point he states, “liberals should not prevent illiberal nations from maintaining their

⁹⁷ Will Kymlicka, *Multicultural Citizenship*. Oxford: Oxford University Press (1995), p. 27.

⁹⁸ *Ibid.*, p. 200n15

⁹⁹ *Ibid.*, p. 24.

¹⁰⁰ *Ibid.*, p. 87.

societal culture.”¹⁰¹ Yet at another point Kymlicka argues, “I have defended the right of national minorities to maintain themselves as culturally distinct societies, but only if, and in so far as, they are themselves governed by liberal principles.”¹⁰² Ultimately, the state has the authority to intervene in national minorities’ affairs to ensure their compliance with the supreme liberal principle that is the protection of individual liberties.

For Couture the civic or political rights of national minorities are different than the ones of the majoritarian nation composing the liberal state in Kymlicka’s work. In *Nationalism and Global Democracy*, Couture argues that Kymlicka’s understanding of national minorities is merely cultural, that he does not recognize those groups’ meaningful political rights to control their destiny and that, consequently, their “conditions of existence depend on an external political power.”¹⁰³ The individualistic logic behind Kymlicka’s defence of cultures does not explain why a group would project itself in the future and secure its survival and makes Couture doubtful of the political relevance of the concept of the national minority.¹⁰⁴ I believe Couture is right to argue that Kymlicka’s theory of cultural rights does not lead to a real challenge of the state’s authority. However, I am not convinced by her argument that Kymlicka’s concept of a national minority is limited to matters of culture. It denies his position for a full right to self-determination for liberal national minorities because it is rather the respect of liberal precepts that determines the entitlement to political rights or not. In this sense it is accurate to say that national minorities remain subjected to recognition by the liberal state

¹⁰¹ Will Kymlicka, *Multicultural Citizenship*. Oxford: Oxford University Press (1995), p. 95

¹⁰² *Ibid.*, p. 153.

¹⁰³ Jocelyne Couture, “Nationalism and Global Democracy: Between the Myth of Community and the Mirage of the Global Village”, *The Fate of the Nation State* (ed. Michel Seymour). Montreal/Kingston: McGill-Queen’s University Press (2004), p. 72.

¹⁰⁴ *Ibid.*, p. 71.

and the majority nation. Moreover, the state remains accountable to the members of national minorities to make sure their individual liberties are respected. It is only when the state fails to honour its obligation to recognize the internal right to self-determination of its liberal national minorities that the secession of these minorities might be justified. Consequently, the context of choice provided by national minorities in Kymlicka's framework only offers limited choices – choices that are limited by whether these choices are liberal or not as well as by the state's response.

Indeed, national minorities are recognised as having a right to enjoy their culture, up to complete political autonomy, based on the criteria of being concentrated in a distinct territory or a homeland and of having past experience of self-government.¹⁰⁵ I have already said a lot about the problem of sovereignty in relation to territory. I think a lot could also be said about the requirement of having once been a self-governed entity, but simply put, it places the burden of proof on minorities, which have to demonstrate, based on historical arguments and in accordance with a liberal understanding of government and sovereignty, that they were once self-governing societies. Yet that might not even be enough to be granted a full right to self-determination.

With regards to the type of culture that provides the context of choice that Kymlicka wants to protect, I believe he gives a greater importance to the institutional or formal aspect of a culture. In doing so, whether intentionally or not, he perpetuates an enduring idea that there are some civic, modern, "thin" cultures as opposed to others that are more ethnic, less developed, "thicker." Relying on Ernest Gellner, Kymlicka affirms that societal cultures have not always existed and that their creation is indeed "intimately

¹⁰⁵ Will Kymlicka, *Multicultural Citizenship*. Oxford: Oxford University Press (1995), p. 10.

linked with the process of modernization.”¹⁰⁶ According to this theory, such institutionalisation of cultures was indeed a requirement of modernity. Kymlicka identifies three sets of explanations for the development of societal cultures:

It is a functional requirement of a modern economy, with its need for a mobile, educated, and literate work-force. Second, it reflects the need for a high level of solidarity within modern democratic states. The sort of solidarity essential for a welfare state requires that citizens have a strong sense of common identity and common membership, so that they will make sacrifices for each other, and this common identity is assumed to require (or at least be facilitated by) a common language and history. Third, the diffusion of a common culture seems required by the modern commitment to equality of opportunity.¹⁰⁷

There is undeniable historical evidence that the phenomena described above are specific to the so-called modernisation of cultures in Western societies. This is highly problematic considering that the whole recognition of cultural rights in Kymlicka’s theory does not rely on the value of culture *per se*, or on the fact that it provides its members with meanings, but rather on the possession of a societal culture which by definition is “modern and shares a common identity with an underlying commitment to individual equality and opportunity.”¹⁰⁸

Before concluding this chapter, I wish to say a word about Kymlicka’s distinction between national minorities and immigrant groups, which I see as being very problematic. What I wish to highlight is the fact that this distinction can be flipped on its head to allow for an argument that leads to a colonial project. Indeed, the problem is that there is nothing in Kymlicka’s thought to prevent future colonialism but faith in liberalism and the state as its tool. To illustrate my point I will use the example of the

¹⁰⁶ Will Kymlicka, *Multicultural Citizenship*. Oxford: Oxford University Press (1995), p. 76.

¹⁰⁷ *Ibid.*, p. 77.

¹⁰⁸ Dale Turner, “Liberalism’s Last Stand: Minority Rights and the (Mis)recognition of Aboriginal Sovereignty”, *This Is Not a Peace Pipe: Towards a Critical Indigenous Philosophy*. Toronto: University of Toronto Press (2006), p. 61.

European migration movement in America. This example is invoked by Kymlicka himself when asking: what actually distinguishes the populations resulting from colonisation from the ones resulting from immigration? He writes, “After all, many existing nations were initially formed by uprooted settlers establishing colonies in a new land. This is true of the English and French nations in Canada and the United States.”¹⁰⁹ Kymlicka’s answer to this question is that the colonial process was *collective* and initiated by governments of European countries as opposed to current immigration movements that are initiated by individuals or families.¹¹⁰ It is the absence of a collective movement of their society of origin as a whole that explains why immigrants are not able to reproduce their societal culture.

However, even more important than the issue of number is the *intention* behind the colonisation movement. Regarding colonial settlers, Kymlicka states:

They did not see themselves as ‘immigrants’, since they had no expectation of integrating into another culture: rather, they aimed to reproduce their original society in a new land. It is an essential feature of colonization, as distinct from individual immigration, that it aims to create an institutionally complete society, not to integrate into an existing one. It would, in principle, be possible to allow Chinese immigrants today to view themselves as colonists.¹¹¹

In response to this Richard Day argues that Kymlicka seems to make a distinction between colonizers and immigrants “based on what he presumes to be the ‘expectations’ of each.”¹¹²

I think Kymlicka is right to argue that there is a crucial normative difference between immigration and colonisation. It is certainly not my intention to mask a colonial

¹⁰⁹ Will Kymlicka, *Multicultural Citizenship*. Oxford: Oxford University Press (1995), p. 95.

¹¹⁰ *Ibid.*, p. 95.

¹¹¹ Will Kymlicka, *Finding Our Ways*. Oxford: Oxford University Press (1998), p. 37.

¹¹² Richard J. F. Day, “A Revelation of Canadian Multiculturalism”, *Multiculturalism and the History of Canadian Diversity*. Toronto: University of Toronto Press (2000), p. 212.

project behind harmless appearances of immigration. However, I want to highlight the normative role played by the state and by liberal principles in preventing the emergence of new colonial projects. One must have faith in liberalism not to see the danger in Kymlicka's argument, and thus must have faith in the good of the dissemination of liberal values. In first instance, it is the response of the liberal modern state in promoting integration, ideally through multicultural policies, which constitutes the first check preventing a group from recreating their societal culture.¹¹³ To opponents of multiculturalism, Kymlicka answers that *even if* multicultural policies were to enable the recreation of a societal culture (which he believes to be an irrational concern),¹¹⁴ the means involved could never counterbalance policies that promote the integration of immigrants, as demonstrated by the discrepancy in the allocation of resources to promote the unity of the majoritarian nation.¹¹⁵ This is to say that the nation building of the state should be powerful enough to impede any groups' intents to establish a societal culture through the same means that were used for the establishment of the state. One could argue that it is not so much their intentions but the criteria of history, territory and the past experience of sovereignty that grant a group the right to political autonomy (the ultimate cultural right). However, I argue that the Canadian case demonstrates that it is ultimately the intention behind the act of taking possession of a territory that makes the difference.

A second principle that has the potential to prevent a resurgence of colonialism can be found in Kymlicka's work. It relies on the liberal idea of natural individual

¹¹³ Will Kymlicka, *Finding Our Ways*. Oxford: Oxford University Press (1998), p. 38.

¹¹⁴ *Ibid.*

¹¹⁵ *Ibid.*

equality applied to the relationship between groups, thus banning eventual conquest. In the international system this is thought in terms of the myth of the equality of states. However, this valuable ideal of equality between groups is unlikely to be achieved and, as I have demonstrated in this chapter, relations of inequality are rather reproduced in Kymlicka's theory of minority rights.

To conclude, there is a third level to this vertical articulation of the two distinctions at play in Kymlicka's theoretical framework for the recognition of cultural rights. I recall that the state is situated above national minorities and has the power to limit or enable their full self-determination. As I have argued in the last section of this chapter, the appropriate response of the liberal state to claims for self-determination is what prevents its disintegration and reinforces both the position of the state and the stability of the international order. Moreover, it is the ability to integrate the multinational character of the state in the civic imaginary of the majority nation that ultimately ensures the compliance of the state with liberal theory. The third level operates when the state fails to recognize self-determining peoples and thus fails to respect the precepts of liberalism; then international organizations have a right to use their influence to promote liberalism. Through a best practice strategy or the creation of norms and standards aiming at the formal recognition of national minorities, international organizations are the ultimate safeguard body responsible for the maintenance of the liberal international order.

In this chapter I have demonstrated how both the distinction between traditional and new nationalisms and the one between civic and ethnic nationalism are at play in a vertical manner and result in a hierarchy of nationalist movements in which the myth of

the liberal civic nation is set as an ideal. In this sense, Kymlicka represents a great example of a theorist attempting to reconcile the recognition of self-determining peoples with the ideal of a liberal civic nationalism. This is seen, for instance, in his rejection of the belief that a state could offer benevolent neutrality to its people. Kymlicka, like most theorists, rejects an ethno-cultural definition of the nation that is often associated with intolerance, exclusion, ethnocentrism or ethnic cleansing. Today, no one can realistically pursue a nationalist project that would rely exclusively on cultural terms without committing in some ways to the ideal of the civic nation that is presumably embodied in the form of the state. Such a commitment can take the form of a secessionist discourse framed in terms that are judged to be legitimate with regards to international law. In this case, a civic project organized around the territorial principle is a requirement for recognition by international actors. The commitment to the civic ideal of the nation can also take the form of demands for the state to recognize and treat fairly non-secessionist nationalist movements.

Overall, there are few attempts to work on cultural nationalism. Bearing in mind the premise of my thesis that is the need for self-determining peoples to achieve a political status that would position them as an equal interlocutor with the majority nations that happen to form a state, in the third chapter I will look at the work of Johann Gottfried Herder in an attempt to engage with this segment of the literature that is often too readily dismissed for being “ethnic.”

Chapter 3

I mentioned in the introduction of this thesis the need for self-determining cultural minorities to achieve a political status that would enable them to engage as equals with the groups that form states. I doubt a fair relationship between the majority nation, embodied in the state, and the minorities who live in that state could ever be established through the paradigm of recognition. In chapter one and two I have demonstrated how a theory that is embedded in a state logic, such as Kymlicka's theory of liberal multiculturalism, reinforces a hierarchy of peoples, thus disempowering minorities in their struggle against the state. I believe the work of Johann Gottfried Herder, on the contrary, contains a strong argument for the political relevance of culture and that this argument avoids the pitfalls found in the literature on liberal multiculturalism.

Herder was born in 1744 in Mohrungen in East Prussia. Around 1762, he became a student of Kant; his 1765 work *How Philosophy Can Become More Universal and Useful for the Benefit of the People* was greatly influenced by this relationship.¹¹⁶ Around the same time he developed a friendship with Hamann and took a position in Riga where he stayed until 1769. In 1771, he won a prize from the Berlin Academy for his well-known work on the philosophy of language, the *Treatise on the Origin of Language*. In 1776, thanks in part to Goethe, he was appointed to the position of General Superintendent of the Lutheran clergy in Weimar.¹¹⁷ In 1784 he began publishing his unfinished, yet major, *Reflections on the Philosophy of the History of Mankind Ideas*. Herder died in 1803.

¹¹⁶ Michael N., "Introduction", *Herder: Philosophical Writings* (ed. Michael N. Forster). Cambridge: Cambridge University Press (2002), p. xxxvi.

¹¹⁷ *Ibid.*

Given the considerable divergence among interpretations of Herder's work, it is important to situate my reading among these various interpretations. Herder is considered by some authors to be the father of modern anthropology, as is highlighted by John H. Zammito in his book *Kant, Herder, & the Birth of Anthropology*.¹¹⁸ For others, he is considered to be the father of ethnic nationalism¹¹⁹ and debates over the political significance of Herder's thought still carry the stigma of being associated with ethnic excesses. What is incontestable is the fact that Herder was one of the rare voices of his time to argue for the value of cultural diversity against the Enlightenment thinkers and against the widespread belief that European societies represent a touchstone for the development of other peoples.

Indeed, the idea that the world is on a linear journey towards civilization with Europe as an uncontested leader was challenged by the new anthropological approach he represented.¹²⁰ It is not surprising that Herder is often presented in opposition to the Enlightenment thinkers including, among others, Kant, of whom he was a friend and student but with whom he had a famous intellectual rivalry later in his career. Herder convincingly challenged the Kantian ideal of universalism. He also denounced the cosmopolitan project, which he considered to be a disguised imposition of European culture over others. He wrote: "Least of all, therefore, can our European culture be the measure of universal human goodness and human values [...] European culture is an

¹¹⁸ John H. Zammito. *Kant, Herder, & the Birth of Anthropology*. Chicago/London: University of Chicago Press (2002).

¹¹⁹ Michel Seymour, Jocelyne Couture and Kai Nielsen, "Introduction: Questioning the Ethnic/Civic Dichotomy", *Rethinking Nationalism* (ed. Michel Seymour, Jocelyne Couture and Kai Nielsen). *Canadian Journal of Philosophy*, Supplementary Vol. 22, p. 3.

¹²⁰ David Denby, "Herder: Culture, Anthropology and the Enlightenment", *History of the Human Sciences*, Vol. 18, No. 1 (2005), p. 56.

abstracted concept, a name."¹²¹ In this sense, long before the term was popularized, Herder advocated for a right to self-determination for cultural groups.

More precisely, there are two main aspects of Herder's political thought that are important for the purpose of my thesis. Firstly, and without any surprise, I mention his argument that *all* cultures are worth of respect because they are an essential feature of a good life. For Herder a human being that is deprived from its culture is lost and in a state of extreme vulnerability. This is consistent with the premise of my work which relies on a belief in the crucial value of cultures for the system of meaning they provide to their members as well as for making possible the living together of a community. Secondly, Herder argues the state, as the ultimate mechanical form of political organization is alien to *any* culture. For Herder, each culture shall find in itself, and in accordance with its specificity, the rules for its governance. In this respect, he not only deems it unrealistic to think that something like a universal form of political organization could exist, but mostly asserts that it is disrespectful of the inner sophistication of other cultures to deny the value of their political character.

The importance of belonging

Herder's argument for the value of cultural diversity and the importance of belonging to a community is surely considered one of his most important and original legacies. This is well expressed by Berlin in his *Vico and Herder: Two Studies in the History of Ideas* in which he writes: "For Herder, to be a member of a group is to think and act in a certain way, in the light of particular goals, values, pictures of the world: and

¹²¹ Johann Gottfried von Herder, "Letters Concerning the Progress of Humanity [excerpts on European politics]", *Herder: Philosophical Writings* (ed. Michael N. Forster). Cambridge: Cambridge University Press (2002), p. 396.

to think and act is to belong to a group.”¹²² More specifically, this group has to provide its members a culture that binds them together in order to play the role Berlin is describing. Herder believes that the cultural nation or the *Volk* (two terms which he uses interchangeably) is of a fundamental importance for individuals.

From the very beginning of our lives we inherit cultural representations that give meaning to the world. Accordingly, the nation could not be considered a mere instrument for the achievement of political ends. The well-being and the flourishing of the cultural community are rather goods as such. The cultural community is the locus that allows the development of the individual and an essential condition of a good life. According to Vicki Spencer, Herder believes that “happiness, like identity, is an internal disposition that is intimately tied to the language and culture of one’s community.”¹²³ Quoting Herder, she says: “each nation has its own centre of happiness within itself, just as every sphere has its own centre of gravity.”¹²⁴

On the matter of the very complex equilibrium of forces that is established within each people it is worth quoting Herder at length. In *Reflections on the Philosophy of the History of Mankind*, Herder wrote:

As an individual man can subsist of himself but very imperfectly, a *superior maximum of cooperating powers* is formed with every society. These powers contend together in wild confusion, till, agreeably to the unfailing laws of nature, opposing regulations limit each other, and a kind of equilibrium and harmony of movement takes place. Thus nations modify themselves, according to time, place, and their internal character: each bears in itself the standard of its perfection, totally independent of all comparison with that of others. Now the more pure and fine the maximum on which a people hit, the more useful the objects to which it applied the exertions of its nobler powers, and, lastly, the

¹²² Isaiah Berlin, *Vico and Herder: Two Studies in the History of Ideas*. London: The Hogarth Press (1976), p. 194.

¹²³ Vicki Spencer, “In Defense of Herder on Cultural Diversity and Interaction”, *The Review of Politics*. Vol. 69, (2007), p. 84.

¹²⁴ *Ibid.*

more firm and exact the bond of union, which most intimately connected all the members of the state, and guided them to this good end; the more stable was the nation itself, and the more brilliant the figure it made in history.¹²⁵

There is indeed a form of historicism found in Herder's thought and all peoples, because they live according to principles that are specific to their culture, contribute to the fulfillment of humanity. If the German philosopher rejects the idea of a linear progress of humanity according to which Europe would be at the most advanced stage, he nonetheless believes in some sort of historical progress since cultures can change, evolve, transform, and regress. Yet, his historicism is substantially different than that of someone like Kant. For Herder no people could be judged superior or inferior to another. Cultures are incommensurable and one people cannot evaluate another people's achievement based on its own history and own conception of progress. Moreover, for Herder it is a mistake to believe that it would benefit the progress of humanity to sacrifice the happiness of only one of its peoples in the process. In this sense, he is opposed to thinkers such as Kant or Mill who advocates for the imposition of European standards on other peoples. For Herder it is rather a multiplicity made of many different peoples with their specific culture that makes possible the ultimate achievement of humanity.

For a long time Herder seemed almost forgotten by Western political theorists who have privileged the work of Kant and other Enlightenment thinkers. It is in great part due to the work of Taylor that we saw a resurgence of Herder's thought in the debate on multiculturalism. Indeed, Taylor's argument for the importance of being authentic to one's true nature is greatly inspired by the work of the German philosopher. Taylor draws attention to Herder's principle of originality by highlighting that "each of our voices has

¹²⁵ Johann Gottfried von Herder, *Reflections on the Philosophy of the History of Mankind* (abridged and with an Introduction by Frank E. Manuel). Chicago & London: The University of Chicago Press (1968), p. 98.

something unique to say.”¹²⁶ Despite the fact that Taylor is arguing for the relevance of Herder’s legacy for contemporary politics, there are a few problems that need to be acknowledged, among them the fact that Herder defends an essentialist definition of culture.

In the first books of *Reflections on the Philosophy of the History of Mankind* Herder argues at length that cultures are generally determined by climate and the environment, and thus, in Herder’s mind, by Providence. For him, the human being is “a living self, on whom the harmony of all powers that surround him operates.”¹²⁷ Herder states that all humans, as sensual beings, are “fashioned to their country”¹²⁸ and that, if you “deprive them from their country, you deprive them of everything.”¹²⁹ However, this statement is later nuanced by Herder’s affirmation of the singularity of a people’s national character. He writes, “For every nation is one people, having its own national form, as well as its own language: the climate, it is true, stamps on each its mark, or spreads over it a slight veil, but not sufficient to destroy the original national character.”¹³⁰

More than climate, language is the main factor for the development of the national character. As explained by Spencer, in Herder’s work, language “is not simply a tool, which we use to communicate our pre-formed thoughts, but is responsible for the actual

¹²⁶ Charles Taylor, “The Politics of Recognition”, *Multiculturalism and the Politics of Recognition*. Princeton: Princeton University Press (1994), p. 30.

¹²⁷ Johann Gottfried von Herder, *Reflections on the Philosophy of the History of Mankind* (abridged and with an Introduction by Frank E. Manuel). Chicago & London: The University of Chicago Press (1968), p. 4.

¹²⁸ *Ibid.*, p. 10.

¹²⁹ *Ibid.*, p. 10.

¹³⁰ *Ibid.*, p. 7.

forming of our thoughts.”¹³¹ Spencer goes on, describing Herder as a “radical anti-dualist”¹³² who rejected Kant’s conviction that one can separate her “feelings or language as in a different category from thoughts and thereby objectif[y] these faculties.”¹³³ On the contrary, for Herder, language and national character are part of our identity and could not be manipulated in an instrumental manner.¹³⁴ It is interesting to note that language is for Herder a formative practice rather than a fixed thing. Again, according to Spencer’s interpretation,

Language has both a subjective and an objective dimension. It is objective in the sense that the language of our community is always to a certain extent beyond our individual control due, in part, to its existence prior to our own individual birth and its constitutive role in the formation of our thoughts. Yet, as a social practice in which members of a community participate, and indeed, are responsible for creating, language is also subjective.¹³⁵

This is also an interpretation that Spencer applies to Herder’s conceptualization of cultural tradition. Cultures are constantly reinterpreted and transformed by their members, and tradition “is not a dead artefact, but a living, active force which is in a constant state of regeneration.”¹³⁶ This is a reading of tradition that is also shared by Marc Crépon.¹³⁷ Such an interpretation greatly minimizes the presumption of fixity in the definition of culture, and possibly, the presumption of essentialism. Moreover, it is consistent with the interpretation made by Seymour, Couture and Nielsen, according to

¹³¹ Vicki Spencer, “Towards an Ontology of Holistic Individualism: Herder’s Theory of Identity, culture and community”, *History of European Ideas*. Vol. 22, No. 3 (1996), p. 248.

¹³² *Ibid.*

¹³³ *Ibid.*

¹³⁴ *Ibid.*

¹³⁵ *Ibid.*, p. 250.

¹³⁶ *Ibid.*, p. 248.

¹³⁷ Marc Crépon, “Introduction”, *Idées sur la philosophie de l’histoire de l’humanité* (ed. Marc Crépon). Paris: Presses Pocket (1991), p. 25.

which there were always both subjective and objective aspects to Herder's definition of culture.¹³⁸

One last point of clarification is necessary with respect to the formation of a people's national character. If language is given a great deal of importance in this formation, it is not the unique factor. Indeed, Spencer argues that "a common environment, history, law, customs, morality, tradition and religion are all identified as contributing factors in the unity of a *Volk*."¹³⁹ Race, however, is never considered in a Herderian definition of culture. Race is irrelevant to his concept of humanity since Herder rejects the idea that such things as races could even exist. According to Spencer, "Herder is explicit that physical variations between people are only superficial. When he refers to a common descent it is in relation to humanity as a whole. [...] Kinship and blood do not demarcate *Volker*, but distinguish human beings from other species."¹⁴⁰ Thus, Herder also rejects the analogy made by many thinkers between some peoples, considered to be primitive, and apes. To conclude, although humans are distinct from animals in Herder's philosophy, they nonetheless live in a complex but harmonious and fulfilling relationship with nature. Culture is good because culture is natural and, consequently, all things that are consistent with the culture of a people are good.

¹³⁸ Michel Seymour, Jocelyne Couture and Kai Nielsen, "Introduction: Questioning the Ethnic/Civic Dichotomy", *Rethinking Nationalism* (ed. Michel Seymour, Jocelyne Couture and Kai Nielsen). *Canadian Journal of Philosophy*, Supplementary Vol. 22, p. 3.

¹³⁹ Vicki Spencer, "Towards an Ontology of Holistic Individualism: Herder's Theory of Identity, culture and community", *History of European Ideas*. Vol. 22, No. 3 (1996), p. 251.

¹⁴⁰ Vicki Spencer, "Herder and Nationalism: Reclaiming the Principle of Cultural Respect", *Australian Journal of Politics and History*. Vol. 43, No. 1, p. 3

Herder's political thought: two misconceptions

Interpretations of Herder's political thought vary greatly with regards to the literature on nationalism and to their implications for cultural groups. I wish to distance myself from two particular interpretations that I believe carry the risk of misrepresenting self-determining peoples. First, Daniel Chirot, who recognizes that Herder never had any xenophobic intentions, nonetheless sees him as the initiator of a nationalist tradition that leads to ethnic conflicts. Second, for Berlin, Herder is an apolitical thinker and thus a populist rather than a nationalist. In contrast, in the last section of this chapter, I will look at readings by Barnard and Vicky Spencer who offer more nuanced interpretations of Herder's work, allowing us to appreciate its relevance for contemporary politics.

Daniel Chirot sees Herder's work as praising the application of the nationalist principle, thus indirectly leading to a justification of ethnic violence. Indeed, Herder writes "it is a well-known and sad saying that the human species never appears less deserving of love than when it affects one another *by nations*."¹⁴¹ Nonetheless, Chirot's argument aims at demonstrating how Herder's philosophy is indirectly responsible for nationalist xenophobic crimes.

First, on the basis that Herder defends the idea that all nations have a right to exist and to develop themselves freely from any other nation's domination, Chirot concludes that the "logical consequence" is that those nations may resist their integration into larger states.¹⁴² Second, Chirot also believes Herder rejects entirely Enlightenment rationalism

¹⁴¹ Johann Gottfried von Herder, "Letters for the Advancement of Humanity [excerpts]", *Herder: Philosophical Writings* (ed. Michael N. Forster). Cambridge: Cambridge University Press (2002), p. 384.

¹⁴² Daniel Chirot, "Herder's Multicultural Theory of Nationalism and its Consequences", *American Council of Learned Societies (East European Politics and Societies)*, Vol. 10, No. 1 (Winter 1996), p. 11.

and, consequently, opens the door to violence and anarchy. Chirot argues: “the rejection of Enlightenment science and rationality is fine for literature and art, but as a political or social philosophy it is a prescription for disaster.”¹⁴³ Herder’s rejection of rationalism should be scrutinized further. Herder is not rejecting simply any form of rationalism but only the European pretension to the elaboration of a generic system of thought that would fit any cultural context. Finally, Chirot rejects the idea that all cultures are absolutely incommensurable and fears that the less powerful nations, if adopting Herder’s idea that all cultures are of equal value, would be tempted to seek their *just* share of power.¹⁴⁴ The unfair division of power and the existence of hegemonic nations are exactly what is at stake in Herder’s philosophy, as for him it is not the lower position of some nations that is problematic but the dominant position of a very few.

I also wish to dissociate myself from Berlin’s reading for, although it rightly brings attention to Herder’s legacy within Western philosophy and although it is recognized as a major contribution by all specialists on the matter, it denies the political significance of Herder’s work. Indeed, Berlin opposes the populism doctrine to the nationalist doctrine and associates Herder with the former, arguing that, for the German philosopher, the belief in the value of belonging to a group or a culture “is not political, and is indeed, to some degree, anti-political, different from, and even opposed to, nationalism.”¹⁴⁵ This even if Herder uses the word nation, as for Berlin this notion was totally apolitical. Berlin explains, “Nationality for Herder is purely and strictly a cultural

¹⁴³ Daniel Chirot, “Herder’s Multicultural Theory of Nationalism and its Consequences”, *American Council of Learned Societies (East European Politics and Societies)*, Vol. 10, No. 1 (Winter 1996), p. 11.

¹⁴⁴ *Ibid.*, p. 11-12.

¹⁴⁵ Isaiah Berlin, *Vico and Herder: Two Studies in the History of Ideas*. London: The Hogarth Press (1976), p. 153.

attribute; he believes that people can and should defend their cultural heritage: they need never give in.”¹⁴⁶ This is a people’s responsibility and, according to Berlin, such a responsibility should not be delegated to any political power.

For Berlin, Herder seeks the more natural way of organizing human life in the world. In this sense, he thinks that one’s bonds to a community are naturally cultural. According to this interpretation, Herder gives more significance to cultural bonds than to political ones, based on the fact that the latter are constructed. Berlin sees Herder as so critical of the state that he wishes peoples could live without it:

If he denounces individualism, he equally detests the state, which coerces and mutilates the free human personality. His social vision is antagonistic to government, power, domination. [...] He wishes to create a society in which men, whoever they are, can live full lives, attain to free self-expression, 'be someone'; and he thinks that the less government they have the better.¹⁴⁷

It is right to say that Herder is very critical of the state that he considers to be an artificial form of society.¹⁴⁸ He can not come to terms with the idea that man “should be made for the state, so that his first true happiness must necessarily spring from its constitution: for how many people upon Earth are entirely ignorant of all government, and yet are happier than many, who have sacrificed themselves for the good of the state?”¹⁴⁹ Berlin is also obviously right when he states that Herder emphasizes the importance of being bound to a cultural community that gives meaning to the world. Today however, his view of Herder as apolitical is seriously contested. Indeed, to interpret Herder’s rejection of an arbitrary power or even his radical critique of the state

¹⁴⁶ Isaiah Berlin, *Vico and Herder: Two Studies in the History of Ideas*. London: The Hogarth Press (1976), p. 182.

¹⁴⁷ *Ibid.*, 180-181.

¹⁴⁸ Johann Gottfried von Herder, *Reflections on the Philosophy of the History of Mankind* (abridged and with an Introduction by Frank E. Manuel). Chicago & London: The University of Chicago Press (1968), p. 76-77

¹⁴⁹ *Ibid.*, p. 76-77

as apolitical is to defend a very narrow conception of politics. It is because Berlin himself equates the nation with the state that he concludes from Herder's rejection of the latter that he is not a nationalist and is, therefore, apolitical.

Herder's political thought and its relevance for contemporary debates

Fortunately, some more nuanced readings of Herder have emerged and constitute a sort of middle ground between Chirot's belief that he was advocating for the achievement of the nationalist principle and Berlin's total rejection of his political relevance. Barnard challenges the idea that Herder's thought is removed from any political consideration. In his book *Herder's Social and Political Thought*, Barnard, referring directly to Herder, says: "Man has never existed without political organization; it is as natural to him as his origin. Hence it is nonsense, Herder declared, to speak of a non-political state of nature."¹⁵⁰ Herder rather makes a distinction between politics and statist government and Barnard argues that there is "a twofold process at work: the infusion of the political with cultural content *and* the infusion of culture with political content."¹⁵¹ In what I consider to be a direct answer to Berlin, Barnard states:

Herder was evidently not so preoccupied with ethnic peculiarities that he overlooked distinctly political concerns. Commentators anxious to present Herder's "cultural" nationalism as essentially unpolitical, or at best apolitical, could therefore be wrong. Perhaps they took the negation of the importance of state as such or Herder's profound hostility to the status quo as the rejection of politics *tout court*. But, whatever the reasons, they strangely failed to recognize that Herder's basic objective was the same as Rousseau's: to redefine politics and, in redefining it, make it legitimate, even though he went his own way about it.¹⁵²

¹⁵⁰ F.M. Barnard, *Herder on Nationality, Humanity and History*. Montréal & Kingston: McGill-Queen's University Press (2003), p. 55.

¹⁵¹ *Ibid.*, p. 51.

¹⁵² *Ibid.*, p. 48.

Therefore, Herder's critique concerns the state and not politics itself. He rejects the huge mechanical state, aware that such a system cannot be adapted to the unique reality of each nation. Barnard wrote: "[S]tates based on national cultures are no more natural than other states. Nationalists and others misread Herder if they think that he argues, or implies, that nation-states, unlike multinational states, are natural. For, in point of fact, Herder is hostile to *all* states."¹⁵³ The assimilation of all peoples to this unique model represents a form of violence for it requires that greatly diverse cultural groups force themselves into conceiving their political identity along standardized criteria. This holds not only for self-determining cultural minorities but for all majority cultural communities that are associated with a sovereign state.

It is also worth noting that according to Barnard, most of all, Herder is opposed to any form of non-legitimate government and fears abuses of power. This is what makes Barnard believe that Herder would privilege the rule of law over the rule of men.¹⁵⁴ In Herder's thought there is a strong concern for good governance which can never be applied by a foreign power. Yet, this obligation also applies to the nation itself as Dominic Eggel, André Liebich and Deborah Mancini-Griffoli have suggested that "[...] however strong the claims of the nation, they can never override the injunction of good governance."¹⁵⁵ According to Barnard, Herder thinks that a people would be fully emancipated only when it will not need to be ruled anymore, even by its own representatives. Barnard writes, "To be truly human, therefore, humans must reach a

¹⁵³ F. M. Barnard, *Herder on Nationality, Humanity and History*. Montréal & Kingston: McGill-Queen's University Press (2003), pp. 9-10.

¹⁵⁴ *Ibid.*, p. 23.

¹⁵⁵ Dominic Eggel, André Liebich and Deborah Mancini-Griffoli, "Was Herder a Nationalist?", *The Review of Politics*. Vol. 69 (2007), p.56.

stage of acting together (*Zusammenwirken*) when they no longer need a master to rule them."¹⁵⁶ One can doubt such a stage will ever be reached. What is crucial for my purpose is the idea that, in order to be considered legitimate, laws must be adapted to the specific culture of the group to which they apply. Herder wrote: “[A] law should fit a particular people as perfectly as an item of clothing, by virtue of having emerged in response to the particular circumstances of that people.”¹⁵⁷ A nation is free only when it lives according to the law it finds in itself – on this point Barnard says that Herder is defending a concept of “self-determination” that would be consistent with the law of Nature or with the law of God.

Today the language of nature is misleading and we certainly do not need to adopt Herder’s eighteenth century essentialism. Similarly, Herder is often said to defend an organic conception of the *Volk*, from which the political community emerges. Yet, this does not mean that he sees politics as some sort of spontaneity. Barnard argues: “Herder was determined to oppose political *culture* as something *sui generis* to both Hobbes’ leviathanic “power” and Rousseau’s transcendent “will,” that is, as something that was neither mechanical nor metaphysical in its origin and expression.”¹⁵⁸ In this sense, political culture is rather an ongoing practice that implies the participation of its members. Barnard believes Herder sees politics “not as an “instrument” but as an *activity*, an associative pursuit of ends”.¹⁵⁹ Likewise Barnard argues that Herder “recognized the

¹⁵⁶ F.M. Barnard, *Herder on Nationality, Humanity and History*. Montréal & Kingston: McGill-Queen's University Press (2003), p. 8.

¹⁵⁷ Davis Denby, “Herder: Culture, Anthropology and the Enlightenment”, *History of the Human Sciences*, Vol. 18, No. 1 (2005), p. 7.

¹⁵⁸ F. M. Barnard, *Herder on Nationality, Humanity and History*. Montréal & Kingston: McGill-Queen's University Press (2003), p. 152.

¹⁵⁹ *Ibid.*, p. 154.

power of sentiments of solidarity derived from participation”¹⁶⁰. In the context of Herder’s work, participation implies sharing a common culture and actively taking part to its vitality without any prescription as to what the political institutions should look like.

Along the same lines, Spencer offers interesting perspectives on Herder’s concept of the *Volk* and its relationship with the nation. According to her, it is important to bear in mind that if Herder uses the terms *Volk* and nation as synonymous, it would be an anachronism to perpetuate the analogy. In this sense, her semantic approach is similar to Berlin’s, yet she does not evacuate from Herder’s work its political significance. Spencer argues that Herder distinguishes between cultural and political communities and that “while Herder thinks that a *Volk* constitutes the most natural basis for a political association, it is significant that he recognizes that the two may not in fact coincide.”¹⁶¹

Like Barnard, Spencer highlights the subjective aspect in the constitution of such community. Indeed, she states: “Traditions, political systems and laws which are based on coercion are, for Herder, bereft of legitimacy. Thus, a crucial factor in determining whether or not individuals constitute a *Volk* is their willing identification with it.”¹⁶²

Solidarity is for Spencer the most important constitutive factor of the *Volk*. She writes: “The crucial feature of a *Volk* which emerges from Herder's analysis is communal solidarity. The factors contributing to the unity of a *Volk* may differ, but a *Volk* cannot exist without a certain level of solidarity amongst its members.”¹⁶³ Spencer also

¹⁶⁰ F. M. Barnard, *Herder on Nationality, Humanity and History*. Montréal & Kingston: McGill-Queen's University Press (2003), p. 154.

¹⁶¹ Vicki Spencer, “Towards an Ontology of Holistic Individualism: Herder’s Theory of Identity, culture and community”, *History of European Ideas*. Vol. 22, No. 3 (1996), p. 252.

¹⁶² *Ibid.*, p. 252.

¹⁶³ Vicki Spencer, “Herder and Nationalism: Reclaiming the Principle of Cultural Respect”, *Australian Journal of Politics and History*. Vol. 43, No. 1, p. 6.

emphasizes the inter-relational nature of the Herderian cultural community: “[t]he character of a *Volk* cannot be considered crudely as the aggregate of various isolated personalities, but emerges instead out of their mutual relationships and interactions as something unique in itself.”¹⁶⁴

Given this broad definition of a *Volk*, the perfect mapping between this cultural community and the political nation is not so obvious, even if one were to adopt a renewed conception of the latter. It should not be concluded from this observation that Herder’s concept of the *Volk* is apolitical. Indeed, Herder wants every *Volk* to be autonomous or *self-determining* in today’s terms. Peoples should be free from any relation of domination and, according to Spencer, Herder believes that the “most natural and stable political associations are those which emerge free from such interference.”¹⁶⁵ Spencer further argues that Herder “denies the existence of a ‘best form of government’ [...] Thus, when he says that a *Volk* is the most natural state, he does not think that all *Volker* ought to strive for a modern bureaucratic state, but that unified cultural communities form natural divisions among people from which socio-political associations emerge as an expression of their culture.”¹⁶⁶ I believe it is realistic to think that not all cultural groups or *Volk* will conceive of themselves as a self-determining people. Yet, if we follow Spencer’s reading of Herder, we can see that should they do so, our understanding of the relationship between the cultural and the political should be more flexible in order to

¹⁶⁴ Vicki Spencer, “Towards an Ontology of Holistic Individualism: Herder’s Theory of Identity, culture and community”, *History of European Ideas*. Vol. 22, No. 3 (1996), p. 253.

¹⁶⁵ *Ibid.*

¹⁶⁶ Vicki Spencer, “Herder and Nationalism: Reclaiming the Principle of Cultural Respect”, *Australian Journal of Politics and History*. Vol. 43, No. 1, p. 7.

appreciate the specific political character of each people rather than forcing them to adopt the main national model.

I think it is important to mention a reservation I have with regards to Spencer's work. In an attempt to make Herder's thought applicable to current concerns in intercultural relations she emphasizes the potential internal diversity of the *Volk*.¹⁶⁷ In doing so I believe she is stretching Herder's argument a little too far. Her interpretation is based on Herder's rejection of dualism. She convincingly argues: "Herder's attempts to mediate between apparent mutually exclusive opposites such as unity and diversity, the universal and the particular, individual freedom and determinism, have often meant that he has been seen as a highly unsystematic and contradictory thinker."¹⁶⁸ It is in Herder's defence of individual rights that Spencer finds evidence that he acknowledged diversity within the *Volk*. I agree with her that it is a mistake to depict Herder as a thinker who was aiming at purity within the *Volk*. Yet, one must admit that the recognition of the diverse nature of a group based on an individualist argument really only offers a limited view of diversity.

Considering that for Herder the only legitimate political institutions are the ones that emerge from the cultural community, diversity should be equally celebrated at the political level as well as at the cultural level. Herder rejects the option of indiscriminately forcing the standardized institutions of the modern state on all peoples. Drawing on Herder's legacy, I argue for the importance of acknowledging the legitimacy of a great diversity of political communities and, consequently, to acknowledge a

¹⁶⁷ Vicki Spencer, "In Defense of Herder on Cultural Diversity and Interaction", *The Review of Politics*. Vol. 69, (2007).

¹⁶⁸ *Ibid.*, p. 81.

diversity of legitimacies. Such legitimacies might not find any equivalence in our culture. Besides, to argue for a more flexible approach in the conceptualization of self-determination and good governance does not tell us what these new forms of political organization would look like. These two problems, coupled with the difficulty of thinking politics outside of the statist logic result in a great level of uncertainty. I am not trying to minimize this uncertainty or to pretend that to accept the legitimacy of different forms of political communities would simplify in any way relations between groups. There are no easy solutions to the conflict between Palestine and Israel or to the intricate situation in the Balkans. This is why rather than attempting to provide any decisive answer, the fourth chapter of my thesis represents an attempt to respond to the main objections made against the nationalism of stateless peoples. Indeed, these criticisms could easily be transferred to the post-nationalist framework that I wish to see developed in the future. Yet, to embrace the cultural diversity of our world and to accept its corollary – diversity in thinking politics – is in my opinion the only possible ground for establishing a fair people-to-people relationship that would replace the recognition paradigm.

Chapter 4

To develop a post-nationalist framework implies taking a critical stance towards nationalist movements of *both* stateless peoples and the state. The nationalism of stateless peoples is very often criticized for disrupting the order of the international system. This criticism works to deflect any possibility of empowerment and reinforces the status quo considering that the nationalism of the state only rarely faces the same criticism. This is what I have been attempting to do with this thesis so far. Yet, doing so does not prevent one from addressing some of the recurrent critiques that are made against minority nationalism. In this chapter I will provide the beginning of an answer to these objections.

First, there is the fear that a theory of self-determination would lead to an intense multiplication of claims towards states and international organizations. It seems that no matter the form these claims would take (i.e., whether they aim at the creation of a new independent state or not) they are perceived as a threat to the international order. Second, there is a related, regularly invoked fear that these claims would potentially lead to an increase in violent conflicts between groups and to ethnic violence against newly created minorities. Both the fear of the multiplication of sovereign entities and the fear of ethnic violence are articulated in the requirement of the stability of the world order.

To be clear, these objections concern stateless nationalist movements in general but they are systematically invoked and with vehemence, when it comes to ethno-cultural nationalism or when a group does not strongly commit to the liberal ideal of the civic nation. Such objections could thus be easily transposed to any attempt to develop a post-nationalist framework for the empowerment of self-determining peoples, particularly one

that is inspired by the work of Herder. This is why they need not be taken lightly.

Another reason why I address the requirement for stability is the fact that it plays such an important role in Kymlicka's work.¹⁶⁹ In addressing these objections, I will return to Kymlicka's theory as an example of a more general tendency in the literature on liberal multiculturalism.

The fear of instability of the international order

As mentioned in the first chapter, one of Kymlicka's primary motivations for his project of reconciling the liberal canon with collective cultural rights is the prevention of ethnic conflict and instability.¹⁷⁰ Yet, collective rights are instrumental to Kymlicka's idea of stability only insofar as this is defined by the consolidation of the liberal order. Ironically, the logic according to which the recognition of political rights of national minorities would pacify the world has to be restrained not to fall into the other extreme, and thus voids its own salutary effect. Kymlicka fears that the recognition of collective cultural rights would provoke the unmanageable multiplication of claims and the risk of violence. Thus Nootens affirms that Kymlicka, like most advocates of the multinational state paradigm, "oscillates between the requirement of fairness, on the one hand, and considerations of stability, on the other one."¹⁷¹

¹⁶⁹ Geneviève Nootens, "Liberal Nationalism and the Sovereign Territorial Ideal", *Nations and Nationalism*, Vol. 12, No. 1 (2006), p. 36.

¹⁷⁰ Will Kymlicka, *Multicultural Citizenship*. Oxford: Oxford University Press (1995), p. 5

¹⁷¹ Geneviève Nootens, "Liberal Nationalism and the Sovereign Territorial Ideal", *Nations and Nationalism*, Vol. 12, No. 1 (2006), p. 36.

It is common in the literature on ethno-cultural nationalism to present a binary that opposes the stability of the world as we know it to the risk of ethnic conflicts if we are to accede, without restriction, to demands for self-determination. Accordingly, and as demonstrated in chapter two, it is the organization of the world in a system of sovereign states based on the territorial principle that represents one of the most sophisticated safeguard mechanisms against potential excesses of nationalism.¹⁷² Not only does Kymlicka fail to acknowledge the privileged position that the state and its majoritarian nation occupy in his theoretical framework, he grants the state an active role in limiting the claims of self-determining peoples and in maintaining them in a subordinated position.

I wish to highlight two main problems that are found in Kymlicka's theory and which explain why he is concerned with the need to advance the liberal international order both in the form of the Westphalian union of sovereignty with territory and in the form of the human rights doctrine through international organizations. The first problem is the fact that Kymlicka's ideal of stability relies on a false dichotomy between a supposed liberal order based on the division of the world into liberal states and the fear of ethnic violence. The second problem refers to the definition of national minority that is adopted by Kymlicka and that is inspired by the state. To focus on a set of institutions rather than on culture as an ongoing activity of meaning creation leaves an impression of fixity. This, coupled with the criteria of territorial sovereignty that is essential to Kymlicka's definition of national minority, increases the risk of conflict. I will address both problems here

¹⁷² This is what I identified in chapter two of this thesis as the third level of the vertical articulation of the distinction between civic and ethnic nationalisms. This distinction nourishes the myth of the civic nation that is embodied in the liberal state.

Firstly, this simplistic opposition between stability and violence is misleading since it does not acknowledge that what is presented as stability is only possible through a certain form of violence. Indeed, for most part, this ideal of stability relies on the division of the world into sovereign state. Their territory has to be policed for the myth of the civic nation to be perpetuated. Stability is created, maintained and reproduced through coercion or by what is designated under the sanitized expression of legitimate violence. Such violence is said to be legitimate because it is a necessary safeguard of the liberal freedom that is embodied in the myth of the civic nation. Citizens are thus said to voluntarily submit to this violence. This is debatable with regards to citizens and, likewise, extremely problematic with respect to non-citizens. The state exists thanks to violent means and the myth of consent does not change this fact.

One could argue that there are numerous signs that the sovereignty of states has eroded in the last few decades and that trans-national and international organizations of all types are challenging their authority. For instance, in *Multicultural Odysseys*, Kymlicka defends the view that international organizations might be legitimate in defending the rights of national minorities against the sovereignty of the state that encompasses them. I have argued that this is only the case when international institutions need to compensate for the failures of the state. If the state fails to address stateless nations' claims to self-determination in a manner that is consistent with liberal principles, then international institutions will step in. It is only when the ultimate project of universalizing liberalism is at stake that international institutions will intervene. This means that minority claims must be legitimate from a liberal perspective. It also means that if the perfect liberal state could exist, according to Kymlicka's work, one would not

see its authority challenged by international organizations, but the perfect liberal state would rather serve as a model. It is right to argue that, according to *Multicultural Odysseys*, international institutions are responsible for dealing with groups for which the state model is obviously unfit. Yet, the fact that Kymlicka recognizes a few exceptions such as the Roma or the Jewish Diaspora does not invalidate state sovereignty as a very powerful norm.

To oppose this argument, I will return once more to the work of Herder. Both Spencer and Barnard agree on the fact that Herder completely condemns the very idea of coercion.¹⁷³ Along the same lines, and according to Barnard, “Herder rejects the concept of government as the legitimate wielder of physical power. The institution of *any* central political power is for [Herder] not the beginning but the collapse of politics, an obvious symptom of social decay and political bankruptcy.”¹⁷⁴ In this sense, Herder’s idea of the fully emancipated human being signifies that it would have reached the stage where it frees itself from all form of government that would need to maintain itself through violent means. Barnard argues that Herder “could see no difference between the *use* of violence and its *possession*; at any rate he argued as if the mere existence of power in itself constituted the erosion of politics as a pursuit worthy of humans who are both adult and free.”¹⁷⁵ This position from Herder is very interesting but requires being qualified a bit. I believe it is a mistake to assume that all cultures are pacific. Indeed, it denotes the idea that a linear development of all cultures towards pacification is possible. This is to

¹⁷³ Vicki Spencer, “Towards an Ontology of Holistic Individualism: Herder’s Theory of Identity, Culture and Community”, *History of European Ideas*. Vol. 22, No. 3 (1996), p. 252. And F. M. Barnard, *Herder on Nationality, Humanity and History*. Montréal & Kingston:McGill-Queen's University Press (2003), p. 154.

¹⁷⁴ F. M. Barnard, *Herder on Nationality, Humanity and History*. Montréal & Kingston:McGill-Queen's University Press (2003), p. 153-4.

¹⁷⁵ *Ibid.*, p. 153.

establish new universalizing standards. Without adopting Herder's essentialist idealism, I believe his critique of the state proposes is interesting and for the way it opens a door to negotiate new and different ways of conceiving politics in its relationship to coercion.

Secondly, as mentioned earlier, an argument that relies on the value of culture and on the importance for cultural groups to free themselves from external domination is often associated with the threat of ethnic violence. I attribute this fear of ethnic violence to the use of a particular definition of the peoples that qualify for a right to self-determination as it is currently understood. Kymlicka is certainly representative of this phenomenon. His definition of national minority is similar in many ways to the traditional definition of the state. I recall that Kymlicka emphasizes the institutional aspect of a culture to distinguish societal cultures from cultures in general.¹⁷⁶ Concerning the criteria for a people to qualify for self-determination more specifically, national minorities are said to possess a societal culture, a given territory of which the population is concentrated and an experience of having been self-governing.¹⁷⁷

Kymlicka's theory of cultural rights represents an important asset for anyone trying both to recognize the political significance of culture and, at the same time, to limit the effects of such a proposition. Because he justifies addressing the claims of national minorities based the fact that their existence, in many cases, predated the existence of the state they are incorporated in, one could conclude that Kymlicka's objective is to fix anomalies of the international state system. This is exemplified in *Finding Our Ways* by the discussion over the limits of multicultural policies. Kymlicka admits that, "in

¹⁷⁶ See page 25 of this thesis and Will Kymlicka, *Multicultural Citizenship*. Oxford: Oxford University Press (1995), p. 76.

¹⁷⁷ Will Kymlicka, *Multicultural Citizenship*. Oxford: Oxford University Press (1995), p. 10.

principle” immigrants could reproduce their societal culture, but that it is very unlikely to happen considering that “multiculturalism has not replaced any of the broader panoply of government policies and structures that promote societal integration.”¹⁷⁸

There is a sense of finitude in Kymlicka’s theory in the sense that recognition is only due to peoples with a past or current experience of sovereignty and whose sovereignty is not properly recognized by the international system. Those societal cultures which are in a minority situation and which have been integrated for whatever reason into a larger state will get recognition in order to prevent violence from breaking out. Kymlicka writes as if it was possible to bring a final solution to the problem and make sure that his definition will not allow new movements to emerge even though he recognizes this as a theoretical possibility. If Kymlicka’s theoretical project were to succeed, the only remaining problem of diversity would be related to immigration, which can be limited by a requirement of integration.

It is remarkable that Kymlicka’s definition of national minority is so inspired by the state, considering that in his thought the state always occupies a privileged position where it possesses the authority to maintain the *status quo* of the unfair division of power that indeed opposes the state to its minorities. To think national minorities or self-determining peoples along the same lines as the state does not empower them against it. This is especially the case given the argument, made in chapter two of this thesis, regarding the ability of the liberal state to incorporate the nationalisms of those peoples into the state’s national civic imaginary. Such conceptual similarities between state and national minorities denote however an inability or a refusal to think politics outside of the

¹⁷⁸ Will Kymlicka, *Finding Our Ways*. Oxford: Oxford University Press (1998), p. 37.

state framework. The political emancipation of national minorities is thus limited by the very definition of the term.

Yet, the most problematic aspect of Kymlicka's definition of national minority is that it reproduces the problems of totalizing power and exclusion which are inherent in the state. The connection between sovereignty and territory that is found both in the definition of national minority and of the state is, for instance, very problematic and contains the seed of conflict. Indeed, territorial sovereignty being an exclusive power, there is an incentive to battle with other peoples that might claim authority over the same territory. The concept of territorial sovereignty also implies that whoever enters the territory is subject to the authority of the government which fixes the conditions of integration and exclusion. This logic can easily be transposed from *territory* to *culture* with the belief that cultures have to be homogeneous for a people to maintain an existence that is independent from the state. In this regard and considering that these stateless peoples also clash against the nation building of the state, I believe it is realistic to argue that the subjection to the state might cause some peoples to endorse a rigid position and a totalizing discourse in their defensive attempt to secure their culture. Of course, this is not to say that without this unequal relationship cultures would all be pacific, but rather simply that we cannot *assume* cultures are all opposed to diversity the way the state is.

To conclude this section and before turning to the inherent diversity of cultures, I wish to say a few words about the protection of individual liberties. The fear that individual rights will not be protected is a critique that is commonly addressed to argument in favour of collective cultural rights. It is very frequently assumed that the

liberal state because of its individualist nature is the best mechanism for the protection of those rights. There is certainly a risk that in some cultures individual liberties might be sacrificed for the interest of the community. Nevertheless, I take issue with the idea that all non-liberal cultures represent a risk for their individual members. Moreover, it is important to recall that despite the liberal theory, the current system fails to protect the rights of all individuals. Indeed, the state that is said to protect individual liberties really only guarantee the ones that are attached to citizenship. In this sense, I wish to recall what Kamenka said that “while minorities organized as communities can be subjects, modern history has shown that it is very difficult for them to be citizens.”¹⁷⁹

Internal diversity and the right to exit

As mentioned earlier, there is an inescapable tension between, on the one hand, an argument for a norm of self-determination that rejects the idea of a universal model of political organization and that allows a greater diversity of culturally specific legitimacies and, on the other hand, the establishment of the norm of self-determination itself. Indeed, the norm of self-determination requires principles (which always have a universal pretension) to determine whether a people’s right to self-determination has been properly achieved. This is of a crucial importance with regard to conflicting rights to self-determination as such conflicts will inevitably happen. They will happen internally between sub-groups and individuals and they will happen externally between different peoples enjoying the same right to be self-determined. Although it is not the main

¹⁷⁹ Eugene Kamenka, “Political-Nationalism: The Evolution of an Idea”, *Nationalism, the Nature and evolution of an Idea* (ed. Eugene Kamenka). Canberra: Australian National University (1973), p. 15.

concern of my thesis, I am well aware that it is inevitable to discuss the limits of a norm of self-determination.

I have questioned the adequacy of the literature on liberal multiculturalism for the empowerment of stateless peoples and I have demonstrated how, because of its connection with the state system, liberal multiculturalism tends to reinforce a hierarchy of peoples. Earlier in this current chapter, I have also argued that the liberal order we actually have has come about at the expense of many peoples and even now depends on violence. Nevertheless, one could easily argue that, regardless of the inherent problems to this liberal international order we currently live under, we absolutely need an order of some sort, regulated by institutions still to be determined. I agree with this point of view and I am not making an argument in favour of unregulated, lawless international relations. My argument is not opposed to the rule of law, but I insist that the development of rules should be political and should take the form of negotiations in which different peoples (especially those who have been excluded or marginalized) should have an equal opportunity to take part. It is very difficult to say what the rules and institutions of a proper international order should look like. This is especially true because we have not even established the conditions for genuine and meaningful negotiation, let alone engaged in the cross-cultural negotiations that would be needed. Nevertheless, the definition of culture does offer some guidance.

In the introduction to my thesis, I have defined culture as a process of meaning creation through contestation and negotiation. I am especially interested in the type of cultures whose systems of meaning cover the full spectrum of human activities for, I argue, they are the ones that are the most likely to develop into a political community or,

in other words, into a self-determining people. These cultures are bound to be diverse in some ways. That is what leads to contestation and negotiation, in other words, politics. Although some people think of culture in terms of race or common origins, that is an anti-political view, at odds with the dynamic of culture. More important than a common origin, are the practices by which a culture is constructed. These practices are always generating new meanings, new ways of being in and of the culture concerned. These practices are always generating problems that the people within that culture have to work out politically.

I believe culture is important for it provides its members a system of meanings that allows them to make sense of their world. The crucial value of culture is not so much in its tangible aspects (although the role they play should not be minimized either) as in the particular vision of the world according to which events takes their meaning within that culture. Meaning is necessarily the result of negotiation. If it is not open for contestation, the culture cannot play its interpretative role. In this sense, homogeneity and fixity are two sides of the same coin and are at odds with the reason why people need culture. I do not think such thing as a fixed and homogenous culture could even exist given that the world we live in is constantly changing. Even more important is the idea that meaning is something that cannot be forced on someone. Contrary to the theory of the state and the supposedly legitimate violence by which it maintains itself, meaning can never be imposed on members of a culture. Culture always requires participation of some sort, and so a right to exit is implicit in its nature.

Let me clarify what I mean by exit. It is very different from Kymlicka's idea that immigrants voluntarily abandon their societal culture when they immigrate to a new state.

Kymlicka's theorizing of immigration does not do justice to the complexity of the phenomenon. The way I define culture, it is so ingrained in ourselves that we always carry it with us and it is very difficult to actually leave it behind. This is to say that theorizing exit must go hand-in-hand with theorizing diversity from within the culture. One can imagine that the cost of exiting a culture completely must be very high. Exit is often a last resort and one might imagine that individuals will decide to leave their culture only after having tried to change it from within. If people do leave, they still carry with them a certain vision of the world they have inherited from their culture. We cannot assume that people who stay as members of a culture necessarily agree with every single one of its practices. Moreover, to leave a culture implies entering a new one or, at least, being situated somewhere in transit, at the margins of several cultures.

Without this idea of mobility between cultures, it is difficult to think the legitimacy of cultures even in the context of an argument in favour of acknowledging various forms of political legitimacy. For Anne Phillips, who proposes a renewed version of multiculturalism, the right to exit one's culture is "the main protection against undue cultural pressures."¹⁸⁰ However, more than just the legitimacy of a culture, but a culture's vitality and ability to flourish are at stake in this basic requirement of mobility. Indeed, for a culture to be dynamic, it must be open to diversity and able to negotiate the impact of such diversity in its own terms. What I mean by this is that this feature of diversity is different from *adaptability* in the form of liberalization. Members of a culture might decide that some ideas and practices are out of touch with their reality and reject what is considered to be progress in another cultural context. Yet, to assume that these

¹⁸⁰ Anne Phillips, *Multiculturalism without Culture*. Princeton/Oxford: Princeton University Press (2007), p. 133.

cultures which appear to be more traditional are fixed and homogenous is to essentialize them.

I mentioned above the idea that culture is an activity of meaning creation through contestation and negotiation and that, diversity is inherent to a culture that is made up of the multitude of voices taking part in the conversation of meaning creation. Referring to the work of Madhavi Sunder, Phillips wrote, “Sunder argues that more and more people are claiming the right to remain as members of a group, but define what that cultural membership means to them on their own terms.”¹⁸¹ In a sense, debates over what it is to be part of a certain culture are debates over the very nature of this culture. Of course, for this discussion over the meaning of membership to be possible, institutions of dialogue must be created and they certainly are of fundamental importance in the vitality of a culture. At the same time, it is important not to limit in advance our conception of legitimate contestation to a specific set of institutions.

To conclude this chapter I would say that if some cultures *appear* to be more inflexible than the ones that have gone through a process of liberalization and that are supposedly based on the autonomy of the self, there is no reason to assume that contestation and negotiation is not occurring at their centres as well as at their peripheries. If one accepts Spencer’s reading of Herder and the idea that the political community emerges from the cultural community with its specificity and particularities, it could be argued that these features of ongoing contestation and negotiation also qualify the political community.

¹⁸¹ Anne Phillips, *Multiculturalism without Culture*. Princeton/Oxford: Princeton University Press (2007), p. 155.

Conclusion

The main concern of my thesis has been self-determining peoples and their struggle to free themselves from the authority of the state. Those peoples, in their attempts to secure the survival and flourishing of their culture, tend to adopt a nationalist discourse that was traditionally articulated by and for the state. This thesis has aimed to offer a critique of nationalism and, more specifically, of the types of nationalist discourse that is found in the literature on multiculturalism. This critique applies to the nationalist discourse that is articulated both by the state and by stateless nations. I have argued that a nationalist discourse applied to or adopted by self-determining peoples and that aimed at their empowerment *vis-à-vis* the state, even if it seems to be promising at first, has in the long run the opposite effect of fostering the current relations of inequality between peoples. By relations of inequality I have referred to the political structure inherited from the Westphalian peace, a structure that has been reinforced by the liberal meta-norm of world order and its corollary requirement of stability and which is dominated by the sovereign state.

Within the context of this political system, the nationalist discourse of self-determining peoples clashes against the nationalist discourse of those nations that happen to possess a state of their own. If today multiculturalism represents a salutary move away from the openly assimilative nation-building project, it fails to question the privileged position of the state both as a theoretical point of departure and as the main authority in setting the terms for the recognition of minorities. Despite the fact that the multinational character of most states is now recognized, the myth of the civic nation is still alive and

well. This myth of the civic nation has its origin in the liberal principles of individualism and neutrality of the state. In the context of a multinational state, attempts to create an overarching civic nation result in efforts to domesticate and assimilate diversity.

Ultimately, and even with the attempts by advocates of multiculturalism to restore equality, attempts to achieve the myth of the civic nation result in a hierarchy of peoples.

I have argued for the importance of developing a post-nationalist framework that would acknowledge the legitimacy of a great diversity of political communities because such diversity is representative of the diverse cultures that sustain these communities. Building on Herder's legacy, I have argued that each culture should find in itself the standards of its political organization, in other words they should be self-determined. Those standards of political organization might not find any equivalence in our culture and this raises the problem of conflicting rights to self-determination. I would like to reiterate that what is at stake in my thesis are relations of domination and not relations *tout court*. Peoples cannot escape the obligation to enter in relation with one another but they should have an equal possibility to negotiate the terms of those interactions.

To conclude it is crucial to make a point of clarification. When making such critique of the nationalist discourse applied to self-determining peoples, one must be careful not to take away from them their most valuable tool in challenging the state. It would simply be suicidal for these groups to abandon altogether the nationalist discourse. Indeed, because this discourse is cast in terms that are intelligible to the state and to international organizations, it actually seems to offer a great potential for legitimating self-determining peoples. Yet, it is a double-edged sword and I have insisted that the

critique of minority nationalism must go hand-in-hand with the critique of state nationalism for the development of an equal people-to-people relationship to be possible.

In chapter one I have presented a review of Kymlicka's theory of cultural rights and its inscription in the liberal paradigm. His argument is based on the idea that culture represents a primary good, for it provides individuals the context of choice they need to live a full, autonomous life. According to Kymlicka, the recognition of diversity of states and the political rights of national minorities are requirements of liberalism and will lessen the risk of ethnic conflicts. In Kymlicka's theory, only national minorities are entitled to the political rights that would enable them to fully enjoy their culture. Such rights might go as far as a right to secession. Contrary to what is argued by many liberals, Kymlicka believes state neutrality is impossible and that it is thus the duty of a liberal state to recognize its internal diversity in order to compensate for the disadvantage that national minorities face. If it fails to do so, it is the role of international organizations to supplement the state in its duty to promote liberalism and human rights (of which collective cultural rights are an essential aspect).

Then in chapter two, I have attempted to demonstrate how the state dominates the terms of the nationalist discourse through the myth of the civic nation. I have highlighted two distinctions that I see in the contemporary literature on nationalism. The first one opposes traditional nationalism to new forms of nationalism. If the former aims at the realization of the nationalist principle, the latter takes various forms and seeks to achieve political autonomy over a more or less broad range of issues while remaining part of a multinational state. I have argued that both traditional and neo-nationalisms reify the Westphalian state and that both are limited by the stability requirement of the

international order. When a national group is aiming at the creation of an independent state of their own, they are legitimizing the conditions of existence of currently sovereign states. When, on the contrary, a national group is aiming at self-determination within the boundaries of a multinational state it reinforces the myth of the civic state that supposedly has the ability to comply with its internal diversity.

The second distinction opposes civic to ethnic nationalisms. Although there has never been any nationalism that is either purely civic or ethnic, this distinction is still a very useful analytic tool and is recurrent in the literature on nationalism. I have argued that in Kymlicka's work the distinction between civic and ethnic nationalist movements operates in a vertical manner. This is the case because there is a difference, in Kymlicka's theory, between the nationalism of the majority and the nationalism of minorities. The majoritarian nation that is embodied in the state is, according to the myth of the civic nation, more likely to accommodate the presence of other nations within the state. In this sense, it is the favourable response of the liberal state that limits the rights to self-determination of minorities, and the possibility of secession only occurs in extreme cases when the right to internal self-determination is not respected. Consequently, I have argued that the nationalism of the state will always be considered more "civic" than the nationalism of minorities, which aims at the survival and flourishing of their culture. There is a third level to this hierarchy that is represented by international organizations that ensure states respect their liberal obligations.

The ethnic or cultural definition of the nation is often associated with intolerance, exclusion, ethnocentrism or ethnic cleansing and as such is usually dismissed without any further inquiry. Johann Gottfried Herder is one of the authors that are usually associated

with ethnic nationalism, which explains why his important legacy is regularly overlooked. Herder was one of the only thinkers of the Enlightenment period to argue for the crucial importance of cultural belonging. In the third chapter I offered a review of different interpretations of Herder's work in order to better situate my own argument with regards to the political significance of culture. For Chirot, Herder's work was dangerous in the sense that it was in line with violent and exclusionary nationalism, while for Berlin, Herder was completely apolitical. Yet, for my purpose, the most interesting readings are the ones of Spencer and Barnard. Both of them reject the reading made by Chirot and Berlin and highlight the contemporary political relevance of Herder's work.

Barnard insists that Herder was a political thinker who considered politics to be a natural feature of human life. According to this reading, and contrary to what Berlin argued, to interpret Herder's critique of the state as if he rejected politics *per se* is evidence of a very limited understanding of politics as determined and limited by the state framework. Similarly, Spencer's work on Herder is enlightening insofar as it addresses two misguided beliefs with regards to the Herder's definition of the *Volk* and its relation to politics. For Spencer, it is clear that Herder's definition of the *Volk* relies on subjective criteria and not on objective cultural characteristics as it is regularly argued in the literature on nationalism. Likewise, she argues that it is a mistake to believe that for Herder the cultural community and the political community are indeed one single thing, as he rather sees socio-political associations emerging from the cultural community.

In the third chapter, without providing a final answer as what a post-nationalist world would look like, I have argued for acknowledging the legitimacy of a great variety

of political communities. Although I have argued for the need to develop a post-nationalist framework for the empowerment of cultural minorities, it is important to address the most common criticisms made against cultural nationalism. The final chapter of my thesis is also an attempt to respond to the fear of an uncontrolled multiplication of sovereign communities and the fear of ethnic conflicts which together can be placed under the umbrella fear of instability. I identify two main reasons Kymlicka's work that lead him to conclude such a risk of instability. First, there is the misleading theoretical binary between stability of the liberal order organized around the sovereign state and the risk of violent conflicts. Such a dichotomy does not acknowledge the violence of the state in establishing, maintaining, and reproducing itself. Moreover, the dichotomy, with its utopian ideal of liberal peace, also fails to acknowledge that the imposition of a standardized political structure such as the state represents a form of violence over the diversity of peoples. These are exactly the kind of reasons that led Herder to distrust the state.

The second factor that leads Kymlicka to a fear of instability is the kind of definition of national minority he is working with. The type of cultural group that is entitled to a full right to enjoy its culture and to the correlated political rights is defined in parallel with the state. Kymlicka's concept of national minority implies the possession of a societal culture as well as a minimal concentration of population over a given territory and a past or current experience of being self-governing. This definition, which is analogous to that of the state, is a sign that Kymlicka is attempting both to develop a liberal theory of cultural rights and simultaneously to limit the scope of such a theory. The most problematic aspect of his definition is that it reproduces the problems of

totalizing power and exclusion that are inherent to the state. The role played by territory best exemplifies this logic, but it would be a mistake to focus only on this dimension. Indeed, the concern for stability, which is inherent to the state, can then be easily transposed from territory to culture. Yet, I believe this is only made possible by a misconception of national minority based on the need to fix culture in a given political model.

Finally, I believe it is crucial to question the position of the state as a point of departure for a theory aiming at the empowerment of self-determining cultural minorities. I doubt these groups will ever reach a political status that would enable them to interact as equals with the peoples that have on their side the whole apparatus of the state, especially considering the force of the myth of the civic nation that is embedded in the concept of the state and that has been rearticulated in theories of multiculturalism. My work should not be interpreted as an argument for isolation based on the fact that I have rejected the framework of the state. I have not intended to reproduce the logic of the nationalist principle. What I have been arguing for is the critical need to move beyond the framework of the state in order to develop the conditions for the negotiation of a people-to-people relationship and this starts with acknowledging various form of political legitimacies.

In doing so, I believe it is crucial to embrace the dynamic nature of culture and its necessary impact on the political community. In this respect the work of Herder opens up interesting possibilities for thinking the political as an ongoing practice of participation that is nurtured and made necessary by the specificity of the cultural background. In this sense, and this question will most certainly direct my work in the future, it is more

accurate to ask what it means for a people to be self-determining in the world and how this people should relate to other self-determining peoples in a manner that is respectful of their difference. This is certainly a more complex issue than the question of the criteria with which a people should comply in order to qualify for a *right* to self-determination. While my thesis did not give any satisfactory answer to such a complex problem but it certainly opens up possibilities for future research work.

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