

LIBERALISM, MULTICULTURALISM AND  
NATIONAL MINORITIES: A STUDY IN  
COMPATIBILITY.

By

JEREMY W. JORDAN

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Oklahoma State University


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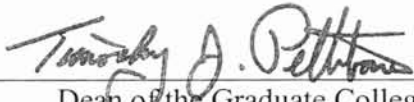
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Thesis Advisor





  
Dean of the Graduate College

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INTRODUCTION: LIBERALISM, FREEDOMS, AND NATIONAL MINORITIES

There is a resurgence of discussion regarding the rights of ethnic and national minorities in liberal democracies. This is hardly a new feature within liberalism, whose theorists have traditionally vacillated concerning the challenges presented by the presence of national minorities in nation states. Yet from WWII until the early 1990's, little could be found in the literature of social theory that attempted a sustained and in-depth analysis of what is now one of the most hotly contested issues within the liberal tradition.<sup>1</sup> Since that time however, there has been an explosion of writing on the subject as growing difficulties within liberal democracies concerning their approaches to multiculturalism, national minorities, and the demands of polyethnicities have forced liberal theorists to reconsider their approach by considering extending group rights to various types of minorities.

This work examines the relationship between liberal theory and the group rights claims of national minorities in the United States, with special emphasis on Native Americans, and then proposes that group rights can in fact be seen as a logical extension of liberal principles when applied to national minorities. I will argue that liberal theories that focus solely upon individual rights cannot adequately promote the goal of freedom that is liberalism's paramount concern, and that, counter-intuitively, group rights are in fact necessary to promote the equal distribution of individual freedoms within a liberal government. I will demonstrate this by arguing that any liberal nation will, by its nature,

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<sup>1</sup> For a more in depth discussion of the history of the liberal tradition, see Kymlicka, 1989a:CH10; 1991

tend to systematically advantage some groups within its borders while simultaneously disadvantaging other groups. This condition, if left uncorrected, represents a severe violation of both the principle of neutrality and the principle of rational revisability, which are both core concerns within liberal theory. This leads me to argue that the best way to correct this bias is through the extension of group rights to national minorities in order to mitigate the unequal distribution of burdens that are perpetuated by government and other social structures.

## CHARACTERISTICS OF LIBERALISM

Michael Sandel provides one of the better-stated general descriptions of liberalism, when he defines liberalism as a theory that “gives pride of place to justice, fairness, and individual rights. Its core thesis is this: a just society seeks not to promote any particular ends, but enables its citizens to pursue their own ends, consistent with a similar liberty for all...” (Sandel, 1984: p.13)

Sandel notes in *Democracies Discontent* that liberalism can take many forms and at times these forms can seem to be polar opposites. Arrayed on the right wing of liberalism are such theorists as Robert Nozick, David Gauthier, and John Stuart Mill, who affirm the inviolability of property rights, and who oppose most forms of state redistribution of resources except for extremely limited purposes. Championing the left-wing of liberalism are theorists such as John Rawls, Ronald Dworkin, and Bruce Ackerman, who affirm the necessity of rectifying undeserved inequalities, seeking to redistribute social resources to secure the well being of the least advantaged.

## TRADITIONAL LIBERAL PRINCIPLES

Depending upon which pole of liberalism one tends to focus upon, its characteristics can vary greatly; yet at least two central claims seem to pervade all stripes of liberalism. The first, rational revisability, makes the claim that individuals have the capacity to revise their own ends and do not possess fixed, unalterable conceptions of what is to be considered morally good. Instead, the individual is seen as being able to change those moral allegiances and their concomitant ends if they are no longer thought to be sound principles by which to live one's life. The state promotes rational revisability by ensuring that individuals and groups who seek to limit autonomy in this sense are unable to invoke the coercive power of the state in order to do so. Further, the state provides educational opportunities that allow, and may even encourage, one to cultivate the capacity to rationally revise one's conception of the good. (Debating Democracy's Discontent 1995, p. 133)

The second idea that most forms of liberalism share is that the state should remain neutral among competing conceptions of the good. This is manifested through the refusal of the state to authorize legislation that appeals to a particular conception of the good as being intrinsically superior to other conceptions as the reason for its adoption. The state is to protect the capacity of the individual to judge which conception(s) of the good has more value, and to create a fair distribution of social goods and resources commensurate with empowering individuals to pursue their own conceptions of the good. The state further defines property rights and transferal practices, and insists that all of its citizens respect the rightful claims of others, even if it requires them to adjust their own

conceptions of the good. (p. 133) An astute observer may note that the idea of the state remaining neutral among conceptions of the good seems to contradict the idea that the state may require individuals to adjust their own conceptions of the good in some cases. This challenge is typically answered through the development of the 'harm principle'.

Mill defines the harm principle in the following fashion,

"That principle is, that the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant. He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinions of others, to do so would be wise, or even right. These are good reasons for remonstrating with him, or reasoning with him, or persuading him, or entreating him, but not for compelling him, or visiting him with any evil in case he do otherwise. To justify that, the conduct from which it is desired to deter him must be calculated to produce evil to someone else. The only part of the conduct of anyone, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign." (Mill 1975, p. 10-11)

So, according to Mill, the only conditions under which society may interfere with an individual's actions are in those cases where said actions will harm others or where the individual's exercising of an action will prevent a similar exercise by another person.

Yet there remains a third characteristic of liberalism that is peculiar to the more left-wing liberal theories and which can have a significant impact upon how liberal theory ultimately plays out; specifically, the rectification of morally arbitrary inequalities. Morally arbitrary inequalities refer to those inequalities which were neither chosen nor deserved and which "A liberal theory of justice will insist that individuals can come to have different holdings as a result of different choices that they have made about how they wish to lead their lives...However, if people have unequal holdings as a result of their circumstances—rather than their own choices—then these are morally arbitrary and unjust. Sources of morally arbitrary inequalities include not only social

circumstances...but also natural endowments...” (p.134) It is this left-wing tradition within liberalism that I believe will offer the solution to the apparent tension between offering group rights while remaining within a liberal context. I will further argue that offering group rights to national minorities will allow liberalism to finally make good upon its promises of freedom and equality.

#### DEFINITION OF ‘NATIONAL MINORITY’

Although the use of the term ‘national minority’ is now quite common in the literature, I will follow Will Kymlicka’s formulation. Kymlicka explains his use of the term by first defining a nation in the following fashion, “[A] ..‘nation’ means a historical community, more or less institutionally complete, occupying a given territory or homeland, sharing a distinct language and culture...A country which contains more than one nation is, therefore, not a nation-state but a multinational state, and the smaller culture forms a national minority”. (Kymlicka 1995, p.11) Examples of national minorities within the United States include American Indians, Hawaiian Island natives, Puerto Ricans, and various Pacific Island natives. This list is not to be considered exhaustive of the national minorities within the United States, but should help to illustrate when combined with the above definition what is meant by the term ‘national minority’. This can be contrasted with ethnic minorities, who typically choose to immigrate with the expectation of integrating into the new nation, with the eventual hope of becoming full citizens. While ethnic minorities sometimes seek greater recognition and accommodation of some of their ethnic customs, they rarely have the expectation or the aim of becoming a self-governing state within the larger nation; instead they typically

choose to enter into their new nation in a way that more or less fully integrates them with other citizens. While other types of minority groups do exist within the United States, it will not be the purpose of this paper to directly address their potential claims to various types of group rights.

## DEFINING GROUPS

One of the classic difficulties in proposals involving group rights resides in the indeterminacy of group membership. Given that group membership seems to be somewhat fluid, how can one as a matter of policy offer protections to a group without either benefiting those who shouldn't or failing to benefit those who should gain such protections? In the case of some national minorities, this case is made somewhat easier by the presence of genetic evidence that can serve as a biological basis for group membership. However, this criteria doesn't apply to all national minorities and therefore may only be beneficial in those cases where such a luxury is available or desirable. For the purpose of showing why some groups should be granted group rights, we shall need to pursue those characteristics of group membership that are relevant to the justification of the group rights. While other types of rights or group conditions may exist, I will remain focused upon those characteristics that apply to group membership within national minorities. In *National Self-Determination*, Avishai Margalit and Joseph Raz provide the following criteria for group membership, which I believe should offer some assistance in defining a group. (Margalit 1990)

First, a group needs to have ‘a common character and a common culture that encompasses many, varied and important aspects of life, a culture that defines or marks a variety of forms or styles of life, types of activities, occupations, pursuits, and relationships’. (p. 443) In the case of national minorities we might expect to find national cuisines, a common language, distinctive literary and artistic accomplishments, construction of a form of government, shared customs, distinctive styles of dress, etc. While none of these is necessary, they do serve as examples of the features that characterize peoples into groups. Their cultures are, or were, institutionally complete and offer cultural traditions that penetrate beyond a few areas of human life, ‘and display themselves in a whole range of areas, including many which are of great importance for the well-being of individuals. (p. 443-444)

Second, and correlative to the first feature, is that people growing up in such a culture will be marked by its character. Their tastes and options will be affected by that culture, possibly including the types of careers open to one, ‘the leisure activities one learned to appreciate and is therefore able to choose from, the customs and habits that define and color relations’ with others, and the ‘patterns of expectations and attitudes between spouses and among other members of the family, features of lifestyles with which one is capable of empathizing and for which one may therefore develop a taste’. All of these features will be affected by membership within the group but not indelibly so. Individuals may choose to migrate to other cultural environs, but this process is typically slow and painful, and often marked by imperfect achievement. “The point made is merely the modest one that, given the pervasive nature of the culture of the groups we

are seeking to identify, their influence on individuals who grow up in their midst is profound and far-reaching.” (Margalit 1990, p. 444) This point needs to be established in order to connect concern with the prosperity of the group with concern for the well-being of individuals.

Third, typically membership within the group is a matter of mutual recognition rather than of achievement. Among other conditions, one is recognized by other members of the group as belonging to it. Other conditions may be accidents of birth or the sharing of group culture, etc. Membership within these groups is often a matter of informal acknowledgement of belonging, rather than through any official procedure. (p. 445)

Fourth, membership within the group is important for one’s self-identification. Membership within the group carries with it a ‘high social profile’ that results in not only in the perception of a group as such, but also serves as ‘one of the primary facts by which people are identified, and which form expectations as to what they are like’. Not only does membership within the group affect the views of those outside of the group, but it also serves as an important identifying feature for each group member about himself/herself. (p. 446)

Fifth, ‘membership is a matter of belonging, not of achievement’; one does not have to prove oneself, excel at something, etc, in order to be considered a member of the group. ‘To the extent that membership normally involves recognition by others as a member, that recognition is not conditional on meeting qualifications that indicate any



accomplishment'. Membership is often non-voluntary, in as much as one belongs because of who one is. One can come to belong to such a group by adopting their customs, tastes, habits, etc., but this change would presumably be a very slow process. The fact that membership within the group is determined by belonging and not accomplishment makes these groups more secure, and thereby allows for secure identification with the group, which makes groups suitable for their role as a primary foci of identification. (p. 446-447)

Finally, groups are not small gatherings of people whose members are generally known to all other members. They are large, anonymous groups 'where mutual recognition is secured by the possession of general characteristics.' This qualification is not arbitrary since small groups that are based on such familiarity, such as families, are markedly different in their relationships and interactions than are larger anonymous groups. Larger, anonymous groups 'tend to develop conventional means of identification' that often include 'the use of symbolic objects, participation in group ceremonies, special group manners, or special vocabulary', which serve to aid in identification of group members. These characteristics affect the way that others treat members as well as the ways in which members will react to others. (p. 447)

These six criteria combined with the early list of characteristics of national minorities should suffice to provide a reasonably clear definition of what can qualify as a national minority group.

## CHAPTER TWO

### DEFINITION OF RIGHTS

Liberalism in all of its manifestations has attempted to promote individual freedoms and the autonomy of the individual. Given its emphasis on the rights of the individual, it is often argued that liberalism has no place for group rights within it. After all, if the rights of each individual were assured, then it might be contended that no groups would require special rights as their interests would already be represented and protected through each of their individual claims. Yet is this actually the case? In order to see that it is not, a look into the character of rights seems to be in order.

### JOSEPH RAZ'S CONCEPTION OF RIGHTS

Joseph Raz offers the following general definition of how people come to possess rights, which will serve as a starting point. "'X has a right' if and only if X can have rights, and, other things being equal, an aspect of X's well-being (his interest) is a sufficient reason for holding some other person(s) to be under a duty." (1986. p166)

Raz's claim is not that any interest is capable of generating a right, but rather that my interest yields a right only if it is an interest that is serious enough to create a duty for others. As Peter Jones explains "...for Raz, rights and duties do not stand in a merely correlative relation; rather, normatively, the logic runs from rights to duties in that it is an aspect of my well being that provides the reason for another's having a duty. In that way, rights ground duties." (1999. p357)

Raz is also willing to extend moral rights to groups or collectives if they meet the following conditions, “First, it exists because an aspect of the interest of human beings justifies holding some person(s) to be subject to a duty. Second, the interests in question are the interests of individuals as members of a group in a public good and the right is a right to that public good because it serves their interest as members of the group. Thirdly, the interest of no single member of that group in that public good is sufficient by itself to justify holding another person to be subject to a duty.” (1986, p.208) On this model of rights, a national minority may generate a group right on the basis of sharing an interest in the maintenance of the culture through which they developed a way of life and secured their identity. While the interest of any one of these individuals may not be sufficient on this model to secure a right, the communal interest of the whole group may suffice to generate a right.

Raz’s conception of group rights, it may be noted, allows for nearly any group to be able to generate rights and thereby duties upon others, as long as the group shares an interest of sufficient moment to spawn a rights claim. This characteristic allows for the possibility that nearly any group could claim a group right if their interest was sufficiently linked to some aspect of their well-being that was sufficiently important to merit protection. In order to better explain what ought to be considered for protection under the aegis of group rights, and which rights should continue to be defended in terms of individual rights, I appeal to the following clarification.

## DENISE RÉAUME'S CLARIFICATION

Denise Reaume offers a vision of what such a conception might be characterized as in *Individuals, Groups, and Rights to Public Goods* where she argues that clean air, for example, is a good public to a community of breathers, but it is consumed by each privately rather than publicly: each inhales and enjoys the benefits of clean air as an individual. Indeed, the case of clean air seems to indicate that some public goods might reasonably be the objects of individual rights, that is, each individual's claim is sufficiently weighty to entail a duty upon others not to contaminate the breathing environment. On this model, someone who pollutes the air violates the right of each affected individual, rather than a group right possessed by the entire body of air consumers. It follows then that even though a group can have a right to a public good, not all rights to public goods need to be group rights.

By adopting a conception of group rights that serves to limit the possible objects of group rights, it narrows the scope of what can be considered a group right as such, while still maintaining a robust conception of individual rights. But even with such a limiting of what can rightly be considered a group right, a significant array of objects still remain that could be considered bearers of group rights. Take for example those public goods that are 'public' in a special sense such as 'participatory goods'. A 'participatory good', is a type of public good that, due to its nature, must be enjoyed publicly if it is to be enjoyed at all. As Reaume explains, "They involve activities that not only require many in order to produce the good but are valuable only because of the joint involvement of many. The publicity of production itself is part of what is valued—the good *is* the

participation.”<sup>2</sup> Examples of this sort of good include friendship, team games, living in a cultured society, sharing a common language, and being a member of a religious community among others. It is this sort of right that the liberal governments of the world have had difficulty fairly promoting in multinational states by remaining largely focused on the promotion of individual rights.<sup>3</sup>

In individual-centered liberal theory, participatory goods such as those mentioned above are to receive no special protections, since this would seem to be privileging a particular conception of the good and therefore violating the principles of equality and ethno-cultural neutrality. However, I will argue in the following sections that such a ‘privileging’ in fact better serves the liberal demands of ethno-cultural neutrality and equality; since under any liberal government certain inequalities will inevitably result from the state’s structural configuration that will unfairly restrain certain groups within those societies while serving to promote the lifestyles of other members of the state. Specifically, I will argue that the nation building agendas of liberal governments have often served as a destructive force upon national minorities, and that liberal theory needs to be reexamined in light of the historical realities of the national minorities within the state.

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<sup>2</sup> Reaume, ‘Individuals, Groups, and Rights to Public Goods’, p10

<sup>3</sup> or more accurately, by remaining focused on the individual rights of the dominant majority. See chapter IV for more on this argument.

## CHAPTER THREE

### IMPACT OF LIBERALISM UPON NATIONAL MINORITIES

While one can certainly argue that liberal theory has never been perfectly implemented by those nations that profess liberal ideals, one cannot say that it has been completely ignored. These embodiments, in the form of liberal governments, can provide valuable insights as test cases for liberalism and perhaps serve as indicators of more fundamental theoretical difficulties. Additionally the contextual realities of the relative status of national minorities, combined with a historical account of how they arrived in their present condition can provide crucial information in both how liberal governments can now deal with the problems presented by national minorities and what solutions might best be employed to meet the requirements of social justice.

I will argue that the impact of liberal governments upon national minorities has at best produced ambiguous results, and at worst has been an unmitigated disaster. Further, I will claim that a particular conception of liberalism can be identified as having contributed to many of the difficulties that liberalism has had in the accommodation of national minorities.

### MILL'S CONCEPTION OF NATION STATES

Following John Stewart Mill, individual-centered liberals have argued that democracies must be a government 'by the people'. But which people was Mill actually referring to? In the cases of states that possessed multiple nationalities, Mill might better be read as advocating a government 'by a people', for the following reason. For Mill, the

ties between nationality and effective democracy were very close indeed, for he believed that a rule ‘by the people’ was only possible if those peoples within the democracy truly did see themselves as a single people who shared a common nationality. For established nations, this meant that any national minorities should be assimilated as rapidly as possible into the dominant majority, since a common nationality was thought to be a necessary condition in the formation of effective democracies. Indeed, Mill was skeptical that multinational states could form free institutions as evinced by the following “Among a people without fellow-feelings, especially if they read and speak different languages, the united public necessary to the workings of representative institutions cannot exist...[It] is in general a necessary condition of free institutions that the boundaries of governments should coincide in the main with those of nationalities.” (Mill 1972;230,233; cf. Kymlicka 1995)

Ironically, this could actually be used to pose an argument for granting national minorities independent state status, but Mill never considered such an approach since he saw it as a duty of liberal governments to take a paternal view towards the ‘backward’ nations of the earth and attempt to bring them into the fold of the ‘civilized’ world of modern states. In the United States, which will be the primary focus of this paper, a variety of measures intended to bring about the formation of a new liberal nation-state were used at various times, many of which worked to the clear detriment of those who can now be considered as national minorities. Of course, not all of the actions perpetrated by what would become the United States of America can be laid at the door of liberalism, as clearly some of the policies were the result of imperialism and other

familiar evils; nevertheless, many of the United States policies can be traced back to a right-wing strand of liberal thought.

## HISTORICAL IMPACT OF LIBERALISM UPON THE UNITED STATES

By the 19<sup>th</sup> century liberal thought had become thoroughly entrenched in the political culture of the United States. The United States, following in the footsteps of many of the so-called 'great nations' of Europe (France, Spain, England, Italy, Germany, Russia, etc.) sought to foster a sense of common identity through the assimilation of the various national minorities within its state boundaries, many of which still reside within the United States today. These national minorities include Native Americans, Puerto Ricans, and several other groups who had established nations prior to the creation of the United States.

In fact, it can be argued that many of these nations have better claims to much of what is now the United States. Following the American Revolution, the United States was widely viewed as an outlaw nation, lacking legitimacy in its territorial claims and generally shunned by the international community. In a strange twist of fate, it was the Continental Congress that was desperate to enter into treaties with the indigenous tribes, since those tribes had already been recognized as legitimate sovereign nations through their treaties with European nations and could thereby confer a semblance of legitimacy upon the nation. (Churchill, 2000. p.404) Additionally,

"The urgency of the matter was compounded by the fact that the Indians maintained military parity with, and in some cases superiority to, the U.S. Army all along the frontier. As a result, both Articles of Confederation and the subsequent Constitution of the United States contained clauses explicitly and exclusively restricting relations with indigenous nations to the federal government, insofar as the former



were recognized as enjoying the same politico-legal status as any other foreign power.” (Churchill, 2000. p.404)

Even as late as the 1803 Louisiana purchase the United States was seen to recognize the sovereign rights of indigenous peoples when “the federal government solemnly pledged itself to protect “the inhabitants of the ceded territory...in the free enjoyment of their liberty, property, and the religion they profess.” Other phraseology in the purchase agreement makes it clear that federal authorities understood they were acquiring from the French, not the land itself, but Frances monopolistic trade rights and prerogatives to buy any acreage within the area its indigenous owners wanted to sell.” (Churchill, 2000. p.405)

However, as the United States grew secure in its power it soon forgot its earlier recognition of the sovereignty of national minorities. These groups were subdued and brought into the nation through a variety of means ranging from treaties to out and out military destruction. After this point, many of the Native American Nations were granted domestic dependent status, which ostensibly granted them a wide variety of freedoms including the ability to maintain their own courts, governments, and the ability to enter into treaty negotiations, but were viewed as states somewhat inferior or subject to the United States. Many of these rights, limited as they were, were later revoked or bypassed as the United States solidified its hold through intensive nation building strategies. But it can be argued that the United States clearly granted them special considerations due to their nation status, based on a variety of factors, including their cultural distinctness, and recognized their sovereignty at the time they entered into the polity.

## EFFECTS OF NATION BUILDING UPON NATIONAL MINORITIES

Nation building strategies, as alluded to above, play a key role in understanding why group rights should be offered to some national minorities. In order to foster a form of unity that some in the liberal tradition find invaluable, the United States began exerting an increasing amount of pressure on its national minorities to assimilate into the dominant anglophile culture. For the purposes of this paper I will focus on three different policies designed to foster a sense of common nationality: 1) language policies, 2) state formation practices, and 3) public education. I will contend that these policies are not ethno-culturally neutral and are unlikely to ever be due to the nature of nation building practices, but instead favor particular dominant nations within the states. I will also argue that liberal theory has largely ignored several interests that are potentially beneficial to the human condition, such as recognition, cultural membership, identity, and language rights. These interests further seem to be significant enough to require protection in the form of group rights, as when neglected they can cause significant harms, even when individual civil, political, and welfare rights are being respected, by causing serious damage to peoples sense of self-respect and agency. When these interests are significantly impeded, it can result in a limiting of autonomy that precludes the ability of a person to make uncoerced decisions regarding which conceptions of the good he or she wishes to pursue.

## LANGUAGE POLICIES

Liberal theory has often operated under the assumption that the state, in the course of its operation, should abide by a principle of neutrality. By neutrality, I refer to the idea

that the state is to remain neutral with respect to its citizen's conception of the good, and should not interfere unless that the actions that issue from that conception are harmful to or infringe on the rights of others. Citizens should be allowed to pursue their own ends, without interference, in so much as such pursuits do not harm others. Kymlicka notes that Michael Walzer aptly applies this principle to ethnic groups and nationality "...by arguing that liberalism involves a 'sharp divorce of state and ethnicity'. The liberal state stands above all the various ethnic and national groups in the country, 'refusing to endorse or support their ways of life or to take an active interest in their social reproduction'. Instead, the state is 'neutral with reference to language, history, literature, calendar' of these groups." (Kymlicka, 2001, p.23) But is this idea actually possible to implement in the context of the contemporary liberal state? I claim that it is not.

This principle of neutrality, a centerpiece of liberal theory, has in fact masked a prejudiced bias in favor of dominant majorities. When a liberal state implements and carries through its nation building policies, certain biases emerge as a result of these practices. Charles Taylor notes that "If a modern society has an 'official' language, in the fullest sense of the term, that is, a state-sponsored, -inculcated, and -defined language and culture in which both economy and state function, then it is obviously an immense advantage to people if this language and culture are theirs. Speakers of other languages are at a distinct disadvantage." (Taylor, 1997, p.34)

In the United States, the English language clearly meets these criteria, as it is the language of the schools, public offices, and commerce in nearly every instance. In other

words, Anglophiles enjoy an immense advantage in the public sphere, beginning with the fact that they, and largely only they, have access to it at all. Given this fact, it seems strange that modern liberals are so chary of group rights that could protect those groups that are inadvertently disadvantaged by nation building policies. If the dominant majority within the multinational country refuses to allow for institutions that accommodate the languages of national minorities, this severely limits the spheres in which the minority language can operate. Further this provides a clear example of a violation of the principle of neutrality, as the dominant majority clearly has not remained neutral with reference to language through its policy of effectively advocating a state language, which provides a tacit endorsement of the majority cultures language while penalizing the minority cultures language by limiting the sphere in which it can effectively operate.

Kymlicka notes that such limitations can present a grim set of options for national minorities. They can either assimilate into the dominant culture and face the eventual loss of their mother tongue, which is a crucial element for retention of a sense of national identity<sup>4</sup>, try to gain some sort of semi-autonomous state powers that allow them to use their language in their day to day interactions, or they can accept permanent marginalization within the dominant culture and the corresponding disadvantages to their economic, political, and social lives. (2001, p.27-8) It has been widely recognized in liberal thought that language is a powerful tool in nation building as it tends to foster a

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<sup>4</sup> For it is highly unlikely that without the support of a viable societal culture to sustain it that any language will remain an active one, especially if one is denied the opportunity to use it in those activities within day to day life that are crucial to the languages progenation. One has only to look at many of the ethnic minorities who have immigrated into the United States, few of which have maintained their traditional languages past their 3<sup>rd</sup> generation of occupancy.

sense of solidarity as well as facilitate communication, and national language policies—whether formal or informal—have been the rule rather than the exception in individual-centered liberal governments. Yet the effects of the denial of language rights on national minorities are scarcely considered. It was assumed that nation states gain the moral authority to subsume those national minorities who reside within their borders.

By seeking to assimilate nations into a single nation, the aggressor fails to recognize the fact that people value their national identity as representing their peoples' response to the challenges presented to them. Further, the difficulties involved in attempting to assimilate into a foreign culture, even when such an attempt is voluntary, can be considerable. The strong links between language and/or culture to personal identity can make assimilation into new cultures difficult. Both of these factors play some role in the establishing of personal characteristics and are therefore relatively deeply ingrained and difficult to change. R  aume, commenting on this notes,

"The difficulties of transfer can indeed be diverse and substantial. To begin with, there is the personal effort involved in learning the new way of life. This is often a lengthy process and frequently one marked by imperfect achievement. The complexity and subtlety of such comprehensive social practices as language are notorious. The difficulty in mastering them means that in so far as one needs to use new cultural forms to achieve independent objective—using a new language to get a job, or using a new conception of relationships with coworkers to gain acceptance on the job, for example—these independent objectives may be impaired." (R  aume 2000, p. 247-48)

When this assimilation is forcible or unfairly negotiated, the pressures placed upon the assimilating culture's members can be intense and debilitating. Still, the argument that cultural assimilation can be difficult, while providing some support for the value of language, doesn't seem to demonstrate why a particular language has intrinsic value. A right-wing liberal theorist such as Mill could acknowledge that languages are difficult to learn and that there may indeed be some disadvantages to not speaking the

national language. They might then argue that what needs to be done is to reduce the negative effects and to speed the transition to the new language. Policies could be crafted that would support the members of the minority until such time as they could learn the new language. Additionally, their children could be educated in the new language and could reasonably be expected to be fully fluent, so within a few generations one could expect the linguistic group to make a relatively smooth transition to the new language.

In order to understand why a particular language should be protected and viewed as a right, one must move away from such an instrumental view of language. Denise R  aume argues in *Official Language Rights*, that the only way of protecting particular languages is to view it as having intrinsic value. This can be achieved by viewing each particular language as ‘a human accomplishment’ that is, in itself, ‘a manifestation of human creativity which has value independent of its uses’. While other languages may offer approximate equivalences, each language ‘is a unique form of expression and valuable as such’. Each language can be seen as a ‘cultural inheritance and as a marker of identity as a participant in the way of life it represents’. The particular form that a language takes gains its value for them because it is their language, their creation. For the group as a whole, the language stands as a creative accomplishment. For the individual, to speak in the language ‘is at once a participation in this accomplishment and an expression of belonging to the community’. R  aume explains that it is only when two or more linguistic communities come into contact that this sort of valuing of language becomes apparent since it is through being conscious of ‘an alternative to one’s own linguistic way of life that one begins to identify the latter as a distinct form of human

creativity in which one can take pride'. (Rèaume 2000, p. 250-251) By viewing language in this fashion, one can begin to comprehend the force and legitimacy underpinning the idea that specific languages should be protected.

## STATE FORMATION PRACTICES

These factors are far from the only ones that affect the outcome of the assimilation, or lack thereof, of national minorities. The nation building strategy used in the United States during state formation also plays a role in the systematic destruction and disempowerment of indigenous peoples.

Between the dates of 1835-1894 the United States government, acting under the legal foundation provided by the Marshall Doctrine, either allowed or actively participated in the decimation of the indigenous population of the United States. A United States Census Bureau report issued in 1894 made the following statement. "The Indian wars under which the United States government have been about 40 in number [most of the occurring after 1835]. They have cost the lives of...about 30,000 Indians [at a minimum].... The actual number of killed and wounded Indians must be very much greater than the number given, as they conceal, where possible, their actual loss in battle... Fifty percent additional would be a safe number to add to the numbers give." (Churchill, 2000, p. 408) Government sanctioned citizen actions are known to have been primarily responsible for the reduction of the native population of Texas from about 100,000 people in 1828, to fewer than 10,000 in 1890. (Churchill, 2000, p. 408)

In fact, the State of Texas maintained a bounty on Indian Scalps well into the 1870's. (Churchill, 2000, p. 416) In California, the indigenous population was reduced from 300,000 to fewer than 35,000 by 1860 by similar actions. (Churchill, 2000, p. 408) Either of these studies indicates a death toll considerably higher than the governmentally acknowledged death toll having accrued through citizen and military action combined in this period. Ward Churchill comments on this same period "Even while this slaughter was occurring, the government was conducting what it itself frequently described as a "policy of extermination" in its conduct of wars against those indigenous nations that proved "recalcitrant" about giving up their land and liberty. This manifested itself in a lengthy series of massacres of native people...at the hands of U.S. troops." (Churchill, 2000 p.408) In totality it has been estimated that between 250,000-500,000 natives were killed as a direct result of U.S. military campaigns against Native Americans. (Churchill, 2000, p. 409) In total, by the turn of the century only 237,196 native peoples were still recorded as living on the census, perhaps 2% of the total indigenous population of the United States at the point of first contact with Europeans, a number that correlates with the reduction of native land holdings which dropped to approximately 2.5% in the lower 48 states during the same period. (Churchill, 2000 p. 409)

#### Kymlicka notes

"It would have been quite possible in the nineteenth century to create states dominated by the Navaho, for example, or by Chicanos, Puerto Ricans, and native Hawaiians. At the time these groups were incorporated into the United States, they formed majorities in their homelands. However, a deliberate decision was made not to accept any territory as a state unless these national groups were outnumbered. In some cases, this was achieved by drawing boundaries so that Indian tribes or Hispanic groups were outnumbered (Florida). In other cases, it was achieved by delaying statehood until Anglophone settlers swamped the older inhabitants (e.g. Hawaii; the south-west) In cases where the national minority was not likely to be outnumbered, a new type of non-federal political unit was created, such as the 'commonwealth' of Puerto Rico, or the 'Protectorate' of Guam." (Kymlicka, 1995, p28-9)



By such reductions in status and population of national minorities, the United States ensured that native populations would be unable to have an effective voice in the policies that guided the United States' treatment of them in subsequent times. Then, by attempting to maintain a policy of neutrality, the government effectively ensured that national minorities would remain swamped by the broader anglophile culture whose interests often conflicted with those of indigenous cultures.

One might argue that a hard utilitarian judgment will demonstrate that the 'benefits' that these groups received through assimilation somehow outweighed any disadvantages they incurred from the loss of national identity.

Mill himself stated

"Experience proves it is possible for one nationality to merge and be absorbed in another; and when it was originally an inferior and more backward portion of the human race the absorption is greatly to its advantage. Nobody can suppose that it is not more beneficial to a Breton, or a Basque of French Navarre, to be brought into the current of the ideas and feelings of a highly civilized and cultivated people—to be a member of the French nationality, admitted on equal terms to all the privileges of French citizenship...than to sulk on his own rock, the half-savage relic of past time, revolving in his own little mental orbit, without participation or interest in the general movement of the world. The same remark applies to the Welshman or the Scottish Highlander as members of the British nation." (Mill 1972:395, cf. Kymlicka 2001:206)

Mill's statement makes several very interesting assumptions concerning the interests of those nations that are to be assimilated. First, he seems to adhere to a theory of culture that assumes cultures can be easily divided into those which are 'highly civilized and cultivated' versus those which are not. Second, it seems as if he forgot to ask those Bretons, Basques, etc, whether they thought it was more beneficial to be assimilated into their new nation. Given the long history chronicling the enduring struggle to maintain their societal cultures and self-governing rights, even after they have had in some cases centuries of exposure to the 'highly civilized nations' practices, most

national minority groups still identify themselves primarily as belonging to their respective nations, rather than to the nationality that is attempting to assimilate them. Third, he posits the assimilated nations as remaining somehow frozen in time, 'the half-savage relic of past time, revolving in his own little mental orbit, without participation or interest in the general movement in the world.' This characterization of nations in danger of assimilation seems impossible to maintain under any context, as those so endangered typically take an acute interest in the affairs of the world. Consider the example of Native Americans. From first contact with Europeans through to the present day, there exists a long record of cultural exchange, often to the benefit of their European colonizers. Further, they have consistently interacted with European powers in an attempt to guide their own destinies and to set the terms for their interactions with them. The long history of Native negotiations with the other governments of the world can serve as a clear example that 'discovered' cultures have interests in foreign ideas and the forces that affect their lives. What they also have an interest in, and what Mill and others seems to ignore, is how they wish to respond to such new ideas. While some ideas or technologies may be enthusiastically adopted, others may not be so adequately suited for integration into the new culture. Indeed, such a culture may decide that some of the ideas are misguided or ill suited for the contextual realities facing them, and wish to reject them.

Native Americans have a long tradition of assimilating many European ideas and technologies into their cultures. The concept of horsemanship for example, was rapidly adopted in the New World after the introduction of the horse by the Spanish; to such a

degree that popular imagery of Plains Indian cultures inevitably contains some reference to the horse. Other ideas, such as the strong vision of individual property rights that the European colonizers brought with them to the New World, were adopted less enthusiastically, if they were voluntarily adopted at all.<sup>5</sup> Mill seems to remain completely blind to the fact that different value systems will render different judgments upon the items presented to them. In classic colonial fashion, if the new culture doesn't enthusiastically endorse all of the cultural practices of the dominant culture, then they are characterized, to quote Lyotard, as "...belonging to a different mentality: savage, primitive, underdeveloped, backward, alienated, composed of opinions, customs, authority, prejudice, ignorance, ideology." (Lyotard 1993, p. 27) In short, other cultures are best removed from the world so that the superior civilization—and this almost always seems to be determined in a military fashion—can bring them all the benefits of a 'truly' civilized culture.

## PUBLIC EDUCATION

One only has to read the poignant accounts of Native Americans to realize the damage that nation building can wreak.<sup>6</sup> For example, the Chilocco Indian School was founded in 1882 in what is now the state of Oklahoma. It was one of many federal boarding schools designed to 'civilize' Native Americans by providing them with a 'proper' education. K. Lomawaima observes

"A history of Indian education based on the documentary remains of policy statements and school records might summarize the federal crusade as follows: The United States government established off-reservation boarding schools in the late 1800s as part of its grand civilizing plan to transform Native American people. Federal policymakers and administrators cooperated to remove thousands of Native American children and

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<sup>5</sup> It should be noted that Native American conceptions of property rights varied considerably from group to group, but were typically more communal than European versions.

<sup>6</sup> For a sustained account on this subject see Lomawaima, 1994

young adults from their families, homes, and tribes in order to educate them in a new way of life. Indian education flowed far beyond academic or vocational boundaries, soaking the child's growing up in the cleansing bath of Christian labor. Tribal/communal identity, primitive language, heathen religion: these pernicious influences would be rooted out and effaced in the construction of a new kind of American citizen." (Lomawaima, 1994)

Even more benign examples of public education demonstrate a tendency to systematically advantage the national majority. The language in which the schools are conducted benefit those who understand the national language, and disadvantage those whose understanding is imperfect. The calendar that the school utilizes will serve to benefit some students more, and is typically reflective of the cultural traditions of the dominant culture, the holidays that it recognizes usually represent the important occasions within the majority culture, and so on. All of these factors tend to pose barriers to students who do not participate fully in the practices of the majority that are not present for those who retain the privilege of operating within their original culture and language.

Education also serves to systematically disadvantage certain cultures within multinational states in a variety of other ways. Take something as simple and seemingly innocuous as school calendars for example. Carol Locust explains,

"One of the most blatant issues of discrimination against American Indian belief systems involves traditional belief times. School calendars include holidays based on a Christian tradition and on national historical events. Children from other religious backgrounds—those who are Jewish, for instance—typically enjoy the freedom to participate in religious activities without penalty for absences from their classes. In most school systems American Indian children do not enjoy this religious freedom and are penalized for being absent from classes while participating in traditional tribal ceremonies." (Locust, 1996, p. 322)

The curriculum taught by the schools is also likely to favor particular groups by emphasizing the history of the dominant majority nation, classes are usually conducted in language of the dominant majority, and methods of teaching are geared towards reaching

the majority of the students, in the majority of cases. Concerns about methods of teaching and learning may not seem to be particularly harmful, or might be thought an inevitable result of a public education, but is that truly the case? In the first instance, educational practices are the result of man made institutions that have evolved in culturally specific fashions. When the national majority exercises its powers to create public education, it inevitably will construct a system that will benefit certain members within its society unequally. Next, consider the argument that “Belief systems are integrated into the total being of the American Indian, and discrimination against those beliefs occurs in ways that non-Indians do not easily understand. Indians view immortality and existence as circular rather than linear and appear to learn best when information is presented to them in a circular manner (Locust 1996, p. 322)...Traditional education of Indian youth is not linear and frequently not verbal. Indian children learn by watching elders, by having grandparents identify for them the whole of the task, the complete circle, the perfection of completion.” (Locust, 1996, p. 322) If learning patterns can be shown to vary in culturally specific ways, then that factor would provide a strong argument for granting national minorities their own school systems, so as to avoid systematically disadvantaging them by forcing upon indigenous peoples an educational system ill-suited to their educational needs in order to further the nation building program of the liberal state.

Having presented arguments demonstrating how the creation and maintenance of modern liberal nation states tends to favor dominant majorities, often to the detriment of national minorities within multinational states, I will now discuss why the creation of

group specific rights for national minorities will realize the liberal dream of equality better than the standard individual-centered liberal conception.

## CHAPTER FOUR

### CHARLES TAYLOR'S CRITIQUE OF LIBERALISM

Charles Taylor observes in *The Politics of Recognition* that the demand for recognition is playing an increasingly important role in contemporary politics. (Taylor 1995) He argues that it is one of the driving forces behind a variety of movements on the political scene, including some forms of feminism, nationalist movements, minority or 'subaltern groups', and in the 'politics of multiculturalism'. (p. 249) In many of these movements, Taylor attributes a sense of urgency to the demands for recognition, that are grounded by the "supposed links between recognition and identity, where this latter term [recognition] designates something like a person's understanding of who they are, of their fundamental defining characteristics as a human being." (p. 249) The thesis that many of the groups mentioned earlier have developed, according to Taylor, "is that our identity is partly shaped by recognition or its absence, often by the *misrecognition* of others, and so a person or group of people can suffer real damage, real distortion, if the people or society around them mirror back to them a confining or demeaning or contemptible picture of themselves. Nonrecognition or misrecognition can inflict harm, can be a form of oppression, imprisoning someone in a false, distorted, and reduced mode of being." (p. 249) Consider indigenous and colonized people in general, concerning whom Taylor notes that "since 1492 Europeans have projected an image of such people as somehow inferior, "uncivilized", and through the force of conquest have often been able to impose this image on the conquered." (p. 249-50)

Taylor and others have noted that in many instances, oppressed minority groups have been “induced to adopt a depreciatory image of themselves. They have internalized a picture of their own inferiority, so that even when some of the objective obstacles to their advancement fall away, they may be incapable of taking advantage of the new opportunities. And beyond this, they are condemned to suffer the pain of low self-esteem... Within these perspectives, misrecognition shows not just a lack of due respect. It can inflict a grievous wound, saddling its victims with a crippling self-hatred. Due recognition is not just a courtesy we owe people. It is a vital human need.” (p. 249-250)

Taylor develops the idea of authenticity in order to show why the need for recognition is so vital to the flourishing of human beings. (p. 249-256) The ideal of authenticity

“...accords moral importance to a kind of contact with myself, with my own inner nature, which it sees as in danger of being lost, partly through the pressures toward outward conformity, but also because in taking an instrumental stance toward myself, I may have lost the capacity to listen to this inner voice. It greatly increases the importance of this self-contact by introducing the principle of originality: each of our voices has something unique to say. Not only should I not mold my life to the demands of external conformity; I can't even find the model by which to live outside myself. I can only find it within. Being true to myself means being true to my own originality, which is something only I can articulate and discover. In articulating it, I am also defining myself. I am realizing a potentiality that is properly my own.” (p. 252)

This generation of an authentic way of being cannot simply be understood as avoiding socially derived ways of being in favor of inwardly generated ways of being because this would ignore what Taylor refers to as ‘a crucial feature of the human condition’, namely that the generation of identity is fundamentally dialogical in character. (p. 253) He argues that “We become full human agents, capable of understanding ourselves, and hence of defining our identity, through our acquisition of rich human languages of expression.” (p. 253)



Language, in the sense that Taylor here employs, includes not only the linguistic meaning of the term, but also ‘other modes of expression whereby we define ourselves’, such as art, love, gesture, etc. These modes of expression cannot be learned in isolation, rather they require exchange with significant others in order to be realized. This leads Taylor to the final conclusion that “The genesis of the human mind is in this sense not monological, not something each person accomplishes on his or her own, but dialogical.” He also reminds us that “..this is not just a fact about *genesis*, which can be ignored later on. We don’t just learn the languages in dialogue and then go on to use them for our own purposes. We are of course expected to develop our own opinions, outlook, stances toward things, and to a considerable degree through solitary reflection. But this is not how things work with important issues, like the definition of our identity.’ Our identities are always developed through a dialogue with, and struggling against, ‘the things our significant others want to see in us.’ In some cases even ‘after we outgrow some of these others’ the dialogue ‘continues within us for as long as we live.’ (p. 253) The identity forged through this dialogue with significant others and our responses to it provides the foundations for who we are and “As such it is the background against which our tastes and desires and opinions and aspirations make sense.” (p. 254)

So, the discovery of identity is not simply a dialogue with one’s self, nor is it simply a discussion with external others, instead it is a combination of the preceding two dialogues combined with internal discussions that include the voices of those not necessarily present. It is this feature that Taylor argues makes our dialogical relations

with others so important in identity formation. If the relations we have with other significant voices serves as an impediment, then the development of our identities can be retarded, resulting in stifled and wasted human potential. One's inwardly derived, personal identity has to be 'won' though a person's life, there is no guarantee that a person will achieve and maintain an authentic mode of living. Taylor exclaims

"The importance of recognition is now universally acknowledged in one form or another; on an intimate plane, we are all aware of how identity can be formed or malformed through the course of our contact with significant others. On the social plane, we have a continuing politics of equal recognition. Both planes have been shaped by the growing ideal of authenticity, and recognition plays an essential role in the culture that has arisen around this ideal."<sup>7</sup> (p. 255)

On the social level Taylor claims that what needs to be avoided by any politics of universalism that emphasizes the equal dignity of all people is the creation of 'first-class' and 'second-class' citizens. For some, what might be needed for equal recognition might be the realization of civil and voting rights. For others, the realization of equal dignity may require assistance from the socioeconomic realm, such as those people who are systematically handicapped by poverty. (p. 256) In both cases, in order to realize the liberal ideal of universal human dignity and equality certain remedial actions may be needed to make this ideal a reality. This points to the need for asymmetrical rights packages that realize the specific needs of the groups that they target. But Taylor notes that the methods used to bring about this type of equality doesn't always seem to mesh perfectly with the politics of equal dignity as he here explains, "With the politics of equal dignity, what is established is meant to be universally the same, an identical basket of rights and immunities; with the politics of difference, what we are asked to recognize is the unique identity of this individual or group, their distinctness from everyone else. The

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<sup>7</sup> It should be noted that this quote seems to imply that Taylor believes that the politics of equal recognition has already arrived. While Taylor does think that recognition is gaining increasing importance, he does indicate in other related comments that this recognition is still being fought for.

idea is that it is precisely this distinctness that has been ignored, glossed over, assimilated to a dominant or majority identity. And this assimilation is the cardinal sin against the ideal of authenticity.” (p. 257)

So how can we solve this apparent conundrum? The politics of universal dignity fights to ensure that government policies were difference blind, that is, favoring no particular group, not recognizing the ways in which people differ, and ensuring equal treatment for all people. But what the politics of recognition requires is that in order to be non-discriminatory, we must in fact make distinctions about both groups and individuals based on the ways in which they differ, or as Taylor states “we give due acknowledgement only to what is universally present—everyone has an identity—through recognizing what is peculiar to each. The universal demand [for recognition] powers an acknowledgement of specificity.” (p. 258)

Taylor begins to attempt to solve this problem by examining the world of education. There currently exists a lively debate on whether or not the literary ‘canon’ of accredited authors should be altered in some fashion. Those who favor this alteration often argue on the grounds that the literary canon is composed almost entirely of ‘dead white males’ and argue that a greater place needs to be made in order to accommodate those peoples of non-European cultures and women. Taylor notes

“The reason for these proposed changes is not, or not mainly, that all students may be missing something important through the exclusion of a certain gender or certain races or cultures, but rather that women and students from the excluded groups are given, either directly or by omission, a demeaning picture of themselves, as though all creativity and worth inhered in males of European provenance. Enlarging and changing the curriculum is therefore essential not so much in the name of a broader culture for everyone as in order to give due recognition to the hitherto excluded.” (p. 258)

Taylor recognizes a second premise that aids in justifying arguments of this type; namely, 'that we owe equal respect to all cultures' because the judgments of worth made in the earlier example "...were in fact corrupt, were marred by narrowness or insensitivity or, even worse, a desire to downgrade the excluded. The implication seems to be that absent these distorting factors, true judgments of value of different works would place all cultures more or less on the same footing." (p. 259) But would such a claim be strictly, or even loosely justified? Doesn't it seem likely that the production of some cultures within a given field, such as art, architecture, ethics, etc, may in fact outstrip others? Possibly. But Taylor is quick to note that there does seem to be something valid in the claim that cultural worth is more or less equal also. He argues that the presumption does require something akin to an act of faith, yet not an unjustified one. The basic presumption involved in the second premise relies on the following, "...the claim is that all human cultures that have animated whole societies over some considerable stretch of time have something important to say to all human beings." (p. 259)

Notice that this presumption does not require one to be committed to saying that all cultures are in fact of equal importance. Neither does it commit one to the position that every sub-culture or time period within a culture is of equal value. What it does commit one to is 'a starting hypothesis with which we ought to approach the study of any other culture.' In the case of cultures significantly different from our own, we may have at the onset, not the slightest idea of what a cultures valuable contribution might be to the human condition, because within them the very idea of 'what it is to be of worth will be strange and unfamiliar to us.' So, to accuse Taylor of cultural relativism on the grounds

of this presumption would be unfair since what he argues for is a method of approaching cultures that is sensitive to the differing conceptions of valuation, rather than arguing that all cultures are in fact of equal value. He does not argue that all cultures are of equal value, but instead that cultures that have animated whole societies probably have some valuable insights into the human condition. Taylor encourages us to follow a notion developed by Gadamer involving “a fusion of horizons”<sup>8</sup>, which involves ‘learning to move in a broader horizon.’ (p. 259) Our starting horizon, which we have taken for granted as providing the background for our valuations, need to become ‘situated as one possibility alongside the different background of the formerly unfamiliar culture’. The “fusion of horizons” functions by ‘developing new vocabularies of comparison, by means of which we can articulate these contrasts.’<sup>9</sup> Taylor explains that by adopting this position toward the value of cultures it readies us “So that if and when we ultimately find substantive support for our initial presumptions, it is on the basis of an understanding of what constitutes worth that we couldn’t possibly have had at the beginning. We have reached the judgment partly through transforming our standards.” (p. 259-60)

## EVALUATION AND APPLICATION OF TAYLOR’S THEORY TO NATIONAL MINORITIES

But should we swallow this pill that Taylor has presented us with? It would certainly involve a great deal of revision to U.S. culture as we now know it and the change challenges some of the most important claims within the liberal tradition;

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<sup>8</sup> Wahrheit und Methode (Tubingen: Mohr, 1975), p289-90

<sup>9</sup> For more on this notion see Taylor, Charles. “Comparison, History, and Truth” in *Myth and Philosophy*. ed. Frank Reynolds and David Tracy (Albany: State University of New York Press, 1990) and in “Understanding and Ethnocentricity” in *Philosophy and the Human Sciences* (Cambridge: Cambridge University Press, 1985)

specifically those beliefs regarding the proper conception of what sort of universality best upholds the dignity of man. Should we accept Taylor's vision that promotes an asymmetrical package of rights that recognizes the distinctions between individuals and groups based on the ways in which they differ or should we fight to ensure that government policies are difference blind, that is, favoring no particular group, not recognizing the ways in which people differ, and ensuring equal treatment for all people.

In an attempt to answer this complex problem, I propose to construct a series of three questions designed to test Charles Taylor's theory with regards to the issues involving national minorities residing inside of the United States. The questions are:

1. Does misrecognition occur and if so, how damaging is it to national minorities?
2. How likely is the construction of authentic persons in the absence of respect?
3. Has liberalism been responsible for creating second-class citizens by adopting difference blind principles?

Central to Taylor's argument is the claim that people are engaged in a dialogical conversation between themselves and significant others over the course of their entire lives, and that this conversation can, and in the case of many national minorities often is, damaging to their development as authentic persons, if the voices of those 'significant others' tends to deny or misrecognize the value of their way of living. What evidence could be found in support of such a claim? While unequivocal answers in this sort of inquiry are rarely, if ever, to be had, it seems at least plausible that one could develop a strong case for this claim. I recommend that we first investigate the present phenomena of the stereotyping of Native Americans and see how it relates to Taylor's claims.

Stereotyping, while hardly just a phenomena associated with liberalism, can provide us with a way to understand Taylor's argument about the linkage between recognition and identity. A stereotype can be defined as, "2: Something repeated and produced without variation: something conforming to a fixed or general pattern and lacking individual distinguishing marks or qualities; *esp.*: a standardized mental picture held in common by members of a group representing an oversimplified opinion, affective attitude, or uncritical judgment (as of a person, a place, an issue, or an event)" (Webster's, p. 2238) Especially important within this definition for our purposes is the idea that a stereotype tends to form 'an oversimplified opinion' that holds to 'a fixed or general pattern' and that is 'lacking individual distinguishing marks or qualities'. This definition is particularly well suited to the kind of vision of misrecognition that Taylor is developing. When a people engage in stereotyping, they fail to see the essential dignity and individuality that each person possesses. Instead of trying to critically investigate this person or culture, they instead rely upon a generalization, and probably one that is in error, to provide the background for their evaluations, and dealings with the stereotyped entity. Stereotypes concerning Native Americans abound in the national majority culture of the United States, but the real damage that they can inflict is rarely recognized.

Michael Dorris comments,

"In the Never-Never Land of glib stereotypes and caricature, the rich histories, cultures, and the contemporary complexities of the indigenous, diverse peoples of the Western Hemisphere are obscured, misrepresented, and rendered trivial. Native Americans appear not as human beings but as whooping, silly, one-dimensional cartoons. On occasion they are presented as marauding, blood-thirsty savages, bogeys from the nightmares of "pioneers" who invaded their lands and feared for the consequences. At other times they seem preconcupiscent angels, pure of heart, mindlessly ecological, brave and true. And worst of all, they are often merely cute, the special property of children. (Dorris 1999, p. vii)



These stereotypes are not only damaging to Native Americans, in the sense that they deny or devalue the important contributions of both the past and present Native societies; but they are also damaging to the bearers of those stereotypes, as they are denied the benefits of access to the wealth and sophistication that Native cultures have to offer. Dorris notes,

“A society that chooses to make a running joke of its victims embalms both its conscience and its obligations, relegating a tragic chronology of culture to ersatz mythology. It’s hard to take seriously, to empathize with, a group of people portrayed as speaking ungrammatical language, as dressing in Halloween costumes, as acting “wild”, as being undependable in their promises or gifts. Frozen in a kind of pejorative past tense, these make-believe Indians are not allowed to change or in any other way be like *real* people. They are denied the dignity and dynamism of their history, the validity of their myriad and major contributions to modern society, the distinctiveness of their multiple ethnicities.” (Dorris 1999)

To show the pervasiveness of the stereotypes facing Native Americans I will offer four examples that should prove sufficient to establish that Native Americans are often ‘misrecognized’ by the national majority in the United States and that this ‘misrecognition’ does tend to hinder the development of authentic human beings as well as contributing to other social problems for these groups.

First, consider the term ‘Indian’'s origin. Although there is some dispute, it is generally conceded that Christopher Columbus coined the term to describe the native inhabitants he ‘discovered’ when he arrived in the New World. The story typically goes that upon landing, he assumed that he had arrived in India, and so mistakenly gave them this title. Other scholarship indicates that Columbus “named them Indios not because he imagined them to be the inhabitants of India (which in the fifteenth century was still called Hindustan) but because he recognized that the friendly, generous Taino people lived in blessed harmony with their surroundings—una gente in Dios, a people of God.” (Matthiessen, 1984, p. 29)



Regardless of which interpretation is more accurate, it is the first reading that has infused the popular psyche of the national majority within the United States. The fact that that term is still used should seem puzzling once it was recognized that the place Columbus landed was not India, as he may have thought, but rather what would become known as the New World. Even at this early juncture a certain level of disrespect was becoming apparent, since when arriving in a new inhabited land one might reasonably consider calling it by the same name as the one used by its inhabitants, if one is interested in showing them respect. Of course, given the history of the word in subsequent times, it should surprise no one that it now carries with it a negative connotation amongst most Native Americans. But whether through the force of custom, indifference and/or ill will on the part of the invaders toward native custom, or simple laziness, the term has carried down through the subsequent 510+ years despite protest by natives.

The Pequot author William Apes made the comment that “I thought it disgraceful to be called an Indian; it was considered as a slur upon an oppressed and scattered nation, and I have often been led to inquire where the whites received the word. I could not find it in the bible, and therefore concluded, that it was a word imported for the special purpose of degrading us.” (Apes 1831, p. 27) Although this comment was made in 1831, it mirrors some of the sentiments of Native Americans today. Ojibway Lenore Keeshig-Tobias in Ronald Wrights’ *Stolen Continents*, published in 1990, made the comment “How I loathe the term ‘Indian’...Indian is a term used to sell things—souvenirs, cigars, cigarettes, gasoline, cars...’ Indian’ is a figment of the white mans imagination. (Tobias

1990, p. 29) Both of these authors demonstrate what is a common sentiment throughout the Native American community concerning the moniker that is perhaps the most common of all of those used to describe their groups outside of professional circles. Yet it still remains a common term and one that is rarely given any thought by the national majority in the United States.

While the United States has rightfully focused on removing many ethnically and racially degrading terms from being employed in the naming of buildings, landmarks, and aimed at people, in the case of Native Americans little progress has been made. Most people today would be shocked when other people call a black person 'nigger' or a Chinese person 'chinc', but few people ever consider the negative connotation of the term 'Indian' in the case of Native Americans. One only has to look at the mass of sports and location names teams that include the term 'Indians', 'Redskins', or 'Chiefs' to gain an understanding of the scope of this phenomenon.

But why should Native Americans be upset over the use of this term or others like it? . Consider some of the stereotypes common to Native Americans in the military, such as the fact that "American Indian males are called 'chief' by both officers and enlisted men although military personnel "are required to display their last name on virtually every article of clothing , from headgear to boots.", as Winnebago veteran Gerben Earth explains. (Earth 1999, p. 41) While this may not seem to be so bad at first glance, Paulette Molin notes, in a work discussing the dangers of stereotyping Native Americans in the military, that "...this stereotypical practice, along with the failure to

correctly identify the names of individuals or their associated tribal nations, denies American Indians the dignity of their own names, [and] distinct tribal identities...”(Molin 1999, p. 42)

Beyond the danger of loss of dignity, very real physical dangers can arise from such stereotyping as the assumption that Native Americans will instinctively be well suited to being military scouts. Molin comments “...racist stereotypes have contributed to a preponderance of the most difficult and dangerous assignments, including scouting on long range reconnaissance missions, walking point on patrols, and fighting in high casualty units during wartime. Besides having a disproportionately high number of soldiers in the armed services in relationship to tribal populations, American Indians have suffered high casualty rates in wars largely due to the manner of their service.” (Molin 1999, p. 42)

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Of course the discrimination that Native Americans suffer in the military hardly comprises the web of interlocking prejudices that serve to imprison many of them in inauthentic personalities. For my second example of a type of patterned discrimination that tends to negatively affect some Native Americans in the development of authentic personalities, I will examine the widespread use of the term ‘squaw’.

Paulette Molin comments that ‘the term Squaw has extensive use in North America. Besides countless place names, including California’s popular ski resort “Squaw Valley,” it has been perpetuated in printed matter and public discourse since the colonial period.’ While there is some dispute about the origins of the term, it has been attributed to a “French corruption of the word *otiskwa* meaning ‘female sexual parts’, a word almost clinical [usually translated as ‘vagina’] both denotatively and connotatively”<sup>10</sup> (Molin 1999, p. 34) Molin continues “...the term ‘squaw’ has been universally applied to Native females in North America by Europeans and European-Americans and continues to be used as a generic label, a pejorative epithet...The word has negative connotations that stereotype indigenous women...For Native women, who are the victims of this disparaging labeling, it means having to fight the stereotype on behalf of themselves and their sisters. For Native men, it means that their female relatives are treated with the utmost disrespect.” (p. 34) While Native Americans have protested the use of this term, in only a few cases have those protests been effective, due largely to their minority status within the larger political body.

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<sup>10</sup> Bracketed material is author's insert derived from Star Litzau's testimony concerning Minnesota Law Chapter 53—S.F. No.574. Enacted April 18, 1995.

My third example focuses on the education of children and the damage that can be inflicted upon both the subjects who have stereotypical beliefs and the objects of the stereotypes, in this case, Native Americans. By 'education', I do not simply mean the sort of activities that goes on within a school but rather adopt a broader vision that encompasses all of the learning experiences in which a person participates.

One possible explanation for the current origin of many stereotypes about Native Americans can be found in the seemingly innocent environment of children's education. Michael Dorris explains,

"When infants are ready to focus their eyes on concrete objects, they are very likely to see angry-looking "I" for Indians brandishing weaponry on plastic or cloth block sets. By the time these infants are seven years old, they probably have seen hundreds of images of mean, silly, or noble Indians. It should come as no surprise that non-Indian children programmed on these stereotypes at early, formative developmental stages grow into adults who may unwittingly or knowingly discriminate against Indians. These children have been prevented from developing healthy attitudes about Indians. It also should come as no surprise that Indian children who constantly see their people stereotyped or treated in unfair ways grow into adults who begin to feel and act as if they were not as good as other people. These Native children are hindered in developing healthy self-images and racial identities..." (Dorris 1999, p. xiii)

Numerous psychological studies also tend to confirm the connection described by Taylor, indicating that stereotypical images can have a detrimental effect upon those subjected to them. When children are developing their attitudes about racial and cultural groups they "need to be exposed to a variety of experiences, information, and images about each cultural group in order to develop an understanding of rich cultural patterns and diversity."<sup>11</sup> In 'Toys with Indian Imagery', Arlene Hirschfelder points out that children get their images concerning Native Americans from a wide variety of sources including adults, teachers, museum displays, food packages, advertisements, television,

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<sup>11</sup> Quotation from "Suggestions for Developing Positive Racial Attitudes", *Interracial Books for Children Bulletin*, v.11, n.4, 1980. p10

radio, movies, books, and toys. (Hirschfelder 1999, p. 139) She suggests, “Many of these sources frequently transmit unfavorable stereotypes and inaccurate information about Native Americans thus preventing children from developing a realistic picture of past and contemporary Native life. (p. 139) In a related work by Hirschfelder and Moore, it is noted, “no one illustration is sufficient to create stereotypes in children’s minds. However, too many books, advertisements, movies, and toys have these images—and the general culture reinforces them—so that there is a cumulative effect which encourages false perceptions about Native Americans.” (Hirschfelder & Moore 1982, p. 73) The Public Action Coalition on Toys (PACT), an organization seeking to promote safe children’s toys, explains that toys

“play an important role in advancing a child’s social, emotional, physical, and intellectual development...Toys are tools through which both social roles and intellectual skills are learned and outlets provided for emotions...Toys provide props and models for role-playing. Toys enable children to try on the world, to test what they think and feel about themselves and others...Since toys play such an important role in the development of children it is immediately apparent that they can also be quite harmful. Toys that are unsafe, racist, sexist, violent or anti-creative can be as negative to development as the toys described earlier as positive.” (PACT 1977, p. 140)

Given the preponderance of imagery and iconography that portrays Native Americans as simple, silly, warlike, primitive, etc., in popular culture, especially in the world of children, it is hardly surprising that many people tend to view Native cultures as anachronistic at best, and see the United States as having done Natives a favor by bringing them the benefits of western ‘civilization’. Mary Boyle argues “A more direct assault is made upon the humanity of American Indians by the use of key words and phrases which trigger negative and derogatory images. Words such as savage, buck, squaw, and papoose do not bring to mind the same images as do the words man, boy, woman, and baby.” (Byler 1999, p. 166) The use and continued acceptance of derogatory and stereotypical imagery, iconography, and language can combine to have a potentially

devastating effect upon the development of authentic Native persons by undermining the dignity of their cultures. Hirschfelder concludes

“Toy manufactures should consider the harm they may be doing to Native American and non-Native children who either play with toys that have been discussed [those with negative associations] or see them in stores or advertised in the media. It would be difficult for non-Native children playing with the toys that have been discussed to develop positive attitudes toward Native Americans and it would be exceedingly difficult, if not impossible, for Native children to feel good about their identity when confronted with so many toys that belittle their cultures. Not only does the lack of responsibility in the manufacture of Indian toys lead to damaged self-concepts among Native Americans, it also reinforces the stereotypes which will help to make racist adults of white children.” (Hirschfelder 1999, p. 167)

Having argued that Native Americans are in fact the subjects of misrecognition by the national majority within the United States, I now will address the question concerning the likelihood of constructing an authentic personality in the absence of respect.

It is plausible to wonder whether or not it is necessary to respect a person or culture in order for that entity to develop an authentic personality. We can all come up with examples from our childhood—or perhaps yesterday—when we have encountered situations in which our beliefs, customs, racial identity, etc., have been treated in a disrespectful fashion. Perhaps these insults or attitudes can be painful reminders that we live in an imperfect world full of dogmatism, racism, sexism, and bigotry; but surely we can overcome these hurdles. Toughen up, get a thicker skin, simply ignore them... But is this really possible in those cases where one’s mode of being is assaulted in a routine fashion that seems to receive a kind of ‘official’ seal of approval, manifested through the social institutions of the national majority, that actively undermine other identities? To be sure, overcoming adversity is an integral part of embracing an authentic mode of being, for after all, the dialogues we enter into with significant others need not always be pleasant. But what is the result when the majority of our experiences with others tend to systematically ridicule or demean important aspects of my identity?



Sandra Bartky, in a paper discussing the corrosive effects of oppression on the identities of its subjects observes,

“Stereotyping is morally reprehensible as well as psychologically oppressive on two counts, at least. First, it can hardly be expected that those who hold a set of stereotyped beliefs about the sort of person I am will understand my needs or even respect my rights. Second, suppose that I, the object of some stereotype, believe in it myself—for why should I not believe what everyone else believes? I may then find it difficult to achieve what existentialists call an authentic choice of self, or what some psychologists have regarded as a state of self-actualization.” (Bartky 1996, p. 128)

She notes that philosophers have long recognized the importance of autonomy and moral agency in ethical theory, but notes that they have tended to focus on the political and economic aspects of oppression, and the effects of psychological oppression upon agency have been until recently, largely ignored. She recognizes that the damage inflicted by forms of psychological oppression, such as stereotyping, could be as equally damaging as either political or economic oppression, and that in many cases it accompanies and reinforces the other forms. While she concludes that economic and political oppression threaten the autonomy of its victims more directly, she also observes

“But stereotyping, in its own way, threatens our self-determination too. Even when economic and political obstacles on the path to autonomy are removed, a depreciated alter ego still blocks the way. It is hard enough for me to determine what sort of person I am or ought to try to become without being shadowed by an alternate self, a truncated and inferior self that I have, in some sense, been doomed to be all the time. For many, the prefabricated self which, with work and encouragement, might sometime have emerged.” (Bartky 1996, p. 128)

Autonomy, on this model, can be undermined not only by the existence of stereotypes but also by the content of the stereotypes and the internalization of such content. In the context of our conversation, stereotypes that present Native Americans as child-like, simple, primitive, savage, etc., are not only dangerous because they encourage the national majority to view and treat Natives as in some way inferior, but also because they encourage Native Americans themselves to act in such a fashion in order to fulfill

their socially constructed identities ‘prerequisites’, or to become ashamed of their cultural inheritance. The internalization of the beliefs of the majority can serve as a powerful detriment in the development of authentic modes of being. When the national majority tends to view and promote the perception that the general way of life of the national minority—the art, customs, language, forms of governance, etc.—as being inferior to those of the national majority, it can operate as an oppressive force upon those who are so targeted, increasing feelings of alienation and powerlessness.

Particularly damaging in the case of Native Americans is the tendency of the dominant majority to distort or simply ignore the important contributions that Native Americans have made in the development of the United States, while simultaneously emphasizing the contributions that the national majority has provided. For example, there is strong evidence supporting the claim that the founders of the political institutions of the United States were influenced by Native American ideas and institutions, particularly those of the Iroquois Confederacy.<sup>12</sup> However, this influence has been ignored in textbooks and histories which only stress the impact of European and early American scholars. European culture is consistently portrayed as ‘advanced’ in the majority of textbooks in use in the United States, while the indigenous populations are inevitably characterized as primitive or simple, if they are directly mentioned at all. Native American forms of art and literature are typically excluded from many general texts on the subject, despite the existence of a large body of work by Native Americans in

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<sup>12</sup> See Jack Weatherford (1988), Robert Venables (1992), Jose Barriero (1988), & Ginde & Johansen (1991)

both of these fields. Similarly, the wide variety of stereotypes mentioned in the earlier chapter serves to constantly erode the dignity and value of Native cultures.

One of the factors that make psychological oppression so dangerous is the fact that it is not always obvious. Bartky explains that psychological oppression "...is dehumanizing and depersonalizing; it attacks the person in her personhood. I mean by this that the nature of psychological oppression is such that the oppressor and the oppressed alike come to doubt that the oppressed have the capacity to do the sorts of things that only persons can do, to be what persons, in the fullest sense of the term, can be." (Bartky 1996, p. 132) The systematic undermining of Native American autonomy in the realm of government can serve as an example of this type of oppression. Native Americans have throughout U.S. history seen their ability to manage their own affairs slowly wither under the growing power of the United States. Their current status, as a domestic *dependent* nation serves as a constant reminder of the United States unwillingness to recognize Native autonomy. The constant supervision by and need to have governance decisions approved by the Bureau of Indian Affairs indicates that they, unlike the dominant majority, must always remain in a subordinate position.

Even the forms of organization which Native American government must adhere to has been organized by outsiders. Native religion, education, and customs have all been regulated by the United States and have come under varying degrees of pressure throughout US history, and in many periods their outright destruction has been attempted. One example of such an effort can be found during the administration of U.S. President

Grant, who parceled out reservations among various Christian denominations, whose members were appointed as agents to supervise the Native people under their control. The missionary lobby subsequently succeeded in having Congress declare Native American religious practices illegal, a situation that persisted in full force until 1934. After that date, selective religious services and ceremonies have been allowed, but at no time has a full reinstatement of Native religious practices been allowed. Similar forms of persecution regarding Native styles of education and the use of Native languages in public affairs have also persisted with varying intensity into the present.

Native American cultural achievements are also seldom mentioned in textbooks, and when they are mentioned at all, it is often an inaccurate or simply false representation. These representations inevitably strip native cultures to a bare caricature or an archaic relic.<sup>13</sup> By ensuring that what images Native Americans are able to catch of themselves in popular culture are distorted or demeaning, the national majority continually erodes Natives sense of dignity, making the development of an authentic personality virtually impossible. Having seen their cultural achievements devalued, if they are noted at all, and presented with grim demographic statistics such as those presented in the last chapter, it becomes difficult to maintain pride and dignity in one's Native heritage. This leads some Native Americans to a strange situation. Bartky explains,

"It is itself psychologically oppressive both to believe and at the same time not to believe that one is inferior—in other words, to believe a contradiction. Lacking an analysis of the larger system of social relations which produced it, one can only make sense of this contradiction in two ways. First, while accepting in some quite formal sense the proposition that "all men are created equal," I can believe, inconsistently, what my oppressors have always believed: that some types of persons are less equal than

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<sup>13</sup> See *American Indian Stereotypes in the World of Children*. Scarecrow Press. 1999 for an in-depth description of this phenomenon

others. I may then live out my membership in my sex or race in *shame*; I am “only a woman” or “just a nigger.” Or, somewhat more consistently, I may reject entirely the belief that my disadvantage is generic; but having still to account for it somehow, I may locate the cause squarely within myself, a bad destiny of an entirely private sort—a character flaw, an “inferiority complex”, or neurosis.” (Bartky 1996, p.132)

Either of these outcomes can result in what Marxist’s would refer to as ‘false consciousness’. When confronted with repeated representations of Natives as being somehow inferior, they can become systematically deceived about the nature and origin of their oppression. Rather than recognizing the external causes of oppression, “our struggles are directed inward toward the self, or toward other similar selves in whom we may see our deficiencies mirrored, not outward upon those social forces responsible for our predicament. Like the psychologically disturbed, the psychologically oppressed often lack a viable identity.” (Bartky 1996, p. 133)

The Native American community has not been entirely unaware of the damages being dealt to them by this phenomenon, as evinced in the following.

“It is time for Indian people to begin approving of and accepting themselves as human beings. For too long we have allowed ourselves to be guided by other people’s standards and ideals. We must begin discarding archaic stereotypes of who and what Indians are. All across Indian country, this is one of the major concerns: to change and improve the image of the North American Indian in the eyes of Indians and non-Indians alike. Up until the present day, the American public has been fed, and has accepted as fact, inaccurate information about Native Americans.... The damage that can be done by attributing stereotyped characteristics to another, or to oneself, is immeasurable. When looked at through image-colored glasses, an individual is never seen as an individual; he is not seen for what he is but for what he “ought” to be. All stereotypes and prejudgments only get in the way of allowing people the freedom to be who they are...considerable work is yet to be done among non-Indians, as well as among ourselves, to rid us of this nonproductive activity called Stereotyping. The first step is to assist non-Indians in ridding themselves of their negative concepts about who and what we are and to assist them in seeing us as human beings.” (Morris 1975, p. 13)

If Taylor is right and liberalism has in fact been responsible for the creation of second-class citizens through its difference blind principles, then this represents a fundamental challenge to the liberal tradition. Liberalism traditionally defends difference

blind principles on the grounds that they help to ensure that no individual is unfairly discriminated against. Ideally one's gender, race, social standing, etc., are conceived to have no bearing upon the rights which one possesses; rather, a principle of universal human dignity is typically invoked, a principle that connects the rights one possesses to one's status as a human being instead of to any other 'coincidental' characteristics that one may possess. But it is this basic premise of liberal thought that Taylor finds responsible for the warping of identities and establishing the basis for second-class citizenship.

I find Taylor's critique of liberalism, on this count, to be on the mark. Liberalism has, in its attempts to create a difference blind society severely limited some of its members, while systematically benefiting other members of the society. By liberalism's own standards—particularly the principle of neutrality—liberalism can be found guilty of privileging a particular societal culture, often to the exclusion of others. Further, I believe that this privileging is a nearly unavoidable byproduct of the organization of any large, multinational society. The arrangements arrived at concerning the division of labor, religious practices, economic structure, workweek, gender roles, and cultural practices in general will typically tend to advantage some members of a society while disadvantaging others. In multinational states, this arrangement is in most instances going to disadvantage the national minority, since they are usually less able to defend themselves against the dominant nation. Liberalism, by maintaining that the proper focus for issues of social justice is the individual, has left the door open for national minorities and others interests to be systematically violated. By ignoring the important differences

that exist between groups within a society, liberalism has divested itself of one of the most powerful tools for identifying social inequalities, namely the analysis of group demographics. If certain groups within a society can be shown to be the victims of patterned inequalities that transcend the ability of difference blind policies to remedy, or if such difference blind policies in fact mask the preferences of and serve the dominant nation's interest with egregious harms resulting for national minorities, such as the denial of language and land rights, then that provides a strong reason for arguing that group rights should be extended to national minorities in order to remedy the inequalities between the groups in order to realize the liberal ideals of respect, equality, and autonomy. While the latter of these claims has been reasonably establish in the earlier sections of this paper, the former claim still stands in need of argumentation in order to be established.

## CHAPTER FIVE

### JUSTIFICATION OF GROUP RIGHTS WITHIN LIBERALISM

Iris Young argues in ‘Equality of Whom?’ that recent philosophical debates concerning the normative ideals of equality have largely focused ‘on questions of *what* we should be aiming at when we wish to make people more equal’. Questions such as whether equality should be conceived of in terms of welfare, resources, or capabilities have served to reveal the vast array of ‘conceptual and practical tensions which lurk in this most fundamental of questions’. These debates, while useful, have neglected another very important side of the question, namely the question of whom we are discussing when we are comparing people’s situation with regard to any and all of these targets of equality. (Young 2001, p. 1)

Young comments “Theorists usually assume that the units we should be comparing when we make judgments of inequality are individuals. Many assessments of inequalities and claims for redress on grounds that an inequality is unjust, however, compare groups of individuals according to one or more measures of equality.” (p. 1) She notes that one of the most common ways to identify inequalities is by group conscious judgments. It is standard practice to claim that women lack equality with men, blacks with whites, old with young, etc. Social institutions routinely categorize their data by disaggregating general welfare measures according to gender, ethnicity, race, occupation, etc. All of these factors tend to legitimate the idea that when one is looking for social justice, it is the group that should serve as an indicator of whether justice is being served,



rather than the more traditional philosophical focus upon individuals. But is this intuition correct? Young agrees that ‘the ultimate purpose for making assessments of inequality is to promote the well-being of individuals considered as irreducible moral equals’ but in order to accomplish this we must compare groups in order to arrive at some of the most important judgments of justice and injustice. (p. 6)

Some question whether considerations of substantive equality are relevant when making judgments about justice. On this view, of which Mill could serve as an exemplar, justice is primarily concerned with the securing of liberty. Young observes, “If justice includes reference to equality, it is only as formal procedural equality. As long as procedural equality is observed in law and the enforcement of contracts, on this account, and as long as people are free to try to realize their goals through voluntary exchange and associations, then considerations of inequality on some measures of power, influence or material well-being are irrelevant to judgments of justice.” (Young 2001, p. 7) This position, as has been argued, tends to ignore numerous interests central to the human condition, such as recognition, respect, and access to participatory goods, all of which have a considerable affect upon our personal development. Given these cardinal failings, it seems reasonable to supplement liberalism with an inclusion of group-based rights in order to help fulfill liberalism’s promise of social justice and equality.

But this is not an easy project to undertake. Even if one agrees that classic liberalism does neglect certain important areas of the human experience, and that group rights may help to remedy the situation, the exact type and conditions under which

groups can obtain a given right still remain a major stumbling block for such a theory.

The fact that inequalities exist between individuals or groups, does not necessarily signal that an injustice has been perpetrated. In fact, inequalities in terms of comparisons between individuals offer little basis for judging whether an injustice has occurred.

Young provides the following example,

“Suppose we discover that some individuals are starving and others have access to more food than they need. We have discovered a serious inequality, and one that indeed is likely to provoke moral judgment that something is wrong. It is wrong, unjust some would say, that some people should starve when others have more than they need. Those who are well off have a *prima facie* obligation to give to the starving people. If there is such an obligation...it derives not from the fact of inequalities as such, but from the fact of need...They are judgments about obligations to help people reach a certain level of what Harry Frankfurt calls ‘sufficiency,’ however, rather than judgments that an inequality is wrong as such.”<sup>14</sup> (Young 2001, p. 7)

Once this minimum of sufficiency is reached, Young argues, the existence of inequalities does not necessarily signal an injustice. She posits a situation in which everyone compared has met the minimum standards of sufficiency, however that is defined. Some individuals might have incomes one hundred times those with the lowest incomes, while others might have twenty times the incomes, and so on. The simple fact of these inequalities alone is not enough to demonstrate an injustice has occurred. But, when one adds the supposition that ‘some individuals who are not democratically legitimate public officials have significantly more influence than others over important policy decisions’, or ‘some people require more time, effort and planning to get to a polling place or a public hearing than others’, then Young suggests that injustices have probably occurred in bringing about the inequalities of wealth mentioned. (p. 7) But these potential injustices will not be apparent through the comparison of individual

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<sup>14</sup> See Harry Frankfurt’s ‘Equality as a Moral Ideal’ *Ethics*, 98 (1987). p. 21-42. for more on this idea.

circumstances if they do not make reference to ‘attributes or affinities they share with others or generalized social relations in which they stand’. (p. 7-8)

Young notes that if we identify inequalities of condition or situation between individuals at a particular time, this gives us no account of the causes of unequal conditions. She concludes that, “It is the causes and consequences of some pattern of inequality, rather than the pattern itself, that raise issues of justice. If the causes of an inequality lie in the uncoerced and considered decisions and preferences of the less well-off persons, for example, then the inequality is probably not unjust.” (Young 2001, p. 8) Many other equality theorists, such as Ronald Dworkin, would agree with this basic point, and go to great pains in attempting to distinguish those causes of inequalities that an individual is responsible for from those for which the individual is not responsible.

However, many causes of unequal distribution of resources can’t be said to be the result of individual choices or luck. Young notes,

“...the causes of many inequalities of resources or opportunities among individuals lie in social institutions, their rules and relations, and the decisions others make within them that affect the lives of the individuals compared. When a government body holds a hearing in the center of the city on issues that affect a poor rural population, neither dispersing officials to other locations nor providing transportation to the affected group, then this group’s opportunity to influence the decision is not equal to those who live close to the center. They are not victims of bad luck, however, but of institutional routines that convenience public officials and business leaders, a history of transportation planning or the lack of it, regional development inequalities, and so on. People similarly positioned in social structures frequently experience multiple forms of exclusion, unequal burdens or costs deriving from institutional organization, rules, or decisions, and the cumulative consequences of each.” (Young 2001, p. 8)

Utilizing this mode of thought requires one to recognize the very human influences upon peoples’ life prospects. Many of the social evils facing any modern society spring from the manner in which they have arranged themselves, from the

culmination of generations of decisions and responses to the challenges posed by human activity. While oftentimes these social forces go effectively unnoticed--which can be dangerous but does not always result in serious harm—at other times they have been specifically organized to undermine whole peoples in an attempt to forcibly assimilate them into the national majority at any cost—which can prove deadly to those culture so targeted. In either of these cases any liberal society must recognize that as a result of its social arrangements, some people are disadvantaged in a way that denies true equality.

Consider the following fact. In the United States roughly 80% of the wealth is owned by roughly 20% of the population. Young observes, “It is disingenuous, however, to hold that this manner of aggregating individuals and comparing their conditions in itself gives grounds for a judgment of injustice.” (Young 2001, p. 8) Why not? If everyone has enough to meet their needs, and if there is nothing standing in the way of the less wealthy to becoming more wealthy, the initial acquisitions of resources were just, and if in short, the conditions for competing over social resources are truly equal, then such an unequal distribution of resources could not be said to be unjust. To reach a judgment that something is wrong with this distribution of wealth, Young argues,

“...we must ask more about the lives of those in the wealthy group as compared with the group with little wealth. When we learn that more of the wealthy had wealthy parents, were educated at the most elite universities, and so on, and we compare their life opportunities with those in the less wealthy group, then we can begin to make judgments of justice. We have moved from assessment of inequality in terms of aggregations of individuals to comparisons of social groups, in this case social classes.” (Young 2001, p. 8-9)

Only by examining groups can we detect the influence of structural inequalities that serve to systematically undermine the efforts and equality of certain members within any given society. In matters of social justice, one cannot remain blind to the fact, as do

many libertarians "...that many persons do not have and cannot use their freedom in the ways he [the libertarian] exalts, and that these negative facts derive from, or are vitally effected by, the structural inequalities of existing institutional arrangements."<sup>15</sup> (Gewirth 1996, p. 34) The existence of these structural inequalities can serve to undermine one's effective ability to utilize the benefits provided by liberal societies. Having one's formal equality recognized, while useful in some ways, is a poor substitute for possessing actual equality within a society.

Jean Hampton notes that liberalism, under those conceptions which only recognizes conditions of 'formal equality' "can fail to acknowledge that all sorts of social structures in our society, including our legal institutions, family structures, and systems of educating the young, have been worked out by generations of people responding to a variety of problems in ways that are complicated, nuanced, and often highly successful." (Hampton 1997, p. 189-190) This lack of acknowledgment not only can lead to the eventual destruction of many successful modes of being, thereby diminishing the availability of successful adaptations, but can also serve to oppress certain groups within society. This leads Hampton to conclude that an adequate social theory must attend to issues of individual freedom, but also to "the harm of oppression coming from systemic effects of certain kinds of social institutions in which individuals find themselves and operate. These social forms are such that individuals, despite any good intentions they might have, are forced to act and react in ways that result in considerable damage to some people." (p. 189-90) By acknowledging these structural inequalities one is able to better distinguish, to quote Young, "individual attributes, actions, and choices from more

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<sup>15</sup> Bracketed material is the author's insert.

socially collective or institutional conditions under which these occur, and which limit individual options and action.” (Young 2001, p. 10) By distinguishing those factors that an individual is responsible for or had happen to him as a result of luck from those resulting from social institutions, one becomes able to better identify forces leading to unjust inequalities and options that might promote greater equality.

#### MARILYN FRYE’S EXPLANATION OF THE EFFECTS OF STRUCTURAL OPPRESSION

Marilyn Frye offers a useful analogy that might help to clarify why these structural inequalities, some of which are seemingly benign, can serve as oppressive forces upon some groups within society. (Frye 1996) In this work, she examines the nature of oppression and discusses some of the insidious ways in which it operates on its victims. Frye argues that to be oppressed is to find one’s self “...caught between or among forces and barriers which are so related to each other that jointly they restrain, restrict, or prevent the thing’s motion or mobility. Mold. Immobilize. Reduce.” (Frye 1996, p. 120) One of the most commonly experienced features within the world of oppressed people lies in the phenomena that Frye identifies as the ‘double bind’. She identifies this as “...situations in which options are reduced to a very few and all of them expose one to penalty, censure or deprivation.” (Frye 1996, p. 120)

In the case of Native Americans, one example of a ‘double bind’ scenario could be found in the reservation system. In *Stereotypes, Distortions, and Omissions in U.S. Textbooks* it is noted that reservations represent a paradox for Native Americans, as shown in the following quotation.

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“On the one hand, reservations are perceived as concentration camps and are a constant reminder of the loss of land and of sovereignty. Yet reservations—as bad as they are—represent the only land Native Americans have left. Land is an integral aspect of Native American cultures, and, despite widespread poverty, reservations provide Native Americans with a sense of community and attachment to the earth...Outside these [Native American] communities, Native Americans are forced to participate in a competitive system that discriminates against them and denies them necessary skills and education. The resources of reservations are exploited by white ranchers and corporations, with little or no profit to Native people, many of whom are forced to seek jobs off the reservations.” (Council On Interracial Books for Children 1999, p.106-107)

For those Natives who stay on the reservation in an attempt to maintain their cultural heritage and communal ties, the specters of poverty, lack of education, and cultural isolation loom. Those who leave the reservation risk widespread prejudice against Natives and their cultural beliefs, face the threat of alienation, and potentially find themselves contributing to the decline of Native culture through their absence. Worse yet, by leaving the reservation and attempting to function in the dominant majority culture, they can be seen as acquiescing to the marginalization of Native culture.

Frye explains, “The experience of oppressed people is that the living of one’s life is confined and shaped by forces and barriers which are not accidental or occasional and hence unavoidable, but are systematically related to each other in such a way as to catch one between and among them and restrict or penalize motion in any direction.” (Frye 1996, p. 120) In the case of Native Americans, the stereotypes and prejudices perpetrated by the national majority culture of the United States projects the image of Native Americans as being ‘primitive’, ‘silly’, ‘savage’, ‘lazy’, ‘closer to nature’—and therefore more animal-like, ‘underdeveloped’, and ‘backwards’. These projections not only disincline the national majority to take Native claims seriously, but also serve to undermine the life prospects of Native Americans by limiting job prospects, social contacts, and the development of authentic modes of being.



To better explain the systematic effects of oppression, Frye invokes the analogy of a birdcage. The purpose of a birdcage is to restrict the flight capabilities of a bird, or make the bird be unable to fly. If one studies the causes of this imprisonment by examining each of the wires in isolation, then it seems difficult to determine how the single wire would stop the bird, or hinder it in any significant way from flying. Frye explains, “There is no physical property of any one wire, *nothing* that the closest scrutiny could discover, that will reveal how a bird could be inhibited or harmed by it except in the most accidental way. It is only when you step back, stop looking at the wires one by one, microscopically, and take a macroscopic view of the whole cage, that you can see why the bird does not go anywhere...” (Frye 1996, p. 121) Examine any one of the stereotypes facing Native Americans and it will be difficult to show how it could undermine their culture, individual dignity, or economic prospects. But by looking at the wide variety of oppressive practices and structural inequalities that are aimed at Native Americans, both intentionally and unintentionally, one becomes able to perceive the large numbers of wires connecting in a certain fashion that serves to limit the life prospects of Native Americans.

It is in this context of oppression that strictly individual rights fall short of preventing systematic oppression, securing equality, preventing egregious harms, and protecting human dignity. Iris Young comments, “An account of someone’s life circumstances contains many strands of difficulty or difference from others that, taken one by one, can appear to be either the result of decision, preferences, or accidents. When

considered together, however, they reveal a net of constricting and reinforcing relationships.” (Young 2001, p. 10)

To illuminate this process, consider the reservation system. As it currently stands, the reservation system serves to produce and reproduce the residential racial segregation of Native Americans. The structural confluence of many distinct actions, expectations, and effects serve to limit the options of many Native Americans in the United States. Policies enacted by the United States Government have forced Native Americans off of most, and in many cases all, of the land they traditionally inhabited. Churchill observes that the lands which they were subsequently relocated to “fell overwhelmingly within arid and semi-arid locales considered to be the least productive in North America.” (Churchill 2000, p. 410) This removal of Native Americans to new lands that were in many ways inferior to their native lands, made them considerably more dependent upon the ‘largess’ of the United States Government who frequently put draconian provisions upon the conditions under which they received aid—such as the adoption of European modes of agriculture ill fitted to their new locations that reinforced their dependence, banning of traditional Native religions, adoption of Christianity, forced attendance at boarding schools that taught only Eurocentric curriculum, banning of Native languages in public and private affairs, etc.—all practices intentionally aimed at destroying Native nations as such. While many of these practices were subsequently relaxed, they served to alienate and reduce native cultures. These factors combined with the ‘domestic dependent’ status, which served as a useful mechanism to export the wealth found on

Native Lands to American business interests at little to no profit for Natives, has effectively impoverished whole nations.

Their geographical isolation from commerce centers, which was originally also a planned act by the United States government to 'protect' its citizens from Natives, still serves to force many Native Americans to either give up their traditional lands and customs or to face ghettoization and impoverishment. Government policies make it difficult to attract new businesses to Native lands and the fact the Bureau of Indian Affairs still must approve Native policies effectively prevents them from forming stimulus packages that work to their benefit. The rampant poverty on reservations also serves to confine Native Americans to the reservations, as transportation to major urban areas is often unavailable or too expensive. Travel time between places of employment that exist off of the reservations also disadvantage Native Americans since other employees need not budget such a significant portion of their time to commuting.

Iris Young makes a similar point when speaking about the poor in ghetto neighborhoods. "Politicians often are more responsive to the neighborhoods where more affluent white people live; thus schools, fire protection, policing, snow removal, garbage pickup, are poor in the ghetto neighborhoods. Economic restructuring independent of these racialized processes contributes to the closing of major employers near the segregated neighborhoods and the opening of employers in far away suburbs." (Young 2001, p. 11) As a result of these processes, Native Americans are often poorly educated, live around demoralized people in dilapidated and dangerous circumstances, and have

few prospects for employment. Without taking into account the structural inequalities that are perpetuated by the social structures of the United States, one might find it difficult to conclude that Native Americans' unequal position in society is a matter of injustice, instead of the result of preferences, choices, and luck that affects each individual. Young concludes,

"While attributes of individuals also condition how they will be identified and treated by others, the primary account of gender or racial equality here is structural. They describe a set of relationships among assumptions and stereotypes, institutional policies, individual actions following rules or choosing in self-interest, and collective consequences of these things, which constrain the options of some at the same time as they expand the options of others. One could tell analogous stories of how the economic class position of one's parents, neighborhoods and friends condition much of a person's life options because of the structural inequalities of class." (Young 2001, p. 11)

The fact that these limitations on the life prospects of Native Americans are the direct result of social institutions provide a strong argument to attempt to remedy these injustices.

The advantage of focusing on social group well being or status is that it allows us to better identify which groups are being systematically disadvantaged by the current social structures. Young notes that there is a recursiveness to this method,

"When we criticize social conditions for being unjust, we do not choose random attributes of individuals...We construct the groups for comparison according to generally recognized social positions which we already know have broad implications for how people relate to one another—class, race, ethnicity, age, gender, occupation, ability, region, caste, citizenship status, and so on. The process of evaluating group inequality for the sake of making judgments about injustice begins with the hypothesis that comparing the average status of members of some of these groups will reveal patterns of inequality. By a pattern, I mean the mapping of the distribution of some good across all social positions at a particular time." (Young 2001, p. 15)

On this model, the discovery of one such pattern of inequality does not necessarily indicate an injustice has occurred. One must investigate and find that such a pattern is *systemic* 'by finding a pattern of average difference in level of status or well-being along several parameters'. (Young 2001, p. 16) When we find that Native

Americans as a group have the highest rates of infant mortality, teen suicide, death from malnutrition, exposure and plague, and consistently experience the highest rate of unemployment, lowest level of educational attainment, and one of the high rates of incarceration among any group, and that this situation has persisted over generations, coupled with the fact that we can tell a '*plausible structural story*' to use Young's phrase, that accounts for the production of the patterns of inequality, then we can generate a strong argument that the structural organization of the society is responsible for the creation of those inequalities and is therefore unjust as it inhibits the members of these groups from exercising their liberties.<sup>16</sup>

The advantage of adopting such an approach is that it avoids many of the criticisms that traditionally plague group rights talk. Nothing in the argument about assessing inequality in terms of structures denies the fact that groups are composed of individuals, who must be seen as the final target of any policy changes and improvements that result. Nor does this approach adopt a corporate conception of rights, through which the group is given an independent status from those who compose its membership. Instead, this conception notices the very real ways in which people and institutions treat both themselves and others as group members when pursuing goals and policies. By comparing groups along socially relevant categories and then seeing if those groups' positions in the larger structures of society are in some way responsible for their condition, be it significantly advantageous or disadvantageous, one is better able to show how the opportunities and inhibitions related to their position in society denies the liberal promise of equality.

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<sup>16</sup> See 'Can we tell a plausible structural story' which starts on p. 67 for more evidence on this point.

Another advantage of this approach is that it avoids, as Young observes, “The worry that group-conscious measures of inequality suppress individual variation within groups...” (Young 2001, p. 17) It avoids this argument by virtue of the fact that it does not seek to equalize the conditions of the groups as such, but rather considers the relative status of each member from within that group. It seeks to promote a strong vision of individual equality of opportunity rather than some static average state of affairs between groups. In those cases where the structural inequalities between groups have been shown to be unjust, through showing how they tend to systematically disadvantage certain groups within society, then group rights packages can be targeted at those groups in order to rectify the unfair advantage that other members of the society possesses, and that the group does not.

Through adopting this conception of the proper working of liberal theory, one is able to perceive the dissolution of the difficulties involved in offering group rights within a liberal context. The group rights that are granted are not special benefits that provide advantages to the targeted members that give them an unfair advantage over the rest of society. Rather, they serve as a remedial function through which the inequalities that are generated and perpetuated through social structures can become largely neutralized, in pursuance with liberal ideals. In the event that these social structures are rearranged to better accommodate oppressed groups, this theory would allow for the dissolution of those specific liberal policies that were enacted to achieve equality that are no longer necessary.

## CAN WE TELL A 'PLAUSIBLE STRUCTURAL STORY'?

In order for the argument just described to have force, we must look into the past and present policies that explain how the structural relationships within society can be found to be responsible for the creation of unjust inequalities that hinder individuals and groups from exercising their liberties. In addition to the arguments presented in the earlier portions of this work, I offer the following historical argument showing how the structural arrangements in the United States unjustly hindered Native Americans.

The current legal status of the Native American nations in United States law is that of a 'domestic dependent'. This status was originally invoked by Chief Justice of the Supreme Court John Marshall, the originator of the Marshall Doctrine, to describe the legal status of the Cherokee Nation in the early 1830's. Churchill explains that Marshall argued "that the native nations of North America are "nations like any other" in the sense that they possessed both territories they were capable of ceding and recognizable governmental bodies empowered to cede these areas through treaties...[However] they were nations of a "peculiar type" both "domestic to" and "dependent upon" the United States, and therefore possessed of a degree of sovereignty intrinsically less than that enjoyed by the United States itself." (Churchill 2000, p. 407) It should be noted that at this time (1830) the Cherokee Nation's lands in question were completely surrounded by the territoriality of the United States and may have born 'some relationship to the then-prevailing reality, it must be reiterated that he did not confine his observations of the situation to Cherokees', and went on to apply this doctrine to all subsequent Native nations. (Churchill 2000, p. 407) The effect of this doctrine, which was not only applied

to the Cherokee, but to all Native American nations including those not yet encountered in any significant fashion at this time, was to limit the autonomy of Native American nations by placing them under the control of the federal government rather than as fully autonomous nations in their own right. This stood in clear violation of the original terms under which Native American nations and the United States had agreed to operate under and has been since characterized as providing a legal screen under which the United States could attempt to fulfill its territorial ambitions.<sup>17</sup> Justice Marshall's interpretation began a long relationship between the United States and Native Nations that became increasingly paternal as the United States solidified its hold over Native America.

Further complications arose in 1885 when Supreme Court Justice Samuel Miller "...rendered an opinion that consolidated and extended Marshall's earlier assertion of federal plenary power over native nations, contending that the government held an "incontrovertible right" to exercise authority over Indians as it saw fit and "for their own good." Miller also concluded that Indians lacked any legal recourse in matters of federal interest, their sovereignty being defined as whatever Congress did not remove through specific legislation. This decision opened the door to enactment of more than 5,000 statutes regulating affairs in Indian Country through the present day." (Churchill 2000, p409) In the 1903 decision *Lonewolf v. Hitchcock*, Justice Edward White effectively eliminated the last vestiges of true Native autonomy by extending "the concept of federal plenary power to hold that the government possessed a right to unilaterally abrogate whatever portion of any treaty with Indians it found inconvenient while continuing to consider the remaining terms and provisions binding upon the Indians..." White also

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<sup>17</sup> For more on this idea, see Ward Churchill's *Struggle for the Land*. Common Courage Press. 1993.



opined that the government's plenary power over Indians lent it a "trust responsibility" over residual native property such that it might opt to "change the form" of this property—from land, say, to cash or "services"—whenever and however it chose to do so." (Churchill 2000, p. 410)

That Justice Miller used the phrase 'for their own good' is especially telling of the paternalistic mentality that has characterized the United States' discourse with Native America throughout much of their relationship. The notion that Native Americans are somehow incapable of managing their own affairs can be seen to be partially derived from stereotypes that characterize Native Americans as child-like, simple, primitive, or in some way inferior, and has distorted the discourse between the Native Nations and the United States since the United States rose to military ascendancy. Of course the idea that Native cultures are or were inferior is patently absurd as Michael Dorris claims in the following passage.

"Among the several hundred separate cultures of North America alone, comprising as they did between twelve and twenty million people in 1491, there existed a pluralism of social experimentation and worldview unimagined by melting pot theorists. Every known form of political system was practiced, from democracy to theocracy to communism to hereditary leadership. In the vast majority of these societies, power and decision-making rested with both women and men. Most Native peoples were village-based agriculturalists, not "roaming hunters." A wide variety of sciences—astronomy, agronomy, medicine, mathematics, geology, meteorology, and taxonomy, to name only a few—were highly developed and practiced. A wealth of spiritual and philosophical beliefs flourished. A tolerance for individual difference, either within one's own culture or in another society altogether, was the norm. And yet this treasure trove of experience and intelligence, perfected over tens of thousands of years residence on this continent, is allowed to be eclipsed by dumb, racist drivel." (Dorris 1999, p. vii-viii)

Nevertheless, the United States continues a policy of abusive paternalism under which the Bureau of Indian Affairs (BIA) must approve all decisions made by Native Nations before they become binding. Not only is this damaging to Native autonomy, it has also opened the door for Native American wealth to be exploited.

Following the Reorganization Act of 1934, the Native tribes were forced to reorganize their traditional governments, which had already been stripped of their legal standing through previous legislation, into an alien form of government based on U.S. practice—an elected ‘tribal chairman’ and elected ‘tribal council’, which would after this point be considered the legitimate governing bodies of Native Americans. This move can be seen as a clear manifestation of the United States’ abusively paternalistic attitude concerning Native Americans. The failure to recognize that traditional forms of Native government had functioned well, and represented those cultures’ considered opinion upon the best way to organize their social experience, has served to undermine the identity of Native American cultures and serves as a significant obstacle in the development of authentic Native personalities. The BIA maintains trusteeship of Native lands and exercises total veto power over any decisions that the chairperson or councils make, increasing the feelings of powerlessness and alienation experienced by Native Americans. This situation has continued into the present despite the knowledge that the BIA is often corrupt and inefficient, as noted in the following quotation.

“The Bureau of Indian Affairs has a history of Congressional politicking, mismanagement, internal corruption, and general non-responsiveness to Native People’s concerns. Numerous Congressional studies over the years have condemned the BIA for inefficiency and outright cruelty.” (Council on Interracial Books for Children 1999, p. 89)

Given the supremacy of the BIA over Native affairs, they must be held to some degree of accountability for the dismal conditions that persist on Native lands. Some of the more alarming warning signs of the abusively paternal relationship here exhibited can be brought out by the following statement.

“While the Native American population has risen since the turn of the century, it was—and still is—rising much more slowly than the population as a whole. Native Americans have a life expectancy of 64 years compared to 71 for whites. Twice as many Native American infants die during their first year as do infants as a whole. Native Americans suffer the highest incidence of suicide, TB, and alcoholism of any group in the U.S. And an estimated 25-35 percent of all Native children are removed from their families and placed in foster or adoptive homes or institutions. These figure are symptoms of the oppressive conditions under which Native Americans exist.” (Council on Interracial Books for Children 1999, p. 106)

Churchill notes that “It is presently estimated that as much as two-thirds of all known U.S. “domestic” uranium reserves lies beneath reservation lands, as well as perhaps a quarter of the readily accessible low-sulphur coal and about a fifth of the oil and natural gas. In addition, the reservations are known to hold substantial deposits of copper, zinc, iron, nickel, molybdenum, bauxite, zeolites, and gold.” (Churchill 2000, p. 411) Given the fact that reservations occupy some of the most mineral wealthy lands in the United States one would expect its residents to be among the most wealthy of all aggregate groups, especially when combined with the fact that the 1980 U.S. Census shows that Native peoples, as an aggregate group, “are the largest landholders on a per capita basis of any population sector on the continent.” (Churchill 2000, p. 412) Yet despite these advantages, Native Americans ‘suffer all the standard indices of dire poverty’ including ‘the highest rates of infant mortality and teen suicide and of death from malnutrition, exposure and plague.’ Native Americans ‘consistently experience the highest rate of unemployment, lowest level of educational attainment, and one of the high rates of incarceration among any group.’ (Churchill 2000, p. 42)

Simply put, under the administration of the Bureau of Indian Affairs, Native interests have been allowed to suffer in favor of furthering the United States’ national interests. Specifically, the BIA has been responsible for allowing the exploitation of Native lands by private and governmental organizations, who have reaped high profit

margins while simultaneously giving very low returns for Native peoples. This has led Native Americans to suffer the depredations of poverty caused and continued by their forced assimilation into the United States, while at the same time suffering untold damage to the development of authentic personalities by increasing feelings of inadequacy, inferiority, degradation, powerlessness, and forcing them to live within the cages of inauthentic identities.

## CHAPTER SIX

### SUMMARY AND CONCLUDING ARGUMENTS

It seems prudent at this point to reexamine the two core principles of liberal theory in light of the arguments made in this work. It was argued in the first chapter that liberalism, in all of its forms, adheres to two fundamental principles that are traditionally thought to be necessary for the functioning of liberal theory. The first of these claims, rational revisability, has suffered little alteration in this work. The moral necessity of an individual to be able to revise their own moral ends in an uncoerced fashion with regards to their conception of the good remains unchallenged. In keeping with this commitment, liberalism would not have an interest in promoting group rights that restrict this ability unduly, and therefore would not allow protections for what Will Kymlicka terms 'internal restrictions'. Internal restrictions are those that involve 'the claim of a group against its own members'. These sorts of restrictions are usually intended to protect the group against internal dissent, such as 'the decision of individual members not to follow traditional practices or customs'. (Kymlicka 1995, p. 34) By not allowing undue internal restrictions, liberalism can avoid one of the great entanglements of group rights theory, expressly the granting of internal restrictive powers that involve intra-group relations to national groups that may seek the use of such powers to restrict the liberty of its members in the name of group solidarity. By refusing to grant such powers to groups, liberal theory is able to remain steadfast in its opposition to individual oppression. For example, liberalism would have no interest in granting intra-group restrictive powers/protections such as the ability to use state powers to enforce religious orthodoxy or oppressive patriarchal/matriarchal policies. However some intra-group restrictions may be granted,

such as the ability to tax in support of public goods, perform some amount of military or community service, required voting, etc. These policies would be defended on the grounds that all governments require some level of minimal civic participation in order to uphold liberal rights and institutions.

In contrast, liberalism should take an active interest in promoting those group rights that are aimed at providing what Kymlicka refers to as ‘external protections’. External protections involve ‘the claim of a group against the larger society’ aimed at protecting the group against the impact of external decisions, such as ‘the economic or political decisions of the larger society’. (Kymlicka 1995, p. 35) At their heart, external protections seek to protect national groups distinct existence and identity by mitigating or removing the impact of damaging decisions made by the dominant nation

By dividing protections into internal and external categories, liberalism is enabled to promote the principle of rational revisability, while at the same time remaining sensitive to the needs of national minorities. By not allowing internal restrictions, one ensures the various national minority groups who might wish to invoke the coercive powers of the state to enforce oppressive practices would be unable to do so, thereby preserving the individuals’ ability to freely determine their own conception of the good.

It is the second fundamental principle of liberalism, namely the neutrality of the state, which I have argued requires a more nuanced interpretation than individual-centered liberalism has traditionally offered. Liberal theorists must recognize that the

neutrality of the state while a good idea in principle, masks bias in favor of the dominant majority nation manifested through nation building policies. The specific forms which institutions take, such as public education, the geographical dispersals of governmental offices, the language promoted, the drawing of voting districts, etc., all necessarily privilege certain groups while disadvantaging others. In addition, this sort of problem simply cannot be addressed by either a more rigorous application of traditional liberalism, nor can additional difference blind policies correct these problems.

In chapter four, I argued that difference blind policies tend to favor the interests of the dominant majority nation while ignoring or devaluing interests that are beneficial to the human condition, including values such as recognition, cultural membership, identity, language rights, and other participatory goods in the case of national minorities. To compound matters, it isn't simply the case that potential benefits to the human condition are remaining undeveloped, but instead that individualistic-centered liberalism actually cause significant harms to national minorities within multinational states. In chapter five I argued that by ignoring these issues, liberalism perpetuates in the undermining of national minority cultures through the erosion of their sense of identity, cultural membership, and dignity; all of which are values that need to be protected in order to ensure that an individual is able to freely choose amongst competing conceptions of the good. By undermining these values, liberalism reduces the ability of the individual to choose freely among conceptions of the good by making some of the alternatives subject to socially created and, in many cases officially sanctioned stigmas and other structural barriers that unfairly disadvantage certain groups. As was shown in chapters five and six,

this can subvert attempts to construct authentic personalities by causing feelings of oppression, inadequacy, and helplessness, all of which damage individuals ability to remain and develop meaningful autonomy from within national minority cultures, which are egregious harms. By protecting the dominant majority through nation building practices, while at the same time denying similar nation building powers to other national minorities, liberalism finds itself unable to adhere to both the principle of neutrality and rational revisability.

Worse yet, by not acknowledging and correcting the unjust structural inequalities that exist as a necessary product of any social organization, specifically inequalities that affect certain groups within a society, any form of liberalism that only considers individual rights will find itself unable to craft policies that can effectively counter-act these unjust inequalities, as was argued in chapter six.

In order to correct for this bias group rights are necessary within liberalism, to remove the socially created disadvantages that are attendant upon national minorities, but not upon the rest of the dominant nation. So rather than viewing group rights as offering 'special' or 'extra' rights, as much of liberal theory has traditionally argued, group rights actually represent a leveling of the playing field by removing the unequal distribution of benefits and burdens that difference blind policies perpetuate in multinational states.



So, in effect, the state ensures that its distribution of the burdens upon national groups remains equal by creating group rights policies designed to counter the unjust inequalities caused by the structural realities within the society. This is defended in terms of promoting the individuals ability to freely choose and serves as a realization of this ability. By protecting groups from becoming overburdened and engulfed by the dominant majority culture, liberalism is able to come closer to protecting the individual rights of the members within those groups, and brings itself closer to liberalism's goals of promoting freedom and equality between individuals.

#### DIFFICULTIES INVOLVED IN UTILIZING LIBERALISM TO RESOLVE ALL OF THE CLAIMS MADE BY NATIONAL MINORITIES

However, Young's model does not flawlessly mesh with some of the most basic claims made by many national minorities. Young's argument might rectify many of the injustices that currently plague liberalism, and may serve as a workable model for ethnic and gender based claims for equality within a nation state. The flexibility and temporality of her method would allow for a significant improvement in the status of Native Americans and other national minorities that exist within multination states. Further, by adopting such a plan, liberal governments should become able to better recognize the structural factors that preclude the reality of the principles of neutrality and equality. But it fails to identify with one of the most fundamental claims made by many national minorities, namely that they are morally entitled to their *own* state. In most cases—and certainly in the case of Native Americans—national minorities possessed their own fully functioning nations prior to European invasion. Accepting 'mere' citizenship within the national majority, even if it is on better terms, still ignores their

basic claim: that they are a different nation that deserves to be in control of its own destiny. Native objections to accepting simple citizenship have remained a common theme throughout their history, and that feeling can be brought out in the following quote.

“The term Native American, in and of itself, is a seemingly harmless term, but it is used in a way that infers, however innocent its author, that native people are somehow exactly the same as other hyphenated Americans (Chinese-Americans, Polish-Americans, etc.). That would not be objectionable, except that native peoples are in fact members of their respective nations, and the denial of their rights as distinct and separate nations with their own territories, sovereignty, cultures, and power over their own lives has been the basis of much racist policy in the Western Hemisphere.” (*Akwesasne Notes* 1977)

So, while Young’s model does seem to improve the prospects of national minorities and others who choose to operate within a liberal nation state, it may not go far enough in recognizing the independent status of some of those groups. Indigenous peoples around the world have consistently argued for, and in a few cases won, recognition of their rights to self-determination. But in the vast majority of cases indigenous peoples have been denied such rights and found themselves instead facing widespread discrimination and marginalization at the hands of the local majority culture

National minorities are in many ways, uniquely suitable candidates for secession. As has been argued, indigenous groups, in nearly every instance of those groups surviving, satisfy all of the conditions needed to define a nation. Namely, they were institutionally complete, possessed distinct languages and cultures, and formed a historical community occupying a given territory or homeland. Indigenous peoples were often large-scale, anonymous<sup>18</sup> groups that had a common culture and character that encompassed many important aspects of life and which marks the character of the life of

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<sup>18</sup> By ‘anonymous’ I refer to the idea that they were not groups small enough to know all of the group members individually, but must instead rely on the possession of general characteristics for mutual recognition.

its members, where membership in those groups was a matter of mutual recognition and was important for one's self-identification and was a matter of belonging and not achievement.<sup>19</sup> The possession of these characteristics makes them suitable candidates for the possession of group rights, as was defined in chapter one. Similarly, the possession of these characteristics would seem to confer upon them the same level of legitimacy, whatever that may be, that any nation state possesses.

The right to secede and the conditions under which such a right might obtain, represents a huge and rapidly growing field of inquiry. While it is not the purpose of this paper to decide which theory of secession provides the ideal model, I will argue that under most conceptions of secession that indigenous peoples should qualify for both the attainment of and as possessing a right to secede.

Normative theories of secession can be broadly characterized as falling between two poles; the first recognizing the right to secede as a remedial right<sup>20</sup>, the second recognizing the right to secede as a primary right. Typically, those theorists who defend secession as a primary right argue that the legitimacy of the state is derived from those peoples whom it would govern through their direct consent. In the case where a group or region wishes to no longer be governed by the state in which it exists, and where this interest is clearly advocated, then secession is a legitimate option even in the absence of any harms. This position is usually defended by arguing that an individual or group

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<sup>19</sup> These criteria were developed by Margalit & Raz in 'National Self-Determination' *The Journal of Philosophy*, v.87, n.9 September, 1990. p.439-461.

<sup>20</sup> For an example of a remedial rights theory see Allen Buchanan's 'Theories of Secession' *Philosophy and Public Affairs*, v. 26, n. 1, p31-61. For an example of a primary rights theory see Avishai Margalit & Joseph Raz's 'National Self-Determination'. *Journal of Philosophy*, v. 87, n. 9. Sept. 1990 p. 439-461.

should have control over those decisions that closely affect their lives. As the type of government that one lives under dramatically impacts the life prospects of a group, that group should be granted the ability to choose their own form of association in order to best exercise their autonomy and to better represent their vision of the good. Different primary right theorists will place different conditions governing the conditions that must be met in the absence of any injustice, but they argue that secession is a right fundamental to human societies. As this type of theory is more expansive in its view than a remedial right only theory of secession concerning the conditions for secession, it seems highly unlikely that one could generate a right to secede under a remedial rights theory of secession that could not also be generated under a primary rights theory of secession. Given this probability, I will examine the conditions for secession under remedial rights only theories, and argue why national minorities should be granted the right to secede. If it is successfully argued that a group should be granted a right to succeed under the remedial right of secession theory, then this will also serve to establish why it should be granted a right to succeed in addition to any other conditions it may meet for a right to secede under a primary right to secession theory.

Remedial rights theorists offer a more exclusive vision concerning the rights of secession and the conditions under which it obtains. Allen Buchanan explains that remedial right only theorists typically argue that “..the (general) right to secede is in important respects similar to the right to revolution, as the latter is understood by what may be called the mainstream of normative theories of revolution. The latter are typified by John Locke’s theory, according to which the people have the right to overthrow the

government if and only if their fundamental rights are violated, and more peaceful means have been to no avail [<sup>21</sup>].” (Buchanan 1997, p. 34) Buchanan claims that the primary difference between the right to secede and the right to secession ‘is that the right to secede accrues to a portion of the citizenry, concentrated in a part of the territory of the state’ with ‘the object of the exercise of the right to secede not to overthrow the government, but only to sever the government’s control over that portion of the territory’. He continues,

“If the only effective remedy against selective tyranny is to oppose the government, then a strategy of opposition that stops short of attempting to overthrow the government (revolution), but merely seeks to remove one’s group and the territory it occupies from the control of the state (secession), seems both morally unexceptionable and, relatively moderate. For this reason, a Remedial Right Only approach to the right to secede can be seen as a valuable compliment to the Lockean approach to the right to revolution understood as a remedial right. In both the case of revolution and that of secession, the right is understood as the right of persons subject to a political authority to defend themselves from serious injustices, as a remedy of last resort.” (Buchanan 1997, p. 34)

To serve as an example of a remedial rights only theory of secession, I will examine Buchanan’s theory of secession, which will serve as a representative of a remedial right only theory of secession. In *Secession*, Buchanan argues that a group has a right to secede under two basic conditions. (Buchanan 1991) The first being that the ‘physical survival of its members is threatened by actions of the state (as with the policy of the Iraqi government towards the Kurds in Iraq) or it suffers violations of other basic human rights (as with the East Pakistanis who seceded to create Bangladesh in 1970)’. (Buchanan 1997, p. 35) The second condition under which a group has a right to secede is when its ‘previously sovereign territory was unjustly taken by the state (as with the

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<sup>21</sup> Bracketed footnote follows this papers footnote schema, not Buchanan’s. Buchanan’s footnote reads as follows, “John Locke, *Second Treatise of Civil Government* (Hackett Publishing Co., 1980), pp.100-124. Strictly speaking, it may be incorrect to say that Locke affirms a right to revolution if by revolution is meant an attempt to overthrow the existing political authority. Locke’s point is that if the government acts in ways that are not within the scope of the authority granted to it by the people’s consent, then governmental ceases to exist. In that sense, instead of a Lockean right to revolution it would be more accurate to speak of the right of the people to constitute a new governmental authority.

Baltic Republics)'. (p. 35) While it has been here argued that individual-centered liberalism does in fact violate basic human rights through the unjust distribution of burdens upon national minorities, the degree to which this argument has been successful will affect the legitimacy of the application of the first condition. Given the possible uncertainty of the first claim to the present day circumstance concerning national minorities within the United States, I will focus my attention upon the second claim, which seems to be much less disputable.

Throughout chapters three and five examples were given of the history of treaty making between the United States and Native nations. These examples included the original acknowledgment by the European powers of Native American sovereignty over the lands which they inhabited and controlled. The United States upon its formation actively pursued relations with and acknowledged these nations sovereignty. However, once the United States gained the military and political power to renege upon those treaties, it began a systematic policy that involved the physical relocation of Native nations coupled with genocidal and social programs designed to remove North American native nations from the face of the earth. It should be noted that the United States' activities from 1835-1894 stand in clear violation of the United Nations declaration made by the General Assembly concerning genocide enforced in 1951. (United Nations 1951) The declaration defines genocide as

"..any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (D) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group." (p. 62)

destruction) or simply ignored when it became feasible to do so. These factors seem to preclude any hope of obtaining a strong moral claim to those lands now occupied by European Americans. Further the legitimacy of the United States claims of governing powers over those nations assimilated without having given their consent to be so governed seems to be invalidated by both the historical guarantees that the United States offered Native American under conditions of fair negotiations and then reneged upon and by the subsequent abuses that the Native nations suffered at the hands of the United States.

Given these injustices, it seems that under either conception of secession; secession viewed as a remedial right or a secession as a remedial right, that national minorities within the United States should be recognized as having a moral claim to secede. To the degree that this paper has been successful in establishing the harms inflicted by dominant national majorities upon national minorities constitutes a physical threat to the survival of Native nations constitutes a violation of basic human rights, then the right to secession under the first criteria that theories of secession acknowledge (the physical survival of its members is threatened by actions of the state or it suffers violations of other basic human rights) has been met. To the degree that the Native nations and other national minorities possessed previously sovereign territories that were unjustly taken by the state, then they have here obtained a legitimate moral claim for the right to secession.



## CONCLUSION

It is my opinion that if the national minorities rights are adequately respected within the states that they occupy, options short of secession may prove to be an acceptable alternative. In fact, from past to present, Native Americans have remained sensitive to their interconnectedness with European settlers. For example, in the 1988 session of the United Nations Human Rights Commission's Working Group on Indigenous Populations in Geneva, Switzerland, an Iroquois diplomat made a special presentation to the Working Group of the *Gus-Wen-Tah*, the Two Row Wampum belt.<sup>22</sup> The *Gus-Wen-Tah* treaty belt was presented centuries ago by the Iroquois to the Western colonizing nations that first came to North America. Robert Williams describes the belt as

"...comprised of a bed of white wampum shell beads symbolizing the sacredness and purity of the treaty agreement between the two sides. Two parallel rows of purple wampum beads that extend down the length of the belt represent the separate paths traveled by the two sides on the same river. Each side travels in its own vessel: the Indians in a birch bark canoe, representing their laws, customs, and ways, and the whites in a ship, representing their laws, customs, and ways. In presenting the *Gus-Wen-Tah* to solemnize their treaties with the Western colonial powers, the Iroquois would explain its basic underlying vision of law and peace between different peoples as follows: "We shall each travel the river together, side by side, but in our own boat. Neither of us will steer the others vessel." (Williams 1997, p. 4)<sup>23</sup>

By presenting this belt, the Iroquois were renewing a centuries old indigenous North American legal tradition that asserts the ongoing significance of tribal traditions in the contemporary rights movement. As alluded to by the metaphor of the boats on the river, the Iroquois recognized that Native Nations and European colonies may need to share the same environs, but that this process need not exclude the other or result in the subordination of any culture. If one examines the language of North American indigenous diplomacy of the Encounter Era period (1600-1800), one can see the

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<sup>22</sup> See 'Report of the Working Group on Indigenous Populations on Its Sixth Session' U.N. ESCOR CN.4, U.N. Doc. E/CN.4/sub.2/1988/24, at 7 (1988)

<sup>23</sup> See *Indian Self-Government in Canada, Report of the Special Committee*. 1983



constitutional principles that Woodlands Indian groups believed governed their relationships with European-Americans emphasizes the interconnectedness of the groups. Williams continues,

“It may seem odd to most Americans to speak of an Indian treaty negotiated during the colonial period of our nation’s history as a ‘constitutional’ text. In the traditional national mythology, discussions of constitutional texts normally revolve around the U.S. Constitution of 1787...If, however, we think of a constitution—not in the traditional American sense of one basic, written document of law but rather as the British use of the term—as encompassing a whole body of values, customary practices, and traditions basic to the polity, we can begin to reconstruct a much different set of indigenous constitutional principles generated by American Indian treaty visions of law and peace for the emerging multicultural society of Encounter era eastern North America. For Indians of the Encounter era, treaties, as sacred texts, required treaty partners to accept a common set of constitutional values reflecting their shared humanity under their covenant. Treaties, as constitutionalized connections, gave rise to customary bonds that treaty partners could rely on in times of need or crisis. Treaties told as stories sought to sustain a constitutional tradition of human solidarity between different peoples.” (Williams 1997, p. 98-99)

Given this example of the willingness of some Native Americans to view the relationship of Native Americans and the United States as a collective venture, it is not unreasonable to think that if Native Americans are granted sufficient powers of self-determination over their own affairs, that they may not opt to advocate secession, even if they have a legitimate right to secede.<sup>24</sup> It seems that one of the driving forces behind national minorities claims for nation status derives not so much from a desire to be considered as an official nation as such, (although this does drive some movements) as from a desire to avoid being oppressed and otherwise treated in unfair manners. Many national minorities have a long history of oppression at the hands of dominant majority nations and believe that official nation status may be their only hopes for protecting their cultures, lands, and languages. If national minorities are given significant powers of self-determination, such as language rights, control of education, and some form of autonomous or semi-autonomous regions of control, combined with an approach adopted

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<sup>24</sup> I define ‘self-determination’ in the following sense, as “to validate the rights of individual subgroups to determine their own future irrespective of the needs of others (the majority) in the state in which they live” (Peang-Meth, Abdulgaffar 2002, p.109)

by the dominant national majority that is sympathetic to the special conditions for justice that are necessary for national minorities operating in liberal systems, then they may feel that they are being sufficiently recognized and empowered and may choose to voluntarily remain within the polity. However, in those cases where such recognition is not deemed sufficient, and where national minorities can demonstrate either historical or current injustices being perpetrated upon them by a state, commensurate with the claims made earlier, then they must be recognized as possessing a moral right to secession.

But the question still remains, ‘What would the policies look like that would reinforce a sense of dignity and recognition for national minorities that would provide them with reasonable powers of self-determination?’ While the ultimate answer to this question would need to be developed through opening an honest and ongoing dialogue with national minorities that considers their individual wants and needs, at least a few governing features seem likely to result from such a process.<sup>25</sup> Given the importance of language policies and education that have already been established concerning the creation and maintenance of nations, these areas seem like reasonable places to start.

Education may provide the single most useful tool and one of the easiest to apply concerning issues of group rights for national minorities. In the first case, traditional methods of education should be allowed for all members who so desire to pursue such an

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<sup>25</sup> As in many cases the actual kinds of wants and needs are going to vary depending on such factors as the modern day size of the national minority, how strongly it wishes to pursue its rights, the forms that these policies might take, and so on. It is an unfortunate fact that many of the national minorities within the US probably lack the minimum population necessary for the complete recreation and maintenance of their cultures over time, whatever the means taken to protect them might be. What is to be stressed is that they should be intimately involved in such a process and allowed, to a significant degree, the final stamp of approval on the policies that are enacted with their benefit in mind, to avoid the type of abusive paternalism that was earlier mentioned.

option. Additionally, the materials used within the dominant national majority culture of the United States will need to undergo revision in order to more accurately depict the realities and historical achievements of national minority cultures. Changes would likely include the addition of non-stereotypical sources of information concerning national minorities, the inclusion of important national minority figures to serve as role models, materials dealing with the current reality of national majorities, and a more nuanced version of history that takes into account the interplay of ideas and values between national minority cultures and the following waves of immigrants to the New World. The intended result of these policies would be to increase understanding concerning present day national minorities, and the accomplishments that they have made and continue to make to the state. These policies would be aimed at increasing the national majorities awareness of the issues concerning present day national minorities and acknowledging their accomplishments in the past.

This would not only serve to allow the national majority to gain a more accurate understanding of the historical processes that actually occurred within the United States and are still occurring, but would also serve as the foundation for a new beginning in the dialogue between the national majority and its minority nations. By gaining a more accurate understanding of the history and cultures of minority cultures, this would likely reduce the misunderstandings that have characterized the relations between the groups. This will also predispose the national majority to take the claims of national minorities more seriously, which would engender new conversations concerning the dispensation of land rights, appropriate governmental forms and protections, language policies,

educational techniques and policies, and so on. Further, monies could be set aside for the creation of national minority schools that would be conducted in the language of those students.

Additionally, programs could be established at both the primary, secondary, and collegiate levels of education that emphasize the importance of bilingual education for both national majority and minority students. By providing incentives for the various sides to learn the others' language, the perpetuation of those languages could be extended. Given the importance of language in perpetuating cultures, it would also seem reasonable to allow national minorities to conduct both their private and public affairs in their native language and to require all communication to be in those languages, in those areas where they form the majority or have been designated. While in most cases this will probably be on reservations, at least in the case of Native Americans, it will still offer a sphere of protection for the language. Further, this sphere of protection would not be inferior to the prospects that many indigenous minorities might expect even if they seceded, as their relatively low populations in comparison to the United States combined with their geographical locations in the majority of cases would effectively ensure that they would have to use their own language and English in a bilingual fashion in order to promote their own trade interests, governmental negotiations, and seeking employment outside of their nations. For those relations taking place within national minority controlled areas, presumably the national minorities language would be preferable for transactions. By providing a sphere of protection for national minority languages—which exists already for the national majority, as has been argued—combined with incentives to

offer national minority languages through the various forms of public education, should aid national minority languages to survive and flourish.

Finally, creative new conceptions of the governmental relations between national minority groups will need to be conceived in order to better recognize the distinctive claims that many national minorities have regarding self-government. In the specific case of Native Americans, it would seem reasonable to expect an examination of the historical treaties between the Native American nations and the United States aimed at identifying and rectifying past injustices. The changes in the educational system already suggested would hopefully provide a new basis for and an increasing willingness on the part of the national majority to fairly evaluate the claims and contentions of Native Americans, based on a new notion of respect and equal dignity between peoples. Such an evaluation may include the need to use the international community, such as the United Nations, to adjudicate competing claims where no other options present themselves. One potential advantage to such adjudication would be that it would mitigate the particular interests of both of the groups, and provide a more impartial forum for judgment than is currently provided.

Whatever the eventual individual solutions to the difficulties posed by the presence of national minorities within the United States, the adoption of group rights packages can be seen as a useful intermediate step, and perhaps as a permanent solution, in resolving those issues. By promoting group rights one can be seen to be augmenting the liberal traditions emphasis on equality by ensuring that no groups within a society are

subjected to oppressive practices that preclude the individual members of those groups from being able to fully and fairly participate within liberal societies. Further, by ensuring that 'double bind' and other oppressive situations do not occur that adversely affect peoples ability to make free, uncoerced decisions, liberalism finds itself closer to realizing its dream of fairness. By promoting group rights that address the injustices that are perpetuated by the structural relationships within a society and cause unjust inequalities to manifest between group rights, liberalism can ensure that the state is truly remaining neutral by not privileging certain groups within its boundaries, thereby fulfilling its responsibilities to equality and neutrality.

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## VITA 2

Jeremy W. Jordan

Candidate for the Degree of

Master of Arts

Thesis: LIBERALISM, MULTICULTURALISM, AND NATIONAL  
MINORITIES: A STUDY IN COMPATIBILITY.

Major Field: Philosophy

Biographical: Personal Data: Born in Saint Louis, Missouri, On January  
5<sup>th</sup>, 1975, the son of Bruce and Sarah Jordan.

Education: Graduated from Broken Arrow High School, Tulsa, Oklahoma in  
May 1993; received a Bachelor of Arts in Philosophy from Oklahoma State  
University in December 1998. Completed the requirements for the  
Masters of Arts degree with a major in Philosophy at Oklahoma State  
University in August 2002.

Experience: Graduate Teaching Assistant, Department of Philosophy,  
Oklahoma State University 1999 to 2002.  
Senior Archivist, Pragmatism Archives, Oklahoma State University 2000  
to 2002.