USE OF THESES

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Respect for Difference

The Possibilities of Pluralism

by

Robert James Sparrow

A thesis submitted for the degree of Doctor of Philosophy of
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Philosophy Program
Research School of Social Sciences
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Declaration

This thesis contains no material which has been accepted for the award of any other degree or diploma in any university and consists entirely of my own original work.

Robert Sparrow
Acknowledgments

The writing of this thesis has not been an easy process. It has taken longer and has been much more difficult personally than I would have liked or expected. As a result, the debt I owe to those who have aided and supported me over its course is great. In particular, I want to thank:

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The other theorist whose work has been instrumental in shaping this thesis is Iris Marion Young. Her book Justice and the Politics of Difference influenced me greatly in the early stages of my research and was responsible for convincing me of the inadequacy of liberalism and of the feminist critique of communitarianism. Without it, my philosophical allegiances may well have remained more traditionally liberal and I would have not have been moved to attempt to come to terms with the difficult and profound issues surrounding liberalism and difference.
Abstract

Respect for Difference: The Possibilities of Pluralism

This thesis develops a pluralist politics founded on a discursive ethics of respect for difference, in the context of a response to the liberal-communitarian debate. Drawing on and responding to the work of Iris Marion Young, Will Kymlicka, Chandran Kukathas, Michael Walzer and Richard Rorty, I combine a communitarian concern for the embeddedness of persons in social groups with a liberal recognition of the many different groups within which we find ourselves.

Chapter 1 analyses the liberal-communitarian debate as consisting of a political debate (about institutions) and a philosophical debate (about the nature of the foundations of arguments about justice). A proper understanding of these debates opens up space for a pluralist politics with communitarian foundations but without the institutionally illiberal consequences often associated with communitarianism.

Chapter 2 draws upon recent feminist and communitarian discussions to give an account of human identity as constructed through membership of many crosscutting social groups defined by difference. A concern for our situatedness need not lead to a communitarian politics as ordinarily understood, since our commitments may arise out of our membership of any number of different social groups and not just the ethnic or national communities that have been the primary focus of the liberal-communitarian debate.

Chapter 3 engages with the work of contemporary liberal theorists on the significance of cultural difference. I argue that the relation between culture and liberty is much stronger than liberals have generally allowed. I conclude that liberal arguments fail in the face of a proper account of the relation between our particular commitments and the liberties we have reason to prefer. A liberal politics can never be more than a pragmatic solution to the problems of social life in a world filled with competing conceptions of the good.
Chapter 4 addresses the accusation of relativism often levelled against communitarian views. I argue that liberals have greatly exaggerated the negative consequences of adopting a communitarian position and the benefits of a liberal one. The question remains, however, why we should continue to engage in argument in the absence of impartial reasons available to all rational persons. I suggest that alternative foundations for an ethical politics may be found in the respect with which the philosophical communitarian may respond when confronted by disagreement.

Chapter 5 investigates and expands upon the nature of this respect, which I characterise as a dialogical attitude of sensitivity towards the specificity of the other. I argue that while the consequences of such respect cannot be determined outside of the context of a particular ethical encounter, a general description is possible by drawing on its role in arguments about justice across difference. I develop such a description and argue that this respect is best understood as a relation between different social groups. Finally, I sketch an outline of a social order in which disputes about justice are settled by argument under conditions of "respect for difference". The result is a form of context-sensitive pluralism that would provide a multiplicity of heterogenous public spheres in which individuals are able to express and maintain different aspects of their identity.

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INTRODUCTION

The Problematic of Difference.

The fact of pluralism – the vast diversity of cultures, of religions and belief systems, that exists amongst the peoples of the world, and increasingly within each nation – establishes two fundamental questions for political theory. Firstly, how, if at all, can people from such different cultures and with such different beliefs resolve the various disputes about the nature of justice and the good life, in which they are inevitably involved? Secondly, what sort of institutions can take account of, accommodate and respect this diversity? In the multicultural and diverse societies that are a feature of the modern world these questions are increasingly urgent. The preferred solution to the problem of diversity in the “Western” world is through liberal institutions that attempt to accommodate difference by guaranteeing individual liberty. But both the justification for these liberal institutions and their form have come under mounting criticism from groups who see themselves as excluded from these institutions, their difference unrecognised and their particular cultures, experiences and needs ignored or devalued. In some cases it seems as though the stability of liberal societies may even be threatened by the resulting disintegration of social consensus.

In this thesis I try to say something about each of these questions. The context in which I consider them is the vigorous debate that has taken place in academic political philosophy between liberals and communitarians. This debate has centred around the significance of the different values, especially beliefs about justice, that we have by virtue of our membership of different (usually ethnic or national) communities. Whereas liberals believe that these differences can be transcended or accommodated within an over-arching framework of liberal justice, communitarians argue that these differences undermine the possibility of universally agreeable principles of justice. Instead they require that we shape our political institutions to suit the values of our particular community.
The position I adopt in this thesis is the result of what might be described as a “reluctant communitarianism”. Although when I began this project my convictions were staunchly liberal, in the course of examining the issues I slowly became convinced that liberal arguments were inadequate to the challenge posed by communitarian critics. My communitarianism was – and is – a reluctant one because I was hesitant to embrace, as I believe are most writers in the area, what appears to be its consequence: a destructive relativism. If the freedoms and institutional arrangements that we have reason to endorse depend on our particular commitments, then different societies or cultures will choose different institutional arrangements, and it seems that we will be unable to explain why any of these are better than any of the others. Without the possibility of arguments about justice that are available to all rational persons, regardless of their cultural affiliation, it seems that disputes between cultures about justice must degenerate into mere reiteration of opposing beliefs or be resolved by the threat or use of force. This conclusion is an anathema to philosophers, for whom the power of criticism is their raison-d’etre, and goes some way towards explaining the vehemence of liberal denials of communitarianism.

Worse still the “cultures” or communities, to whose traditions and shared understandings communitarians ask us to defer, often possess a number of unattractive features. Many are, frankly, sexist and maintain strict gender roles which are oppressive to women.¹ Few of them are noted for the respect they extend to homosexuals or their sensitivity to the needs of the disabled.² Instead, traditional communities and cultures of the sort championed by communitarians often tend to be authoritarian and conservative.³ The flipside of the assertion of their difference from those outside a community is often an attempt to maintain (or, in the circumstances of plurality that are characteristic of the modern world, to establish) uniformity and homogeneity within their own putative community by

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² Gutmann, 1985, 319; Friedman, 1989, 281.
³ Holmes, 1989.
restricting the liberty of its members.\textsuperscript{4} The "traditions" of such cultures often appear to be constructed retrospectively and are contested by others within the community. Their "shared understandings" seem in practice to be determined by pronouncements of internal elites and to represent and serve their interests. Furthermore, as indicated above, it is not hard to find examples where the language of group membership and the assertion of difference have been put to use in service of the oppression of and injustice towards other groups.\textsuperscript{5} If such are the cultures that we are unable to criticise, then it is no wonder that liberal philosophers have preferred to search harder for stronger liberal arguments rather than accept the communitarian strictures.

The Nature of the Liberal Communitarian Debate.

But I now believe that this response to communitarianism, while understandable, is too swift. In order to see why, we must first look more closely at the liberal-communitarian debate and what is at stake in it. In Chapter 1, I argue that the liberal-communitarian debate is best understood as consisting of two distinct debates occurring concurrently. I distinguish between a philosophical and a political question which are at stake in the debate and describe liberal and communitarian positions on each. The philosophical debate concerns the nature and status of the justifications available in argument about justice, whereas the political debate concerns the actual form of just institutions. I argue that these two debates are independent and that the position we take on one of them need not determine the position we take on the other. "Mixed" positions are possible and indeed adopted by many of the major theorists in the area. Not only does this analysis allow us better understanding of the various arguments advanced, and positions adopted, by participants in the liberal-communitarian debate, but once we understand the debate in this light we can then see that the two sources of liberal reservations about communitarianism described above come apart. A


\textsuperscript{5} Young, 1990a, 234-6.
communitarian conclusion on the philosophical debate (that disputes about justice can only be resolved by reference to the beliefs, bodies and cultures of situated subjects) need not lead to the conservative communitarian politics that liberals find so unappealing. Conversely, nor does a liberal belief in the possibility of philosophical justifications for a theory of justice available to all rational persons rule out recognition of the importance of culture and community to individuals and the adoption of a set of institutions that reflect this. Separating out the issues in the liberal-communitarian debate in this fashion allows us to look again at liberal concerns in each debate in turn.

From Community to Difference: Feminism and Communitarianism

The philosophical issue at stake within the liberal-communitarian debate concerns the nature of the justifications available to us when we reason about justice. Liberals typically hold that arguments for just institutions must be such as to be able to convince all rational persons. Communitarians, on the other hand, have emphasised the ways in which individuals are embedded in particular communities whose “shared understandings” provide the backdrop against which they view the options available to them. It is these shared understandings and the conceptions of the good that they express, communitarian writers claim, that are our ultimate recourse when determining what justice consists in. It is the particular commitments that we have as members of a community that determines the political institutions we have reason to prefer. Communitarians accuse liberals of a false universalism, of presenting the conclusions about justice of members of particular communities at a particular historical moment, as though they were valid for all persons at all times.

This is a criticism that feminists have also levelled against liberalism. A number of influential feminist critics have argued that the supposedly universal principles of liberal justice are derived from and reflect only the values, interests and
experiences of wealthy, white, heterosexual, able-bodied men. They have drawn attention to the ways in which liberalism is insensitive to the needs, experiences and perspectives of women and the ways in which its apparently neutral institutions and model of citizenship fail to be so. Liberalism is blind to gender difference, as well as to other differences amongst persons, of race, class, sexuality or bodily ableness, and this blindness, rather than being a virtue, renders it incapable of responding to the perspectives of those who differ from its hegemonic norm. At least some feminists share with communitarians the belief that differences amongst persons render impossible the universalistic justifications sought by liberals.

However, feminists have also been justly critical of communitarians in the liberal-communitarian debate. They have pointed out - as have liberal critics - that the unity of the shared understandings that communitarians point to is a fiction. There are differences within the communities discussed by communitarians, of class, sex, race, sexuality, bodily ableness, and others, that may be as significant in many circumstances as the differences between those within them and those outside. Our participation in an ethnic or national culture or community is only one of our sources of shared understandings. We have also experiences and understandings in common with those whose gender, sexual preference, race, class, et cetera, we share. In some circumstances and in relation to some issues, we may share more with them then we do with other members of our own ethnic or national culture.

Chapter 2 therefore draws upon recent feminist and communitarian discussions of identity to give an account of identity as constructed through membership of many overlapping and crosscutting social groups defined by difference. I describe how these identities may shift in different contexts and how they allow us to construct

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6 See, for example, Pateman, 1988; MacKinnon, 1989, Chp. 8; Okin, 1989; Young, 1990a. Gilligan, 1982 is also often cited to this effect and is an important source for such claims. For a critical survey of these arguments, from a perspective more sympathetic to liberalism, see Nash, 1998, esp. Chp. 2.

7 Young, 1990a, Chps 4 & 6; Frazer and Lacey, 1993, 130-162; Benhabib, 1995, 27; Kukathas, 1996, 84-6, 89, 91.
narratives through which to understand our lives and the lives of those around us. This shift in emphasis, from community to difference, allows us to see that the retreat to a unified community championed by communitarians can only occur at the expense of the recognition of the differences which exist within such communities and the things we have in common with others as members of other groups. We are members of many social groups that may constitute communities with their own culture, distinctive commitments and set of shared understandings, in particular political contexts. Which of these groups are most important to our identity will depend on context and the political circumstances in which we ask this question. To hypostatise one of these as the community and the source of our shared understandings can only be an arbitrary assertion. Considerations deriving from many aspects of who we are, our sex, our sexuality, our race, our bodily ableness, as well as our ethnic or national culture may enter into our reasoning about the institutional arrangements and liberties under which we wish to live. A concern for our situatedness, then, need not lead to a communitarian politics as ordinarily understood.

**Liberalism Found Wanting**

The real challenge to liberalism arises out of the relation between the particular commitments of an individual and the liberties he or she has reason to desire, where these commitments may arise out of the individual’s membership of any number of different social groups. But perhaps difference is not as threatening to liberalism as communitarians and (some) feminists have claimed. It has been a popular liberal response to the communitarian challenge to argue that liberalism has the resources to accommodate difference or is even a philosophy that is *founded* in the recognition of difference. In Chapter 3, I examine the implications of difference for liberalism, using the most familiar example of differences arising from our membership in different ethnic or national cultures. I argue that the relation between culture and liberty is much stronger than liberals

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8 See, for example, Larmore, 1987; Buchanan, 1989; Kymlicka, 1989; Kukathas, 1992a; Rawls, 1993; Kymlicka, 1995a; Gutmann and Thompson, 1996; Kukathas, 1997a; Kukathas, 1998.
have generally allowed. Central to my argument is a discussion of the case of a member of a minority culture considering firstly whether or not to change culture in order to benefit from the increased liberty available to members of a surrounding majority culture, and secondly whether to deliberately restrict her own liberty in order to prevent her commitments from altering over time through contact with this culture. The case of a person facing a choice of cultures shows that a communitarian account of the role of culture in our reasoning is correct. The rationality of the latter case, of self binding in order to avoid the corruption of commitments that are currently important to us, has further important ramifications for the sorts of political institutions we have reason to adopt. Our particular commitments play a crucial role in distinguishing between those freedoms which we will embrace as necessary in order for us to revise our conceptions of the good towards the good and those which we will reject because they are likely to lead us away from the good or because they are incompatible with the existence of, or are destructive of, other choices that we value. Members of different cultures will have reason to prefer different sets of liberties - a conclusion at odds with the universalism of philosophical liberalism. I also examine in depth two influential contemporary attempts to reinterpret liberalism in order to take account of the importance of our cultural commitments, one put forward by Will Kymlicka and the other by Allen Buchanan and (independently) Chandran Kukathas. Neither of these is, I argue, capable of adequately reflecting the importance of culture in our reasoning about justice or of justifying the institutional recognition and defence of culture to a level commensurate with its importance. The conclusion of Chapter 3 is therefore that liberal arguments fail in the face of a proper account of the relation between our particular commitments and the liberties we have reason to prefer. As a result, a liberal politics can never be more than a pragmatic solution to the problems of social life in a world filled with competing conceptions of the good.

Communitarianism for a Post-modern Age

If philosophical liberalism fails are we then left, as liberals suggest, in the quicksand of relativism? In fact the consequences of the failure of philosophical
liberalism are not as dramatic or unsettling as is often thought. In Chapter 4, I investigate what I describe as "the politics of argument". I explore how it would matter to our practices of argument about justice across difference if liberals or communitarians were correct in the philosophical debate. I argue that the truth of philosophical communitarianism does not have the disastrous consequences for our practices of normative political criticism that liberals suggest, because in practice philosophical communitarians may employ precisely the same set of effective argumentative strategies as can philosophical liberals. Indeed, philosophical communitarianism generates an account of the dynamic of argument which better accords with our ordinary understanding of argument and actual argumentative practices. It is philosophical liberalism which has the troubling consequence, oft noted by critics of Enlightenment reason, that those who continue to disagree with us about important matters of justice, after we have given arguments which seem to us convincing, must not only be said to be wrong but are thereby convicted of being deficient in rational personhood.

As this last observation suggests, there are important parallels between what I have described as the philosophical debate between liberals and communitarians and that which has occurred in a wider literature, between those who may be roughly categorised as defenders of the Enlightenment or modernist project and those who may be, even more roughly, described as anti-Enlightenment or "post-modernists". The question of the foundations of ethical and normative political criticism, and the consequences for our practices of criticism if these are revealed to be less than universal, has haunted sociology, anthropology, history, cultural studies and the humanities generally, as well as philosophy for at least the last thirty years. One answer to this question, offered by supporters of the Enlightenment project of modernity, is that justification for our ethical and political beliefs must be found in Reason and those things we share by virtue of our common humanity. Other thinkers, critics of the Enlightenment and especially many of those thinkers loosely categorised as "post-modernists", have argued that such justifications are impossible and then attempted to draw out the consequences of this conclusion. These are just a liberal and a communitarian position on the philosophical debate respectively. Although I will mostly confine
my attention to arguments put forward in the liberal-communitarian debate in analytic political philosophy, Chapters 4 and 5 of this thesis may also be read as presenting a version of a “post-modern” politics which has abandoned the universalist ambitions of the Enlightenment.

**Respect for Difference**

In the course of my discussion of the consequences of the failure of philosophical liberalism I suggest that alternative grounds for an ethical politics may be found in the respect with which the philosophical communitarian may respond when confronted by a disagreement founded in difference. Chapter 5 investigates and expands upon the nature of this respect, which I characterise as a dialogical attitude of sensitivity towards the specificity of the other, in order to reach some conclusions on the political debate between liberals and communitarians. I argue that while, because of its sensitivity to context, the precise requirements of such respect cannot be determined outside of the context of a particular ethical encounter, a general description is possible by drawing on its role in arguments about justice across difference.

A society in which disputes about justice are resolved by argument under conditions of respect constitutes a “communicative democracy”. The basic requirement of respect is that the other should be allowed to maintain their identity and pursue a way of life in accordance with their particular commitments. Respect for individuals grounds a set of basic “human” rights. But because the particular identities of individuals can only be maintained in social groups and because groups themselves are involved in arguments about justice, the institutional consequences of respect largely derive from the requirements of respect for social groups. Given the central role played by social groups in my account, I provide an extended defence of the legitimacy of the concept of a social group. I argue that there is an important sense in which we may speak of the interest of a group where this interest, while nothing more than the interests of the individuals that comprise the group, cannot be derived from their interests considered separately.
Respect for groups demands that they should, as much as is possible, be allowed to pursue their conceptions of the good. Sometimes this will motivate federal solutions or even secession, but in most cases it will be necessary to respect difference *within* the polis through the creation of a heterogenous public sphere. To this end there should be established a differentiated set of citizenship rights consisting of both rights granted to individuals by membership of particular groups and of rights granted to the groups as a whole. These latter rights are necessary to allow (the members of) groups to pursue their collective interests. In particular they are necessary to allow groups to pursue their collective interest in the continued existence of their distinctive culture by binding themselves to their current commitments. Groups may choose to engage in such self binding in order to resist the assimilatory pressures that their members face through their constant contact with members of other groups who do not share their values.

However, the pursuit of the collective interests of groups obviously may be problematic for two reasons. The mechanisms of self binding may deprive members of liberties available in the broader society and may conflict with the requirements of respect for other crosscutting groups within the group. For this reason I suggest that the demands of groups to maintain their distinct identity are best met by the recognition of what I call “discursive spaces”, sections of the public sphere delineated by location or group membership, within which groups are able to insulate themselves from the pressures due to the character of the wider culture, in order to pursue their particular way of life. While the multiplication of opportunities to pursue different ways of life afforded by separate discursive spaces will mitigate the conflicts due to the crosscutting nature of group identifications, it will not eliminate them because the problem of conflicting affiliations may re-occur within each of these spaces. The only way to resolve these conflicts is by argument under conditions of respect between these groups themselves and ultimately by reference to the commitments of the political community as a whole. An important limit to the rights of groups to restrict the liberty of their members is established by the possibility of the failure of respect. Some forms of life will, from a given perspective such as our own, be beyond respect.
Recognising the many groups in which we are situated allows us to acknowledge that we are embedded in communities in ways which may be significant for our reasoning about justice while avoiding the potentially conservative and authoritarian consequences of communitarianism described above. Instead the proper response is what Chantal Mouffe has characterised as an "agonistic pluralism". In a pluralistic society of this sort both the boundaries of the groups within the polis and the institutional arrangements which govern their relations are continually subject to contestation and renegotiation within a politics governed by respect. The shared understandings of such a society evolve through this process of argument. Its citizens are united by their mutual commitment to this process and their willingness to abide by its outcomes.
Chapter 1:  
The Liberal-Communitarian Debate  

§1.1 Introducing the Liberal-Communitarian Debate

The liberal-communitarian debate has been perhaps the most vigorous debate in political philosophy of the last two decades. The liberal philosophies developed by John Rawls, Ronald Dworkin, Bruce Ackerman and others were criticised from a perspective which has since come to be known as “communitarian” by theorists such as Alasdair MacIntyre, Michael Sandel, Charles Taylor and Michael Walzer. More recently, liberal thinkers including Jeremy Waldron, Joseph Raz, Amy Gutmann, Charles Larmore, William Galston, Will Kymlicka and Stephen Macedo, to name just a few, have engaged in and profited from the intense scrutiny of liberal ideas that has occurred in the course of this debate and have contributed to what is now a plethora of different and sophisticated variations of liberal theory. Feminist theorists, including Iris Young, Elizabeth Frazer and Nicola Lacey, Anne Phillips and Susan Moller Okin have also made important contributions.

It is now widely acknowledged that, as one would expect from a discussion that includes such a wide range of contributors, there are a number of issues at stake in this debate and furthermore that a failure to clearly distinguish between them has

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1 Rawls, 1971; Ackerman, 1980; Rawls, 1980; MacIntyre, 1981; Dworkin, 1981a; Dworkin, 1981b; Sandel, 1982; Walzer, 1983; Taylor, 1985; Dworkin, 1985a; MacIntyre, 1988; Taylor, 1989a; Taylor, 1992. A number of collections exist that gather important contributions to the liberal-communitarian debate. See Sandel, 1984a; Rasmussen, 1990; Avineri and De-Shalit, 1992a; Delaney, 1994; Paul, Miller et al., 1996.


3 See, for instance, Young, 1990a; Frazer and Lacey, 1993; Phillips, 1993; Phillips, 1995; Okin, 1999.
at times been responsible for confusion and a lack of progress in the area. Typically, contemporary critics distinguish between a set of ontological, or perhaps methodological, questions and a set of normative questions concerning advocacy of different social institutions which are at issue in the debate. The ontological or methodological debate concerns the relation between individuals and the communities of which they are part. Which of these is prior? Can we found arguments on the desires and interests of individuals considered apart from the communities in which they live? The normative, or advocacy, issue concerns whether we should embrace a scheme of individual rights and familiar liberal institutions or whether we should pursue institutions designed to serve the common good and the goal of “community”, or perhaps some compromise between these two poles. While these two debates often go on side by side in writings on the liberal-communitarian debate, and while an answer to the ontological or methodological question may condition the sorts of responses it is appropriate to give on the normative or advocacy question, these two debates are in fact relatively independent.

But although this is perhaps the most familiar way to divide up the issues in the dispute, it is not, or at least not precisely, the schema that I wish to adopt for the purposes of this thesis. While I will also separate out the question of what sort of social institutions we should seek to establish into what I shall call the political debate, I shall describe the other matter at issue as the “philosophical debate”, which I take to be a debate about the foundations and scope of normative argument about social institutions. The question at stake in this debate, I claim, is whether arguments about the social institutions under which we should live are available to all rational persons or whether members of different communities

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4 There are almost as many different categorisations of the issues at stake in the liberal-communitarian debate as there are surveys of that debate. For the ontological/advocacy division see Taylor, 1989a; Miller, 1999, 172. For the methodological/normative division see Caney, 1992; Avineri and De-Shalit, 1992b. Perhaps the most thorough going treatment of the different arguments in the debate is provided by Mulhall and Swift, 1996, who proceed by author. See also survey articles by Buchanan, 1989; Neal and Paris, 1990 and Kymlicka, 1993. For a highly critical account of different communitarian claims made in the debate, see Holmes, 1989. For a critical discussion of the politics espoused by various communitarian thinkers, see Friedman, 1994.
have reason to prefer different institutions. The reason why I choose to characterise the debate in this way is that I wish to highlight, and later directly confront in Chapter 4, the question of relativism that haunts the liberal-communitarian debate and especially liberal responses to it. This latter, philosophical, debate will obviously involve many of the questions concerning the extent to which individuals are constituted by, or embedded in, their social circumstances — questions that are more usually picked out as composing the ontological or methodological debate. But I am only interested in these questions, as I think most contributors to the liberal-communitarian debate ultimately are, to the extent that they impinge on the larger question as to what sorts of justifications are available in normative arguments about social and political institutions. It is the possibility that liberal arguments may not hold for all persons that is, I believe, responsible for the fervour with which liberals have responded to the communitarian challenge, rather than the origins of this failure in the "embedded" subject. Liberals are quite prepared to concede the situatedness or embeddedness of persons to the extent that this does not threaten the project of universalistic justification.  

On my account then, the liberal-communitarian debate can be divided into two debates. The first of these, which I call the philosophical debate, concerns the grounds of normative arguments about social institutions. The second, which I call the political debate, concerns the sorts of political institutions which we should adopt in our society. These two debates often occur alongside one another without being clearly distinguished. To muddy the waters further, there is no necessary correspondence between allegiance to a position in one debate and one's position on the other debate. That is, one may be a liberal in the

5 Indeed they make a point of doing so. See, for instance, Holmes, 1989, 237-9; Kymlicka, 1989, Chp. 2 & 4; Mulhall and Swift, 1996, 16-7; Goodin, 1998.
philosophical debate and yet advocate institutions which are communitarian. Or one may side with the communitarians on the philosophical issue while supporting institutions which are clearly liberal, et cetera. As we shall see below, many of the most influential voices in the debate do have, or have in the past taken, such "mixed" positions. This morass of positions makes it extremely difficult to perceive the real issues and the possibilities for progress in the debate. So before we proceed any further we would do well to map out clearly the existing intellectual terrain.

§1.2 The Philosophical Debate

Perhaps the most controversial issue at stake in the liberal-communitarian debate is the grounds of and therefore status of normative arguments concerning social and political institutions. In virtue of what do we assess arguments about the way in which we should organise society? Can we do so as individuals relying solely upon the power of reason, regardless of the community in which we find ourselves, or must we necessarily refer to the beliefs and values of our particular community? This is what I shall call the philosophical debate.

§1.2.1 Philosophical liberalism

It is within this debate that what is arguably the definitive liberal claim is situated. This is the claim, which I shall take to characterise philosophical liberalism, that reason and (perhaps) a set of propositions true of all persons together are sufficient, despite the existence of a plurality of competing reasonable conceptions of the good, to settle all disputes about justice. The italicised clause serves to distinguish what might otherwise merely be a formulation of universalism or humanism as a specifically liberal philosophical commitment. Philosophical liberalism is universalist but only about justice. Its faith in the convergence of rational opinion is confined to questions of justice. It does not hold that all rational persons will converge on a determinate conception of the good, for instance. What makes this doctrine a liberal one is the insistence that a
convergence on questions of justice is possible despite the existence of a plurality of reasonable conceptions of the good.\textsuperscript{6} If this convergence was thought to hold for a broader range of issues then the thesis would no longer be a liberal one but would instead express a partial, or perhaps a fully-fledged, conception of the good.

The main reason I have for suggesting the claim about the possibility of a rational consensus, despite the existence of a plurality of reasonable conceptions of the good, as the key liberal tenet is that many, if not most, liberal responses to the liberal-communitarian debate seem to rely on it. The sweeping Enlightenment ambitions of liberals are revealed by the vehemence of their reaction to communitarians' failure to share them. The problem liberals have with (philosophical) communitarianism is its concession to relativism; they worry that it cripples our ability to engage in cross-cultural argument about justice or even, some have suggested, criticism of our own cultural practices by depriving us of the grounds for such criticism.\textsuperscript{7} Later I will argue that this fear is unfounded. For this to be a criticism, however, it must be the case that the critics think that liberalism has something more to offer. This something more must be the ability to say of persons in other cultures that, if they do not accept what to us seem on reflection to be convincing arguments about justice, they are deficient in some capacity as rational persons. If reason is not sufficient to determine all questions about justice for all rational persons, if some further condition had to be met other than personhood and the possession of reason, then this would represent a concession, if not a wholesale surrender, to communitarianism. It would then be the case that arguments about justice could only be determined relative to some particular community within which this condition applied. For the purposes of this thesis I will credit as sufficiently liberal the thesis that arguments about justice have a determinate resolution for the class of rational human beings. That

\textsuperscript{6} See, for example, Larmore, 1994, 61, 74.

is, that all human beings, if they are rational, will come to the same conclusions about the nature of justice.\textsuperscript{8}

The clearest expression of liberalism in terms of such ambitions is to be found in Jeremy Waldron's essay "The Theoretical Foundations of Liberalism" where he claims,

... that liberals are committed to a conception of freedom and of respect for the capacities and the agency of individual men and women, and that these commitments generate a requirement that all aspects of the social should either be made acceptable to every last individual or be capable of being made acceptable to every last individual.\textsuperscript{9}

And also:

... the liberal insists that intelligible justifications in social and political life must be available in principle for everyone, for society is to be understood by the individual mind, not by the tradition or sense of community. Its legitimacy and the basis of social obligation must be made out to each individual, for once the mantle of mystery has been lifted, \textit{everybody} is going to want an answer. If there is some individual to whom a justification cannot be given, then so far as he is concerned the social order had better be replaced by other arrangements, for the \textit{status quo} has made out no claim to his allegiance.\textsuperscript{10}

Waldron's account of liberalism seems to capture the desire for a rational social order which lies at the heart of liberalism. It also highlights the links between this

\textsuperscript{8} This is not to claim that instrumental rationality alone is thought by liberals to be sufficient to allow us to reach liberal conclusions. The sense of rationality intended here is a broader one and includes reasoning about ends. A more familiar expression of the liberal ambition would perhaps be "arguments available to all reasonable persons". However I will use the more controversial formulation "all rational persons" in this thesis, in order to emphasise what I take to be the strength of the liberal claim to universalism. The claim that liberal arguments appeal only to all reasonable persons may smuggle in a reference to a particular group of persons (those who hold what we consider to be reasonable conceptions of the good) that problematises liberal criticism of communitarians as being relativists.

\textsuperscript{9} Waldron, 1987, 128. Waldron's thought in this paper draws heavily on Dworkin, 1985a.

\textsuperscript{10} Waldron, 1987, 135. Note that although the claim about the \textit{rationality} of the persons for whom the arguments for social arrangements have to be available is not explicit in either of the passages quoted, it is clearly implicit in both. The insistence that all individuals, even those who are \textit{irrational} should be convinced by arguments for the existing social order, is clearly much too strong. No argument is available which will convince the insane. Only those who are capable of being convinced by valid arguments need be able (in principle) to be convinced of the justification of the existing social arrangements for them to pass the test proposed here (Dent, 1988, 482; Cohen, 1993, 285-7).
desire and several other features of liberalism which have also often been thought essential to it and will prove important later in the argument of this thesis. The first of these is the individualism implicit in philosophical liberalism. The arguments for just social arrangements are to be available to all individuals and not just to (some members of) all communities. The second is the drive to abstraction implicit in the liberal project. In order to discover arguments which might be convincing to everyone, we must abstract away from the particular commitments which are the cause of their current disagreements. The third is the faith that this abstraction will reveal some common interest which will then provide the grounds for liberal arguments. Only by reference to some interest that all persons have in common (typically liberty) will we be able to mount an argument that might be convincing to all rational persons. As I shall discuss further in Chapter 3, the Enlightenment ambitions of philosophical liberalism establish a certain general structure for liberal arguments.

This aspiration for an argument which will convince all rational persons also drives Rawls's project in *A Theory of Justice*, which is perhaps the Ur-text for all contemporary liberal theories of justice. The role of the Original Position – and in particular the Veil of Ignorance – in Rawls's argument is to represent the Two Principles of Justice as principles which would be agreed upon by all rational persons. These devices are supposed to ensure that the justification of the two principles proceeds independently of any particular conception of the good. The reasoners in the Original Position must arrive at principles of justice to regulate the basic structure of society knowing only general facts about the nature of persons and social life. Indeed, once the Veil of Ignorance is in place there may

as well only be one agent presumed to be reasoning. Because they are deprived of
details of their particular projects, all those entering the Original Position have the
same basis upon which to reason and thus will presumably all reason the same
way to the same conclusion.\textsuperscript{17} The origin of the two principles of justice in the
rationality of the parties in the Original Position is emphasised in the "Kantian
interpretation" of the argument of \textit{A Theory of Justice} which Rawls suggests. On
this interpretation the ethics contained in the two principles is understood to be
not just the result of the parties rational deliberations but the \textit{expression} of the
nature of the parties in the Original Position as free and rational agents.\textsuperscript{18} Notice
that the parties are divorced – abstracted away – from their particular conceptions
of the good in order that the arguments considered in the Original Position may be
convincing to all.\textsuperscript{19} The only material left for the parties to reason upon is that
which all have in common, as described by the "thin theory of the good".\textsuperscript{20} Thus
the general structure of philosophical liberal arguments, described above, is also
apparent here.

It might be argued at this point, of course, that the description of the Rawlsian
argument I have given is true only of the deliberations of the parties when
imagined as present at the Original Position and that Rawls is committed to no
such theses about real persons, who actually possess conceptions of the good
which influence their reasoning about justice.\textsuperscript{21} But the question then arises as to
why we, being such persons with our own particular conceptions of the good,
should take notice of the conclusions of the parties in the Original Position.\textsuperscript{22} A
number of different answers are possible here, which will be discussed in Chapter

\textsuperscript{17} Rawls, 1971, 139.
\textsuperscript{18} Rawls, 1971, 251-7.
\textsuperscript{19} In Rawls's argument this abstraction is so complete that the many individuals who must be
convinced are effectively collapsed into one. Yet this one individual represents each individual
because they possess only entirely general features (Rawls, 1971, 139).
\textsuperscript{20} Rawls, 1971, 395-99.
\textsuperscript{21} See, for instance, Gutmann, 1985; Rawls, 1993, 27; Mulhall and Swift, 1996, 16-7, 96, 196.
\textsuperscript{22} For a more extensive discussion of the Rawlsian argument and its relation to philosophical
liberalism see §3.4.4.
3. The argument which provides the Rawlsian argument with most normative force, however, is that we should take note of the deliberations of the parties in the Original Position because the description of the parties and their circumstances captures something important about us. We should care about their conclusions because at some deep level we are creatures whose real interests are in being free to pursue any conception of the good rather than the conception of the good we possess contingently, here and now.23 Such an answer bridges the gap between the reasoning of the parties to the Original Position and our own. In doing so it acknowledges that the ambitions of philosophical liberalism and the structure they impose permeate the entire Rawlsian project and not just its distinctive argumentative device.

Of course, in his later writing Rawls backed away from a reading of A Theory of Justice which would see it as grounding a politics for all rational persons and explicitly renounces the Kantian interpretation of the argument. From “Justice as Fairness: Political Not Metaphysical” onwards, Rawls argues that the Original Position should be seen simply as a useful rhetorical device designed to draw out the implications of deeply held convictions about justice which have currency in Western democratic societies.24 This is a substantial concession on Rawls’s part. The two principles of justice are revealed as merely a distillation of the shared beliefs and understandings of certain (Western, liberal, democratic) societies.25 Rawls remains a political liberal but becomes a philosophical communitarian. It is, however, possible to rescue Rawls from this implication by insisting that the understandings that we share about the nature of persons and justice (that persons are free and equal rational agents, that a set of social arrangements agreed to under fair conditions are just, et cetera) are themselves self-evident or agreed to

23 Rawls, 1971, 251-7; Taylor and Gutmann, 1992, 57.
by all rational persons, in which case the Rawlsian argument remains a philosophical liberal one.26

Philosophical liberalism, then, involves the recognition of a plurality of reasonable conceptions of the good alongside a strong thesis about rational convergence about questions of the just. Philosophical liberals hold that, despite the genuine diversity of individuals' concerns and interests, there are some concerns or interests that all persons share which are sufficient to ensure that all rational persons will converge on a single set of answers to questions about justice. When it comes to the justification of social institutions, philosophical liberals believe that there exists some set of social institutions that can be grounded in arguments which are sufficient to convince all rational persons. As John Gray puts it,

... traditional liberalism is a universalist political theory. Its content is a set of principles which prescribe the best regime, the ideally best institutions, for all mankind. It may be acknowledged – as it is, by a proto-liberal such as Spinoza – that the best regime can be attained only rarely, and cannot be expected to endure for long; and that the form its central institutions will assume in different historical and cultural milieux may vary significantly. It will then be accepted that the liberal regime's role in political thought is as a regulative ideal, which political thought can hope only to approximate, subject to all the vagaries and exigencies of circumstance. Nonetheless, the content of traditional liberalism is a system of principles which function as universal norms for the critical appraisal of human institutions. In this regard, traditional liberalism – the liberalism of Locke and Kant, for example – represents a continuation of classical political rationalism, as it is found in Aristotle and Aquinas, where it also issues in principles having the attribute of universality, in that they apply ideally to all human beings.27

This claim may strike many as perverse. Liberalism has always trumpeted its pluralism, its tolerance, its openness, its capacity to bring dissenting voices together.28 Liberals usually don't understand themselves to be offering arguments which determine particular political disputes at all; rather they see themselves as

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26 As we shall see below, this is an alternative interpretation of the later Rawls of *Political Liberalism*.
27 Gray, 1995, 111. See also Waldron, 1993b, 169; Bricker, 1998, 47.
offering arguments for certain methods that allow us to come to agreement in practice. According to most accounts, it possesses no particular conception of the good, or at least none so narrow as to rule out of court an unreasonable number of competing conceptions.\(^{29}\) One does not need to possess some controversial set of values or commitments to be a liberal. Liberalism is tied to no particular culture. One does not have to have been born into a liberal society to appreciate the advantages of liberal institutions, for instance. Indeed liberalism is often thought to be a response to the under-determination of politics by reason. So it may seem as though I am forcing the claim to rational consensus on the liberal.

True, as I have already noted, liberals do not insist that such a convergence of reasonable opinion is possible about the good. That is, they do not believe that there is only one reasonable ethical perspective from which to view the world and determine the nature of a worthwhile human life. The reason liberals accept the existence of reasonable disagreement about the good is precisely because we cannot all agree upon it. Liberalism has abandoned the hope that all persons might be drawn to a single way of life which represents the best aspirations of the human spirit. Many liberals have further abandoned the thought that there is any one such life. Perhaps there are many lives which it is worth living and which constitute a valuable good.\(^{30}\) Liberals may concede, then, that reason crucially under-determines many important matters.\(^{31}\) These may include important issues of social policy, for instance, the level of funding for various projects, the curriculum of our schools, the morality of abortion, et cetera. The existence of

\(^{29}\) Dworkin, 1985a; Rawls, 1993, 9-10, 12. However, as James Sterba claims, it is arguable to what extent it is really possible to avoid commitment to some conception(s) of the good. Sterba suggests instead that liberal neutrality should be understood as involving only the assertion of a partial conception of the good (Sterba, 1992).

\(^{30}\) Larmore, 1994 has argued persuasively that we should distinguish between this latter and controversial claim, about the plurality of the sources of the good, and the claim above, concerning the existence of reasonable disagreement about the nature of the good (which includes disagreement about pluralism).

\(^{31}\) Cohen, 1993; Larmore, 1994; Gray, 1995, 115-121.
widespread disagreement about specific moral and political issues is therefore likely to be a feature of liberal polities.\textsuperscript{32}

However, while liberals may make a great deal of room for dissent at some levels, at another they do claim to be bringing people together. The level at which they do so is usually described as the theory of justice. As Rawls suggests:

Justice is the first virtue of social institutions, as truth is of systems of thought. A theory however elegant and economical must be rejected or revised if it is untrue; likewise laws and institutions no matter how efficient and well-arranged must be reformed or abolished if they are unjust.\textsuperscript{33}

Liberals believe that reason is sufficient to determine certain truths in the realm of justice which can then form the basis of a harmonious social order. What keeps liberal societies from fracturing under the pressure of ongoing disputes about the good is the consensus on the deeper questions of how to resolve, or at least live with, these disputes. That is, on the nature of just social arrangements and procedures. Justice promotes social harmony by appealing universally to members of the community. The liberal hope is that just institutions will be sufficient to determine all other political questions, in practice, in a manner which is socially sustainable.

The desire to find arguments acceptable to all in the face of a diversity of conceptions of the good generates the concern for freedom and equality which are more often offered as the defining characteristics of liberalism. I choose not to concentrate on these features for my definition because, as we shall see below, it is possible to advocate the pursuit of these values simply because these are the values of our particular community. Certain communitarians, for instance, may be concerned to promote liberty and other apparently liberal values because these values are contained in the “shared traditions and understandings” of the communities from which they spring. To concentrate our definition solely on the values espoused by liberals thus risks missing the characteristic way in which they

\textsuperscript{32} Rawls, 1971, 127; Larmore, 1987; Rawls, 1993, 4.

\textsuperscript{33} Rawls, 1971, 3.
are justified – which is what ultimately distinguishes them from communitarians of this sort.

Admittedly, the level at which liberals postulate arguments to which all rational persons must accede may be quite high. The arguments may be quite abstract and the assumptions meagre. Rawls, for instance, tried in the original book, *A Theory of Justice*, to derive a theory of justice in a fashion which would be neutral between conceptions of the good. The argument for the two principles of justice is supposed to avoid any controversial assumptions which might be part of a particular conception of the good. Whether or not the attempt succeeds is controversial and the precise details of the assumptions that remain are unclear.\(^{34}\) A charitable account of the argument, however, would hold that they are merely that persons are free and rational moral agents and that social arrangements agreed to by parties under fair conditions are just.\(^{35}\) From this minimal starting point Rawls goes on to attempt to outline a just “basic structure” for society. Will Kymlicka begins simply with the thought that we all have an interest in living the “best life possible”. This assumption, that we are all interested in pursuing the good and not merely the life that we believe to be good, provokes Kymlicka to argue that we all share an interest in the freedom which would allow us to revise our projects in line with this end and hence in institutions which provide us with this freedom.\(^{36}\) In each of these cases the argument proceeds from minimal and seemingly extremely plausible assumptions to conclusions about political institutions which all rational persons have reason to support.

Any liberal argument can be transformed into a philosophical liberal argument by the insistence that those who fail to be convinced by it are deficient in rational personhood. Of course the plausibility of this suggestion will depend very much on the structure of the argument we are employing. Arguments which rely on a specific and thus inevitably controversial conception of the good, for instance, are

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\(^{34}\) See for instance Barry, 1989; Kukathas and Pettit, 1990.

\(^{35}\) Rawls, 1971, 11-12.

\(^{36}\) Kymlicka, 1989, 10-13 & 162-81; Kymlicka, 1995a, 80-93.
unlikely to be plausible candidates for arguments which are supposed to convince all rational persons. Arguments which might sustain some plausible claim to persuade all rational persons are likely to be variations on familiar liberal themes and refer to general facts about ethics and social life.

My conception of (philosophical) liberalism as the thesis that there exist arguments sufficient to determine all questions of justice for all rational persons has a similar extension to other contemporary descriptions of liberalism which focus on its intellectual commitments. The distinctive liberal project is the attempt to achieve a rational consensus on questions of social organisation in the face of widespread disagreements about value. As suggested above, the concern for freedom and equality which are the hallmarks of liberalism are generated by the desire to formulate values that all rational persons might agree to. We all have an interest in freedom in order that we may pursue those ways of life and goods which are important to us. None would be prepared to accept treatment as less than equals. "Liberty" and "Equality" thus emerge as the most plausible candidates for values that all rational persons might share.\(^{37}\) Other definitions of liberalism have concentrated on various characteristics that liberal philosophy might adopt to achieve this. Several authors, most notably Ackerman, Dworkin and Larmore, have claimed that liberalism is committed to the thesis that liberal social institutions must be neutral with regard to the competing ways of life whose flourishing they effect.\(^{38}\) The refusal to draw upon some specific conception of the good in justifying liberal social institutions is supposed to ensure that they may be seen to be justified by all persons regardless of their conception of the good.

The communitarian attempt to characterise liberalism in terms of its commitment to an abstract metaphysics may also be seen to refer to the same ambitions towards a justification which will convince all rational persons. According to communitarians, liberals are committed to an account of the nature of the self that


\(^{38}\) Ackerman, 1980; Dworkin, 1985a; Larmore, 1987; Nagel, 1987; Kymlicka, 1992.
allows that we may abstract away from our particular commitments when reasoning about justice.\textsuperscript{39} If our particular commitments are constitutive of our identity in ways which may determine our reasoning about justice then different persons will reason differently to different conclusions. This is the communitarian thesis that liberals explicitly deny. Liberals, then, must claim that the operations of reason will produce a single set of determinate conclusions on questions of justice. As we have already seen, Waldron’s definition of liberalism as the attempt to achieve transparency of social institutions similarly necessitates that the convincing arguments for them are available to all. It is my belief that any adequate definition of liberalism which attempts to capture it by reference to its intellectual commitments will pick out the same set of philosophies as does my definition of philosophical liberalism. Liberalism’s nature is determined by its Enlightenment ambitions to discover a just and rational social order.\textsuperscript{40}

It is important to understand that commitment to philosophical liberalism does not necessitate commitment to what many people would recognise as a liberal politics. Philosophical liberalism is a claim about how one’s preferred set of institutions are thought to be justified – not a claim about the nature of those institutions. It leaves open the possibility that the actual political arrangements which all rational persons have reason to agree upon may differ a great deal from what are normally thought of as liberal institutions. On the other hand, philosophical liberalism does place substantial restrictions on the kinds of social institutions that are plausible candidates for its high standard of justification. This is because they must be justified to persons who have a diversity of conceptions of the good. Authoritarian social institutions, for instance, are unlikely candidates for justification sufficient to convince all rational persons. Those who possess a different conception of the good to those wielding authority are unlikely to find it justified. Nonetheless, there remain a wide range of formulations of institutions which might be justified with arguments thought to be sufficient to convince all rational persons. In particular, philosophical liberalism does not distinguish

\textsuperscript{39} MacIntyre, 1981, 233; Sandel, 1982; Walzer, 1983, xiv, 5, 8; Sandel, 1984b; Sandel, 1992.

\textsuperscript{40} Waldron, 1987, 134-5.
between those liberal visions which include private property and the operation of the "free market" as essential conditions of human freedom and those which advocate some form of democratic social control over the sources of private wealth.\textsuperscript{41} A number of writers have argued either that the only truly rational form of social organisation is socialist in nature or that a genuine commitment to the equality and liberty of persons requires that they have equal access to the liberties which control over productive resources makes possible. It is arguable that the principle of equal respect for the liberty of all, which is by far the most plausible candidate for a principle which all rational persons have reason to agree upon, is not only compatible with but actually requires democratic social control over the means of production.\textsuperscript{42} Such arguments for socialism are founded in the same desire to create a social order which may be justified to all, which I take to be the defining feature of philosophical liberalism. Thus most Enlightenment or humanist socialists will count as philosophical liberals on my account. Most Marxist and all anti-humanist socialists, however, will not count as philosophical liberals, for obvious reasons; they reject the Enlightenment ambitions which are the hallmark of philosophical liberalism.\textsuperscript{43}

Furthermore, despite, or even because of, the conditions of diversity which it presupposes, philosophical liberalism is compatible with a genuine concern for cultural and other communities. It may be, for instance, that all rational persons have reasons to ensure that their cultures or communities receive some recognition in the institutions which determine their survival and flourishing. Thus Will Kymlicka argues from foundations in philosophical liberalism to a recognition of the importance of cultural groups, with a consequent recognition

\textsuperscript{41} For example, Dworkin allows that a liberal may be motivated by a concern for equality to advocate the substituting of "socialist for market decisions over a large part of the economy", causing her to become a "reluctant socialist" (Dworkin, 1985a, 196).


\textsuperscript{43} Marxist and anti-humanist socialists will typically hold, I take it, that socialism is a historical inevitability or that the struggle for socialism is justified for the working class by the fact that it represents their interests. The question of the moral justification of socialism is not one which concerns them.
that members of such groups might need to be granted special rights in certain circumstances in order to protect themselves.\textsuperscript{44} Such arguments may lead to the advocacy of institutions which grant extensive rights and status to communities and other cultural groups. Philosophical liberalism is therefore compatible with at least some versions of what I shall describe below as political communitarianism.

\textbf{§1.2.2 Philosophical communitarianism}

The core tenet of communitarianism, as I understand it, is that normative political arguments rest ultimately on facts about particular subjects and their bodies, beliefs and cultures. Communitarians deny that we could determine the institutions under which we should live independently of such facts. Because communitarianism has largely been developed in the context of the criticisms of liberal arguments about justice I shall treat philosophical communitarianism also as a thesis about justice. But the form of the communitarian critique has often consisted in denying that we can in fact draw a clear distinction between our theory of the just and our conception of the good.\textsuperscript{45} The communitarian claim holds equally for arguments about the nature of the good. Thus although I shall proceed as though communitarians were only concerned with arguments about justice, it is important to remember that communitarianism also has this broader implication.

In contrast to liberals, communitarians hold that statements about justice can only be made from an “embedded consciousness”. We have no access to truths beyond our particular belief sets. When we reason about justice, our only resources are those which we possess contingently, by virtue of possessing a certain historically and culturally specific embodied identity. When arguments about justice occur between persons they are settled with reference to the beliefs and understandings that they share.\textsuperscript{46} In this form then, communitarianism may not seem terribly

\textsuperscript{44} Kymlicka, 1989; Kymlicka, 1995a.

\textsuperscript{45} See, for example, Taylor, 1989a, esp. Chps 1 & 3; Sandel, 1995.

\textsuperscript{46} Walzer, 1983, xiv, 5-9 & 312-3; Rosenblum, 1984, 582-3; Bell, 1993, 57-68.
startling. Surely we must all admit that judgements about justice are made by persons who have bodies, beliefs, cultures, et cetera. What distinguishes communitarianism from the mere epistemic observation is the fact that it asserts that any general or abstract characterisation of truths about justice is impossible – or at least irrelevant. Communitarianism denies that any escape from our predicament as situated and limited subjects is possible.\(^47\)

It is important to understand that communitarianism, properly understood, is not a claim about what makes statements about justice true. It is an account of how we assess arguments about justice; that is, about how we judge them to be true. Philosophical communitarianism, as I understand it, insists on precision on this point; we do not assess statements about justice by measuring them against the truth but against our beliefs.\(^48\) When we look at the way we actually reason, we see that the notion of assessing statements about justice against the truth does no work. The most plausible way of defending this claim is by treating it as a particular case of the more general claim that this is true of all human knowledge.\(^49\) Truth is a property which is ascribed to particular statements which meet the critical standards of a given community or discourse. It is not a property which can be determined independently of any particular discourse or which can be referred to in the attempt to justify those discourses. We can judge particular statements to be true by interpreting them against a background set of beliefs and understandings, derived from membership in a particular community or participation in a particular discourse, which allows us to determine their meaning and which provides us with criteria or mechanisms for judging them to be true or false. But we cannot assess statements without relying on some particular

\(^{47}\)Walzer, 1983, 312-3; Rorty, 1989, 4-6 & 44-50; Young, 1990a, 97, 103; Kymlicka, 1993, 368.


\(^{49}\)Furthermore it appears to me to be politically dangerous to adopt a communitarian or pragmatist account of politics or ethics without extending this to scientific or technical discourse. Such a distinction between fact and value claims is not only inaccurate as concerns the actual practice of science – which necessarily involves a plethora of implicit value judgements – but also risks conferring on scientific claims the authority of an "objectivity", which is thought to be lacking from other arguments about human values, and which may then give the policy prescriptions of science a weight denied to those arising out of any other discourse.
background set of beliefs against which to do so. Thus no final “neutral” or
“universal” claims about the truth of particular statements are possible. Nor can
the background belief sets themselves be judged to be true or false. They may be
revised, proposition by proposition, as described above but the set as a whole
cannot be assessed because it provides the background against which all such
assessments are made.\textsuperscript{50} If it were called into question we should have nothing
left against which to assess it. Thus we cannot idealise away from the subject
situated in a particular community and discursive context. Any idealisation will
merely exchange one situated subject for another (differently and often covertly)
situated subject. Attempts to do so usually involve an attempt to disguise the
perspective of a particular social group as the “universal” standpoint from which
all other perspectives should be judged.\textsuperscript{51}

The author who has most clearly expressed a communitarianism of this sort is
Richard Rorty. In \textit{Contingency, Irony and Solidarity}, Rorty argues that we should
abandon the search for any “meta-narrative” of truth or justice to guide us in
conducting our political affairs. The attempt to characterise any standpoint
independent of our particular circumstances from which we might assess our
knowledge claims is futile because, according to Rorty,

\begin{quote}
Truth cannot be out there – cannot exist independently of the human mind –
because sentences cannot so exist, or be out there. The world is out there,
but descriptions of the world are not. Only descriptions of the world can be
true or false. The world on its own – unaided by the describing activities of
human beings – cannot.\textsuperscript{52}
\end{quote}

Our attempts to judge truth and falsehood are always made within systems of
representation which are the products of historical communities and which
themselves cannot be judged to be either true or false.\textsuperscript{53} There is no escape from
our perspective situated within such systems. Any attempt to do so simply

\textsuperscript{50} Rorty, 1982; Rorty, 1989, 44-50; Taylor, 1989b, Chp. 2, 73; Bell, 1993, 67.
\textsuperscript{51} Mercer, 1990, 55-6; Young, 1990a, Chp. 4; Bell, 1993, 30; Mouffe, 1993, 13; Butler, 1995, 39.
\textsuperscript{52} Rorty, 1989, 5.
\textsuperscript{53} See also Rorty, 1982.
replaces one situated judgement with another. Yet Rorty is also clear that we are not consigned to a destructive relativism by the denial that there exists any transcendent standpoint according to which our views could be judged.\(^{54}\) Rather, he argues, the distinction between a relativist and an objectivist position is a product of the search for such a standpoint. Once that search is abandoned it loses its force. Not possessing any criterion of truth independent of our particular perspective ceases to be a problem once we recognise that no such criterion is possible. Rorty writes:

> The world does not speak. Only we do. The world can, once we have programmed ourselves with a language, cause us to hold beliefs. But it cannot propose a language for us to speak. Only other human beings can do that. The realisation that the world does not tell us what language games to play should not, however, lead us to say that a decision about which game to play is arbitrary, nor to say that it is the expression of something deep within us. The moral is not that objective criteria for choice of vocabulary are to be replaced with subjective criteria, reason with will or feeling. It is rather that the notions of criteria and choice (including that of ‘arbitrary’ choice) are no longer in point when it comes to changes from one language game to another.\(^{55}\)

This argument will be discussed at length in Chapter 4. It is because of his clarity on this issue that Rorty is, for me, the most articulate philosophical communitarian.\(^{56}\)

There is a further important qualification which must be made about my conception of communitarianism. Philosophical communitarianism, as I understand it, is a claim about the primacy of the embedded subject and its role in reasoning about justice. But the groups which such subjects are embedded in and which constitute them need not necessarily be the ethnically homogenous and historically continuous groups that most communitarians intend when they speak

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\(^{54}\) Rorty, 1982; Rorty, 1989, 8, 50. See also Mouffe, 1993, 14-15.

\(^{55}\) Rorty, 1989, 6.

\(^{56}\) Unfortunately, because (as we shall discuss at §1.4.1 below) Rorty develops these arguments in the course of a defence of a liberal politics, Rorty is sometimes identified as a liberal in the liberal-communitarian debate. See, for instance, Mulhall and Swift, 1996. His “anti-foundationalism” however clearly marks him as a communitarian on the philosophical debate according to my schema.
of the community. I will argue in Chapter 2 that the "community" invoked by many communitarians is an illusion. As feminist authors and others have been quick to point out, the "shared traditions and understandings" which are supposed to be constitutive of these communities are revealed on closer investigation to contain many competing understandings, themselves the products of other groups within the community such as gender or racial groups. For this reason, rather than take community to be primary, I shall emphasise difference. Communities are, I suggest, contingent historical groups bounded by difference from some external "other", within which a certain set of understandings are shared. Furthermore, on my account, communities actually shift and individuals may move in and out of them. A group of persons that may form a community in one context may cease to be such in another and instead its members may be divided amongst opposing communities. Understandings which are shared in one context will be disputed in another. In what follows I shall use "community" to refer to any group defined by difference which possesses a distinctive consciousness and identity. I shall use "shared understandings" to refer to those beliefs, experiences, features of consciousness which they share by virtue of that identity. My usage will mimic the familiar communitarian employment of these terms. But it is important to remember that in many circumstances the communities within which we find our identity may not be the stable cultural groups favoured by communitarians. They may be groups defined by gender, age, sexual or some other difference. Often, of course, the communities which provide our shared understandings will be communities in the cultural and political sense. That is, they will be groups of people who share a common language, traditions and way of life. The qualification ensures, however, that many feminists and other theorists of the situated subject, who may not conceptualise the site of the subject in terms of its place in a community, will nonetheless count as communitarians in my sense.

Analogously to the case with liberalism, commitment to philosophical communitarianism does not necessitate commitment to the sorts of institutions

57 Young, 1990a, Chps 4 & 6; Kukathas, 1996, 84-6, 89, 91.
which are usually associated with communitarians in the liberal-communitarian debate. Philosophical communitarianism is a thesis about the ways in which those institutions we prefer are understood to be justified. It states nothing about the particular belief sets of any cultures, communities or individuals. These remain open to historical contingency. What sorts of institutions we actually believe we should adopt will depend on which community we find ourselves in. The values of our community may include respect for the elders, an ethic of community service and deference to the authority of the group, or may include respect for the liberty of the individual, the rule of law and the promotion of diversity. In the latter case we have a community whose traditions are liberal ones.\footnote{Walzer, 1994a, 10; Spragens, 1995; Walzer, 1995.} Philosophical communitarianism has no quarrel with this and is thus compatible with what I shall describe below as political liberalism.

Nor must we, as a result of our \textit{philosophical} conviction, accept the general policy of explicitly referring any questions about justice to the shared understandings of the community. For instance, \textit{we}, as members of Western liberal democracies, may wish to continue to phrase our theories of justice in the language of liberty, individual rights and a suspicion of the tyranny of the majority. These ideals can (indeed do) all exist as the contents of the shared understandings of a community — a community which respects the rights of the individual. All that philosophical communitarianism requires is that when we engage in political argument we recognise these ideals as the ideals of a particular community and not hypostatise them as the eternal dictates of reason.

\section*{§1.3 The Political Debate}

While the philosophical debate concerns the nature of the justification of our politics, the political debate concerns the nature of this politics itself. What sorts of social institutions should we adopt? The subject of this debate is, roughly speaking, what Rawls described as the "basic structure" of society. The basic structure is, according to Rawls, "the way in which the major social institutions
distribute fundamental rights and duties and determine the division of advantages from social cooperation”. The major institutions are “the political constitution and the principal economic and social arrangements”. How, and according to what principles, should these be arranged? Of particular concern in the liberal-communitarian debate is the question of what sorts of schemes of rights, claims and responsibilities and what sorts of social decision making procedures we should adopt. It is within this debate that we encounter what are perhaps more familiar liberal and communitarian concerns. Arguments which loom large in this debate include the relative merits of the goods of “community” and of liberty, whether concern for justice is destructive of a sense of community, whether or not giving institutional recognition to social traditions gives rise to a repressive conservatism, et cetera. The political debate thus addresses political institutions and the arguments within it concern the relative merits of competing institutions; it is not concerned with the status of these arguments themselves.

§1.3.1 Political liberalism

Political liberalism, then, advocates a familiar set of traditional liberal institutions and policies. To borrow Buchanan’s formulation:

The liberal political thesis ... is the thesis that the state is to enforce the basic individual civil and political rights, those which, roughly speaking, are found in the U.S. Constitution’s Bill of Rights and in John Rawls’ first principle of justice. These include the rights to freedom of religion, expression, thought, and association, the right of political participation (including the right to vote and to run for office), and the right of legal due process. This thesis is closely related to and indeed appears to imply another that is associated with liberalism, namely, that the proper role of the state is to protect basic individual liberties, not to make its citizens virtuous or to impose upon them any particular or substantive conception of the good life. The connection between these two theses is clear enough: if the state enforces the basic civil and political rights it will leave individuals free, within broad limits, to pursue their own conceptions of the good and will preclude itself from imposing upon them any one particular conception of the good or of virtue.60

60 Buchanan, 1989, 854.
Or again, according to Waldron,

In politics, liberals are committed to intellectual freedom, freedom of speech, association, and civil liberties generally. In the realm of personal life, they raise their banners for freedom of religious belief and practice, freedom of lifestyle, and freedom (provided again that it is a genuine freedom for everybody involved) in regard to sexual practices, marital affairs, pornography, the use of drugs and all those familiar liberal concerns.61

These two quotes both define political liberalism by reference to a cluster of concerns and a set of institutional responses to these concerns. In the background here is an identifiable historical tradition of politics. The boundaries of this tradition are, of course, vague and contested. As a result, in some cases it may be arguable whether or not a certain politics deserves to be described as liberal. But in most cases it will be possible to determine whether a given politics may justly be called liberal by reference to other politics which are generally acknowledged as part of the tradition.62

Political liberals may claim that the institutions which they advocate are justified by arguments available to all rational persons – in which case they are also philosophical liberals. Alternatively, they may acknowledge the political nature of their liberalism by claiming that existing liberal institutions are justified historically and pragmatically as a “modus vivendi” which has evolved between competing social groups.63 Finally, political liberals may concede everything to philosophical communitarianism and acknowledge that the institutions they prefer are justified by reference to a set of beliefs which themselves admit of no ultimate justification. They are available as foundations because they are the beliefs of a certain community (ours) at a certain historical moment. Neither of these forms of political liberalism proceed from foundations in reason and as such both are actually forms of philosophical communitarianism. Once we abandon the attempt

62 See, for instance, the discussion in Ryan, 1993.
63 This is, for instance, the argument of Moore, 1966 regarding the origins of “capitalist democracies”. 
to provide reasons available to all rational persons we are left only with arguments for liberal conclusions from premises available in our community.\textsuperscript{64}

\section{1.3.2 Political communitarianism}

Political communitarianism may likewise be defined as the advocacy of institutions and policies intended to protect, foster and maintain "community". The details of such institutions are harder to discern in the case of communitarianism than they are for liberalism as there is not a self-conscious communitarian political tradition to the same extent that there is a liberal one.\textsuperscript{65} Those writers identified in the liberal-communitarian debate as "communitarians" have themselves been remarkably silent on the exact nature of the institutions that they would prefer to see replace existing liberal ones.\textsuperscript{66}

Despite this, the broad outlines of a communitarian politics may be discerned in their criticisms of liberalism. Against the minimal state and the strong set of individual rights designed to protect the interests of individuals, which political liberals advocate, political communitarians support social institutions designed to serve the collective good and, in particular, to promote the good of

\textsuperscript{64} Including those about the relative power of conflicting social groups. I take it that an important class of such arguments rely only on contingent premises.

\textsuperscript{65} A large part of the reason for this is that communitarian politics tend to be obscured by their particularity (Tamir, 1993, 80 makes this point about nationalist politics). Instead of campaigning for "community" in general, many who might be described as (political) communitarians but who do not identify as such, are involved in promoting the values and interests of their particular community (see below). The exception here is the United States in which there does exist a self-identified "communitarian movement", loosely associated around the writings and activities of Amitai Etzioni and the journal \textit{Responsive Community} (See, for instance, Etzioni, 1995b). However there is little connection between the ideas of those writers identified as "communitarians" in the academic debate and this political movement (with the possible exceptions of William Galston (see Galston, 1991) and Daniel Bell, who cites the preamble to the "Responsive Communitarian Platform" in the Introduction to \textit{Communitarianism and its Critics}). Mulhall and Swift, 1996, xiv. Because my thesis focuses on the academic debate as it has occurred in philosophy I shall not be concerned with the political activities of the US' communitarian movement.

Miller, 1999 argues that there are in fact at least three distinct communitarian politics; an egalitarian communitarianism of the left, an authoritarian communitarianism of the right and a "liberal" communitarianism in between these.

The good of community exists where people share understandings which they take to be constitutive of their identity. Our community provides us with a set of social meanings which allow us to conceptualise our place in the world and our relations with others. Members of a community recognise each other as being so and are bound together by bonds of solidarity and mutual identification of interests. The identities which persons find in their membership of a community are extremely important to them and form the basis of their decision making in civil and political life. As a consequence of the desire to defend community, political communitarians also advocate measures to defend culture and preserve traditions, which are loci of identification and the sources of shared understandings.

Communitarians also advocate weaker sets of individual rights than do political liberals. Strong individual rights would stand in the way of action by the collective or the community to promote its interests or preserve its shared understandings. Communitarians would prefer to see the balance of duties and obligations created by sets of rights established to favour the good of the whole community rather than its individual members. Communitarians also tend to de-emphasise adversarial dispute resolution procedures in politics and civil society. An important feature of the communitarian critique of liberalism has been criticism of the ways in which the institutions (and especially the mechanisms for resolving contentious social issues) which liberals prefer, operate to divide people and set them against each other. The strong set of individual rights which liberals advocate, the employment of the adversarial system in law courts and the widespread use of the secret ballot to make social decisions, all operate to establish that individuals have separate and opposed interests which they serve.

70 Freeden, 1990, 500.
best by acting against each other. Such mechanisms work to alienate individuals from one another and to destroy the bonds of community which communitarians value. In place of such institutions, which emphasise the differences between people, communitarians prefer institutions which work to bring people together and emphasise their common interests. Indeed political communitarians would like to see the language of justice itself used much less often in political life. To approach contentious social issues using the language of justice is already to have implicitly adopted an adversarial and atomising approach which, communitarians argue, may itself contribute to the breakdown of the bonds of community.

As an alternative method of political dispute resolution communitarians may recommend settling disputes by reference to the “shared understandings” and traditions of the community. That is, they may advocate that a community look to its own distinctive character and history for principles with which to attempt to settle current disputes. Because disputes presumably only occur when shared understandings or traditions are in doubt or contested, for this to be a plausible method of dispute resolution, communitarians must suggest authoritative mechanisms which serve to establish or interpret the “shared understandings” in ways which can settle a dispute. Historically, the usual solutions to this problem invoke the authority of religious or historical texts or of some person or persons such as religious leaders or “tribal elders” who supposedly possess privileged access to the materials which constitute the shared understandings or traditions of the community. An important by-product of such processes, where they do

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72 Mansbridge, 1983.


75 Walzer, 1983.

76 In fact few (modern at least) writers in political philosophy have had the strength of conviction to suggest these as alternatives to the liberal methods of dispute resolution (Friedman, 1994). These solutions to the problems of determining the nature of a community’s traditions have most often been made in contemporary politics rather than the academic debate. They are however plausible answers to a very real question for a communitarian politics. Bell, however, has defended a more palatable if not necessarily more convincing solution to this problem. He argues that the determination of the content of shared understandings should be understood as a matter of
work, is that they ensure that the traditions and shared understandings of a community are continuously affirmed and reinterpreted in ways which serve to strengthen the bonds of community.

Of course not all political communitarians will recommend all of these measures or explicitly address all of these issues. Like political liberalism, political communitarian is a "stance" - a basic attitude towards politics - characterised by a cluster of concerns, which I have tried to describe above. The details of how each author applies these concerns to political questions and matters of institutional design will vary from person to person.

As noted above, political communitarianism may actually arise out of philosophical liberalism. That is, it may turn out that the political institutions which may be justified to all rational persons give recognition and protection to the structure and perhaps the traditions of cultural and other communities. Of course it may also turn out that no such justification is available and that political structures which protect and foster community can only be justified by reference to the values of a particular community.

Finally, we should also note in passing that most political communitarians in reality - as opposed to political theory - are neither philosophical communitarians nor philosophical liberals. They are most likely to be traditionalists or absolutists. Philosophical liberalism, we recall, involves conceding that there exist a plurality of reasonable conceptions of the good. But this concession is unlikely to be made by most of those who in fact advocate a communitarian politics. Instead they may believe that the beliefs and practices of their community deserve recognition and protection by being entrenched in political institutions, not because they represent one important set of values amongst many but because they are the only true set of values. That is, they may deny that there exist a plurality of reasonable critical "expertise in the understanding of the moral consciousness of the community" (Bell, 1993, 65).

As we shall see below, contemporary liberals Kymlicka and Kukathas have gone some way towards arguing this.
conceptions of the good and as a result their philosophy, as well as their politics, will not be liberal. Nor must such a position be an expression of philosophical communitarianism. There is no necessary connection between support for a set of political institutions which protect a community and entrench its values or the practice of settling disputes about justice by reference to the shared beliefs and understandings of a community and the philosophical acknowledgment that these are what justify such a politics. Traditional societies which settle disputes about justice by consciously referring to the shared beliefs and understandings of the community as expressed by religious authority, for instance, may themselves understand these to reveal the will of God. They may believe that these precepts should be obeyed by all persons no matter their origin or culture. Alternatively, political communitarians simply may not engage in philosophical reflection on the status of their beliefs about justice at all.

§1.4 Mixed Positions

As I have already noted above, the conclusions of the philosophical debate by no means determine the course of the political debate. It is of course possible to combine philosophical liberalism with political liberalism or philosophical communitarianism with political communitarianism but it is by no means necessary to do so. It is also eminently possible to combine philosophical liberalism with political communitarianism or to combine philosophical communitarianism with political liberalism. These two “mixed” positions are in fact both extremely important positions in the liberal-communitarian debate. It is arguable that the most plausible candidates for the high standard of justification required by philosophical liberalism will have to take into account the fact that human beings are creatures who are members of particular cultures and communities and that these are extremely important to them and will thus grant recognition to cultures and communities in the institutions which they recommend. As we shall see below, this is Kymlicka’s argument. It is also arguable that a plausible modern philosophical communitarianism should be combined with some form of political liberalism. The philosophical doctrine does not claim either that all societies are somehow communitarian in their politics or
that we must be political communitarians. We must allow that a society might be such that its shared understandings included a belief in the value of individual freedom, a division between the public and private spheres and minimal government. If the argument of this thesis is correct then this must be possible because our society is precisely such. In any case, whatever the shared understandings of a given community, philosophical communitarianism allows that we may be critical of them and advocate a different politics by drawing on other shared understandings we have available to us (see §4.4).

§1.4.1 Placing authors in this intellectual terrain

Not only is it possible to adopt different positions on the philosophical and the political question, but many of the major theorists have in fact done so. Of the liberals, Waldron, Dworkin and (the early, at least) Rawls are clearly committed to both political and philosophical liberalism. However another vocal advocate of philosophical liberalism, Will Kymlicka, has advocated policies which give extensive recognition to the worth of and traditions of communities, whilst Chandran Kukathas, also a philosophical liberal, has argued for what he describes as a liberal "politics of indifference" towards culture which paradoxically, because of the importance he places on freedom of association, may allow communities to pursue surprisingly communitarian ways of life.

78 Gutmann, 1985, 315; Walzer, 1995.

79 Such a distinction between philosophical and political communitarianism is also implied by many contemporary feminist critiques of philosophical liberalism. A number of feminist writers have insisted, against those who would hold that reasoning about justice can proceed independently of facts about the gender and culture of the reasoners, that the way we assess arguments about justice is gendered, both in the sense that our culture has adopted a set of assumptions about justice which are historically gendered masculine and in the sense that men and women may possess different "shared understandings" which they employ to settle questions about justice. (See, for instance, Gilligan, 1982; Young, 1990a, Chp. 4) Yet these arguments, especially the first, are in no way supposed to endorse the existing sets of shared understandings, which are undoubtedly the product of a sexist history and are often themselves obviously sexist. We can acknowledge that certain values currently play a role in our reasoning about justice without endorsing those values. Most feminists would wish to retain the capacity to criticise existing social values by drawing on other values available in our community (Young, 1990a, 5-7; Butler, 1995; Fraser, 1995, 64-5). So much contemporary feminist criticism relies on the possibility of maintaining a philosophical communitarianism without thereby necessarily being committed to any particular political values.

80 For Kymlicka's commitment to philosophical liberalism see Kymlicka, 1989, Chps 1 & 11. For
figures in the debate only MacIntyre, Sandel and Bell have taken the communitarian position on both the philosophical and political questions – and even this is marked by a dearth of writing on the question of the sorts of institutions which they believe should replace existing liberal ones. 81 Several influential writers on philosophical communitarianism, most notably Richard Rorty and Charles Taylor, have explicitly stated their allegiance to a liberal politics. 82 Both Rorty and Taylor have been prolific critics of philosophical liberalism. They have each attacked foundational assumptions of liberalism: Taylor its individualism, Rorty its metaphysics. Yet both have also stated their preference for political institutions which are typically liberal. In Taylor’s case this arises out of identification with a historical tradition which recommends liberal institutions. 83 The origins of Rorty’s political liberalism are less clearly defined; it arises partly out of the political tradition within which he finds himself (roughly, a liberal American pragmatism) and partly out of a Hobbesian conviction that “cruelty is the worst thing we can do to each other”. 84 Walzer, while a paradigmatic philosophical communitarian, is inclined to advocate a mixture of liberal and communitarian politics, corresponding to what he takes to be an accurate account of the shared understandings available in Western liberal democracies. 85 Iris Young’s philosophical commitments are philosophical communitarian. She rejects the universalism and abstraction implicit in “theories of justice”. Instead she founds her politics in an identification with the struggles

81 Sandel, 1982; Sandel, 1992; Bell, 1993; Sandel, 1995.
82 Friedman, 1994 claims that in fact the politics of Taylor, Sandel, Walzer, and MacIntyre ultimately all differ little from a liberal politics. He argues that this surprising consensus stems from the attempt to combine what I have described as a philosophical communitarianism with a set of substantive liberal values derived from membership in a liberal community.
84 Rorty, 1989, xiii-xvi & Chp. 3.
of certain oppressed social groups. At the level of institutions she recommends a mix of liberal and communitarian policies, drawing on the political concerns of the groups which interest her to argue for her conclusions.

Not only have many important figures in the liberal-communitarian debate had different positions on the philosophical and political questions but the position of John Rawls, the major figure in the background of the debate, seems to have changed over his career. Throughout his career Rawls has been a staunch advocate of liberal political institutions. The political vision which Rawls defends is a humanised version of American social democratic liberalism. His original book, *A Theory of Justice*, was also – at least according to one popular interpretation partially endorsed by Rawls himself – an attempt to justify these in a way that would satisfy the demands of a philosophical liberalism. But as the title of his more recent work, *Political Liberalism*, suggests, Rawls’s ambitions have narrowed considerably. He now sees the Two Principles of Justice and the institutions which would instantiate them as deriving solely from an "over-lapping consensus" between parties which possess differing but reasonable comprehensive conceptions of the good.

A good deal depends here on how we interpret the insistence that such consensus is possible amongst social groups who possess "reasonable conceptions of the good" (my emphasis). If we place a strong emphasis on the idea that all those who possess reasonable conceptions of the good can reach a consensus and can provide some independent sense of what would make such an account reasonable or otherwise then it is still possible to read *Political Liberalism* as arguing for a version of philosophical liberalism. If, however, possessing a reasonable conception of the good itself turns out ultimately to be a function of a community’s capacity to participate in the over-lapping consensus and has no

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86 Young, 1990a, 3-5 & Chp. 2.
87 Young, 1990a, Chps 6 & 8.
more force than this, then the claims of Rawls's argument are much weaker.\textsuperscript{90} Rawls's conclusions will only be reached by members of the community (or group of communities) who share enough of their world-views to reach a consensus on liberal political institutions.\textsuperscript{91} Those who fail to do so will not be unreasonable in any interesting sense of the word but simply members of different communities. The later Rawls thus becomes a philosophical communitarian. This interpretation of the Rawls of Political Liberalism is vastly more plausible given Rawls own continuing distancing of himself from his earlier, stronger, claims ever since the publication of "Justice as Fairness: Political Not Metaphysical".\textsuperscript{92}

In the argument between liberals and communitarians that occurs in the philosophical literature it is the philosophical thesis which is the more significant liberal thesis – as it is also in this work. The philosophical question has dominated the liberal-communitarian debate. Philosophical liberalism, the claim at the heart of the debate, is simultaneously an attractive ideal and an implausibly strong thesis. It is an attractive ideal because it would hold out hope of settling questions of justice once and for all and – once we had decided upon them – of knowing that our commitment to our principles of justice was a matter of reason and not of prejudice or historical accident. It is an implausibly strong thesis because to prove it would require that we provide arguments that are convincing to all. When we look to the real world, such arguments are hard, if not impossible, to come by. People don’t agree about questions of justice. Different people come to different conclusions. In this way differences amongst persons establish the problem for philosophical liberalism: how can different people come to a common understanding about justice?\textsuperscript{93} Before we can go on to investigate the truth of philosophical liberalism we must first possess an account of

\textsuperscript{90} Neal and Paris, 1990, 432-434; Kukathas, 1994, 2; Gray, 1995, 113.

\textsuperscript{91} Rawls, 1993, 13-4, 18. Rawls himself admits in "Kantian Constructivism in Moral Theory" that a liberal conception of justice may not be "suitable for all societies regardless of their particular social or historical circumstances" (Rawls, 1980, 518).

\textsuperscript{92} Rawls, 1985, esp. 224-5.

\textsuperscript{93} Dent, 1988.
difference, its origins and effects. Chapter 2 begins therefore with the fact of human difference.
Chapter 2:  
Identity? Community. Difference!

§2.1 The Fact of Difference

People are different. They are men and women, Jews and Gentiles, straights and queers. They have different bodies, different beliefs and different lifestyles. Differences amongst people generate a potentially troubling problem regarding the foundations of normative political – and especially liberal – theory. How can people, who are different in all these ways, hope to agree on the nature of just political institutions? The nature and significance of these differences, and in particular the role the play in reasoning about justice, is therefore a central concern for theorising about politics. In this chapter I want to develop an account of these differences which will then inform the discussion in the following chapters.

There are three main ways in which these differences have been theorised in the context of the liberal-communitarian debate. The first has been the liberal attempt to give an account of these differences and their significance, which will be dealt with at length in the next chapter. The second has been the communitarian account of personal identity, which understands the important differences between persons to consist in our membership of different communities. Individuals within a given community are supposed to share features in common, in particular a set of "shared traditions and understandings", which distinguish them from those outside of the community. Individuals will of course differ within a given community and aspects of their identity will vary as a result, but those differences which are significant for the purposes of arguments about justice are a function of our membership in different communities. On this account, then, our identity is
primarily founded in our membership of a particular social group – our “community”.¹

But, as feminist and liberal critics of communitarianism have insisted, the “communities” that communitarians posit as the primary sources of identity are not homogenous and the “shared traditions and understandings” they are held to possess are highly contested.² Although members of a community may seem to have much in common with each other and to share understandings when compared to members of other communities, when we examine communities more closely we see that they also contain social divisions which may be politically significant. Differences of sex, class, race, sexual preference, age, bodily capacity and of many other sorts divide communities, and these divisions may be more significant for the purposes of arguments about justice than the similarities which supposedly unite them. A number of, primarily feminist, writers on identity have therefore begun to theorise these differences themselves as the source of identity. I will follow these theorists for my account of identity.³

I will discuss the nature of these differences at two levels, which roughly correspond to two roles they can play in arguments about political institutions. Firstly, I shall discuss how our identity is constructed through social relations which exist between social groups. I shall argue that our very selves are constructed by intersecting sets of differences which establish our identity and thus the starting point for our involvement in worldly affairs. This level of theorising about difference will be important when we come to consider the political and institutional consequences of rejecting philosophical liberalism and

² Young, 1990a, Chps 4 & 6; Frazer and Lacey, 1993, 130-162; Benhabib, 1995, 27; Kukathas, 1996, 84-6, 89, 91. The feminist critique of communitarianism here parallels arguments which were made within feminism and the women’s movement wherein the supposed unity of the group of “women” was challenged by women of colour, lesbians, working class women and women with different bodily capacities. See Minow, 1990, 230-2; Stuart, 1990, 33-35; Young, 1990a, 162-3; Calhoun, 1994, 15; Butler, 1995, 49.
³ The account of difference that I develop below draws on Minow, 1990, esp. Chp. 2 and Young, 1990a, Chp. 6 in particular. See also Laclau and Mouffe, 1985; Mouffe, 1993. A similar account can be found in Sarup, 1996 and is deployed in Shachar, 1998.
adopting a philosophical communitarian position in Chapter 5 of this thesis. Secondly, I will examine how difference operates in the construction of identity at the subjective level, within the lives of individuals. Here I will focus on the role played by narrative in the construction of identity. An understanding of the role of narrative in a human life will be important when we come to consider, in Chapter 3, how individuals reason about the prospect of changes in their identity in arguments about justice.

§2.2 Identity and Difference

Difference is that which defines groups by dividing them from "the Other". 4 Men are separated from women by gender difference, whites from people of colour by racial difference, the young from the old by age difference, et cetera. Difference is relational; it creates an "us" and a "them" simultaneously, without establishing either as foundational. 5 On either side of the divide of difference is a possible source of identity. Individuals understand themselves through patterns of difference – "I am ....(a man, Jewish, heterosexual, et cetera.)", "I am not...(a woman, Black, gay, et cetera.)" and relate to others in ways which are themselves partially constitutive of these identities. We identify with certain groups and are also identified with certain groups. Identity therefore has both a subjective and an intersubjective dimension. It involves our own internal attitudes towards various

4 The idea of difference employed here is an Anglicised version of the Derridean concept of "différence" which is used by Derrida to describe the way in which the meaning of any individual sign is determined both by its difference from surrounding signs within a system of signs and by its future context and uses, which may retrospectively alter the way in which we understand previous uses of that sign. Thus the meaning of the English sign "cat" can only be understood in relation to its surrounding signs; "dog", "bird", "snake", et cetera. But its meaning is also a function of its future uses – and indeed the future uses of other signs – which can require us to reinterpret the meaning of the sign. Différence captures the fact that meaning is relational but also always indeterminate, subject to alteration by future events. Social differences, significant demarcations between individuals and groups of individuals, I shall argue below, share these features. This is in fact only a very small part of the meaning of the concept of difference within the work of Derrida. It is however sufficient for my purposes. For Derrida's development of the concept see Derrida, 1976; Derrida, 1978.

5 Young, 1990a, 171; Woodward, 1997, 12, 29, 35.
groups but it also involves our behaviour towards and social relations with those groups.  

On this account then, identity is derived from our membership in social groups but these groups are not thought of as exclusive. This is the main difference between “difference theorists” and communitarians. Difference defines social groups, but these groups are themselves fractured by difference. Differences “crosscut” each other. The group of “men”, defined by sexual difference, is divided by further differences of class, race, sexual preference, ethnicity, et cetera. The “working class” is divided by divisions of sex, race, ethnicity, sexual preference, and so on. These various “axes of difference” may be thought of as intersecting to define more specific identities. Such intersections of difference define smaller social groups such as, for instance, the group of “white males”, which also constitute identities. These groups exist within the larger groups defined by less specific sets of differences. In this way, groups defined by difference may overlap as well as crosscut each other. As a result, people are members of many different groups. They are “working class women” as well as women and perhaps British and Asian and gay as well.

This crosscutting of differences makes possible a plethora of more specific identities. Each of these identities has its own unique character. The effect of multiple differences is not merely to “sum” the experiences of each but to establish a new and unique identity. To understand the experiences of a black woman, it is not enough to somehow combine the experiences of being a black

7 Young, 1990a, 171.
8 Although, as argued in Chapter 1, because they typically hold that our identity plays a central role in our reasoning about justice most “difference” theorists will actually count as philosophical communitarians in my sense.
9 Young, 1990a, 48; Calhoun, 1994, 27.
10 Young, 1990a, 170. Walzer, 1994a, 82 also recognises that identities may shift and multiply in this fashion.
man and of being a white woman. Instead this identity has its own specific and unique self-understanding and experiences. This is potentially the case for all such intersections of axes of difference.\footnote{Spelman, 1988; Rutherford, 1990, 19.}

\subsection*{§2.2.1 Individual identity and social groups}

Individual identity can therefore be understood as the endpoint of this process of making an increasingly fine grained set of distinctions which differentiate an individual from those around them. Difference operates “all the way down”, to the level of the individual. Individuals are unique intersections of a set of crosscutting differences. My identity is determined by the set of differences which distinguish me from everyone else. These differences are the things I might list if asked to describe myself. For example, “I am a white heterosexual Australian male, aged 43, of Hungarian descent, a shoemaker, from Sydney”...et cetera. A substantial portion of our identity is likely to be constituted by differences which are widely recognised in contemporary social practice and thus politically charged, such as class, race, gender, ethnicity and sexual preference, but there are a multitude of differences other than these that have little or no (current) political significance but which we recognise when distinguishing one person from another. These provide the fine detail of our accounts of ourselves – what we like to call our “individuality”. Yet even these group us with other people who share (or at least could share) these characteristics. It is only in the totality of our differences that we are unique.

Individual identity, then, is constituted by membership in a multiplicity of social groups defined by difference. The notion of difference therefore allows us to theorise both the group and the individual (and their relation) in a way which does not postulate a radical break between them.\footnote{Eisenberg, 1994 argues further that a focus on difference as constitutive of both individual and group identity allows us better to understand the issues at stake in disputes which would otherwise be conceptualised as involving a conflict between individual and collective rights.} Each is a product of difference.
Groups are defined by the exclusion of those who are not members. Individuals are defined by their membership of multiple groups.\textsuperscript{14}

\textbf{§2.2.2 Difference is a contingent relation}

In the past, important forms of social difference, especially those of race and sex, have often been understood as "absolute" differences; as separating persons according to a natural and total division between their natures. Because the source of such identities was presumed to be membership of some natural or God given "kind", it was thought possible to define them in isolation from one another. Contrary to this, the account of difference that I am developing understands differences as binary oppositions between two terms, each of which is defined through the negation of the other. Difference is always a relation and neither term of this relation has any meaning outside of the relation.\textsuperscript{15} As a result, changes in the nature of one term necessarily affect the other. A further consequence of the relational nature of difference is that each side of the relation of difference in some sense "owes" its identity to the other. Neither identity could exist without the other and each is present (through negation) in the other.\textsuperscript{16} The meaning of what it is to be a member of a particular group (for instance, a man) is given by what it is to be (not) a member of another group (in this case, a woman).\textsuperscript{17} This relation of difference is also a symmetrical one. Although, historically, difference has been conceptualised on a hierarchical model in which one term is privileged as positive and originary and the other as negative and derivative, each term may be \textit{equally} well defined as the negation of the other.\textsuperscript{18} An important consequence of this symmetry is that neither side of the relation can be privileged or said to be "normal".\textsuperscript{19} Because each side of the relation is defined by the negation of the

\textsuperscript{14} Simmel, 1966.
\textsuperscript{15} Minow, 1990, 22, 52-3; Rutherford, 1990, 10; Young, 1990a, 99, 166-173; Mouffe, 1993, 2.
\textsuperscript{16} Rutherford, 1990, 22; Sarup, 1996, 58.
\textsuperscript{17} The possibility that this "debt" has an ethical dimension is explored in \textsection4.7.3.2.
\textsuperscript{18} Rutherford, 1990, 10.
\textsuperscript{19} Minow, 1990, 50-53; Young, 1990a, 171.
other, each is implicated and present in the nature of the other. Because the relation is symmetrical, any claim of "normality" or privilege for one side of the divide is necessarily also true of the other and thus lapses.

Not only is difference relational rather than absolute in this sense; the system of differences is not fixed either. Difference is historically and politically contingent. The delineation of social groups varies across culture and history and with the political circumstances in which it occurs. Some societies recognise differences where ours does not, whilst others ignore differences which we consider important. The importance of various differences alters over time; for example, gender has a different significance in our society today than it did a century ago. The existence and significance of various differences also changes with the issue being considered. Groups will form, dissolve and reconstitute themselves along different lines in different political struggles. Identities and common experiences which were emphasised in one context will be denied in another. This is made more likely because of the crosscutting of difference. Groups defined by their difference to an external "Other" are themselves continually threatened by other internal differences, any of which might itself become politically charged and provide the basis for the emergence of a new group.

The historical and political contingency of difference is true at both the social and individual level. Not only does the system of differences within which individual identity is constructed change through history in ways which are partially determined by political events, but each individual's identification within that system will vary over time and with political circumstances. A person who identifies herself as a young straight Chinese at age eighteen may understand herself as an Australian dyke at age thirty. Such transformations of identity are

20 Minow, 1990, 228; Eisenberg, 1994, 9; Sarup, 1996.
21 Young, 1990a, 47-8; Calhoun, 1994, 24; Simon, 1997.
22 Young, 1990a, 171-3.
23 Tamir, 1993, 155.
often a response to changes over time in the social and political context in which we come to consciousness of our identity. Individuals may also identify themselves differently during the same period depending upon the political circumstances in which they are asked to do so. For instance, an individual might identify himself as a homosexual when considering issues around gay rights, as a man when it came to arguments about custody arrangements, as an Italian when asked about funding for language schools and simply as an Australian when deciding on immigration issues. In this way our identity may shift in relation to the issues which face us.²⁴ We will investigate the nature and mechanism of such shifts further in the latter part of this chapter where I shall argue that they are located in, and constrained by, narratives.

§2.2.3 Identity has an intersubjective dimension

As we have already noted, although the sources of difference and thus identity fluctuate, because difference functions both at the level of individual consciousness and collective social practice, identity has both a subjective and an intersubjective component. We identify with and are identified with different groups. Our identity is partially determined by the way we understand ourselves through a system of differences. But it is also determined by the way other people understand us and – more importantly – behave towards us.²⁵

Recognition of the intersubjective component of identity/difference is an important corrective to the emphasis on the fluidity of identities that is a feature of many "post-modern" accounts of identity. Because theories of difference have largely been developed in opposition to totalising or essentialist theories of racial and sexual identity, which have in turn historically been associated with the oppressive ascription of an identity and corresponding essence to those whom they presume to categorise, difference theorists have tended to emphasise the dangers of such categorisations, the partial nature of all identities and the extent to

²⁴ Walzer, 1994a, 82 & 85; Simon, 1997, 328.
which we may resist such ascriptions and construct our own identity. Yet there is a danger of a voluntarism here which may elide the nature of difference as a social category which resists individual attempts to reshape it and which is reflected in widespread and persistent patterns of social interaction and behaviour.\textsuperscript{26} The prevalence, persistence and the damaging effects of racism and sexism can only be understood on the basis that the differences around which they are organised cannot be denied by any act of individual will. Furthermore, attempts to recognise the existence and effects of difference in social policy, such as that directed at addressing the injustices of racism and sexism, will founder in the absence of the ability to distinguish between members of different social groups.\textsuperscript{27} Whilst there are obvious dangers involved in ascribing identities against the will of those so characterised, it is equally problematic to neglect the extent to which identity escapes individual determination.

Because of the intersubjective component of difference - its expression in and constitution through patterns of social interaction - there are facts about identity, which refer to these patterns. Whether or not a particular group or individual is recognised and treated by others as different (or the same) is a matter which can be subject to an (reasonably) objective test.\textsuperscript{28} The existence of such criteria of identity allows that we may be held to be right or wrong about the identities of those around us. As a result of the intersubjective component of difference, it is possible to be mistaken even about our own identity - which is a function of the

\textsuperscript{26} Calhoun, 1994, 21.

\textsuperscript{27} Minow, 1990, 40, 375; Young, 1990a, 163-168.

\textsuperscript{28} It is important to be clear that the claim being made here concerns the existence of patterns of social behaviour that constitute difference. It does not concern the nature of the differences between persons that those involved in such behaviour claim to be responding to. That is, what I am claiming may be more or less objectively determined here is the position of individuals within a complex of social relations. I make no claim that the differences to which those involved in such relations may refer in explaining their behaviour need have any basis in objective facts beyond those concerning such behaviour and relations. Indeed with regards to some differences I explicitly want to reject the idea that they refer to objective features of persons. In the case of race, for instance, the social category has no basis within the biological schema to which it supposedly refers; race is an entirely constructed category which is the historical product of racist doctrines (Ifekwanigwe, 1999, 10-15). Similarly I want to leave open the possibility that, as Judith Butler has argued, sex may be, as much as gender, which it supposedly underpins, a product of existing social relations. See Butler, 1990; Butler, 1993.
ways in which others view and treat us as well as our own identification. We may discover ourselves to be mistaken about our identity in two ways, each involving our encounters with others.

The first way is through an encounter with a social group that we had not encountered before and from which we had not distinguished ourselves but with which, we find in the event, we cannot identify. We experience them as Other and so come to discover ourselves as possessing an identity of which we were previously ignorant. Through our failure to identify with those we meet we come to know ourselves as members of another social group. In this case we now perceive as Other a group which we had previously identified with, or at least failed to distinguish ourselves from, and as a result become aware of a previously unrecognised axis of our identity. This process is a common way in which members of dominant groups may become aware of their racial identity, for instance. If individuals have had no contact with members of the group their society constructs as the racialised Other then they may be unaware of their own identity in relation to race and indeed may deny that they have such. An encounter with the Other then may result in a sudden awareness of racial "difference" and of their own racial identity.

The second way in which we may be mistaken about our identity is when others reject – through failing to recognise in their social practice – an identity which we experience subjectively and thus deny our identity as a member of that group. If others genuinely do not perceive us as a member of a particular social group then it may be that we are mistaken about our identity. This happens most often when individuals are attempting to claim membership of a particular group and other members of that group do not recognise them as such. But it is also possible when an individual claims membership of a particular group and others not of that group fail to recognise this in their treatment of that individual.

29 Young, 1990a, 43.
Note, however, that because of the foundations of identity in social practice rather than just consciousness, it is possible for such denials of identity to be disingenuous also. Racists, for instance, may try to disguise their racism (and usually in doing so serve it) by denying that they recognise any difference between themselves and those against whom they discriminate. Yet the fact that they so discriminate in their daily lives belies their claims. Their claim not to recognise the (different) identities of others is itself revealed as an aspect of their racism. What matters is the way people behave towards each other, rather than what they claim about each other.\textsuperscript{30} Members of a group who are consistently treated differently possess a distinct identity by virtue of this treatment regardless of what others may say about it (although what follows from this remains open at this point).

The intersubjective component of identity ties our identity as members of a particular group to others' recognition of us as members of that group. Our being the people we are is partially dependent on others recognising and treating us as such.\textsuperscript{31} Such recognition will not be unconditional; there will be certain criteria we will have to meet in order that others should recognise us as members of a particular social group. These criteria will often be represented as "objective" features of persons, such as sex, skin colour, language spoken, et cetera.\textsuperscript{32} However, what I want to emphasise here is that such criteria may include the social relations in which we are embedded and also our fulfilling certain duties and obligations. It may be a condition of others recognising us as members of a particular group that we exist in certain relations to those around us. These may just be relations of mutual recognition or they may be relations of mutual concern or more complex relations of kinship, caste or clan. Many indigenous peoples, for

\textsuperscript{30} Although, of course, what people say is itself part of their behaviour. But the point here is that in assessing the behaviour of others we need to take more into account than their first person claims.

\textsuperscript{31} Taylor, 1989b, 35-6.

\textsuperscript{32} Again I wish to leave open the question of the extent to which such features can properly be thought of as objective features of persons. I would insist though that, however "objective" such markers of difference are thought to be, their significance and thus the social groups that they mark are socially and historically contingent.
instance, have extremely complex systems of social relations which link individuals to kinship groups, traditional lands or totems and which bind all members of the community. These relations may include an ethical or political dimension. Our membership in a given social group may be conditional on our carrying out certain duties or fulfilling certain obligations. These duties and obligations may exist for all members of the group or they may be particular to our place in it, given other aspects of our identity. Some social groups require all members to maintain a certain lifestyle or religious faith or speak a certain language, for example. Many groups place special obligations on parents or authority figures in the community, or have different expectations of male and female members.

These criteria of membership in a group will be most obvious when membership of a group is highly contested or is at least consciously reflected upon by its members. It is perhaps most marked in religious communities, where membership is conditional upon meeting one’s obligations of worship which may have extensive social implications such as forms of dress, diet, et cetera, and may also include duties to the community. Members who fail to perform their religious duties may be explicitly expelled or excluded from the community. But some set of social relations are constitutive of most groups. There will also be an ethical/political dimension to most groups. That is, there will be ethical and/or political implications of our membership in various social groups such that if we fail to behave appropriately others will no longer recognise us as members of that group.

In this way it may actually be constitutive of our identity that we exist in certain social relations and possess certain duties and obligations. Accordingly, if the social relations in which we are enmeshed are disrupted or if we fail to fulfil our obligations – or are prevented from doing so – then our identity may be threatened. Where our membership in a given social group provides us with a core aspect of our identity we may take such threats very seriously. We may fear that others will no longer recognise us to be who we feel ourselves to be and that consequently we may be unable to remain that person. This concern for the cultural under-pinnings of our identity will become important in the next chapter,
where I shall move to consider the implications of the possibility of such threats to our identity for the sorts of political institutions under which we would wish to live.

The intersubjective aspect of difference also means that difference is not infinitely malleable in the hands of those who would wish to shape it to political ends. Because of its foundations in collective social practice, difference cannot simply be abolished or summoned into existence. It is not immediately possible to establish a new axis of difference simply by collective self-identification. This is not to say that axes of difference cannot be established and manipulated to serve political ends. The sensitivity of difference to political context indicates that this can be done. One of the first priorities of many nascent political movements is to attempt to consolidate their memberships by attempting to establish an identity which will bind their members together. Some political movements come into existence solely for this purpose of creating an identity. But the success of such attempts depends on whether or not the new identification brings into political consciousness a difference which was already present — although not consciously expressed — in social practice or alternatively can be sufficiently regulated/enforced through institutional and political means over an extended period so as to create such a distinction in social practice.  

§2.3 Difference, “Community” and Culture

One might think then that “community” is another axis of difference by which people may be divided. But on my account, community is an effect of difference rather than one of its axes. Community is what exists within a social group

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33 Nationalist movements are the obvious example here. Emerging nationalist movements seek to establish an identity founded in a community — citizens of a nation-state — which does not yet exist. Typically they draw on commonalities established by the administrative processes of existing or previous colonial powers. Often the imagined national identity crosscuts existing differences such as race and ethnicity. See Anderson, 1991 for a discussion of these matters. The Gay Liberation and Women’s movements have also been involved at particular times and places in attempting to create a new identity as part of a political strategy. These attempts are predicated on the reality of the identity supposed, as indicated and partially created by existing patterns of oppression.
defined by difference rather than the boundary around it. Community, as used by
communitarians, is typically ambiguous between various different sources of
identity, any of which could provide the "shared understandings and traditions"
which bind a group of people together. The communities about which
communitarians write may be bound together by citizenship, nationality, ethnicity,
shared religious belief or geographical location (or some combination of these).\(^{34}\)
That we may describe communities by specifying the intersection of the axes of
difference within which they exist will hopefully not be controversial. But I want
to argue that any intersection of such axes defines a potential community. That is,
each social group defined by difference possesses its own set of "shared
understandings". The shared identity of members of a social group results in a set
of commonalities, shared experiences and shared understandings, if only because
those who share an identity will have experiences in common by virtue of being
treated similarly by those around them. There is thus a sense in which social
groups defined by any of these axes of difference may possess its own "culture".
Furthermore, I want to argue that axes of difference that are seldom discussed as
possible sources of community in the liberal-communitarian debate, such as sex,
sexual preference, race, class, occupation and bodily capacity, may also define
communities with their own traditions and understandings. It is equally valid to
speak of women's culture or a working class culture or a gay male culture as it is
of an Australian culture.

I claimed above that any intersection of axes of difference defined a potential
community. Whether or not a social group defined by difference constitutes a
community depends on whether people identify with, or are identified as,
members of that group. I want to leave open the possibility that there may be
some intersections of axes of differences which do not serve as sites of
identification at a given historical juncture and thus do not form communities. In
a society divided by race, class, gender, ethnicity, religion, bodily capacity,
occupation, et cetera, it may nonetheless be the case that no-one identifies

\(^{34}\) MacIntyre, 1981, 32 acknowledges that our identities are constituted by our membership of
many social groups.
themselves, or is identified, with a particular juncture of this matrix. Notice also that because community exists within social groups defined by difference it will share the features of such groups that I have been discussing above. Communities will crosscut and overlap, will be historically contingent and may shift according to the political context in which we seek to determine them. The group that forms our "community" depends in part on the circumstances in which the question arises. Communities may form and dissolve with changing historical and political circumstances.

This account of a potential community existing at each intersection of existing axes of difference, with its own shared understandings and culture will be crucial for the argument of the remainder of the thesis. Because most of the debate about the significance of our membership of social groups and of the particular commitments we possess by virtue of who we are, as it has occurred in the liberal-communitarian debate, has focused on communities or cultures more traditionally conceived, I will also often be devoting most of my attention to these. But it is important to keep in mind that my own account of community understands it as potentially existing at any intersection of axes of difference. We have particular commitments and we share understandings by virtue of our membership of any social group defined by difference. As our identity shifts with the political circumstances in which we consider it, so too does our consciousness of our particular commitments and of the understandings we share with other members of social groups. In Chapter 5 I shall argue that a proper account of identity, community and culture may go some way towards mitigating what many have thought to be the illiberal consequences of philosophical communitarianism.

§2.3.1 Some objections anticipated

Because of its centrality for what follows, I want at this point to anticipate and deal with a number of objections to my account which dispute whether the social groups defined by difference that I describe may be properly characterised as communities with their own shared understandings and "culture". These objections proceed by contrasting various social groups defined by difference against two paradigms of community and culture which, although they are seldom
explicitly set out, both have currency in the liberal-communitarian debate.\textsuperscript{35} The first model of community that is current in the liberal-communitarian debate is that of a geographically localised community such as a small town or neighbourhood. The shared understandings of such communities are likely to consist in local practices or traditions which have developed and are maintained through face to face contact between its members. Because the imaginary archetype of such communities is of a racially homogenous group, and elides gender divisions, these are the communities where it seems most plausible to talk about their members possessing common interests as well as shared understandings. But the other notion of community that is sometimes invoked is that of the nation or political community.\textsuperscript{36} This is a much larger collectivity which is usually assumed to be united by shared ethnicity, language or culture and to possess its own state.\textsuperscript{37} The "shared understandings and traditions" of communities understood in this fashion are much wider and richer, but also much less homogenous, than those of the geographical communities described above. They constitute what Kymlicka describes as a "societal culture" with its own history, literature, theatre, art and forms of public life. Societal cultures typically

\textsuperscript{35} Waldron, 1995, 95-6.

\textsuperscript{36} This notion of community and culture is typically, although not exclusively (Friedman, 1994, 298, for example, claims that it is also characteristic of major communitarian thinkers), invoked by liberal participants in the debate. As Kymlicka, 1995a, 92 notes, because of the extent of the diversity that exists within such cultures, they are unpromising sites to look for shared conceptions of the good or for a set of shared understandings that might settle disputes about justice. Note also, however, that Kymlicka himself seems equivocal on just how much is shared by members of such communities. His initial discussion of societal cultures at p.76 suggests that they do involve shared values and that their shared vocabulary of tradition and convention is the everyday vocabulary of social life, claims which do seem to imply a good deal of consensus within the culture. He also suggests on p.77 that in modern democratic states at least there exists a "high level of solidarity" and "a strong sense of common identity and common membership".

\textsuperscript{37} It is an axiom of modern nationalism that the boundaries of nations and states should coincide. Each nation should form a state and each state should consist of only one nation. In many cases, then, the bounds of community are the borders of the state. But, as Kymlicka has argued, there are numerous modern states that in fact contain within them more than one nation and political community; they are multi-national states (Kymlicka, 1995a, 11-13; Kymlicka and Straehle, 1999). In these cases the boundaries of the nations or political communities within them and the state have come apart. There are also cases, such as that of the Kurds, where the development of the system of states has left a nation or people bereft of statehood. In such cases, I would argue, we have a political community which exists without the state. The existence of such cases should also draw our attention to the fact that the institutional embodiment that Kymlicka emphasises in his definition of societal cultures is the result of morally arbitrary historical contingencies.
also involve wide-spread institutions devoted to the maintenance and reproduction of the culture. These may often be administered or at least funded by the state.\(^{38}\)

Notice that these two models of community are actually substantially at odds with each other not just with regard to the site of community but also as to what it consists in. The face to face relations that sustain the communal life of a small town or neighbourhood are impossible in a societal context. The differences within and between societal cultures are also likely to be much greater than those within and between local communities (at least if these exist within the same societal culture). But because I am interested in providing a third account of community and culture, I will not engage with the question of which of these is the proper account of community. Instead I will canvas objections deriving from each of these models of community and show that my account is defensible against both.\(^{39}\)

There are four objections to my account that I wish to discuss and I will pursue two strategies in attempting to defend my account against them. Firstly, I will insist that the purported differences between social groups defined by difference and geographical communities or societal cultures are often exaggerated. In many cases the claims made for the latter are simplifications and generalisations which do not hold up under closer scrutiny. Secondly, I will argue that whether or not the distinctions asserted genuinely do distinguish between societal cultures/local communities and social groups defined by difference will depend on the context in which we are evaluating the matter. While there obviously are significant differences between social groups defined by difference and either of these models of community, these do not necessarily distinguish between them with regards to the crucial question of the origin of those shared understandings and particular commitments which might influence our reasoning about justice. The

\(^{38}\) Kymlicka, 1995a, 76.

\(^{39}\) Indeed my account goes some way to reconciling these two competing models. If the group that forms our “community” depends on context then it is entirely likely that in some circumstances the differences that define our community will be those of nationality or neighbourhood. Each of these groups may form our community at times.
social groups which are the source of such commitments and understandings depend on context. In some cases the communities and cultures described by communitarians may be the most important source of shared understandings for our reasoning about justice, but in many others it will be some other social group defined by difference.

§2.3.1.1 Community and geography

The first objection to my account of community is one that, I believe, we may dismiss reasonably swiftly. It argues that the "communities" I describe are not geographically localised and therefore not proper communities. "Women" or "gay men", et cetera, obviously do not describe groups which inhabit any particular geographical locality. Members of these groups are dispersed throughout the wider society. But this is clearly an unnecessarily restrictive criterion of community or culture. There are many clear cases of communities and cultures which are geographically dispersed. Members of a national culture, for instance, may remain members of that culture even when they are far from home. The vigorous cultures of diasporas around the world testify that this is not an aberration. Similarly, if we accept the existence of religious or ethnic communities then these too can exist even when those who participate in them are spread out across the globe. There are many other dispersed associations that it seems quite proper to describe as communities, such as the philosophical community, the arts community, or the sporting community, for example. The fact that members of social groups such as women or the working class or gays, et cetera, are not concentrated in any locale is no argument that they may not form communities or maintain cultures.

40 As Anderson, 1991 has argued, even national communities are not founded in the geographical proximity of their members. Face-to-face relations between the citizenry of the nation is impossible. These communities are instead "imagined communities". As such there is no reason why these communities cannot be imagined across geographical barriers.

41 I have used the expression "national culture" here because to speak of remaining a member of a societal culture when one is not a member of that society seems awkward. Yet one can still clearly exist in a French culture, for instance, in many different locales around the world and indeed can remain a member of this culture even when those around are not. Tamir, 1993, 43.
§2.3.1.2 The scope of societal culture

Secondly, it might be argued of societal cultures that these are importantly wider in scope, or more comprehensive, than those maintained by social groups. Societal cultures shape the meanings of actions across the entire range of human activities whereas the shared understandings of social groups concern only those activities that are characteristic of that particular identity. Societal cultures, on the other hand, are the ultimate source of all social meanings. In particular, they provide social meanings and understandings which determine the significance of all other differences within them. Indeed, it might be argued that it is within societal cultures that the assessment of what axes of difference exist is made.

But these apparent features of societal cultures are an artefact of a theoretical focus on societal cultures that derives from the fact that they are the social groups around and within which we organise most of the institutions studied by political philosophers. If we take a step back and consider the nature of difference, we realise that the claim being made for societal cultures is too large; other social groups may, depending on context, equally well provide the culture within which the meaning of nationality is determined. Societal cultures do not determine the meanings of all the other axes of difference. Instead every axis of difference modifies the meanings of all the others.

Indeed, many social groups defined by difference are larger than societal cultures and transcend and crosscut their borders. Men/women, gays/straights, the young/the old, et cetera, all describe groups that are (potentially) global in nature. So it is impossible for societal cultures to determine their identity. The most one could claim is that a "societal culture" determines what it means to be,

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42 Kymlicka, 1995a, 76.

43 Other important global communities, with their own distinct cultures, are the various "world" churches, such as the Roman Catholic Church and the professional communities establish around various academic discourses, conferences, et cetera. In a world of global communications there are even many "sub-cultures", such as "rave culture" for example, that are now clearly international.
for instance, a woman or man in that society. But then one might equally present this as a case of sexual difference determining what it means to be an Australian, Norwegian, or Indonesian, et cetera, man or woman.

In fact both of these are misrepresentations of the situation. It is the intersection of both axes of difference (in this case, gender and nationality) that determines what it means to be a man or woman in a particular societal culture. Neither axis of difference can describe or determine the facts about identity which are the effects of the other. Our identity as Australians does not determine what it means to be an Australian man or woman, only those things that Australian men and women have in common. An account of those things that we share as Australians obviously cannot also capture the differences amongst us. Similarly, an account of the shared experiences of women cannot describe the national differences amongst women. The claim that a community entirely determines the shared understandings available to its members elides the differences within it.

§2.3.1.3 Societal cultures and cultural identification

A third, related, argument claims that our identification with our societal culture is deeper than any we have with other social groups. It might be argued that societal cultures are the primary site of culture and identification. While they may be divided by other differences, members of the same societal culture share a set of understandings that clearly distinguishes them from members of other societal cultures. It is our identity as members of a particular nation that marks us most deeply and is most important to us. We are Australians first and Australian men or gay Australians second.

Notice, however, that the claim that societal cultures determine the meaning of all other axes of difference in the society denies agency to members of social groups defined by those axes to determine the meanings which are constitutive of their own identity. This is most obvious when we consider the case of ethnic or racial minorities (but it is equally true for other social groups). It seems problematic to assert, for instance, that “American” culture determines what it means to be an African-American as though African-Americans as such, played no role in this process. It implies that they are passive recipients of an identity constructed elsewhere. Although as I have argued, because of the intersubjective nature of difference, it is not possible for members of a group to entirely determine the nature of the difference that bounds the group, they do have substantial agency in this matter. There may exist many groups within a societal culture who are actively engaged in developing distinctive ways of life and are doing so despite the indifference towards, or even the active hostility to, this process from society at large.
But this is just to deny the account of identity as a product of difference that I outlined in §2.2 above. It is simply untrue that our most fundamental identity is as members of either a local community or of a societal culture. As I have argued, which is our most important source of identity depends on both the person and the circumstances in which we ask the question. Some feminists, for instance, may identify more strongly with women of other nations than with men of their own nation. Those who experience their class identity strongly may feel that they have more in common with members of their class in other nations than they do with other members of their societal culture on the other side of the class divide. And of course there are many around the world today who identify more strongly with some sub-national grouping than with their societal culture; while they may not deny their identity as a member of the society, they feel that it is their ethnic or racial identity which is deepest. More importantly, which is our most important axis of identification will depend on the circumstances in which we are asked. Sometimes we will feel that it is our identity as citizen of a particular nation or resident in a particular neighbourhood that is the source of our deepest convictions. But in other circumstances, we will feel that it is our identity as women or men, and/or blacks or whites, and/or gays or straights, that distinguishes us from those around us. Importantly, when disputes about justice occur within societal cultures the appeal to the shared understandings of such cultures has already failed and differences within the society have come to the fore. It will be our particular commitments arising from our membership of other social groups, then, which will shape our thinking in relation to these disputes.

§2.3.1.4 The structure of groups and the sources of shared understandings

The final objection to my account that I wish to consider focuses on the sorts of relations that are presumed to exist between members of a community or participants in the same culture. Members of both local communities and societal cultures are involved in patterns of social interchange and mutual regard which seem missing in the examples I canvas. In the case of local communities or societal cultures the boundaries of the social group are also the limits of our interactions with others. This seems unlikely to be true of other social groups. Australian women, for instance, are unlikely to associate only with other Australian women. Societal cultures clearly, and local communities perhaps, also
act collectively in ways that other social groups do not. “Australians” act collectively in a way in which “men”, for instance, do not. Through the state, they organise to pursue collective goals. This collective action is facilitated by the fact that societal cultures are also, as Kymlicka argues, “institutionally embodied”. They are expressed in a wide range of institutions such as “schools, media, economy, government, et cetera.” These institutions serve to sustain and reproduce the culture. This claim could also be made on a smaller scale for local communities. Local communities also establish institutions such as public spaces, schools, churches, newspapers, and neighbourhood associations that support the growth and survival of shared understandings and local traditions. The geography of such communities itself may serve to facilitate the face to face interaction that maintains them. It might be argued, then, that it is because of their regular interactions with each other and common activities, which are facilitated by the institutions they establish, that members of these groups come to share understandings. If regular interchange and collective activity is a criterion of the possession of shared understandings, it might therefore be argued that members of social groups defined by difference do not share understandings at all.

There is clearly some truth in the descriptive claims upon which this objection rests. Human affairs are currently ordered by and around societal cultures and as a result the boundaries of these cultures also tend to mark limits to our interactions with others. But again the difference between the familiar cases and the communities defined by difference I describe is exaggerated here. Social groups defined by differences other than nationality may contain more shared understandings than it at first appears.

One reason this is the case is that collective activities are not the only source of shared understandings. Shared experiences can also give rise to shared understandings and members of a group may have experiences in common without these experiences deriving from collective action. Those who have similar experiences may discover that they share various ways of thinking about

45 Kymlicka, 1995a, 76.
these, responses to them, projects shaped by and relating to them, et cetera. These understandings emerge when the experiences are appealed to in the course of discussion or argument. At the very least, what members of social groups defined by difference share is the experience of being treated in the same way by others. This is in itself often enough to establish shared understandings. Notice that many aspects of our identity, such as our sex, class, race, ethnicity, or sexual preferences, generate a wider range of more powerful experiences in this fashion than does our nationality, because they are more important to us in our daily life. The way in which we are treated by others is no trivial thing but may shape our whole life-world. Consider, for instance, the role of sexual difference in organising human affairs. If the social group is defined by an axis of difference which relates to corporeality, such as sex, age or bodily capacity, then its members may also share experiences by virtue of their embodiment. It is arguable, for instance, that the differences of reproductive and sexual biology between men and women creates a set of experiences, particularly around intercourse, birth and parenting, unique to each sex. An appeal to these experiences may then form the basis for a set of shared understandings within each group. Similar arguments might be made in relation to age or bodily capacity. That is, it might be argued that there is a set of characteristic experiences at either end of the human life cycle which may serve as a basis for shared understandings amongst the elderly or the young. Or it might perhaps be argued that the experience of a particular disability, or even disability in general, generates shared understandings amongst the disabled.


47 This claim is not intended to imply a sexual essentialism. The meanings of these experiences will be socially and historically determined. Yet facts about bodily identity may place constraints on the ways in which sexual identity (for instance) is realised in any society. The relation between corporeality and experience is a complex matter, which I cannot do justice to here (but see Gatens, 1991; Butler, 1993; Grosz, 1994; Gatens, 1996). For my purposes it is sufficient to point out that the shared experience of embodiment is another possible source of shared understandings within groups defined by bodily difference.

48 See, for instance, Soper, 1990, 17.

49 It is worth noting in this context the existence of the United Nations’ Convention on the Rights of the Child. Such a project only makes sense if it is believed that there exist a common set of experiences and interests of children that could inform the drafting of the document.
Notice also that there is a tendency for members of a group who are consistently identified by others as having something in common and are treated similarly as a result to begin to identify with each other and to converse and organise with each other as a consequence. The shared experience of being treated as different may give rise to collective organisation and interaction which may in turn produce a richer set of shared understandings and traditions within the group. This has typically been the case for racial, sexual, ethnic and class difference as well as difference in sexual orientation. 50

Furthermore, the claim that members of a community must be engaged in regular interactions with each other in order to create a culture is itself problematic. It is possible for social groups to possess distinctive cultures even when the majority of their members are not involved in consciously shaping them. This is because cultures are always, to some extent, the product of elites. Belonging to a culture is often a matter of identifying with, or employing, ideas and narratives that are held by its members to be, or are identified by others as, characteristic of a particular social group. But these ideas and narratives may be developed by a small fraction of the members of that group, who are writers, artists, musicians, critics, intellectuals and others involved in cultural production. These people maintain and advance the culture on behalf of the group. Of course for the claim that the ideas produced by such elites constitute the culture of a group to be justified, they must be invoked by at least the majority of members of the group when they identify as such and function as shared understandings when members of the group begin to discuss their experiences.

What I am suggesting here is that all the members of a group do not have to identify as such in the normal routine of their lives for that group to have its own culture. Instead, what is necessary is that there exist a small group of persons who identify as members of that group and who are involved in conceptualising the experiences of its members and developing a set of understandings which then become shared when the remainder of the group invokes them in their

50 West, 1990.
identification as members of the group. Because membership of a culture requires identification rather than association with its other members, one may identify with a culture whose membership is wider than, or different to, the group of people with whom one regularly interacts with on a day to day basis.

My argument here should in fact come as a relief to those who wish to hold that society at large is the site of culture, because the extent of the divisions that exist within societal cultures, especially along ethnic or racial lines, is such that large numbers of their members typically do not interact with each other. They may live the entirety of their lives within smaller communities defined by race, class or ethnic group. If it is true that all these people are, nonetheless, members of the same societal culture, this must be because they participate in it by virtue of allegiance to a common culture that is shaped elsewhere, through processes other than their relations with the rest of the group. The values that unite them are not established by the mutual interaction of all the members but through the negotiations of elites. What renders these values their values, despite their lack of participation in shaping them is that they are willing to embrace them when they consider what it means to be a member of that society.

But just as members of a societal culture can partake of their culture without necessarily having consciously contributed to it, and without having engaged in regular interaction with the rest of its members, so too can members of social groups. Social groups may have cultures, even when the majority of members of the group are not conscious of their membership in the normal course of their day to day life, because a minority of their members are actively involved in creating them. For example, the activities of that minority of women who form the "women’s movement" and the work of feminist writers, artists, critics, et cetera, have emphasised, or perhaps created, a distinctive set of shared understandings that women may make use of when they identify as women. Similarly the work of black or gay writers, musicians, artists, critics, et cetera, has been instrumental to establishing a black or gay culture. It is the culture produced by the conscious

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51 Walzer, 1994b, 188.
partisans of the group, which are then taken up by the broader membership of the group when they identify themselves as such, that allows us to say that social groups possess cultures.

Finally, the fact that societal cultures and local cultures are institutionally embodied also does not serve to entirely distinguish them from social groups. In at least some cases, social groups defined by difference do establish institutions to support and reproduce their culture. The absence of state funded or administered institutions expressing the culture of a group does not mean that its culture is not institutionally embodied. Social groups defined by difference often establish a plethora of institutions within civil society within which to pursue those ideas and practices which distinguish them. Thus, for example, in places where it is legal to do so (and often in places where it is not) the homosexual community has created a wide range of institutions which serve to support a gay culture. Gay bars, gyms, neighbourhoods, "beats", newspapers, sporting groups, social networks, lobby groups, et cetera, all serve to reinforce a gay identity and to support a distinctive gay culture. Immigrant groups often establish a similarly extensive set of institutions to serve their cultural needs, including schools, neighbourhoods, shops and newspapers. Women's groups have established networks of refuges, crisis centres, bookshops, presses and social spaces within which a distinctive set of shared understandings has evolved. Within these sets of institutions there may be those devoted to supporting the culture of smaller groups formed by further intersections of axes of difference. There may be gay male bars and dyke bars, women's refuges within the immigrant community, and so forth. So even social groups defined by the intersection of several axes of difference may be institutionally embodied to some extent.52

Of course it remains true that the cultures of social groups defined by differences other than nationality are not embodied across as wide a range of human activities as are societal cultures. I have argued that this is a matter of degree rather than of

52 Furthermore, given the foundations of identity and culture in social practice I would argue that any culture is necessarily institutionalised in some sense.
kind. Nor do non-national social groups typically direct the resources of the state to facilitate the practise and preservation of their culture. However, this is itself also, as I suggested above, a function of the attention historically given by political theorists to the claims of national cultures. It is because the state has recognised, or indeed been founded on, the claims of national cultures that they had access to the resources necessary to embody themselves. We can see here the conservative implications of focusing, as Kymlicka does, on societal cultures as the only cultures deserving of large scale institutional recognition within liberalism.\(^53\) Making institutional embodiment a requirement for a culture to have a claim to institutional recognition within liberal theory rewards those cultures that have already managed to use the state to their ends. But which cultures have succeeded in doing so is arguably a morally arbitrary historical contingency. It is a consequence of our existing (and past) political institutions rather than a possible justification for them.\(^54\) If other social groups had access to the resources currently controlled by the state then I see no reason why they could not equally well embody their culture in a wide range of institutions. Institutional embodiment is a poor grounds to single out societal cultures as more significant than other social groups for debates about the importance of culture.

§2.3.2 My account distinguished from cosmopolitanism

I hope then that I have gone some way towards defending my account of culture, as local and a product of the political circumstances in which it is invoked, against criticism from those who are under the sway of a more traditional communitarian account of community and culture. But I also need to clarify my account somewhat in relation to an influential position on the liberal side of the liberal-communitarian debate. My emphasis on the multiplicity of different social groups that exist within any community or societal culture and my recognition of the ways in which our identity may shift with changes in context and depending on the political issue under debate may seem reminiscent of the arguments of

\(^{53}\) Kymlicka, 1995a, Chp. 5.

\(^{54}\) Chandran Kukathas makes a similar claim about social groups generally. See Kukathas, 1992a, 110; Kukathas, 1997b, 415.
cosmopolitan liberals. Cosmopolitan liberals, such as Jeremy Waldron, also emphasise the fact that we are members of many different "communities" and that these may often extend across the borders of the nation or may indeed be much more local. But according to cosmopolitan liberals it is a mistake to make too much of our membership in such groups because of their very multiplicity and because individuals may shift in and out of them over the course of their lives. Furthermore our identification with such groups is often partial and provisional and in different circumstances we may identify with different groups.

My account differs in two important regards from cosmopolitanism of this sort. Firstly, I place greater emphasis on the ways in which our identity escapes our individual volition. The intersubjective aspect of identity means that our identity is often not altogether a matter of choice. Even in those cases when our identity shifts when we consider the matter in different political circumstances, it may be the case that we simply discover a new aspect of our identity in this new situation rather than make a choice to understand ourselves differently. Even when it is clear that we are choosing our identifications, we cannot do so from an unlimited set of options but are constrained by those available to us in our social circumstances and by the understandings of others. Sections 2.4 and §2.5-6 below explore the nature of, and the constraints on, the choices available to us.

To be fair, Waldron does not suggest that we "choose" our cultural identifications in any straightforward sense. But for Waldron, while cultural identification is not to be conceived as a matter of choice on the more familiar liberal model, it is still something that proceeds, as it were, from the inside out. Waldron offers as a model of the internal workings of cosmopolitan self the idea of the "democratic self-government of a pluralistic population" or of "the self-governance of a group of friends living and working together". Through processes of conflict and negotiation analogous to those that occur within such contexts, an identity emerges from the "chaotic" set of multiple cultural identifications that coexist

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56 Waldron, 1995, 110.
within the self. But the important point to note here is that according to Waldron identity still emerges from the self. It is this notion of identity as predominantly a function of processes occurring within the individual that I wish to dispute.

But secondly, and more importantly, I wish to argue that our identity is deeper and more significant for our reasoning about justice than the cosmopolitan liberal allows. While I agree with the cosmopolitan liberal, against the communitarian, that there is more than one group that can form our community, I also wish to argue, with the communitarian, that our membership of such groups can mark us deeply. Our identity as member of these various groups may distinguish us from other citizens in ways which have consequences for our theorising about justice. We may have particular commitments deriving from our membership of social groups that may play a central role in our reasoning about the sorts of political institutions under which we wish to live. The argument for these claims however must await Chapter 3, where it will be pursued at length. The point I wish to emphasise now is that our membership of multiple and crosscutting social groups does not rule out the possibility that some of these may be constitutive of our identity.

§2.4 Difference and the Construction of Individual Identity

To this point I have primarily been discussing difference at a social level, as a relation which exists between social groups. Identity is constructed through the intersection of a multiplicity of crosscutting axes of difference. The account I have developed so far, then, is sufficient to describe identity from the outside, as it were. The identity of individuals or social groups may be specified simply by listing all the ways in which they are different from those around them. But how does the construction of identity occur at the level of the individual subject? How do these differences function in practice, in the course of an individual's life, to determine their identity? I have emphasised that our identity may shift and change with changes in the political context in which we consider it. What is the

57 Waldron, 1995, 112.
nature of the agency of the individual in this process? My aim in examining these issues is ultimately to illuminate, for the purposes of Chapter 3, the reasoning processes of individuals when they are contemplating the prospect of changes in their identity.

§2.4.1 The “given” aspects of identity

In order to begin addressing these questions, we must first acknowledge that neither the system of differences within which we find ourselves nor most of the factors which determine our place within it have been chosen. Our circumstances at birth – our sex, bodily capacity, race, class, ethnicity of our parents, et cetera. – determine at least the starting point of our identity. The communities that we are born into determine the meaning of these (and other) differences. While we may begin to shape our own lives and identities from an early age, the position within the system of differences into which we are born places certain constraints upon us. Some aspects of our identity, such as our race, sex, ethnicity or class, for instance, are very difficult, if not impossible, to change. The meaning of the differences which mark us is also not up to us to determine. Because they are intersubjective we cannot construe them however we like. Try as we might to fix what it means for us to be a man, for instance, the meaning of this axis of difference may resist our attempts to do so. Others may interpret our identity and behaviour in ways contrary to our intentions and in doing so subvert our attempts.

The fact that the system of differences within which our identity is constructed is external to us has been emphasised by a number of writers in the (philosophical) communitarian tradition. These authors have emphasised the fact that often our identities appear to us not as objects of choice but as realities that we discover. We “find out” certain truths about ourselves. We discover that we have certain character traits or possess a particular identity, often by encountering others who are thereby and simultaneously revealed as different to ourselves. The

58 Minow, 1990, 47.
59 MacIntyre, 1981, 204-5; Sandel, 1982, 55-9, 150, 152-3.
phenomenology of such discoveries is that they reveal a feature of our identity which is somehow prior to ourselves. It does not appear to us as a matter of choice but rather as a fact which we are forced to acknowledge. Furthermore, many of these aspects of our identity which present themselves as given also seem to be "deep" in the sense that they are very important to us and perhaps even definitive or constitutive of our identity.\(^{60}\) If they were different we would be different persons. Change in them would result in change in our identity.

**§2.4.2 The voluntary aspects of identity**

However, this emphasis on the "given" nature of identity is a controversial one in the literature. Contra to communitarianism, liberals have insisted on the many ways in which we do make choices about the sorts of persons we are or at least would like to become.\(^{61}\) We can enter or leave various communities, identify as this sort of person or that. Our identities do not seem to be as fixed and immovable as communitarians sometimes seem to imply. Indeed many aspects of our identity are the direct result of choices we have made; most of us are, to some extent at least, "self-made persons". Our membership of many communities is to a large degree voluntary. We can leave town, change our religion, learn to speak another language and in various ways alter the extent to which we identify with different social groups. Thus an account of identity as constituted through our membership of social groups can also highlight the extent to which we create or choose our identity, by emphasising the ways in which individuals may enter or leave such groups.

**§2.5 The Narrative Model**

It is clear that each side of this debate possesses an important truth. Some aspects of our identity do appear to us as given, and therefore constitutive of our character, rather than objects of choice for us. In such cases, we may recognise

\(^{60}\) MacIntyre, 1981, 32, 204-205; Sandel, 1982, 179-180; Sandel, 1984b, 17; Bell, 1993, 94.

\(^{61}\) Friedman, 1989; Tamir, 1993, Chp. 1; Goodin, 1998.
that if these aspects of our identity were to change we would be a different person. More importantly, as I will argue in the next chapter, we may not want them to change because we may not want to become that person. But there are many aspects of our identity which are clearly chosen by us or are the result of our past choices and which we can alter without changing ourselves in any substantial fashion. We need an account of identity which will reconcile the truths in each of these positions.

Following Macintyre (and others) I will suggest that we adopt as the model of an individual life the idea of a “self-guided narrative”. According to this account, human beings are essentially story telling animals and we make sense of our lives by imposing a “narrative structure” upon them. We understand our lives and the lives of those around us by telling stories about them and our identities are constructed through these stories. We construct narratives which explain who we are, how we came to be that person and the sort of things that person does. These narratives are conceived as “self-guided” because although we appear as characters – indeed the central character within them – we are also in some sense the authors of these narratives. Decisions that we make as characters in the narrative shape their future course and thus we are capable of altering the narrative and – to an extent at least – choosing the sort of person we will become.

The idea of a life as a narrative allows us to combine the truths contained in both of the positions outlined above. We make choices which lead us to discover certain things about ourselves. These discoveries in turn make possible certain choices that were not available to us before. The choices that liberals emphasise occur, in reality, not as radical shifts in our identity but as a reshaping of the narrative through which we understand our lives through a series of small

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64 MacIntyre, 1981, 200; Sarup, 1996, 16.
decisions and changes in daily practice. The facts about identity that communitarians emphasise are the constraints on our choices imposed by the nature and structure of the narrative through which we are living our life, which are often themselves the result of a continuing series of small choices. The use of the concept of narrative in this way allows us to resolve the dichotomy, which appears in much of the literature on the liberal-communitarian debate, between "discovering" and "choosing" our selves.\footnote{See, for instance, Friedman, 1989; Tamir, 1993, 20.}

The model of a life as a self-guided narrative thus allows us to theorise both the freedom that we have and the constraints we face in shaping our identity. There is a great deal of freedom allowed in telling a story. We can tell it this way or that. We can interpret events differently. We can tell the "same" story as a drama or a comedy. As we live our lives, we make decisions which shape our stories by creating new materials which must be worked into the narrative.\footnote{Sarup, 1996, 25.} Within limits discussed below, we may enter or leave various communities, take up a faith, lose our religion or alter our identity in a multitude of other ways. These choices, appearing to others as a change in our membership of various communities, will be expressed subjectively as changes in the sorts of stories we tell about ourselves. The decisions that we make in turn shape the future stories we may tell.\footnote{Kymlicka, 1989, 165; Somers and Gibson, 1994, 61.} Had we made a different choice at some point in the story things might have turned out very differently. To this extent at least then, we are the authors of our own life stories.

\section{Constraints on narratives}

But there are also limits on the stories we may construct for ourselves. Accidents of birth and of history will impose certain limits on the narratives that we may tell. Our narratives must include and account for those facts about our history and identity which, as communitarians have rightly pointed out, are in no way the
products of choices we have made. Admittedly we retain the capacity to, within limits, interpret these facts and their significance in different ways. But narratives are not infinitely malleable. The ways in which other people develop and understand narratives of a given type constrain our ability to describe and understand our lives through narratives of that type. Narratives, even those which we develop to understand our own lives, are partially intersubjective and thus cannot simply be reworked without reference to the understandings of others. A further consequence of the intersubjective nature of narratives is that there is always a finite number of narratives available to us through which to conceptualise and shape our lives. The narratives through which we understand each other and ourselves are social products and thus we are limited in the range of narratives we may adopt by those available in the social groups of which we are members. Hence it is not just the “facts” which we must account for in, and incorporate into, our narratives, but the range of narratives through which we may account for them, that are given by our social and material circumstances.

Furthermore, within a human life, the stories that we do tell ourselves also structure and therefore limit the possibilities that are open to us. Our choices are always constrained by “the story so far”. Each step that we make must be tied into the narrative that we are developing for ourselves. Our current circumstances will be largely the result of our past actions and we will understand them in the light of the story we have told about our history. Our reasons for actions will refer to our ambitions and current projects, which themselves will be tied into an idea of the sort of person we are and the sort of person that we would like to become. We make decisions within the contexts of our current narratives and our decisions are structured by those narratives. The way we understand our life in

68 Sandel, 1982, 179.
71 As Somers and Gibson, 1994, 59 puts it “…all of us come to be who we are (however ephemeral, multiple and changing) by locating ourselves (usually unconsciously) in social narratives rarely of our own making”.
the past and the situation we find ourselves in now shapes the way we view the choices ahead of us. In this way, then, we appear to ourselves as characters in our own narratives. There are certain facts about us, our identity, history and values which are, at any moment in our narrative, given and so constrain our future possibilities.

The account of a human life as a self-guided narrative therefore has a number of important consequences for our account of choice and of our reasoning about future possibilities. Some of these have already been alluded to immediately above and a more detailed examination of them will made in the next chapter. For the moment we need only note that the choices that we face at any given moment appear within and are shaped and constrained by the narrative of our identity. The options for action that we perceive before us in a given situation and the way in which we assess and evaluate their consequences will be a function of our current identity, values and goals, which are themselves developed through narrative.

The same set of circumstances may appear to us an opportunity or as a threat depending on the way we understand our own life. Often there will be some decisions or possibilities that others might think are available to us, which do not appear to us as options or choices at all. Given the people that we are, we simply could not make that decision. Indeed, we may not even be aware that a choice is available. The narrative of our life cannot stretch to make sense of the possibility. Or to put it another way; if we do make certain choices, or in some cases simply become aware of them, we become different people. The narrative we must construct in order to make sense of our new choice will not be a continuation or variation on our past narratives but instead must tell an entirely different story which will re-interpret our understanding of our past behaviour. In any case, our choice will appear and have its sense in the context of a particular narrative.


73 MacIntyre, 1981, 200-201; Taylor, 1989b, 72-3; Somers, 1992, 600-608.

74 The central role played by narrative in this model of subjectivity denies then, in some sense, the possibility of an intelligible individual act of radical choice. It is not possible, on my account, to escape the narrative structure. It may, in rare cases, be possible to act in a way so as to radically disrupt the current narrative but this action will then be immediately recouped within a new
§2.5.2 The productive nature of narratives

However, narratives are productive as well as constraining. A narrative also enables – makes possible – certain choices which would not have any sense except in the context of the narrative. At the most basic level, the choices available to us are the result of the decisions that we have made in the past and which have brought us to this point. But there are also choices which are made available by our narratives in other ways. Many courses of action will have their meanings for us by virtue of the part they might play in our narratives. For instance, there will be some choices which only have meaning within the context of our long term projects. Continuing a project we have begun in the past or preparing for one we will adopt in the future involves making choices which will have no (or at least a different) sense outside these projects. Similarly, those actions which are directed towards satisfying, or alternatively altering, our expected future desires will have their sense only in the context of a narrative which includes such desires. But more basically, in just the same way as there will be some choices which do not appear to us because of who we are, there will be some choices which do appear for us because of who we are. That is, in any given situation there will be choices available to us which would not appear to another person with a different life narrative. Indeed any clear distinction between the enabling and constraining functions of narratives is impossible. Our narratives make some choices possible and rule out others simultaneously. The options which do appear to us and those which do not, are both functions of the same narrative.

narrative. If it is not then the origins and significance of the act will be unintelligible to us. The narrative structure of a life is imposed on it by the necessity of understanding a series of different human choices made in different contexts and yet connected by temporal succession. See MacIntyre, 1981, 199-200; Schechtman, 1996, 97-8, 114-119.

75 MacIntyre, 1981, 200-201; Somers and Gibson, 1994, 61.

76 MacIntyre, 1981, 201.
§2.5.3 Narratives and life crises

The notion of a life as a narrative allows us to describe various sorts of crises which may occur in a person's life. The death of a loved one, the ending of a central relationship, a sudden loss of faith and other events like these may render a life seemingly meaningless. Events or changes of these sort may destroy the narrative through which we understand our life. When a key element or feature of the narrative within which we understand our lives is lost, we may be unable to make sense of that story and thus of our own existence. Until we are capable of constructing a new narrative, events and indeed our own actions seem to us without sense or purpose. We are "lost", in a world without meaning or structure. Recovering from such a crisis involves the construction of a new narrative which encompasses the traumatic event and continues beyond it, re-establishing an array of future choices and possibilities. This process of narrative reconstruction has indeed been developed as a therapeutic technique in some modern schools of psychological counselling.

A person removed from their culture or whose culture is destroyed may experience a similar phenomenon. As suggested below, social groups provide an essential supporting context within which narratives are constructed and unfold. Without the support of others around us who understand their lives and ours in the same way we do and who provide support for the narratives that we develop, we may be unable to sustain these narratives. If our internal narrative should collapse as a result, we will find ourselves unable to understand the world around us and our place within it. Our lives may seem meaningless. Recovering from

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77 MacIntyre, 1981, 202; Brison, 1988b-1993; Dwyer, 1999, 86.
78 Taylor, 1989b, 17-18. Bell argues that this same phenomena occurs when we seek to cast aside our membership in what he describes as "constitutive communities". Bell, 1993, 100.
80 Somers and Gibson, 1994, 74.
81 The phenomenon of "culture shock" which occurs when we encounter a radically different culture may also be understood as the subjective experience of a contestation of narratives. When faced with a new way of understanding the world and those around us the "givenness" of our own
such a crisis requires that we re-establish a narrative structure to our life and will thus involve situating ourselves in a new set of social relations which will provide support for this narrative. It will involve discovering a new culture. This will become crucial in the following chapter, when we move to discuss the importance of culture and its role in arguments about justice.

The narrative account of identity also allows us to better understand radical transformations of identity. Occasionally we encounter people who seem to us to have undergone a dramatic change in character of the sort which prompt us to say of someone that they have “changed completely” or “become a new person”. According to the account of identity that I am advocating, such persons have begun to tell a radically different, new, story about themselves. They understand themselves differently and this new self-understanding is reflected in their behaviour. Importantly, such transformations necessarily involve a narrative about how this change occurred and an account, if not always an explanation, of past behaviour. That is, they have some story to tell about the sort of person they were and the things they did. The new narrative of their life must maintain some continuity with the old otherwise they would not be able to recognise their past as belonging to them. While it may not have been possible to foresee the shape of the new narrative from within the old, in retrospect we will be able to see the connection between the two.

§2.5.4 The plurality of narratives

However, none of this is to say that we must only have one narrative which explains our life. The stories that we choose to tell will depend on the audience and our situation. We understand our lives differently at different times. This reinterpretation makes possible the fluidity of identities discussed earlier. In some circumstances we may tell our stories with the central character a man or a gay identity is called into question. But it is a feature of many of our most cherished narratives that they elide their own nature as contingent historical products. The realisation that they are not the only possible narratives for us may in itself seriously disrupt them.

man or a Pole, et cetera. In this case "we" will appear as a different person in each story. The stories that we tell at different times may even contradict each other. We may, for instance, describe ourselves as a conservative at one juncture and as a radical at another. But there may be some limits to the extent to which a human psychology can sustain contradictory narratives. We use our internal narratives to structure and understand the world and to make decisions. Maintaining too great a contradiction between narratives for too long is likely to leave us unable to do these things and thus to function. But contradictory narratives are less likely to result in psychological difficulties if they are expressed at different times or in different contexts and if the contradictions can be resolved at some higher level in a more complex narrative. Furthermore, there are important constraints on the extent to which others will be able to render intelligible a human life structured by seemingly contradictory narratives. Because we use narratives to understand each other, a person about whom some coherent narrative cannot be constructed will be unintelligible to us. Of course, most human lives can be interpreted according to narratives which conflict to some extent. But typically we can resolve such contradictions at a higher level through the construction of an over-arching narrative which explains how these different narratives may be reconciled in order that we can understand the relation between a person's activities and goals over the course of their life. Too large a contradiction or conflict between the different narratives we might use to understand a life may render impossible the construction of any such over-arching narrative and thus result in our being unable to understand a person's actions as those of a coherent personality.

§2.6 Narratives and Social Groups

The system of differences that we exist in relates to the kind and shape of these narratives in two ways. Differences are both the source and subject of these

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83 Young, 1990a, 172; Walzer, 1994a, 85.
84 MacIntyre, 1981, 203.
narratives. They define social groups which provide the contexts within which we understand and write these narratives. But they are also themselves constructed through these narratives.

§2.6.1 Social groups as the source of narratives

The cultures or "shared understandings" of the social group defined by each intersection of difference provide a set of narratives within which its members understand their lives.\(^{85}\) A large portion of the culture of a social group consists of a set of stories, examples, ideals and archetypes which provide models of what it is to be a member of that group.\(^{86}\) When the social group is a nation, ethnic group or localised community then these narratives may be explicit, existing as myths and legends, folk or tribal lore, novels or epic poems. Religious faiths are often defined by their belief in the divine origin or significance of a particular narrative or set of instructive parables. Such texts describe and establish possible forms of life or "ways of being" for members of that group. They set out a way of understanding the world and of interpreting and evaluating the behaviour of others around us. They are essential both for understanding our own lives and those of others around us.\(^{87}\) Education in a culture is a process of learning, interpreting and internalising these stories.\(^{88}\) Even forms of consensus which do not possess such obvious narrative structure, such as a shared aesthetic (as, for example, a fashion or cuisine) or shared interests, serve to shape the stories that we tell about ourselves. They describe a particular sort of person who relates to the world and those around them in certain ways. For instance, "being a man" is partially about telling a certain set and type of stories about oneself and these stories are maintained and developed amongst men as a social group.\(^{89}\) As I argued in §2.3.1

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\(^{87}\) Schechtman, 1996, 104.

\(^{88}\) MacIntyre, 1981, 201. We can see here the beginnings of an argument for the importance of the preservation of culture. If culture provides a set of narratives which make possible a certain sort of human life then these will presumably be very important to members of that culture. This argument will be developed in the following chapter.

\(^{89}\) Plummer, 1995.
above, social groups defined by difference also maintain cultures which will provide such narratives in the form of shared values or exemplars, as well as in novels or other works of art.

Not only are the cultures of social groups the source of narratives but they also provide crucial support for these narratives as they unfold. Some stories can only be told in the context of a certain sort of social group. They require a particular setting which only an appropriate community can provide. Without the appropriate social context and network of social relations certain identities cannot exist. It will not be possible, for example, to be a "fearless hunter" in a modern urban environment. Nor will it be possible to be a "cafe bohemian" in a small farming community. These identities and indeed most others are premised on a certain sort of social context in which they are possible and have their sense. Many stories require a cast of supporting characters who will behave as is proper for a narrative of that type.\(^90\) This is especially the case when the narrative is concerned with those aspects of our identity which are partially constituted by our duties or obligations. One cannot, for instance, be a teacher without students or a priest without a congregation or a mission.\(^91\) Without the proper social context, the duties and obligations which are in some cases a central feature of our identity may make no sense. It will not be possible to fulfil, or even to have, such obligations except in a community which recognises them and provides the conditions in which they may be fulfilled.

For these reasons, many of our narratives make an essential reference to the groups that the subject belongs to in establishing her identity. Our stories are always stories about a certain sort of person. They are stories about a man, a gay man, an Irishman, et cetera. The references to various social groups are, as it were, the standards which allow us to classify, interpret and thus understand the text. Without knowing these we simply cannot understand the story – it has no

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\(^{90}\) MacIntyre, 1981, 198-199. Classic investigations of this phenomenon are Goffman, 1958; Goffman, 1968. (My thanks to David West for these references).

\(^{91}\) Caney, 1992, 281.
logic – and as a result we cannot understand the motivations and choices of the character. A subject divorced from all community is therefore unintelligible.\(^92\)

§2.6.2 Narratives and group membership

Although the system of differences provides the contexts within which we read and understand our own and each other's life narratives, these differences also appear as key elements in these narratives and indeed as a major subject of these narratives. As suggested above, a major concern of our narratives is our membership of different social groups. Our narratives will describe us as possessing a certain identity, being a member of this group or that, becoming a member of one group or leaving another. Because the differences which establish our identity structure our lives so extensively, our own narratives are also inevitably about the meaning of these differences. In developing the narrative of our own life we are also exploring and extending what it means to be a person of the sort we are. Through our own lives we reshape, consciously or unintentionally, the meanings of the differences which establish our identity.\(^93\) Of course, again due to the intersubjective nature of these differences, we cannot single-handedly rework their meaning simply by living our life in a way which reveals them in a different light. But the fact that the meaning of membership in a particular group is at least partially a function of the sum of the narratives of its individual members allows for an account of human agency in determining the meaning of differences.\(^94\)

§2.7 Conclusions

In this chapter I have attempted to outline an account of identity which bridges the liberal/communitarian divide at both the social and individual level. I have done

\(^{92}\) MacIntyre, 1981, 205.

\(^{93}\) Calhoun, 1994, 28-9; Simon, 1997, 328.

\(^{94}\) The qualification here is due to the intersubjective and relational nature of difference which requires that the meaning of membership of a social group is also a function of the understandings of those who are not its members.
so because there are obviously truths possessed by both sides in each of these debates.

At the social level I have argued that while, as communitarians have emphasised, we are indeed members of communities, these are best understood as being defined by difference. Difference is relational, rather than absolute, and is a product of both history and context. Difference defines social groups by dividing them from the Other but these groups themselves contain further differences. Groups defined by difference may crosscut and overlap each other, creating other smaller groups. Each intersection of axes of difference is a potential site of a community with its own shared understandings and culture. Individual identity is constructed through membership in a multiplicity of such groups. At the individual or subjective level, our identities are constructed through “self-guided narratives”. We tell stories which explain who we are. We are the authors of these narratives but we also appear as characters within them, with aspects of our identities appearing to us as given at any particular point. These narratives partially determine the structure of the choices that we face in the course of our life. The differences on which the social account of identity focused are both the source and subject of these narratives.

It might still be argued, however, that although the differences that I have discussed are important to individual persons and to many aspects of social life, their implications for arguments about justice are minimal. Perhaps reasoning about justice abstracts away from the differences between persons, to concentrate on the interests they share in living under a certain set of political institutions. The significance of these differences for philosophical liberalism, then, has yet to be fully explored.
§3.1 The Structure of Liberal Argument

In this chapter I want to consider the consequences of human difference, and in particular cultural difference, for a liberal politics. More specifically, I will discuss their implications for what I have called philosophical liberalism.

My discussion in this chapter will focus primarily on the case where our national or ethnic culture is the source of the particular commitments that threaten liberal arguments, because it is in debates surrounding the proper role of culture in politics that the structure of the question of the status of difference in liberalism has been made most clear. But it is important to understand that directly analogous arguments can be made regarding the particular commitments we have from our membership of other social groups. The deeper issue that I am investigating here is the relation between our particular commitments – whatever their source – and the abstraction from them which is a necessary part of liberal arguments.

It would obviously be impossible to treat all philosophical liberal arguments and refute them. There are more arguments for philosophical liberalism than I have space to consider explicitly here. For this reason I will pursue two strategies simultaneously to make my case as strong as possible. First, I will direct the majority of my detailed criticism against the work of Will Kymlicka. In what follows my primary target will be Kymlicka's book, Liberalism, Community and Culture. Kymlicka is the contemporary liberal who has done the most to address problems surrounding the role of culture in liberal theory. He has also been confident in confronting the communitarian critics of liberalism and attempting to show that liberalism has the resources to acknowledge and protect cultural difference. If Kymlicka's argument fails then things are looking grim, I suggest,
for contemporary liberalism. Subsidiary targets will be the work of Rawls, Kukathas and Buchanan. Each of these authors have also argued that liberalism has the resources to respond to the problem of human difference. Second, in criticising Kymlicka et al I will also try to demonstrate how the problems with liberal arguments arise out of the general structure of the problem of liberalism and culture. The demands of philosophical liberalism and the fact of human difference together already determine to a significant extent the structure of the liberal position.

As I suggested at §1.2.1, philosophical liberal arguments share three distinctive features as a consequence of liberalism's ambitions in the realm of cross-cultural argument about justice. First, philosophical liberal arguments are individualistic and universalistic. Liberal justifications must be available to all persons regardless of their culture. Secondly, in appealing to individuals, liberal argument requires that they abstract from their particular situation, again in order to allow that there could be reasons which are convincing to all persons despite their differences. This abstraction alone, however, is not sufficient to achieve this unless it reveals (or at least we postulate) some common features or interest that we all share despite, or perhaps because of, our differences and with reference to which we can settle disputes between cultures about justice. Thus a third feature of philosophical liberalism is that it postulates some shared value or common interest which makes argument across difference possible. What makes philosophical liberalism a liberal doctrine is that it holds that this value is, or is at least served by, liberty.

However, "liberty" here may be understood in one of two ways, which generate two different modes of liberal argument. Liberty may be understood as an abstract guiding principle, that is, an idea which is supposed to be appealing to all persons and which can be philosophically defended against claims arising from our particular circumstances. On this account liberty is in a strong sense a value which we all share because of the important role it plays in leading a worthwhile human life, no matter the particular goals of that life. We may derive a set of institutions from the idea of liberty but such institutions serve liberty rather than constitute it and there is much room for argument about which institutional
arrangements best do so. This is Kymlicka's mode of argument and also Rawls's, at least in some versions. Alternatively, "liberty" may be understood as a convenient short-hand for the existence of a certain set of rights, institutionally embodied; these institutions constitute liberty. This second mode of liberal argument holds that the establishment of such institutions is an interest that we all share for pragmatic but nonetheless universal reasons, given the existence of human difference. Despite the seemingly more political and pragmatic nature of its claims, it remains a version of philosophical liberalism because of its universalistic ambitions.

§3.2 Outline of the Critique

I argue in this chapter that this structure describes an impossible task. The major work in this chapter therefore defends two claims, each relating to a piece of this structure of argument. After outlining a liberal and communitarian account of the role played by culture in our reasoning about justice in §3.3, I argue first that liberalism has underestimated the importance of their particular commitments to individuals. That is, I challenge the plausibility of the move to abstraction. In the course of a discussion of an individual facing a choice between cultures (§3.4), I argue that we may have good reasons in certain situations, including those where we are determining the political institutions under which we wish to live, to act on our particular commitments, rather than on the abstract considerations which liberals proffer. I support this claim through a detailed examination of Kymlicka's attempt to provide liberal arguments for the defence of minority cultures (§3.5). Second, in §3.6, §3.7 and §3.8, I argue that liberalism has misunderstood the importance of liberty to individuals. That is, I challenge the existence of a common interest amongst persons with differing particular commitments sufficient to determine a just set of political institutions. I begin by considering an argument put forward by Allen Buchanan and again by Chandran

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Kukathas, that responds to the communitarian critique of liberalism by arguing that a liberal society itself provides the best environment for the flourishing of different cultural groups (§3.6). I argue that in fact the public nature of the good of culture means that the existence of a strong set of individual rights may generate destructive Prisoner’s Dilemmas, which prevent individuals from contributing to the maintenance of cultures that they value and so lead ultimately to the destruction of these cultures. In §3.7 I discuss and defend the rationality of "self binding". Because social and political pressures can cause us to alter our commitments in ways which, when we contemplate the prospect, we do not welcome, it may sometimes be rational for us to bind ourselves to our current commitments. When this is the case, we will view the freedoms that we restrict in binding ourselves as dangerous freedoms. Section 3.8 discusses the ways in which cultures make possible and exclude certain choices. Changes in the character of a culture can lead to changes in the goods we are free to pursue within them. I suggest, furthermore, that the freedom to engage in such acts of self binding is itself a valuable freedom. We are not free to bind ourselves to our projects where other liberties exist that weaken or destroy the restrictions we impose on ourselves. Sets of liberties may therefore be incompatible and those we prefer will depend on those things we judge to be valuable in a human life. Liberalism fails to adequately understand the relation between liberty and our particular commitments. Understood properly, liberty and the institutions which sustain it are only valuable in relation to our particular commitments (§3.7 and §3.8). At several stages of the argument, and in conclusion (§3.9), I touch upon some familiar criticisms of liberalism in order to explain the source of their force and currency in contemporary communitarian critiques of liberalism. These criticisms are that liberalism presupposes an abstract person and that liberals are sceptical about the good.3 I suggest that these are not necessarily explicit commitments of liberalism but instead possible explanations of liberalism’s otherwise puzzling failure to give adequate weight to our particular commitments.

3 See, for example, Black, 1991; Black, 1992; Sandel, 1992.
§3.3 Culture and the Liberal-Communitarian Debate

I begin by describing two opposed accounts - a liberal and a communitarian account - of the role of culture in a human life. Whereas in the previous chapter I was concerned with the nature and scope of the communities and cultures that are the source of our commitments, and with the way in which these may change during our lifetime, my concern here is with the significance of such commitments - whatever their source - for our pursuit of the good and our reasoning about justice.

§3.3.1 Liberalism and culture

Liberals, of course, acknowledge that we have cultures and commitments and that these are important. Liberalism does not deny, as one might think from reading some of the more rash communitarian critiques, that we have cultures. But for liberals, according to Kymlicka, the contemporary liberal who has done most to reinvigorate the debate about liberalism and culture,

... the self is, in an important sense, prior to its ends, since we reserve the right to question and re-appraise even our most deeply held convictions about the nature of the good life.

This is necessary according to Kymlicka because:

We do indeed find ourselves in various roles and relationships, but we may not like what we find. The roles and relationships may be oppressive or demeaning, they 'may be experienced as suffocating rather than embracing' (Rosenblum p.156). No matter how deeply implicated we find ourselves in a social practice or tradition, we feel capable of questioning whether the practice is a valuable one.

It is worth noting that already, at this early stage of the account, liberalism emphasises the potential danger that culture may represent to persons and their

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4 For an extended treatment of the importance of culture for liberalism, see Kymlicka, 1989, Chp. 8; Tamir, 1993, Chps 1 & 2.
5 Caney, 1992, 276-280.
freedom. It is a traditional liberal concern, famously expressed by Mill, that culture may stifle freedom and restrict our ability to pursue the good. But despite this, culture is also – or at least should be – an important good within liberalism. Kymlicka suggests that:

...cultural membership has a more important status in liberal thought than is explicitly recognised – that is, that the individuals who are an unquestionable part of the liberal moral ontology are viewed as individual members of a particular cultural community, for whom cultural membership is an important good...

Culture is a good not because of any intrinsic value that it has but because it provides for the existence of other goods. Kymlicka argues that,

Liberals should be concerned with the fate of cultural structures, not because they have some moral status of their own, but because it's only through having a rich and secure cultural structure that people can become aware, in a vivid way, of the options available to them and intelligently examine their value.

Culture is, according to the liberal, an instrumental good, albeit an extremely important one. It is a good in that it provides us with a framework within which we may evaluate and enjoy other goods. Furthermore, when we choose within the evaluative framework of our culture, our culture not only conditions the way in which we conceptualise the options available to us but also affirms the worth of

7 Kymlicka, 1989, 54. See also Kymlicka, 1995a, 91-2.
8 Mill, 1975. This is not to say that Mill did not also recognise the importance of culture and tradition, both as a source of accumulated knowledge and experience, and in establishing social stability (Ten, 1980, 70, 92-8).

Okin, 1999 claims that culture is especially dangerous for women as, she argues, “most cultures have as one of their principal aims the control of women by men” (86) and maintain strict gender roles which greatly restrict the range of choices available to women.

9 Kymlicka, 1989, 162.
10 Kymlicka, 1989, 165.
11 Parekh, 1997, 56. Kymlicka, 1989, 192 seems to deny that culture is an instrumental good. But this claim is contrary to Kymlicka’s argument elsewhere, as evidenced by the passages I have quoted here (See also Kymlicka, 1995a, 83). What is true is that from the perspective of each individual their culture is not an instrumental good. Yet from the perspective of the liberal political theorist, particular cultures are only of instrumental value. As we will see below the question of which perspective we should adopt in reasoning about culture is a crucial one.

12 Rawls, 1971, 440-1; Dworkin, 1985b, 230-3; Kymlicka, 1989, 164-6, 192-3; Tamir, 1993, 7; Raz, 1994, 70-72; Kymlicka, 1995a, 83, 89; Okin, 1999, 94.
our choice. This affirmation is an essential condition of our self-respect. However, despite its crucial role in allowing us to evaluate other goods, culture itself (or rather our particular culture) is not the ultimate horizon against which all goods are measured. Cultures themselves may be evaluated according to the extent that the way of life they make possible is one which provides their members with a wide range of choices. Liberal cultures, which provide their members with a wide range of choices are to be preferred to illiberal cultures which confine their members to a narrow range of social roles.\(^\text{13}\)

It is also essential to recognise that culture itself is a general or abstract good on the liberal account. It is a good which can be known to be a good without specification of its particular character, that is, which culture it is. The goods which culture makes possible are achieved simply by having a culture. As I will discuss below, Kymlicka emphasises that it is contingently the case that for most people this good is best achieved by continuing to live in the culture they currently identify with. Yet it remains true that it does not matter which culture this is; what matters is that individuals feel secure within their cultures. The good I achieve by participation in my own culture is the same as the good you achieve by participation in your culture. Anyone who is secure within their culture has access to the goods of self-respect and a rich set of options. This is not to say that all cultures are equally good. As noted above, they may be ranked according to the range of choices they provide. But this ranking must be possible without reference to the values of any particular culture.\(^\text{14}\)

Finally, according to the liberal the character of a culture cannot provide sufficient grounds for the restriction of political liberties. The particular nature of a culture is not supposed to determine the political institutions which its members have reason to support.\(^\text{15}\) This is a necessary result of the ambition of philosophical

\(^{13}\) Dworkin, 1985b, 230-3; Kymlicka, 1989, 170-3; Kymlicka, 1995a, 82, 94-5; Parekh, 1997, 56.

\(^{14}\) Kymlicka, 1995a, 84-6.

\(^{15}\) Kymlicka, 1989, 169.
liberalism. If culture were to provide the framework from within which to rank all other goods, including liberty, then communitarian conclusions would follow.\(^{16}\)

§3.3.2 Communitarianism and culture

For the communitarian account of the role of culture, I turn to Alisdair MacIntyre and Michael Sandel. According to the communitarian we are, in fact, \textit{constituted} by our commitments. MacIntyre writes approvingly of pre-modern, traditional cultures, that in such cultures,

\ldots it is through his or her membership of a variety of social groups that the individual identifies himself or herself and is identified by others. I am a brother, cousin and grandson, member of this household, that village, this tribe. These are not characteristics that belong to human beings accidentally, to be stripped away in order to discover "the real me". They are part of my substance, defining partially at least and sometimes wholly my obligations and my duties. Individuals inherit a particular space within an interlocking set of social relationships; lacking that space they are nobody or at best a stranger or an outcast.\(^{17}\)

And, famously,

\ldots we all approach our own circumstances as the bearer of a particular social identity. I am someone's son or daughter, someone else's cousin or uncle; I am a citizen of this or that city, a member of this or that guild or profession; I belong to this clan, that tribe, this nation. Hence what is good for me has to be the good for one who inhabits these roles. As such, I inherit from the past of my family, my city, my tribe, my nation, a variety of debts, inheritances, rightful expectations and obligations. These constitute the given of my life, my moral starting point. This is in part what gives my life its own moral particularity.\(^{18}\)

Or, as Sandel puts it, our identity is bound up with our deepest convictions and self-understandings,

\(^{17}\) MacIntyre, 1981, 32.  
\(^{18}\) MacIntyre, 1981, 204-205.
as members of this family or community or nation or people, as bearers of this history, as sons and daughters of that revolution, as citizens of this republic.\textsuperscript{19}

For the communitarian, then, subjects do not and cannot exist independently of a particular culture. All theorising must begin from the encultured subject.\textsuperscript{20} As I argued at §1.2.2, according to the philosophical communitarian there are no grounds for criticism other than those arising from our circumstances in a particular culture. This is not to hold that we cannot change cultures. This would be a ludicrous conclusion.\textsuperscript{21} Communitarians, if their accounts are to respond to the reality of modern existence, must emphasise that we can and do change our cultural allegiances and identities at times.\textsuperscript{22} But the source of and reasons for such changes will be our involvement in our own or other cultures, rather than some process of abstract reasoning, and the proper description of the source of such changes is not that we compare cultures and decide, but rather that cultures compete and we discover that we have taken sides.\textsuperscript{23} Our reasons for the change will only become clear in retrospect and when they become so they will be the reasons of an encultured subject – a member of the new culture. While narratives of movement between cultures are possible, these narratives are themselves always constructed within cultures.

It is important to realise that according to the communitarian account and contrary to the liberal account, "culture" considered abstractly is not necessarily a good. This is simply because there is no possible position from which such a judgement could be made. Instead our culture provides the ranking we apply to all goods including cultures. Simply having a culture is not enough, rather, according to the

\textsuperscript{19} Sandel, 1982, 179. See also Taylor, 1989b, 35-6.
\textsuperscript{20} Taylor, 1989b, Chp. 2.
\textsuperscript{21} Caney, 1992, 275.
\textsuperscript{22} MacIntyre, 1981, 32, 205-6; Taylor, 1989b, 36-40.
\textsuperscript{23} See §2.5.
communitarian, it is important that persons have a good culture; that is, one that we, as embedded subjects making the judgement, find attractive.24

Finally, for the communitarian the values of a particular culture may be sufficient grounds for the suppression of liberty. They do not merely provide a context of choice but rather the context of choice for our decisions about the good and it is against the background of this context that we decide whether or not a given liberty itself is important. Hence they have the capacity to compete explicitly with liberty. In the light of a particular context of choice, any given liberty or set of liberties itself may not appear to be as valuable as the cultural institutions which maintain that context.

§3.4 Choosing Between Cultures

These two accounts of the role of culture yield different conclusions when we consider the case of a person who is faced with a choice as to whether or not to change her culture.

§3.4.1 The example

Consider the following example. Petra is a member of a minority culture whose values are radically opposed to that of the dominant majority culture that surrounds her. We may imagine her to be a member of an immigrant community whose first language is other than that of the majority culture, an aboriginal Australian or perhaps a woman who identifies herself as a member of a lesbian (sub) culture. However we choose to envision her, let me stipulate that life is very difficult for her. In particular, her liberty is often reduced because of her cultural identity. Because she differs from those around her in obvious and important ways, the range of opportunities and activities available to her is substantially

24 This will usually mean, if we are reasonably secure and happy in our own culture, that it will be the culture which we value most highly. But it need not; our own culture may hold up ideals which it fails to realise and which another culture embodies more. In this case we will judge this other culture to be superior and have reasons either to leave our culture or to try to change it to become more like the other.
narrower than that of the members of the dominant culture around her. Petra may face racism, or homophobia, which restricts her freedom on a daily basis, in the form of harassment on the street and discrimination in employment and in her dealings with government. We might imagine that the more enlightened liberal societies would be free of such phenomena and thus that her being subjected to them is in some sense contingent. But there will also be restrictions on the opportunities available to members of minority cultures which would seem to be inevitable in any imaginable multi-cultural liberal democracy. These are simply due to the fact that, in a liberal democratic society, the resources available to support cultural practices are, roughly speaking, a function of the size of the community whose practices they are. The extent of the range of opportunities to engage in some important activities, such as speaking a language, or interacting with others who share the same set of values as oneself, is a direct function of the size of the community. Other activities such as running a school or a theatre, or producing films, will require financial resources which are also likely to be, at least partially, a function of the size of the community. Minority communities will thus not be able to support, or to fund, as great a range of cultural activities and resources as majority communities. Petra's opportunities to engage in those practices which she values are as a result inevitably less than those of the majority community around her.

Petra is often depressed by her situation. But she is fiercely proud of her culture and heritage. In fact she clings to it. She consciously identifies as a member of the culture and defends its values and those practices which constitute it and help to maintain it in the face of pressure from the surrounding culture.

Let us also imagine that Petra has a neighbour and co-worker, Joan, who is a member of the dominant culture. Despite knowing her well because of their close

25 Of course, some recent liberal theories of justice motivate attempts to provide extra resources for minorities to compensate for the fewer opportunities available to them. Nonetheless it is difficult to imagine a society in which the financial and social opportunities available to every minority - no matter how small - were equal to those of the majority.

proximity in daily life, Petra does not like Joan. She does not share her values and does not understand her commitments. She even feels some contempt for her. Joan's life seems shallow and empty to Petra. In her more reflective moods, however, she is prepared to recognise that Joan seems happier than she is and that her life seems easier. She even admits that Joan achieves more of her (Joan's) goals than she does of her own. Joan has more opportunities to engage in activities that she enjoys, whereas Petra's are blocked by her circumstances. She has to struggle to achieve her goals, while society's organisation and institutions render those of members of the dominant culture easily achieved.

Now suppose that Petra knows that there is some course of action that she can undertake which will lead to her becoming a fully integrated member of the dominant culture. Perhaps it involves her moving house, changing her circle of friends and vowing not to speak her own language. This is in fact empirically unlikely, at least in the short term. Cultures are not easily left behind or adopted.\textsuperscript{27} But for the moment, no matter. In the science fiction world of philosophical examples it is no feat at all to imagine some eccentric billionaire or passing Martian who can facilitate the change of subjectivity for her. Whatever the mechanism, the point is that Petra now faces the choice of becoming someone like Joan. That is, someone whom she despises but grants is happier than herself and has a wider range of life options and access to goods which she values.\textsuperscript{28}

\textsuperscript{27} In the longer term, of course, such change is possible and does indeed occur. People do change cultures, as liberals are, in other contexts, quick to point out. What is less likely is that anyone would make a conscious choice to do so. The exception here are immigrants, who sometimes do exactly that when they arrive in a new culture (Nickel, 1994, 637).

\textsuperscript{28} The example becomes more plausible, even realistic, and also more urgent, if we imagine that Petra has a (very) young son whose future she is considering. She faces the choice of bringing her son up in either her own minority culture or in the surrounding majority culture or perhaps in both. For the reasons discussed above, funding and facilities for educating children in the minority culture are likely to be scarce. On the other hand, the surrounding culture is all pervasive and it is therefore difficult to isolate children from it. In all likelihood, any attempt to educate the child solely or even primarily in the minority culture will fail and there is the possibility that the child will end up "between cultures" and comfortable in neither. Furthermore, the young child is not making the difficult transition between cultures but rather is faced (or his parents are) with the choice of which culture to adopt as his original "context for choice". Hence in this case, the difficulties in achieving successful assimilation, which move the liberal to defend not just the existence of some culture but the existence of each person's original culture as an essential human good, do not exist (Nickel, 1994, 638). Finally, from some perspectives at least (see below), the
§3.4.2 The example considered

If we consider the choice from the outside or in the abstract, it seems clear what Petra should do. The choice she faces is one between a culture which restricts her options and renders her unhappy in her circumstances and one which can offer her wider choice and greater satisfaction. She should choose the latter. 29

When the problem is described in this fashion it seems as though each culture can offer her certain goods, construed generally as things she would enjoy were she a member of that culture, and that one can offer more than the other. But this description neglects her understanding of the situation – the way she perceives it now as a member of one of those cultures. Petra sees the choice as one between her culture, which she values and takes pride in and which provides her with other specific goods that she values, and a culture which she despises and which can provide her only with goods that she despises. Because the commitments at stake are (currently) central to her self-conception, to want to be like Joan she would have to deny who she (Petra) is. The narrative through which she imagines such a change is a story of the betrayal of ideals and the loss of values. Nor is it sufficient to emphasise that once she has made the transition she will not experience these reservations. Why should that interest her? She – here, now, making the decision – would not wish to be such a person.

I take it that a person in these situations would be justified in some cases, when they are very committed to their particular values, in rejecting the increase in freedom in favour of their particular commitments. They are not being irrational or unreasonable if they choose to remain committed to their core values even though they recognise that doing so restricts the opportunities available to them. I also believe that there is no general description of when this is so. In many cases

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dominant culture actually provides a wider, more liberating, “context of choice”. But remember that the dominant culture is one that Petra despises. Because of who she is and the things that she believes in, she finds it repugnant. Thus she faces the choice as to whether she should bring her child up to be someone she would despise, but who would have a wider range of life options than her, or to bring them up in her own culture, recognising that this is likely to make their life more difficult. This dilemma is a real one which is often faced by members of minority cultures.

29 Nickel, 1994, 636.
we may judge that we would prefer the greater liberty offered by embracing aspects of another culture. In such cases we judge that the commitments we would sacrifice are not central to our identity and that we can still identify with a person who lacks them in order to desire their increased liberty. But in other cases we may decide, as I have argued Petra might, that we would prefer to retain our current commitments. When it will be reasonable to sacrifice liberty, for values that one believes in, will depend on the strength of one’s commitment to the particular values that are at stake and would be lost if we were to choose to change culture.

This example therefore demonstrates a number of things. It shows clearly, I believe, that the communitarian account of the relation between cultures, persons and political argument most accurately describes our reasoning in such cases. The fact that Petra might reject an increase in liberty for the sake of her particular commitments suggests that liberty or “our range of options” are not the unqualified goods that the liberal claims. The possibility that she might know that she could be successful in the change of culture and still reject it suggests that culture itself is not a good but rather only her particular culture. Already then, we have grounds for serious reservations about the liberal account about the role of culture in our deliberations about liberty and, therefore, justice.

§3.4.3 Further considerations I. Scepticism or abstraction?

Observe also that if we go the other way and argue that Petra should change culture then we seem to be demanding that she ignore, or alternatively abstract from, her particular commitments in favour of a more general consideration of her interests. I want to suggest that these two alternatives, that she should ignore her commitments, or at least abstract from them, are indicative of a scepticism about the good, or an ontology of abstract persons, respectively. She might have good reason to ignore, or at least to take less account of, her particular commitments if she were sceptical about them. She need not be sceptical about the good generally. She may believe that there is some set of particular commitments which describe and partially constitute the best life that a person may live. But if she is uncertain that her current commitments are part of that set, that is, if she is
to some degree or other sceptical about them, then she will value the increased liberty which will allow her to continue to refine them. Alternatively, if she believes that her particular commitments are somehow epiphenomenal to her real nature as a rational person then she will also have good reason to abstract away from them. I have already acknowledged that she might sometimes judge that the commitments she would lose if she were to choose to change cultures are not central to her identity and therefore be content to sacrifice them for the sake of greater liberty. But to avoid the force of the example, it is necessary to claim that she should do so even when the culture she would enter is one she despises and the commitments at stake central to her sense of herself. Yet if we argue that she should do so in this case, we are in effect saying that she should always do so. That is, we must claim that she should never treat her current commitments as so important to her that she is prepared to reject an increase in liberty on their behalf. But this is to deny that any commitment she possesses could be so central to her identity that if she were to lose it she would be a different person. It is to insist that our real interests as persons are independent of any particular commitments we have. It is to adopt an ontology of abstract persons.

Note that these two alternatives are by no means mutually exclusive. Indeed the second seems to presuppose the first. If we refrain from acting on our particular commitments because we believe that it is more important to consider our interests as they might appear if we did not possess those commitments (that is, adopt an ontology of abstract persons), then we must also, it seems, be to some degree sceptical about them. As I will suggest later in this chapter, the argument that we should always abstract from our current commitments when reasoning about the political institutions under which we would wish to live appears in a certain light just to be an expression of such scepticism. The other reasons Petra might have to abstract away from her particular commitments are, of course, pragmatic. But, as I discuss below, these are insufficient to ground a philosophical liberal politics.

30 Kymlicka, 1989, 10-12.
Furthermore, if the communitarian analysis is correct, when we judge that Petra should change cultures, we are not adopting the abstract position that the liberal account requires but are instead making the judgement from our own (situated) perspective, which is the only one available to us. The liberal account (mis)represents our situated perspective when making the judgement as the standpoint of abstract rationality. As we have seen, in order to act so as to secure the “good” of increased liberty, Petra must abstract herself from her particular commitments. But in fact she must do more than that. She must abstract from her own perspective and adopt our perspective (or one like it). There are, of course, many other perspectives that she could adopt and not all of them will recommend that she assimilate to Joan’s culture. Some of them will judge Joan’s culture as Petra does – as not worth having despite the increased liberty it allows. Once we recognise that the attractions of a culture are dependent on our current commitments we can see that there is no abstract position from which to make such judgements. The judgement that one culture is better than another, because it offers more freedom, is always made from some particular perspective.

If we admit that Petra should reject the change of culture then it also follows that she should be much more jealous of her cultural surroundings than liberals will allow. She will not necessarily be interested in changes which increase liberty. Instead her specific vision of the good will direct her politics. In particular, the goods that she believes are important for the best human life and which are to be distributed in a just manner will be those valued within her culture and not the abstract good of liberty (and the goods which support it) that liberalism promotes. The institutions which she favours will be those which produce and maintain those specific goods which she values. These institutions may not, if her commitments are to a narrow set of goods and are sufficiently strong, be liberal in character at all. Hence, the failure of the liberal account of the relation between

32 Bell, 1993, 30.
persons, their particular commitments and their reasoning may also result in a substantial challenge to the favoured institutions of liberals.

§3.4.4 Further considerations II. Rawls and the "Original Position"

It is also a function of the scenario that I have described that Petra won’t accept that, because other persons might object to the public culture that she supports, she should then be concerned for their opinions. If it is her considered and deeply held belief that it would be best for her to live in a culture of a particular character, even if she didn’t want to, then she will also hold that it is best for other people. If she’s not concerned about her own interests if she were a member of the dominant culture, why should she be concerned about the interests of those who actually are? She may even have good reasons, if the values of the culture around her are repugnant to her, to reject consideration of their interests. Their claims may appear to her as the claims of corrupt and depraved persons.33 Even where this is not the case and she retains some concern for the opinions of those around her, because she does not share them she will rightly not treat them as equal to her own when it comes to determining the political institutions under which she wishes to live. This conclusion would follow from her lack of regard for the (increased) liberty of her possible future self even if we were to accept, following Parfit, that my relation to contemporaneous persons around me is completely analogous to my relation to my possible future selves.34 But what is important here is that my concern for the interests of my future selves is normally considered to be stronger than my concern for the interests of distinct persons existing contemporaneously. If I have no such regard for the liberty of my future selves it seems improbable that I should have any more for the persons around me.35

33 I will argue in Chapter 5 that the capacity to make such judgements is a necessary condition of commitment to any substantial conception of value in politics. It is a feature of such conceptions that they include criteria for judging when persons have so discredited themselves by virtue of their past actions or claims to such an extent that we cannot respect them.

34 Parfit, 1973. See also here, Nagel, 1975.

35 Of course, as I discuss below, we may have pragmatic reasons for such concerns.
Thus arguments of the form "if you were different then you’d want the freedom to pursue different goods" fail. This is, I believe, the most profound problem with the arguments of the early Rawls. One can grant Rawls all the detail of his argument about the nature of the Original Position and the parties to it and their reasoning. But the question remains why anyone should care what conclusions the persons in the Original Position would reach given that none of us, after all, are such persons. A number of answers are possible here, but none of them are capable of justifying a philosophical liberal politics without doing serious damage to our intuitions about the nature of persons and their relation to their own projects.

One answer is that these conclusions are simply the expression of our own deepest convictions about what justice consists in, as revealed by an instructive rhetorical device. This is, I think, the preferred response of the later Rawls to this question. But such an answer deprives the results of the Rawlsian investigation of the normative force that many thought was their most attractive feature. They are exposed as the mere expression of a particular (liberal, democratic) culture’s most deeply held beliefs and the Rawlsian method provides them with no more force than, as such, they originally possessed – it merely clarifies them. As I argued in Chapter 1, this sort of defence of a Rawlsian liberalism renders it compatible with philosophical communitarianism. As a result, this answer does not provide us with secure grounds for criticism of other cultures which do not share such convictions – and thus for a philosophical liberal politics.

Another answer is to argue that the meditations of the parties to the Original Position describe reasoning under the only decision procedure which all members of a society who possess a multitude of differing conceptions of the good could agree to abide by the results of. But this claim is, I believe, typically equivocal between the claims that the Rawlsian decision procedure is the only one that parties with different conceptions of the good can agree to and that it is the only

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one that they \textit{should} agree to given certain normative constraints on the sorts of reasons that are appropriate in argument about justice. The claim about what the different parties can agree to is in fact most likely to be false of any existing society. There are, after all, other decision procedures which can allow us to reach agreement on the political institutions under which we wish to live. The most obvious way to determine these is via negotiations between parties with access to all the details of their conceptions of the good, here in the real world. But while such discussion will reach a conclusion regarding a set of political institutions, there is no guarantee that it will reach a conclusion anything like that of \textit{A Theory of Justice}. If the Rawlsian procedure is in fact the only one that different parties can agree to, then this will be the result of a particular constellation of power relations and commitments. For this to be even remotely likely, it must be that all the parties have roughly equal social power, that the costs of the failure to come to a solution present themselves as of equal weight to all of the parties, and that none of them are sufficiently committed to their particular conception of the good to jeopardise the agreement. If, for instance, some party has sufficient social power to force a solution on the other parties, they may prefer this as a "decision procedure". Thus even where it is true that the Rawlsian decision procedure represents the only procedure that all members of a society can agree to, it is only contingently so.

We might be tempted therefore to argue that the deliberations of the parties in the Original Position represent the only procedure the results of which we \textit{should} accept and emphasise those aspects of the Rawlsian account, especially the Veil of Ignorance, which negate the destructive effects of contingency.\textsuperscript{38} That is, we may admit or even stipulate that the Rawlsian account involves an idealisation of the conditions under which the parties reason and that the deliberations of the parties to the Original Position represent an ideal of rational deliberation rather than mirroring any procedure which we, as situated parties, might engage in. This

\textsuperscript{38} Rawls, 1971, 136-142.
argument is emphasised in the earlier works of Rawls and in the "Kantian" interpretation of his argument.\(^3\)

But this argument merely re-poses the question as to why we should be concerned with the conclusions we should reach when in order to do so we must abstract away from those values which are currently important to us. Or to put it another way, why should we believe that such abstract reasoning represents the apogee of, rather than, as one might otherwise think, an impoverishing of, reason?\(^4\) The answer to this question cannot refer to the ideals of our culture as they concern deliberation about matters of justice, or to the pragmatic necessity of reaching agreement, lest this argument collapse into a variation of one of those discussed above. The only remaining reason that I can see why we might be concerned with the reasoning of the parties in the Original Position is if we thought that Rawls's description of the parties actually captures something important and relevant about our own natures. If we believe that, at some deep level, our real nature as rational persons consists in being persons who may be conceived of independently of any of our particular commitments, then we might have reason to pay regard to the conclusions of the parties to the Original Position. Their interests, in the various primary goods, in preserving the greatest possible liberty, et cetera, in order that they may be able to pursue their conceptions of the good, whatever they turn out to be, would be revealed as our real interests despite our apparent commitment to various particular goods and goals.\(^5\) To argue thus, however, is clearly to be committed to an ontology of abstract persons. Such an ontology is prima facie implausible. Given that, when we reflect on our identities, we do not find ourselves to be such persons, it is difficult to see why we should be moved by it. Thus this mode of argument also fails to justify the adoption of a Rawlsian politics. The fact that other people might make different choices in her situation need not necessarily concern Petra.

\(^3\) Rawls, 1971, 251-7.
§3.4.5 Final considerations: Pragmatic and immanent concerns

Of course there may be strong, even convincing, pragmatic reasons why Petra should be concerned about the desires of others around her. If she has no a priori reason to be concerned with their interests, nor do they have any reason to be concerned for hers. A continuing conflict of wills over the institutions which serve those interests is likely to be destructive for all concerned. Nor is it one that Petra will necessarily, or is even likely to, triumph in. There are a plethora of traditional liberal concerns about the dangers of authoritarianism, the practical virtues of social consensus, the high costs of social conflict, et cetera, which may provide Petra with reasons to refrain from pursuing political institutions founded in her specific conception of the good. But all of these concerns gain their force from contingent facts about Petra’s social circumstances. If Petra were in a sufficiently strong position of social power, or she were especially motivated to defend her particular commitments, then they might not have sufficient force to convince her. Thus these sorts of liberal concerns are not sufficient to motivate a philosophical liberalism. Because they are contingent, they offer no guarantee that we will have grounds to criticise other cultures who have adopted other politics because of their different circumstances.

Petra may also have reasons to respond to the concerns of those around her because they are grounded in beliefs and values that she shares. When others give their reasons for objecting to the political institutions which she supports, she may find that she is also moved by them or at least, after some reflection on her own beliefs, might come to be so.42 Because, as we examined in Chapter 2, Petra will actually be a member of many “communities” defined by difference and will have commitments arising from all of these many facets of her identity, this is in fact more likely than one might otherwise expect. She may have reasons to be sympathetic to the concerns of members of other communities because under another self-description she may identify with them. But there is nothing

42 Note that one pertinent scenario in which this occurs is when Petra is a member of a liberal democratic culture and the reasons they give are liberal ones or at least arguments founded on such.
necessary about this. Whether or not this occurs is contingent on there being some common, though perhaps initially unrecognised, ground between her and those around her. These pragmatic and immanent grounds for concern for the opinions of others around us will be discussed at length in Chapter 4.

§3.4.6 Some preliminary conclusions

The case of someone facing the choice between cultures demonstrates how, in order to avoid the conclusion that it is sometimes reasonable for us to sacrifice liberty for the sake of our particular commitments, liberalism requires us to abstract away from our particular commitments. I have investigated a number of arguments for doing so. The best arguments for abstracting away from our particular commitments rely on contingent facts about the possible high social or personal costs of not doing so and as such they are insufficient to ground a philosophical liberalism. However, they may, as I will investigate later, be one route to motivating a pluralist politics with more modest foundations. Philosophical liberalism requires that we always have reason to abstract away from our particular commitments. This insistence, I have suggested, can only be made sense of either in terms of a scepticism about each particular commitment or an ontology of abstract persons which denies the importance of such commitments. Modern liberals are rightly at pains to deny that they are implicated in either of these implausible doctrines. But in their absence I can see no other reason why we should not act on our particular commitments, sometimes at the expense of liberty and in ways which may not produce a liberal politics.

§3.5 Kymlicka on Cultural Rights

The discussion of the liberal account of the relation between culture, persons and justice is drawn largely from Kymlicka and is, I believe, an accurate representation of his views. I have argued that it fails to adequately capture the importance of culture to individuals. If we allow for the sake of argument the - at least conceptual - possibility of the example, the true nature of the liberal's attitude towards culture becomes clear. According to the liberal account, the value of cultures ultimately derives not from their inherent worth or from the
value these particular cultures have to their members but from the essential role played by culture in general in establishing the self-respect of, and range of options available to, persons.\textsuperscript{43} Taken seriously it would require that we abandon our particular commitments when doing so would provide us with increased liberty. Its conclusions are therefore potentially strongly assimilationist. However, the discussion of liberalism has admittedly been rather schematic to this point. I turn now therefore to a more detailed discussion of Kymlicka's defence of the rights of minority cultures.

\textbf{§3.5.1 Kymlicka's defence of minority cultures}

In Liberalism. Community and Culture, Kymlicka develops a liberal defence of special rights for members of minority cultures. Having argued for the hitherto largely neglected importance of culture as "a context of choice" in a liberal theory of justice, he argues:

...that the members of minority cultural communities may face particular kinds of disadvantages with respect to the good of cultural membership, disadvantages whose rectification requires and justifies the provision of minority rights.\textsuperscript{44}

In order to forestall arguments of the sort above, which suggest that if persons are disadvantaged by their location in a minority culture they should be assisted to assimilate into the majority culture, Kymlicka emphasises the empirical evidence that attempts in the past to assimilate minorities to majority cultures have been spectacularly unsuccessful. Individuals cannot change cultures without incurring a great deal of stress and unhappiness, if they can do so at all when the intersubjective component of their identity marks them as a member of a particular group.\textsuperscript{45} The inability of persons to change cultures means that by and large our membership of particular cultures is a consequence of circumstance rather than of choice. The claim that cultural membership is unchosen is essential to Kymlicka's defence of minority cultural rights. If members of a disadvantaged

\textsuperscript{44} Kymlicka, 1989, 162. See also Kymlicka, 1995a, 108-115.
\textsuperscript{45} Kymlicka, 1989, 175-177.
culture had chosen that disadvantage then it would appear not as grounds for a legitimate claim for compensation but as a demand that the community provide extra resources so that they could pursue their chosen lifestyle or expensive tastes. However, if minority cultural membership is not chosen and constitutes a serious disadvantage then protection of culture and the provision of cultural rights can occur on the familiar (liberal) model of compensation for disadvantage or disability. 46

There are serious problems with both elements of such a defence of minority cultural rights.

To begin with, the empirical premise about the impossibility of assimilation is increasingly open to challenge, as minority cultures become weaker and more threatened. Many minority cultures have already been seriously threatened and degraded by invasion by other cultural groups, dispossession from their lands, past attempts at assimilation or gradual erosion through contact with other cultures. Where this has occurred, the range of opportunities that they provide becomes both narrower and less distinct in character from that offered by the majority culture. 47 For members of many indigenous cultures therefore, assimilation is becoming more and more possible (and thus on the liberal account more and more attractive) with every passing generation. This is not to say that racism and discrimination do not continue to haunt those who are, or who simply look, different in some way. Where these prevent members of minority cultures from integrating successfully into the mainstream dominant culture then liberal arguments for cultural rights will have some force. But as societies become increasingly multicultural, the opportunity becomes more available for members of minority cultures to gain access to the mainstream. At some point then, it becomes likely that assimilation will offer persons a better chance of achieving a wide range of choices and opportunities than remaining in a threatened and


47 Kymlicka, 1995a, 87-8.
marginal culture. Once this becomes so then the liberal argument for cultural rights ceases to apply.

The argument from the difficulties involved in successful assimilation is consequently too weak an argument for the protection of cultures. It makes cultural protection conditional on the impossibility, or at least the high cost of, assimilation. If assimilation becomes possible then the liberal argument for cultural rights collapses. But the representatives of many minority cultures have demanded protection as a right which is not conditional on any such premise. Indeed it is precisely because they view the assimilation of so many members of their culture as to destroy it as a danger - and therefore as a possibility - that they wish to have institutional support in the struggle to avoid this. An argument for cultural protection which relies on the difficulties of assimilation collapses just when it is most necessary.

Nor is it even true that persons who are members of minority cultures do not choose their cultures. Many members of minority cultures do constantly choose and reaffirm their cultures and consciously seek to maintain them and remain within them, at great cost to themselves, even when exit into another culture which would allow them more opportunities is possible or even easy. The push for minority cultural rights itself can be seen as a part of this desire to remain within their original culture. Cultural rights are sought to make this choice an easier one and not just to defend a culture that they have no choice but to put up with.

50 Cornell, 1986; Tamir, 1993, 76. The conscious struggle of national minorities to maintain their culture is indeed recognised by Kymlicka, 1995a, 79.
51 As Taylor, 1994, 260 argues, minority cultures seek cultural rights in order to guarantee the survival of their culture through future generations. The grounds upon which Kymlicka attempts to justify cultural rights will not support such efforts.
It is true that, as Kymlicka points out, members of indigenous cultures have not chosen the situation where their culture is in a minority and under threat. The cultural disadvantages of indigenous peoples are typically the result of being forcibly incorporated into a wider political community against their will, dispossessed of their lands and subject to several generations of racism. But deplorable as these events are, while individual members of such cultures still have the option of abandoning their attachments to the minority culture in favour of the culture of the wider community, it is difficult to see how this history can absolve members of minority cultures from responsibility for the commitments they have chosen. One might equally well argue of persons who have “expensive tastes” that they have not chosen to live in circumstances where the satisfaction of these tastes are expensive. Yet Kymlicka claims that we should not compensate those with a desire to drink nothing but the finest champagne for the fact that it is hard to get hold of and thus expensive. In fact we hold people responsible for the choices that they make given the circumstances they face. Thus despite the fact that members of minority cultures have not chosen the difficult circumstances they face, it remains true that if they do choose to maintain their cultural membership, as I have argued above, then Kymlicka’s argument for the provision of cultural rights to compensate for unchosen disadvantage collapses.

Finally, it is problematic and potentially patronising towards minority cultures to treat them on the model of handicap or disadvantage. Members of such cultures do not perceive their culture as a disadvantage but rather as a source of pride and strength. The judgement that they are disadvantaged by their culture is one which is made implicitly from the vantage point of the dominant culture. Of course a member of a minority culture might say much the same thing. But it is likely to have a slightly different sense. There is a subtle shift of responsibility here. It is a disadvantage to have been born into a minority culture when it is oppressed and

54 The implication is that it is the members of the dominant culture who enjoy the full and proper extent of available liberties by virtue of their cultural membership. Members of an oppressed culture are judged disadvantaged against this standard.
marginalised by a dominant culture. This qualification is easy to lose sight of within a liberal framework which risks the conclusion that the majority culture actually is superior because of the increased liberty it offers. Furthermore, the evaluation of cultures in terms of the range of liberties which they provide, in combination with the claim that members of minority cultures face substantial disadvantages in this respect, suggests that if members of minority cultures could assimilate then they should do so. Yet few members of minority cultures would be happy with the idea that they should abandon their own culture in favour of an alien one as soon as it becomes possible to do so.

§3.5.2 Kymlicka’s response to his critics in Multicultural Citizenship

In Multicultural Citizenship, Kymlicka responds to criticism along these lines by claiming that it is unreasonable to expect people to abandon their culture. While he concedes that some people do in fact choose and change cultures, he continues to insist that cultural membership is of greater importance than our other commitments. It is an empirical fact that our attachment to our culture is such that we are loathe to abandon it even when doing so would make our lives much easier.55 Because a strong attachment to a particular culture is so widespread, people should be held responsible for their choices within a cultural framework, but not for their loyalty to that culture itself.

§3.5.2.1 The reasonableness of cultural loyalty

On the face of it, these are puzzling grounds for a liberal to justify special rights claims. The number of people who hold commitments and the strength with which they hold them are not typically considered relevant reasons in liberal argument for imposing obligations on others with respect to them. Let us not forget the context of the discussion here, which is in the course of an argument for minority rights. These rights will not be available to members of the majority culture and will involve the imposition of duties and costs upon them. Kymlicka seems to be arguing that because most people are strongly committed to their

55 Kymlicka, 1995a, 84-93.
current culture obligations should be imposed on others to satisfy this desire. To be fair, Kymlicka does not argue directly from the strength and currency of commitment to particular cultures to the conclusion that such commitment serves to ground rights claims. Instead, the claim that people typically do have a strong desire to remain within their own culture is evidenced for the reasonableness of this desire. It is because this desire is a reasonable one that liberals should respect it. Nonetheless, this remains a dangerous form of argument for a liberal. The question of the reasonableness of commitments is properly prior to any consideration of their strength or currency and thus we need more argument here.

Kymlicka claims that expecting individuals to renounce their particular culture is like expecting them to take a vow of poverty; while it is possible for individuals to get by with very little, it is unreasonable to expect it of them. But this analogy does not hold. Possession of material resources above subsistence level is arguably necessary in order that we may pursue our conception of the good, if it involves any number of different sorts of projects, and for us to be able to revise it by exploring other forms of life that may require more resources. But if any culture will provide us with a context of choice, then membership of a particular culture is not necessary for us to pursue or revise our conception of the good. Once we recognise that it is possible to change cultures, it doesn't seem as though membership in a particular culture can be defended on these grounds.

56 Kymlicka, 1995a, 86.

57 Kymlicka's argument here I think gains some of its appeal from the distinction he draws between the case of minority national cultures and that of immigrants (Kymlicka, 1995a, 14-26, 77-80). While we do not find it unreasonable to expect individuals who have chosen to enter a culture to modify their culture in order to enjoy the liberties available in their new home, we feel differently when an existing culture has been incorporated into another against its will through invasion, colonisation or resettlement. As a number of critics have pointed out, this distinction is less clear than Kymlicka intends and may not support the weight he places on it. (Carens, 1997; Parekh, 1997; Young, 1997a; Kukathas, 1997b; Laitin, 1998, 231). However, the important point to note here is that a liberal sense that it is unreasonable to expect persons who have been incorporated into a culture against their will to revise their cultural commitments derives not from the claim that people have a right to live in their own culture but from the injustice of the procedure whereby they were incorporated. It is the injustice of the relation between the two cultural groups that is driving our intuitions here.
As yet then, Kymlicka has provided us with no reason for treating cultural commitments differently to any others. He points out that other liberal theorists have accepted that the scope of liberal freedom is within a culture rather than across cultures. He suggests that:

The freedom which liberals demand for individuals is not primarily the freedom to go beyond one’s language and history, but rather the freedom to move around within one’s societal culture...

As a claim about the history of liberal thought this is clearly true. But the justification for this qualification of liberal universalism is precisely what is at issue here. Whether a liberal insistence on individual freedom and the revisability of ends is compatible with the institutional recognition of cultural identity is the key question at stake in debates about liberalism and culture. If the freedom to revise our ends is so valuable, why should one’s cultural identity be excused from the rough and tumble of a liberal contestation of ideas? More importantly for the purposes of the current argument, why should it not simply be counted alongside one’s other commitments, albeit as a deeply held one, for which one is held responsible?

§3.5.2.2 Kymlicka’s denial of communitarianism

But no matter. Let us agree with Kymlicka that it is unreasonable to expect individuals to abandon their cultures in order to gain the goods of cultural membership available in another. This is after all what the argument of §3.4 was intended to establish. How then can Kymlicka avoid the communitarian conclusions that I have argued follow?

Immediately after defending the strength of the bond between persons and their particular cultures Kymlicka explicitly denies that this is a communitarian view and emphasises again the role played by culture in facilitating the revision of our ends. Identifying persons with particular cultures does not jeopardise a liberal commitment to the freedom necessary to revise our ends because revision of ends takes place within cultures. The fact that we revise our ends within cultures does

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56 Kymlicka, 1995a, 90.
not lead to the communitarian conclusion that we are thereby limited to the conception(s) of the good that are affirmed by the shared understandings of our culture because Kymlicka denies that societal cultures possess shared understandings that might serve as authoritative horizons against which its members measure conceptions of the good and which therefore might rule out the pursuit of some conceptions.\(^59\) Because of the plurality of different understandings available within any societal culture, all liberal cultures at least, it seems, allow the same opportunities for revision of our conceptions of the good. Or to put it another, more controversial, way: membership of a particular culture does not restrict the ways of life available to one.

When he attempts to reconcile liberalism with the communitarian recognition of the significance of cultural membership in *Liberalism, Community and Culture*, Kymlicka emphasises the importance of being secure in one’s own culture, which provides the context of choice within which we evaluate the options available to us. It is natural to interpret this context of choice as setting out the range of available options and the significance they have for us; in short, as facilitating and privileging some choices and discouraging and even ruling out others. The context of choice provided by each culture is different and this is what makes membership of our own culture so important.\(^60\) But now, when reassuring his fellow liberals that this admission does not constitute too large a concession to the communitarians, he reverts to an account of culture wherein cultures have so little content that membership of different cultures ultimately does not affect the options available to us.\(^61\)

This latter account of the role of culture makes it even more puzzling why we should perceive our particular cultures as being of such importance. They seem

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\(^{59}\) Kymlicka, 1995a, 92.  
\(^{60}\) Kymlicka, 1989, 164-5.  
\(^{61}\) In fact as Ten, 1991 notes, this equivocation as to the significance of culture is already present in *Liberalism, Community and Culture*. On the one hand culture is “thick” enough that people care about it so much that it is unreasonable to expect them to abandon their particular culture. On the other, it is “thin” enough as to involve no shared understandings, or restrictions on the liberty of its members. See also the discussion of §3.5.3 below.
peculiarly devoid of content. Indeed it is difficult to see how such cultures thus understood could serve as the sites of the strong attachment that Kymlicka describes. The less character a culture has the more it looks as though cultures should be interchangeable, that members of one culture would be equally well served by another and that the insistence of members of minority cultures that these should be supported looks like an expensive taste.

§3.5.2.3 Cultures as “a context of choice”

However, the larger question remains: is it plausible to claim that societal cultures contain no shared understandings which might condition the choices available to their members?

First, let us note that while the claim that the modern “liberal” cultures of the capitalist democracies all provide their members with the same range of options is perhaps plausible, this seems to be much less true of many of the indigenous cultures that are claiming minority rights. Such cultures still seem to be less pluralistic and to maintain a much stronger set of shared understandings than do the majority cultures of contemporary liberal-democratic societies. Given that Kymlicka intends his account primarily as a defence of the rights of such cultures, it is obviously deeply problematic if he can only provide such where they are willing to embrace all the ways of life that are available to members of surrounding “liberal” cultures. It is even more problematic if, as I argued above, it is precisely in order to avoid such an outcome that members of these cultures have sought the protection of cultural rights.

But more importantly, I want to insist on the veracity of Kymlicka’s original description of the role of culture on p.164-5 of Liberalism, Community and Culture. Cultures provide their members with a context of choice and this context is different from one culture to another. In fact each and every culture makes possible a different array of choices and values them differently. Where different cultures have different languages, for instance, these fundamentally structure our way of seeing the world. Just as direct translation from one language to another is often impossible, so too is the equating of the various choices that make up the context of choice in one culture with those available in another. But even where
cultures share the “same” language, local, regional and historical differences between cultures will result in a different set of cultural narratives and available forms of life.

Does this mean that members of a culture share a set of understandings or a “conception of the good”. There is an obvious sense in which the answer is “no”. It seems unlikely to me that any culture will insist that there is only one form of life worth living. Instead cultures will contain within them a range of different ways of life that are acknowledged by the members of the culture to be worthwhile. Individuals must choose amongst these and so there exists reason for disagreement about the best way of living within any culture.

But I want to suggest that there is another sense in which the answer to the above question is “yes” - or at least members of a culture share something and this something is ethically significant and is what people care about when they care about their own culture and when they resist the temptation to change cultures. What they share is not the understanding that some particular form of life or even set thereof is worth living but rather that another (and probably larger) set are not. The shared understandings of a culture consist in an often unspoken consensus that excludes range of choices from those that are considered worthwhile. This exclusion of choices occurs for two reasons. Firstly, the flipside of the positive evaluations of a culture are negative evaluations. In affirming the worth of certain choices a culture simultaneously denies the worth of others. Persons who make such choices will not have them validated and have their sense of self-respect affirmed. Instead their choices will be condemned and their self-respect undermined. This consequence will at the very least make extremely difficult, and in many cases effectively rule out, the pursuit of conceptions of the good

62 Even in these cases there are likely to exist different words, expressions and phrases or even dialects in each culture.

63 Any culture that maintains a division of labour, for instance, will allow that all the roles within that division are worthwhile. It will be possible, for instance, to lead what is considered to be a worthwhile life as a provider, builder or carer within most cultures.

64 Raz, 1994, 72-3.
involving such choices within that culture. However, there is a second, more subtle and ultimately more far reaching way in which cultures render the pursuit of certain conceptions of the good impossible. This is by structuring the range of choices in such a way that some options don’t even appear therein. One cannot establish a context of choice without crystallising a previously inchoate and infinite set of possibilities into an ordered and finite set; in doing so some options are lost. These choices, perhaps available in some other culture, fall between the cracks as it were. They are not explicitly repudiated, they simply do not appear. The cultural narratives which render vivid possible life choices do not include them.

Note that the argument here is not the familiar one that liberal cultures cannot afford to be entirely neutral with regards to the various conceptions of the good that might be pursued within them (although it is not entirely unrelated). As has been made clear in debates about liberal neutrality, liberalism does rule out various forms of life that conflict with it at the level of fundamental principles. Various forms of authoritarian culture, for example, which rely upon coercion to impose their values on those around them are obviously incompatible with liberalism. But what I am arguing here is that each and every culture, simply by virtue of being a culture, discriminates against other forms of life, not because they would be impossible to tolerate, but because in establishing a context of choice some choices are ruled out. In liberal cultures a large proportion of these will be those that rely upon a degree of social uniformity or solidarity that is an anathema to the liberal character. But others will be ruled out simply by the particular culture of that society. A culture that did not guide us with regards to the choices available to us in this way would be an empty and impotent one.

There are, I think, two reasons why this function of culture is often neglected in liberal discussions of culture. The first is that the sheer diversity of life choices that does exist within contemporary liberal societal cultures blinds us to the

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65 Beiner, 1994, 253. This will be discussed at length below in §3.8.

common circumstances we inhabit. We are so conscious of the differences between us, which are constantly brought to our attention by the friction of politics and the experience of pluralism, that we lose sight of our consensus that certain forms of life are beyond the pale. The other reason for the failure to realise the crucial function of cultures in ruling out choices is simply the difficulty of bringing to consciousness our deepest assumptions. As fish supposedly do not notice the water in which they swim, so we too do not notice the understandings we share. It is often only when we come into contact with cultures that reject those values that seem natural to us that we realise that we have them. The very distinction between liberal and illiberal cultures is itself sometimes a product of this dynamic of exclusion. Characterising a culture as illiberal is one of the ways we go about denying that the choices made within it are valuable and worthwhile ones.

My conclusion, then, is that if our attachment is to our own particular culture, this of necessity includes an attachment to some set of shared understandings concerning worthwhile ways or forms of life. However, Kymlicka has one final argumentative strategy for avoiding the conclusion that the provision of minority rights to protect and defend cultures might involve protecting particular ways of life and consequently risk trapping others, who no longer wish to pursue them, therein. As has become obvious in the account I have given above, it is the particularity of cultures, their language, history, norms and values - what Kymlicka describes as their "character" - that serves to establish a context of choice.\(^67\) But Kymlicka argues that the character of a culture (and thus the particular set of choices it makes available) may change without depriving its members of a context of choice, as long as the culture itself survives. If this distinction can be maintained then Kymlicka will be able to argue that we can defend individuals' rights to live in their own culture without having to preserve its particular character.\(^68\)

\(^{67}\) Beiner, 1994, 253.

\(^{68}\) Kymlicka, 1989, 166-172.
§3.5.3 The existence/character distinction

Kymlicka expresses the distinction thus:

In one common usage, culture refers to the character of a historical community. On this view, changes in the norms, values, and their attendant institutions in one's community (e.g. membership in churches, political parties, etc.) would amount to loss of one's culture. However I use culture in a very different sense, to refer to the cultural community, or cultural structure itself. On this view, the cultural community continues to exist even when its members are free to modify the character of the culture, should they find its traditional ways of life no longer worth while.  

It is this second view that Kymlicka endorses. But this distinction is, I feel, untenable.

§3.5.3.1 Individuating cultures

The first problem that such an account of culture raises is how we are to individuate cultures given that some persons may leave a culture while others may adopt it. The notion of "the members of a culture" is problematic in the absence of any independent account of the identity of the culture. How are we to decide who is a member of what culture without some account of what being a member of that culture involves? The concepts of "cultural structure" and "cultural community", insofar as these could be given content independently of an account of the members of a culture, also require that we be able to distinguish the structure or community of one culture from another. The application of any of these concepts requires that we have some prior method of individuating cultures. The most plausible way of doing so is by reference to a set of characteristic cultural practices or commitments, that is, by referring to the character of the culture. Members of the culture are then those who engage in those practices or share those commitments, the community is the set of persons who do so and the cultural structure is that set of institutions and modes of social organisation which they establish and which supports them. The role played by the character of cultures in individuating cultures becomes obvious when we imagine a case where

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the character of a minority culture changes over time to become indistinguishable from that of the majority culture around it.\textsuperscript{71} Such a case is just an example of the destruction of that culture even though the individuals within it and their descendants continue to survive within the majority culture. Therefore changes to the character of a culture are directly relevant to the question of its existence. If the character of the culture changes sufficiently then it may be said to have ceased to exist.\textsuperscript{72}

\textbf{§3.5.3.2 Cultural character and cultural identification I.}

This difficulty relates to the methodological issue of the identification and individuation of cultures from a third person perspective. But it is also the case sometimes that particular commitments actually become constitutive of a culture in the consciousness of its members. That is, members of the culture identify themselves and recognise others by reference to some particular cultural practice or commitment. This is often the case when contested cultural practices become points of resistance for the oppressed. Minority cultures must sometimes of necessity cling to and preserve those aspects of their character which render them most distinct from the surrounding majority culture in order to survive at all. They rally around difference. Those values and practices which the dominant culture disapproves of and attempts to destroy come to function as an important source of identity for the minority group.\textsuperscript{73} In these cases, should these strategies of resistance fail, changes in the character of the culture may mean that its members can no longer recognise themselves or each other against the background of the majority culture. In this way the bonds of community are eroded and the culture itself destroyed. Kymlicka's account, which does not

\textsuperscript{71} Another case to consider is the forced dispersal of the members of some culture so that, though they continue to exist as individuals, they are unable to maintain cultural practices. There are many historical examples of governments adopting this as a policy towards indigenous cultures. This is a clear case of the destruction of a culture without the destruction of its individual members. But any form of cultural assimilation, which does not involve the physical liquidation of its members, will serve to generate the example.

\textsuperscript{72} Danley, 1991, 180.

\textsuperscript{73} Sarup, 1996, 3, 47. Kukathas, 1997a gives the example of Kenyan and Sudanese village women who support clitoridectomy against its external critics.
sanction the protection of the character of cultures, will fail to protect cultures in these cases.

§3.5.3.3 Cultural character and cultural identification II.

More generally, the distinction as Kymlicka employs it also fails to capture adequately what is valuable about culture and why people may care so deeply about threats to their particular cultures. It is prima facie bizarre to suggest that persons identify with a group without being committed to any of its particular practices. It is psychologically implausible that our allegiance should be to a cultural structure, no matter its character, rather than to a certain world-view or set of practices which then unites a group of people. When we consider ourselves to be members of this culture or that, it is the character of that culture that we call to mind rather than any sense of its identity which might somehow be specified independently of that character.74

For this reason, when indigenous or minority groups seek legal or institutional protection or support it is usually what would most naturally be described as the character of their culture, for instance, a language, traditional mode of dress or set of cultural practices, that they seek to protect.75 The character of a culture is what makes it unique and therefore important to its members. Indeed, if the account given above is correct, there is no more to cultures than their particular character.

74 In the example discussed in §3.4 above, it would not alter Petra’s distaste for, and consequent refusal to adopt, Joan’s culture if we insisted that Joan’s culture was, despite its different character, in some sense hers.

75 It is true, however, that when minority cultures seek to protect the character of their culture they also usually reserve the right to modify that character themselves. They don’t wish to fossilise their culture - to fix its character for all time. This might lead us to believe that there was something other than the character of their culture that they wish to protect, perhaps simply the culture itself. A better account of what is occurring here is, I believe, that what they are seeking to do is to protect the character of their culture from changes dictated by forces acting on that culture related to its contact with other cultures. This leaves open the possibility that the character of the culture might change as a result of the uncoerced choices of its members. But in any case it remains the character of the culture that is the focus of concern rather than any notion of the “culture” which might somehow be specified independently of this.
§3.5.3.4 Cultural character and the structure of liberal argument

Although I have been discussing it in the context of Kymlicka's work, this equivocation between the character of a culture and its existence is, I believe, a result of the general structure of liberal argument that I outlined earlier. Liberals are rightly reluctant to allow that the character of a particular culture could exercise any significant influence on the nature of the political institutions we have reason to support. If it were to have such an influence then liberalism would lose the universalism which is its (apparent) strength. If liberals are to defend culture at all, which seems necessary because cultures are obviously an important good, then it must be in abstract terms. That is, the features of culture which make it important must be features that they possess simply by virtue of being a culture and thus that everyone can recognise in all - or at least all reasonable - cultures. If the character of particular cultures were deserving of protection this would mean that a particular form of life and (therefore) conception of the good would be granted special treatment by the political institutions of a society and in all likelihood the freedom to attempt to pursue different forms of life which might threaten to alter the character of that culture would be restricted. So liberalism must attempt to protect cultures without granting protection to their characters. But because it is difficult, if not impossible, to individuate cultures without reference to their character, liberalism is likely to be equivocal on question of whether it is (the existence of) cultures or their character that we must preserve.

§3.6 Are Individual Rights Sufficient to Defend Culture?

At this point we must examine and discard an argument made by several liberals which attempts to defend liberalism from its communitarian critics by trying to show that a liberal state itself provides the best possible conditions for the protection and flourishing of minority cultures. This argument has been most prominently explored by Allen Buchanan and (independently) Chandran Kukathas. It is the second general strategy of liberal argument, described in §3.1,

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which holds that the value of the core liberal commitment to liberty derives primarily or even solely from the virtues of the institutions that embody it. This second mode of argument to a philosophical liberal politics is both less and more ambitious than the one previously discussed. It is less ambitious in that it does not attempt to hold that liberty is a good which we should all cherish for its own sake. It is more ambitious in that it holds that, despite this, there is some set of institutions – those necessary to establish a set of liberal individual rights – we can, or perhaps should, all agree upon to allow us to get on with living our particular lives.

§3.6.1 Defending culture with liberal rights

In “Assessing the Communitarian Critique of Liberalism”, Buchanan introduces this mode of liberal argument by asking us to,

Consider the rights to freedom of association, expression, and religion which the liberal champions. Historically these rights have provided a strong bulwark against attempts to destroy or dominate various communities within nation states. They allow individuals to partake of the alleged human good of community by protecting existing communities from without and by giving individuals the freedom to unite with like-minded others to create new communities.77

He argues that traditional liberal freedoms institutionalised as individual rights have a number of advantages over any other schemes for protecting communities. Individual rights “facilitate rational, non-violent change in existing communities as well as the rational, non-violent formation of new communities”.78 Individual rights are also more easily and inexpensively exercised than are group rights, are less likely to be abused by those in power and are inherently less paternalistic than group rights. For these reasons even communitarians should be attracted to individual rights.79

77 Buchanan, 1989, 858. See also Buchanan, 1991.
78 Buchanan, 1989, 862.
79 Buchanan, 1989, 862-4. Tomasi, 1994 makes the further argument that communitarians should favour liberal schemes of individual rights because they actually create opportunities for the demonstration of solidarity with other members of a community through withholding from
Chandran Kukathas has also argued that "while we are right to be concerned about the cultural health of minority communities, this gives us insufficient reason to abandon, modify or reinterpret liberalism". Kukathas believes that there is no need to abandon liberalism's characteristic individualism in order to provide for the protection of culture. He argues that the fundamental individual right of "freedom of association" can provide the basis for a liberalism which is adequate to the defence of minority cultures. Individuals should be free to enter or to leave cultures and communities, which themselves should be free of any other outside interference. This freedom from interference by the wider society would allow communities considerable power to determine their own destinies and cultural practices. A liberal society would be one which was made up of a number of communities who were reasonably content not to interfere with each other. Importantly, according to Kukathas, these communities need not themselves be liberal ones. Communities would be able to exercise some coercive powers over their individual members, although the extent and limits of these remain unclear in Kukathas's account. Nonetheless, the society at large is supposed to remain a liberal one because it recognises and protects the rights of individuals to leave communities which they no longer find appealing and to form new communities within which to pursue their chosen ways of life.

§3.6.2 The inadequacy of liberal rights in the defence of culture

The type of solution to the liberal-communitarian debate proposed by Buchanan and Kukathas would be a neat one if it worked, because it would, in a sense,
sidestep the philosophical debate at the level of institutional design. Furthermore, the attractions of a liberal scheme of individual rights to protect minorities from coercion from oppressive majorities are very real. If the only threats to minority cultures arose from the conscious attempts of surrounding groups to eliminate or reshape them, then liberal rights might be sufficient to allow the flourishing of minority cultures. But there are another set of threats to culture that arise due to the existence, in many circumstances, of collective action problems regarding the maintenance and reproduction of culture. Where these exist, the recognition only of individual rights is itself sometimes a direct threat to the survival of certain types of communities.

We have already seen (§3.5.2) that what is at stake when we consider the survival of a community, in the context of the debate about political institutions, is not the mere physical survival of its members but rather the survival of the distinctive character of its culture. If the culture of a community changes so that it becomes indistinguishable from that of other surrounding communities then that community has been destroyed. The question of the survival of communities in societies which recognise only individual rights, then, is the question of the survival of their distinctive cultures in such circumstances.

§3.6.2.1 Culture as a “public good”

The reason why systems of individual rights are inadequate to defend culture is that culture is a public good. It requires the continuing commitment of many individuals acting individually and occasionally together to sustain it. But it is essential that many individuals do so. Cultures can only be maintained by groups and sometimes these groups may need to act collectively in order to do so.

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84 Kymlicka, 1995a, 26.
85 Buchanan, 1991, 64.
86 Taylor, 1990, 55. Taylor then goes on to argue that culture is an “irreducibly social good”, in that its value is not decomposable to the value it has for the individuals that participate in it. This further and much stronger claim is not necessary to my argument here. See also the commentaries on Taylor’s paper by Goodin, 1990 and Jackson, 1990.
87 Taylor, 1992, 45.
Sometimes the uncoordinated action of individuals will be sufficient to maintain a culture. The cultures which constitute the majority cultures in most of the capitalist liberal democracies of the developed world do not emphasise collective action across a substantial range of their activities in normal circumstances and are largely content to allow aspects of their character to be determined by the result of the actions of “free” individuals. These cultures may be thought of as “individualist” cultures. Some cultures do, however, require that their members act in a coordinated fashion, that is, act in the capacity of a collective in order to maintain the culture and it is with the survival of such cultures that advocates of cultural rights have been most concerned. In these cultures the character of the culture is constituted by the value its members place on conscious participation in collective action or on goods which can only be provided by such action. Examples of such actions are communal activities such as dance or ritual and the goods which they produce are the education and enjoyment of those who witness and participate in them. Communally owned land and participation in the activities which maintain it are other important collective goods. Let us call cultures which value such goods “communal” cultures. Many indigenous cultures fall into this category. In reality, of course, most cultures will have both individualist and communal aspects and there is a spectrum of cultures between the two extremes.

§3.6.2.2 The collective nature of minority cultures under threat

The need for collective action in the service of culture may also come about as a result of circumstance. When a culture is threatened or in a minority then it is more likely to require coordinated action to maintain it. Those opportunities to

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88 Even in these cases it is clear that the preservation of the culture will sometimes require coordinated action to protect the culture from outside influences. The rallying of the members of a culture to go to war in its defence is the most dramatic example of the response to such necessity. It is also note-worthy, with regards to this, how inadequate the liberal rhetoric of individual rights is when it comes to motivating the defence of the nation-state.

89 In fact the matter is more complex than this. Strictly speaking the activities of “free” individuals in such societies is not uncoordinated. They are rather constrained by a complex network of social relations which both enable and shape the choices of individuals. But in normal circumstances these relations replicate themselves without the need for collective action.

engage in the cultural practices that maintain a culture, which occur naturally when a culture is flourishing, may need to be consciously defended and created when it is in a threatened minority. For instance, the opportunity to speak the language of a culture, which would occur in the majority of social encounters when a culture is in a majority, may need to be consciously created by gathering together with other speakers of the appropriate language when a culture is in a minority. The teaching of the values of a culture, which would normally take place in schools without conscious effort simply because the values are those of the majority of the teachers and the curriculum, may need to be specially provided for by the creation of schools or curriculum specifically for members of the culture. Notice that in these cases the action required is clearly collective action; one person acting alone cannot achieve these things, nor will they come about as the result of the uncoordinated action of many individuals. Thus when a culture is in a threatened minority, even if it is an “individualist” culture, collective action may be required to maintain it. 91 A further consequence of these threats that cultures face when they are in a minority is that minority cultures are likely to alter in character over time to become more communal in such circumstances. The continuing need for collective action naturally leads to it being valued and engaged in by the members of a culture and eventually to involvement in such activity becoming a constitutive part of that culture.

§3.6.2.3 The preservation of culture as a collective action problem

Acting to maintain a culture may involve real, substantial and immediate costs for the individuals who do so. These costs may be personal, financial or social and may be quite extensive. This is especially the case when individuals are members of minority or oppressed cultures. As discussed above, members of minority

91 These sorts of threats have received more attention in the last decade and are likely to receive still more in the future due to the fact that they are increasingly faced not just by minority and/or indigenous cultures within nations but by national cultures themselves. The accelerating phenomenon of globalisation, and especially the development of communications technologies, has meant that national cultures are increasingly placed into contact with each other. But given the realities of the global distribution of wealth and power and the direction of information flow from wealthy (North American) centre to impoverished periphery, these cultures seldom meet as equals. Many national cultures are, as a result, starting to experience the same sorts of assimilatory pressures as minority cultures do within nations. A global culture may be in the process of emerging but its price is a loss of distinctiveness of national cultures.
cultures face difficulties which are not experienced by members of the majority culture in seeking to maintain their culture. In many cases assimilation into the majority culture will be the easier course of action. That is, something like the dilemma I described as facing Petra will actually arise. The benefits of activities which maintain culture, however, are not immediate; nor are they likely to be guaranteed. If other individuals do not contribute to the project then it may fail altogether and the cost to those individuals who have done so will have been incurred and borne in vain. In the absence of any guarantee that others will act appropriately there is therefore a strong incentive for each individual not to contribute. The nature of the choices surrounding cultural preservation, when they are faced only by individuals, is such as to create a multi-person “Prisoner’s Dilemma” — often with tragic results for minority cultures. The structure of this dilemma is such as to force individuals into defaulting on their culture. Such actions will occur even when members of that culture, if given the opportunity to address the issue at the collective level, would choose overwhelmingly to preserve that culture. If given a choice between a situation where everyone was forced to pay the costs of maintaining the culture but as a result reaped the benefits, and one where individuals were free to choose whether to pay the costs but insufficient numbers acted to maintain the culture and thus it was destroyed, members of the culture would overwhelmingly choose the first. But the same individuals when faced with the individual choice as to whether to pay the cost of acting to maintain the culture, in the absence of the guarantee that others will do so, may each be unwilling to pay this cost. Where collective action problems of this sort occur minority cultures will be quickly assimilated into the mainstream.

§3.6.2.4 Solidarity in minority cultures

Minority cultures often try to reduce the impact of such Prisoner’s Dilemmas by various sorts of collective action and measures to promote social cohesion. Over

92 For an influential discussion of the nature of such dilemmas and the role they play in various problems of collective action, see Axelrod, 1984.
94 Tomasi, 1995, 596.
time the choice to participate in the maintenance of culture may become a part of the character of the culture and be promoted through education, custom, the threat of social ostracism or other methods. The culture itself may evolve in ways to promote participation in the collective action required to maintain it. The marks of cultural membership may even become the making of those choices necessary to maintain the culture. But such measures are effective to the extent that they succeed in maintaining forms of collective action against individuals who wish to opt out. Individual rights, however, serve to insulate individuals from just such pressures originating in the collective – as their liberal proponents are quick to point out in other contexts – and thus weaken their capacity to protect collective goods. The happy coincidence that Buchanan appeals to – that individual rights also serve to protect the public good of culture – is an illusion. Where such dilemmas exist, the destruction of the culture is likely unless the community acts to ensure that all members contribute to the collective good. For the collective to be empowered in this way, however, is for it to have a right against the individuals who might not wish to participate in the collective activity. Such collective rights will not be unduly coercive as long as they meet a genuine need for collective action. That is, as long as their exercise serves the interests of the individuals who make up the community.95

If we are serious about the defence of culture, we must address it at the collective level and allow the collective to restrict and guide the actions of its members in order to maintain what they all agree is an important good but would fail to secure without collective action. The existence of a strong set of individual rights will serve only to weaken the capacity of the group to undertake such and serve to ensure the destructive dilemmas which may ultimately result in the death of the culture.96

95 The dangers involved in allowing groups to bind themselves in this way, and the circumstances where we should allow it, are discussed in Chapter 5.

96 Buchanan actually appears to concede this in passing, and allows that "...there may be some circumstances in which the unrestricted exercise of an individual right threatens the survival of a particular community's values. For example, there might be situations in which unrestricted freedom of expression would undermine the ability of a traditional religious community to
§3.6.3 Kukathas on cultural rights

That this conclusion is contrary to Buchanan’s claims should be clear. But it might be thought that Kukathas’s vision of liberalism has the resources to deal with the pressures towards assimilation that I have described, because it allows that communities within a liberal society themselves may not be liberal. Insofar as communities are free to abandon a framework of strong individual rights, they are presumably capable of putting into place precisely the sort of coercive measures necessary to defend themselves against the assimilatory pressures I have described. Indeed Kukathas’s discussion of the issue of freedom of religion for the Pueblo Indians in the United States suggests that this is the case. He argues of those members of the Indian nation who claimed this right in defiance of their community that, “as members of American society, they have freedom of religion; as Pueblo they do not”.

The question this raises immediately, of course, is just how liberal such a society is? To allow that the members of the Pueblo nation have no freedom of religion is to concede that the Pueblo community at large has the right to deprive them of it. Thus Kukathas appears to grant communities rights against their members subject only to their exit. He also seems to allow that the majority of institutions in his “liberal” society might be extremely illiberal, operating within the bounds of communities whose cultural practices do not accord to liberal norms. Elsewhere in the article he appears to backpedal on this idea, claiming that communities which choose to settle in the midst of another may be subject to the laws (and thus presumably attributions of rights) of the wider society even when these intrude on their own practices. To the extent that Kukathas does allow that collectives may have rights against their members, his version of “liberalism”

transmit its values to new generations. It may even be that in some cases the need to protect the community’s distinctive values would justify some restrictions on the scope of the right to freedom of expression” (Buchanan, 1991, 72).

97 Kukathas, 1992a, 127.
may allow for the protection of culture. But to the same extent his theory ceases to be typically liberal.

The qualification here concerns how we are to conceive the right of exit which Kukathas places at the heart of his scheme. At some points in his discussion it seems as though the right of exit must be capable of being exercised without incurring substantial costs and that members of a culture will be able to exit en masse and re-constitute the same culture without any of its characteristics which they find problematic. If this were the case then communities seem to have no mechanism with which to motivate collective action where it is necessary to avoid the destructive Prisoner's Dilemmas described above. When individual members have to decide whether or not to pay the costs of maintaining the culture, they may decide that they would rather "exit" for a short time and perhaps rejoin when others have paid the price of doing so. In this case the dilemma simply reappears when the time comes to decide who is a member of the culture. If, however, the consequences of exit are something approaching complete social ostracism, as Kukathas suggests at p.127, including the denial of access to the resources of the community, then exit will not be undertaken lightly and communities will be able to use the threat of its consequences in order to enforce the collective action necessary to maintain their cultural integrity. But the employment of such threats also emphasises how little role the supposedly fundamental right of freedom of association has to play in the operations of such a society. In order to adequately defend culture Kukathas must deviate so far from what we ordinarily conceive of as liberalism as to render his proposals hardly worthy of the name.

100 Kukathas, 1992a, 128 & 132.

101 In his rejoinder to Kymlicka's reply (Kymlicka, 1992) to "Are there any Cultural Rights?", Kukathas confirms that a community's shunning or banishing of members who violate community norms is sanctioned by his account. (Kukathas, 1992b, 677).

102 Kymlicka, 1992, 143. See also Kymlicka, 1995a, Chp. 8, note 18.
§3.6.4 Kukathas and “Cultural Toleration”

If it is to succeed in protecting the character of minority cultures in the face of collective action problems, Kukathas’s account must allow minority cultures substantial rights against their members. Kukathas’s liberal society becomes a patchwork of illiberal and intolerant communities restricting the liberty of their members, to such an extent that it is difficult to see it as a liberal society at all. However, in a more recent work, Kukathas has argued that we should place the requirement to tolerate even the intolerant at the very centre of our understanding of a liberal society. He argues that the fundamental principle of liberalism is one of toleration and that furthermore this principle expresses an ideal that we should honour rather than promote. That is, it requires that we always act tolerantly towards those around us by refraining from intervening in their affairs, rather than seek to maximise the amount of toleration in the world around us (where doing so might require us to act intolerantly by, for instance, interfering in the affairs of some other group in order to promote tolerance therein). The toleration of the intolerant thus becomes the defining characteristic of the true liberal.

I cannot do justice in this context to all of the issues raised by Kukathas’s unique and seductive reformulation of liberalism. But what I do wish to argue here is that it renders more explicit an equivocation in his argument for liberalism that is also implicit in the paper discussed above. This equivocation concerns the level at which the argument for toleration takes hold.

Kukathas’s argument for toleration is founded on strong claims about the role of toleration in establishing the authority of public reason. One would think then that its conclusions would apply universally; that is, that we are all required to be

103 Kukathas, 1997a.
104 Kukathas, 1997a, 83.
105 The extent to which it is unique or even a reformulation of liberalism may be disputed. Kukathas presumably sees his account as a long overdue return to liberal roots; a restating rather than a reformulation. Walzer, 1997, 106 comments that the regime of toleration that Kukathas describes already exists in the form of international society.
tolerant towards those around us. Yet his argument is intended to justify the right of intolerant communities to pursue their intolerant practices within a liberal society. This seems paradoxical. If it is so important for us to tolerate others, why are “they” not obligated to be tolerant as well? In which case, how is any space left for intolerant communities? This difficulty is not avoided by the distinction between honouring and promoting toleration. The question is not, how should we respond to the existence of intolerant communities alongside us, but why are members of intolerant communities not required to tolerate. It is one thing to point out that those of us who hear the appeal of Kukathas’s argument should not act intolerantly towards the intolerant in order to force them to be tolerant. But it is another to say that those who are intolerant have no obligation to change their ways.

Kukathas is aware of the apparently paradoxical nature of his claims and responds at length to similar concerns expressed by Kymlicka in comments on the paper. What his response reveals, however, is that the obligation to tolerate rests almost entirely on the state, and this claim in turn is founded on a controversial and problematic account of the nature and role of the state. Kukathas’s defence of toleration derives ultimately from his libertarianism; it is distrust of the state that drives the account. His argument for toleration is largely an argument against the use of state power to enforce any norms at all.

The first evidence that Kukathas’s concern is primarily with the use of state power actually arises earlier in the argument, following his discussion of the sorts of communities that we are required to tolerate. According to Kukathas these include

Communities which bring up children unschooled and illiterate; which enforce arranged marriages; which deny conventional medical to their members (including children); and which inflict cruel and “unusual” punishment.\footnote{Kukathas, 1997a, 87.}
Given that at least some of these practices are, as Kukathas admits, clear cases of the oppression of internal minorities within the group, the question arises as to why we should not intervene to prevent them from occurring. Kukathas's response to this question is to argue that to allow the state a role in enforcing tolerance amongst its citizenry is to risk various dangers of the abuse of state power, persecution, violence and so forth. But Kukathas's arguments about the dangers of state power are unconvincing, not because the state is not dangerous but because other non-state social arrangements raise similar problems. Communities may also oppress and persecute their internal minorities, may demonise their critics and abuse their powers. Furthermore, the "checks and balances" and mechanisms of accountability built into a liberal state may, in fact, make it less likely to engage in such practices than authoritarian cultures that are intolerant towards their members. Consequently the dangers posed by a liberal state acting to promote toleration may be less than those posed by an authoritarian culture or community acting intolerantly towards its members.

In order to establish his argument for toleration, then, Kukathas requires the stronger argument that we have no right to impose our values (including toleration) on others. But if members of intolerant groups have the right to behave intolerantly towards their own members, why don't we have the right to prevent them from doing so? Alternatively, if an intolerant community is allowed to impose its values upon its members, why should they not use state power to this end? According to Kukathas, even if we are the intolerant community, we are supposed to refrain from using the power of the state to restrict the freedom of those who wish to pursue different forms of life.

Kukathas's argument at this point is to deny that, when it comes to the use of state power, there is any "we" of the appropriate sort that might possess a right over its members. If we are a liberal sub-group then we indeed possess the right to exclude others from participation in our form of life if they act intolerantly. But a

107 Kukathas, 1997a, 88-89.
108 Green, 1995.
liberal state is not a liberal group. The state is best understood as “an association of associations”, on a model much closer to that of international society than is generally recognised.\textsuperscript{109}

However there are a number of problems with this conception of the state, which is at least as controversial as the conclusions that Kukathas seeks to derive from it.

Firstly, it is not clear that the difference between the state and other communities in this regard is one of kind rather than of degree. As I have emphasised, there are always differences within any community and groups within groups.\textsuperscript{110} There is a sense in which any group may be understood as an association of associations, just as there is a sense in which any group may form a community. If communities possess the right to exercise authority over smaller groups within them despite these differences, then it is difficult to see why a national community should not also have this right and exercise it through the state.

Secondly, regardless of how we wish to conceive of the state, it is already implicated in the affairs of the communities within it, in ways that inevitably impinge on their capacity to pursue their chosen ways of life, to a much greater extent than Kukathas seems to acknowledge. As Kymlicka has argued, the state is incapable of not taking a stand on questions such as the official language in which the affairs of the state are to be conducted, the dates of public holidays and many other questions of public culture.\textsuperscript{111} The state cannot avoid making

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\item[\textsuperscript{109}] Kukathas, 1997a, 94.
\item[\textsuperscript{110}] Green, 1995.
\item[\textsuperscript{111}] Kymlicka, 1995a, 115; Kymlicka, 1995b, 135-6. The necessary commitment of the state on issues which are likely to be in dispute amongst communities within it, is revealed as even more significant when we consider the extensive role played by the modern state in the provision of social welfare, education and health care. Policies in these areas will inevitably involve the state in the lives of members of the groups within it to a greater degree than Kukathas’s model seems to allow. The question arises as to whether Kukathas’s argument against invoking the values “we” share in order to decide the boundaries of toleration will also mitigate against these other policies that must make reference to the values of the larger community. My suspicion is that reconceptualising the state on the model of international society would have a substantial impact on other debates about the proper role of the state and especially on questions of its role in the
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decisions on substantive matters, which will impact on all of the groups within it. Unless these decisions are conceived as arbitrary, they will be presumably be made through a democratic or other process of collective decision making and with reference to the values and opinions expressed by the citizenry. But if a reference to a "we" is necessarily invoked in these decisions, I can see no reason why should we not also invoke it when it comes to the more important matter of the conditions under which groups relate.\textsuperscript{112}

Thirdly, if the state was capable of withdrawing from the affairs of the communities over which it possesses authority, it is unclear how it could ensure the loyalty of these communities to it. The question arises as to what citizens of the same state do share and whether this will be sufficient to motivate support for the state when it makes demands upon the associations within it. Presumably the state must take action to enforce the core right upon which Kukathas's regime rests, the right of free (dis)association. But to maintain a public consensus behind even this right (where questions of its application will impact severely on the ability of groups to pursue their particular way of life) will require that citizens have some degree of loyalty to the state. But it is hard to imagine what the source or object of this loyalty could be if not some sense of community stronger than the loose association of associations described by Kukathas. Indeed, without reference to something that all the citizens of the state affirm it is hard to see how we could determine which associations were members of which states.\textsuperscript{113}

Finally, as this last observation suggests, because of its denial that there is any group that is represented by the state, Kukathas's liberalism can give us no (re)distribution of resources between groups. This is to say that we cannot confine our libertarianism to matters of culture alone.

\textsuperscript{112} Walzer, 1997, 108-111.

\textsuperscript{113} One way in which this loyalty might fail is if groups identified by the state as being part of its "association of associations" actually claimed to be part of another. That is, if they fail to recognise the right of this state to determine the conditions of their lives.
guidance as to where the boundaries of the state should extend. It cannot address what are some of the most pressing and controversial questions surrounding the relation between states and cultural communities that concern the composition and appropriate size of states. A liberalism that is truly “indifferent” to culture cannot explain why we naturally feel that state boundaries should be drawn so as to minimise the number of cultural minorities created. This intuition is one of the strongest we possess with regards to the relation between nation and culture and an inability to account for it weighs heavily against Kukathas’s approach.

Although it purports to appeal universally, Kukathas’s argument for toleration actually only takes hold when we are contemplating the use of the state in the service of our values. However, as I have argued, Kukathas’s argument that we should resist from the use of state power where we are prepared to enforce our values in our own community ultimately fails. But this means that the institutions that different cultures have reason to support will differ, as they seek to reflect their different values in the institutions they establish. In fact this equivocation is also present in the earlier paper “Are there any cultural rights?”. Kukathas sets out to establish that, no matter what our particular values, we all have reason to prefer life in a liberal state. But what he succeeds in demonstrating is that if we wish to preserve our particular way of life, we have reason to restrict the liberty of others to act in ways that will erode or destroy it.

Finally, let me emphasise that these criticisms of Kukathas’s argument in “Cultural Toleration” are intended primarily to contest its status as a successful example of philosophical liberalism. The problem with the paper lies with its claim that the institutional arrangements of maximal toleration he describes should be adopted in all states. In other regards I have a great deal of sympathy for the argument of the paper and in particular for the claim that we cannot do justice to the existence of a plurality of competing conceptions of the good simply

114 In another paper (Kukathas, 1997b, 422-424) Kukathas suggests that issues concerning the delineation of the boundaries of groups should not be treated as questions of justice but should be governed by “more straightforwardly utilitarian thinking” (424).
by enforcing liberal values across the community. I am also in sympathy with the implicit assumption in the paper that the debate that occurs in the public sphere concerning the relative merits of different forms of life occurs largely between the groups which maintain such forms of life rather than between individuals. Consequently, the question of the nature of relations between such groups is an important issue for any theory of multicultural justice. There is also a sense in which I agree that the question of how we should relate to other groups whose values we do not share should be addressed without assuming that there is an established "we" for whom this question arises. But whereas Kukathas wishes to hold that there is never any such a "we" and that therefore we can never refer to the values of a community to determine the limits to toleration, I believe that there is always some community referred to by this appellation but that the identity and values of this community can never be assumed. There is no general answer to the question of the identity of the group that is considering how to relate to others within it. In any particular case, however, the identity and values of this group matter and will play a crucial role in determining the political institutions they have reason to adopt.

§3.6.5 Some further observations

Notice that there is no need in the argument above to refer to the needs or interests of the group in any way which invokes the existence of what might be thought to be ontologically suspect collective entities. The argument against the adequacy of individual rights for the protection of culture is entirely compatible with a concern solely for the wellbeing of individuals. This should come as no surprise. Methodological individualism does not necessarily imply political individualism. One can believe that only individuals exist and that only the interests of individuals matter, without believing that these interests can always be served without collective action or collective rights.¹¹⁵

Notice also that there is an asymmetry in the ability of communal and individualist cultures to survive the exit of individuals. Communal cultures are directly threatened by the non-participation of their members in collective activities. In these cultures the participation of members in collective activity is a good for all its members and the non-participation of any member involves a diminishing of that good for all the others. This is true even when such a culture is in the majority in the society in which it exists. In this case, while the non-participation of (a small number of) individual members may not constitute an immediate threat to the culture, the culture is nonetheless diminished by it. When such cultures are minority cultures, the refusal to contribute to the collective goods which they value by some members is a direct threat to the existence of the culture because it renders a good which is already threatened and expensive to maintain even more so. This renders the destructive dilemma described above even more pressing, which leads to more members failing to engage in activities to maintain the culture which in turn renders the good more threatened and expensive to maintain ... and so on until the culture is eventually extinct. Individualist cultures, on the other hand, are not as vulnerable to the effects of their members ceasing to engage in cultural practices. The activities of the members of such cultures typically make no reference to the actions of the other members of the culture. They do not rely on them and so are not jeopardised by their absence. Even when these cultures are in a minority, they may not be immediately threatened by the loss of some of their members, although there is of course a limit to their capacity to absorb such losses and so they must also eventually resort to collective action if they are to survive.

This asymmetry as regards individualist and communal cultures explains how liberalism can justly be accused both of neglecting culture (or requiring us to abstract from culture) and of a commitment to a certain form of (individualist) culture.\textsuperscript{116} Liberal theory, as I have argued, fails to give culture adequate recognition in the realm of political institutions. However, the consequences of

this theory when put into practice, systematically discriminate in favour of the survival and proliferation of individualist cultures and against communal cultures. The cultures which flourish best in societies which institutionalise individual rights are the various individualist cultures of western capitalism. In practice, then, liberalism is strongly partisan towards a particular (type of) culture and communitarians have been entirely correct in pointing out this implicit allegiance. 117

The existence of collective action problems concerning the preservation of culture is, I take it, a decisive argument against the claim that individual rights are sufficient to preserve culture. At the institutional level alone then, this strategy of liberal argument fails. We do not all share an interest in the existence of liberal freedoms. If we are members of threatened minority or communal cultures we may instead prefer some other scheme of rights that allows us to avoid the creation of Prisoner’s Dilemmas that might lead to the destruction of our culture.

§3.7 Liberty as a Threat to Culture

It is now time to examine more closely the relation between culture and liberty. Here my emphasis will be on demonstrating that not only might we have good reason to be apathetic towards increases in liberty that would require a change in our cultural commitments, but that in certain circumstances liberty may constitute a danger to our commitments. The example of a person faced with a choice of cultures showed that we may have reasons deriving from our attachment to a particular culture to reject an increase in liberty. But the example I used was the weakest of its type. It is possible to think of examples which pose choices of the same sort but where the choice at issue is not a possible increase in liberty but an intended decrease in liberty. Some liberties are not only irrelevant or unattractive given a particular set of goals and commitments but positively dangerous. This class includes, and perhaps only includes, those sorts of liberties which liberalism

is most at pains to defend: those liberties which allow persons to change their minds.

§3.7.1 The example reconsidered

To return to the case of Petra. In our previous discussion of the example at §3.4, we saw that Petra might have good reason to reject an increase in liberty which requires that she change her culture. As I described it, her entry into a new culture with the consequent increase in liberty was to be the result of an individual choice. But if the change in culture and the increase in liberty were the result of broader social changes this would not change the way in which she viewed them as events in her own life. Petra might still prefer to live in a society in which the particular choices she values are available rather than one in which they were not although she had more freedom overall (albeit freedom to pursue choices that she did not value). Now let us imagine that she knows that the cultural change that she wishes to avoid is inevitable unless she takes certain steps which involve a potential loss of liberty. She may realise that, unless she insulates herself in certain ways from the dominant culture which surrounds her, she will come over time to absorb its values and become someone like Joan, whom she despises.118 Let us suppose that she justifiably believes that if she watches television or reads the newspapers of the dominant culture her cultural identity will be eroded in such a way as to seem to her, as she contemplates the matter now, to constitute a serious evil. In order to avoid this she wishes to avoid contact with these media. To serve her purposes in this it will not be sufficient simply for her to refuse to own a television or subscribe to the newspapers. These actions may be a first step but if she really wishes to protect herself from the possibility of change she will want to do more than this. She will want to ensure that she doesn’t come into contact with these media anywhere in her life. In particular, she will want to prevent herself from having access to these media even if she should come to want this. If she is denied access to them in moments of weakness then she has a chance of recovering herself and retaining her cultural integrity.

118 A similar example is discussed briefly in Arneson, 1990, 375.
The most plausible ways of ensuring that she is not free to access these corrupting influences also involve restricting their availability in her community. She will actually prefer it if the newspapers are not sold and the television programs not broadcast. She may realise that this would constitute an serious infringement of liberty (of speech), possibly including her own if she were to change her cultural allegiance. But the liberties which she wishes to restrict are not those which she currently has any strong desires to exercise. Again, the argument that she might become the sort of person to whom these liberties are important is unlikely to concern her. She is not such a person and her coming to have the desires to do so is precisely what she wishes to prevent. Indeed, as noted above, the moment of danger for her is actually when she first wishes, or begins to wish, to exercise these liberties.

§3.7.2 Self binding

The rejection of liberty described here is an example of the familiar phenomenon of “self binding”.¹¹⁹ Self binding occurs when we constrain our own present and future possible courses of action in order to ensure that some longer term project which refers to our character is fulfilled.¹²⁰ The mechanisms of self binding include the employment of physical, psychological and – most importantly for our purposes – social forms of constraint placed upon the self in order to prevent the pursuit or satisfaction of unwanted desires. In the case above, Petra is motivated to constrain her social circumstances in order to reduce the chance that she will change over the years to become someone that she despises. Self binding, if it is to be effective, obviously involves a restriction of our own liberty. This may

¹¹⁹ The paradigmatic example of self binding is the case of Odysseus. In order to prevent himself from being lured onto the rocks by the song of the sirens, he has himself lashed to the mast and orders his fellow sailors to ignore his later pleas to be set free. This literal binding of himself allows him to achieve goals that he would otherwise have abandoned (Dworkin, 1983a, 14-15 & 106). For a definition of self binding and an extended discussion of its rationality and role in various paradoxes of rational action, see Elster, 1979, Part II, 36-111.

¹²⁰ We may bind ourselves to prevent us from performing some action in the future which we currently wish to avoid but recognise that we might come to desire or we may bind ourselves in order to prevent ourselves from becoming a certain sort of person. In the latter case it is the effects of our future actions on our own character rather than just those actions themselves that we wish to avoid.
appear unproblematic because, as noted above, we bind ourselves in ways which restrict our liberty where we are not currently inclined to exercise it. But importantly it also involves the restriction of the liberty of our future possible selves, who may have quite different ideas about the choices they value. It is essential to self binding that I do not take the desires and interests of all my possible later selves into account. It is precisely because I fear these that I engage in the activity of self binding. Thus self binding not only reduces our own liberty, it also deliberately reduces the liberty of the person that (we fear) we might become.\textsuperscript{121}

Despite the actual and potential loss of liberty it involves, I believe that self binding is sometimes rational. If we are sufficiently committed to our current values then we will not wish to become the sort of persons to whom they were not important and we will take action to prevent this.\textsuperscript{122} As noted above, self binding with regards to social activities will usually involve binding others as well. It is difficult to make it impossible for us to engage in some social activity without also making it impossible for others to do so. Sometimes this is necessarily the case, albeit for pragmatic rather than logical reasons. In order to ensure that we do not exercise a liberty which would be destructive to our commitments, we must also restrict the liberty of those around us. Importantly, sometimes the only practical available means of ensuring that we remain committed to those values that we currently consider to be central to our identity is guaranteeing that the culture we move in remains one which promotes and reinforces those values. Culture is itself an important mechanism of self binding. Because culture is the product of the social activity of a community, acting to determine the character of a culture in this way necessarily involves restricting the liberty of those members of a community who would alter it.

\textsuperscript{121} Parfit, 1973, 144-146.

\textsuperscript{122} Arneson, 1990, 375. Scanlon, 1972, 219 also concedes that such restrictions on our liberty, if voluntarily entered into, are "not obviously irrational".
§3.7.3 Reasons for self binding

Moreover, there are a number of special cases where the existence of a particular surrounding culture seems essential in order to maintain and reproduce the values that are important to us. The first of these is the enculturation of children. Not possessing an original culture of their own, (young) children will tend to adopt the culture around them without reflection. If we wish our children to grow up with a particular set of values then we must ensure that they grow up in a culture which promotes them. If, because of social circumstances, children are likely to be exposed to other cultures then this will involve the restriction of their liberty to participate in those cultures and of the liberty of others to expose our children to their values. A second case in which immersion in a culture may be essential to the maintaining of its values is that of minority cultures. Members of minority cultures are constantly exposed to values alien to their own through their contact with the majority culture. This contact means that their commitments are subject to pressures which the members of the majority culture do not face. One of the ways to facilitate their being at least partially insulated from these pressures is to ensure that they are surrounded by their own culture as much as possible.

If any of these special circumstances apply, we will have extra cause to undertake restrictions of our liberty and of the liberty of those around us in order to protect our commitments. As I argued in §3.4, if we are prepared to restrict our own liberty and in doing so seriously constrain the ability of our possible future selves to pursue their commitments (where these are other than our own) then we should be prepared to restrict the liberties of others. But again we may have strong pragmatic or contingent grounds to refrain from restricting the liberty of others in this fashion. The attempt to do so in a society where many parties have competing interests may have a high cost. We may also have reason not to restrict the liberty of others with whom we may identify with through another aspect of

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123 See also the discussion at §3.4 above and below at §3.7.5-6.

124 Note that, while our concern in these cases is with the impact of the "external", surrounding majority culture, the argument here concerns what Kymlicka describes as "internal restrictions"; that is, restrictions on the liberty of the members of the minority culture (Kymlicka, 1995a, 35-44).
our identity. For instance, a woman in a sexist culture, who identifies at least partially with the culture despite its sexism, might struggle against restrictions on the freedom of women even though she realises that this freedom might itself be destructive of aspects of her culture. However, as argued earlier, these are all contingent reasons for defending liberty and are thus incapable of providing support for philosophical liberalism. Analogously to the previous example, we can argue that the blanket refusal to engage in such restriction of liberty must be motivated either by a scepticism about the particular conception of the good at issue or by an ontology of abstract persons.

Already we can see that, rather than being the good that liberals claim, liberty can instead be perceived as a threat or danger. Liberals want to defend those liberties which allow people to change their commitments, but if we are already deeply committed to our current values then we may view the possibility of change as a threat and wish to foreclose it. Rather than embrace liberty for the opportunities it allows, we may reject it because of the same opportunities and seek to bind ourselves to those commitments we fear might be lost in more liberal circumstances.

§3.7.4 Self binding and a life “lived from the inside”

The self binding example also suggests that the liberal emphasis on the importance of leading “a life lived from the inside” is exaggerated. A central assumption of Kymlicka’s argument is that,

...No life goes better by being led from the outside according to values the person doesn’t endorse. My life only goes better if I’m leading it from the inside, according to my beliefs about value.125

This thesis grounds the presumption against interference and in favour of autonomy in Kymlicka’s work.126 We cannot successfully force someone to experience the benefits of living a life in accordance with the good because these

126 Kymlicka, 1995a, 81.
benefits only accrue if a life is freely chosen. The attempt to impose conceptions of the good on others is self-defeating.

Our discussion of self binding suggests that our interest in living life "from the inside" crucially under-describes our interests as they are relevant to the political institutions under which we wish to live. Our real interest is not merely in living any life from the inside but rather the life that we are currently committed to, which we believe to be the good life. What is at stake when we bind ourselves to various commitments is that we will continue to lead the life which we are currently committed to, from the inside, in the future. If we firmly believe that our current conception of the good actually does describe the best life that a human being can live then we would do well to protect it by embedding it in social institutions. The fact that we may later come to change our minds need not sway us if we are currently strongly committed to our belief set. Indeed it is in order to avoid this possibility that we wish to bind ourselves.

However it might be argued that while we might succeed in binding ourselves to our current beliefs about the good, we are unlikely to succeed in ensuring that other people come to embrace the good life "from the inside" by restricting their liberty. But this argument about the effectiveness of coercion in bringing about

127 It is worth noting in passing that the belief that a good life needs to be lead "from the inside" is not the universal concern which liberals might like it to be. It expresses a particular ideal of human life and will be denied by some. There are, for instance, religious world views for whom the external form of worship or religious life is the entirety of religious duty. In such religions, sincere or reflective belief is not important; what matters is that the correct rituals or obeisances are performed or that the external appearance of a life be virtuous (Fletcher, 1996, 236 cites a tradition of Jewish religious thought wherein the requirement to observe the commandments is of this sort). A virtuous life need not be one which is freely chosen or lived from the inside. According to members of such a faith it may be entirely possible to enforce salvation by imposing these forms of life on others. Indeed, if the price of not being saved in this way is eternal damnation then it may even appear to be a duty for those who are committed to such a life to force it upon others (Fletcher, 1996, 235). In the absence of the concern for sincere belief a liberal politics also falls by the wayside. Unless it can be shown that such a belief system is itself inherently irrational, this example is sufficient to demonstrate that the concern for a life lead from the inside is not universal and instead reflects a particular conception of what is valuable in a human life.


129 This argument, of course, has its most famous expression in Locke's A Letter Concerning Toleration.
changes in other persons’ belief sets is a weak foundation for liberal freedoms. While the imposition of overt restrictions to prevent others from pursuing their conceptions of the good may be ineffectual in bringing it about that they adopt the correct ideas about the good, there are any number of more subtle policies for promoting the good life that have a very real chance of influencing others’ beliefs.\textsuperscript{130} Foremost amongst these is a concern for the character of our culture. By ensuring that the culture that surrounds them is one that promotes the good and by restricting their access to ideas and influences that might tempt them away from it, we may well succeed over time in bringing it about that others around us come to share our beliefs about the good, and thus lead good lives “from the inside”.

Such attempts to shape the convictions of others may be criticised on the grounds that the beliefs that they produce are not the result of the autonomous reasoning of those who have adopted them; and that the good life must not only be lead from the inside but must be endorsed for the right sorts of – critically reflected upon, reasons.\textsuperscript{131} But this strengthening of the liberal claim is beset by two dangers. Firstly, it is difficult to see why it should matter so much that our beliefs should be subject to critical reflection.\textsuperscript{132} While it is a platitude of Western philosophy that “the unexamined life is not worth living”, it is far from clear that this establishes that we cannot rely to some extent on the judgements of our culture. While it may not be possible to lead a good life without engaging in some reflection upon one’s values and choices, it is a much stronger claim that we must subject all of our beliefs about the good to such rigorous critical reflection that we take nothing for granted. Secondly, given various truths about the ways in which our processes of belief formation and of justification rely on evidence and arguments available in the surrounding community, it is doubtful that any of us


\textsuperscript{131} Again this is an argument famously expressed by Mill, 1975.

\textsuperscript{132} Waldron, 1993a, 110.
have beliefs that live up to this high standard. But as long as it is the case that our beliefs are influenced by our cultural and institutional surroundings then it will be possible to act upon our concern for the content of these beliefs by acting on our cultural surroundings. It will be exceedingly difficult to spell out conditions for possessing autonomously held beliefs in such a way as to allow that any of us possess such, without leaving these beliefs subject to institutional manipulation of the sort described above.

The concern that human lives should be lead from the inside therefore does nothing to resolve the problems with liberalism that I have raised. To express our concern for our future autonomy in this way is to express it at too abstract and general a level. Once we realise that this concern should be understood as a concern that we should freely lead the life that we currently believe is good, we can see that it may even motivate, rather than rule out self binding as liberals might hope.

§3.7.5 Self binding and faith in our beliefs

I have argued that this binding to our current commitments is an expression of our faith in them. It is because we believe that our current conception of the good actually describes the good that we reject the possibility that change might be an improvement. If our current beliefs are the best available then any alteration to them can only be a loss. But it might be countered that the perception of a need to bind ourselves to our current commitments so that we are unlikely to change our minds actually indicates a lack of faith in our own beliefs. Surely, this objection runs, if they are the best available they will triumph over all their competitors and will not change merely through the encounter with other ideas. We should be happy to expose them to the challenge of encountering and debating other belief sets, secure in our faith that our own world-view will win out. Binding

133 Waldron, 1993a, 111. This problem also seems to beset Kernohan’s claim that we must know that our beliefs about the good are true (See Kernohan, 1998, 33-36).

134 The liberal faith that the public contestation of ideas will lead us towards the good is strikingly illustrated by the claim that Kymlicka expresses through the character of Louise in a dialogue he wrote as a response to Bell’s, Communitarianism and its Critics. He suggests that “Freedom to
ourselves so that we do not encounter or engage in such disputation looks like cowardice according to this argument.\textsuperscript{135}

This argument would be valid if commitment to a culture was solely, or perhaps even just primarily, a matter of belief and if the only causes of changes in beliefs sets were intellectual and rational ones. Unfortunately neither of these things are true. Being a member of a particular culture is not just (or even primarily) a matter of belief in, or intellectual commitment to, its values – although this will usually follow from membership. Instead it is largely a matter of living a certain life and engaging in certain practices – even of habit – which can only take place in certain circumstances.\textsuperscript{136} The lives we lead are at least partially determined on a day to day basis by the lives of those around us, the practices in which we are engaged and the institutions with which we come into contact. This set of background practices and institutions – our culture – is extremely susceptible to interference or erosion by outside influences. For these reasons our commitment to a culture may change over time, even though we were originally entirely committed to that culture and without us at any point deciding that we wish to revise our commitments. If the culture within which we live changes then as time goes by we may find our lifestyle, our judgements and our habits changing, until we eventually no longer identify ourselves as members of our original culture.

Even when it is our beliefs which are at issue, these often change for reasons which have little to do either with the merit of the belief or of competing beliefs to which it is exposed. Beliefs may change as a result of psychological, social, or historical pressures in ways which have little to do with their intellectual merits. For instance, we may change our beliefs over time because of psychological or social pressures not to stand out from those around us. Sometimes the sheer weight of contrary opinion is sufficient to force us to change a belief regardless of

\textsuperscript{135} Mill, 1975, Chp. 2.

\textsuperscript{136} Taylor, 1992, 45; Raz, 1994, 71.
its virtues. It is extremely difficult to maintain even the most true of beliefs in a situation where everyone around you disagrees with you utterly. Even the most rational of persons is inclined to lose faith in their conclusions eventually, if they are contradicted by the expressed opinions of all those around them. The vulnerability of our beliefs to the influence of those around us is increased by the fact that, as coherentists in epistemology have argued, many beliefs are only reasonable against a background network or set of other beliefs. The size of this set is such that it is exceedingly difficult, if not impossible, for anyone to consciously consider and to adopt all of the beliefs within it. It is even more difficult to subject all of these beliefs to critical reflection and so hold them firmly. These beliefs often concern issues which are themselves much less contentious than those they provide evidence for and we may not even be aware of the crucial role they play, en masse, in supporting our more central or core commitments. What usually occurs in practice is that we rely on those around us to provide support for, or at least not to challenge, the many implicit commitments which underpin our explicit commitments. In this way the justificatory processes for our beliefs actually rely on our existing in a certain social medium wherein we can find support for this underlying framework of beliefs when they are challenged. Outside of such a culture, or if this culture is eroded, we may find that this support is not forthcoming. Instead those around us may disagree with us about these things and because we are unaware of what is at stake, or have not reflected upon them sufficiently to be able to do so, we do not struggle to preserve these beliefs. The loss of each individual commitment may not strike us as particularly significant. Eventually, of course, the erosion of our belief set at its margins has the effect of weakening our faith in our core beliefs until these change also.

137 Quine and Ullian, 1978.
§3.7.6 The dangers of corruption

Through these processes and others like them our commitments are subject to pressures which can be understood as corrupting, that is, which operate to gradually destroy commitments that we value, in a way which we would avoid if we could but which we are relatively powerless to halt without engaging in self binding. We will not welcome the possibility of changes in our value system, which occur as a consequence of contact with such pressures, as the result of the autonomous revision of our beliefs about the good. Rather we will view it as a disaster to be avoided if possible.

As discussed above, exposure to other cultures or to change in our own culture is often the source of such dangers and these dangers are much greater if one is a member of a minority culture. Members of a minority culture are likely to be in situations where they are isolated from the communities and resources which support their lifestyles, or where none of those around them share their values, more often than members of the majority culture. For this reason, membership in a minority culture is itself good grounds to fear the possibility of the corruption of our commitments, unless action is taken to prevent this.

Finally, we should note that our judgements not only about what count as corrupt commitments, but also about when corrupting influences are operating, are heavily influenced by our own commitments. Commitment to a conception of the good usually includes the recognition of criteria for when one has failed to reason well, which are themselves not independent of the conclusions reached. Sometimes the mere fact of someone having reached a conclusion radically other to one’s current commitments is itself evidence of the fact of the corruption of their belief set. Had they reasoned well they would not have come to the conclusions they did. This naturally suggests that there is something in their circumstances, that is, their culture, which has corrupted them. This judgement can be made without any further investigation being required as to the precise

140 Gaita, 1991; Gaita, 1999, 157-186. These matters will be discussed further in Chapter 5.
nature of the corrupting influences. Participation in a culture whose members hold values radically different to our own may therefore sometimes be judged a priori to be corrupting.

§3.7.7 Dangerous freedoms

If we are deeply committed to our current world-view, there is a class of liberties which it is entirely rational to reject – those freedoms which expose us to the possibility of corruption. We will not wish to be free in ways which are likely to lead to us ceasing to care about those things that we currently most cherish. As a consequence, and contrary to the liberal claim, liberty per se is not necessarily a good.

There are dangerous freedoms. Whether or not a given freedom allows us to revise our beliefs in order to come closer to the good or exposes us to the possibility of our belief set being corrupted, and consequently our moving further away from the good, can only be established in the light of our current commitments. Given a particular set of commitments, there will be circumstances in which it will be reasonable to engage in self binding in order to preserve these, and in doing so reduce our own freedom in some dimension or other. In the absence of any sense of one’s commitments there is simply no answer to the question of whether or not a particular liberty is a good. Thus liberty is incapable of fulfilling the role which, I have argued, liberals require of it. While it may be true in some abstract sense to say that we all share an interest in liberty, the sets of liberties that we desire will all be different.

141 Even liberals, we should note, believe that there are some freedoms which fall into this category and should be restricted. The freedom to experiment with addictive drugs, for instance, or to sell ourselves into slavery. The restriction of these liberties might be justified in two ways. It might be justified on the grounds that their exercise renders, or is at least likely to render, a person’s return to the state prior to their exercise impossible. This argument can clearly be paralleled in the case of a person who changes culture. Or it might be justified on the (arguably related) grounds that their exercise reduces the future liberty of those who so choose to experiment. As we shall see below, restrictions on activities which alter cultures may also be justified in this way.

142 Dworkin, 1983b.
§3.8 Culture as the Grounds of Liberty

To this point I have discussed the relation between liberty and culture as though these were clearly distinguishable and competing values. But as Kymlicka has noted, when we are concerned with liberty, cultures are important because they provide a “context of choice” – a language, history and set of cultural narratives – within which their members can understand, order and evaluate the options available to them. Cultures also provide resources which make possible the activities which are valued by their members. Hence the destruction of a culture means not only the loss of the good which it constitutes for its members but also of the opportunity to engage in all those unique activities which it makes possible. Changes in the character of a culture mean changes in the activities which are available for its members. For this reason, changes in the character of a culture may lead directly to a loss of liberty for those of its members who remain committed to its previous values.

§3.8.1 Cultural change and the loss of liberties

The possibility that changes in the character of a culture might result in a loss of liberty for its members is obscured while we operate with an abstract conception of culture. If we neglect our own perspective on the matter then it may seem as though the altered culture will provide a context of choice and resources to pursue valued choices just as well as the original culture. But the important point to note here is that the choices offered by the new culture will be different. From a particular perspective such as, for instance, the perspective of someone who remains committed to the values of the original culture, these new choices may seem worthless or perhaps even pernicious. Members of the new culture may value and choose lifestyles – against the background of the context of choice provided by the new revised culture – which seem to members of the original culture to be facile, stupid, degraded or worse. Furthermore, the choices which

144 Margalit and Raz, 1990, 448-9.
seem to members of the original culture to be valuable may simply not be available to members of the new culture. The new context of choice may have re-valued or distorted them or even not include them. That is, the language, self-understanding and cultural narratives of the new culture may be such as to rule these out as conceivable options for its members.

Changes in the character of a culture may therefore be viewed with suspicion and hostility by those who are deeply committed to that culture, and not simply because they do not like the character of the changes but because they represent a potential loss of their capacity to choose or engage in those activities which they value. If they choose to bind themselves or their culture against such changes, then this may be justified in terms of the preservation of the liberties that they value.

§3.8.2 Culture and conflicting liberties

The threats to culture that I have been treating so far have been the results of the effects of the provision of liberal freedoms in certain circumstances. I have argued that their existence will result over time in the erosion of cultures and the liberties which they make possible. But there is another, more philosophically interesting way in which the existence of liberal freedoms can threaten particular cultures and liberties. The existence of certain freedoms can make the exercise of others impossible. Some liberties are simply incompatible.

§3.8.2.1 The freedom to bind oneself

This is the case because there are many choices which are constitutive of important areas of human liberty and which depend for their existence on the availability of various mechanisms of self and other binding existing in the surrounding culture. Acts such as marriage, the entering of commercial contracts, taking of religious vows or of commitment to any life-long project, involve binding ourselves to some project or person. The decision of a group of persons to pursue some common project, such as a way of life or the maintenance of a

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145 Taylor, 1992, 47.
culture in the face of possible high individual costs, involves the commitment of its members to their common project and to each other. As I argued above, given the existence of collective action problems, these sorts of choices can only be made by the group binding themselves to a common project.

Choices of both these sorts are ruled out by the presence of other choices which either destroy or erode the psychological and institutional mechanisms for such binding. In this way our current range of choices effects those which it is possible and indeed even conceivable to make in the future. A culture therefore cannot make possible an unlimited range of choices. In allowing some choices we rule out others.\textsuperscript{146} The point here is not just that in the absence of an ability to self bind we are unlikely to succeed in such projects (although this is also true), but that the choice simply cannot be made. The social and psychological prerequisites for the choice do not exist.\textsuperscript{147}

Take the institution of marriage, for example. I have no doubt that it makes sense to speak of persons being free to marry. This freedom has been thought by many to be an important one and worth defending. But marriage in the traditional sense of a lifetime commitment, is only possible if certain social mechanisms for self binding exist. Because cultures are the source of such mechanisms, marriage can only take place in a certain sort of culture. In the absence of these mechanisms one is simply not free to marry. For instance, by allowing a person the option of leaving a marriage after twelve months (or twelve days) one has also necessarily denied them the option of committing themselves for a lifetime. The culture which makes this commitment possible disappears when the option of immediate exit becomes available. It is true that the option of remaining with one’s partner over a lifetime does not disappear. But what does disappear is the ability to make \textit{that commitment}. Making the commitment in the full sense requires us to consider the fact that in choosing to marry we are choosing for a lifetime and will not be able to undo this choice simply by leaving our partner when the going gets

\textsuperscript{146} Dworkin, 1983b.

\textsuperscript{147} Gray, 1995, 133.
rough. Such commitment is a difficult and valuable thing. It can only occur when the choice being made (commitment over a lifetime) is real. In the absence of the legal context that renders it binding, the commitment loses its meaning and becomes a sham. "'Till death do us part" develops a different significance as the ease of breaking this promise increases.\textsuperscript{148} Hence the act of committing for a lifetime becomes impossible when the legal and social framework which would enforce such commitment disappears.\textsuperscript{149} Furthermore, given a set of plausible assumptions about the ways in which previous commitments structure our current desires via social and psychological pressures, the actual likelihood of persons remaining married for a life-time is arguably less. Easy exit is more likely to be made use of. The existence of a certain liberty within a culture, then – the freedom to leave a marriage – both renders the act of lifetime commitment impossible and reduces the likelihood of achieving the good (a life long partnership) that such commitment aims towards.

Another important freedom worth mentioning in this context is the freedom to bind oneself through commercial contracts. An important set of goals can only be pursued if we are able to make long-term binding commitments to others around

\textsuperscript{148} Dworkin, 1983b, 72. Interestingly, Buchanan also mentions the example of marriage as a case where an important good may be achieved by binding ourselves to another, without recognising the link this establishes between the choices available in a community and its legal and institutional regime, or the consequences that follow from this for liberalism. (Buchanan, 1989).

\textsuperscript{149} It may be objected here that the commitment involved in remaining married for a lifetime is actually greater in the absence of social and legal sanctions that enforce marriage by rendering divorce costly. When exit from a marriage is available and easy, partners remain together only because of their commitment to doing so. If this is the case then it seems that making such a commitment is actually more difficult and so more meaningful than if divorce were unavailable. But this is true only when such commitment is genuine and this can only be assessed retrospectively. We can only say after the marriage has withstood the test of time that the commitment made at the marriage vow was real. The act of making such a commitment, in the form of the public pledge of the marriage ceremony, remains at the time at which it occurs devoid of meaning because in itself it commits one to nothing.

The important point to note here is that what is under dispute are two different conceptions of marriage and the sort of commitment involved and of the value of each. Each conception may well have its virtues. However, these two conceptions are exclusive because they require different cultural contexts; one sort of marriage is only possible where certain institutions that allow self binding exist, the other where these do not. One can of course imagine a society which allowed couples to specify a "no divorce" period. This would allow couples to perform the act of commitment they felt is appropriate. But the fact remains that the institution of marriage has been transformed by the existence of these various options. The meaning of the commitment made is altered by the fact that other choices are available (Raz, 1986, 393).
us. Our ability to enter such contracts depends on the existence of institutions which enforce them and which limit our options for exit or default.\textsuperscript{150} Were we at liberty to escape such contractual obligations at will, this would jeopardise not only our ability to pursue the goals that these contracts are instrumentally necessary for, but also render us unable to enter into them. This latter represents a further significant loss of freedom.

\textbf{§3.8.2.2 Self binding and collective projects}

The case of choices to undertake communal projects is slightly more complex. There are many projects such as, for example, building a community hall, staging an opera, or speaking a language, that can only be undertaken by a group of people acting together. For our purposes, the most important of these is actually the communal project of maintaining a culture. That is, of engaging in those practices and ways of life that give it its distinctive character. The success of such projects, which benefits all involved in them, depends on the contribution of the majority (but not necessarily all) of the participants. But in many cases the viability of such projects requires that we can overcome collective action problems. In order to overcome them individuals may wish to bind themselves and each other to the communal project so that each individual may enter into the project confident of the equal participation of the others involved. That is, they may all agree to choose to restrict the liberty of persons to defect from the chosen project.\textsuperscript{151}

The fact that the success of such projects is dependent on our ability to bind ourselves is, I have argued, a strong argument for the existence of the mechanisms necessary to allow us to engage in self binding in their cause. But the point I wish to make here is that the freedom to collectively self bind is itself an important freedom and this freedom is only possible at the expense of the liberty to escape these bonds. Such acts of collective self binding are valuable as expressions of solidarity with others around us and of commitment to the projects they entail.

\textsuperscript{150} Schelling, 1980, 43-44.

\textsuperscript{151} Dworkin, 1983b, 74.
The ability to make such commitments might itself be thought to be an essential ingredient of the good life. But where a strong set of individual rights and freedoms exist, we are unable to make such commitments.¹⁵²

I have been discussing these conflicts in the context of the legal frameworks established by a community, where the contradictions between the different freedoms available is most explicit. However, I must emphasise that the character of a culture is itself an important source of the mechanisms for self binding necessary to pursue, and to commit ourselves to, long term and collective projects. Cultures which emphasise responsibility to the collective, a strong social aspect to identity, and participation in collective activities will make possible collective projects. “Individualistic” cultures, which emphasise the rights of individuals to escape social bonds, render commitment to, or the pursuit of, such projects much more difficult.

There exist, therefore, inevitable conflicts between the sort of choices possible in different cultures. Some cultures will make possible the freedom to bind ourselves to collective projects. Other cultures will emphasise the value of individual freedom and so deny our ability to bind ourselves to such projects. This is not so say that this conflict should necessarily be resolved in favour of the liberty of groups to bind themselves to collective projects. What I wish to establish here is simply that we face a choice as to which sets of freedoms should be available in our community and that this choice cannot be made without reference to our beliefs about what sorts of goals and projects are valuable.

§3.8.3 Protecting our ability to choose

The discussion of the preceding pages therefore challenges Kymlicka’s claim that:

¹⁵² A useful analogy here is with the rights of groups to self-determination. Participation in self government has often been thought to be an important good (Taylor, 1990, 59; Black, 1991, 360-372). But a fundamental condition of the ability of a group to govern itself is the ability to bind its members to their collective decisions. The anarchist insistence that individuals should not be subject to the authority of the group both jeopardises the success of the collective undertakings of the community and deprives the citizenry of the capacity to govern itself (Margalit and Raz, 1990, 452).
Protecting people from changes in the character of the culture can’t be viewed as protecting their ability to choose.\textsuperscript{153}

In fact, as the above examples show, protecting myself from changes in my culture can be justified precisely in these terms – as protecting my capacity to choose. Changes in the character of a culture can reduce our liberty to choose by altering it in such a way that it no longer makes possible or supports those choices that are important to us. They may destroy the mechanisms of self and other binding which are essential prerequisites of our freedom to engage in, and to commit to, various long term and communal projects. These effects may be very severe; changes in our culture may render impossible all the projects that we value. In the face of the prospect of such changes it may be entirely reasonable to act by binding ourselves to our current culture to prevent such changes.

\textbf{§3.9 Liberalism Reconsidered}

The discussion of self and other binding has further exposed the ways in which liberty and culture are inter-related. Cultures make possible certain liberties by providing the mechanisms of self and other binding necessary for them to exist. The existence of other liberties may either cause or itself constitute a change in the character of that culture which may undermine these mechanisms and thus the freedoms which they made possible. We can now see that, because of this, a politics based simply on maximising the choices available to people is incoherent. Choices cannot simply be summed. In allowing some, we disallow others. The question then becomes which choices are important. The answer to this question is only revealed by examining those things which the choices make possible; certain types of goods and certain types of human lives. Such matters cannot be assessed without bringing our entire set of values – our conception of the good – to bear. This conclusion is a disastrous one for philosophical liberalism. It means that liberty cannot possibly play the role that philosophical liberalism requires of it; it cannot be an interest shared by all rational persons. It is even unclear what we could possibly mean by speaking simply of “liberty”, because there is no

\textsuperscript{153} Kymlicka, 1989, 167.
single determinate set of freedoms which has a claim to this appellation. All that there are, in fact, available are different sets of liberties which are important to different people because of the different activities which they value.

In order to achieve the universalistic ambitions of philosophical liberalism, we must abstract away from our particular cultural perspective and conceptions of the good. The question remains, however, what reasons we might have for doing so.

§3.9.1 Liberalism and scepticism about the good

At several points in the argument I have suggested that liberalism’s opposition to committing ourselves to any particular vision of the good life can be understood as the result of a scepticism about such visions. If we are sceptical about our current commitments then we have good reason not to bind ourselves to them or to act in ways which will disadvantage us if we changed them. This scepticism is reflected in the crucial role played in Kymlicka’s argument by the possibility that we might be mistaken in our beliefs about the good life. It is because we might be mistaken in these beliefs that we should not choose political institutions which would suit only those who seek to live such a life. Kymlicka writes,

> Our essential interest is in leading a good life, in having those things that a good life contains. That may seem to be a pretty banal claim. But it has important consequences. For leading a good life is different from leading the life we currently believe to be good – that is, we recognise that we may be mistaken about the worth or value of what we are currently doing. We may come to see that we’ve been wasting our lives, pursuing trivial or shallow goals and projects that we had mistakenly considered of great importance.¹⁵⁴

The extent of Kymlicka’s concern for the possibility that we might be mistaken seems incompatible with a whole-hearted commitment to our conception of the good life. The persistent refusal to give recognition to our conceptions of the good in politics begins to look like a scepticism about those conceptions.

¹⁵⁴ Kymlicka, 1989, 10 (italics in original).
It is important to distinguish here between a generalised scepticism about particular conceptions of the good and scepticism about the good generally. Liberals need not be sceptical about the good generally, in the sense of denying that there is any determinate good life. Kymlicka, for instance, explicitly denies that he is sceptical about the good in this sense.\textsuperscript{155} His scepticism is instead directed towards each and every particular conception of the good which is proffered as a reason for establishing non-liberal political institutions. Liberals insist that such conceptions might turn out to be wrong and that therefore we would be wise to avoid acting upon them when it comes to the serious matter of deciding the political arrangements under which we wish to live.\textsuperscript{156} In particular liberals are revealed to be sceptical about their own conception of the good. Although they may pursue their conception of the good in their own lives, in voluntary associations and other forms of collective activity in civil society, they are not prepared to act on them when it comes to the design of political institutions.\textsuperscript{157}

But the generalised nature of the liberal scepticism raises the question as to whether or not liberals can actually maintain the distinction between scepticism about particular conceptions of the good and scepticism of the good in general. What is the worth of the assurance that liberals are not sceptical about the existence of a good life when they dismiss any argument based on claims about the nature of that life and furthermore elevate such a dismissal to a matter of principle? Their scepticism about particular conceptions of the good seems to extend indefinitely, and it is therefore tempting to conclude that their insistence that they continue to believe in the existence of a determinate good life is a piece of convenient self-deception.

\textsuperscript{155} Kymlicka, 1989, 10-12 & 18; Kymlicka, 1990, 201-203. See also Dworkin, 1985b, 203; Waldron, 1993d, 96; Waldron, 1993e, 121; Kukathas, 1994..

\textsuperscript{156} See, for example, Kukathas, 1997a.

\textsuperscript{157} Kymlicka, 1990, 220-1.
The question remains, however, whether or not such scepticism might be a virtue? Kymlicka obviously believes it to be so. Surely we might be mistaken about the nature of the good life and thus it would be wise to leave the possibility of revising our beliefs open; to do otherwise would be the height of arrogance. This is clearly true of matters of little import. To insist that one's every belief is true and beyond revision, even our trivial beliefs, is obvious folly. But when the belief at issue concerns a matter of great import which we have considered at length, as is the case with our beliefs about the good, then the matter becomes much more complex. In these cases it seems as though we must be committed to the claim that our beliefs are true. If, in the course of our deliberations, we had come across a belief which we thought was more likely to be true than our existing beliefs about the good then we should have revised our belief set accordingly. On important matters, our beliefs should be considered and our considered beliefs should be those that we hold to be most true of all those we have encountered. This is not to say that we cannot doubt them but we must believe that they are the best available and thus provide the surest foundations for action. A failure to act upon our most important and considered values constitutes a betrayal of them rather than an admirable restraint.

When the strength of our attachment to our commitments is really put to the test, for instance in situations where if we don't bind ourselves to them then it looks

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158 Kymlicka, 1990, 211. We can see here also then the reason why liberalism has often been accused of relying heavily on a private/public distinction. A number of critics have argued that liberalism makes—and draws upon for its justification—a distinction between the behaviour and reasoning that is deemed acceptable in private life and that which has a legitimate role to play in public life (Taylor and Gutmann, 1992, 62; Bader, 1999, esp. 601). Certain forms of reasoning, which are acknowledged to be an essential part of a fully human life, are supposed to be too disruptive to, or otherwise unsuitable for, public life and are thus confined to the private sphere. As many feminist critics have pointed out, this division is also a gendered division. The behaviours and forms of reasoning which are privileged by being thought appropriate to the public sphere are those which have historically been associated with masculinity (Pateman, 1988; Fraser, 1993, 113-118; Lloyd, 1993b). My analysis of the structure of the liberal argument suggests that invoking such a distinction is another way of expressing the (sceptical) prohibition of the use of arguments which refer to our own conception of the good in the realm of politics. Political argument is supposed to abstract away from such conceptions in order to reach conclusions which are acceptable to all rational persons. Our conceptions of the good, drawn from our cultures, are important but are supposed to remain confined to our private lives or the activities of voluntary associations (Rawls, 1985, 241; Larmore, 1987, 75-6; Kymlicka, 1992, 174-5; Rawls, 1993, 15, 30-1).
likely that we might betray them, then the liberal equivocation looks untenable. In certain circumstances, the price of the belief that we might be mistaken is likely to be the loss of our commitments. In such circumstances we must ask ourselves, are we or aren't we committed to the truth of our beliefs? If we are, then we should act upon them. If we don't act upon them when so much depends upon it, then in the final analysis we are not genuinely committed to them. But these situations are precisely the situations where liberalism requires that we do not act on our commitments. As I have illustrated, even when we recognise that unless we bind ourselves to our current commitments these will change in ways which appear to us to represent a serious evil, liberalism requires that we abstract away from our beliefs about the good. Liberalism demands that we take account of the possibility that we might be mistaken in our beliefs just when it is most important that we trust them and act to defend them. It is difficult to see how such an extensive and significant scepticism could be a virtue.

§3.9.2 Liberalism and the move to abstraction

Another possible explanation for the abstraction required by liberalism is if we were committed to an abstract ontology of persons.159 We may postulate such an ontology as an explanation of an otherwise puzzling insistence that we should be more concerned with our future capacity to choose even those things that we are currently dedicated to avoiding. If we believed that our commitment to a particular conceptions of the good was somehow irrelevant to our real nature as rational persons then we would have reason not to allow them to determine the political institutions under which we wish to live. We might argue that it is the capacity to choose or to pursue conceptions of the good which is a distinctively human capacity rather than commitment to any particular conception and that our theories of justice should reflect this. I do not wish to assess the plausibility of this claim here. All I wish to point out it is that it involves adopting an ontology of persons wherein our commitment to our particular conception of the good does not figure at the ultimate level of description of the person. Commitment to an

159 Sandel, 1992.
abstract ontology of persons may also arguably be thought to involve a scepticism about the good of the sort described above. The claim that our real nature transcends our commitment to particular conceptions of the good implies that these are not deep or constitutive features of our character. It devalues our connection to our particular conception of the good. It is plausible to interpret this an expression the sort of scepticism discussed above – a failure to take our commitments seriously when it comes to important matters of justice.

§3.9.3 Scepticism or an abstract ontology?

Each of these positions, a scepticism or an abstract ontology, are meant as possible explanations for the move to abstraction and as such they may be applied retrospectively. I am not claiming that particular authors are consciously sceptical about the good or committed to an ontology of abstract persons. Indeed, given that each of these positions are both implausible and (therefore) a shaky foundation upon which to build a politics, most modern liberals have been at pains to deny them. But because, as I have argued, it is otherwise difficult to understand why we should not desire to realise those (and only those) liberties deemed to be valuable by our conceptions of the good, they remain, I suggest, plausible accounts of why one might be tempted by the liberal position. If no other explanation can be found and one remains committed to a philosophically liberal politics then it seems that one is also committed to either or both of the scepticism or the abstract ontology. If philosophical liberals wish to avoid this then the onus is on them to find other more convincing reasons as to why we should abstract away from our current commitments in reasoning about justice.

§3.9.4 A contingent liberalism?

The most obvious reasons are pragmatic ones that focus on the high costs of social life in the absence of mutually agreed upon political institutions. Liberal arguments do have the virtue that, in certain circumstances at least, if we step

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back from our current commitments and circumstances, we are able to agree upon a set of institutions which will leave us reasonably free to pursue and to revise a large range of conceptions of the good without experiencing high levels of social conflict. If the choice we face when deliberating about justice is one of abstracting away from our commitments in order to come to a mutually agreeable solution with other parties concerning the institutions under which we wish to live, or allowing those commitments to guide our politics and so existing in continual and destructive social conflict with those around us, then abstraction may not be too high a price to pay. These pragmatic arguments for liberalism are, I believe, generally good arguments. Liberal institutions and liberal societies have at least a reasonably good record in recent history of allowing different social groups to get on with their own lives relatively free of destructive social conflict. The problem with such arguments in this context is that they fall short of a justification for philosophical liberalism. They provide contingent grounds only for adopting a liberal politics. Whether or not they have force for us will depend on the strength of our feeling about our commitments and on our capacity to successfully impose our chosen politics upon others or alternatively to pursue our vision of the good successfully without undue interference from those around us. There are in fact likely to be some persons who either possess sufficient social power to emerge victorious in (or at least survive) the social conflict which may result from non-liberal politics or who are so committed to their particular conception of the good that they are prepared to endure extensive social conflict in the pursuit of it in the political realm. These people will not be swayed by the pragmatic argument for abstraction and are not necessarily irrational in this. The pragmatic arguments for abstraction will not serve to establish a politics which has force for all rational persons.

We may also be able to feel the force of liberal arguments because, on reflection, we may find that there are grounds within our own belief set for sympathy with the claims of others. We may be moved to abstract away from our immediate commitments because when we reflect upon the commitments of others, whose political interests are different to our own, we may understand that in some broader sense we also share them. Alternatively, we may recognise that, as the
axes of difference which determine our identity and commitments shift with the issue we are considering, we might identify with the concerns and claims of others because we could imagine that in different circumstances we might share them. As a response to either of these circumstances, we may distance ourselves from our initial understanding of our commitments in order to reach a perspective from which both ours and the claims of others can be considered. Such contingent grounds for concern for the claims of others and therefore for abstracting away from our own commitments in order to take account of them are, I believe, present more often than we usually realise. If we can understand and feel the force of the arguments of others, it is because they relate to and draw upon values that we share with them. So these sorts of cases do provide a good model upon which to base a liberal politics. But again they are contingent and are therefore incapable of justifying a philosophical liberal politics. There will be some persons whose commitments are so alien to us that we cannot sympathise with their claims or identify with them at all. In these cases then there will be no grounds within our own belief set to be concerned with their claims.

§3.9.5 Philosophical liberalism – A final diagnosis

I wish to emphasise again that the conclusions I have drawn while discussing the case where ethnic or national cultures are the source of our different commitments could be drawn again using any other aspect of our identity as their source. If, as I have argued, men and women, or straights and gays, or the young and the elderly, turn out to have different commitments then these will determine the freedoms they desire and the institutions under which they wish to live in the same way. If social groups defined by difference possess cultures, they also may have reason to care about them and protect them through self binding and thus have reasons to support different political institutions. If the differences between members of these groups are sufficiently wide there may be no arguments about justice which members of all these groups have reason to support.

So something like philosophical communitarianism is correct. There are no arguments sufficient to determine all questions about justice for all rational persons. Instead arguments about justice refer ultimately to our commitments. As
we saw in Chapter 2, these commitments will have their source in the many communities that we are part of. So arguments about justice will refer to the shared beliefs, values and understandings of these communities.

Philosophical liberalism, then, is simply too ambitious. At a number of points in the argument, however, we have seen that a more modest liberalism remains possible. The remainder of this thesis will be concerned to develop a pluralist politics, the liberal features of which are justified by contingent features of our culture and circumstances. I will argue that a recognisably liberal politics can be founded on a principle of "respect for difference" which is itself motivated by concerns for others which are already contingently existent within our commitments, by an extension of the respect which underlies all communication and by the high costs of social life in its absence. Because it is founded in contingent features of our own commitments and in pragmatic concerns about the possibility of social life, such a pluralism will be closer to a modus vivendi than many liberals would be comfortable with. But according to the argument of this chapter this is all that is possible.

Chapter 4: 
The Politics of Argument

§4.1 The Problem Set Out

The failure of philosophical liberalism does not simply represent the failure of the liberal project but seemingly also of a wider and more general project of normative political theorising itself. We are left with a communitarian position in the philosophical debate by default. We are forced to admit that questions about justice can be resolved only by reference to the shared understandings of those who investigate them. But if this is the case then normative political philosophy, about justice at least, becomes intensely problematic. The spectre of relativism arises. To pose the problem most dramatically; how can we engage in normative political criticism about justice unless we provide arguments which the target of our criticism has reasons to accept? Given that we can imagine that we might, in some circumstances, have need to criticise anyone on the planet, how can we engage in such criticism unless we can discover arguments which all rational persons have reason to accept? If we cannot discover such foundations for our arguments – if our criticism is based only on what we happen to believe – why should we expect anyone else to listen to us?

This question about the foundations and the legitimate ambitions of criticism should be a familiar one to anyone who has done any serious thinking in the area. I have suggested that it lies, often unacknowledged, at the centre of almost every discussion of the liberal-communitarian debate. But what exactly is at stake here? What would be the consequences for our practices of argument and criticism if communitarians were right? Before we can answer this question, we first need to think about just what goes on when people do argue about justice and criticise each other. What are the circumstances in which arguments occur? What is normally at stake in them? What is the purpose of argument? What are the alternatives? What is the nature of the relation which exists between the parties to
an argument? What are its ethical and or political dimensions, if any? What techniques do we employ in arguments and to what effect? What are the internal or intellectual constraints on argument and what sort of external or pragmatic pressures may be operating? How do we, in reality, end arguments? Is it always when agreement has been reached between the arguing parties? How do we recognise agreement when we have achieved it? If we fail to reach agreement how may we then proceed? In particular how do we view the other party in the light of our failure to reach agreement? Who should we hold responsible for the failure to reach agreement? How do we ordinarily understand this process? Do different ways of understanding this process affect our answers to these other questions?

These questions form the starting point of an investigation into what I call “the politics of argument”. I intend them to foreground the ways in which both particular arguments and the practice of argument itself are enmeshed in social practice. An examination of the politics of argument seems to me a worthwhile project in itself. But as suggested above, my interest in these issues stems from the hope that they might shed light on the liberal-communitarian debate. More specifically I want to examine how the adoption of either a liberal or a communitarian position on the philosophical question at stake in that debate affects our answers to these questions. Therefore I will address them by way of a comparison between a liberal and a communitarian account of the politics of argument. Before I begin however, I need to make a few qualifications about the particular types of argument which interest me.

§4.1.1 The context of the inquiry

Firstly, my decision to focus on the politics of argument rather than on some other interaction such as conversation, discussion, dialogue, bargaining or conflict is a deliberate one. Each of these dialectical interactions have subtly different characters. To describe a particular encounter as a discussion rather than an

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1 Tasioulas, 1998 investigates these issues from a perspective sympathetic to philosophical liberalism. See also the essays collected in Paul, Miller et al., 1994.
argument, or an argument rather than a conversation, is already to partially
determine our understanding of its dynamic. The precise nature of these
determinations will become clear as we proceed. For the moment, however, I
wish to emphasise the dynamic tension which exists, within argument, between
discussion and conflict. It is argument's mediating position between these two
other interactions which ensures its importance in politics. Parties to an argument
are involved in a conflict, but this conflict remains contained within the realm of
discourse rather than of (purely) strategic action. Because parties to an argument
are engaged in conflict in pursuit of their own ends they have reason to
manipulate each other. Rhetoric, as opposed to (and insofar as it may be opposed
to) reason, is an integral part of argument in the sense used here. Parties to an
argument may — and often do — try to set and distort agendas in various ways so as
to disadvantage their opponents, they may resort to abuse, interruptions or
attempts to silence their opponents. In the background of an argument lurks the
resort to force or violence; arguments may end in blows. But although conflict
always exists as a possible outcome of an argument, argument is not yet conflict;
not “anything goes”. Argument and arguments are bound by some rules,
including those of logic or logics both internal and external. Because of this,
argument possesses the potential to transform our opinion against our will. This
is despite the fact that the extent to which arguing parties are interested in
modifying or developing their own positions is minimal. Their aim is to convince
the other party or at least force them to concede, not to advance their own
understanding. Insofar as the parties to an argument do change their positions this
is an unwelcome consequence of the dialectic; a result of the force of the other's
claims. When such a shift of position becomes necessary in the course of an
argument it may of course be flatly refused, but this refusal marks the shift from
argument to conflict and it is this transition, the reasons for it and our attitude
towards it, with which we will be concerned later. For the moment we need only
be sensitive to the nature of argument as an interaction which involves aspects
both of dialogue and conflict.

Secondly, I will concentrate on arguments about justice. This is simply because
my interest lies in the possibility of a normative politics as championed most
vigorously by liberalism. Liberalism attempts to make possible such a politics by limiting it to questions of justice. People argue about all sorts of things all of the time. They argue about sex, art, religion, and politics, as well as a myriad of other everyday issues and problems. It is grossly implausible to hold that there exists a single correct answer to every question under dispute in all of these areas. The productive insight of liberalism, however, is that if we were able to resolve disputes about justice then we could at least describe a society within which, even if there was much contention, there existed no injustice. Perhaps we are capable of agreeing on more than this. But the possibility of a determinate solution to questions about justice acts as a sort of minimal benchmark for a normative politics.

Thirdly, I will focus primarily on important arguments about justice which resist resolution. Arguments which are easily resolved do not pose the question of the foundations of political argument because they allow us to get on with our lives simply by accepting this outcome. By resolution I mean here the cessation of the argument, and the adoption by each party to it of some set of conclusions, or course of action, with which they are mutually satisfied. This notion must remain for the moment vague because we have yet to properly investigate the ways in which arguments may end and the reasons why a party may be satisfied (or not) with a particular outcome. However, resolution in this sense involves at least the permanent end to that dispute in a manner which does not leave any party feeling that its claims have not been granted adequate recognition. An argument which persists is by definition not (yet) resolved. I stipulate that the arguments are important in order that we treat the parties as highly motivated both to resolve the dispute but also to achieve an outcome which accords with their existing preferences. Most important arguments concerning justice resist resolution.

Finally, I should note that the parties to political arguments are here understood to be groups oriented around shared (partial) subjectivities rather than individual agents. In Chapter 5 I shall argue that the proper subjects of politics are often groups rather than individuals and that relations of justice may and do exist between groups. Different social groups are engaged in continual disputation about the relations between them, the distribution of social goods and matters of
justice in general (as well as other concerns). These arguments may take place over days, weeks, years or even decades. Of course, the particular claims in an argument may be voiced by individuals, but insofar as they address a dispute between groups they may be understood as (potential) representatives of some larger group. Often this relation of representation is formalised, to a greater or lesser extent, by groups themselves in order to establish spokespersons, peak bodies, leaders, et cetera, through which they make their case heard. Most contemporary political argument occurs between groups in this fashion and I will therefore assume the parties to arguments to be groups for the purposes of this chapter. Arguments between individuals may be included as a special case of this phenomena.

To summarise: I intend to examine and compare the ways in which liberals and communitarians may each understand arguments about justice which resist resolution. It is time now to turn to this task.

§4.2 Liberalism and Argument About Justice

To recall the discussion of Chapter 1; the core tenet of philosophical liberalism, as I understand it, is that reason and (perhaps) a set of propositions true of all persons together are sufficient to settle all disputes about justice. The liberal faith in the power of reason has some surprising consequences for the liberal’s understanding of argument about justice. To begin with, the existence of argument about justice

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2 The qualification that liberals acknowledge a plurality of reasonable conceptions of the good is not relevant here and has therefore been omitted, because we are deliberately limiting our investigation to arguments about justice.

3 The decision to focus on argument about justice determines the relationship of the argument in this section to an important liberal literature. At least two theoretical developments over the past decades have led to an upsurge in interest amongst liberals regarding issues of argument and justification. Firstly, the development, by a number of influential authors, of theories of “deliberative democracy” has focussed attention on the processes of deliberation whereby different groups come to agreement on policy matters (See for example, Cohen, 1986; Dryzek, 1990; Fishkin, 1991; Gutmann and Thompson, 1996). Secondly, the publication of John Rawls’s Political Liberalism, with its emphasis on the construction and elaboration of an overlapping consensus in the face of a plurality of reasonable conceptions of the good, has similarly resulted in an upsurge of interest in liberal circles in processes of argument and public justification. An important group of contemporary liberal theorists now advocate what has been described as a
itself must always be somewhat of an embarrassment for the philosophical liberal. As there exist determinate answers about questions of justice, for an argument to occur at all someone must be wrong. Because the answers are available to all beings insofar as they are rational persons, it must also be the case that some party to the dispute is deficient in one (or both) of these regards. Rather than being an inevitable feature of life in a complex world, argument about justice is always the result of human imperfection. In an ideal world it would not exist.

§4.2.1 Liberalism and the origin of argument about justice

Given that, for the liberal, there exist determinate answers to questions about justice, these — the right answers — represent the proper endpoint of argument. Arguments should finish with both parties agreeing on conclusions which follow for all rational persons. The dialectic is from disagreement in error to consensus on the truth. Liberals can admit that often arguments do end with mere agreement or compromise, but such outcomes fall short of the ideal and may admit injustice. Where the matter under dispute is important enough, only the correct answer will do. Liberalism, then, is strongly prescriptive when it comes to the way in which arguments (should) end.

"justificatory liberalism" (Gaus, 1996. The theorists and works Gaus identifies with this position are Waldron, 1987; Macedo, 1990; Rawls, 1993 and Larmore, 1987. One might easily add Habermas to this list. See also Nagel, 1987). Such accounts derive liberal and democratic institutions from the conditions of possibility of settling disputes with reference to public reason. Given the emphasis on pluralism in this literature — on disagreement, toleration and compromise — the argument of this section will seem somewhat perverse unless we keep it firmly in mind that my concern here is with argument about justice, as conceived by philosophical liberalism, and not with argument about the good. That is, my interest here is with argument about and between these deliberative or justificatory schemes themselves, rather than the argument that occurs within them. Insofar as such theorists are philosophical liberals (which is sometimes difficult to discern), I take it that they must hold that the institutions and frameworks that govern processes of public justification have a different and more privileged status than the matters decided within them and indeed form a unique liberal solution to the problem posed by the existence of a plurality of disputing voices. If the individual freedoms and democratic institutions that such schemes establish were the outcome of discussion and argument rather than its condition then liberals would have not have the strong grounds they claim for criticising societies that reached other conclusions. To the extent that such theorists blur this distinction (see, for instance, D'Agostino, 1996; Gutmann and Thompson, 1996) then they must allow that different communities in which such arguments take place may come to different conclusions about the nature of just institutions.
§4.2.2 Liberalism and the endpoint of argument

Liberalism is also strongly prescriptive, in an even more counter-intuitive fashion, regarding the sort of attention due to the particular claims of arguing parties. Our primary obligation in an argument about justice, according to the liberal, is to reason rather than to the other party. The particular utterances of the opposing party are only relevant to the proper resolution of a dispute about justice insofar as they present reasons which are valid for all rational persons. But precisely because these reasons are available to all rational persons it is not necessary that they actually be uttered by either party. The flipside of this, of course, is that we need not pay close attention to the actual claims of the other party. If they are the claims of reason then they are available to us already; if they are not, then we can and should ignore them.⁴

This aspect of the liberal approach to argument is nicely illustrated by A Theory of Justice. Rawls argues that the particular commitments of the parties to the Original Position should not play any part in their reasoning in order that their conclusions should be acceptable to all rational persons and not merely to those who share those commitments. However, when we strip the parties to the Original Position of their commitments it turns out that the distinction between parties itself collapses. In abstracting them from their commitments we strip them of their individuality. The parties to the Original Position then reason from identical starting points in identical fashions.⁵ We can therefore reach the conclusions proper to the Original Position by considering the reasoning of just one such party. This conclusion though bizarre is not an aberration due to the peculiar nature of the device that Rawls uses to draw out our intuitions about justice; it follows entirely from the liberal insistence that reason alone is the sole arbiter of justice.⁶ Michael Walzer describes this aspect of the liberal

⁴ Walzer, 1981, 389; Young, 1990a, 112; Walzer, 1994a, 48.
⁵ Rawls, 1971, 139.
⁶ Walzer, 1981, 393-4; Young, 1990a, 101.
philosophical project in a passage worth quoting at length. He writes, of the
liberal philosopher reasoning about justice,

... he constructs for himself ... an ideal commonwealth, inhabited by beings
who have none of the particular characteristics and none of the opinions or
commitments of his former fellow-citizens. He imagines a perfect meeting
in an "original position" or "ideal speech situation" where the men and
women in attendance are liberated from their own ideologies or subjected to
universalising rules of discourse. And then, he asks what principles, rules,
constitutional arrangements these people would choose if they set out to
create an actual political order. They are, as it were, the philosophical
representatives of the rest of us, and they legislate on our behalf. The
philosopher himself, however, is the only actual inhabitant of the ideal
commonwealth, the only actual participant in the perfect meeting. So the
principles, rules, constitutions, with which he emerges are in fact the
products of his own thinking, "designed at will in an orderly fashion",
subject only to whatever constraints he imposes on himself. Nor are any
other participants required, even when the decision procedure of the ideal
commonwealth is conceived in terms of consensus or unanimity. For if
there were another person present, he would either be identical to the
philosopher, subject to the same constraints and so led to say the same
things and move towards the same conclusions, or he would be a particular
person with historically derived characteristics and opinions and then his
presence would undermine the universality of the argument. 7

We see here the fundamentally monological nature of reasoning about justice on
the philosophical liberal account.

§4.2.3 Liberalism and the nature of attention to the other

Listening to the claims of the other party in an argument therefore can only be of
instrumental value for the liberal. It serves to assure us that we haven’t missed
any relevant considerations which we should ourselves have already adduced.
While liberals might choose to emphasise such attentiveness as a virtue, it is
valuable only as a corrective to human imperfection. It is required by our failure
to measure up to liberal standards rather than by those standards themselves.
Ideally we should be able to answer any question about justice by reasoning in
isolation.

§4.2.4 Liberalism on reason and rhetoric

Finally, the liberal must deny that there is any role for rhetoric in argument about justice or for appeals to the individual aesthetic or emotional responses of parties to an argument. Reason alone is sufficient to move all rational persons to the proper conclusions. These other devices are either redundant or misleading.\(^8\) Our own emotional responses, bodily reactions and particular perspective are not relevant to the proper resolution of the dispute.\(^9\) In a similar vein, liberals should abstain from the attempt to alter the beliefs and perceptions of others through argument except as regards those beliefs which directly concern the matter of justice at hand. Attempts to educate, or to transform the broader beliefs of, others are not a proper part of argument about justice according to the liberal.\(^10\) There is no need to change the nature of others in these areas because the capacity to perceive truths about justice does not depend on the possession of any particular features other than rational personhood. And one could hardly argue someone to rational personhood.

Again the liberal may admit that such methods do play an important part, in practice, in convincing people during argument. If they are realistic about it they may concede that such techniques do the majority of the argumentative work and that reason alone, stripped of persuasive rhetorical devices, very seldom moves anyone. But these rhetorical methods of motivating change must remain distortions, albeit occasionally useful ones, of the proper argumentative process. Either they move people to endorse the conclusions which reason prescribes, in which case they are redundant, as reason alone should be sufficient motivation, or they move people away from the dictates of reason, in which case they should be deplored.

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\(^8\) Walzer, 1981, 395.
\(^9\) Young, 1990a, 100.
\(^10\) They are of course a legitimate part of argument about the good, according to the liberal, where such beliefs are acknowledged as playing a foundational role in our reasoning. But our general background belief set, which derives from our particular circumstances, is not thought by the liberal to play such a role in reasoning about justice.
Note that the account of argument given so far is an extrapolation of what is required by the logic of the liberal position. It is not a description of any doctrine actually expounded by any individual author. Nonetheless the key features of the account – its faith in the power of reason, its hostility to rhetoric, its focus on the demands of logic rather than of the other party – should be recognisably liberal ideals. I have argued that these all follow from the liberal insistence that reason alone is sufficient to determine the answers to questions about justice.

§4.2.5 Liberalism and justification in the case of the resort to force

Now, despite these high ideals, liberals can also admit that the reality of human dispute resolution is less than ideal. They must admit that there are arguments which, in practice, resist resolution in the loose sense defined earlier. In many arguments the arguing parties simply can’t agree and, after a while, may even give up arguing and perhaps turn to other more dramatic ways to settle their dispute. If the matter under dispute is important enough to a party they may resort to force to settle that issue and, in their own eyes at least, will be justified in doing so. Furthermore, given that, according to the liberal, there are right answers and that, for the argument to exist at all, at least one of the parties must be wrong, the party least in the wrong will in fact be justified in the use of force to achieve its ends, if the issue is sufficiently important. The same absolute ethical characterisations which apply to the claims of the party of justice will apply to their actions in defence of these.

§4.3 When the Liberal is Involved in the Dispute

What happens if the liberal is herself one of the parties? An interesting result occurs, given an important feature of our attitudes towards our own opinions. It is a consequence of the operations of a rational belief set that we hold of each individual member of the set that it is the most rational belief available. If the belief concerns a matter about which we feel reasonably confident, that means that we hold it to be true. If the belief concerns a matter about which we are uncertain, our beliefs are nonetheless, we must hold, the most justified. If we came across an opinion we discovered to be superior to our own then we would
adopt it. A person who thought that some particular belief of theirs is less justified than some available alternative, yet continued to hold, it is engaged in a contradiction. This is not to say that we do or should hold that we possess no false or unjustified beliefs. Indeed it would be the height of arrogance to claim that one’s entire belief set was true. The claim that our beliefs are true holds of them each individually and not of the set as a whole. Nor is the claim here that we should never alter any given belief that we hold. The cognitive superiority of our beliefs follows precisely from the fact that we do change them whenever we come across superior beliefs. What the above does suggest is that one must hold of one’s considered opinions that these are the best available. Not only do we happen to hold that particular opinion, but it is also the right opinion to hold.

It might be thought that, when the belief at stake concerns an important matter of justice about which there is much dispute, we should refrain from such apparent confidence in our own opinions. Shouldn’t the fact that others, seemingly as capable of reasoning as ourselves, have come to different conclusions on the matter give us cause to doubt the veracity of our own reasoning? It is true that this provides us with reason to scrutinise our own beliefs and to test them against the beliefs of others. But when our beliefs have survived such testing, or have altered as a result of it, our confidence in them should actually be increased by this process. Having surveyed the alternatives, we can now be sure that those we have chosen are the best available. As a matter of empirical psychology I suspect that it is usually true that the more we have engaged in arguments with others about the truth of our beliefs the more sure we become of them. Argument often serves to entrench belief rather than unsettle it. But we can imagine persons and situations such that confrontation with alternative opinions was a cause for subjective uncertainty rather than certainty. However, the increase in commitment I am speaking of here is an analytic or epistemological consequence of having tested our beliefs against those of others. Regardless of our subjective state, the more we have tested our beliefs against the alternatives the more justified they become. This commitment also assumes an ethical dimension when it becomes necessary for us to act on our beliefs in matters which affect others. The concern we should have for the consequences of our actions increases the
obligation on us to make sure that we choose the right beliefs to act upon. When we act we must be convinced that the belief or beliefs which we act on are the most justified else we should adopt others and act on them. It would be extremely perverse if we were to act on anything other than the best beliefs available to us. The more important the matter, the more commitment is involved. Thus the more important the consequences of acting on a belief, and the more we have examined it and tested it against competing beliefs, the more we are also committed to its being the most justified belief available.

For the liberal, if it is a belief about justice, this means that it is sanctified by reasons available to all rational persons. We see then that for the liberal, because of this belief at the meta-level, there is a practical conjunction between their own considered opinions and those which all rational persons should hold. I have already suggested that for the liberal the failure to resolve an argument implies a failure of rational personhood in one of the parties. When the liberal is one of those parties, it must be the other who is responsible for the failure to resolve the dispute.¹¹ Thus the logic of liberalism suggests that, in the case of an important argument about justice which resists resolution and which involves them, a liberal must hold that the other party in the dispute is not only objectively wrong, but also deficient qua rational person.¹² That is, they are either acting irrationally or inhumanly. That the demonology of liberalism is a bestiary of the irrational is no accident; when we insist that reason is on our side, our opponents must be deranged.

The insistence that the liberal's position in an argument is justified by the operations of pure reason may also serve to disguise the liberal's material interests in having the dispute settled their way. If the arguments of the previous chapter are correct then the liberal's conclusions are not those which would be arrived at by any rational person but are instead the product of the liberal's own particular set of commitments and interests. The liberal account of argument operates to

¹¹ Butler, 1995, 40.
disguise their own particular interests as abstract universal interests. By contrast the conclusion of the liberal's opponents, because they are not sanctified by reason, are by implication tainted by material interests or other distorting influences.

Now because I have stipulated that the dispute is one which is important to the liberal, it may be that in the absence of agreement in the matter the liberal has no other alternative but to resort to force to settle the dispute. When this occurs the liberal's resort to force is justified by the other party's intransigence in the face of reason and made more palatable by their conviction of the other's cognitive (and by implication moral) inferiority. If not God then at least reason is on the liberal's side. Even their enemies can legitimately be expected to see this if only they'd come to their senses.

Although it begins with the apparently plausible faith that reason is sufficient to settle disputes about justice, a closer scrutiny reveals philosophical liberalism to have a number of surprisingly counter-intuitive implications. Given that the proper endpoint of any argument is already determined by the operations of reason, dispute about justice itself becomes an aberration to be explained. Our proper object of attention in an argument is the dictates of reason rather than the other party to the dispute. Because reason should convince all rational persons of the correct solution to the dispute, rhetoric has no role to play in argument. Finally, when the liberal is involved in the dispute their necessary faith in their own powers of reasoning leads to the remarkably illiberal conclusion that their opponents are deficient in rational personhood and that the liberal is therefore

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13 Mercer, 1990, 55; Minow, 1990, Chp. 2; Bell, 1993, 30.
14 A further effect of the liberal account, given the association between the operations of reason and the mind, is to cast the other into their bodily identity. Insofar as the mind is identified with reason then failures of reasoning are the result of interference with its operation caused by or mediated through the body. In this way the other's bodily identity is foregrounded by the liberal argument and linked to their inability to "listen to reason". Young, 1990a, Chps 4 & 5.
15 Of course if both parties to the argument are liberals then this is a conclusion that each will reach about the other.
justified in the resort to the use of force to settle the dispute. These conclusions are obviously problematic as an account of argument. They fly in the face of our actual argumentative practice and also of our own maximal strategy in real arguments. It remains to be seen, however, if the communitarian account can do any better.

§4.4 Communitarianism and Argument about Justice

The definition of philosophical communitarianism that I argued for in Chapter 1 is the doctrine that arguments about justice are ultimately with reference to the shared understandings of some community. Critics of communitarianism thus understood usually allege that rather than providing a superior account of argument about justice to philosophical liberalism it actually renders argument about justice impossible.¹⁷ How can we make claims about the validity of argument about justice without reference to some impartial standard against which these will be judged?

But communitarianism does not assert that we cannot assess arguments about justice. What philosophical communitarianism does render impossible, or more accurately denies are possible, are unsituated claims. From any particular perspective, evaluation of arguments about justice is entirely possible. It remains possible for us to criticise the shared understandings of any given community through a process of pitting them against each other or by reference to those of another community.¹⁸ On my account we are always members of many communities both wider and narrower than any given example. Thus we may criticise the understandings of our immediate community by reference to those understandings that we share by virtue of our membership in some wider community. Or, because communities are always divided by difference, we may


criticise the understandings of the wider community by reference to those of some narrower community. The possibility of an external or an internal critique are ever present. So we are not committed to uncritically accepting whatever the shared understandings of the community happen to be at the time. We can criticise any particular conclusion about justice arising from those understandings.

It is of course true that philosophical communitarianism allows that a multitude of conceptions of justice are possible. Different communities, cultures and individuals will likely possess different accounts of justice founded in their different circumstances and histories. It is also true that it denies that any abstract assessment that any of these is better than any of the others is possible. But this is simply because, according to philosophical communitarianism, there exists no independent perspective from which to compare them. Equally well it is nonsensical to say that they are equally good, because this would also imply some standard against which they could be judged.19 From any given perspective, however, we are perfectly capable of assessing arguments about justice.

Nor is the adoption of such perspective and consequent set of “shared understandings” arbitrary, in the sense that no reasons can be given to support it. It can be supported by a multitude of reasons. These reasons will simply be those that a person would give in support of their position. They are precisely the sort of reasons that we would give in an argument.20 Such reasons seem to me perfectly good. How could we do better? The thought that the adoption of any particular perspective is necessarily arbitrary presupposes some independent standpoint from which such a choice could be made. But this is just what the communitarian denies.21 To insist that communitarians are unable to provide grounds for their belief is just to reassert the liberal conception of what those grounds should look like.22 Once we refrain from begging the question in this

22 Rorty, 1982.
fashion we can admit that it remains possible, from within a particular perspective, to assess arguments about justice.23

§4.4.1 Communitarianism and the origins of argument about justice

On the communitarian account then, rather than being the result of human failings, argument about justice is an inevitable feature of moral life as much as is argument about the good. Disagreement on questions of justice is not the result of error but of the multiplicity of possible starting points. The communitarian account of argument about justice here parallels the liberal account of argument about the good; indeed communitarianism denies that a clear distinction can be made between these. Communitarianism acknowledges the plurality of existing conceptions of justice. When these come into conflict, argument is the result. In the absence of the possibility of the appeal to the dictates of impartial reason, the actual practice of argument is the only way in which agreement on questions of justice can be reached. There is no possible basis from which agreement could arise prior to such engagement. Because the process of argument allows persons with different viewpoints to reach agreement, argument is actually to be welcomed. The “shared understandings” that bind a community together must be established and maintained by a history and tradition of argument. But, even once established, these shared understandings and commonalities of experience remain themselves continually subject to contestation.24 As we saw in Chapter 2, such homogeneities are always historically specific and are internally fractured by difference. These differences continually pose a challenge to the existence of the shared understandings. A tradition and history of argument is therefore a condition for the existence of a community, as well as the mechanism by which the particular details of its “shared understandings” are determined. Argument is

23 Thus self-reflection and belief-set revision are both eminently possible on my account. The reasons which others can offer us as arguments are also available to us in reflection. Indeed our membership of multiple communities ensures that we will be continually exposed to different perspectives against which to evaluate our own current beliefs. The tension between the world views of the communities in which we participate is thus a productive one as concerns the development of our own belief set.

an essential part of social life. Even in an ideal world then, according to the
communitarian, political arguments would continue to exist.  

§4.4.2 Communitarianism and the endpoint of argument

In contrast to the liberal account, the communitarian account of argument does not
provide any abstract description of the proper endpoint of argument. There are no
determinate answers to questions about justice which transcend the particular
circumstances of agents. Thus there is no determinate conclusion to any given
argument which could be said to be the proper outcome of that argument. Rather
each party to an argument seeks to obtain a different outcome; that is, agreement
on the truths that they hold. The only generalisation possible is that each party to
the argument seeks the others’ agreement. However, the aim of parties to an
argument is not merely to procure agreement either. Each party enters into
argument with a set of conclusions of which they wish to convince their
opponents. Each party to an argument is subject then to competing imperatives;
to reach agreement, because the failure to do so may be costly, on the one hand,
and to gain assent for the particular position that they hold on the other, because
they are committed to it. Which of these will hold sway will depend on the
context and, in particular, the social circumstances of the argument, which will
determine the relative strengths of these demands – as we will examine further
below. For the moment I wish to emphasise the role played by the agreement of
the actual parties to an argument. Success in argument is achieved by persuasion
of the other, and what any given party finds to be convincing is a contingent
matter. A good argument is one which convinces the other party to see things our
way rather than one with the correct pedigree of impartial reasons.  


26 Although, as I argue below, there do remain some important constraints on the sorts of
interactions that may count as arguments (and consequently, as good arguments).
§4.4.3 Communitarianism and the nature of attention to the other

The question then arises as to how argument can proceed between parties with different belief sets, in the absence of the determinations of impartial reason? It will often be the case that much argumentative work can be done by appeals to consistency and coherence of belief. Each of the parties may appeal to the other's stated beliefs and principles and then attempt to show that their own conclusions follow from premises they already believe to be true. Or we can challenge another's argument by pointing to its logical confusions or the contradictions between its implications and other beliefs that they hold. Given that, as a matter of fact, our belief sets are very rarely consistent or coherent there is a great deal of scope for such argument. When the parties to an argument are groups, consistency and coherency in belief is even less common as a result of differences within the group.\(^\text{27}\) The attempt to render such belief sets coherent may well involve much revision of belief.\(^\text{28}\) In this type of disputation the language of reason and rationality which figures so large in the liberal account of argument has a proper part to play. The parties may criticise each other's logic, reasoning, stupidity or stubbornness, insofar as they fail to draw conclusions that follow from premises which they admit.\(^\text{29}\)

Disputes about which conclusions follow properly from what are acknowledged to be shared premises, however, are only a small portion of arguments which resist resolution.\(^\text{30}\) Arguments of this nature are usually quickly resolved, or else it is discovered that there are other operative premises which are disputed and which are the real cause of the dispute. It will often turn out to be the case that, despite their best efforts, the parties to an argument are unable to resolve the dispute by determining what follows from premises which they each consciously share. If

\(^{27}\) Walzer, 1987, 35-66; Mulhall and Swift, 1996, 143.

\(^{28}\) The pluralism of and contestation between shared understandings within a group that Benhabib, 1995, 27 argues render "situated" or "immanent" criticism impossible is therefore, on the contrary, the condition of possibility of such critique

\(^{29}\) Walzer, 1994a, 41-7.

\(^{30}\) Dworkin, 1985c, 216.
argument is to continue in such circumstances, it must proceed by expanding to include those premises upon which each party builds its case and which the others reject. Disputed premises themselves then become the subject of further argument. The parties seek to change each other's belief sets – the premises upon which they found their beliefs about justice. The attempt to do so may for a while proceed according to the same methods, via the search for other, previously uncontested or more general, shared beliefs from which arguments from consistency and coherency can be made. Thus argument may involve an ever widening mutual examination of beliefs in the search for common ground upon which to settle the dispute.

However, there is no guarantee that this wider inquiry will produce results either. The ultimate reference points for an agent's beliefs may simply be facts about their identity and experience. They may be unable to provide reasons beyond these and not just because they are unwilling (although they may be this too) but because such facts are for them the beginnings of argument about justice. These starting points, the facts about identity, the beliefs, bodies and cultures of people which ultimately provide our touchstones in discussions of justice are not themselves subject to criticism of the (purely) rational sort. They cannot be reasoned to, although they may be arrived at through experience which itself can be at least partially communicated in a myriad of ways. Few of these, however, involve rationality alone. Rather they rely upon the mobilisation of broader affective responses in our listener. Nor can such facts be properly known "abstractly" or "intellectually". Genuine understanding of facts of this nature necessarily involves a shift in subjectivity. In understanding why others experience the world the way they do, we ourselves come to see the world differently and so become different people. We will not necessarily assume the identity of the other but neither will we remain untouched. The project of trying to communicate such experiences is accordingly the attempt to transform the

31 But see Kukathas, 1994, esp. 9-12, where it is argued, in defence of the possibility of ethical agreement across cultures, that the prospects for such efforts are much better than is generally acknowledged.

32 Young, 1997b, Chp. 2 & 3.
subjectivity of the other, and the language we use to communicate such experience is much richer than argument narrowly understood. Strings of logically connected propositions are wholly unsuited to convey to others the reasons why we maintain the world views that we do. Because reason alone is insufficient to motivate agreement in these matters, rhetoric and all the other devices of argument must be made use of. Indeed the techniques required to successfully influence the subjectivity of others may often go beyond argument as traditionally understood, into the realm of the arts. Poetry, theatre, art, film, music, et cetera, may all do much better at communicating the appeal of our world-view and convincing others to see things our way. Hence it may become necessary to employ all of these in the course of an argument. In some cases even these resources will be inadequate to convey the reasons why we maintain our particular world-view. Sometimes only the experiences which have caused us to have the values we do will serve to make these intelligible, let alone appealing, to others. The cultivation of common experience may therefore be a final avenue whereby two parties can find common ground from which to resolve a dispute. Sometimes an extended period spent in argument together may itself serve to bring the parties closer together in this way. The shared experiences accumulated in the course of the dispute may eventually constitute sufficient common ground for them to make progress in it.

It should be obvious that, throughout this process, listening to the other party and paying careful attention to their nature is of the utmost importance, if we are to hope to succeed in establishing the common ground necessary to resolving the dispute. The shared beliefs which might make agreement possible may not be immediately obvious to either of the parties. In order to maximise their chances of convincing the other party, each must listen carefully to the other and engage with their beliefs, in search of common ground from which to make their case. Listening to the other party is essential to the process of argument rather than incidental to arriving at a conclusion which could be established independently of them. In this way the communitarian account places the actual parties to the

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33 Rorty, 1993; Young, 1997b, 70-3.
argument, in all their contingency, at the centre of the argument. This sensitivity to the specificity of the other, to their particular nature and claims is the beginning of the respect which, I shall argue at length below and in the following chapter, is central to a communitarian account of how we may resolve disputes about justice and eventually to a discursive ethics which may serve in place of a theory of justice.

§4.4.4 Communitarianism on reason and rhetoric

It should also be obvious by now that the communitarian denial of the power of reason alone to determine questions about justice motivates us to adopt a more catholic understanding of argument. It admits a much broader notion of arguments and argumentative technique than does the liberal account. Argument is acknowledged as a much more dynamic and contingent process and the argumentative practices in which we engage in order to convince each other are allowed to be much richer than the mere enunciation of reasons. The line between those techniques which aim to affect the conclusions that we draw from our existing belief set and those which seek to influence or alter that belief set is blurred. The distinction between argument and experience is likewise eroded. Arguments are revealed as historical events with antecedents, duration, and consequences and it is the experience of argument which serves to convince and not just its formal content. As suggested above, sometimes the cultivation of shared experiences may be the best or perhaps the only way to resolve an argument. The recognition that argument exists as process and experience as well as structure allows us to pay proper attention to the role of various conventions which play an important part in argument, such as greetings, forms of address, procedures for interruption or signifying assent. The communitarian account allows that persuasion involves much more than just the arguments put forward but also the manner in which they are put and more broadly the circumstances in which they are made. Of particular interest is the implication that a wider range of cultural artefacts may serve as arguments. Plays, novels, poetry, works of art,

34 Mouffe, 1993, 12-13; Young, 1997b, Chp. 2 & 3.
et cetera, may play an effective and proper role in argument between different communities, as well as more familiar forms of argument such as essays or dialogues. Within limits discussed below, any sort of exchange which serves to persuade another of the virtues of a particular world-view may count as an argument on the communitarian account.

It is important, however, that the communitarian account does not allow the broadening of the definition of argument to such an extent that it admits any technique which may be used to gain another's assent. There are many forms of persuasion which cannot plausibly be construed as argument under any circumstances and which furthermore we would not wish to be subject to. Consider torture, for example, or arguments based entirely on false premises. Thus for the communitarian account to be plausible we need some way of delineating those forms of persuasion that we believe are proper to argument (in the expanded sense) from those which are not. The most important restriction placed on the sorts of persuasive strategies which may count as argument, we have already noted, is that they must possess a logic or "discursive structure". That is, their place and role in the exchange between the parties considered as a whole must be governed by a logic which is structured by the meaning of their constituents and which binds both parties. A function of the discursive structure of argument is that the change in belief they produce is a "resilient" one. Good arguments produce a genuine change of opinion in the listener and not just momentary assent. Once we have been convinced by an argument we remain so until further arguments should alter our belief again. Our new beliefs are our beliefs and we identify with them and defend them. They may of course be threatened by future arguments, but should not collapse without further good arguments being made.

Our communications in the course of an argument then are not purely strategic. We cannot employ them for the sole purposes of an attempt to manipulate the other party. Or rather, although we can try to do this, we are not free to deploy the units of meaning which make up our argument however we would like. We ourselves are bound in certain way by the meanings of the terms we use. Because their meanings are socially determined, we cannot employ them solely to suit our
own purposes. We are also bound by notions of intelligibility, non-contradiction and valid inference, even when our arguments are of the expanded set allowed by the communitarian. These concepts and others like them must themselves be construed more broadly by the communitarian to apply to the expanded conception of argument. But it seems clear that we can properly talk of novels or poems contradicting each other or of a conclusion not following from a premise expressed in a play or work of art. Such concepts therefore operate to restrict the sorts of persuasive strategies which may count as argument. Those which contradict themselves or are unintelligible or which shift the meanings of their terms arbitrarily, we may suspect are not attempts to convince us but instead simply to manipulate us. This of course does not mean that we cannot contradict ourselves or distort our own meanings to serve our own ends, just that argument is likely to break down if we do so.

This possibility, the breakdown of argument, highlights the role that what I shall describe below as respect plays in delineating the bounds of argument. Persuasive techniques which, by their nature, give the other party cause to terminate the argument and resort to force to settle the dispute do not qualify as arguments on the communitarian account, because they fail to demonstrate adequate respect for the other party. The nature and limits of this respect will be discussed at length below and in the following chapter.

§4.5 When the Communitarian is Involved in the Dispute

Let us turn now to examine how the communitarian account of argument affects the communitarian’s understanding of disputes about justice to which they are a party.

Firstly, we must acknowledge that the same truths about beliefs hold. Like the liberal and for the same reasons, the communitarian must hold, after consideration, that the beliefs that they possess are the best available. The conclusion that each of our beliefs considered individually is the best available is a function of the operations of a rational belief set rather than a consequence of any philosophical thesis.
Yet the philosophical communitarian lacks the liberal’s faith that what makes a belief about justice the best available is its ability to be justified to all rational persons. For the communitarian our beliefs are sanctified only by our other beliefs and not by reason alone. The belief that their beliefs are the best available can only support the conclusion that they are the best available relative to their own belief set. No judgement that these beliefs are best overall is possible. Again, it is important to emphasise that this belief does not affect the communitarian’s attitude towards the substance of their – and the other party’s – claims, but only of their status. As I argued earlier, the communitarian is not prevented from disagreeing with others by their own recognition that the source of this disagreement may lie in their particular circumstances. The communitarian can continue to hold that the other is wrong and provide reasons for this claim. However, there is no immediate presumption that the failure of another party to come to our conclusions results from a failure of rational personhood on their part. Their error may not stem from any failure of rational personhood but simply from their different circumstances. Rather than drawing the liberal’s conclusion that the other has failed to reason as well as us we may conclude only that the other is different to us.

§4.5.1 The possibility of respect

At this point, if we are communitarians, a choice becomes available to us that is not available to the liberal. We can recognise that this difference is a symmetrical relation. They are different to us. We are different from them. We can admit that from their point of view we are equally wrong as they are from ours and that there exists no independent perspective from which we can judge who is more right. (Once more we must be careful to distinguish this claim from the claim that “they are equally right”.) We can also choose to respect this difference, that is, to begin to take it into account in our own reasoning and action. This respect motivates the ever widening search for common ground that I suggested earlier was necessary in order for the dispute to be resolved on the basis of premises which both parties accept. This choice may lead, I suggest, to a version of a discursive ethic which I will outline at length in the following chapter. The beginnings of this ethic are in a respect for the other party which acknowledges that their failure to reach
immediate agreement with us is founded in our mutual difference from each other and not in their failure to live up to a standard which we embody.

It is important to recognise that the decision to recognise the symmetrical nature of difference is very much a choice. I am not arguing that this move must be made by the communitarian. The communitarian can just insist that the other party is wrong and also (perhaps) degenerate.\(^{35}\) As we shall discuss further in Chapter 5, they may not even be able to respect the other while remaining committed to their own deepest values. Dogmatic communitarians are just as possible as dogmatic liberals, depending on the content of their belief set. Whether or not we begin to take the other party’s opinions into account will be largely determined by our existing relation to the other party, the extent to which we can empathise with them and the depth of our own commitment on the issue. But this move to the recognition of difference and towards a greater effort to resolve the dispute via the attempt to establish shared commitments is at least available to the communitarian whereas it is not to the liberal.

If the communitarian does choose to condemn the other party then they cannot defend their doing so on the grounds of pure reason. While they may state their conviction that the other is mad or unreasonable, at another level they must recognise that this claim has no more force than an expression of their disagreement.\(^{36}\) They cannot say, as can the liberal, that the other is deficient according to a standard of rational personhood that could be set out independently of their dispute. If we resort to force, our action will be justified, in that we

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\(^{35}\) There are apparently two responses available here to the communitarian in the absence of respect. The first is to acknowledge the difference between the parties, yet deny its symmetry. That is, we may construct the other as alien to ourselves and understand this relation to be a hierarchical one wherein we are established as the norm and the other as deviant. The second is to deny difference and to understand the other on a model of sameness with ourselves. In this case, the other’s failure to reach our conclusions is construed as a product of their failure to reason properly. This move is directly analogous to that which I argued was the necessary liberal response to the problem of difference. In fact these two responses are both predicated on a model of difference as a hierarchical opposition between the normal and the deviant. The second merely effaces this in its explicit denial of difference. In reality, the other’s failure to be sufficiently like us is a failure to reach the norm which we establish – and so a deviation.

possess good reasons for it, but we must acknowledge that this justification is one that will only be convincing for members of our own community. Ultimately, of course, we must admit that there are people who will fail to be moved by arguments which seem convincing to us. If we are unable to respect and unwilling to tolerate their different viewpoint and are moved to respond to it with force, then we should admit that our doing so is merely an act of force and not something which we should expect them to surrender to.

Philosophical communitarianism is often criticised for condemning us to relativism and rendering argument about justice impossible. I have argued that a situated and non-arbitrary form of critique remains possible on a philosophical communitarian account. Philosophical communitarian understands argument as an inevitable feature of human life. It prescribes no proper endpoint to argument other than an actual agreement reached by the parties. According to the communitarian, argument between parties may proceed through the application of principles of consistency and proper inference to the belief sets of each party, through an ever widening search for common ground upon which to settle the dispute and finally through the attempt to influence the subjectivity of the other in such a way that they come to understand the world as we do. Communitarianism thus places the other party at the centre of our attention during an argument. It allows that rhetoric has a proper role to play in argument and indeed endorses a greatly expanded sense of legitimate argumentative techniques. While communitarians must hold, as must liberals, that their considered beliefs are the best available, communitarianism does not have the necessary consequence that those who oppose us in argument about justice are deficient in rational personhood. While it remains possible to condemn others for their failure to draw conclusions which seem to us a necessary consequence of our nature as moral beings, the opportunity also exists to recognise that the dispute has its foundations in a difference between the parties which is symmetrical and to adopt an attitude of respect towards the other party. This respect motivates the search for a solution to the dispute which is mutually acceptable and founded upon common premises discovered or created in the course of a rigorous examination of the nature of the differences between the parties. When communitarians choose not to respect the
other in this way and resort to the use of force to settle the dispute, their doing so cannot be rationalised as a step the necessity of which the other would concede if only they were rational.

§4.6 An Initial Comparison

So far, perhaps contrary to expectations, the practical differences between philosophical liberalism and philosophical communitarianism are minimal when it comes to the ways in which each may engage in normative criticism. Each, I have suggested, is capable of engaging in argument about justice, offering reasons why other parties should move to embrace their conception and condemning them when they fail to do so. The balance of the comparison even weighs in favour of the communitarian when it comes to the way in which communitarians (may) relate to the other party in an argument. Several aspects of the communitarian approach to argument seem more in accordance with our ordinary understanding of argument. In everyday life, people do try to convince each other in argument, listen to each other and use persuasive rhetoric in order to do so. We also recognise more types of argument than simply strings of logically connected propositions. When taken to its logical conclusion the liberal account is a parody of our own understanding of our argumentative practice. Quite simply, no-one actually argues like that. In terms of its faithfulness to our actual argumentative practice then, the communitarian account seems prima facie superior. The communitarian approach is also more likely to resolve disputes in practice. Its pragmatic orientation allows us to try a multiplicity of techniques in the attempt to achieve consensus. The attention to the specificity of the other that it recommends is likely to result in better communication between parties and a higher chance of agreement.

Liberals may bridge the gap between the two accounts somewhat by making concessions to human cognitive failings. They can admit that our actual argumentative practice is much closer to the communitarian account. They can also concede that if we actually want to attain the agreement of others we would do better to pay careful attention to the specificity of the other party, seek to
modify the foundations of their belief set where possible and employ rhetoric and a broader range of persuasive techniques in order to do so. The difficulty with such moves is preventing them from becoming a full scale concession to communitarianism. If all these things are true about the way actual human beings do – and advisedly so – argue, how can we be sure that questions of justice can be settled by arguments which will be convincing for all rational persons? The better (that is, the more realistic) the account of argument the liberal provides, the less likely that it will give us reason to believe that this is possible. At some point, if the liberal ambition of a rational consensus is to be realised, reason must have the final word, else it must be admitted that there is no final word – which is just what the communitarian holds.

§4.6.1 Further considerations: The power of reason

The major difference which remains between the two accounts then, concerns the liberal insistence that they are able to criticise their opponents not merely for being wrong in their eyes but also as being objectively wrong. That is, that any rational person, given access to the liberal’s arguments, could perceive the liberal’s opponents to be wrong. It is time to evaluate the significance of this claim.

Our first thought should be to recognise that the onus of proof here should actually rest with philosophical liberals to demonstrate that they really do possess grounds for criticism sufficient to the claims they make. That is, they should be able to show how determinate solutions to questions about justice can be reached from premises true of all rational persons. They have been spectacularly unsuccessful in doing this. I have argued in Chapter 3 that in fact this failure is endemic to the structure which is forced on any philosophical liberal argument by its universalistic ambitions and the fact of human difference. So if I am capable of defending the coherence of the communitarian position I have outlined here, I will consider that a victory for the communitarian over the liberal account of the possibility of normative criticism. For the remainder of this chapter I will undertake such a defence.
The liberal attack on the communitarian position remains that it does not allow us to engage in genuine criticism of others with different beliefs. I have suggested above that we can simply say that the other party is wrong, for reasons which we can provide. These reasons will refer, however, to beliefs and values which are not shared by all rational persons. Our criticism will be situated criticism. But it is criticism nonetheless, and I see no reason to abandon it simply because we must recognise that we cannot expect it to convince everyone.\(^{37}\) It is true, though, that as communitarians we cannot rightly say of our opponents in arguments about justice that they are in rational error in the strong sense available to philosophical liberals.\(^{38}\) If this is so, why should they be concerned with our opinions about justice at all?

The force of the objection is that it raises the issue of the motivations of parties to engage in constructive argument about justice. What reasons can we give others as to why they should listen to our arguments? If it \textit{were} the case that disagreement about justice were the result of an error of reason by one of the parties to the argument then we can understand why agents should be concerned about the possibility of such error. Their concern for their own rationality should motivate them to listen carefully to our arguments.\(^{39}\) Where we believe that arguments about justice are founded on reasons available to all rational persons and also, as I have argued is necessary after consideration on important matters, that our beliefs are the best available, then we may hold that others should listen to us, not because we think that they are wrong, but simply because they \textit{are} wrong full stop. The other's criticism of our own arguments serves an instrumental role by highlighting areas where there is a question mark over our


\(^{38}\) Except perhaps in those cases where they fail to draw conclusions which follow from premises they hold.

\(^{39}\) In fact this is true only given the fact of human imperfection with regards to the reliability of our reasoning, and only the first time that they encounter our arguments or arguments of that type. As argued above, philosophical liberalism actually implies that we can come to the correct conclusions about justice by reasoning in isolation. The arguments of others have only an instrumental value in confirming our own reasoning. Once the liberal has tested their arguments against our own and remained satisfied with their own reasoning they are no longer subject to any imperative to pay close attention to our claims.
own capacity to reason correctly. Testing ourselves against the arguments of others is a way of checking the validity of our own arguments. Furthermore, the thought that it is our commitment to the power of reason which motivates us to respond to the (valid) criticisms of others allows us to mark a natural endpoint of constructive engagement. If we believe that the motive force of argument is rationality, then once an agent ceases to be concerned about rationality further discussion is pointless. And vice versa, as we have already seen, we may also judge that the failure of others to respond to arguments that we consider valid is the result of a failure of rational personhood on their part. Further attempts to argue with them are therefore futile. In this way the link liberals draw between reason and arguments about justice allows us to determine, in a non-arbitrary way, the end of productive engagement in argument with others.

These are powerful resources that are available to the liberal to give reasons why we should be concerned for the arguments of others. What reasons are available to the communitarian? I have suggested that in the early stages of the argumentative process, according to the communitarian, argument works by appealing to beliefs already espoused by the other party and by working from premises held in common by the parties. Thus at this point we have reason to listen to such criticism because the beliefs and values appealed to are actually our own. Beyond this, however, the continuation of the argument involves a more arduous search for common ground between the parties and the attempt to establish such common ground through the transformation of each other’s subjectivity. Only by each party adopting an attitude of careful attention towards the specificity of the other party can the parties hope to succeed in this process. The continuation of argument therefore can only proceed with the assent of both parties. This assent will not be forthcoming if either party believes that the other is trying to impose a solution on them based on the assumption that their position in the dispute is inherently privileged. Argument can only proceed with the recognition of both parties that their position in relation to the other in the dispute is symmetrical. Although each believes themselves to be right and the other wrong, they also realise that the other has the same belief and, furthermore, that there exists no independent perspective from which to adjudicate the dispute.
between them. This recognition of the symmetry of the position of the parties and the adoption of an attitude of careful attention towards the particular nature and claims of the other party is the essence of the respect that I argued earlier was an option for the communitarian. In this way, then, the communitarian links argument and respect. Respect is the condition of argument. In the absence of respect, argument gives way to the resolution of dispute through the use (or threat) of force.

§4.7 Reasons for Respect

The question thus becomes one of the reasons we have to respect one another. What reasons can the communitarian provide for parties to respect one another and thus be bound by the logic of argument rather than simply – as I have suggested is possible – declare the other outside of the reach of moral discourse and act against them in the realm of force? If we cannot give reasons sufficient to motivate most people to respect one another in circumstances where disputes about justice occur, then it looks as though the communitarian's position may often leave us with no alternative but to fight – and thus that the liberal critique of it is correct. In fact, the logic of the philosophical communitarian position dictates that communitarians cannot give a single comprehensive answer to this question. Communitarians cannot provide a reason sufficient to motivate all rational persons to engage in moral discourse. To do so would be to lapse back into philosophical liberalism. However, what communitarians can do is provide a set of reasons why people do – as they usually do – respect one another and suggest that such reasons for respect are available in most circumstances where parties are arguing about justice. A communitarian account therefore begins as a descriptive account of the reasons why people do respect one another which is then employed in particular cases to generate normative force.

§4.7.1 Introducing two grounds for respect: pragmatic and immanent grounds

A communitarian account can offer two main sorts of reasons why people may choose to respect each other and be bound by the internal logic of argument rather
than act against each other in the absence of respect. The first sort of grounds for respect are what I shall call *pragmatic* grounds. They emphasise the high costs which occur, in most circumstances, of abstaining from argument founded in mutual respect and remaining enmeshed solely in networks of unrestricted power. The second sort of reasons we have to respect others are what I shall call *immanent* grounds for respect, because they have their base in the relations which already obtain between parties to an argument about justice. As we shall see below these two types of grounds or arguments for respect are inter-related and mutually reinforcing.

With regards to the discussion which follows we should be unsurprised if we can recognise versions of traditional liberal arguments for respect. The (seemingly) strongest arguments for liberalism, those in the Kantian tradition, will of course not be available. But the argument for respect from reason alone – the Kantian argument – is only one strand of the liberal tradition. There are other arguments for respect which have historically been made by liberals and some of these will be echoed below. According to my account of liberalism, liberal arguments will be successful precisely where they can draw on arguments for respect other than that it is required by pure reason. Such arguments become problematic, however, when they are elevated from their status as contingent grounds for respect to necessary grounds.

§4.7.2 Pragmatic grounds for respect

The pragmatic arguments for respect highlight the negative consequences which flow from choosing not to respect others. The alternative to respect is the war of “each against each” and this may have disastrous consequences for all involved, even those who possess substantial social power and might expect to prosper in such circumstances. As we shall examine further in the next chapter, respect is a fundamentally dialogic attitude. It is a relation between parties which depends on the nature of both for its establishment and maintenance. If either party ceases to respect the other then this relationship will collapse. Once we cease to respect others they will cease to respect us. When this occurs we can no longer hope to offer an argument about justice that the other may find convincing. They have
ceased to listen. Arguments about justice must then be resolved by the resort to force. In such circumstances – the absence of respect – we cannot assume the stability of any social relationship. Instead, all social relations must be maintained by domination, and ultimately by the threat of force or its employment. Nor can we expect the behaviour of others to be regulated by moral concerns. Not being bound by the logic of an argument, others have no reason not to seek to exploit, manipulate or threaten us where doing so would advantage them. Social life in such circumstances is extremely costly, most obviously for the parties over whom such domination is exercised but also (and more importantly for the purposes of this argument) for the party which must devote extensive resources to maintaining such domination.\(^{40}\) The more intimate the relationship between parties, the more difficult it is for them to exist without mutual respect. The opportunities for, and causes of, conflict multiply with the proximity of the parties. In a society composed of different social groups the consequences of attempting to impose a civil order which is not supported by mutual respect are often civil war or extensive civil unrest. Even where these do not occur, social disharmony and tension are likely to be rife.\(^{41}\) It is undoubtedly the case that these costs weigh far more heavily on those parties without social power who can expect to fare the worst in the absence of respect. However, the purpose of the argument above is to show that these costs weigh heavily even on parties who expect to be dominant if they withhold respect. Note that the absence of respect between two parties may be a cause for grave concern for any other existent parties who have reason to believe that they too may suffer from the denial of respect. When we cease to respect another there is a danger that others who witness this will cease to respect

\(^{40}\) In fact, so destructive to social life is the complete absence of respect that it is doubtful if it ever occurs. In most circumstances, even when parties are quite hostile to each other, a residue of respect remains which already underlies and underpins most of our social encounters. The ubiquitous nature of a residue of respect even between hostile parties lends force and expands the scope of the immanent arguments for respect discussed below.

\(^{41}\) An extension to the pragmatic argument for respect is to hold that even in those individual cases where respect seems unwarranted on such pragmatic grounds the policy of respect remains warranted when assessed over the long term, and that this is sufficient to motivate respect in the individual case. In this vein Goodin, 1998, 535-538 argues that “the Enlightenment’s sovereign artificier in even his most self-seeking mode” has reason to join what he calls “communities of interest”. How convincing we find this move will depend on our attitude to the relation between case based and rule based theories of rational action in general.
us, with consequent increases in the costs of social life. The possibility of such an outcome may itself represent a further cost to the dominant party. The high costs of social life in the absence of respect may therefore be a significant incentive, even for powerful groups, to offer respect to others.\footnote{A response is, of course, necessary here to the famous Socratic counter-argument (voiced through the character of Thrasymachus in The Republic) to such pragmatic arguments; that the high costs of failing to respect others (or in the original Socratic argument – act justly) motivate us only to adopt the semblance of respect (or justice) rather than its reality. Surely we will do better than we would if we simply respected others, if we could maintain the appearance of such respect whilst at the same time succeeding in manipulating them to our own ends? But because respect is an attitude of sensitivity towards the specificity of the other it is not easily simulated. Attempts to do so in order to manipulate others to our ends are likely to fail on the grounds that they will involve an instrumental attitude to the other, which perceives them solely in relation to our ends, rather than one which responds to them as they actually appear. Respect is also an attitude which is displayed over an extended period of time and has an explicitly historical dimension to it. In order for it to succeed, the semblance of respect would need to be maintained continuously. Finally, insofar as respect is already an attitude towards the other rather than a specified mode of acting towards them the gap between the semblance and the reality is already reduced. To come near to successfully simulating respect one would also have to go a long way towards demonstrating it. Indeed because of the need to prevent them becoming apparent, the efforts involved in successfully feigning respect are likely to be close to or even greater than those involved in actually demonstrating it.}

The costs of the absence of respect may be reckoned solely in material terms. The long term material cost of maintaining a social order in the absence of respect is, I have suggested, extremely high. But there are further psychological and even ethical costs of the absence of respect between social groups, again especially in the long term. At the most basic level, to live in a society in the absence of respect, realising that one’s existence as an independent centre of subjectivity is not recognised in the eyes of others – to be treated as an object or dumb beast – is extremely psychologically wearing and eventually damaging. These costs may bear most heavily on the subordinate or oppressed party but will also ultimately affect the dominant party. Insofar as our identity is constructed through our relations with others and these relations are conducted in the absence of respect we can also expect our identity to reflect this and ultimately, I suspect, our sense of self worth to be reduced.\footnote{An important source here is Hegel’s discussion of the master-slave dialectic in Hegel, 1949.} But beyond these concerns there is also what might be thought of as an ethical cost of living in the absence of respect. Our existence as ethical agents seems partially constituted by our engagement in ethical relations
with those around us. But without respect we are forced to act towards others in a realm of force. Most, if not all, of the ethical dimension of our relations to others disappears and it seems to me that we ourselves are actually degraded by that fact. We are revealed as creatures with a significantly impoverished ethical life. Indeed it is tempting to say that what is at stake here is the loss of our humanity.\textsuperscript{44} Such a result may be thought of as a pragmatic reason to offer respect to others. However, this latter argument also resembles some of the arguments discussed below as immanent grounds for respect.

These arguments are Hobbesian in spirit; they argue for maintaining a sort of “social contract” of mutual respect. But this “social contract” is not to be understood as a hypothetical contract. Instead it establishes a relationship between actual existing parties, which is reaffirmed daily by the mutual offering of respect. Nor does this “contract” itself set out the answers to questions of justice or the details of a just social order. Rather it pledges our commitment to a certain way of resolving such issues – through argument under conditions of respect. Thus we must be careful to distinguish these arguments for respect from arguments for a mere modus vivendi, in the absence of such respect. There are usually good pragmatic grounds for the limitation and mitigation of conflict. These are to be welcomed as far as they go. But if they motivate a mere, unprincipled settlement or modification of the dispute then they stop short of being grounds for respect.\textsuperscript{45} An uneasy (and, as argued above, costly and unstable) detente between social groups of roughly equal social power is compatible with the absence of respect. As I intend them these pragmatic arguments are supposed to motivate mutual respect between parties \textit{prior to and instead of} a settlement in the absence of such respect. This respect then serves as the foundation for a discourse about justice which, because it binds the parties to its internal logic, possesses the power to generate consequences which differ from a mere modus vivendi.\textsuperscript{46} Mutual respect is the beginning of argument about

\textsuperscript{44} Gaita, 1999, 29-72.

\textsuperscript{45} Although in most cases such grounds will also be grounds for respect.

\textsuperscript{46} See here Kukathas, 1997a, 84.
justice, not its end. The logic of the discourse may force the parties to adopt relations which are not simply the result of the constellation of their interests.

§4.7.3 Immanent grounds for respect

The immanent grounds for respect are in turn of two sorts. They may be grounded in those features of subjectivity which are contingently shared by the parties or those which obtain necessarily by virtue of the parties being involved in an argument.

§4.7.3.1 Grounds internal to our values

The first sort of immanent grounds for respect are simply those that we possess by virtue of our own existing belief set. Our ethical world views already contain grounds for extending respect, to members of our own moral community at least. These grounds consist of criteria which set out what sort of persons are worthy of respect by referring to certain general features that they possess. For example we may extend respect to those who we perceive to have certain moral virtues, or a capacity to reason, or who share a certain form of life, or possess certain interests or perhaps needs. However these are expressed, we will usually discover that others, although different to us, share enough in common with us for us to recognise that these criteria apply to them also. In this case our own values give us reason to respect the other.  

47 Rorty, 1993. This process draws upon our entire range of historical, particular, understandings and commitments – what Walzer describes as our “thick” or “maximalist” morality. See Walzer, 1994a, 41-7.

48 Although it is important to acknowledge that this can sometimes happen. Very occasionally we will encounter others whose views are so alien and repugnant to us that we cannot respect them. Indeed, given facts about the ways in which some identities may be constructed by the exclusion of others it may even be essential to us remaining the people that we are that we do so. This will be discussed further in Chapter 5.

49 According to Walzer, 1994a, Chp. 1, at the very least we will share “thin” understandings about justice.
encourages us to seek more. The process of establishing such respect may be described as a process of recognising ourselves in the other.\textsuperscript{50} We come to see that though different they are not alien to us.

There is a liberal tradition of political argument which emphasises such facts about humanity such as common needs, desires, fears and interests such as a fear of death and pain, a need for food and shelter, a desire for happiness, et cetera, as the foundation upon which we can build a politics which might claim the allegiance of all. While communitarians eschew the hope that such facts can provide a theory of justice which will appeal universally, in many circumstances they can point to these same facts about what others share with us as a reason why we should offer the respect that we proffer to our own to them.\textsuperscript{51} Beyond those things we have in common by virtue of our "shared humanity", communitarians may point to those things we already share by virtue of sharing some other aspects of our identity such as our race, sex, nationality, et cetera. Because, as argued in Chapter 2, difference is not absolute and multiple differences crosscut and overlap each other, it will usually be the case that different parties do in fact have something in common with each other. Parties who perceive each other as different in one context may identify as members of the same group in another.\textsuperscript{52} Thus the possibility exists in most encounters across difference to reconceptualise the situation in such a way as to reveal that which the parties share.\textsuperscript{53}

\textsuperscript{50} Care must be taken in the search for commonalities or identification between the parties that respect is not compromised in the process. As we will see in the following chapter, respect involves a sensitivity to the specificity of the other. We must be careful that those things that we find in common with the other genuinely are in common and are affirmed as such by the other party. We must pay proper regard to the differences between ourselves and others as well as the similarities. There is a danger in the search for common ground that we may, in our eagerness to achieve it, assimilate the nature of the other to our own and thus fail to pay adequate regard to their particularity (Young, 1997b, Chp. 3). See also Benhabib, 1992; Jaggar, 1999.

\textsuperscript{51} Rorty, 1993.

\textsuperscript{52} Weeks, 1990, 88; Walzer, 1994a, 82 & 85.

\textsuperscript{53} Tamir, 1993, 114. 155. The argument put forward in Chapter 2, that difference is always a relation established by opposition, suggests that foundations for respect may even be found in the site of this difference, which they have in common. Different groups define themselves in opposition to each other. This difference is usually founded on a particular "site" - a cluster or set of features or experiences which are considered by both groups to be essential to their identity. (In fact, with any of the major social axis of difference, such as sex, race or class, difference is likely
I have presented the extension of respect on these grounds as an intellectual process, as one of coming to see that our existing beliefs or principles require more from us as regards our relation to the other. But this is to portray the process with a typically philosophical gloss. The extent of respect is more usually a function of our emotional and sympathetic responses to others. Often it will simply be the case that we find we already do respect the other to a significant extent, or that we are moved to relate to them as though they possessed relevant moral features in the course of our encounter with them. In this case the “argument” for respect on these grounds will take on the form of an appeal to listen to those voices or urges within us which assert our solidarity with those who appear as different.54

If grounds for respect of this type are so ubiquitous, one might ask why the question of respect arises at all? Alternatively it may be argued that, when it does, these immanent grounds for respect must therefore already be exhausted. In fact I believe that it is at least partially true that the question “why respect others?” is a quintessentially philosophical question. That is, it is not one that we would actually expect in reality to settle by argument. Either parties already have grounds to respect each other and do so or they do not and no amount of philosophical disputation will change that. It is unclear what useful role theorists of such disputes can actually play in them.55 Communitarians at least do not claim that they can always provide grounds for respect. All they can do is, as I have been doing here, describe the reasons why people often do choose to respect each other. On the other hand it is worth remembering that our consciences do not speak univocally. The implications of our belief sets are not always obvious.

to structure the whole range of social experiences. Nonetheless there remains a “core” or defining mark of difference, such as reproductive role, colour or occupation which these other differences make reference to or are partially constituted by.) Both groups therefore share a concern for – or even an obsession with – the same set of experiences, although they will construct or understand these in different ways. An investigation of this site may reveal this deeper structure of shared interest and the ways in which each side of the opposition reveals something about the other. By understanding what the other denies we may learn something about ourselves. In this way difference may be harnessed as a productive force for respect.

54 Rorty, 1993.
Indeed they are often contradictory, particularly when they are expressed in the culture of a social group itself fractured by difference. Where this is the case there is a role for a communitarian ethics to point out the possible grounds for respect immanent in our culture. The normative force of the communitarian account derives from its capacity to highlight reasons for respect which we possess but have not paid proper attention to.

These may be thought slim grounds upon which to found respect. But in fact this move to extend the respect we already grant to members of our own moral community to those outside of it, once we have recognised the things they share with us, is a powerful engine of ethical transformation. The main pieces of ethical "progress" which have occurred this century involving the gradual expansion of the suffrage and the recognition of a set of universal human rights has occurred by just this process. The expansion of the suffrage from propertied males to all males, from all males to women, and then to persons of all races, involved the recognition that those principles which required respect for members of the narrower group also applied to those outside it. Influential contemporary arguments for extending moral concern to animals also appeal to those principles that we already recognise as motivating our concern for other humans and claiming that they extend beyond the group of human beings. So arguments for respect of this type are in fact remarkably powerful and historically influential. Moreover, as will discussed further below, it is difficult to see how, if no grounds for respect of this type could be discovered in a particular case, any liberal argument for concern for the claims of justice regarding those persons could do any better.

57 Rorty, 1993. Or more accurately, its intellectual development has pursued this course. I am not denying here that there may have been other historical forces at work which contributed to these changes.
58 See, for example, Regan and Singer, 1976; Singer, 1976; Regan, 1983; Cavalieri and Singer, 1994; Rowlands, 1998.
§4.7.3.2 Ethics in the face of the Other

The second sort of immanent grounds for respect derive from arguments that try to show that within the relationship which necessarily already exists between the parties there exist the seeds of an ethical relationship of respect. Such arguments attempt to show how a proper analysis of the relationship which exists between the parties when they encounter each other reveals an immanent commitment to an ethical mode of relating. Arguments of this sort have been made by philosophers in the “Continental” tradition such as Levinas, Irigaray and Habermas, among others. Raimond Gaita and others have made a similar argument in a Wittgensteinian vein. The arguments of each of these writers are exceedingly complex and I am unable to do justice to them within the scope of this thesis and so will confine myself to a few general remarks about this sort of strategy for founding an ethics of respect for others.

The first point is to note that different arguments emerge depending on which particular relation, or aspect of the relation, between the parties is thought to provide the grounds of respect. The most ambitious arguments of this type attempt to show that the relation of difference or “otherness” itself establishes an ethical relation between parties to an encounter. There is a sense in which each of us “owes” our identity to those who bring it into being by being Other to us. Without them we could not have constructed our own identity, which is founded on the denial of identity with the Other. Indeed, without the presence of Others to differentiate ourselves from we could not even have come into awareness at all. So there is seemingly an “ontological debt” at the origins of our being. It may be possible to argue that this debt has ethical consequences; that we owe our being to the other in a moral sense which results in our having duties and responsibilities towards them. This is obviously the most controversial step in arguments of this type. It is difficult to see how such an account of the psychological or ontological foundations of identity can result in us having meaningful obligations to particular people in practice in real life encounters. However, if any determinate ethical

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relation to the other can be established by an argument of this type then the attitude of respect which I describe in the following chapter is a plausible candidate.

The least ambitious of immanent arguments of this type focus on the dialogical dimension of the relation with the other, starting from the premise that parties are already engaged in a process of dialogue or discussion. The logic of such communicative interaction arguably includes restraints on the behaviour of the parties that have significant ethical content. Attempts to silence the other party or to employ our discursive skills strategically in order to manipulate the other, seem to contradict, or at least be in tension with, our own desire to be heard clearly. Again, an attitude of respect towards the other seems to be a logical starting point for an ethical relation, if these arguments are successful. Without mutual respect no genuine discussion is possible. Thus, if we wish to remain engaged in dialogue, we already have reason to observe certain conventions of mutual respect which may then provide the foundation for arguments about justice. Arguments of this type are clearly Kantian in heritage; they seek to derive ethical commitments from the rationality of the agent in an encounter with others.

Secondly, it does seem as though that there are a large number of hidden premises, many of which have ethical consequences, assumed when we relate to others as parties to an argument. Even to recognise the other party as the sort of being with whom an argument is possible is already to have placed them in a category the members of which seem to have a certain worth. We do not seek to argue with “dumb beasts” or trees. And this fact is not unconnected to the special value we place on human beings. The humanity of other and the call to respect go hand in hand. So it may be possible to develop an argument that simply

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60 The most important theorist of this sort is of course Jurgen Habermas. See Habermas, 1984; Habermas, 1990. See also Benhabib, 1992.

61 Because they attempt to found ethics in the rationality per se of an agent, such arguments are potentially problematic for philosophical communitarians. Communitarians deny that these arguments succeed to the extent that their liberal proponents claim.

recognising the other as the sort of being that we can argue with provides grounds for respect.63

Once we actually engage in argument with someone, we have already committed ourselves to an ethical mode of relating with them. Some, if not all of the ethical relations assumed by the relation of discussion or dialogue are also assumed in argument. In choosing to argue with someone we abjure the use of force for the duration of the dispute and commit ourselves to listening to what the other is saying. A further presupposition of argument is the maintaining of (reasonably) undistorted communication between the parties.64 In order to be able to convince the other of the virtues of our position we must be able to convey our meaning clearly and (more importantly) understand theirs. We are subject in argument to regulative ideals of non-contradiction, validity and consistency, et cetera, and these are not without ethical dimensions and implications. Argument will collapse if either party concludes that the other is attempting to exclude themselves from the implications and commitments of their arguments and is seeking solely to manipulate them. The question then becomes whether or not these ethical relations, once recognised, are enough to bind us to argument. It may be possible to argue that the ethical presuppositions that we admit when we first engage in argument are themselves sufficient to give us reason to respect the other and therefore to restrict our dispute to the level of argument rather than resort to force to settle the dispute.65

Finally, it is clear that the strength of these arguments depends on the ethical “depth” of the relation that we claim initially holds between the parties. The argumentative relation requires a good deal of respect already, so that we may be able to use it to provide grounds for further respect. It is a different question,

63 Lingis, 1994.

64 I have argued that the dynamic of argument allows that parties will use rhetoric, appeal to emotion and engage in attempts to transform the subjectivity of the other. Argument therefore allows more room for the operations of power than does dialogue. Nevertheless, it remains bound by the constraints discussed here.

65 Again such arguments are obviously Habermasian in spirit.
however, whether we can get even so far as to argument from the mere fact of the encounter. Any attempt to establish that we have an initial obligation to respect all those we encounter will require a rich and detailed account of the relations which exist between parties to an encounter and their ethical dimensions.

These are the most philosophically ambitious grounds for respect. To my knowledge no argument of this type has been developed so far as to establish that respect is an attitude that we must extend towards others around us. Any such argument is likely to concede that in the final analysis we face a choice whether or not to listen to the demands the Other makes upon us in our relation to them.

§4.7.4 Grounds for respect

Each of these, then, is a contingent and yet hopefully compelling reason for respect and requires no grounding in a deeper ethics or universal human subject. Together they provide grounds for the respect which motivates us to seek agreement through argument rather than resort to force to settle our disputes and thus serve the function, in the communitarian account, that the appeal to reason does in the liberal account. If the argument concerns an important matter and has persisted for a long time then this even

§4.7.5 When immanent and pragmatic grounds fail

What if these two grounds for respect fail to convince us to respect others, or others to respect us? If the distance between the world views of parties to an argument about justice is great then it seems possible that the immanent grounds for respect may be insufficient, by themselves, to motivate it. If the argument concerns an important matter and has persisted for a long time then this even

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66 Notice also that the pragmatic and immanent arguments for respect act to reinforce one another. The more respect we have for someone out of (pragmatic) necessity the more likely it is that we will come to share beliefs in common with them (immanent grounds) which allow us to respect one another. The more beliefs that we share with those around us the more likely it is that there will be pragmatic grounds to continue to foster these.
seems likely. Furthermore, the pragmatic arguments which might add weight to the immanent grounds for respect are contingent on the weaker of the two parties being capable of affecting the interests of the stronger to such an extent that this will constitute a reason for them to offer respect. Presumably sometimes this will not be the case. Indeed, given that communitarians hold that the arguments for respect provide only contingent grounds for respect then they must admit that this will sometimes occur. There will be cases where a (powerful) party has absolutely no desire to respect some other (weak) party and where the relationship between them is such that the minor party is incapable of affecting the major in any way significant enough to register as a reason for the more powerful party to offer them respect. Where this is true the communitarian will be unable to convince the more powerful party to respect the weaker and thus engage in argument with them.

At this stage, then, it might appear as though the liberal critique of communitarianism is beginning to take hold. Philosophical communitarianism seems finally, in important cases, to abandon us to relativism. In some circumstances we will be unable to convince others that they should respect us and thus engage in argument rather than resort to force to settle the dispute. However, we must clarify the situation somewhat. It is not true that, if we are philosophical communitarians, we are unable to criticise others in a dispute about justice or give reasons why they should respect us. From where we stand – our situated perspective – both these things will be possible. The reasons we will give for the other to listen to us in the argument will simply be the reasons why we have made our critique. These are, as far as we’re concerned, perfectly good reasons why the other should be concerned for our argument. What is true is that communitarians will be unable to convince the other with these reasons that they should offer us respect and therefore listen to our criticism. The difficulty is not with the provision of reasons for respect, then, but reasons that will convince others with no immanent or pragmatic grounds to respect us.

To what extent does this invalidate the communitarian account of argument? Only, I think, to the extent that any alternative account can do any better. But any account of argument must admit that we will sometimes encounter persons who
we will be unable to convince that they should act as we believe justice requires. This is just a fact of life. Thus even philosophical liberals must admit that the reasons they believe are convincing to all rational persons sometimes fail to convince others who otherwise seem entirely rational. The liberal may insist that the other is thereby deficient in rational personhood. If only they were rational then they would see the light. But what is this insistence worth? Will it in itself cause the other to reconsider their position? Here I think the answer is clearly “No”. If it is really the case that neither pragmatic nor immanent grounds for engagement between the parties exist, then I do not see how the insistence that the stronger party is required by the dictates of reason to act otherwise than they are inclined to will serve to alter their intentions. The liberal insistence that their position is founded on reasons sufficient to convince all rational persons has no practical benefit or indeed effect in argument. The liberal is no better off here than the communitarian who, when asked why the other should respect them, simply reiterates their reasons.\textsuperscript{67}

Moreover, to approach the same issue from a slightly different angle, if it does turn out that a party is moved by the liberal’s appeal to reason then it must already be the case that they share sufficient sympathies with the weaker party for the immanent grounds for respect described above to achieve the same result. In order for reasons of justice to affect our treatment of some group of persons, it is first necessary that we should understand them as persons of a type such that respect is owed to them. But this perception is itself not one that can be reached solely through reason, otherwise a problem of a potentially infinite regress would arise. Furthermore, once this perception exists, it should be sufficient for the immanent critique to take hold.

In the final analysis, the liberal’s insistence on the power of reason to settle all disputes about justice turns out to have no practical benefits. No matter what our philosophical commitments we must admit that we will, from time to time, encounter persons whose activities and opinions are so repugnant to us and so

\textsuperscript{67} Rorty, 1993.
unaffected by our criticism that we will have no option but to resort to force to settle our dispute. The existence of such cases is an inevitable result of the limitations of pure reason to resolve all disputes (and thus of the failure of philosophical liberalism) and is therefore not an objection to the communitarian account of argument.

§4.9 Conclusion

We began this chapter with the concern that the failure of philosophical liberalism doomed us to relativism. How can we engage in normative criticism about justice if such criticism is ultimately based only in the shared understandings of a community? But a careful examination of the consequences for argument of adopting a philosophical liberal or communitarian position demonstrates that the communitarian position does not have the disastrous consequences that many have supposed. The communitarian position actually seems to allow the same, or even an expanded, range of critical practices as does the liberal. In fact it is the liberal position which produces an account of argument which is problematic in a number of respects. The communitarian account of argument, on the other hand, seems closer to our actual argumentative practice and also, if its recommendations are accepted, more likely to generate agreement in practice.

The major difference between the two accounts concerns the liberal insistence that they are capable of criticising their opponents for not merely having different opinions but for actually being in rational error, whereas the communitarians are not, and that furthermore this provides a motivation for others to respond to their criticism which was unavailable to the communitarians. But we had already noted that an insistence on the correctness of their opinions in the face of disagreement was an option for the communitarian. The motivational issue is addressed by the communitarian by linking argument to the respect which makes it possible. We then saw that in fact the communitarian can offer extensive, although contingent, reasons why we should offer others this respect. These reasons for respect are of two types; pragmatic and immanent grounds for respect. The pragmatic grounds for respect emphasise the high costs of social life in the absence of respect. The
immanent grounds rely on those features of the parties' subjectivity which they share contingently or which obtain by necessity of the relation between them. Together these arguments provide the grounds for the respect which underpins argument about justice, according to the communitarian, and which motivates each party to listen to the criticisms of the other.

In practice, these grounds for respect have at least as much power to motivate persons to listen to the criticisms of those around them as the liberal's insistence that we are required by reason to do so. The communitarian’s inability to say of those who oppose them in argument that they are deficient in rational personhood has no practical consequences. No-one will be convinced by the liberal’s insistence, that their conclusions are those that would be reached by all rational persons, who couldn't be convinced by the communitarian's appeals to immanent and pragmatic grounds. At the end of our examination of the two positions, therefore, the communitarian position is looking just as viable in practice as the liberal one. But given that the liberal position is predicated on an ambition which I argued, in Chapter 3, can never be fulfilled, it is in fact philosophical communitarianism that offers the more plausible account of argument about justice. Contrary to our original fears we stand to lose nothing by adopting it as our account of the foundations of argument about justice.

In place of the liberal's faith in the power of reason to settle all disputes about justice the communitarian is left with the hope that each dispute can be resolved through a certain procedure – argument under conditions of mutual respect for difference. The nature of a just society therefore cannot be prejudged by the communitarian. Its form will be determined by the actual arguments of those parties within it. But the fact that its shape will be determined by argument under conditions of mutual respect suggests that we may be able to gain some sense of its outline, or at least some of the conditions that will hold within it, by virtue of the fact that it must allow and support such argument. In order to do so, however, we must have a much clearer picture of the nature of respect and its implications.
Chapter 5
Respect for Difference: Towards an Agonistic Pluralism

In this final chapter I aim to show how one might combine the lessons learnt from the failure of philosophical liberalism in the face of the problem of difference with the implications of my defence of the possibility of normative criticism despite this failure, in order to reach some conclusions about a positive politics. Whereas the previous three chapters have largely been concerned with the philosophical debate between liberals and communitarians, my intention here is to say something about the political debate between them. I shall argue that a politics based upon respect for difference requires that we pay far more attention to the claims and interests of social groups than (most) liberal theory allows. Argument about justice is overwhelmingly argument between different social groups, and respect is a relation that holds between them (or fails to) in the course of such argument. The need for a space in which individuals can pursue their particular ways of life is best served by granting rights to the groups of which they are members. But because these groups are social groups which crosscut and overlap each other, rather than distinct and internally homogenous communities of the sort discussed by communitarians, the politics which results also allows much more room for the pursuit of different ways of life within the one political community than is usually associated with communitarianism. These are, of course, difficult and controversial matters. My treatment here is of necessity brief and inevitably somewhat speculative. Nonetheless, I hope to show how a commitment to resolving disputes under conditions of respect might lead to a distinctive and credible pluralist politics. It is only by developing a "politics of difference" that maintains a heterogenous public sphere, involving both a differentiated set of rights and a multiplicity of discursive spaces, that we can hope to reconcile a respect for the particular commitments of members of different social groups with the multiplicity of such groups.
§5.1 The Nature Of Respect

I have argued that a critical politics remains possible if we abandon the universalistic ambitions of philosophical liberalism. Such a politics must make recourse to a notion of "respect for difference" in order to maintain a critical dialogue in the face of lasting disputes about justice. So far, however, I have said little about the precise nature of this respect.

The topic of respect arose in my discussion of how we might seek a resolution to a lasting dispute about justice in the absence of reasons sufficient to convince all rational persons. It follows from the lack of availability of such reasons that when we are engaged in an argument about justice there can be no immediate presumption that the failure of another party to come to our conclusions results from a failure of rational personhood on their part. Their error may not stem from any failure of reasoning but simply from their different circumstances. Furthermore, we may recognise that this difference is a symmetrical relation. It is not the case that we express a norm from which they deviate. Rather, we are equally different.

The recognition of the symmetry of the situation of the parties is therefore also an admission of a certain sort of equality between them. It is an acknowledgment of the parity of their situations. Each are situated equally as regards the other's beliefs and the nature of the reasons that they can provide the other for changing their beliefs. Because there are no reasons sufficient to settle questions concerning justice for all rational persons, the parties must abandon the claim that their perspective is especially privileged with regard to such reasons. The only arguments available to the parties make reference to their existing beliefs. Neither has any reason to accept that the claims of the other have any authority other than that which they find in their appeal.

As regards each other then, they recognise that their opinions have equal weight. The nature of this equality will be discussed further below at §5.3.1, where it will be argued that it is in fact an expression of the "fundamental equality of persons" that lies at the heart of democratic theory. Suffice it to say here that it consists in
the denial of any natural right of either party to exert authority over the other. Neither party has any reason to accept the authority of the other. This equality denies not only religious or natural grounds for authority but also the authority of transcendent reason, the appeal to which, I have argued, is an inevitable consequence of philosophical liberalism. Any attempt to impose this authority by force will be a denial of this equality and of respect.¹

For this reason, respect involves a presumption against coercive interference in the affairs of the other. This claim bears some resemblance to a claim to negative liberty. It expresses a normative limit to our actions in relation to the other. However it is important to note that this is only a presumption that the other party should be allowed to determine their own affairs. The fact that the parties are arguing at all implies that the parties are not entirely free to live as they wish.² It is because they have come into conflict on some matter that they are engaged in argument. Any agreement that they eventually reach is likely to involve a compromise wherein each party must alter their belief set in order to reach agreement. Yet to the extent that the parties continue to respect one another, they will refrain from the use of force to resolve the dispute and will allow the other the liberty required to formulate and bring their perspective to the argument. In particular, they have reason to allow the other the freedom to maintain their distinct identity. The goal of argument under conditions of respect is to reach agreement on the basis of shared premises that parties discover or create through the process of argument. This process may include the attempt to transform the subjectivity of the other. But respect precludes any attempt to determine the subjectivity of the other by denying them an arena within which they can preserve their identity and particular commitments. Just as we would resist their attempt to impose their commitments upon us, we can recognise that from their perspective our attempt to determine their identity will appear equally unjustified. Such

¹ Young, 1997b, 49-50.
² Indeed, when the parties to the argument are groups, as I argue below is often the case, then to the extent that groups crosscut each other they may be unable to avoid interfering in each other's affairs, because the "internal" affairs of each group will affect some of the same people.
attempts constitute a form of "ontological violence" that denies the existence of the other as a source of value and consciousness independent to our own.

How can argument proceed from here, as it must if we are to reach agreement about important matters of justice? Short of the use of force in the absence of respect – which I did not rule out – to settle (that is, end) the dispute, the agreement of both parties to a solution can only be obtained by each paying careful attention to the claims of the other party, their reasons for holding them and thus their nature, in the hope that they can discover or establish sufficient shared beliefs upon which to ground a solution. We begin therefore with the idea of respect as an acknowledgment of equality with, and an attitude of careful attention or sensitivity towards, the other.

Respect is extended from a particular situated subject to a particular object. Argument about justice is a dynamic process and the respect that may arise out of and sustain such argument is likewise a dynamic relation. It is a relation between the two parties and its existence and continuity depends on the nature of both. For these reasons I describe respect as a dialogical relation.\(^3\) Recall also that the philosophical communitarian denies that there is any existent account of human nature strong enough to ground arguments about justice. Instead, grounds for settling the dispute must be found or constructed in the commitments of the particular party with whom we are engaged in argument. Respect is therefore a response to the particular nature of the concrete other and not to any abstract conception of such. Drawing this all together we have a definition of respect as "a dialogical relation of sensitivity to the specificity of the other".\(^4\)

This same idea of respect for the other may be expressed colloquially as "taking them seriously". The emphasis here is on the pronoun, which captures the sense of such respect as a response to the identity of the other as they appear in

\(^3\) Young, 1990a, 106.

\(^4\) My account of respect here parallels Young, 1997b, 38-59.
argument. Respect begins with, and cannot exist in the absence of, an openness and receptivity to the nature of the other. We are dealing with another whose reasons for acting are internal to a world-view or way of being different to our own. We must not only observe but seek to understand the other. This becomes doubly obvious when we consider that our goal in this project is to convince the other by putting forward arguments that move from premises they accept to our conclusions. Attention to the other motivates a shift from observation to (partial) identification. However, as Young argues, the ineliminable fact of difference means that the subjectivity of the other always to some degree escapes us. It is impossible for us to really put ourselves in their position. As a result, our attempts at identification with, and understanding of, the other must be conducted through listening carefully to the particular perspective that they express rather than attempting to put ourselves in their place.

Taking another seriously in this sense does not mean that we must like them or even approve of them in any way. There is a sense of respect in which, when we say that we respect someone, we mean that we value positively something about them. I have suggested above that by respecting another party we acknowledge them as equals. But the recognition of others as our equals does not, in itself, involve any attitude of affection towards them. Our relation to the other whom we respect may be an uneasy and heavily contested one. It is possible for us to respect those with whom we have serious disagreements. That is, despite disputing their claims, we can still acknowledge that the dispute is grounded in our different beliefs, bodies and cultures rather than in a failure of rational personhood on their part and that if we wish to convince them we must find arguments which move from premises we share with them to our conclusions. However, taking the other seriously requires that we are not indifferent to their

5 While identity is pivotal in this account it should not be understood as essential or fixed. Rather identity is understood to be a fluid product of self and social definition. The identity to which respect is a response is always capable of redefinition and reconstitution in the course of the encounter – within the limits set by its intersubjective dimension, as described in Chapter 2.

6 Young, 1997b, 56.

7 Williams, 1995, 78-81; Young, 1997b.
views either. Because a person's views are often central to their identity, taking them seriously requires taking their views seriously. We may take them all the more seriously because we believe their views to be threatening to our own.

I wish to make it clear now that – where it occurs – this decision to respect difference is very much a choice. I am not arguing that this move must be made. We can instead simply insist that the other party are wrong and also (perhaps) degenerate. As we shall see later (§5.7), respect may not even be an option for us. Sometimes, when we encounter those whose views are extremely repugnant to us, we simply cannot respect them and remain the people we are. This fall back position is ever present in the discussion that follows. It enables us to define a set of issues where we accept that disagreement is the inevitable result of difference and where the politics of respect can guide us, but also a set of beliefs which are beyond respect and which we will respond to in its absence. It allows us to express the strength of our deepest convictions by acting upon them even when surrounded by a sea of disagreement. In the absence of limits to our respect, the politics of respect becomes an ultra-liberalism condemned to relativism and incapable of taking a stand on issues of importance.

§5.2 The Practice of Respect

An acknowledgment of equality with and attention to the other is all very well, but what follows from that? What sort of actions and – more importantly for our purposes – what sort of political institutions follow from such respect? Unfortunately, respect, by its very nature, defies precise characterisation. As it is a response from a particular situated perspective to the particular nature of the other, as encountered in a dispute about justice, what is required by respect will be different in different cases. Furthermore, even when an object of respect is fixed, because of its dialogic nature, the demands of respect depend very much on the history of disputes and the context in which they occur as well as their nature. As a consequence, the precise requirements of respect cannot be established outside of a particular argument about justice. However, a general characterisation of respect may be attained when we consider its role of mediating political dispute
between situated subjects. This enables me to set out the general features of the practice of respect.

§5.2.1 Respect and social context

A dialogical relationship is necessarily a continuing and therefore a historical relationship. Arguments about justice take place over extended periods of time and only over time is it possible to observe, attempt to understand and therefore act respectfully towards another. Any relationship of respect presupposes a history of past interactions and will therefore be sensitive to this history. Current and past relations between the parties will determine the future possibility of respect. But respect will also be sensitive to history outside of the particular engagement between the parties. On my account of identity, persons (and groups) possess identities constructed through historical narratives. As a response to identity respect is therefore also sensitive to the histories out of which it arises.8

Another consequence of respect’s dialogic nature is that respect is an inherently social attitude in several important dimensions.

Firstly, arguments about justice are always also social interactions. They consist not just of propositions uttered but also of the parties’ actions, intentions and responses interpreted against a rich background of social meanings.9 Any of these may become an issue in a dispute and be relevant to the determination of respect. When the parties to a dispute about justice are groups defined by difference then the context of their encounter is society at large and many of their interactions in that society may form part of the encounter. Matters relevant to disputes between

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8 Young, 1997b, 51. There are some suggestive, although admittedly controversial, implications about social justice that might be drawn from the sensitivity of respect to the histories through which differences are constituted. Where the history of relations between different groups are histories of injustice and oppression then respect may require that we are conscious of that history. It may require that we attempt to transform that history through reparative acts or at least work to undo its current consequences. These suggestions are avowedly speculative and would require further investigation. What does seem likely though is that in these cases the requirements of respect will be asymmetric. Groups which have historically been associated with the oppression of another may have greater demands placed upon them by respect.

9 Young, 1997b, 69-74.
groups may arise anywhere across the entire range of social relations. Patterns of behaviour (such as racism or violence), the structure of institutions, popular opinions and representations, et cetera, may all be at issue in disputes between groups and affect our assessment of respect.

Secondly, the social context in which argument takes place determines, at least initially, the particular sorts of behaviour which demonstrate respect. This is true both of the general and specific contexts in which an argument takes place.

In general, what constitutes respectful behaviour is socially (and therefore historically) determined. To begin with a seemingly trivial example; in our culture a handshake is an appropriate gesture of respect on meeting, in others, a kiss, a hug, or some more elaborate ritual is appropriate. More radical variations in respect occur in the ways in which different cultures engage in argument itself. For instance, in some cultures constant interruption of another's argument is a mark of respect whereas in ours it is disrespectful. Ethnic and national cultures are the most obvious sources of different traditions as to what constitutes respectful behaviour. But any group defined by difference may establish its own traditions and conventions about respect. Social groups defined by race, sexuality and age, for example, all maintain their own customs and understandings as to what counts as respect.

The specific context in which an argument occurs too will have an effect on what counts as respect. Respect varies not only from culture to culture (or from group to group) but also from situation to situation. Respectful behaviour at a wedding is different to that at a funeral which is in turn different to that at a concert or at a football match. These specific contexts may be established by events, groups of people, physical location or any circumstances where strong social expectations about our behaviour exist. As I will examine below, such specific contexts often define “discursive spaces” in which arguments may occur. That is, they provide a

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10 Young, 1997b, 50 argues that in fact the role of such gestures of greeting and mutual acknowledgment in establishing and expressing respect is far from trivial.
set of background rules, assumptions and expectations about proper subjects and methods of argument. The point here, however, is simply that the immediate as well as background context within which a dispute occurs is relevant in determining respect.

The sensitivity of respect to context might seem to suggest that mutual respect across difference is impossible or at least very unlikely. Perhaps, because of their differences, parties will be able to achieve only mutual misunderstanding or offence, rather than respect? But this concern is based, I believe, in a (mis)conception of difference as absolute otherness. Because difference is always a relation and both crosscuts and is crosscut by other differences, the parties will always share *something* in common. For example, if the difference is one of culture there may be shared understandings arising out of gender available; if the difference is one of gender there may be shared experiences of class or race. Whatever their source, these commonalities provide a starting point from which respect can be established. Furthermore, the activities of the parties as they proceed in argument themselves establish a social context. Through their interactions they begin to create their own understandings and conventions which enable them to communicate their respect with increasing ease.\(^{11}\) It is via this process of argument across difference that the "shared understandings" of any group are established. This is not to say that misunderstandings do not and will not occur, or to deny that establishing respect may in many cases be very difficult. There are obviously many opportunities for us to misunderstand each other and when differences between people are large, respect may be elusive. But the partial, relational and multiple nature of difference suggests that it will always be possible.

§5.2.2 Respect and argument

It might be thought that respect requires us to refrain from criticising the deepest values of other people – that we should adopt a respectful silence concerning

\(^{11}\) Young, 1997b, 67-74.
these issues. After all, criticism of these values is in effect criticism of the people they are. But in fact exactly the opposite is the case. Respect for the other requires that we be prepared to argue with them. The disputes that we are considering are important disputes about justice which resist resolution. Without criticism it is impossible for the parties to seek out and to establish the common ground between them which might allow the resolution of the dispute. They may relate to each other solely as obstacles to be overcome in a realm of force. But to choose this option, or to force it upon another party, is to refuse respect. For this reason alone, the refusal to engage in critical debate represents the denial of respect. Not only is argument necessary for the resolution of the dispute but, precisely because the issues concerned are important to the parties, the practice of taking the parties seriously also involves taking their convictions seriously. According to my account of identity, persons are partially constituted by their most deeply held convictions. To take them seriously is therefore necessarily to take these views seriously. This is not to say that we must agree with them, but simply that we must recognise that they have their foundations in the other’s experience, are important to them and that they conflict with and challenge our own. We must understand them as dealing with the same issues that we care about and engage with them. The failure to engage in argument belies a failure to take the other’s convictions seriously enough to pose a challenge to our own. It trivialises their beliefs and patronises them, suggesting that we do not after all perceive them as our equals. By denying them the opportunity to make their case, it denies them respect.

Respect therefore requires engagement with and criticism of the other – but of a certain sort. The necessity for argument does not create a carte blanche for any form of criticism of the other’s world-view. Because it concerns matters which may lie at the heart of our self-understanding, argument about justice remains a fraught business and respect requires that criticism of others is made with care. Argument about justice is bounded by these two conditions; that it is a struggle about issues which may relate to our deepest sense of ourselves, and that it is necessary both as a requirement of respect and to allow resolution of the dispute.
These two constraints suggest that there are many types of criticism which may lead to the failure of respect.

To begin with, some criticisms may simply not be relevant to a given dispute. Parties will not stand for, and have no reason to endure, criticism of their most deeply held convictions to no end. Moreover, making irrelevant criticism itself demonstrates a failure to be sensitive enough to the nature of the other to know what is at stake in the dispute. Alternatively, it suggests that the critic's purpose is not argument but insult, slander, character assassination or ridicule. If we accept a politics based on respect, however, we must also accept that many more facts about a situation are likely to be relevant to argument about justice than is usually admitted. Often argument about justice will itself be argument about the existence or extent of respect and as we have seen, respect is sensitive to many factors such as identity, context, history, et cetera. As a result, facts about any and all of these may be relevant to a given argument about justice. For this reason, respect allows that many more arguments may be brought to bear on a given dispute than we might otherwise have thought. If criticism does turn out to be irrelevant though, then it is likely to constitute a failure of respect.\textsuperscript{12}

The source and context of an argument will also be important. We noted above that respect, as a response to identity, is sensitive both to history and social relationships. The source of an argument, for instance, may therefore sometimes be important. The same argument emanating from different sources may be respectful in one case and disrespectful in another. An argument from within a community about the problematic politics of relations within it may need to be responded to more urgently than the same argument arising from outside that community. Sensitivity to the specificity of the other involves a recognition of the

\textsuperscript{12} These constraints on respect are reflected in the existence of criteria of "germaneness" that are often formalised when argument takes place in institutional contexts. The guidelines to the procedure of the House of Representatives of the Australian Parliament (Commonwealth of Australia, 1997, for example, contain an entire chapter (Chapter 13) on "Control and conduct of debate" which governs when Members may speak (458-465), the manner in which they may speak (465-470) and insists that "Of fundamental importance to the conduct of debate in the House is the rule that no Member may digress from the subject matter of any question under discussion"(470). Further restrictions on the content of Member's speeches are outlined at 470-485.
ways in which our own relationship to the other may affect the nature of our criticism.\footnote{Young, 1997b, 44-52.}

The manner and spirit in which arguments are made are also important. Criticism of another culture may be contained in a newspaper article, or in abuse shouted in the street. For the purposes of the dialectic of respect these are not the same thing. Respect involves sensitivity to how and why something is said as well as what is said. Argument is necessary to resolve disputes about justice but offending the other, mocking or trivialising their beliefs is not. Speech may sometimes be used solely to insult, attack, harass or slander rather than persuade an opponent. "Arguments" which serve only these purposes fail to demonstrate respect. In order to fall within the bounds of respect, the material presented in the course of an argument must be genuinely intended to make a contribution towards resolving the dispute. Even when argument is genuinely intended as a contribution to a dispute, its form and presentation are important. An argument about immigration in a newspaper which is within the realm of respect may fall outside that realm when used as racist graffiti.

This is not a simple matter. My account of the process of argument according to a (philosophical) communitarian explicitly allows that arguments may properly be aimed at transforming the background beliefs and even the subjectivity of the other and that sometimes the form (or indeed the experience) of the argument may be essential to this project. No clear cut distinction between the form and content of an argument is possible on my account.\footnote{This is not to suggest that if the attempt is made to regulate against exercises of speech which demonstrate a lack of respect that we cannot do so by specifying certain expressions as beyond the pale. This may be the only way to formulate precepts which are sufficiently clear and action guiding as to gain public support. But we should recognise that the attempt will succeed only imperfectly. There will remain behaviours within the guidelines which fail to respect others.} Sometimes the way in which something is said is an integral part of what is said. Furthermore, the fact that the forms of respect are socially and historically contingent means that an argument which appears to deny respect in the eyes of those against whom it is directed may in fact be well intentioned and part of a genuine attempt at dialogue. Sometimes,
on the other hand, an argument can be presented in different ways without loss of content. Where an argument could be re-presented in a different form without loss of content then its presentation in a form which could be expected to offend the sensibilities of another party may constitute a failure of respect.

A useful test of an opponents intention in these matters is whether or not they are prepared to allow and to listen to a reply. Argument must invite rather than foreclose a response. It must emerge out of a genuine engagement with the other party and be directed towards a constructive solution to the dispute. "Argument" which does not allow the possibility of reply is simply assertion, slander or some other monologic mode of communication. Some modes of engagement which look like argument fail this test, such as patronising arguments and some forms of satire. These forms of criticism deliberately attempt to foreclose the possibility of response. They are designed to render it impossible, or at least extremely difficult, for their targets to respond to them. Patronising arguments operate to establish in the mind of the listener that the target of the argument is not qualified to respond to them, that they lack the necessary wisdom, experience or expertise, et cetera. The tone of the argument indicates that they are not genuinely open to response. Such "arguments" are not properly dialogic and thus fail to qualify as respect. Some forms of satire are also designed to render their target an object of ridicule in order to foreclose the possibilities of their response. Vicious satire and caricature may aim to discredit their victims to the point that nothing they say can be heard as they intend; instead, it will be greeted with laughter, whatever its content, or heard as shrill or misheard or otherwise neglected. Because they work in this way, some forms of satire and caricature will fail to count as respect.

15 Of course, ideally this response will simply be the other's agreement. But given that the arguments that we are considering are those which resist resolution, immediate agreement is unlikely. In most cases the response we hope for will be an expression of the other's perspective on the issue which may allow us to move towards some common ground or a closer understanding upon which to reach an eventual mutually acceptable settlement to our dispute. Even in the case where we genuinely expect that the other's response will simply be assent to our claims we are still intending to elicit a response rather than silence and furthermore a response which is indicative of the other party's genuine agreement.

16 Although it should be noted that some forms of satire and perhaps mild caricature can also be used in argument to make a point without attempting to close off the other's possibility of reply. They can operate to expose hypocrisy or contradictions in an opponent's position without thereby
Racist and sexist hate speech are arguably also intended not to convince but instead to make it more difficult for the arguments of their targets to be taken seriously.\textsuperscript{17} To the extent that they do so then they will not count as respectful.

\section*{§5.2.3 A response to liberal critics}

To some ears these considerations will sound like a hopeless mess of qualifications and a recipe for fraction and dispute. What is required to regulate argument, such critics will insist, is a clear set of rules which distinguish between actions and activities which harm or infringe upon the liberties of others and which should be regulated by the state, and “speech”. The latter should be subject to as little restriction as possible, in order that persons or groups with differing conceptions of the good may conduct a vigorous debate about matters which are important to them.\textsuperscript{18} According to this account, respect requires a willingness to endure the criticisms of others no matter how harsh, in any circumstances. As Jeremy Waldron has written, some matters are simply “Too important for tact”.\textsuperscript{19} There is clearly something in this intuition. I have echoed this claim myself in suggesting that respect requires that we must take seriously the deeply held beliefs of those around us. But some liberals insist not merely that we must engage with our critics but that we must not ever seek to escape them. The public sphere must be an undifferentiated and open environment in which anything can be said to anyone, regardless of how offensive or hurtful it may appear, in order that these important matters can be considered.\textsuperscript{20} Yet this is only one possible consequence of the thought that a matter being discussed is vitally important. It is equally likely that one might respond to this knowledge with the thought that one

\begin{footnotesize}
\begin{itemize}
\item[\textsuperscript{17}] A number of feminist theorists have argued that pornography and hate speech operate to silence members of oppressed groups and render it impossible for their voices to be heard. See, for example, Langton, 1993; MacKinnon, 1993.
\item[\textsuperscript{18}] Mill, 1975, Chp. 2.
\item[\textsuperscript{19}] Waldron, 1989. See also Waldron, 1993c.
\item[\textsuperscript{20}] Waldron, 1993c, 138-9.
\end{itemize}
\end{footnotesize}
therefore does not want to see one’s beliefs mocked, or oneself or others lead away from the truth by continual exposure to false ideas. The argument of Chapter 3 was that these were also sometimes reasonable responses. 21

Furthermore, the claim that the various forms of engagement distinguished above should all be treated as one category – as “free speech” – is a misinterpretation of the liberal position, or at least a selective presentation of it. In fact liberalism has historically recognised all the grounds discussed above for concern about the forms and circumstances in which arguments are made. “Freedom of speech” is hedged about with qualifications both explicit and subtle. As John Wilson notes, the US Supreme Court, for instance, “has accepted limits on free speech in cases of immediate harm, captive audiences, criminal threat, obscenity, immediate riot and time, place and manner restrictions.” 22 In reality, speech is seldom as free as its philosophical defenders would pretend.

Finally, there is a gap between the claim that a form of speech or expression fails to respect others and the claim that the state should legislate to restrict it. All that follows from the failure of respect in argument is that the other party is not required to show respect in return. Whether or not we should ourselves respond to such failures of respect by attempting to silence the offending arguments is a further question. Whether or not we should endorse the right of the state or any other institutional apparatus to do so is yet another one. There may be strong pragmatic and institutional grounds why such efforts are unwise; the capacity of the state to achieve these goals, the difficulty in formulating descriptions of such cases with sufficient clarity to serve the purposes of legislation, the controversy and resentment such attempts may provoke. It may be that, in practice, different

21 My account is therefore consciously of the sort that Waldron describes as “two-dimensional toleration” (Waldron, 1993a, 138). I have suggested that the only way to sustain argument across difference about matters that concern parties’ deepest values, to which they are highly committed, is by attempting to avoid, if at all possible, unnecessary offence. The content and form of argument should be guided by its purpose of achieving agreement. We are less likely to succeed in this if we pay no regard to the ways in which the argument takes place.

social groups will have to live with criticism that fails to respect them. My argument here has been restricted to the claim that certain forms of expression may well fall into that category.

§5.3 The Institutional Consequences of Respect

Thus far I have been describing the sorts of attitudes and dialogue which, I argue, constitute respect. Already we can see that a politics based on respect will differ in significant ways from that motivated by liberal theory, although not so much, perhaps, from the best elements of liberal practice. But if a politics based on respect for difference is going to provide an alternative to liberal theory then it must give some guidance at least to the sorts of institutions which might order a just society. I want to turn now to examine the ways in which a concern for respect for difference may shape political institutions.

However, I must first acknowledge here an important limit to the scope of my account that results from having abandoned what I have argued are the universalistic pretensions of philosophical liberalism. Given the fact that disagreements about justice exist, the only way to determine the nature of just institutions is to engage in argument governed by respect. The particular institutions agreed upon will depend on the content of the shared understandings that are discovered and created in the course of this argument. There is therefore a limit to the role that can be played here by the political theorist. Once we have abandoned a monological mode of political reasoning we must await the results of actual dialogue and argument.23

Nonetheless there remains some room for theorising, because it is possible to draw some conclusions from the conditions necessary for such argument to take place. The role played by argument in the resolution of disputes, and the nature of respect, place some constraints on the institutions which will realise them. Even my characterisation of these, however, is likely to reflect my particular situated

and enculturated perspective to some extent and must be held to be provisional and subject to the test of argument across difference.

§5.3.1 Communicative democracy

A society in which disputes about justice are resolved by arguments governed by respect for difference constitutes what Iris Marion Young has described as a "communicative democracy". It is distinguished from the more familiar concept of a deliberative democracy, developed and advocated by theorists such as John Dryzek, James Fishkin and Joshua Cohen, by its insistence on the ineliminable nature of difference. When agreement is reached it is not because difference has been transcended or overcome, but because difference has been acknowledged and respected and an agreement reached which each party can accede to from their particular perspective.\(^{24}\) While such agreement establishes both a common ground and shared understandings between the parties, these do not exhaust the possibility of difference. They remain subject to further interrogation and contestation in future arguments.

The equality of citizens in such a society consists in the fact that they are each acknowledged by the rest of the citizenry as deserving of respect. This equality is not based upon an affirmation of sameness but upon the acknowledgment of difference. That is, it is not the case that there exists some agreed upon standard of worth or value (such as, for example, the capacity to reason, or to experience pleasure from the satisfaction of higher-order desires, et cetera.) against which all citizens are measured and found to be roughly the same. Rather, this equality consists in the denial that there is any such standard that all have reason to accept. Those who respect each other acknowledge each other as equals precisely because they cannot agree on a standard which might allow them to determine if they are.

There is therefore a minimal formal egalitarianism implicit in the recognition of the other as an equal that is at the core of respect. Whatever set of institutions is

\(^{24}\) Young, 1997b, Chp. 3.
settled upon by argument governed by respect, it must be founded on the recognition of the equality of those taking part. Theories of justice that were racist or sexist at their foundations, for instance, would be ruled out by respect. But although this formal egalitarianism rules out principles of justice which deny that the claims of a certain group of persons are of any weight, it will not motivate any more substantial egalitarian conclusions. While the equality internal to respect may require that the claims of justice of all persons are considered equally, it says nothing about what is due to them by virtue of this equal consideration. There are many responses to this latter question that will lead to large inequalities of outcome.

However the central and legitimating role played by argument in such a democracy draws our attention to the necessity of an open and enabling public sphere. It must be one in which all voices can be heard. Paradoxically, this requirement that all voices should be heard also means that the realm in which argument takes place cannot be the undifferentiated “market-place of ideas” that liberals advocate. Instead, as I will argue shortly, this public sphere must be a heterogenous one consisting of a multiplicity of different discursive spaces in which different groups can formulate their perspectives and pursue their particular values and from which they can then address the wider community. The point I wish to emphasise here, however, is that the requirement that all voices should be heard arguably places important limits on the extent of the material and social inequalities that are compatible with the existence of a communicative democracy. As Nancy Fraser has argued, without access to goods such as education, housing, healthcare and a basic income, individuals are not capable of participating as equals in the public sphere.25 Furthermore, to the extent that, as I shall argue below, the perspectives of individuals are expressed in the public sphere through the participation of the social groups of which they are members, there will also be limits on the levels of inequality between social groups that will be tolerable within a communicative democracy. If some groups lack the resources necessary to allow them to contribute as equals in the public sphere, the

25 Fraser, 1993, 120-121. See also Frazer and Lacey, 1993, 190-198.
claims of the individuals within them are unlikely to be heard. Respect for difference will therefore require a certain basic equality of access to resources for both individuals and social groups.\textsuperscript{26}

The nature and the extent of this equality are obviously controversial and it is beyond the scope of this thesis to enter into the large and complex debates surrounding these matters. Moreover, the outcomes of these debates will themselves be determined by the shared understandings of the community in which they take place. Arguments about distributive justice are paradigmatic cases of issues where our particular conception of the good will determine the nature of our conclusions.\textsuperscript{27} Such arguments will have to be settled by actual parties under conditions of respect.\textsuperscript{28} Nonetheless there are a range of further conclusions that we may draw about the participants in such arguments and the principles governing their relations in a communicative democracy.

\textbf{§5.3.2 Respect for individuals}

Firstly, it seems clear that respect requires the recognition of a core set of “human” rights. A right to life, to bodily integrity, to freedom from arbitrary arrest or torture, and to a secure environment, all seem to be necessary

\textsuperscript{26} A strong argument for a basic egalitarianism of life prospects also arises from an important empirical observation about the circumstances in which human beings are likely to offer one another respect. As Rorty has observed, and recent history has born out, deprivation, inequality and insecurity are not conducive to the growth of respect (Rorty, 1993). The conditions out of which respect arises are those that Rorty describes as \textit{security} and \textit{sympathy}; the latter is promoted by the former. That is, it is easier for people to recognise others as part of the same community of persons and as deserving of respect as themselves, if they are not threatened by hunger, dislocation or violence. Where people are subject to such threats alongside others who face no such difficulties or who possess an abundance of wealth and opportunities, then these inequalities may generate justified but dangerous resentment. This is an indirect argument for distributive conclusions from the importance of respect. It proceeds from the conditions necessary to promote respect rather than from the requirements of respect towards another party themselves. Nonetheless, it suggests that if we are concerned with respect we should be concerned for the level of inequality in the community. Such inequalities are particularly destructive if a society is already divided along racial, ethnic or cultural lines and doubly so if these inequalities follow these lines of cleavage. So it seems likely that a concern for the conditions under which respect is likely to be realised also motivates a concern for the level of inequality between social groups as well as individuals.

\textsuperscript{27} Walzer, 1983.

\textsuperscript{28} Williams, 1994, 54-58; Williams, 1995.
consequences of respect. To deny these to another is to resile from argument to coercion. It is to fail to recognise the other as a being for whom the relation between their beliefs about the good (and the just) and the goals they pursue is the same as our own. Those who are subject to attempts to deprive them of these rights have no reason not to respond with violence. The denial of any of these basic human rights therefore constitutes a clear violation of respect.

Beyond this, however, respect requires a more particular response to the nature of the other. It requires that we seek a solution to our disagreements through argument which is sensitive to the specificity of the other. This specificity consists in our membership of a multiplicity of crosscutting social groups that are the source of our particular values and understandings, and in our commitment to the conception of the good expressed by those understandings. In order to be able to participate in argument about justice, individuals must have access to a space in which they can maintain and develop their particular perspective and pursue their conceptions of the good. Respect therefore requires a "politics of recognition" that acknowledges the rights of individuals to live in a cultural context that reflects and supports their deepest values.29 However, given that these contexts may be provided by any of the groups of which we are members, this recognition must extend beyond the ethnic and national cultures discussed by communitarians to all the groups through which individuals discover and develop their commitments.

The liberties demanded by respect for individuals will therefore be those that allow them to live within the cultural context provided by these groups. Because we rely on groups to provide the context of choice within which we select and pursue our ends, freedoms which threaten the existence of these groups will not be welcomed. But as I argued in Chapter 3, the question of the existence of the group cannot be separated from the question of the character of its culture. It is the character of social groups that provides the context of choice within which we pursue and revise our ends. The freedoms that individuals desire will be a

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function of the character of the cultures of the groups with which they identify. Individuals will not desire freedoms that threaten to undermine the character of these groups and will further perceive their imposition as an attack on their ability to pursue their chosen way of life. This means that respect for individuals may sometimes require that we allow them to live within communities that do not maintain a full set of liberal freedoms. In many cases, however, the cultural character of groups will be liberal and individualistic and the freedoms they demand will be a familiar set of liberal freedoms.

Of course this means that the requirements of respect for different individuals and even for the same individual at different times and in different contexts (as their identity shifts) will vary and often conflict. This is an inevitable consequence of my conclusion in Chapter 3 that there is no single set of values or institutions that we all have a reason to endorse. I will argue below that such conflicts can only be resolved through argument between the social groups whose different values are at stake in them. However, already at this point, it seems likely that the existence of many different social groups that may make claims for recognition means that a society governed by respect for difference will require a greater degree of pluralism than is usually associated with a communitarian politics.

§5.3.3 Groups as the subject of justice

The argument from the importance of culture to individuals discussed above is one route to the recognition of the rights of groups to maintain their particular character. However there is another, arguably more direct, route. This argument begins with the idea that groups themselves are social actors that engage in argument about justice.

Most disputes about justice are not encounters between individuals but between different forms of life, between national cultures or between social groups defined by other markers of difference. This is most obvious when the parties to a dispute are groups such as nations or “peoples” that we already accept are (or at least should be) self-determining and within which different conceptions of the good are developed and maintained. But argument about justice also takes place
between groups defined by difference within societies. Social groups such as ethnic communities, straights and gays, men and women, the old and the young, and many others, are also engaged in disputes about the sort of institutions required to meet their needs and respect their particular experiences and commitments. While it may be individuals who voice particular arguments at each moment, the contestation they are engaged in is one which pits the beliefs and practices of one social group against another. The ideas that they voice are developed within – and sometimes could only be developed within – social groups; individuals function as spokespeople and representatives for these groups. Sometimes this representative function may be explicit, as when speakers are the chosen leaders of religious, ethnic or local communities. In other cases, the individuals speaking may not have any formal status as representatives of the group but nonetheless are recognised as expressing the sentiments of the group both by those within and outside it. Furthermore, as was argued in Chapter 3, certain projects, amongst them maintaining cultures themselves, can in many circumstances only be undertaken through collective action. Choices concerning these sorts of projects therefore necessarily involve more than just the individuals who are debating them. If there is any prospect of action occurring in line with the sentiments of speakers then that is because the speakers express the sentiments of larger groups. The fact that the values of groups are expressed by individuals, should not blind us to the fact that it is the actions of the group and relations with other groups which are at stake.

Even disputes about individual rights are often the result of contestations about justice between groups. Many disputes about individual rights have their significance as test cases for rights that, if granted, will be exercised by all of the members of a group. This explains the strength of passion with which they are argued. In many cases the goods at stake in the granting of the right will, in fact,
not be achieved without the right being taken up by a large number of the members of the group. This is true of the right of freedom of association, for instance. But it is also true for various other liberal rights. Freedom of religion is in most cases sought, not for a single individual’s private religious practice, but for the worship of congregations, the building of temples and organised proselytising. Freedom of speech and of conscience are likely to be of little benefit to individuals without the existence of a community of like minded persons with whom to speak and discuss dissident ideas. Even economic freedoms, to own property and engage in commerce, may be of dubious worth unless exercised by a large number of the members of a minority community, given the extensive social barriers that may exist to economic activity across groups.

Social groups therefore may face the same dilemmas as confront individuals. They may encounter each other in disputes about justice which resist resolution and must respect each other if they wish to resolve these issues through argument rather than force. The consequences of this respect are analogous to those in the case of individuals. Respect requires that disputes between groups be resolved by argument governed by respect and that, as much as is possible, each group be allowed to pursue a way or ways of life directed by its own shared understandings and particular commitments.

§5.4 Defending Social Groups

I will investigate the consequences of these claims below. But first I need to respond to several familiar liberal criticisms of theories of justice which allow social groups anything other than a derivative role. According to a powerful tradition of individualism, talk of social groups and their rights can at most serve as a convenient short-hand in which to express truths which could, if necessary, be spelled out in the language of individuals and their rights.33 This objection can take either an ontological or an ethical form. That is, it can be directed against

talk of social groups which treats as them as anything other than the “sum of” the
individuals who comprise them, or, more specifically, against their playing any
part at the foundations of normative political argument. Because, I believe, much
of the strength of the ethical objection draws upon mistaken conclusions about the
ontological status of groups, I will deal with the ontological concerns first.

§5.4.1 Ontological concerns

Talk of social groups as opposed to collections of individuals may look as though
it commits us to believing in something over and above the individuals who
comprise them and which exists in some sense independently of them. Some
critics of the language of social groups want to reduce talk of social groups to
discussion of the individuals that comprise them. This hostility to the language of
social groups was perhaps most famously expressed by Margaret Thatcher’s
reported remark that “there is no such thing as society. There are individual men
and women...”

There are two replies to be made to this concern. The first is to argue that the
nature and existence of social groups is no more mysterious or threatening than
that of many other concepts that we use all the time, that we are prepared to grant
are real because of the important role they play in our best explanations of the
world around us. The second is to point out that, however we understand the
relation between groups and individuals – even if we wish to insist that groups do
not “really” exist – it seems that our politics must refer to social groups. Talk
about social groups is both unremarkable and indispensable.

§5.4.1.1 The ontology of groups

The first argument can be most easily expressed using concepts which were first
developed in ethics and the philosophy of mind and then later applied in the
philosophy of social explanation. The relationship between social groups and
individuals which comprise them is one of supervenience. Supervenience refers
to a relation between facts at two levels of explanation, wherein the facts at the
higher level are determined by the facts about the lower level. Facts at the lower
level may change without affecting facts at the higher level, but there can be no
change at the upper level without change at the lower level.\textsuperscript{34} In the case we are considering here the facts about social groups may be said to supervene on the facts about individuals (and their relations).\textsuperscript{35} Although facts about the individuals which make up a social group may change without altering facts about the group, no facts about a group may change without some facts about individuals changing.

Now it may seem that the fact of supervenience means that there is “nothing more” to the group than the individuals that comprise it, and that as a result in some possible future we may be able to dispense with the higher level of explanation.\textsuperscript{36} After all, the properties of the group are fixed by the properties of the individuals (and their relations). Take away the individuals within the group and it seems that the group disappears.

But the fact that states of affairs at the higher level are fixed by states of affairs at the lower level does not in itself mean that we should cease to use the language of the higher level. It may still be possible to assert regularities at the higher level that are genuinely informative and explanatory. This is because, although the causal processes which link cause and effect occur at the lower level, the laws which express these do not capture regularities which obtain at the higher level and which explain how causes described at that level program for their effects.

I am drawing here upon a distinction made by Frank Jackson and Philip Pettit between what they call process and program explanations.\textsuperscript{37} Process explanations, as the name implies, describe the actual processes whereby a particular causal law is instantiated. That is, they describe the actual series of

\textsuperscript{34} Blackburn, 1971; Davidson, 1980; Pettit, 1993a, 147-152.

\textsuperscript{35} The facts about the group will supervene not just on facts about the individuals which comprise them but also on facts about other individuals. The relational properties of the group, for instance, will supervene on facts about people outside of the group.

\textsuperscript{36} The precise significance of claims of supervenience is controversial and heavily contested in the literature. I will attempt to remain agnostic on most of the disputes in the area.

\textsuperscript{37} The argument of this section draws on Jackson and Pettit, 1992a; Jackson and Pettit, 1992b; Pettit, 1993a.
events that occurred at the lower level of explanation to bring about some result. Roughly speaking, they explain “how” some event occurred. Program explanations, on the other hand, consist of counter-factual information about how the events which occurred are related to other events which might have occurred or could be expected to occur in relevantly similar circumstances. Roughly speaking, such explanations tell us “why” some event occurred. They describe how the facts at the higher level of explanation “programmed for” the processes that produced the outcome as described at that level. While they do not provide us with information on the actual chain of events that lead to the outcome in this instance, which would require a description at the lower level, they nonetheless explain a causal regularity at the higher level. If we repeated the experiment, the same cause (at the higher level) would produce the same effect (although the chain of events at the lower level would be entirely different). Such program explanations capture patterns of events which are essential to our understanding of the world.

Notice that neither the laws that the higher level language describes, nor the properties of the objects or entities that they refer to, nor these objects and states of affairs themselves, are specifiable in the lower level language. All of these are picked out by the role they play in the higher level program explanations and are multiply instantiated at the lower level. The counter-factual regularities that are described by the higher level language are invisible at the lower level; they are lost in the detail. An object that appears in a higher level explanatory language such as biology – for example, a “frog” – will not appear in the lower level description, in the language of physics, of the arrangement of atoms of which it is composed. Each frog will be composed of a different set of atoms, differently arranged, and the only thing that these sets of atoms will have in common is that they are the atomic make-up of “frogs” – a biological category that cannot be defined at the level of physics. Whatever biological laws describe the nature and behaviour of frogs will likewise not be ones that can be set out in the language of physics. All frogs will (presumably) obey them, even though there is no description in the language of physics that capture that set of objects in order to
even begin describing a law that their behaviour obeys. For the same reason, the properties of frogs will also defy description at this lower level of explanation.

Almost all of our explanations are program explanations, concerned with patterns of phenomena rather than with causal processes at the most basic level. The only discipline which ever deals with process explanation is our most fundamental physics. The stock and trade of all other sciences are program explanations. This includes the social sciences. Good social explanations are program explanations and there is nothing wrong with this. Indeed, if it is our aim to understand social phenomena then we must of necessity engage in program explanation. The move to lower level, individualistic, explanations misses crucial information about the patterns of cause and effect which ensured that some, higher level, outcome was more or less inevitable. If *that* peasant farmer, who fired the first shot in a war over scarce resources, hadn't fired then someone else would have. If we want to avoid such wars in the future then we had better look for a program explanation and tackle the higher level causes.

Talk of social groups is talk of this sort. It captures truths about the world which cannot be expressed in any other language. In particular, groups have properties which cannot be attributed to any particular conjunction of individuals. This is because various statements about groups can remain true even though the individuals within them change radically. Thus, for instance, facts about a nation or culture may remain untouched by the birth and death of individuals within it. Statements about groups can capture counter-factual information about their behaviour which is impossible to capture at the level of individuals.

Despite the slightly technical language used above, there is nothing mysterious or unusual about the status of objects which are only referred to in “higher level” explanations and which supervene upon some state of affairs described at a lower level. All of the ordinary objects that surround us are of this sort. Chairs, tables, books, et cetera, all supervene upon collections of atoms in the void. Such objects do not appear in the language of physics which describes the nature, relations and motions of those atoms. Yet we do not feel that such objects do not exist or even do not “really” exist. Our knowledge of the existence of the lower level of
explanation does nothing to threaten our sense of their reality. Indeed, such objects are often used in philosophical argument as paradigmatic cases of the real. Nor do we think that they do not have the properties we ordinarily think of them as possessing, such as hardness, colour or beauty, et cetera, because these do not appear in the language of physics. The case of groups and their relation to individuals is precisely analogous. The fact that groups are made up of individuals should no more make us doubt their ontological status than the fact that books are made up of atoms makes us doubt their existence. Nor does it give us reason to doubt that groups may have properties that do not appear in an individualistic language of social explanation.

Furthermore, there is one case in particular that serves to expose the lack of basis for the hostility to talk of social groups. There are striking parallels between the argument about the relation between groups and the individuals and an argument about individuals and their component parts. As Parfit has argued in other contexts, the relation between groups and individuals is the same as the relation between persons and person stages. If we fix the facts about an individual on each day of their life then we fix all the facts about that person. Facts about “persons” supervene on facts about individuals at each day of their life. Alternatively, according to many philosophers of cognitive science, the relation which holds between brain states and intentional states – and so ultimately personality – is one of supervenience. That is, the beliefs and desires from which our personalities are formed supervene upon the physical states of our brains. The individuals which are the subject matter of ordinary ethical and political discourse may therefore be understood as supervening either on person-stages or on brain states. The statements that we make about individuals’ actions and intentions, and which we use as the basis for moral evaluation, must therefore invoke program explanations for their validity. They do not describe the “real” processes which occur at a sub-personal level. The onus then is on critics of social groups to explain why they are not as thorough-going reductionists in

39 Davidson, 1980.
relation to individuals as they insist we must be in relation to groups.\(^{40}\) That is, why they do not also insist that we do away with talk of individuals or persons in favour of talk of person stages or brain states? The same argument which pushes us to reject the moral claims of groups in favour of the claims of individuals should move us to reject the claims of individuals in favour of the claims of their component parts. But this conclusion is untenable. One cannot imagine doing moral or political philosophy (for instance) while talking only of person stages or brain states. The problems that matter to us in these disciplines concern the lives of whole individuals rather than their stages or brain states and the language we use reflects this.\(^{41}\)

§5.4.1.2 The necessity of groups

But this is equally true of talk of social groups. Group concepts are deeply embedded in existing law, politics and ethics. It is difficult, if not impossible, to imagine a politics which did not refer to any entities except individuals. International law recognises the special status of "peoples", as well as "nations", as distinct from other aggregations of individuals. Corporations are supra-personal entities recognised in both domestic and international law. These concepts are not derivative ones that could be discarded at the cost of some inconvenience when talking about international relations or regulating corporations, but are absolutely essential to these areas of politics and law. I cannot emphasise enough how important I think the brute fact of their necessity in much of our legal and political practice is for understanding the proper place of group concepts in normative theory. We simply cannot do without them in regulating our affairs.

\(^{40}\) Reaume, 1994, 125. An intriguing variation on the argument here is presented by Brooks, 1986. Brooks argues that an acceptance of functionalism (roughly, the supervenience of the mental on brain states described according to their functional relations) should lead us to allow the existence of "group minds" in cases where relations between individuals appropriately mimic relations between the brains neurons. He then goes on to argue that the possibility of cases of this type demonstrates that other appropriately organised collectives (including states) could possess intentional states not possessed by any of their members.

\(^{41}\) Taylor, 1989b, 58-59.
In his article “Some Confusions Concerning Collective Rights”, Michael Hartney argues against this strategy as an argument for showing that liberalism already acknowledges that some collective entities have rights, by pointing out that legally corporations and states are not groups at all but are rather “artificial persons”. He distinguishes between what he calls the “sociological sense” of a corporation or a state in which, he acknowledges, they are groups and the legal concept of a corporation or state to which rights are awarded by domestic and international law. In this legal sense, corporations and states are, as he correctly points out, individuals of a special kind – “artificial persons”. Through this peculiar legal sleight of hand the much-touted individualism of liberalism is supposedly preserved.

However, I am not particularly concerned with the technical issue of whether corporations and states are groups or individuals in law. What I am claiming here is that liberals too are already committed to political arrangements and institutions designed to serve the interests of groups. The particular form these take is of subsidiary interest. The important question is the nature of the interests – and consequent moral rights – that lie behind the legal rights that are accorded to such artificial persons. What justifies the creation of such an “artificial person”? Surely it is the importance of the interests of the group it refers to. Corporate and state rights loom so large in the liberal rights schema because corporations, organisations in which people band together in the pursuit of profit, and states, the collectivities in which citizens organise to administer a territory and defend a national culture, serve important collective interests.

Notice that the existence and nature of such “artificial” persons are equally as mysterious as that of the groups I am suggesting should be acknowledged as their

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44 The existence and nature of such collective interests is heavily contested in the literature (For an introduction to the contemporary literature on these issues, see Baker, 1994; Kymlicka, 1995c; Shapiro and Kymlicka, 1997). I will explain the sense in which I believe we may legitimately talk of such interests below.
grounds. One might just as well complain that corporations and nations "don't really exist" and query the mysticism involved in putting such weight on the interests of, and granting rights to, fictional entities. In fact the relation between such artificial persons and the individuals that comprise them is the same as the relation between social groups and the individuals that make them up. These artificial persons too supervene upon individuals. In these cases, however, the relation between the facts at the higher and the lower level are, in most circumstances, reasonably simple because they are explicitly set out in legal doctrine. This doctrine picks out the individuals, or combinations of individuals, whose actions are to be taken as authoritative in determining the acts and desires of the artificial person.

But even here the matter may be more complex than this. We may still have intuitions about the behaviour of states or corporations that clash with these legal rules. It makes sense to believe, for instance, that a corporation is responsible for the actions of its employees, even when the courts have decided otherwise. We may feel that a state has committed an act of violence if its citizens attack a neighbouring state regardless of whether or not such attacks were ordered or sanctioned by its government. What the existence of such cases indicates is that behind — and hopefully guiding — the legal rules and institutions that establish the existence of artificial persons, is a set of intuitions about the collectivities whose existence and interests justify the creation of such fictions. Sometimes the legal rules that we've established to track these intuitions can fail to do so and we are brought into awareness of the collective nature of the interests that the legal rules are supposed to serve.

The "individual" nature of corporate and state rights is a convenient fiction through which liberals attempt to elide their commitment to the legal, political, institutional and, as I have argued, moral recognition of social groups. It is hard to see what establishing the legal fiction of an "artificial person" to take the place of a group of persons such as a nation achieves beside this. Indeed it is difficult to avoid the suspicion that at least one of the factors at work here is a conservatism that is prepared to deduce the moral rights of artificial individuals from existing legal ones but not to countenance establishing new legal rights from moral rights.
even where these are, as I have argued, precisely of the same nature as those that provide the grounds for existing legal rights.

It is true that there are many practical advantages with establishing a series of procedures and institutions that allow for the determination of the actions and desires of such an artificial person. The negotiation of contracts between corporations and of treaties between nations, for instance, is vastly simplified by the fact that there already exists a more or less agreed upon set of procedures to decide who has the authority to do so and who must fulfill the consequent obligations. But this is only a good argument if the interests served by such institutions and procedures are legitimate and important in the first place. That is, if the people who comprise a corporation, or the citizens who comprise nations, have interests that cannot be met by a scheme of individual rights for real persons.\(^{45}\) As Hartney also points out, although the rights of corporations and states are exercised by certain natural individuals or combinations of natural individuals, they are not held by them.\(^{46}\) They are not in fact held by any individuals separately or together; they are solely the rights of the fictional individual, the "artificial person". The existence of such an elaborate scheme of rights designed to facilitate the needs of corporations and nations is an admission of the inadequacy of (real) individual rights and of the importance of these groups and their collective interests.

Furthermore, there seems to me no reason to believe that another set of procedures and institutions, that did not make reference to such fanciful entities, could not be established to allow determinations about groups to be made. Indeed this is what advocates of collective rights are proposing. They argue, as I will below, that other institutional arrangements for advancing collective interests, that do not seek to efface their collective nature, are possible and further that corporations and nations are not the only groups whose interests could be served through such

\(^{45}\) Van Dyke, 1982.

\(^{46}\) Hartney, 1995, 214.
changes. Hartney specifically allows that this is possible. The fact that Anglo-American law has generally not chosen to do so and has adopted the notion of artificial persons as a way of facilitating the pursuit of group interests is a contingent fact of little significance. Alternatively, it may be that in some cases the best way to protect the rights of social groups will be to bring into being an artificial person and confer these rights upon it. Nothing I have said so far rules out this possibility: that the best way to protect the interests and rights of a group is to establish a clear set of procedures referring to the actions of certain natural persons that determine the actions and desires in law of the group as a whole. Again, given that the creation of such persons to serve the needs of corporations and nations is widely accepted, I can see no reason to rule out doing so for other groups.

There is a sense in which corporations and states are indeed, contrary to Hartney’s claim, “obvious instances of collectivities invested with legal rights”. It is the interests of the collectivity that justifies the granting of the rights, although the form of the rights granted is that of an individual right. Communitarians have been correct to point out that liberals’ recognition of corporate, state and national rights commits them to an acknowledgment of the importance of (at least some) groups and their interests.

Notice also that the importance of group concepts extends far beyond those areas of corporate and international law in which such artificial persons are defined. These concepts also play a central organising role in discourses in which a wide range of other rights are defined. Thus the liberal discourse of individual rights is typically fleshed out in terms of the rights of citizens, a concept which in turn rests on the idea of the nation as a social group of special significance. The rights I have as a citizen I have by virtue of my membership in a particular social group.

47 Van Dyke, 1982.
49 Hartney, 1995, 214.
50 Van Dyke, 1982.
(the nation) and are different to those of members of other such groups. But references to group membership are also essential to distribution and characterisation of rights within the nation. It is already the case, for example, that many societies around the world recognise certain ethnic or cultural rights which are predicated on membership of the relevant group. Any reference to gender in the law, for instance in affirmative action legislation, also involves a group reference. At the limit, the concept of a human right itself is limited by membership of the relevant group, the human species.

There is of course a large literature in which liberal philosophers have tried to justify the existing distributions of rights and duties, which makes reference to membership of particular social groups, in terms which refer only to individuals. I am unable to evaluate the success of such attempts here except to make two points.

Firstly, the prospects for success are, at first sight at least, unpromising. The differences in the rights and obligations of citizens of different nations are simply too large. Citizens of different nations are subject to different laws, can live in (and are forbidden from) different places, vote in different elections under different voting systems, receive different levels of support from the state and pay different taxes. Ultimately, the only source and justification of such differences are different national histories. They derive from our membership of the group and have their origins in the choices and history of the group. It is difficult to see how any argument which began with the rights and interests of individuals considered as such, which are universal, could justify such large disparities. But very few liberals are prepared to endorse the global cosmopolitanism which is the natural endpoint of the attempt to ground all institutions in the rights and interests of individuals. Unless the rights we have as citizens are grounded at the level of the group it is difficult to see how they could be grounded at all.

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51 Black, 1991; Kymlicka, 1995a, 125.
Secondly, and for similar reasons, the nature of this program remains that of explaining and justifying the ways in which we do rely upon group concepts. It tries to show how we might derive our intuitions and generalisations about social groups from the rights and interests of individuals. Because of the extent to which references to groups suffuse our ethical and political practice, these form the data against which individualistic theories are tested. The reflective equilibrium in which any individualistic theory must rest at the end of the process of its evaluation must therefore include most, if not all, of these intuitions. Our intuitions about relations between nations are at least as strong as the arguments about individuals being adduced to explain them. It seems unlikely therefore that a revisionary account of the rights of nations (for instance) could have much impact. Even if such an individualistic account were to succeed, the role of its explanations would remain subsidiary to our actual group based practice.

The extent to which group concepts are essential to our current political and ethical language and practice renders possible a powerful extension to the argument for recognising the unproblematic nature of the existence of social groups. It is a premise of the scientific empiricism which so often drives hostility toward talk of social groups that we should admit into our ontology only those entities which are postulated by our best theory of the nature of the world around us. Yet what I have claimed above is that we cannot organise or explain our political affairs without reference to social groups. Our best – indeed our only – moral and political theory must resort to talk of social groups. For the purposes of such theory, then, we should admit that groups exist and feel no qualms about including them in our politics.

§5.4.2 Ethical concerns

Nonetheless, liberal critics may insist that the only reason why we care about the flourishing of groups is because we care about the welfare of the individuals within them. It makes no sense, according to some, to talk of increasing the well-being of a group unless the well-being of individual members is thereby
increased. This is what I described as the ethical objection.\textsuperscript{53} For example, Kymlicka has claimed that,

There seems to be no room within the moral ontology of liberalism for the idea of collective rights. The community, unlike the individual, is not a "self-originating source of valid claims". Once individuals have been treated as equals, with the respect and concern owed to them as moral beings, there is no further obligation to treat the communities to which they belong as equals. The community has no moral existence or claims of its own. It is not that community is unimportant to the liberal, but simply that it is important for what it contributes to the lives of individuals, and so cannot ultimately conflict with the claims of individuals. Individual and collective rights cannot compete for the same moral space, in liberal theory, since the value of the collective derives from its contribution to the value of individual lives.\textsuperscript{54}

And again:

Groups have no moral claim to well being independently of their members – groups just aren’t the right sort of beings to have moral status. They don’t feel pain or pleasure. It is individual, sentient beings who suffer or flourish, and so it is their welfare that is the subject matter of morality. It seems peculiar to suppose that individuals can legitimately be sacrificed to further the ‘health’ of something that is incapable of ever suffering or flourishing in a sense that raises claims of justice.\textsuperscript{55}

§5.4.2.1 An individualistic bias?

It seems likely that this argument draws much of its strength from critics’ convictions of the strength of the ontological objection discussed above. That is, it is because we feel that there is nothing else to a social group but individuals that we feel that only their interests matter. To treat the interests of the group as anything other than the sum of the interests of individuals that comprise it seems to grant the group an ontological status that was criticised above. But, as I have argued, this hostility to talk of social groups is misguided.

\textsuperscript{53} Hartney, 1995, 206 calls this claim “value-individualism”. Pettit, 1993b, 23 calls it “personalism”.

\textsuperscript{54} Kymlicka, 1989, 140.

Once we recognise this, the basis for an argument as to which language discussion of normative politics should take place in is more difficult to perceive. Instead of one language that describes what is “really” happening and another that is merely derivative from it, we have two competing languages in which to think about, or two levels at which to describe, politics. The language of social groups is a legitimate one and in that language groups do “suffer and flourish”\textsuperscript{56}. Whether they do so in a sense that raises claims of justice is the very question at issue here. To say that only individual suffering and flourishing can lead to claims of justice is merely to express a preference for one language over another; a further argument needs to be made. Indeed it is hard to avoid the suspicion that the refusal to credit arguments founded upon the properties or interests of groups merely stems from a culturally and historically specific individualism. The idea that the claims of the individual are more fundamental or important than the claims of the group is a comparatively historically recent one. There have been many peoples throughout history for whom the language of social groups has been the more important one.

\textbf{§5.4.2.2 Individual and group interests}

Nonetheless, an individualistic language is the dominant one today and the one in which the majority of the debates in which I am engaged here take place. So I am willing to concede that it is in fact because we care about the welfare of individuals within them that we care about the fate of social groups. This implies that policies which serve the interests of the group should make at least some members of the group better off.\textsuperscript{57} It is difficult, if not impossible, to construct a case wherein we would be prepared to say that the well being of a group has increased without the well being of (any of) its members doing so. The danger here is that this concession may lead to the erroneous idea that one can therefore

\textsuperscript{56} Margalit and Raz, 1990, 449. As Laitin, 1998, 232 points out, even Kymlicka (in \textit{Multicultural Citizenship}) makes extensive use of the language of social groups, including referring at various points to their beliefs, interests, choices and desires.

\textsuperscript{57} Goodin, 1990; Pettit, 1993b, 24. For a claim to the contrary, see Margalit and Raz, 1990, 449-50.
conclude that if we have looked after the interests of all the individuals as determined separately we have looked after the interests of the group.

The aspects of individuals' interests which seem to them salient depend on the context in which they consider them. How we perceive our interests changes as our sense of the relation between our various projects and the possibilities open to us change. We have already examined, in §3.6-8, the most important case of this phenomenon, which is where the protection of the interests of individuals considered separately, through the enforcement of a framework of individual rights, leads to the weakening of mechanism of self and other binding required to maintain the culture and liberties that are important to them, and a consequent sacrifice of the interests of individuals in collective projects. Because individuals' interests in certain forms of life can only be pursued collectively, our concern for their interests may give us reason to respect collective decisions.

It is a platitude of ethical individualism that the interest of the group is nothing more than the sum of the interests of the individuals that comprise it. But what I am suggesting now is that the context in which individuals express their interests can greatly alter the result of this calculation. If we seek to determine the interests of the members of a group one at a time by "isolated individualism" – asking them individually what their interests are – then their responses may be a product of this mode of inquiry. Consulted individually, each member of the group may face a destructive Prisoner’s Dilemma such that the interests they possess are different to those they would have were mechanisms of collective self binding available in order to resolve the collective action problem. In the absence of the guarantee that mechanisms of collective self binding provide, that others will do their part, it may be in the interests of each individual to "default" and refrain from contributing to those activities necessary to achieve the public good. The sum of such narrowly individual interests will reflect these circumstances and is therefore unlikely to include that public good. However, as we examined in Chapter 3, individual members of a group may have important interests as members of that group, that may only be expressed when a process of collectively binding decision making is possible. In order to include these interests in our calculations we must imagine asking the (members of the) group as a whole what
their interests are. Determining what the interest of the group is, is indeed a
matter of determining the interests of the individuals within it, but is a matter of
doing so collectively. We must do so in order to register the interests of the
group’s members when they have at their disposal mechanisms of self binding,
such that choices, the existence of which is dependent on the possibility of
collective action, are available to them. The interests that individuals possess in
these circumstances may differ substantially from those they possess when each is
trapped in the destructive Prisoner’s Dilemma of uncoordinated action and the
“sum” of their interests will reflect this.

These group-oriented interests of the members of the group, that are expressed
through a collective process, make up the “interests of the group” or the
“collective interest”. It is this process that reflects the interests that members of a
group have by virtue of their membership in the group such as, for instance, their
interest in preserving its culture. It is this sense of the interests of the group that
“isolated individualism” may blind us to. But notice that my account of the group
interest still derives it solely from the interests of the individual members of the
group. There is nothing “more” to the interests of the group than the sum of the
interests of its members. It is simply that, when concerned for the interests of
members of a group qua members of that group, we must determine these by
considering the interests of the group as a whole, that is, as expressed through a
process of collective decision making. To determine the interests of the group by
aggregating the “isolated individual” interests, in the absence of the solutions to
collective action problems made possible by collective decision making, is to alter
both the interests of the group and the individuals who comprise it. Even if our
concern is solely for the well-being of the individuals who comprise a group we
may therefore have good reason to consider them as they are expressed through
the collective processes of the group.

§5.5 Groups and Respect

Once it is admitted that social groups themselves can properly be participants in
arguments about justice under conditions of mutual respect then the argument for
each party's right to pursue their particular values made above in the individual case will justify an analogous right for the group. But while individuals are reliant on the existence of the appropriate culture in order to pursue their particular ways of life, groups are themselves the sites of this culture. Although they may make claims on resources which involve larger collectivities groups, unlike individuals, have the capacity to maintain a culture through their own efforts. The claims of the group arising from respect will, in the first instance at least, look more like the claims of negative liberty.

However, conceding the right of the other group to determine its own identity involves granting it substantial rights, including the right to impose restraints on its own members in pursuit of its collective interests. The most fundamental of these rights is the group's right to defend its existence by maintaining its culture. In some cases, especially when a group is in a minority and surrounded by a majority culture with different values, a group may choose to bind itself to its current commitments in order to forestall the erosion of its values through contact with the majority culture. That is, the members of the group may collectively decide to restrict their own liberty in order to prevent the creation of destructive Prisoner's Dilemmas which may lead to changes in the character of the culture they wish to avoid.

While individuals continue to identify with this collective goal they will experience these restrictions as instances of self binding: they will recognise them as mechanisms which aid them in achieving their longer term goals. But if this identification lapses, the restrictions will seem to them to emanate from a source external to them: they will be bound by the desires of others. It may also be the case that the majority within a group wishes to bind themselves and each other to a project that a minority do not wish to. Because the mechanisms of self and other binding are maintained at a cultural or social level, the measures necessary for this choice to be possible will also (contingently) involve binding these persons. In this case it will involve the restriction of liberty of individuals who never had any interest in the project. Such restrictions are obviously problematic and various limits on their imposition will be discussed below. Nonetheless, as I have argued, they are necessary if groups are to be able to preserve their
cultures. To deny groups the right to engage in such self binding is to deny them the right to act upon their deepest commitments.

I will argue below (§5.6.3) that, beyond the necessity that groups respect the basic human rights that are required by respect for individuals, there is no generalisable procedure for deciding when we should respect such restrictions on the liberty of individuals; we can only refer to our conception of the good to determine which liberties are important. However, I want to emphasise at this point that accepting that it may be reasonable for groups to adopt such measures in order to protect the particular character of their culture and that respect may require us to allow them to do so, does not commit us to the claim that cultures should always be so preserved. It seems to me likely that groups will sometimes, or indeed often, choose not to bind themselves in this way. The collective decision of the group may be that they are willing to let their culture change through contact with another culture and embrace the results of cultural hybridisation. But in the face of assimilatory pressures due to the existence of a surrounding alien culture, minority and communalist cultures must have the right to collectively decide to bind themselves in this way. Denying this to them will lead to the loss of the ways of life to which they are committed, and this is not something that we can expect them to accede to. When groups do make this choice we should understand it as reflecting a desire to control the way in which their culture will change through contact with others around them, rather than simply to fossilise it in its current state.

58 These collective rights will be an anathema to most liberals. So it is worth reiterating that they are precisely analogous to the rights that liberals already recognise that states possess. States bind their citizens to their collective decisions through the mechanism of the law in order to facilitate the pursuit of their collective goals. The circumstances in which they have the greatest right to do so is in the interest of the defence of the collective. The difference here is that the groups are subnational and the threat to them is the threat of cultural change that the majority of members wish to avoid. But where our commitment to the particular character of our culture is sufficiently strong we may view changes in its character as tantamount to its destruction. The subnational nature of the group makes no difference as to whether this concern justifies the defence of the collective interest over the liberty of the individual. If we are prepared to allow that states may bind their members in this way, we should also allow that subnational groups may do so.
§5.5.1 Federal solutions

Respect requires, that as much as is possible, different social groups should be allowed to live in accordance with their own values. When the groups we are considering are minority cultures or communities as traditionally conceived in the liberal-communitarian debate, such as an Aboriginal people, a geographically concentrated ethnic community, or a rural village, then it is possible that the requirements of respect could be met by allowing them to isolate themselves from other groups. They could either secede from their existing state in order to form a smaller state, through which to pursue their shared values, or pursue the goal of federal or multi-nation state in which each of the groups within it is self-governing within a distinct region. Within its realm, each group may shape political institutions in the light of its shared understandings and particular commitments. Disagreements between groups would then be resolved by argument governed by respect. In certain circumstances then, the requirements of respect for difference may be met by one of the traditional responses to difference within a community – the creation of a new set of smaller, more homogenous, political units.

§5.5.2 The inadequacy of the federal model

However, in the modern multi-ethnic nations and multi-national states in which arguments about justice between ethnic and cultural groups take place, the activities and destinies of different groups are in many cases already so intertwined that separation and isolation has ceased to be a realistic option. The shifting of borders and the mass migrations of populations which have been a feature of the history of the last two centuries have left communities divided and/or geographically dispersed and intermingled. Where this has occurred it may no longer be possible to propose a territory which could serve as the basis for statehood or even self-government for the relevant community. In other cases

59 For a discussion of the role of federalism in governing relations between groups see Norman, 1994.
communities may be too small or lack a resource base sufficient to make secession, or self-government within a federal state, a possibility. If any of these circumstances apply, different ethnic or cultural groups will be forced to pursue their different ways of life within the bounds of the existing polis and to negotiate the difficulties this may involve.

Furthermore, the geographic dispersion and intermingling that I suggested was a contingent feature of many ethnic and cultural groups is inevitably true of groups defined by other axes of difference such as sex, age or sexuality. When the groups we are concerned with are men and women, or the young and the old, or gays and straights, it is difficult to imagine how these could isolate themselves from the wider society. Not only do such groups have no geographical basis but they are unable to sustain or reproduce themselves without the participation of those outside the group. These groups crosscut each other and the more familiar examples of groups in the literature such as ethnic and cultural communities. A secessionist or federal model is therefore of no use at all here as a basis upon which these groups could establish political institutions which reflect their experiences and serve their particular commitments.

Finally, even where a federal model seems appropriate, the problems raised by the fact of difference do not disappear but instead reappear within each self-governing group. The community or culture which has achieved self-government and which uses this to establish political institutions which reflect its shared understandings will itself be divided by difference along other lines of the sort discussed above. Within the self-governing group will be other groups defined by difference which may wish to contest its “shared understandings” and to modify, or exempt themselves from, its political structures in order to pursue their own –

60 As Tomasi, 1995, 582 points out, federalism is already widely recognised and employed in existing liberal societies as a mechanism for defending the rights of internal groups,
61 Habermas, 1993, 141.
63 Habermas, 1993, 140; Green, 1995.
different again – conceptions of the good. The need for respect for difference therefore reasserts itself.

Although the federal model may have an important part to play as one possible mechanism for respecting difference, it will not suffice on its own. We need to look to other models for accommodating difference within the polis.

§5.5.3 A heterogenous public sphere

At this point then I wish to turn to recent feminist and post-modernist ideas concerning the possibility of a heterogenous public sphere. The basic insight of a “politics of difference”, upon which I wish to build, is that it is possible to conceive of a polis based upon equality of respect for all citizens without all citizens therefore having the same rights in every circumstance. Instead, respect for difference may require that citizens should have different rights in some circumstances. Furthermore, the “public sphere” in which citizens meet each other to discuss politics and govern the affairs of the polis need not be one undifferentiated space either. It need not assume a single norm of a speaker or participant, or set of procedures for regulating discussion and resolving disputes. Instead, certain aspects of public life, and discussion of some matters of political concern, may take place in a number of different “discursive spaces”. These “discursive spaces” may be thought of as areas of the public sphere where the standards, norms and procedures governing discussion reflect the needs and experiences of members of a particular social group and where participation in discussion may be restricted to members of that group. The purpose of the creation of such spaces is to try to counter the disadvantages that members of a group may suffer when attempting to participate in a discussion which is regulated by standards and norms which are alien to them. These differences in rights and

64 See for instance Laclau and Mouffe, 1985; Fraser, 1989; Young, 1990a; Fraser, 1993; Mouffe, 1993; Young, 1995; Jaggar, 1999.

65 See Kymlicka and Norman, 1994, 373-7 for a defence of such differentiated rights schemes and a survey of the issues raised by them.

66 Young, 1990b; Fraser, 1993.
these different discursive spaces need not be geographically delineated. They need not be based in location in a particular territory but may instead be associated with membership of different social groups. Women and men, for instance, or members of different ethnic groups may be granted different rights and participate in different discussions under different rules. In a society with a heterogenous public sphere, then, the "public" is made up of citizens who, in some circumstances, have different rights by virtue of their membership of different social groups, and the "public sphere" consists of a multiplicity of different discursive spaces. Of course, if the disparities between the rights of different citizens are too great, or if the discussions in some discursive spaces are much more influential than those of others, then we may have reason to doubt that these arrangements are just. But, according to a number of recent writers at least, the mere fact of differences in the rights of citizens does not itself necessarily indicate injustice.

The idea of a heterogenous public sphere, consisting of a differentiated set of citizenship rights and a multiplicity of discursive spaces, allows us to go a good deal further than the federal model discussed above in our ability to respect difference. In particular it allows the possibility of the institutional recognition of difference of groups that are not geographically distinct, because their members inhabit a number of different locales or are dispersed throughout society, or whose territories do not provide a viable basis for self-government.

§5.5.3.1 Group rights and special rights

In order that different groups may, as much as possible, preserve their distinct cultures and values it may therefore be necessary to allow them different rights within the same polis. Kymlicka has distinguished between two different sorts of differential citizenship rights that may be deployed to protect the cultures of social groups, that he describes as "special rights" and "group rights". According to

67 Although, as we will see shortly, discursive spaces often are.
68 Young, 1990a; Eisenberg, 1994; Kymlicka and Norman, 1994; Young, 1995.
my account, both of these sorts of rights may be necessary to allow social groups to maintain their identities. In particular my account justifies a wider provision of group rights than are usually contemplated.

Sometimes the best instrument to serve the needs of the group will be Kymlicka’s “special rights” – rights possessed and exercised by individuals as members of a particular groups. For instance, members of a particular group may be exempted from laws which would otherwise force them to choose unnecessarily between maintaining their cultural membership and participating in the broader society, as in cases where Sikhs have sought exemption from motorcycle helmet laws or the uniform codes of various civil and military offices. Or members of certain groups may be granted rights to particular resources by virtue of having particular needs, as when for example, women are recognised as having a right to maternity leave and access to certain health care resources unavailable to men. Or, as I will discuss below, members of a group may have a right, that is denied to other citizens, to participate in activities occurring in some particular discursive space with others of the group. All of these rights are individual rights deriving from membership of a particular group.

But, as I suggested above, my arguments also justify what Kymlicka calls “group rights”, rights which are possessed by the group as a whole and that can be exercised against its own members. In order to serve the interests that individuals have as members of a group, in public goods (such as culture) that can only be provided by that group, we must allow the group the right to impose restrictions on its members. These rights will be justified by the collective interests of the group and may be exercised by the artificial person that represents the group or through whatever other procedures for determining the desires and actions of the group have been established.

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70 Kymlicka and Norman, 1994, 371.
§5.5.3.2 "Discursive spaces"

While there are many difficulties involved in applying the idea of differential citizenship rights in order to respect difference, and these will be discussed below, the idea is at least a familiar one. However the concept of a discursive space is less familiar and so I want to spend some time now introducing and defending it.

If we are to respect difference, we cannot insist that all aspects of the lives of individuals be subject to the one mode of public ethical or political scrutiny. In a society characterised by difference, groups need a space in which they are free to express their particularity. The key to reconciling this need with the necessity of maintaining an open public sphere, in which all groups may participate and in which any group may argue with any other, is the recognition that the public sphere consists of many different forums and locations in which discussion and argument takes place. As long as there are some such spaces in which any two groups may encounter one another, and as long as every group has access to some such forum, and as long as none of these forums are privileged with regards to the exercise of political power, then these essential functions of the public sphere will not be jeopardised if participation in some of these is governed by different cultural norms or even restricted to members of a certain social group. In order to create a context in which discussion and argument may occur according to their own cultural norms, insulated to some degree or other from forces that exist in the wider community, social groups should be allowed to maintain their own "discursive spaces".71 Within such spaces argument will proceed in a different fashion, amongst different communities, according to different expectations and with different appropriate subjects. Often discursive spaces will coincide with physical or geographical spaces, such as civic squares, churches, community halls, refuges, hospitals or houses. These locations serve to delineate and structure contexts in which face to face, as well as more mediated, discussion occurs. However, discursive spheres need not be geographically bound. Instead they may simply be associated with a particular community and the forums that are

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71 Fraser, 1993, 122-128.
established and maintained by it, such as newspapers, radio programs or cultural events.

§5.5.3.3 Discursive spaces as sites of culture

An important role played by the existence of discursive spaces in argument governed by respect is allowing groups to formulate their own opinions and arguments which they can then put forward in argument with other groups in wider arenas. But in fact discursive spaces will only be successful in this role if they fulfil a larger and more important purpose – if they provide an opportunity for the group to maintain its culture and realise its values. Such spaces provide us with an arena in which we can maintain our identities – be “who we are”- and engage in those activities most important to us.\textsuperscript{72} This space is in some ways akin to the private space defended by liberalism. The liberal idea of a “private sphere” is attractive because it seems to respond to the importance of difference by establishing a space within which individuals are able to maintain their identity whilst somewhat insulated from majoritarian pressures. But argument motivates the creation of “private spheres” which extend beyond the home of the individual to encompass the environment of the group. Communities as well as individuals need protected spaces within which they can maintain and pursue their particular identities.\textsuperscript{73}

Like the private sphere, discursive spaces are defined by the exclusion of others. In order to be able to maintain the character of the sphere, groups must be able to exclude those who do not share their values and commitments. Such exclusion is in fact an important way in which groups may practise self binding. By excluding others who do not share their commitments from the arenas in which they are engaged in self-definition through cultural practice, they reduce the chances that

\textsuperscript{72} These spaces are the repositories of a specific set of cultural narratives both enabling and constraining action within them (Somers, 1992, 607-9).

\textsuperscript{73} As I discuss below, this is not to suggest that the activities that occur within such spheres should be exempted from moral or political scrutiny.
their culture will change in ways that they would not welcome.\textsuperscript{74} Within a particular discursive space groups may establish a different set of rights that govern activities within that space and that reflect the particular commitments of the culture.

Sometimes social groups will succeed in establishing and maintaining a discursive space with the resources available to them. Sometimes however they may require institutional recognition and state support. The requirement of respect, to ensure that groups have access to a discursive space within which to assert their particularity, may place obligations upon the rest of the community to provide resources sufficient to this purpose. This is especially the case for groups whose inability to establish a discursive space is largely a result of being surrounded by an alien majority culture.

\textbf{§5.5.4 Determining the boundaries of groups}

The institutional realisation of a heterogenous public sphere obviously depends upon our ability to delineate the relevant groups. This means that we must have some way of determining the identity of individuals with regards to the groups of which they are members. There are three ways in which we might go about determining the boundaries of groups. Each of them may be appropriate in some circumstances; none of them are without their problems.

The first way in which we might decide questions of group membership is to allow individuals themselves to decide which groups they are members of. There are some groups, such as those defined by sexual preference or religious affiliation, where membership seems most appropriately conceived of as a matter of individual volition. Respect for individuals, as a careful attention to their

\textsuperscript{74} The role played by exclusion in maintaining discursive spaces raises important issues concerning the justice of such exclusions. The exclusion of members of other groups within the group where it occurs (for instance, the exclusion of women from the public affairs of the group) is especially troubling. This is doubly problematic if participation (or the absence thereof) in a particular discursive space is linked to broader social outcomes such as access to resources. These issues point to a more general problem concerning the ways in which respect for the culture of one group may conflict with respect for the demands of another, which will be discussed below.
specificity and particular perspective, also requires that we take their own claims as to which groups they are members of very seriously. However, due to the intersubjective aspect of identity, there are facts of the matter and these may sometimes give us reason to reject individuals' own self-descriptions. Even in the case of sexual preference or religious affiliation, it may be that some individuals will try to assert an identity that is denied by other members of those communities on the grounds that the individual concerned does not behave appropriately to those descriptions. Moreover, a complete voluntarism with regards to identity would render impossible the collective self binding that I have argued is sometimes necessary for a group to defend its culture (and therefore for individuals to have access to their cultures). As we saw in the discussion of Kukathas in §3.6.3, if individuals can exit a group at will by claiming not to be members then this guarantees the creation of destructive Prisoner's Dilemmas with the regards to the pursuit of collective goods such as culture by undermining the effectiveness of deterrents to defection. It would also render impossible the maintenance of separate discursive spaces that I have suggested provide important opportunities for groups to maintain their identities. These spaces rely on the capacity of groups to exclude others and would be jeopardised by the ability of others simply to redefine themselves as members. They require that groups be allowed to determine their own boundaries.

The second way to settle questions about the identity of individuals is therefore to allow groups themselves to do so. Group membership would then be tied to its acknowledgment by other members of the group or perhaps by whatever authoritative mechanisms of decision making the group sustains. This solution responds to and emphasises the intersubjective aspect of identity. There will be many cases, perhaps the majority, when this will be the most appropriate way to determine the matter. It allows groups to defend their distinctive character and commitments by excluding others from their discursive spaces, and to enforce collective decisions against their own members. Respect for groups pushes in this direction, in a manner analogous to the individual case; groups' own accounts of their boundaries must be taken seriously. But this is not the end of the matter, because who is a member of which group will itself often be a matter of dispute.
between groups, who may each wish to claim (or occasionally deny) individuals as their own. Sometimes it may therefore be necessary to make recourse to a forum in which such disputes can be settled.

Thirdly, we might therefore allow the state to rule on disputed questions of group boundaries. It may be necessary to establish institutions and processes of law which are capable of deciding if individuals are members of particular groups. While there are obvious dangers and possibilities of injustice in allowing the state to rule on questions of identity it seems to me that these are on a par with many other administrative decisions made by the state. Familiar checks on state power such as the rule of law, the requirement of publicity and a process of judicial review may provide some protection against the worst outcomes here.

There will inevitably be borderline and indeterminate cases with regards to identity. But we should not allow the genuine difficulties of delineating the boundaries of the groups deter us from the attempt to recognise and respect difference. Differences do exist and in most cases we are all too aware of which side of them we, and others around us, stand. Again, the problems of defining social groups are not unique to my account. Liberal nationalist accounts will face the same difficulties when it comes to determining and policing who qualifies as a citizen. Theories of multicultural liberalism will also face them within the nation. The ubiquitous nature of such problems means that most societies already possess ways of resolving them. That is, they already make rulings on questions of identity as a matter of course.

It is true, however, that the difficulties involved in determining the boundaries of various groups may place limits on the feasibility of the attempt to respect difference at the level of institutions. Differentiated citizenship rights obviously require that we can reliably distinguish between members of different groups. The granting of special rights to members of certain groups will not be feasible if

75 The same intersubjective facts about identity are relevant here. Groups may be convicted of falsely claiming individuals as their own by virtue of these facts.
membership in these groups is too fluid or indeterminate. Discursive spaces will often not require formal delineation because the exclusion of others may be achieved by various informal methods. The language in which the affairs of the group are conducted, or the arena or social context in which discussion and argument takes place may serve to maintain the sanctity of the discursive space. Sometimes, however, formal mechanisms to exclude others will be necessary and then the same issues arise.\textsuperscript{76} While discursive spaces may serve an important need even in cases where the membership of the group is ill-defined, it is difficult to see how the decision to bind members of a group to a collective project could be justified without there existing a clear sense of who was entitled to participate in this decision and a mechanism by which such a decision could be made.\textsuperscript{77} This requirement may mean that in practice, it will often only be ethnic or national cultural groups that are internally structured in such a way to capable of such decisions. But other well organised groups with a high level of solidarity and mutual identification may sometimes also be able to do so.

The ultimate significance of these considerations must, I believe, be decided on a case by case basis. This case by case treatment should be sensitive to the ways in which identity may shift in different contexts. Sometimes it will be appropriate to recognise a particular axes of difference at the level of institutions, while in other circumstances it will not. The criterion for group membership in one context need not be the same in another; nor will the appropriate mechanism for determining them. Finally, I must emphasise that these matters themselves are likely to be contested in a multicultural society. In a society governed by respect for difference the boundaries of social groups themselves must be open to revision as a consequence of argument governed by respect.

\textsuperscript{76} In either case, as we will discuss below, issues of justice may arise concerning such exclusions.

\textsuperscript{77} As Phillips, 1995 has argued, a similar problem arises when we consider quota systems as possible mechanisms for providing for the representation of groups in parliamentary systems of government. Without some clear sense of their constituency and a mechanism for making possible their accountability to that constituency, there is only a limited sense in which persons elected as members of particular groups can be said to represent those groups.
§5.6 The Problem of Crosscutting Groups

I have suggested that respect for difference requires a heterogenous public sphere in which social groups may attempt to serve their particular commitments by demanding rights appropriate to them and by pursuing them in discursive spaces that reflect their particular experiences and their traditions regarding debate of public affairs. Unfortunately, however, such arrangements may not always overcome the other difficulties that I argued above haunted a federal solution to the problem of difference. The crosscutting and overlapping of difference will mean that individuals will be members of many groups, each which may prefer a different set of rights to serve their particular way(s) of life and these sets of rights may be incompatible. An important way of minimising these conflicts is confining the exercise of the differentiated rights to particular discursive spaces. But the problem of difference may also arise in these spaces. The discursive spheres established by each group may serve as a venue to promulgate only the vision of the good possessed by the majority of the members of the group and be insensitive to other axes of difference within the group.

§5.6.1 Further differentiation as a solution?

In some cases we may be able to respond to the crosscutting of group affiliations simply, by further differentiation of rights in our rights schema and through the recognition of further discursive spaces. That is, the rights of the members of the group defined by the intersection of the two groups may be different to the members of the remainder of either group and there may be a need for a distinct discursive sphere in which members of that group pursue their particular identity. The rights possessed by Aboriginal women, for instance, may be distinct from the rights possessed by Aboriginal men and by non-Aboriginal women. These rights may be individual rights stemming from group membership or “group rights” exercised by the group as a whole. Aboriginal women may also discuss and pursue particular commitments, that are not shared by Aboriginal men or by non-

78 Doppelt, 1998.
Aboriginal women, in a discursive space of their own. This process of reiteration may in theory continue indefinitely.\textsuperscript{79} Thus the rights of elderly Aboriginal women may be different again and elderly Aboriginal women may require their own discursive space... and so on.

But in many cases such a solution will be impossible. The sets of rights sought by each group to reflect their particular commitments will often be incompatible. Members of a group may collectively decide to bind themselves in order to preserve their particular commitments, in ways which restrict the ability of members of another group to pursue their preferred way of life.\textsuperscript{80} Either the existence of the discursive spheres maintained by another group or the activities that occur within them may be destructive to the culture of a group and so they may restrict the rights of their members to access and participate in them. Some of the most controversial examples of this phenomena concern cases where the traditions of ethnic or religious communities restrict the rights of women or the rights of dissident religious groups to practise their religion.\textsuperscript{81}

\textbf{§5.6.2 Individual rights versus group rights}

One important limit to groups’ rights to bind their members in this way are the basic human rights that I argued are a requirement of respect for individuals. While groups may bind their members they may not do so in ways which violate these basic rights. However beyond these basic rights, conceptions of individual rights and freedoms represent culturally specific and potentially controversial accounts that rest ultimately on our conceptions of the good. The ways of life these rights schemes promote can only be pursued in social groups. According to my account such conflicts are therefore best understood, not as a clash between

\textsuperscript{79} Although in practice various considerations of institutional feasibility will mitigate against the multiplication of different sets of rights and of, institutionally embodied at least, discursive spheres beyond a certain point.

\textsuperscript{80} Indeed the self binding of a group will usually have this consequence because it is precisely in order to prevent members of the group defecting from the efforts required to maintain the character of their culture that they decide to bind themselves.

\textsuperscript{81} Doppelt, 1998; Shachar, 1998; Okin, 1999.
the rights of individuals and the rights of the group, but as conflicts between the requirements of respect towards two social groups. This is not to say that these conflicts are always conflicts between the group rights of different groups (although this may sometimes the case). It will more usually be the case that these conflicts take the form of an individual right being asserted against a group. But even here, the justification for these rights rests in the shared understandings of a group. The most important case of conflicts between the rights due to individuals as members of one group and the rights of other groups concern the rights of citizens. That is, they concern clashes between the rights that society at large believes necessary for individuals to be able to pursue the good and those that some smaller group believe are necessary.

§5.6.3 Resolving inter-group conflicts

It seems therefore that there will be many cases where there exists a clear conflict between the requirements of respect for one group and for another. How can we resolve such conflicts? Before I attempt to answer this question, let me first emphasise again how serious such conflicts are. They are conflicts between different ways of life, founded in differences in shared understandings concerning what ends are valuable and what sorts of choices must be available in order to allow one to choose between them. There is no abstract way of answering these questions. I argued in Chapter 3 that choices about culture and liberty always implicate each other. A traditional liberal solution that privileges the liberty of the minority over the collective goals of the majority is not neutral here, because the contest is one between different conceptions of which liberties are valuable. The provision of liberties which allow members of the community to escape its self binding is likely to lead to the very changes in the culture those mechanisms were designed to prevent, with the consequent loss of the freedom to pursue those goods made possible by that culture. This is especially likely if the majority are themselves a minority in the wider society. Such an outcome is one that, if they are deeply committed to their conclusions on these matters, the majority of members of the minority culture may have no reasons – other than pragmatic ones – to accede to.
The existence of such dilemmas is precisely the situation that led us to discuss the role of respect in argument about justice in the first place. Consequently, the first part of a solution is the hope that these conflicts should be resolved by argument governed by respect between the different groups concerned. Acknowledging their nature as disputes between groups draws our attention to the fact that the "internal minorities" involved may be part of much larger groups. In argument concerning such conflicts, "internal" minorities may assert their identities as members of larger crosscutting groups in order to draw upon the resources and experiences of a wider range of people. Argument about the rights of individuals who exist at the intersections of the crosscutting group affiliations will then take place between these larger groups. An appropriate analogy for this process is the argument that occurs between nations about the way one country treats the nationals of another resident within its borders. It may also sometimes be possible to reformulate the dispute at a higher level in order to settle it. That is, it may perhaps be possible to draw on understandings that members of the groups involved share as members of a larger overlapping group in order to reach an agreement between them.

But the fact remains that in important cases these disputes cannot be resolved in this fashion, and as a result one or both of the parties appeals to the wider community and ultimately to the state to decide the matter. How then can we approach their resolution? Only by argument within the public sphere of the polis as to which forms of life are more important and (therefore) which liberties more valuable. If we cannot satisfy the claims of both parties to pursue their preferred ways of life, the national political community will face a choice as to which and how much difference it is willing to respect within it. However, given that the conflict is one within the polis, it is likely that these shared understandings will themselves be at stake in the dispute. Consensus may be difficult to reach. Where it fails, I can see no grounds other than a majoritarian solution. The respect due to every individual (that we choose to respect) requires that we take their opinion into account and weigh it equally. The fundamental rights of citizens that we affirm against the rights of social groups who wish to pursue
different ways of life and the relations between the rights of conflicting groups must ultimately be decided through the collective decision of society as a whole.

This is not to argue that when conflicts amongst ways of life occur these should simply be resolved in favour of the majority. Respect requires that different groups be granted rights and be allowed to maintain discursive spaces that will as much as possible allow them to pursue their particular way of life. Where it is not possible to satisfy different groups in this regard such disputes should be resolved by argument between the groups themselves and then ultimately between all members of the community. Yet when argument fails to resolve a particular issue, respect can be preserved by abiding by a democratic decision rather than resorting to force. In these cases respect is expressed by demonstrating the desire to continue to argue the issue in a forum in which others around us are acknowledged as equals.

A pluralism deriving from respect for difference is therefore what Chantal Mouffe has described as an agonistic pluralism. The foundations and limits of such a pluralism are themselves the subject of an ongoing argument governed by respect in a communicative democracy. Conflict and argument about consequences of respect and their limits are an inevitable feature of political life in a pluralistic society. The conclusions we reach about these matters are forever provisional and must be continuously re-established and reaffirmed through argument. Their status remains that of understandings that we have reached in our particular circumstances rather than a set of principles that are valid for all societies at all times.

§5.6.4 A virtue of the account

I want to draw attention to a further advantage of the pluralism that I have set out here over competing alternatives, which is a kind of parsimony and a consequent flexibility or sensitivity to context. Unlike liberal nationalist or communitarian

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accounts, it does not divide the realm of moral/political relations into two distinct spheres comprising of relations between groups and relations within them. Both liberal nationalism and communitarianism privilege one group boundary as marking a distinct break in the spectrum of our relations with those around us. Although they draw it in different places, each settles on a particular form of group identification that marks the boundary between “us” and “them”. This penchant for division is something that liberal nationalists and communitarians have in common.\textsuperscript{83} Liberal nationalists draw this border around the “nation”, communitarians around that ill-defined group that is our “community”. Our relations with those on each side of this boundary are theorised differently and may even come under the purvey of different disciplines. Relations between nations, for instance, are thought by liberal nationalists to be governed by a different set of considerations than relations within them and are therefore the subject of the discipline of “international relations”. Communitarians believe that we have a different set of obligations towards members of other communities than towards members of our own community and a different set of rights within our community than in the broader society.

Now it is true that my account too makes such divisions. I have argued for the institutional recognition and protection of certain social groups, a heterogenous public sphere consisting of a multiplicity of different discursive spaces, and a differentiated set of citizenship rights. As we will see below, I also acknowledge that given the institutional importance of the nation state for the foreseeable future, in establishing the public spheres in which argument takes place, the boundaries between nations will often have a special significance in practice. But rather than offering one set of considerations to regulate relations within groups and another between them, I have argued for a single set of considerations that apply at any level. Because, as I have argued, we are each members of many groups defined by difference, that shared experiences, commitments and understandings can exist within any of these, and that the significance of each axis

\textsuperscript{83} One of the laudable results of the liberal-communitarian debate has been to make the criterion upon which liberals would settle such questions of the drawing of borders or of the limits of
of difference changes with context and the political issue under contention, the boundaries between different groups, spheres and rights cannot be drawn in just one place. There is not just one type of group that is important to human flourishing. While boundaries must be drawn, I deny that these should always follow the same contours. Where we draw the boundaries between groups will depend on the groups involved, the particular issue the boundary relates to and a host of other considerations. 84

Of course, committed and consistent cosmopolitan liberals can also lay claim to the virtue of parsimony in this area because they recognise only one possible set of relations between persons, those between individuals. But cosmopolitan liberals achieve this simplicity at the cost of granting adequate weight to those considerations that communitarians have succeeded in bringing to our attention: the embeddedness of persons in culture, the role of that culture in structuring our responses to the choices available to us and the consequent importance of our particular commitments in our reasoning about political institutions. Furthermore, as I suggested earlier, few liberals are willing to embrace a truly global cosmopolitanism. The thorough-going individualism of cosmopolitan liberalism makes it difficult for it to adequately account for the ways in which our existing political institutions and intuitions already give weight to our various group affiliations. To the extent that liberals do concede that their schemes of rights are national schemes, and that the world is properly divided into states whose governments have authority over different populations, then they have complicated their theoretical task and sacrificed this simplicity.

The sensitivity to context of my account also means that it is better able to do justice to the complexity of the issues in the area and consequently our different intuitions in different cases. If we set the boundaries between groups in one place, we run the risk that the arguments that justify their presence at that point in the citizenship much more controversial and thus more explicitly noticed and discussed.

84 Young, 1997a, 52-3 suggests that a context sensitive account of the boundaries of groups has become increasingly necessary as globalisation has increased the number of layers of governmental and regulatory jurisdiction.
majority of cases may nonetheless justify drawing them in another way in a minority of cases. In which case we will find ourselves in the embarrassing position of having to explain why we are willing to disregard, in these instances, the very concerns that we find so important in the majority of cases. Critics will then be able to draw upon these vacillations to undercut our position. Such a strategy has indeed been a prominent feature of the liberal-communitarian debate. Each side has attempted to show how the concerns of the other lead in a different direction in problem cases and by doing so to undermine the plausibility of their account. Communitarians have pointed out that the universalism of liberalism renders it difficult to account for the importance of national borders and citizenship in determining the rights we have as individuals. Or alternatively, that the distinct cultures and differences in shared understandings that justify existing national sets of rights in the eyes of liberal nationalists also exist within nations. Feminist and liberal critics of communitarians have responded by pointing out that the “shared understandings” of communities are not as homogenous as communitarians claim and that there may be commonalities and shared experiences amongst other groups such as women or homosexuals which extend across and between communities that communitarians have failed to recognise.

My account has the advantage of being sensitive to the shifting balance of these considerations. If the same balance of considerations that suggests that we should provide a indigenous community with rights to protect its culture suggests that we should recognise the rights of women to a forum of their own in which to celebrate and consider their shared experience, then my account embraces this conclusion. But if, in other circumstances, our concern for the right of a minority within some community to pursue their particular conception of the good gives us reason to limit the obligations the community can place on the members of the minority, my account can accommodate this also. My account also embraces the recursion that occurs with the determining of each new boundary. It acknowledges that no group is the absolute horizon of its members’ identity and that within each group there may be other groups in which people find themselves. There are groups within groups within groups and the problem of their relations cannot be settled simply by deciding to dismiss the problem of
“internal minorities” by ceasing to take seriously our concern for them at some arbitrary point in the recursion.85

§5.7 When Respect Fails

As I suggested in the previous chapter, respect is by no means a necessary response to the fact of difference as encountered in disputes about justice. There will be many cases where respect fails. We may encounter persons, beliefs or practices so alien to us as to render respect for them impossible. If the gulf between their world view and our own is too large and their opinions about justice too repugnant we may be unable to understand or relate to them except on a model of moral or rational deviance.

In some cases we may try to respect another but fail. That is, although we make the attempt, we cannot discover or establish sufficient common ground for us to continue to argue productively about justice.86 Sometimes our attempt to respect another and the facts that we discover in the course of that attempt may render us even less able to respect them than when we initially encountered them. Our efforts may simply further convince us that the other’s position is beyond the pale.

Where it occurs, the failure to respect another is often not the result of a choice. Rather the natures of the parties to an encounter may be such that for each to respect the other would be impossible – without rendering them different subjects in the process. On the account of identity I have developed, our conceptions of the good are part of what makes us the people we are. Holding any conviction firmly involves denying others. Sometimes it involves denying that other views are reasonable in any way at all. Thus, for instance, a genuine and serious egalitarian may not only deny that “women are inferior” but may also hold that such a statement is self-evidently false and consequently that one would have to be mad to believe it. These “secondary” convictions are not incidental to their

85 Green, 1995.
86 Perhaps because they refuse to respect the rights of other groups within a pluralist society.
egalitarianism but essential to it. This feature of individual convictions is even more pertinent to our conceptions of the good, which include not only a set of convictions but also criterion by which to assess moral agents. Not only do our conceptions of the good describe the sort of lives we think valuable but they also describe those which we find unthinkable. Sometimes therefore we will not be able to respect another without sacrificing our commitment to our own beliefs. For a sincere pacifist to respect General "Stormin' Norman" Swartzkopf, for example, would be to betray their pacifism. In cases like these, to respect the other would be to deny an integral aspect of our own identity. It is impossible for us. We can achieve it only at the cost of becoming different people in the process.

Alternatively, another party may find it impossible to, or choose not to, respect us. In the face of another's failure to respect us it may be possible to continue to attempt to establish or maintain respect for a short time. However, the likelihood is that as a result of their failure to respect us they will act towards us in ways which make it impossible for us to respect them. The dialogic nature of respect renders it increasingly difficult and eventually impossible to establish respect where the desire to do so is not reciprocated.

Hence respect has definite limits. For any given person or group there will be activities and persons which it will be impossible to respect. Importantly, not only can we not respect some parties but we will not wish to do so. We will not wish to acknowledge these persons as possessing views within the range of respect. Nor should we wish to attempt to understand them, as is essential to respect. If we were to say, of a child molester for example, "I can understand why they do that", we have confessed to something frightening about ourselves. It is not necessarily the case that in doing so we are merely uncovering or admitting

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87 See here Strawson's discussion of the role played by "reactive attitudes" in our relations with others (Strawson, 1974, 4-10).
89 As Young, 1997b, 54-6 argues, drawing on Derrida, respect has the structure of "the gift". It is proffered outside of and without the expectation of a relation of reciprocity. Yet if this gift is rejected the possibility of further such offerings is foreclosed.
what is already present within ourselves. Understanding others involves an effort of sympathy and identification. It involves engaging with people, learning about their lives and beliefs, and trying to make sense of these. This effort will not leave us untouched. The process of establishing respect may itself transform a person in an ethically significant sense. In these cases we may recognise that if we were capable of, or became capable of, such respect, it would represent a moral failure on our part. That is we would no longer be the sort of people that we want to be if such respect existed. In such cases respect for the other is corrupting. It can only be achieved at the expense of our commitment to our own values – and thus to our selves.\textsuperscript{90} In these circumstances rather than trying to understand the other we would do better to avoid all contact with them.

We may also recognise that if we did come to respect such people then through argument we might come to share even more with them. We cannot guarantee that when we engage in respectful argument our views will remain untouched. The logic of such argument has the power to change our views against our original intentions. Indeed the aim of respect is to allow the possibility of such a result. Respecting others always involves the danger then that we may become like them. If “they” are persons we currently loath and despise then we have good reasons not to wish this to occur. We should be extremely wary therefore about attempting to respect such people.

When we come into contact with others whom we do not respect, we must assess carefully the consequences of trying to respect them. It may be that we have overwhelming reasons not to. Or perhaps we simply cannot. In either case we go beyond the acknowledgment of difference to postulate a failure of moral or rational personhood on the part of the other. They are not just different but depraved or criminally stupid and their ideas are mad or unreasonable.\textsuperscript{91} In the

\textsuperscript{90} Gaita, 1999, 157-186.

\textsuperscript{91} Although as argued in §4.5 the status of this attribution will be different than that claimed by philosophical liberalism.
absence of respect we relate to such persons by avoiding contact with them or as obstacles to be overcome in a realm of force.

§5.8 Citizenship and Solidarity in a Pluralist Society

An important corollary of the possibility of our not respecting the other is that where we do respect others we acknowledge that their views are not of this sort. We may not like them or agree with what they are saying but the fact that we even consider the point arguable shows that we believe them to be within the realm of moral possibility. We have this much in common with those we respect: we recognise them as equals and we acknowledge that their views are within the range of disagreement that can be ascribed to difference. However the extent of this respect is potentially global. We may be involved in arguments about justice with others with whom we share little else. While it is sufficient to the resolution of disputes about justice, respect alone is too “thin” a relationship upon which to found a society.

But when groups are participants in a history of argument across difference we can begin to speak of them as members of a community. A history of argument in which respect is offered establishes an expectation that future disputes will also be addressed within the bounds of respect. This expectation may then form the basis for a sense of solidarity within the community. Its members come to expect that their actions towards one another will be constrained by respect and recognise this expectation as an important tie that they do not have to those outside the community. Moreover, a history of argument allows a community to develop a set of shared understandings that they have created and discovered in the course of past argument. These understandings may of course always be called into question through the assertion of difference within the community. Nonetheless, these shared understandings, even when they are disputed, form the starting point of further argument.

I have argued that such histories exist within many groups defined by difference and that these communities should be granted a much greater level of recognition than liberalism has typically allowed. However, it seems likely that even if the
state does come to recognise difference to a much greater extent, for the foreseeable future human affairs will largely remain organised through and around the national (or "multi-nation") state. The boundaries between states will continue to mark important boundaries with regards to groups that engage in collective deliberation and self binding, and states will play an crucial role in establishing the legal and institutional context within which different ways of life can be pursued. The (heterogenous) public sphere established by the deliberations of the members of states (citizens) will a forum in which an important set of arguments about justice take place. Within this forum shared understandings established by a history of argument will accumulate and be reaffirmed or contested.

However it might be thought that my emphasis on difference denies the possibility of shared understandings across such a society and is incompatible with the existence of the ties of mutual identification and solidarity that are necessary to maintain civil society. I have dealt with the first part of this objection in §5.2.1 above, where I argued that it was based in a (mis)understanding of difference as absolute otherness. Groups that choose to respect one another will always share or be able to create some shared understandings. But will these be sufficient to establish a sense of solidarity? What will prevent a social order founded on respect for difference from degenerating into a patchwork of ghettos, with each group insisting on its difference from all around it and refusing to engage in common projects or acknowledge wider identities? Mightn't such a society fall apart, disintegrating under the pressure of the claims for increasing numbers of groups to have their difference recognised?

Before I attempt to address these concerns it is first worth noting that the problems of difference will not disappear simply because they are ignored and this means that universalist models of citizenship also face these challenges. The institutional denial of difference and insistence on a universal model of citizenship based on the assertion of equality as sameness does not mean that difference ceases to exist. Indeed, given that a neutral or universal set of institutions are impossible, the failure to acknowledge difference means the imposition of institutions that respond to the particular needs and experiences of one identity at
the expense of all others. Furthermore, patterns of social behaviour such as racism, sexism and homophobia that reflect, reproduce and create difference do not disappear because they are not represented in, or are even denied by, the official institutions of government and law. Where they continue to exist principles of justice that are blind to difference may simply reproduce injustice. These injustices and the frustration of being denied recognition may lead to those whose values are excluded from the public sphere to feel that participation in the "common" culture has little to offer them. As a result they may assert their difference all the more vigorously and demand more radical measures than those I have suggested here, including separatism. In this way the refusal to recognise difference may lead to the very outcome it is intended to prevent.

The impossibility of eliding difference and the dangers involved in demanding that all must participate in a culture, the values of which are affirmed by only some, suggests that in modern multicultural and postmodern societies we have no alternative but to acknowledge difference. The extent to which we may do so within a political community, and the nature of what it is that members of such a community must share, are profound and difficult questions to which I will not be able to do full justice here. However, there are a number of reasons for believing not only that a pluralism of the sort I have advocated need not necessarily undermine civic solidarity but that it may even foster and encourage it.

First, a society governed by respect for difference recognises multiple groups that crosscut and overlap each other and whose boundaries shift with political context. This means that persons who conceive of themselves as being members of different groups with different values in one circumstance may identify as members of the same group in another. Some of these groups, such as "men" and "women", are very broad and so their members will identify in some respects with large segments of society and across many other axes of difference. But because

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92 Young, 1990a, 164-165; Bader, 1999, 600.
93 For a survey of some of the issues in the area, see Kymlicka and Straehle, 1999. See also Taylor and Gutmann, 1992. For an answer from a contemporary liberal perspective, see Habermas, 1993.
of the shifting of identity, individuals are connected by relations of identification and solidarity to a much larger set of persons than are members of any of the groups with which they identify. This shifting of identification also operates to prevent differences from ossifying into boundaries that are conceived as absolute exclusion.

Secondly, argument across difference involves discovering and establishing common ground with the other. As each argument is resolved the potential for resolving the next increases because the parties have developed a better understanding of each other’s beliefs and values and are more aware of the commitments they share. It is true that respect for difference requires this common ground never be assumed, but that does not necessarily mean that it is not there. The shared understandings which are established by a history of argument across difference may then form the basis of mutual solidarity across and between different groups.

Thirdly, even when individuals do assert their difference and identify strongly with a particular group across a wide range of their activities, it may paradoxically be the case that these groups may play an important integrative function in relation to the rest of society. As Michael Walzer suggests, it is within smaller associations that we learn the virtues that enable us to participate as citizens in the broader society. The existence of strong narrow identities may be a reasonable price to pay for the education of an active and confident citizenry who in other circumstances may deploy these skills in public affairs more generally. The capacity of groups to assert their difference while still remaining part of the broader society may also provide an important safety valve, allowing for the expression of civic vices such as ignorance, bigotry and intolerance, within these groups, by those who would otherwise express them in the public sphere.

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94 Fraser, 1993, 127.
95 Walzer, 1994b. See also Macedo, 1996.
96 For an extended investigation of the role played by groups and associations in a pluralist society, see Rosenblum, 1998.
Finally, of the many shifting and crosscutting identities that members of society governed by respect for difference experience, an important identity remains that of being a citizen. Citizens share an institutional setting established by the state and are united by being participants in a common history of argument about justice. Although the shared understandings deriving from that history may be contested, citizens recognise that it is the shared understandings of their national community that are under dispute. This process is in normal circumstances a piecemeal one which leaves the majority of these understandings intact and indeed reaffirmed as the background against which the dispute takes place and with reference to which it will, if possible, be resolved. An important class of shared understandings within the state are those that establish a context which determines the form of respect, as discussed above at §5.2.1. These understandings, about appropriate modes of address, greeting and other expressions of mutual recognition, allow citizens to affirm their respect for each other in the course of argument about justice. These may remain intact even when more substantiative understandings are being contested. Of course, in some cases citizens may share much more than this; they may share a language or common religion, or some other set of substantiative commitments. In many cases, however, the shared commitments of citizens are the consequences and not the grounds of nationhood.

§5.9 Conclusion

The failure of philosophical liberalism in the face of human difference does not have the disastrous consequences that critics of philosophical communitarianism have feared. In the absence of reasons available to all rational persons sufficient to settle questions of justice, it remains possible to engage in argument and criticism of each other by having recourse to what I have described as "respect for difference". A society in which disputes about justice are resolved by

97 Of course these modes of recognition may themselves be contested (think of the ways in which feminism has challenged sexist modes of address and recognition). But again this process is usually a piecemeal one which does not deny the identity of the parties to the dispute as citizens.
argument governed by respect forms a communicative democracy, which sustains
a sense of social equality through the acknowledgment of difference. The respect
through which argument about justice becomes possible consists in a sensitivity to
the specificity of the other that derives from their membership in a multiplicity of
crosscutting social groups. Because of the importance of social groups in
providing the context of choice within which we choose our ends and because
social groups are themselves participants in argument about justice, respect
requires that we allow groups to, as much as is possible, maintain their particular
ways of life. But because these groups are social groups defined by difference,
rather than the ethnic or national cultures preferred by communitarians, the
crosscutting of these groups disrupts the potentially authoritarian consequences of
communitarianism. Instead it generates a pluralist "politics of difference", with a
heterogenous public sphere and a differentiated scheme of rights. Conflicts
between the rights demanded by these different groups will be endemic to such a
pluralism and resolutions of these conflicts must themselves be sought in
argument governed by respect.

These conclusions are the beginning of argument about justice rather than its end.
It is a consequence of the abandoning of the universalist ambitions of
philosophical liberalism that questions of justice cannot ultimately be settled in
the abstract. In this final chapter, I have attempted to describe the circumstances
in which we might engage in the debates necessary to settle questions about
justice in a modern multicultural society. A fuller account of what justice in a
multicultural society consists in must await the outcome of argument across
difference.
References


