

The London School of Economics and Political Science

The Contemporary Significance of the Past:

Cultural heritage
and the liberal state

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Declaration

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Abstract

The research question that this thesis seeks to address is how contemporary liberal states, that are characterised by cultural diversity, should respond to cultural heritage. The argument of this thesis is that liberal states are fundamentally obliged to ensure that individuals have the greatest freedom possible to engage with their own cultural heritages. Cultural heritage and practices play a crucial role in the construction and maintenance of individual and group identity, and thus a response of non-intervention in cultural heritage provides the best means of respecting this significance. Although a government may not be sympathetic to certain ideas and ways of living, this does not give it a right to destroy or damage any cultural artifacts and objects, unless these objects or practices actively incite violence or harm to others, because doing so would necessarily violate the liberal proviso to abstain from interfering in conceptions of the good.

Liberal states do not have an obligation to preserve a national heritage, nor do they have a duty to preserve a diversity of (minority) cultural heritages. However, contemporary nation-states – liberal and otherwise – will necessarily possess certain attributes of cultural heritage, such as a national flag, language, symbols etc., that are likely to reflect the experiences of a dominant, national group. While this acknowledgement entails a diversion from ideal liberal theory and poses problems for the cultural neutrality of the liberal state, I argue that it is in the liberal states' interest to maintain some objects of cultural heritage as these have instrumental value in fostering an understanding of the shared political community and respect for liberal values. However, liberal governments are obliged to ensure that existing public heritage does not unduly discriminate against minority cultural groups; thus sustaining political neutrality. The liberal response that I have outlined thus attempts to sustain liberal values whilst remaining mindful of contextual issues such as power relations between and within groups, and the necessary constraints of contemporary statehood.

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Introduction

The inspiration for this research is derived from the experiences of my homeland, Hong Kong, where barely a day passes without some mention of the threat to cultural heritage in the city's newspapers. An incredibly dense population, shortage of land and constant redevelopment combined with an uncertainty about its post-colonial Hong Kong *or* Chinese identity, has resulted in significant changes to Hong Kong's cultural heritage over the past decade and a half that has elapsed since Hong Kong's return to China. The residents of Hong Kong have seen changes to their currency, national anthem, street names, post-boxes, public holidays and buildings, to name but a few changes. In 2006, after much discussion, dissent and delay, Queen's Pier on Hong Kong Island was destroyed to make room for redevelopment. In addition to its use as a public pier, Queen's Pier had also been a ceremonial site for the arrival of all colonial governors since 1925, and on June 30th 1997 the last governor of Hong Kong, Chris Patten, departed the island accompanied by Prince Charles, only a few hundred metres away. This site had clearly played a key role in the history of Hong Kong but was not worth preserving over redevelopment. Similarly, at the time of writing, the current heritage controversy in Hong Kong concerns Government Hill, which has, since colonial times, been the administrative centre of Hong Kong, containing the Central Government Offices, West Wing and Court of Final Appeal. Much like Queen's Pier, Government Hill also has great historical significance for

Hong Kong. The Hong Kong Government, however, wishes to sell this land to property developers. Yet, at the same time, the Government refuses to ban the cruel and unsustainable practices of capturing and selling sharks' fins, which traditionally play a role in most celebratory banquets and forms part of a Chinese culinary heritage, citing the harm that this would do to Hong Kong's long established shark fin industry.

It is stories such as these that prompted me to begin researching cultural heritage. A lot of people in Hong Kong feel as strongly about the *threats* to Hong Kong's built heritage as they do about the *continuation* of shark finning; resulting in public speeches, protest rallies, signature campaigns and even hunger strikes. Yet, setting these highly emotive responses to one side, it was unclear what the philosophical implications of preservation and destruction were, and whether and how one might articulate a reasoned response to cultural heritage. This is an issue that is a lot bigger outside of Hong Kong and threats to cultural heritage are nothing new. Revolution and social conflict, in 18th Century France as in 1960s-70s China and beyond, have all too frequently resulted in the destruction of cultural heritage. Urban development, as we have seen, but also globalisation and global tourism, threaten the existence of indigenous languages, knowledge and practices. The threat to cultural heritage has also been reflected in a rapidly expanding literature on heritage conservation, policy and management. Coinciding with the 1983 UK Heritage Act, heritage first became a major subject of academic enquiry in the 1980s, with many scholars writing about the nature of heritage and its relationship to national identity and class. Most recently, however, heritage scholars have been turning to issues such as cultural diversity and human rights and exploring how these topics can influence cultural heritage. Yet, very few of the resulting works have engaged with the deeper theoretical and normative issues and debates concerning identity, multiculturalism and the politics of diversity. The promotion of diversity through the preservation of minority and indigenous heritages, far from being viewed as one possible response to cultural heritage, has instead been generally recognised as a necessary goal for cultural heritage. This consensus has been reflected in a number of UNESCO treaties and conventions, most notably the 2003 Convention Concerning the Safeguarding of Intangible Heritage which notes that:

‘cultural heritage, transmitted from generation to generation, is *constantly recreated* by communities and groups *in response to their environment*, their interaction with nature and their history, and provides them with a sense of *identity and continuity*, thus promoting *respect for cultural diversity and human creativity*.’¹

Yet, it is far from clear how communities and groups engaging with their own cultural heritages can ‘promote respect for cultural diversity.’ Responding to issues of identity and history, cultural heritage is a subject that is fraught with symbolism and emotion, with some scholars even going so far as to describe the threats to indigenous languages as ‘linguistic genocide.’ The lack of debate in the literature about diversity and how best to respond to it emphasises the need for reasoned arguments that explore the normative consequences of the politics of identity. It is for this reason that this thesis considers how to respond to cultural heritage with the assistance of existing works on multiculturalism and diversity from within the field of political theory.

However at the same time, it is also striking that, despite a burgeoning sub-field of multiculturalism, citizenship and identity studies within political theory, and while a great deal has been written within these topics on the issue of culture, surprisingly little is said explicitly about cultural *heritage*. It is true that scholars often address questions concerning heritage when they take a stance on how the state ought to respond to minority cultural practices that clash with dominant norms, and questions of public heritage can arise tangentially in discussions about national symbols, holidays and scheduled work-weeks. Yet, culture in these instances is often taken as a given, ahistorical and most problematically, static. Cultures are described as though they were largely homogenous, bounded communities and cultural practices are taken to be unchanging, unchangeable and held equally by all members of the group. This conception of cultural practices can largely be attributed to the fact that many political theorists, writing on issues of multiculturalism and diversity, work within a broadly liberal framework. It is not difficult to understand why liberalism has proven so popular in scholarly work about diversity. Liberalism provides a good guide for

¹ Emphasis added. UNESCO (2003): Convention for the safeguarding of intangible heritage, <http://www.unesco.org/culture/ich/index.php?pg=00006>, Article 2, (accessed November 4th 2008).

responding to questions about culture because it grows out of a need to accommodate difference. Liberalism's reluctance to demonstrate any explicit preference for a particular form of the good life, combined with its commitment to universalism, renders it a strong contender for offering a sound solution for responding adequately to a diversity of cultural goods. Yet, liberalism's commitment to objectivity, universalism and cultural indifference is both its defining feature and greatest vice. Indeed, because of these commitments, a common charge levelled against liberalism is that it is blind to historical experience and incapable of recognising the inherent particularism of its own beliefs and traditions.

A growing awareness of these problems has led to an increased engagement with the nature of culture and community. As Patten and Kymlicka write:

‘much of the work in political theory in the last 20 years can be seen as attempting to break down these stark dichotomies between individual/community and universalism/particularism...even if we start with liberal assumptions about universal value of individual freedom and democracy, these values can in fact be upheld only if they are embodied within the institutions and traditions of particular political communities.’²

Writing about cultural *heritage*, therefore, as opposed to simply culture is part of this research agenda. It marks a conceptual shift and signifies a commitment to conceiving of cultures as the outcome of accumulated historical experiences. Heritage provides a means of tracing cultures and engaging with their processes of development, as well as factoring in experience. By engaging with cultural heritage, it becomes possible to acknowledge the significance of historical experience in the construction of personal, and hence group, identity. Furthermore, accepting the historical contingency of identity should also force us to reconsider our own liberal and supposedly universal beliefs. Thus, while this research is based on the premise that liberal accounts of diversity are able to provide answers to some of the problems of cultural heritage, cultural heritage, with its emphasis on particular experiences, can also highlight and possibly resolve some of the existing problems with contemporary liberalism.

² Kymlicka, W. and Patten, A. (2003): eds. Language Rights and Political Theory, (Oxford: Oxford University Press), p.11.

The fundamental research question that this thesis seeks to address, therefore, is how contemporary liberal states, that are characterised by cultural diversity as well as a diversity of power relations within and amongst groups, should respond to cultural heritage. This is a question that is concerned with the representation of history and experience in public spaces, as well as the treatment of cultural and historical beliefs and practices within ‘private’ spaces. It is a question not only about whether or not to preserve cultural heritage, but also about *whose* heritage. It is concerned with multiculturalism and how the state ought to treat cultural minorities with traditions that often differ quite sharply from the majority, as well as a question about how to resolve the cultural prejudices of the majority or dominant group. This is also, however, fundamentally a question about liberalism and the prerogatives, rights and limits of the liberal state. The aim of this thesis is thus to construct a general theory of how states should respond to cultural heritage, remaining consistent on the broad spectrum of heritage issues which can range from public holidays, monuments and symbols, to personal and collective rituals, practices and objects. Nevertheless, while the role and limits of government are the primary subjects of this research, this also highlights the scope and boundaries of individual and cultural toleration.

Methodology

The strategy, or method, of this thesis is to outline a response to cultural heritage by exploring how liberal principles affect cultural heritage, and vice versa. As noted above, I am also concerned with the significance of national identity and dominant norms and thus situate this exploration of liberal principles within the context of contemporary nation-states that are characterised by a diversity of cultures, heritages, conceptions of the good and social relations. The liberal position advanced here is outlined and defended by comparing and contrasting it with a number of different liberal responses to cultural diversity, namely: libertarianism (*as advanced by* Chandran Kukathas), liberal egalitarianism (Brian Barry), liberal multiculturalism (Will Kymlicka), liberal nationalism (David Miller), and constitutional patriotism (Juergen Habermas). The thesis is also *largely* structured around this comparison. Jacob Levy’s classification of different types of cultural claims provides a good

framework for viewing, at a glance, how the position established here differs from these alternate approaches, and is illustrated on the next page.³

The Argument of this Thesis

The argument of this thesis is that liberal states are fundamentally obliged to ensure that individuals have the greatest freedom possible to engage with their own cultural heritages. Cultural heritage and practices play a crucial role in the construction and maintenance of individual and group identity, and thus a response of non-intervention in cultural heritage provides the best means of respecting this significance. Indeed, the more the state intervenes in cultural heritage, the less freedom individuals have to engage meaningfully with their own histories. Consequently, however, while there is no general principle or obligation to preserve or promote cultural heritage, states do not have a general right to destroy or prohibit cultural heritage either.

The liberalism defended here is thus broadly sympathetic toward what is known as negative liberty – or freedom *from* interference – with an emphasis on limited government in order for individuals to have as much space as possible to exercise choice and engage with their own conceptions of the good. In this regard, it is most sympathetic to the work of contemporary liberals such as Brian Barry and Chandran Kukathas. However the conception of individual liberty defended here also finds that governments have a role to play in the creation of this space - such that it is meaningful and worthwhile to individuals. Thus, while I start out from a position of non-intervention, it is these two theorists who unfortunately also receive the brunt of my criticisms when outlining how the position established here also deviates from ‘benign neglect.’ In terms of cultural heritage, this means that the liberal government may, at times, be obliged to intervene when it is found that individuals have not been given the freedom to exercise choice over their cultural heritage. Individuals are occasionally forced to follow certain cultural practices against their will and, in these instances, the liberal state must intervene in order to uphold respect for individual

³ Levy, J. (2000): The Multiculturalism of Fear, (Oxford: Oxford University Press), p.127. *NB* I have omitted ‘Self-government’ and ‘Representation’ as I do not deal with these questions in this thesis.

Category	Example ⁴	Argument presented here	Libertarianism	Liberal Egalitarianism	Liberal Multiculturalism	Liberal Nationalism	Constitutional Patriotism
Exemptions from laws which penalise or burden cultural practices	Sikh/motocycle helmet laws, indians/peyote, indigenous peoples/hunting laws, Amish/schooling	No cultural exemptions. Some individual exceptions	No	No in principle, but some cultural exceptions in practice	Yes	No	No
Assistance to do those things the majority can do unassisted	Multilingual ballots, and other public information	Yes, but severely restricted.	No	No	Yes	No	No
External rules restricting non-member's liberty to protect members' culture	Quebec/restrictions on English language, Indians/restrictions on whites voting	Yes. State intervenes to uphold toleration of cultural practices.	No	No	Yes	Yes, in the sense of protecting the national heritage.	No
Internal rules for members' conduct enforced by ostracism, excommunication	Mennonite shunning, disowning children who marry outside the group	Yes, but limited by respect for toleration and autonomy .	Yes	No	No	No	No
Recognition/enforcement of traditional legal code by the dominant legal system	Aboriginal land rights, traditional or group-specific family law	No	No	No	Yes	No	No
Symbolic claims to acknowledge the worth, status, or existence of various groups	Name of polity, official name of ethnic groups, national holidays, teaching of history and historical justice	Yes	No	No	Yes	No	No. But some (e.g. Cecile Laborde) allow.

⁴ Most of these are taken from Levy (2000): op cit., p.127 – however, I have amended some of these in order to fit my arguments.

autonomy. Sometimes, however, it is the dominant cultural group that prevents individuals from engaging with their own (minority) cultural practices on the basis that these practices clash with the norms of the dominant culture. In these instances, the liberal state intervenes to uphold toleration. In short: interventions in cultural heritage within the liberal state are only justifiable on liberal grounds.

Given these principles, it might seem somewhat surprising, therefore, that the view outlined in this thesis also defends the existence of a public heritage – specifically, a public heritage which is likely, in part, to reflect the experiences of a dominant *national* group. While undoubtedly a deviation from the ideal of cultural neutrality, a significant premise, upon which this thesis is based, is the continued importance of the nation-state for liberal political theory. Indeed, the argument presented here also attempts to take the existence of power relations amongst and within groups more generally. Evidence for the importance of nations and nationalism extends far beyond the realm of academic enquiry. A cursory survey of recent political, economic, social, sporting and entertainment events indicate that, from the Arab Spring and crisis of the Euro; to the Olympics, Oscars and Eurovision; nationalism and national identity continue to play a significant role in structuring our perceptions of the world around us. The works of Craig Calhoun and Margaret Canovan – both of whom stress the continued significance of national identity for political theory – have been particularly crucial in shaping this feature of my work. Yet, although many liberal political theorists remain reluctant to acknowledge the presence, nevermind significance, of nations and national identity, many scholars of nationalism are equally sceptical of normative work and, in particular, liberal political theory. While liberal theorists often remain blind to the fact of nationalism, very few scholars of nationalism are unable to look beyond this fact to explore the normative consequences of national identity for the state and political principles. I thus attempt to draw these two approaches together and account for the continued significance of nation-states and national identity by acknowledging the consequences of dominant national groups.

Therefore, in addition to defending a right to engage with heritage, the liberal position that I outline also attempts to come to terms with the necessary existence of

cultural heritage which is likely to be biased toward the experiences of a dominant national group; such as a national anthem, flag, public holidays, curriculum, and so on. These biases in public heritage raise important normative issues to which I have tried to do justice in this thesis and, unlike some liberal scholars, I do believe that they can have significant bearing on individual welfare. By no means, however, is the position adopted here a variant of liberal nationalism. Indeed, the political theorists that do recognise the significance of national identity have the tendency to take this too far by imbuing it with normative significance. Thus, in recognising the continued significance of dominant (national) groups within the liberal state, I have been very careful not to rely on any *nationalist* arguments. The position on public heritage adopted here is thus best described as ‘nation-conscious liberalism.’ While I accept an inevitable bias in public culture toward a dominant national group, public heritage within a liberal state is distinguished by the fact that liberal governments nevertheless attempt to uphold political neutrality by *remaining conscious* of this cultural bias (and recognising that ‘our’ norms aren’t necessarily everyone’s norms) and *undermining* significant instances of cultural bias where possible (for example, by broadening the scope of official languages or improving access to translated materials concerning public services). Thus, while the continued significance of nationhood necessarily undermines a liberal government’s ability to maintain cultural neutrality, political neutrality and respect for individual freedom and choice remains intact.

My defence of a public cultural heritage is not made purely on grounds of political realism, however. In this thesis I attempt to demonstrate how a necessary public cultural heritage can be used to promote liberal values such as respect for autonomy and toleration of cultural diversity. In this sense, a public heritage also helps to *sustain* solidarity and an understanding of difference within the political community. Indeed, the importance of solidarity, albeit minimal, is something which has been overlooked (if not altogether rejected) by many theorists of multiculturalism and diversity. Yet, as Joseph Raz and others have pointed out, those who defend the interests of minority groups, against a dominant culture, ultimately presuppose the

existence of a shared public culture in order for their arguments to have resonance.⁵ In other words, a degree of solidarity is necessary to uphold respect for a diversity of cultural goods and in this thesis I attempt to demonstrate how a shared public heritage can help to generate this solidarity.

Crucially, however, what distinguishes a liberal public heritage from the sorts of heritage policies potentially envisaged by liberal nationalists and constitutional patriots, is the fact that it cannot aim to inculcate any political loyalty to liberalism itself or, indeed, to the liberal state. Furthermore, a liberal cultural heritage is also rendered distinct by the fact that it is necessarily minimal because, as I have pointed out above, a liberal response to cultural heritage must remain fundamentally characterised by non-intervention such that individuals are free to engage with their own cultural heritages. Although cultural heritage, in the form of a national language, flag and so on, exists in the public realm, liberal governments must vigilantly limit public expressions of cultural heritage to politically necessary attributes and make efforts to ensure that these attributes, in turn, represent liberal values.

The Structure of this Thesis

The first two chapters of this thesis set out the parameters of my research by providing a framework of important definitions and concepts. In the first chapter, I demonstrate the significance of cultural heritage by showing how it is crucial to individual and group identity. I begin by defining an ‘historical’ identity, that is, an awareness of the past that plays a significant role in the construction and maintenance of personal identity, and demonstrate how this identity often ties us to particular groups. Crucially, an historical identity is not only manifested in memory but can be conveyed through certain objects and practices, which we regard as cultural heritage. In the second half of the chapter, I therefore set out to define cultural heritage and argue that it is rendered distinct from other artistic and intellectual concerns by the fact that it is defined through recognition. Cultural

⁵ See Raz, J. (1994): Ethics in the Public Domain, (New York: Clarendon Paperbacks), p.187; Calhoun (2003): ‘Belonging in the cosmopolitan imaginary’, Ethnicities (3:531), p.541.

heritage is also inherently malleable and conceptions of it are thus prone to change because heritage fundamentally reflects changing ideas about identity. The nature of cultural heritage and historical identity lead me to assert that individual autonomy and control over cultural heritage is key.

In the second chapter I problematise cultural heritage as a political issue and set out the scope of enquiry of this thesis. Existing threats to heritage are well documented. Within the heritage literature and in treaty legislation, the promotion of cultural diversity is treated as the solution to this problem and, indeed, a variety of other social and political issues. By referring to existing works on cultural diversity within political theory, I demonstrate why a more nuanced approach to heritage and diversity is necessary. The issue of cultural heritage is not only about whether to opt for preservation, non-intervention or destruction, but also about *whose* heritage.

In the third and fourth chapters I set out the main principles of a liberal response to cultural heritage. Chapter 3 focuses on ideal liberal principles that govern a response to cultural heritage. Given that cultural heritage arguably reflects and represents particular conceptions of the good life, a liberal response to cultural heritage must fundamentally be characterised by non-intervention. The chapter thus examines the role of non-intervention and its limitations, arguing that any intervention on cultural heritage can only be justified to uphold liberal values of autonomy and toleration.

Chapter 4 situates the liberal principles outlined in the previous chapter within the context of contemporary nation-states. For the foreseeable future the international system of states remains characterised by sovereign nation-states; states that are fundamentally conceived around the existence of a (dominant) national community. Accepting that national identity continues to play a major role in structuring our perception of the social and political world entails that it is necessary to accept a certain amount of public heritage. Public holidays, national flags, symbols, anthems, museums all reflect the state's position on cultural heritage and are all necessary features of contemporary nation-states, frequently reflecting the experiences of the dominant nationality. Although this cultural particularity undermines the liberal state's claims to neutrality, it is important for a liberal theory to engage with

particularity rather than simply denying or ignoring it. Indeed, at the end of the chapter, I attempt to demonstrate how this public heritage can be used to promote liberal values.

Chapters 5 and 6 evaluate the principles established in the previous chapters by considering alternate approaches. Chapter 5 considers the ramifications of two broadly liberal positions, liberal nationalism and constitutional patriotism. I demonstrate how cultural heritage within a liberal nationalist state would result in the preservation of a dominant national heritage at the expense of minority heritages, while heritage under constitutional patriotism results in the neutralisation of diversity in favour of projecting a unified, universalised heritage. I shall show how both of these positions, in seeking to inculcate loyalty to political or national ideals, face fundamental problems of legitimacy and are simply too demanding of individual liberty. A liberal public heritage is distinguished from these approaches through a refusal to engage in processes that are designed to foster loyalty to institutions, and by emphasising the value of scepticism and a more complex understanding of public values and histories.

Chapter 6 considers how to respond to the cultural bias in public heritage by examining the ramifications of promoting a diversity of cultural heritages in public spaces. I consider arguments that support promoting diversity for the purposes of cultural survival, the politics of recognition and cultural defences, also known as cultural exemptions from law. Ultimately, I defend the position outlined at the beginning of the thesis on the basis that it allows individuals the greatest freedom to engage meaningfully with their own heritages. An awareness of power relations between diverse groups within the liberal state, however, entails that a liberal government is obliged to intervene in instances where cultural biases are found to constitute an injustice (e.g. if information about public services is only provided in the official language, this arguably constitutes discrimination against those who cannot speak the language).

Chapter 7 explores the ramifications of cultural heritage on historical justice. Indeed, monuments, memorial days, symbols, practices and rituals are often constructed in

the wake of historical atrocities. I explore what all of these objects mean for historical justice and in particular, for obligations of recognition and remembrance within the liberal state. Acts of ‘recognition’, however, often result in the creation of monuments, public holidays and new forms of public rituals – indicating a shift from recognition to remembrance. Yet, there is something radically disrespectful of individual freedom in demanding that citizens express joy, or feel sorrow by performing certain rituals on specific days of the year. Given that a liberal response requires that interventions in cultural heritage must be kept to a minimum, this necessarily limits its ability to engage with issues of historical justice. It is important, therefore, to distinguish between recognition, which is consistent with the liberal position outlined here, and remembrance – which exceeds what the liberal state may reasonably require. Governments may acknowledge specific historical events and occasionally pay tribute to these, but individuals must have the space to decide whether or not to engage with these activities.

The final chapter of the thesis applies the principles outlined in the thesis to specific thematic cases, namely: the cultural landscape; official knowledge; languages and rituals, in order to illustrate, clarify and reinforce the arguments and principles established in the previous chapters.

Chapter 1

The Contemporary Significance of the Past

In this chapter I shall begin by setting out a number of important issues, concepts and definitions. In the first part of the chapter, I outline the value of a connection to the past, what I term an ‘historical identity,’ on the basis that all individuals require some connection to a past, to provide their own lives with meaning and context. Crucially, however, this connection often ties us to a particular group, which can be defined in part by an understanding of ‘shared meaningfulness.’ This shared meaningfulness is often referred to as collective memory. There is inherent value in collective memory and an historical identity. Yet, because of this, the parallel value of forgetting is overlooked. Indeed, the complex relationship between the two values highlights the importance of allowing individuals to freely construct their own historical identities, possessing complete control over what they choose to remember and what they forget as a matter of freedom of conscience.

An historical identity, however, does not merely manifest itself in individual memory. Artefacts and practices can help sustain a link to the past and it is these objects which we may regard as cultural heritage. In the second half of the chapter,

therefore, I turn to define cultural heritage in depth. Rather than merely consisting of buildings, monuments and artefacts, heritage also encompasses intangible objects such as practices, traditions, rituals and knowledge. In defining cultural heritage, I draw upon UNESCO's 2003 *Convention Concerning the Safeguarding of Intangible Heritage* and highlight four significant aspects of cultural heritage: 1) the extent to which heritage is defined and identified by its *recognition* by particular cultural groups; 2) how the content of a group's cultural heritage is *impermanent* and *malleable*; 3) how cultural heritage is inherently tied to the *identity* of a group; 4) how *authority* over cultural heritage is to be established. It is these four features of cultural heritage that render it distinct from other objects and pursuits such as antiques and antiquarianism, as well as the academic study of history. It is also these four features, however, that render cultural heritage a potentially problematic political issue.

The Personal Significance of the Past: On Historical Identity

To possess some basic understanding of what has come before us is to conceive of the significance of the past as a type of knowledge. There are many reasons why we might actively seek to gain knowledge of the past - for example, there are didactic reasons, to gain historical awareness, to understand our own culture, to situate the present, to find out 'what really happened', and to help inform present decisions; but there are also more metaphysical reasons for looking backwards – to enhance our own self-understanding, to clarify our own existence, to explain our identity or humanity, and to pay a debt to our ancestors.⁶ These motives are manifold and not necessarily transparent. I wish to maintain that the significance of the past, conceived as a type of *knowledge*, is an important facet of a personal identity.

Indeed, we are defined and shaped not only by knowledge of our own experiences, but also by the experiences of those who have preceded us: from discovering a family genealogy, to understanding the story of 'our people' – be it national, ethnic, religious, or otherwise – all individuals require some connection to the past. This

⁶ De Baets, A. (2009): *Responsible History*, (New York: Berghahn Books), p. 26-27, Table 1.3 'motives for historical writing.'

conception of the past or of 'history', however, is not necessarily a factually accurate account of what has occurred before us. A personal history should be regarded as distinct from the endeavours of professional historians, and while this 'knowledge' of the past may contain elements of historical truths, the point that I wish to emphasise here is the significance of a *connection* to a past. I believe that this connection is important to all individuals - even a complete rejection of the history must entail some basic conception of it. Indeed, as James Booth has asserted, to have an identity is also to have a history.⁷ Knowledge of the past therefore matters, most basically, because it allows us to conceive of the context of our own lives.

However, while it is clear that our identities are *historically contingent*, it should also be obvious that different individuals attach different values to their historical connections, and the extent to which we engage with our connections to the past should be conceived as a matter of choice as well as chance: some individuals may find their histories to be an inherited unalterable legacy, whilst others may 'choose' to emphasize certain aspects of their pasts whilst downplaying others. Furthermore, some people may make a conscious decision to reject their roots whereas others may simply be indifferent to them. It is also important to note that, over the course of our lives, we may identify with many different historical legacies and indeed engage with several historical connections at the same time. Inherently subjective and incredibly dynamic, an individual's connection to the past has a highly elusive character. Yet, the fickle nature of personal historical connections should not in any way undermine the fact that, accepted or rejected, an individual's conception of the past can play an intrinsic role in the 'construction' and maintenance of personal identity. It follows, therefore, that if we wish to respect and uphold freedom of conscience, individuals should be free to 'determine' their historical identity in a manner of their choosing, as part of defining their own identities. Of course, this by no means indicates that the state is bound to recognise or respond to this identity. One can think here of the substantial number of people who characterise themselves as 'Jedi knights' on census

⁷ Booth, J. (2006): Communities of memory: witness, identity and justice, (Ithaca: Cornell University Press), p.180.

forms⁸; while the state does not have any inherent obligation to recognise this identity, it nevertheless must respect and cannot deny this conception as part of a respect for personal identity and freedom of conscience.

Collective Meaning, Collective Memory

All individuals require some sense of the past to provide their present lives with meaning, context and identity. As Cicero remarked, to remain ignorant of history is to remain forever a child.⁹ The tangible and public implications of personal accounts of the past, however, are only emphasized by the fact that a personal historical identity is deeply conditioned by group membership. By situating or defining ourselves with reference to a particular aspect or interpretation of the past which exists beyond our own very personal experiences, we axiomatically tie ourselves to a particular group.¹⁰ Some individuals, for example, identify themselves as the descendants of significant historical injustices such as slavery, or indeed, the Holocaust. They maintain a connection with a previous generation but, in doing so, are also establishing a connection with other individuals of the present generation who share this particular connection with the past. Therefore, it is when our connections to the past gain substantive content, when we identify with a particular past, that we become part of a group which can be defined, in part, by a recognition of this specific past. Much of what we consider to be significant aspects of the past is indicative of our membership within a particular group. Indeed, a collective, in this sense, both sustains and is sustained by individual memory.¹¹

⁸ After a long campaign, the 2001 UK Census included an option to select 'Jedi Knight' under religion. Officials were keen to point out, however, that even though the status of Jedi Knight had been given its own code, this did not confer on it the status of official recognition. Source: BBC News, Oct 9th, 2001 - <http://news.bbc.co.uk/1/hi/uk/1589133.stm> The 2011 Census, however, did not include this option. Interestingly, in 2010 after a removing a man for refusing to take off his hoodie (he claimed that he was a Jedi Knight), a Job Centre later apologised for failing to respect his religious belief, perhaps indicating a shift towards the recognition of Jedi rights? Tesco, however, continues to maintain its ban - on hoodies, stating that "Obi-Wan Kenobi, Yoda and Luke Skywalker all went hoodless without going to the Dark Side." Source: 'Jedis Stand Up for Religious Rights' in The Guardian, , March 18th, 2010 - <http://www.guardian.co.uk/commentisfree/belief/2010/mar/18/jedis-religious-rights-star-wars>.

⁹ Cicero, cited by Kelley, D in (1991): Versions of history from antiquity to Enlightenment, (Yale: Yale University Press), p.76.

¹⁰ Halbwachs, M. (1980): The Collective Memory, (New York: Harper and Row), p.53.

¹¹ Halbwachs, M. op cit., p.182.

This notion of the shared meaningfulness of historical events is frequently discussed using the term ‘collective memory.’ First used by Emile Durkheim, collective memory must be understood and analysed along different parameters to individual memory.¹² The term, though widely used, is unfortunately somewhat misleading. By no means will all members of a group interpret the past in exactly the same manner, for it is not really possible to speak of group memory outside of the very general statement that each member of the group remembers a specific event as having occurred, accepts this event as relevant, and shares some conception of its general interpretation. Collective memory is a concept for shared meaningfulness¹³, that each member of the group recognises the *significance* of a particular historical experience or event and not necessarily the specific content or meaning of that event.

Indeed, much of what we consider to be significant aspects of the past is indicative of our membership within a particular group, and this is why certain artefacts and traditions will frequently be recognised by many individuals as constitutive of the cultural heritage of a particular group. As Maurice Halbwachs has argued, a collective, in this sense, both sustains and is sustained by individual recollections of the past.¹⁴ Although individual memory predominantly exists within the framework of collective meaningfulness, it is important to recognise that these groups are neither static nor mutually exclusive. Throughout the course of their lives individuals may have changing conceptions of what constitutes a meaningful past; as such, we have multiple roots which have the potential to grow as well as change direction. Group memory therefore coheres in a very approximate sense.

The Virtue of Remembrance and the Freedom to Forget

The virtue of remembrance lies primarily in the fact that by situating ourselves as pinpoints within a historical framework, by becoming aware of generations that exist

¹²Forty, A. and Kuechler, S. eds. (1999): *The Art of Forgetting*, (London: Berg Publishers), p.1-2. Forty also describes the attempt to analyse collective memory using the same terms as individual memory as an ‘unfortunate’ consequence of Durkheim’s legacy.

¹³ Young, JE. (1993): *The Texture of Memory*, (Yale: Yale University Press), p. xii.

¹⁴ Halbwachs, M. op cit., p.182.

before, during and after ourselves; respect for the past teaches us humility, and undeniably, respect for the present. Indeed, this ethical virtue is well documented. Cicero wrote that, ‘there never has lived a man possessed of so great a genius that nothing could escape him, nor could the combined powers of all the men living at one time possibly make all necessary provisions for the future without the aid of actual experience and the test of time.’¹⁵ F.A. Hayek, drew on a similar thought when extolling the value of a spontaneous evolutionary order.¹⁶ Michael Oakeshott, too, chastised the rationalist who considered no other experiences other than his own¹⁷, and Simone Weil argued that in order to give to the future we need to be able to take from the past.¹⁸ While the veneration of tradition and of experience has often been associated with Conservative thought, even John Stuart Mill, who repudiated the authority of custom, noted that, ‘it would be absurd to pretend that people ought to live as if nothing whatever had been known in the world before they came into it; as if experience had as yet done nothing towards showing that one mode of existence, or of conduct, is preferable to another.’¹⁹

Indeed, groups – national, religious, ethnic and otherwise - with their own particular collective memories partly base their existence on the virtue of remembrance with stories of shared experience. I have asserted the importance of allowing individuals to define their historical identities, and hence join and remain part of particular collectives, above. Yet there is also potentially something radically unfree about collective memory (and attempts to instil and maintain collective memory). Being told that one ought to remember, mourn and perform specific rituals on certain days *can* undermine freedom of conscience. I shall engage with these points in greater depth in later chapters, but it is worth highlighting that while there may be a personal or ethical virtue in remembrance, potential conflicts arise when situating this within a

¹⁵ Cicero De re Publica II 1.2.

¹⁶ Hayek, F.A. (2011): The Constitution of Liberty, (Chicago: University of Chicago Press), p.113.

¹⁷ Oakeshott, M. (1991): ‘Rationalism in Politics’, in Rationalism in Politics and other essays, (Indianapolis: Liberty Press), p.6.

¹⁸ Weil (1987): op. cit, p.48-49.

¹⁹ Mill, J.S (1993): ‘On Liberty’, in Utilitarianism, On Liberty, Considerations on Representative Government, (London: Everyman’s Library), p.125.

broader moral and social context. Any discussion on the value of remembrance must, therefore, be accompanied by a parallel discussion on the value of forgetting.²⁰

For Friedrich Nietzsche, an awareness of the past and of previous existence is to our *detriment* and what ultimately what distinguishes us humans from animals. Nietzsche wrote:

‘A human might well ask an animal: ‘Why do you not speak to me of your happiness but only stand and gaze at me?’ The animal would like to answer, and say: ‘The reason is I always forget what I was going to say’ – but then he forgot this answer too, and stayed silent: so the human being was left wondering.’²¹

Doomed as we are to always be aware of the past, Nietzsche argued that it is impossible to lead a meaningful life without forgetting.²² This is because the converse, to immerse oneself entirely in the past and in remembrance, is in effect to allow *the dead to bury the living*.²³ The condition of memory in combination with the necessity of forgetting, led Nietzsche to argue that the past had to be used for the purposes of *life*²⁴, and in doing so he attempted to outline a theory on the appropriate use of the past. Nietzsche recognised the need for the past as belonging only to a ‘specific soil and climate’; when the past was used irresponsibly it could grow into a ‘devastating weed.’²⁵ He was, for example, critical of those who associated themselves with the Romans, burying themselves also in the works of Greek poets²⁶, and mockingly Nietzsche asks them: ‘Is the past not big enough for you to be able to find nothing except things in comparison with which you cut so ludicrous a figure?’²⁷

²⁰ This is a key argument of Forty et al in Forty and Kuechler eds. (1999), op cit.

²¹ Nietzsche, F. (1997): ‘The Uses and Abuses of History’ in Untimely Meditations, (Cambridge University Press), p.60-61.

²² Ibid., p.62 and 63.

²³ Ibid., p.72.

²⁴ Ibid., p.77.

²⁵ Ibid., p.72.

²⁶ Ibid., p.86, extremely critical actually – he described such individuals as eunuchs.

²⁷ Nietzsche, op cit., p.86; see also comments on historical justice, p95: ‘historical justice, even when it is genuine and practical with the purest of intentions, is therefore a dreadful virtue because it always undermines the living thing and brings it down: its judgement is always annihilating.’

The historical and the unhistorical are thus, for Nietzsche, necessary in equal measure for individual and civic health.²⁸ While the virtue of remembrance does encompass a respect for times that have passed, forgetting, as parallel to remembrance, is also a necessary virtue. In this context forgetting should be conceived as an organic phenomenon; the natural consequence of change and growth, when a memory ceases to matter. It is indicative both of a shift in the content of meaningful memory and of 'moving on.' In fact, remembrance and preservation mean little without forgetting and innovation; as James Bau Graves writes, 'neither can stand alone since they both provide justification for their counterpart's existence.'²⁹ While it can be important to remember the past, to cherish the great victories and mourn tragic injustices, to carry on traditions and to preserve artefacts, part of living in the present naturally entails a continual movement away from the past.

Indeed, the identification of specific, meaningful historical experiences entails the neglect or 'rejection' of other aspects of history. As I have mentioned previously, what we choose to preserve, or the practices that we continue to embody are axiomatically the objects that we deem of value. Unlike Borges' *Funes the Memorious*³⁰, due to finite psychological as well as practical resources, we cannot remember everything. But nor would we wish to do so, for equal knowledge of all aspects of the long march of history with all its intricate twists and turns is to anaesthetise the past and render all experience the same. The past gains its significance by virtue of its subjectivity; and collective memory gains significance because it can provide individuals and groups with a sense of a specific and meaningful past. There is virtue in forgetting if for no other reason than the fact that it makes us more acutely aware of the things that we wish to remember.³¹

²⁸ Ibid, p.63.

²⁹ Graves, J. (2005): *Cultural Democracy*, (Illinois: University of Illinois Press), p.41.

³⁰ Borges (1942): 'Funes the Memorious' – The story of a boy who, after falling from a horse, developed an eidetic memory – the ability to remember everything with exceptional detail. Borges presents this as a curse more than a blessing.

³¹ Note the intentional similarity here to Oakeshott's conception of conservatism: 'a disposition appropriate to a man who is acutely aware of having something to lose which he has learnt to care for.', op. cit. p.408 'On being Conservative' in Oakeshott (1991): op cit.

In outlining a theory of the value of historical identity and collective remembrance, therefore, it is crucial that accommodations are made for the parallel value and necessity of forgetting. A discussion on the value of amnesia, however, also requires that we recognise the extent to which individual psychological states of forgetting and remembering may be beyond the scope of political theory. By this I mean that it is important not to presume that certain actions, such as preservation and tradition, correlate exclusively with specific psychological states. For instance, while the physical construction of the past in terms of statues and monuments centrally grows out of a respect for that past and previous members of our community, in attempting to transfer memories to material objects, we may actually be trying to forget them.³² The inclination to externalise the past, in much the same way that a painter externalises his creative energy by producing artwork, can thus also imply a simultaneous need to rationalise or designate the past. The past has been engaged with but it has also been externalised in a suitable and appropriate form which may be interpreted as a desire to acknowledge the past, but also to move on.³³ To embody a memory in an artefact may well set it along an inevitable, albeit slow, road to amnesia. Therefore, while social psychologists may undoubtedly have much to say about how attitudes determine behaviour, to assert the correlation between memory and preservation is a contestable empirical claim that I do not wish to rely upon here. The significance of all of this moral and psychological ambiguity – of the value and manner in which remembrance and forgetting manifest themselves – is to indicate the value (indeed, necessity) of a personal freedom to engage with our historical identities, memories and forgetting in a manner of our own choosing.

From Identity to Tangible Objects and Practices

Our identities are constituted by many different attributes and preferences, and certainly not all of these facets necessarily warrant further discussion. An *historical* identity however does, and this is a consequence of the manner in which it is constructed: while an historical identity is in part constituted by meaningful historical

³² Young, op cit., p.5.

³³ Rowlands, 'Remembering to Forget: Sublimation as Sacrifice in War Memorials' in Forty eds (2001): op. cit, p.131.

narratives, by no means are accounts of the past merely sustained in individual memory. ‘The past’ is not merely a figment of our imagination, nor something that we may only read about in history books; rather, as manifested in tangible and intangible objects – such as paintings, monuments, practices, languages and rituals - the past can be reflected in infinite locales. It is worth noting that *this* is a fundamental premise of this research: that it is absolutely crucial to acknowledge that certain objects and practices are capable of representing historical experiences and thereby assist in the configuration of our conceptions of the past. For example, Paul Connerton has argued that *accounts of the past are conveyed and sustained by (more or less ritual) performances*.³⁴ From dressing in a certain manner and holding the specific piece of cutlery in the ‘correct’ hand³⁵, to participating in certain rituals on certain days, through bodily practices and rituals we can physically *embody* tradition, memory and the past. Thus our understandings of the past and of history are also manifested in the traditions and routines that we follow. Such actions are not practiced (solely) on the basis of their continued utility, but rather on a customary basis with the (quite possibly irrational) belief that this is how things *should* and indeed, ‘*always*’ have been done. By acting as such, we can conceive of our traditions as a connection to, and continuation of, a meaningful past.

Tangible artefacts and objects like paintings such as Picasso’s rendition of the bombing of Guernica, or Delacroix’s iconic image *La Liberté guidant le peuple* (‘Liberty leading the people’) of the French Revolution, also provide sources for comprehending the past by expressing the mood and experience of a particular moment in history. Indeed, history museums are built upon the premise that objects and images are able to convey an understanding of the past. In addition to this, the rise and fall of different regimes and eras of history have inevitably left their marks on the urban landscape. Remnants of colonialism, for example, are still apparent in the facades of cities such as Singapore, Hong Kong and Macau. So too the legacy of architectural movements such as Le Corbusier’s, whose manifesto to reject the past

³⁴ Connerton, P. (1990): *How Societies Remember*, (Cambridge: Cambridge University Press), p.40.

³⁵ *Ibid.*, see Connerton’s remarks on table manners, p.82-83.

and use architecture and urban planning for social engineering³⁶ continues to linger in buildings throughout the 'modern' world. Over two decades since the fall of the Berlin wall, the built environment of East Berlin remains distinct from West Berlin, highlighting the very different historical experiences of these two sides of the same city. Indeed, the very act of building monuments and memorials represents a conscious attempt to construct and represent the significance of a historical event. All of these tangible objects are *physical landmarks* of historical memory. They are capable of expressing history in manner that is not necessarily amenable to articulation, and yet, when we open our eyes to the realm of historical significance, we find that traces of a meaningful past can be found everywhere.

Cultural Heritage Defined

To conceive of the past in terms of its presence in individual and collective memory, I have noted above, is to analyse the significance of the past as a type of knowledge. The past is something which may be remembered, interpreted and learnt about. This knowledge of the past, far from being limited to memories and narratives, as we have seen, can be represented in an infinite number of objects as defined by the term cultural heritage.

'Heritage,' Graeme Davison once mused, 'is the cuckoo in the historian's nest.'³⁷ It is a concept which does not lend itself easily to definition; or more precisely, to an essential definition that goes beyond describing the physical attributes of artefacts. While some authors, including the drafters of the 1972 UNESCO Treaty on Cultural Heritage, have listed adjectives such as historic, artistic and scientific to describe heritage, others have avoided the 'problem' of definition by circumventing the issue altogether. However, is cultural heritage sufficiently described by its physical attributes, or is its definition so clear or obvious that it may be omitted altogether?

³⁶ Beckett, J (2008): City of Heavenly Tranquility: Beijing in the history of China. (London: Allen Lane), p.276.

³⁷ Graeme Davison as cited in Lowenthal (1998): The Heritage Crusade and the Spoils of History, (Cambridge University Press, p.xv.

The United Nations Educational Scientific and Cultural Organisation (UNESCO) 1972 *Convention Concerning the Protection of the World Cultural and Natural Heritage*, 'considering that parts of the cultural or natural heritage are of outstanding interest and therefore need to be preserved as part of the world heritage of mankind as a whole,'³⁸ defines heritage as,

monuments: architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, which are of outstanding universal value from the point of view of history, art or science;

groups of buildings: groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of outstanding universal value from the point of view of history, art or science;

sites: works of man or the combined works of nature and man, and areas including archaeological sites which are of outstanding universal value from the historical, aesthetic, ethnological or anthropological point of view.³⁹

The problem with this type of definition – and UNESCO is not solely culpable in this regard⁴⁰ - is that, rather than attempting to engage with the particular features of cultural heritage, attention is focused instead on why heritage is interesting or important. Heritage here is thus defined by its general significance. Yet by listing attributes such as historical, artistic, scientific, ethnological and anthropological, the 1972 *Treaty* provides little more than an indication or physical description of heritage. It fails to identify the essential, distinctive features of cultural heritage, and, at worst, effectively promotes heritage as an interesting, albeit antiquarian, form of embellishment.

This difficulty in identifying the particular characteristics of cultural heritage can be attributed to the fact that cultural heritage cannot be defined with reference to a

³⁸ UNESCO (1972): *Convention concerning the protection of world cultural and natural heritage*, <http://whc.unesco.org/archive/convention-en.pdf>, Preamble, (accessed November 4th 2008).

³⁹ Ibid.

⁴⁰ Some examples, Govt. of Malta <http://www.culturalheritage.gov.mt/page.asp?p=3068&l=1>; China <http://www.china.org.cn/english/TR-c/74810.htm>; English Heritage (Conservation Principles) http://www.english-heritage.org.uk/upload/pdf/Conservation_Principles_Policies_and_Guidance_April08_Web.pdf.

physical form. The 1972 Convention lists monuments, groups of buildings and sites as different types of cultural heritage but this is certainly not an exhaustive list of how cultural heritage is manifested. In defining cultural heritage it is in fact absolutely crucial not to place too much emphasis on material, or tangible, forms. It is only quite recently that UNESCO formally recognised the importance of intangible forms as part of cultural heritage. In fact, the October 2003 UNESCO *Convention for the Safeguarding of Intangible Heritage* moves closer towards formally identifying what is specific about heritage by defining intangible heritage as,

‘The practices, representations, expressions, knowledge, skills – as well as the instruments, objects, artefacts and cultural spaces associated therewith – that communities, groups and, in some cases, individuals *recognize* as part of their cultural heritage. This intangible cultural heritage, transmitted from generation to generation, is *constantly recreated* by communities and groups *in response to their environment*, their interaction with nature and their history, and provides them with a sense of *identity and continuity*, thus promoting *respect for cultural diversity and human creativity*.’⁴¹

The convention also states that such intangible heritage can be manifested in a number of domains which includes (a) oral traditions and expressions, including language as a vehicle of the intangible cultural heritage; (b) performing arts; (c) social practices, rituals and festive events; (d) knowledge and practices concerning nature and the universe; (e) traditional craftsmanship.⁴²

Heritage, therefore, does not merely consist of statues and monuments, but intangible objects as well. It is very important to acknowledge this point, firstly, because it radically alters the scope of my inquiry. Secondly, given the customary rhetorically conservative nature of international treaties, the *rationale* provided for the inclusion of intangible objects, as valid manifestations of cultural heritage, is of particular interest. What is crucial about the 2003 *Convention* is that while it follows the same framework of defining heritage in terms of its significance, in contrast to the 1972 *Treaty*, which defined heritage in terms of its ‘outstanding interest’ resulting from artistic, scientific, historical etc significance, the *Convention on Intangible Heritage*

⁴¹ Emphasis added. UNESCO (2003): [Convention for the safeguarding of intangible heritage](http://www.unesco.org/culture/ich/index.php?pg=00006), <http://www.unesco.org/culture/ich/index.php?pg=00006>, Article 2, (accessed November 4th 2008).

⁴² Ibid.

asserts a very particular political significance of cultural heritage as its defining feature; namely, the ability to convey a sense of identity to groups. In fact, Article 2 of the 2003 Treaty contains some surprising assertions that, when taken to heart, raise quite serious issues pertaining to policy on cultural heritage. This, obviously, is not a reason to ignore the 2003 *Convention*. On the contrary, I find it to be more illuminating than its ‘predecessor.’ Indeed, I shall be using this definition, i.e. Article 2 of the *Convention for the Safeguarding of Intangible Heritage*, as the framework for my definition of cultural heritage. This does not mean that I will only focus on intangible forms of heritage in my research. Rather, by examining and elucidating some of the assertions within Article 2, I shall attempt to demonstrate that there is no reason why the premises offered by the article should be limited only to intangible forms. Furthermore, by exploring the assertions offered by Article 2, I hope also to reveal the essential and particular features of cultural heritage.

Cultural Heritage, Aesthetics and Acceptability:

‘...[T]hat communities, groups and, in some cases, individuals recognize...’

The 2003 *Convention* explicitly recognises here, irrespective of the existence of ‘world’ or ‘universal’ heritage, that cultural heritage pertains primarily to the particular – to particular individuals, groups and communities that can, in part, be distinguished by the differing conceptions and content of their cultural heritage. It is a shift, therefore, from the implicit universalism of the 1972 *Treaty*, to an explicit recognition of the diversity of cultural heritages that constitute what we may regard as ‘world heritage.’

More important, however, is the notion of ‘recognition.’ It is possible deduce from the above statement that various objects and practices can *become* cultural heritage by virtue of their recognition as such. Unlike within the 1972 *Treaty*, cultural heritage is not defined in terms of its ‘outstanding interest’ or outward appearance, but rather by the fact of its *acceptance* and *acknowledgement* by a particular group or community. Thus, in accordance with the 2003 *Convention*, cultural heritage cannot be defined with reference to an objective aesthetic value but rather, can encompass a

whole multiplicity of objects such as paintings, artefacts, monuments, architecture and costumes – but also language, narratives, practices and rituals – all of which are united by the fact of their recognition by a particular cultural group. A consequence of relying upon the 2003 *Convention's* notion of recognition is that we move away from any criteria for form – in theory, therefore, any tangible or intangible object, so long as it is recognised as such, can be regarded as cultural heritage.

Appealing to the ‘recognition’ of cultural heritage allows us to distinguish it from art and antiques. Whereas the recognition of fine or excellent art generally implies a degree of formal knowledge about aesthetic theory and art history, and of antiques an appreciation and understanding of the aesthetic qualities of particular ages; the recognition of cultural heritage, in contrast, does not rely upon a corresponding form of (supposedly) objective knowledge. Rather, presumably and somewhat controversially, and in accordance with the 2003 *Convention* it is only the members of a particular cultural group who are ‘qualified’ to identify objects as their cultural heritage. This is not to suggest that cultural heritage, art and antiques represent three mutually exclusive fields of objects, nor to say that the appearance or aesthetics of cultural heritage are irrelevant; the appearance and form of objects will definitely play a substantive role in the process of recognition, and it is certainly possible to appreciate objects of cultural heritage as works of art in their own right. However, to speak of an object as cultural heritage is, from the outset, to commit oneself to analysing it along the specific parameters of its recognition by a particular cultural group. Whether this analytical distinction in turn requires a commitment to a differentiated practical treatment of cultural heritage is in part, what this chapter, and indeed the rest of the thesis, seeks to establish.

The actual *process* of recognition and the acceptance of an object as constitutive of cultural heritage is a matter which requires further attention. On one hand, as the *Convention* implies and as I wish to maintain, certain objects may be regarded as cultural heritage when they are recognised as such. This notion of recognition immediately imbues such objects with a particular significance, fundamentally implying that the objects which are regarded as cultural heritage should (minimally)

be treated as analytically distinct from other objects (such as those regarded as art and antiques). On the other hand, the actual recognition of cultural heritage seldom occurs explicitly or, for that matter, with much consistency.

David Lowenthal attempts to illustrate this point with his example of a statue by Frederic MacMonnie entitled 'Civic Virtue.' The statue, depicting an unclothed man, yielding a sword in his right hand, whilst standing on two women (one defeated, the other cowering), is meant to allegorise virtue overcoming vice. Lowenthal writes that the statue was, 'taken away when viewers ignorant of its mythology took umbrage at a man trampling a woman.'⁴³ The statue in this regard caused offence not because of its allegorical symbolism, but rather because of its physical expression. According to Lowenthal, present day values have superseded whatever values the statue originally meant to portray. Therefore 'Civic Virtue' is no longer an example of public heritage, the issue of its preservation as become one of public art.

It is worth noting, however, that Lowenthal has simplified the story of 'Civic Virtue' to a certain extent, because when the statue was initially unveiled in 1922, its depiction of misogynistic violence was received with a mixture of shock and dismay.⁴⁴ The history of Civic Virtue's public presence has been one of continual efforts for its removal. Even though the statue was intended to symbolise the history and continuity of certain American values, it was, right from the start, never conclusively accepted as such. While citizens did acknowledge the intent of the statue, and most certainly believed in the fundamental values of 'virtue' that the statue attempted to portray, they were unable to accept or derive that meaning from the statue. That is to say, the physical or aesthetic qualities of the statue undermined the value of the allegory.

⁴³ Lowenthal, Preface to Forty eds. (1999): *The Art of Forgetting*, op cit.), p. xii.

⁴⁴ http://www.huffingtonpost.com/2011/02/25/councilwoman-julissa-ferr_n_828362.html.

Purnick (1996): 'Women Seen, or Just Used Through Art' in *The New York Times*, October 14th, 1996 <http://query.nytimes.com/gst/fullpage.html?res=9804E1D71F3EF937A25753C1A960958260>, see also

http://www.nytimes.com/2007/02/11/nyregion/thecity/11virtue.html?_r=1&scp=4&sq=%27civic+virtue%27&st=nyt and

<http://query.nytimes.com/gst/fullpage.html?res=9B0DE2DD1F38F933A05753C1A961948260>.

This presents a rather interesting predicament at this point because I have argued that the aesthetic value of an object does not determine whether or not it can be considered cultural heritage. However, it has become clear through the example of Civic Virtue that aesthetics and physical form do matter. My response to this is that these values are only important *insofar* as they are able to communicate meaning and value to their audience. Thus I maintain that while the physical form or inherent attractiveness of an artefact do not immediately determine whether or not an object is heritage, they can play a substantive functional role in allowing groups to derive meaning from an object. An appreciation of an artefact of cultural heritage is thus based upon a recognition that the form of the artefact is able to convey an accepted and relevant past.

Yet, while the creation of monuments and memorials and the preservation of certain artefacts certainly indicate cultural heritage, these instances of relatively clear recognition are comparatively rare. This is because what may reasonably be described as cultural heritage may be so integrated into the landscape of everyday life that acquiescence of it is never unequivocally acknowledged. While ingrained tradition and institutions may not be appreciated on a daily basis, as Kevin Lynch points out, the existence of cultural goods conveys a sense of security and continuity such that the threat of their demise will often be met with hostility and dissent.⁴⁵ Indeed, it is perhaps only when objects and practices are under threat that groups come to recognise these things as forming part of their cultural heritage. How then to address this apparent paradox of a cultural heritage defined by recognition, though rarely explicitly recognised, save in exceptional instances and times of perceived danger?

While this contradiction is potentially problematic, cultural heritage's largely elusive nature reveals a far more significant issue: namely, that objects and practices which might reasonably be considered cultural heritage are also rarely recognised as such, and thus it is necessarily and *de facto* largely a private matter – that is, not requiring

⁴⁵ Lynch, K. (1972): What time is this place, (Cambridge: MIT Press), p.40.

the attention of the state as a matter of *political* concern. I think that this point is important because it is certainly possible to conceive of a 'cultural heritage' that is self-sustaining, uncontroversial and that is not harmed by, or in fact may benefit from, the ignorance of the state. While such practices and artefacts may not be explicitly recognised as cultural heritage, it is reasonable to assume that they *could* be justified as such (should the need for justification arise).

Cultural Heritage, History and Authenticity:

[Cultural heritage], 'transmitted from generation to generation, is constantly recreated...'

The question of *what* is recognised by using the term cultural heritage can be answered most banally with reference to the term itself. *Heritage* denotes that which can be passed down from generation to generation. The recognition of an object as *cultural* heritage can thus be regarded as a type of claim – a claim for the capacity of an object to represent the lineage, or experiences, of a particular group. But, as noted by the *Convention*, cultural heritage is also 'constantly recreated', meaning that the content of a group's heritage is subject to interpretation and revision. Certain practices and artefacts may be ignored or spurned by some generations, only to be gratefully resuscitated by those who proceed from them. From this, it also follows that cultural heritage does not necessarily have to be of a certain age in order to be recognised as such: new monuments can be built to memorialise some aspect of a group's history and it would be foolish, on account of their recent conception, to discount their ability to communicate the past. In this regard, it is also entirely appropriate to describe some practices and artefacts as 'invented traditions.'⁴⁶

The auction houses of Sotheby's and Christie's, for instance, have recently found themselves targeted by Chinese protesters furious over the sale of Chinese artefacts.⁴⁷ Such sales have provoked indignation on the basis that Chinese cultural heritage belongs to the Chinese, and as such are not appropriate items for sale. Nevertheless the sales have provided certain individuals with the opportunity to

⁴⁶ See Hosbawm, E. and Ranger, T. (1992): *The Invention of Tradition*, (Cambridge).

⁴⁷ Beckett, J. (2008): op cit., p.253.

demonstrate their loyalty to China's Central Government. In 2009, the Macanese casino and property tycoon, Stanley Ho, successfully bid US\$8.84 million for an artefact and promptly 'donated' it to the Chinese government⁴⁸, and Cai Mingchao, the head of an auction house in Xiamen, won the bid for two Chinese bronzes auctioned by Christie's in Paris and later refused to pay – "Every Chinese would have stood up in that moment. It was just that I was given the opportunity," he said modestly, "but I want to emphasise that this money cannot be paid."⁴⁹ Both sets of artefacts were in fact originally part of the same fountain situated in the imperial gardens of the Summer Palace in Beijing; a palace which was pillaged by British and French forces during the Opium Wars, and it was around this time that the artefacts disappeared.⁵⁰ These attempts to reacquire Chinese artefacts coincide with an official Chinese government policy to recover items that had been 'stolen by invading nations, stolen by foreigners or purchased by foreigners at extremely low prices from Chinese warlords and smuggled abroad' between 1840 and 1949.⁵¹ Yet, while attempting to rescue artefacts stolen by foreigners, contemporary Chinese patriots need not bother themselves with the artefacts affected by the most recent cultural holocaust in Chinese history, the Cultural Revolution, and its 'systematic' desecration and destruction of anything that represented or appeared 'old.'⁵² Indeed, the Chinese experience with cultural heritage is an example of how the clearest expressions of claims to cultural heritage can be found when heritage is perceived as being under threat. But, more significantly, it also illustrates of how the content of cultural heritage and its recognition is prone to change; how some objects are worth fighting for, whereas others are gratefully forgotten. As George Orwell once wrote: 'when [the past] has been recreated in whatever shape is needed at the moment, then this new version *is* the past, and no different past can ever have existed.'⁵³

⁴⁸ McDonald, M. (2009): 'Twist in Sale of Relics Has China Winking', in The New York Times (March 2nd 2009):

http://www.nytimes.com/2009/03/03/world/asia/03auction.html?_r=1&scp=1&sq=stanley%20ho%20and%20chinese%20art%20auction&st=cse

⁴⁹ Hille (2009): 'Chinese Art Trader Declines to Pay Up', in The Financial Times, (March 3rd 2009) http://www.ft.com/cms/s/0/8e0f2e92-0792-11de-9294-000077b07658.html?nclick_check=1 .

⁵⁰ Macdonald (2009): op. cit.

⁵¹ Beckett (2008): op. cit, p.253 – who cites footnote 11 at p.342.

⁵² Although given that the upper echelons of the central government remains composed, in large proportion, by former Red Guards, this should perhaps not come as a surprise.

⁵³ Orwell, G. (1969): 1984, (Penguin Books), p162; p.266.

It is in fact absolutely crucial, in defining the scope of cultural heritage, to recognise that it is, by nature, dynamic and thus continually prone to change. A shift in values and understandings of cultural heritage can occur for any number of reasons such as social change or revolution; the discovery of 'new' sources of heritage; or simply because the significance of certain artefacts and traditions have organically decayed into meaninglessness. The past and its significant attributes are malleable and the manner in which they are conveyed and recognised is conditioned by the needs, beliefs and context of the present day. That is to say, the conception of what constitutes cultural heritage is determined by the existence of specific historical experiences, artefacts and practices that are interpreted and deemed meaningful by the present. As Simone Weil wrote, 'we possess no other life, no other living sap than the treasures stored up from the past, digested, assimilated and created afresh by us.'⁵⁴ To this effect, it is also quite reasonable to assert that cultural heritage is actually made meaningful by the fact of its dynamism. Or, as Eric Hobsbawm put it, a 'good' history (within the context of cultural heritage, in this instance) is defined by a history which is good for present.⁵⁵

Indeed, professional historians have been sceptical of the use of the past for purposes other than their own, and it is perhaps useful at this juncture, therefore, to clarify the relationship between cultural heritage and the study of History.⁵⁶ Strictly within the confines of this particular work I would like to define History as a particular type of academic or intellectual enquiry into the past. Despite fairly recent criticism⁵⁷, contemporary historians (i.e. excluding the moralising ancient historians such as Herodotus and Thucydides) are for the most part devoted, in accordance with the Rankean proviso, to reveal the past '*wie es eigentlich gewesen*' (as it really happened) by happily cloistering themselves in archives and libraries. There is a

⁵⁴ (emphasis added) Weil, S. (1987): *Need for Roots*, (Routledge), p.48-49.

⁵⁵ Hobsbawm, E. (2008): 'Identity history is not enough' in *On History*, (Abacus), p.356.

⁵⁶ For the purposes of clarity and consistency I indicate the professional study of the past with a capital H for History. Contingently, history (no capitalisation) should henceforth be taken as synonymous with the past.

⁵⁷ Namely, that History is little more than literary criticism. For a general overview and response see Windschuttle, K. (1997): *The Killing of History* (Paddington: Free Press). Note also Evans, R.J. (1997): *In Defence of History* (London: Granta), citing R.F. Atkinson (1971, p8), '*philosophers interest themselves in history for their own purposes: the instrumental value, or disvalue, of their investigations to history is wholly accidental.*'

general consensus as to what constitutes a standard for ‘good’ or authentic History, which requires coherent arguments and observations that can be supported with reference to reliable source materials.⁵⁸ This commitment to historical ‘truths’ also entails a parallel duty (conceived by many historians) to dispel historical myths⁵⁹ in order to prevent the sort of nightmare scenario envisaged by Orwell’s *1984* - where historical ‘truths’ were continually subjected to the will of the state. Hobsbawm has, in fact, gone so far as to liken history used for nationalist, ethnic and fundamentalist ideologies, to poppies – as ‘*the raw material for heroin addiction*.’⁶⁰ It should not come as a surprise then that historians have responded to the increasing popularity of cultural heritage with discomfort. Yet, any attempt to pit these two parallel appreciations of the past against one another can only be described as inherently futile, although this has not in any way deterred efforts to do so. For instance, John Tosh has argued that, ‘because heritage deals primarily in the objects surviving from the past, it often fails to convey the extent of the gulf which divides us from our forebears...history then ceases to be an intellectual resource; its capacity to inform and unsettle the present is obscured by a screen of sentiment.’⁶¹ J.H.Plumb has noted that, ‘where the service of the past has been urgently needed, truth has ever been at a discount,’ and advocates that historians should ‘cleanse the story of mankind’ from such deceitful visions.⁶² And Robert Hewison has boldly asserted that, ‘the heritage ‘industry’ is essentially engaged with producing ‘bogus history’.’⁶³

While it is true that the factual accuracy of cultural heritage often leaves something to be desired, criticisms which decry the historical fallacies of cultural heritage are not terribly constructive. That memory, and especially collective memory does not always serve up a factual representation of the past is a self evident fact. Yet, if

⁵⁸ See Antoon de Baets’ distinction between good/bad and right/wrong history in (2009): Responsible History (New York: Berghahn), p.14 – ‘The abuse of history is its use with the intent to deceive. The irresponsible use of history is with its deceptive or negligent use...Bad history is the product of error, imperfect insight, bias and lack of training – can be heavily distorting and prejudiced, but it is not irresponsible or abusive as long as it does not transgress the moral boundary of dishonesty or gross negligence.’

⁵⁹ See for example, Hobsbawm (1998): On History, op cit., p.7; Evans, op cit., p.207; Tosh, J. (2008): Why history matters (Houndmills), p.44; Plumb, JH. (1969): The Death of the Past, (Macmillan), p.32

⁶⁰ Hobsbawm, op. cit, p.6.

⁶¹ Tosh, op. cit, p.12.

⁶² Plumb (1969): op cit., p.32.

⁶³ Cited in Corsane, G. eds. (2005): Heritage, Museums and Galleries, (London: Routledge), p.23.

heritage is distinguished by its shared meaningfulness, as I propose, then there is nothing inherently wrong with historical fallacies such as myths. As Isaiah Berlin was careful to recognise, ‘it is plainly a good thing that we should be reminded ...that the scope of human choice is a good deal more limited than we used to suppose.’⁶⁴ A symptom of bad history can thus be a laudable attribute of cultural heritage. To recognise historic outcomes as beyond the realm of human control is also to grasp at the limited capacities of individual will. Long before the advent of history, it was myth that made the past meaningful and, by revealing universal and timeless truths, it was regarded by the ancient Greeks as a great teacher in all matters of spirit.⁶⁵ Aristotle famously praised poetry by virtue of its ability to express moral teachings, and as such, being ‘more philosophical than history.’⁶⁶ Collective memory and narrative thus encapsulate a powerful and imaginative means through which our moral and ethical beliefs can be expressed and practiced. Indeed, as John Gray has noted, ‘the myth-free civilization of secular rationalism is itself the stuff of myth.’⁶⁷

This is not to say that historians should not pay any attention to Hobsbawm’s calling, however. While all cultures to some extent include myths as part of their cultural heritage, historians can play a crucial role in dethroning the myths that are actively defined as historical ‘truths’, and when conflicts over ‘authentic’ heritage arise. However, it is important to recognise that History and the products of historical research are also narratives about the past – and a narrative, it must be remembered, be it truthful or mythical is also a form of cultural heritage. Indeed, a work of History – be it in the form of a written text or an oral recording - that is accepted as meaningfully representing the experiences of particular cultural group, must also be regarded as a type of cultural heritage. The question of how states should engage with the past thus *necessarily* includes questions about *public* histories, and in particular, the creation of a history curriculum in public education.

⁶⁴ Berlin, I. (1998), ‘Historical Inevitability’ in *The Proper Study of Mankind*, (Pimlico), p.130 - and as such not suited to the task of the historian.

⁶⁵ Finely, M.I (1991): *The Use and Abuse of History*, (London: Penguin) p.14.

⁶⁶ Cited in Herwitz, D (2008): *Aesthetics*, (London: Continuum), p.14.

⁶⁷ Gray, J (2009): *Gray’s Anatomy*, (London: Allen Lane), p.16.

The criteria for *authentic* cultural heritage employed by this work is therefore based solely on the *acceptance* of an object as capable of representing the historical experiences of a particular group. This does not mean that the object must reveal accurate historical ‘truths’, nor that it will be accepted as cultural heritage for perpetuity. Rather, authenticity is based entirely upon the meaningfulness of an object at a particular time. As Pierre Nora has noted, ‘history belongs to everyone and no one, whence its claim to universal authority,’ whereas memory, on the other hand, ‘*is blind to all but the group it binds.*’⁶⁸ Inherently subjective and entirely prone to revision, this aspect of cultural heritage’s definition leaves the identification of cultural heritage as completely subject to the will of those to whom it is claimed to represent.

Conclusion: *Cultural Heritage, Identity and Authority*

‘...provides them with a sense of identity and continuity promoting respect for cultural diversity and human creativity.’

I have thus far outlined a conception of cultural heritage which is defined by recognition. Indeed, this definition echoes the sentiment outlined at the beginning of the chapter which was that individuals should possess the freedom to determine the content and significance of their historical identity. Cultural heritage can therefore encompass a seemingly infinite variety of objects and practices, all of which are united by the fact of their recognition by groups of individuals. In doing so I have largely relied upon the 2003 UNESCO *Convention for the Safeguarding of Intangible Heritage* as a starting point for my discussion on the nature of cultural heritage. Article 2, in particular, has provided an invaluable starting point, not only because of the degree of consensus and legitimacy that it possesses as part of an international treaty, but also because it helped to introduce several important themes pertaining to the nature of cultural heritage: namely, the notion of the *acceptability* of cultural heritage as recognised by a particular cultural group, and the question of *authenticity* and how authentic cultural heritage is continually subject to revision (and thus necessarily differs from what may be regarded as ‘good’ History). The

⁶⁸ Nora, P (1989): ‘Between Memory and History’ in *Representations*, (No. 26, Special Issue: Memory and Counter-Memory, Spring, 1989), p.9.

capacity of objects and practices of cultural heritage to express an historical *identity* that both sustains and is sustained by group membership, was discussed right at the beginning of the chapter. Certain objects and practices are capable of representing and reflecting historical experiences and moments; and, in doing so, they assist in the construction of an historical identity. Individuals, I have asserted, must be free to define an historical identity in a manner of their choosing, because an historical identity can play a crucial (or minimal) role in determining the context of our own lives.

Article 2, however, ends with the statement that the preservation of cultural heritage is capable of ‘promoting respect for cultural diversity and human creativity’ and, although I have concurred with the rest of the Article, this is a view that I take issue with. The claim that cultural heritage can *promote respect* for diversity (because, presumably, this is what diversity requires), with no empirical or normative justification, is a rather cavalier statement – especially to scholars who have spent years analysing and weighing out the pros and cons of multicultural policies. Furthermore, it is interesting that the *preservation* of cultural heritage remains the default position within the heritage literature – a position also adopted by UNESCO – that is also rarely defended with any substantial degree of rigour; rather, as above, it is simply assumed that preservation is necessary and we need only to establish *what* exactly should be preserved.

Yet it this a view which has also become increasingly prevalent, in recent years, amongst heritage practitioners and academics, as well as UNESCO.⁶⁹ Although an engagement with the fact of diversity is inherently laudable, I find the underlying consensus that diversity is something to be publicly *promoted* and *preserved* – with little or no engagement with scholarly works on diversity – extremely problematic. I shall return to this issue, on the lack of reasoned engagement with the fact of diversity within the heritage literature, in the next chapter. It is precisely these two points of contention, on the 1) need for preservation, and 2) the existence of a

⁶⁹ See for instance, Labaldi and Long (2010): Heritage and Globalisation, (Routledge); Langfield et al (2010): Cultural Diversity, Heritage and Human Rights, (Routledge), Silverman and Ruggles (2008): Cultural Heritage and human Rights, (Springer), etc.

multitude of cultural heritages, to which this research is devoted to. The question of what to do about cultural heritage - whether it should be preserved, destroyed, or simply left alone – is thus accompanied by a parallel and equally important question: *whose* heritage? In a contemporary liberal society that is composed of a diversity of groups, whose heritage should the state take an interest in? I begin to address this question in the next chapter.

Chapter 2

Cultural Heritage and the Problem of Diversity

At the end of the previous chapter I highlighted my discontent with an underlying premise of UNESCO's 2003 *Convention Concerning the Safeguarding of Intangible Heritage*; specifically, with the notion that the preservation of cultural heritage promotes diversity. In this chapter I shall problematise the issue of cultural heritage by demonstrating: 1) why, contrary to the 2003 *Convention* and recent scholarship on heritage and human rights, the fact of diversity actually poses substantive normative problems for the preservation of cultural heritage; 2) how this is, first and foremost, an issue for governments (as opposed to NGOs and international organisations); 3) the significance that contemporary political theory – and in particular, works on multiculturalism – have for heritage studies and management. Before I can do this, however, I wish to briefly examine the rationale behind preservation and how this has been linked to diversity.

Threats to Cultural Heritage

Barely a day passes in Hong Kong without some mention in the media of yet another part of Hong Kong's heritage being threatened or destroyed. Indeed it is the

experience of my homeland that inspired my research here. People often ask whether and how Hong Kong has changed since its return to China. It is not the gradual or perceived erosion of civil liberties that has the greatest bearing on the everyday life of the population, but rather the changes in the cultural landscape and built environment. On the 30th of June 1997, the old Hong Kong flag - with its Union Jack, and lion and unicorn in a field of deep blue – fell and the new *red* (for obvious reasons) flag, with a bauhinia decorated by a star in each of its five petals, was hoisted up the flagpole. In the decade and a half since the establishment of the *Special Administrative Region* of Hong Kong, the Government has redesigned its currency, stamps and even post-boxes. We traded the *Queen's Birthday* and *Commonwealth Day* for the *Hong Kong Special Administrative Region Establishment Day* and *National Day of the People's Republic of China*. Although Hong Kong's Basic Law stipulates that the region will retain autonomy until 2047, the Chinese national anthem, *March of the Volunteers*, now plays before the Chinese language evening news – a daily reminder of where the real power lies. The Hong Kong Government has increasingly turned its attention toward public buildings, streets and monuments, seemingly bent on eradicating any evidence of Hong Kong's colonial past. Though this is understandable, given that the colonisation of Hong Kong and Macau continues to be a source of national pain and humiliation for China, parts of the Hong Kong population still take issue with the fact that history is literally being taken away from under their feet.

Indeed, far more dramatic instances of threats to cultural heritage have been reported around the world; perhaps none more poignant than the destruction of the Bamiyan Buddhas by the Taliban in 2001. In times of armed conflict and revolution, cultural heritage is always under threat; destroyed or pillaged and never to be seen again. Indeed, it has been said that all successful revolutions end with statues coming down.⁷⁰ One can think here of the iconic images that captured the dismantling of Stalin's statue following the fall of the Soviet Union; of the destruction of Saddam Hussein's statue during the 2003 Iraq war, and, most recently, of Colonel Gaddafi's statue in Tripoli. And who could query a right to do so? After years of oppression,

⁷⁰ Victor Misiano quoted in Forty eds. (1999): op cit.,p.10.

pulling down the statue of a hated dictator, provides closure and indicates the start of a new era. Of course, sometimes states are able to maintain statues and monuments from previous regimes in an educational and creative manner. Budapest's Memento Park, which is a collection of monuments from Hungary's communist past, springs to mind here.⁷¹ Yet, these instances are in the minority. Increased mobility and a thriving tourism industry have also threatened cultural heritage. The town of Luang Prabang, for example, in northern Laos is a World Heritage site renowned for its landscape, architecture and traditional practices. Notably, early every morning hundreds of Buddhist monks venture out onto the streets to collect alms as part of a religious practice that emphasises humility, simplicity and respect. The presence of crowds of tourists, who willingly give food and money in exchange for entertainment and photographs, threatens to undermine this practice and indeed, the fragile existence of Luang Prabang.⁷²

The problems that arise as a consequence of tourism can be attributed to a more general problem for cultural heritage and identity – namely, the commodification of cultural goods. In today's world 'difference' has become fashionable and cultural products such as world music, ethnic jewellery and fashion, writing, arts, and films from the developing world can all be transformed into commodities for a new 'cosmopolitan' marketplace.⁷³ But also because, for many people, part of going on holiday to a section of the world that they have never been to, also entails visiting historical sites such as monuments and churches, as well as learning about the local culture. A great deal of money can be made from charging admission to heritage sites and selling cultural 'goods', and in this regard, it is not entirely inappropriate to speak of a 'cultural heritage industry.' This industry must be lauded for the most part, because, in addition to allowing individuals to gain insight into different cultural experiences, it can also help to sustain and preserve valuable traditions and artefacts. However, this fact does not alter the extent to which cultural artefacts can be produced, circulated and exploited according to a logic that is undoubtedly

⁷¹ For more detail see: <http://www.szoborpark.hu/index.php?Lang=en>

⁷² For more information see: UNESCO (2008) 'Reactive Monitoring Mission to the Town of Luang Prabang' <http://whc.unesco.org/document/10057>.

⁷³ Corner, J. and Harvey, S. (1991): *Enterprise and Heritage*, (London: Routledge), p.33.

market-related.⁷⁴ The consequence of this is that while we do value difference, we have also learnt to attach a price tag to it.

The commodification and mass consumption of cultural heritage becomes inherently problematic when supposedly sacred goods are deprived of their original meaning. Theodor Adorno decried the distribution of mass culture, noting that only its crudest materials were passed on; distinctions between sacrosanct and downright silly were completely eroded. He argued that, ‘through constant contact with the sold-off spirit, “amusement” in turn is elevated until it denigrates into dutiful exercises in the appreciation of cultural values.’⁷⁵ Thus, consumed as mass culture, cultural heritage is potentially reduced to a frill, an embellishment; subsequently, formulaic and meaningless.⁷⁶ This, incidentally, was the argument adopted by a Maori tribe in response to the ‘culturally insensitive’ use of the traditional ‘haka’ war dance in advertisements and movies, as well as by the New Zealand All Blacks’ during rugby matches.⁷⁷ Such objects and practices resemble what once looked like heritage but serve an altogether different purpose.

Preserving Cultural Heritage, Preserving Diversity

Given all of these threats to cultural heritage, it is hardly surprising that preservation has become a rallying cry for archaeologists, heritage practitioners and scholars, as well as politicians and populations alike. Indeed the development of heritage preservation within the UK provides an interesting introduction to this issue because it shows just how far the heritage movement has come over the past three decades.

The preservation of cultural heritage became an incredibly popular movement in the UK during the 1980s. It is no coincidence that this occurred under the New Right.

⁷⁴ UNESCO (1999): ‘Culture: a form of merchandise like no other?’ (conference proceedings) <http://unesdoc.unesco.org/images/0012/001228/122892Eo.pdf>, p.8.

⁷⁵ Adorno, T. (1991): ‘The schema of mass culture’, in *The culture industry*, (London: Routledge), p.58.

⁷⁶ Lowenthal, D. (1998): *The heritage crusade and the spoils of history*, (Cambridge: Cambridge University Press), p.86.

⁷⁷ Connolley (2009): ‘Maori win battle to control All Blacks’ haka ritual’ in *The Guardian* (12th Feb, 2009) <http://www.guardian.co.uk/world/2009/feb/12/new-zealand-haka-maoris>

The notion of preserving a grand and glorious heritage had enormous appeal to a regime who claimed its ideology was based on traditional family values. Yet, the past that was portrayed was representative only of the experiences of the white, well-to-do land owner – a fact which was reflected in what the National Trust preserved. During the 1980s the National Trust accumulated a vast collection of country homes, castles and mansion houses. Over 60% of its budget funded the preservation of properties that were typical of the richest 0.05% of the population.⁷⁸ Indeed the heritage lobby within the UK frequently described the country house as the ‘soul’ of Britain, effectively naturalising the heritage and experiences of the dominant classes as the history of the entire nation.⁷⁹ It was a reverence for the nation which projected a false homogeneity by glossing over existing particularities and disparities.

The way in which the New Right manipulated heritage and conceptions of tradition to its advantage reaffirms several important points. Regardless of ideological intent, because of finite time and resources we cannot preserve everything for posterity and thus what is preserved is deeply selective. Furthermore, it is impossible to arrive at an objective criterion for preservation. What we preserve is what we deem of value, or what we perceive other generations will deem of value. Yet the New Right also revived and manipulated heritage for *strategic* reasons. It strongly rejected the welfare state and the ‘permissive’ society that had come with it. The regime sought to *legitimise* its radical policies by articulating a position that was supposedly a continuation of historical tradition, at the expense of ignoring the recent history of the welfare state and instead, situating the ‘true’ history and tradition of the United Kingdom in the Victorian period.⁸⁰ Conservative nationalists were quick to capitalise on the popularity of cultural heritage by adopting it into their rhetoric. Under the ‘rise’ of heritage extreme figures would use the nation in an openly racist manner to distinguish ‘authentic’ from ‘inauthentic’ citizens in terms of ancestral continuity.⁸¹ A highly selective account of ‘Britishness’ became portrayed as the true identity of a

⁷⁸ Shrimali, K. (1998): ‘A Future for the Past’, *Social Scientist*, (26:9/10), p.45.

⁷⁹ Bommers and Wright (1982): ‘The Charms of Residence’, in Johnson et al, *Making Histories*, (London: Hutchinson and Co), p.276.

⁸⁰ Walsh, K. (1992): *The Representation of the Past*, (London: Routledge), p.93.

⁸¹ Wright, P. (1985): *On living in an old country*, (London: Verso), p.32 note 49.

betrayed nation.⁸² Many evoked highly romanticised conceptions of cultural heritage with a yearning to return to the days of long ago. To question the 'National Heritage', or the policies that were conducted in its name, would often bring into doubt your own loyalty to the community.⁸³ Heritage had been transformed into a powerful ideology. The experience of cultural heritage under the new right is interesting because although the current international heritage movement (as manifested in the work of UNESCO et al) does not emphasise a *national* ideology, the movement itself remains driven by a set of normative goals, and this, I wish to demonstrate, is the ideology of *diversity*.

The 2009 UNESCO *World Report on Cultural Diversity* notes,

Cultural diversity, beyond the mere fact of its existence, has aesthetic, moral and instrumental value as the expression of human creativity, the embodiment of human strivings and the sum of humanity's collective experience...Cultural diversity has become a key concern, amid accelerating globalization processes, as a resource to be preserved and as a lever for sustainable development.⁸⁴

It echoes the spirit of both the 2001 UNESCO *Universal Declaration on Cultural Diversity*, the 2005 UNESCO *Convention for the Protection and Promotion of the Diversity of Cultural Expressions* and various other international agreements. Indeed, this acknowledgement of the value of cultural diversity is largely symptomatic of broader developments around the world in response to globalisation and perceived homogenisation - namely, an increased awareness and engagement with cultural identity. The significance of cultural identity, however – be it ethnic, religious, indigenous or otherwise – is increasingly being articulated within the framework of human rights, such that a respect for human rights and individual autonomy requires a respect for cultural identity and diversity. The tensions between individual human rights and cultural rights have already been well documented such that I shall not go into them here. Yet it would appear from the steady proliferation of international

⁸² Ibid., p.26.

⁸³ Bommes and Wright (1982): op cit, p.272.

⁸⁴ UNESCO (2009): *World Report on Cultural Diversity*,
<http://www.unesco.org/new/en/culture/resources/report/the-unesco-world-report-on-cultural-diversity/>
p.9.

conventions promoting the value of diversity that the notion of cultural rights is gaining credence. The message is clear: respect for a humanity which is characterised by cultural difference is best sustained through the *promotion* of diversity.

It must be stressed that the underlying sentiment here is inherently laudable. Indeed, the 2003 *Convention for the Safeguarding of Intangible Heritage* has also been interpreted as a means of valuing a diversity of cultural expressions, in contrast to the 1972 World Heritage Convention which has been criticised as encapsulating a particularly Western conception of heritage.⁸⁵ This recent emphasis on cultural diversity has also precipitated a watershed of very interesting work from the field of heritage studies. Laurajane Smith, for example, has written about how marginalised groups can challenge dominant discourses on the past and use heritage to facilitate aspirations for political recognition.⁸⁶ Whereas Jeremie Gilbert has written about the extent to which indigenous rights have been articulated by way of asserting the importance of cultural traditions that are linked with a particular territory.⁸⁷ The shift in emphasis from a national heritage, which largely excludes, to a diverse heritage which largely seeks to include, is clearly a positive development. Before turning to discuss some of the more problematic consequences of this development, however, it is necessary to deviate from my discussion of diversity for a few moments in order set out a definition of culture.

Towards a Definition of Culture

In defining cultural heritage, I discussed the relationship between cultures and cultural heritage in the previous chapter. ‘Culture’ is an incredibly broad and, in many ways, problematic term, which has come to encompass all manner of affiliations, objects and practices. I will not be able to discuss the multitude of meanings that this word has come to cover. What I shall attempt to do, however, is to provide a brief account of culture that, engages both with political theory and

⁸⁵ Smith, L and Akagawa, N. (2009): *Intangible Heritage*, (Taylor and Frances), p.1.

⁸⁶ Smith ‘Empty Gestures?’ in Silverman and Ruggles eds. (2008): *Cultural Heritage and Human Rights*, (Springer), p.169.

⁸⁷ Gilbert in Langfield, M. et al (2010): *Cultural Diversity, Heritage and Human Rights* (London: Routledge), p.38.

sociology, in order to arrive at a conception of culture which will enable me to discuss its political and normative significance for responding to cultural heritage. It is important that this conception affords individuals the greatest liberty possible in embracing a particular culture, whilst at the same time recognising the significance of group membership.

I therefore wish to begin defining culture by asserting a fundamental premise: that an individual's culture is neither simply a matter of choice or chance; that is, I do not wish to prescribe or claim to understand the exact nature of the relationship between individuals and culture – because I do not believe that this is a question which can be answered at all. Our cultural affinities can guide all of our life choices, or it can guide very few of them. We can be part of a single culture that determines an entire way of living, or we can equally be part of many different cultures. This is likely to be a very frustrating conception of culture – and so it is perhaps best illustrated by comparison with what it is *not*. The conception of culture that I rely upon here is based upon the work of Rogers Brubaker. In his response to Craig Calhoun, Brubaker describes an appropriate categorization of culture as '*neither individualism nor groupism*,' Brubaker asserts:

'Ethnicity cannot be reduced to individual choice, as some political scientists would have it; but it cannot be reduced to bounded groups either. Groupist idioms are as flat as individualist ones. *This is not surprising, for groupism is itself a species of individualism, in a double sense, treating groups as collective individuals, and as collections of individuals.* As Calhoun and others have observed elsewhere, this sort of 'groupist individualism,' as one might call it, is central to nationalist discourse...the alternative, then, to conceptualizing ethnicity, race, and nation as substances or things or entities or organisms or collective individuals – as the imagery of discrete, concrete, tangible, bounded, and enduring 'groups' encourages us to do – is not to adopt an analytical idiom of individual choice, *but rather to think in relational, processual, and dynamic terms.* This means thinking of ethnicity, race, and nation not in terms of substantial groups or entities, *but in terms of practical categories, cultural idioms, cognitive schemas, discursive frames, organizational routines, institutional forms, political projects, and contingent events.* It means thinking of ethnicization, racialization, and nationalization as political, social, cultural, and psychological *processes*. And it means taking as

a basic analytical category not the 'group' as an entity, but groupness as a contextually fluctuating conceptual variable.'⁸⁸

Conceiving of group identity in terms of a process enables us both, I believe, to embrace the significance of groups and individuals, without a necessary reduction to either at the expense of the other. Indeed, all too many political scientists, as well as theorists – as we shall soon see – have the tendency towards 'groupism'; 'to take discrete, sharply differentiated, internally homogenous and externally bounded groups as basic constituents of social life, chief protagonists of social conflicts, and fundamental units of social analysis.'⁸⁹ The problem with this, as Anne Phillips notes, is that conceiving of groups in such a 'totalising' way 'encourages precisely the kind of cultural stereotyping that it was intended to dissolve.'⁹⁰

However, while it is important not to exaggerate the coherence and cohesion of cultural groups, the converse is also true: it is important to remain skeptical of overly individualist accounts of culture. Brubaker and Cooper note,

'...the prevailing constructivist stance on identity – the attempt to 'soften' the term, to acquit it of the charge of 'essentialism' by stipulating that identities are constructed, fluid and multiple – *leaves us without a rationale for talking about 'identities' at all and ill-equipped to examine the 'hard' dynamics and essentialist claims of contemporary identity politics*. 'Soft' constructivism allows putative 'identities' to proliferate. But as they proliferate, *the term loses its analytical purchase. If identity is everywhere, it is nowhere*. If it is fluid, how can we understand the ways in which self-understandings may harden, congeal and crystallize? *If it is constructed, how can we understand the sometimes coercive force of external identifications?* ...How can we understand the power and pathos of identity politics?'⁹¹

Following Brubaker and Cooper, I have thus far defended a need to conceive of culture as a process in order to avoid the pitfalls of 'groupism' and excessive fluidity.

⁸⁸ Brubaker, R. (2003): 'Neither individualism, nor groupism' in *Ethnicities*, (Vol 3. No. 4), p.555 emphasis added.

⁸⁹ Calhoun, C. (2003): 'Belonging' in the Cosmopolitan Imaginary, in *Ethnicities*, (Vol 3 No. 4), citing Brubaker (2002:164)

⁹⁰ Phillips, A. (2009): *Multiculturalism without Culture* (MWC), (Princeton University Press), p.24.

⁹¹ Brubaker, R. and Cooper, F. (2000): Beyond 'Identity', in *Theory and Society* (29), p.1.

I have also attempted to employ a conception of culture which accords individuals the greatest freedom possible in defining their culture – that is, I have not attempted to put any limits on the content of what may constitute a culture. Cultural groups, therefore, can reasonably include anything from religion, ethnicity, and nationalism, to football teams, cycling enthusiasts, food connoisseurs, theatre groups, artists and so on. This is culture in a banal sense, referring essentially to a multitude of groups with varying interests. Scholars of diversity, and indeed heritage studies, are not generally concerned with this broad range of ‘cultures’. The cultures that they conceive of, and the cultures that I am interested in here are those that can be regarded as politically significant.

What Makes a Culture Politically Significant? (*And what about Jedi knights?*)

Because of finite time and resources it is not possible to preserve everything; but nor would it be desirable to do so if this were in fact possible. It is thus necessary to narrow the scope of cultural heritage that requires the attention of governments. In outlining reasons for a normative political engagement with cultural heritage, I noted that cultural identities can be political and it is the cultural heritage of these *politically significant* cultural groups that governments need to engage with.

I believe that such ‘politically significant’ cultures can be identified by four distinct features:

- *Endurance*: The cultural group must not only have a history and a set of shared experiences as defined by ‘collective memory’, but there also needs to be a relatively strong chance or *interest* in its continued existence in the foreseeable future;
- *A set of beliefs or interests*: The group needs to possess a set of relatively coherent or comprehensive beliefs that imply a specific way of living. This, in part, determines a culture’s significance on individuals.
- *Significance*: The ideas that underlie a group’s existence need to have a degree of significance for individuals. This significance is manifested not

only in its impact on personal identity, but the manner in which it affects everyday life and extraordinary events.

- *Size*: Though not always the case, the group should be of a certain size such that it can be said to represent a critical mass.

Not all of these criteria must be present in order to achieve political significance. Fundamentally, cultural groups gain this status by virtue of the bearing that they have on the political life of a community *and vice versa*. They may often suffer from discrimination – by virtue of their beliefs or practices. Groups are therefore also distinguished by the fact that they may reasonably make three different *political* claims: 1) a claim to power or autonomy (as with national groups); 2) a claim for recognition or acknowledgement of the particular experiences of the group; 3) a claim about justice, regarding treatment, discrimination etc. What distinguishes politically significant cultures from groups generally is that it may be said that it is in the public interest that governments consider (but do not necessarily decide in favour of) the claims of these groups.

This narrows the forms of culture that I am interested in here to groups that are defined by (but not limited to): ethnicity, nationality, religion, gender, race, class, caste and differences in physical or mental ability. This conception of culture is compatible with the notion of cultural heritage that I have attempted to employ in this thesis with an emphasis on cultural *experiences* as playing a crucial role in the construction of a cultural identity. In the first chapter I discussed how ‘Jedi Knight’ became an religious option within the UK’s 2001 Census – though as officials were keen to note, this did not constitute ‘official recognition.’ Drawing inspiration from Star Wars, ‘jedi-ism’ has been the source of much amusement and ridicule. To respond to the question of whether Jedi knights constitute a politically significant cultural group, however, it would seem that based upon the above criteria, they do indeed. I believe that this example raises a crucial point, because although we may intuitively view the beliefs and practices of certain cultural groups as bizarre or worthy of ridicule, while we may question and sometimes challenge these beliefs, it is important not to deny them and the value that they may hold for others.

The Problem with ‘Diversity’

I have noted that the recent international consensus on preserving a diversity of heritages must fundamentally be regarded as a positive development. On occasion, however, the desire to preserve diversity and – by virtue of this – cultural heritage has resulted in some rather peculiar notions. For instance, a UNESCO World Report titled *Investing in Cultural Diversity and Cultural Dialogue* notes some existing ‘threats’ to cultural heritage, and suggests how to respond to them. Some examples of these ‘threats’ are listed below:

‘In Nigeria, the Isa see *the introduction of free primary education in the west of the country, dating from 1955, as the reason for a growing lack of interest among younger generations in their culture*, particularly since Christian and Islamic doctrines are taught in school to the exclusion of traditional African religions. In Vanuatu, the time young children spend at school and in school activities *are said to have kept them from learning the traditional practice of sand drawing, which is in decline.*’

‘Failure to respect the sacred or devotional character of certain ceremonies: this is emphasized by the defenders of the Mask Dance of the Drums from Drametse, who deplore the growing lack of interest among the young generation in the deep spirituality of these practices.’

‘Portable telephones and emails in Jamaica have *rendered virtually obsolete the traditional means of communication in the form of the drum and abeng (conch shell)*, undermining the ancient musical traditions.’⁹²

It is fair to note the unfortunate disappearance of some traditions, but it is also a huge leap to go from here to suggesting that these outcomes are – all things considered – *regrettable*. Universal primary school education and improved telecommunications are generally regarded as positive developments. As some practices decline, as the youth lose interest in ‘traditional’ ways of life, new practices and traditions are bound to emerge – and we cannot necessarily place greater value on older practices just because they have (thus far) withstood the test of time.

⁹² UNESCO (2009): *Investing in Cultural Diversity and Cultural Dialogue* (<http://unesdoc.unesco.org/images/0018/001847/184755e.pdf>), p.18- emphasis added.

This is symptomatic of the manner in which diversity is conceptualized. Diversity is far more complex and divisive than generally recognised by scholars within the field of heritage studies. As the editors of *Cultural Diversity, Heritage and Human Rights* note in their introduction, those engaged in heritage conservation projects (and studies) require a deeper (and more nuanced) understanding of social, political issues at hand.⁹³ Diversity has become a buzzword, a panacea for cultural and social problems. Yet as I pointed out at the beginning of the chapter, greater appreciation of diversity has also led to the denigration of cultural goods and practices. As David Lowenthal points out, indiscriminate adoration of a diversity of cultural heritages is not only deeply patronising, but can also be as derogatory as an explicit aversion to it.⁹⁴ He cites the experiences of a Pueblo craftswoman, who noted that,

‘We have to learn how to be Indian...first the whites came and stripped us. Then, they come again and ‘find’ us. Now, we are paid to behave the way we did when they tried to get rid of us.’⁹⁵

It is clear that the implications that cultural heritage has on the promotion of diversity, and vice versa, need to be explored much more fully.

A Precedent of Interventions on Cultural Heritage

Part of understanding the complexity of diversity involves a recognition that cultural heritage remains fundamentally a matter for states and national governments. Although NGOs and International Organisations play a crucial role in setting normative standards and monitoring progress, ultimately any impact that they can have on cultural heritage remains at the discretion of states. For the time being and the foreseeable future, we continue to live within an international system that is characterised by state sovereignty, and any policy or action regarding cultural heritage is ultimately subject to the will of sovereign governments. Observing a precedent of control also demonstrates how national governments are in the strongest

⁹³ Langfield et al. (2010): op cit., p.3.

⁹⁴ Lowenthal (1998): op cit, p.85.

⁹⁵ Ibid.

position to intervene in cultural heritage. In this section I therefore explore the myriad ways in which governments have intervened in cultural heritage. Time and time again, actions by governments have either explicitly or implicitly resulted in the control of historical narratives, and while a survey of the existing precedent of control does not demonstrate why governments *should* engage with cultural heritage, it certainly proves useful in highlighting the range of ways in which governments are capable of shaping discourses on the past through their treatment (or manipulation) of cultural heritage.

Iconoclasm

Of all the ways in which individuals have responded to the existence of a past, none are more striking, or more extreme, than acts of iconoclasm. Such actions represent *systematic* efforts to annihilate objects based upon their symbolic or 'iconic' significance. In sharp contrast to the organic decay or demolition of artefacts due to development, instances of iconoclasm can be identified by the existence of motivations directed specifically at the destruction of certain artefacts. From the destruction of the remnants of the *ancien regime* by the French iconoclasts, to Mao's Cultural Revolution, to the Buddhas of Bamiyan; the obliteration of cultural heritage has been an effective means of creating distance from an undesirable past by destroying the objects associated with it. Designed to legitimise the present regime by disgracing the past, such treatment of cultural heritage clearly has political implications. While iconoclasm does not always occur at the behest of governments, when sanctioned or exercised by states the consequences of iconoclasm tend to be much more thorough and permanent. Minimally then, a question about a state's responsibility to cultural heritage asks whether the systemic destruction of cultural heritage ever be justified. This is a question that will be addressed during the course of this study.

Institutionalising cultural heritage

Explicit efforts on the part of governments to control the past have not been limited to the destruction of cultural heritage. Indeed, governments have at their disposal a

broad variety of measures that effectively result in the *creation* of a cultural heritage. Some of these measures are more explicit than others. War memorials, for example, venerate not only the glorious dead but the nation and its cause as well, and when maintained in public spaces also represent a substantive treatment of cultural heritage. In the UK, although wearing a poppy in the lead up to Remembrance Day is not necessarily a requirement, public individuals (such as newscasters) have been broadly criticised for their failure to do so. In recognising Remembrance Day, the state also creates a space for other remembrance rituals (such as wearing a poppy) to flourish.

National public holidays also clearly indicate which traditions the state wishes to uphold. I have already mentioned above how, following its return to China, Hong Kong now has a rather different set of public holidays: while school children in Hong Kong had for decades had a holiday on the Queen's Birthday, 'Commonwealth Day' and the birthday of Dr. Sun Yat Sen, the region's return to China not only ended the observation of these days but also signalled the arrival of a whole host of new public holidays such as 'Hong Kong Special Administrative Region Establishment Day', 'National Day of the People's Republic of China', 'Labour Day', and (somewhat incongruously) 'Buddha's Birthday.'

National coinage and notes often carry the images of respected historical figures, and in this regard it is easy to understand why the designers of the Euro banknotes choose to use generic and evocative images as opposed to existing landmarks and historical figures. Cultural heritage is also represented in certain symbols, crests and colours that can frequently be found on public buildings, and especially, on national flags.

The creation, or endorsement, by the state of a particular heritage can be attributed to a desire to foster loyalty to the state as part of nation building. As Antony D. Smith writes, most states aspire to become nation-states, and this necessarily entails approximating a fit between national culture and identity, and the political institutions of the state.⁹⁶ Therefore governments have a vested interest in promoting

⁹⁶ Smith, A. (1991): National Identity, (London: Penguin Books), p.15.

a specific culture to its citizens. To be sure, it does make a lot of sense to engage with historical experience and cultural heritage in creating this fit between culture and institutions, as history brings with it the weight of precedent, custom, and thus, legitimacy. This legitimacy, in turn, aims at fostering the trust and loyalty of its citizens, but also the respect of other sovereign states. The existence of a national currency, anthem, narrative, and flag are all necessary customary components of the modern nation-state.

National museums

Although I have traced some examples of how states have interfered with cultural heritage, perhaps the most obvious manner in which historical artefacts have been institutionalised is with the creation of a national museum. It is interesting, in considering why states should respond to the existence of cultural heritage, that the genesis of public museums corresponds exactly with the emergence of nationalism after 1820.⁹⁷ Of these, none is more representative of the new relationship between the state and public culture than the Louvre in France. Formerly the palace of kings, the Louvre, as a museum, would come to symbolise the new republic which granted equality (of access) to all. Although the Louvre was not the first royal collection to be made public, it was certainly the most significant - not merely because of the Louvre's unique revolutionary circumstances, but also because of the scale and scope of its transformation; it was to become the shining example of subsequent state museums. The explicit treatment of cultural heritage as a public matter is, it seems, inherently tied to the modern, secular state as national museums have grown in stature to become a necessary component of statehood in every corner of the world.⁹⁸

Yet, while it is clear that states have taken an interest in cultural heritage for the purposes of building national museums, it would be a mistake to assume that these buildings are used solely to display indigenous objects. On the contrary, the content

⁹⁷ McClellan 'Nationalism and the origins of the museum in France,' in Wright, G. (1996): The Formation of National Collections of Art and Archaeology, (Yale University Press), p.29.

⁹⁸ Preziosi 'In the Temple of Entelechy: The Museums as Evidentiary Artifact', in Wright (1996): op. cit. p.165.

of national museums (be they of history, or of art) tends also to be of a universal nature. In national art history museums, one can always find the prerequisite landscapes, still-life's and works of Renaissance, Baroque and Impressionist artists; the point however of a national museum is to demonstrate a particular superiority of display.⁹⁹ The juxtaposition of national genius alongside universally accepted greatness allows museums to boast particular national qualities as well as a prowess in acquiring works of universal acclaim.

National museums thus represent a unique phenomenon with regards to state intervention in cultural life. Appearing as the most tangible expression of what the state values and wishes to preserve, they encompass a broad array of objects originating both indigenously as well as otherwise. Constructed to mimic ancient Greek or Roman temples, many museums possess a lofty quality, presenting 'high culture' to the people; indeed the experience of a museum is, as Carol Duncan points out, much like a ritual in and of itself, as visitors 'come away with a sense of enlightenment, or a feeling of having been spiritually nourished or restored,'¹⁰⁰ – which is ironic, considering the museum's secular origins. Duncan continues, noting that, in visiting a museum, the visitor 'also encounters there the state itself, embodied in the very form of the museum. Acting on behalf of the public, it stands revealed as the keeper of the nation's spiritual life...'¹⁰¹ The physical presence of a national museum thus stands as testament to the legitimacy of the state as the protector of a national heritage, but also for the heritage of others.

Public Education

It is important, in outlining the parameters along which government interventions in cultural heritage can take place, to consider the ramifications for public education. In the Netherlands, for example, schoolchildren are taught the fifty 'canons' of national history and culture in an explicit effort to bolster awareness of Dutch heritage

⁹⁹ McClellan, op cit., p.34.

¹⁰⁰ Duncan, C. (1995): Civilizing Rituals, (London: Routledge), p.9 and 13.

¹⁰¹ Duncan: op cit. p.26.

particularly amongst young people and ‘newcomers’.¹⁰² Education, and especially citizenship education, frequently entails learning about the story of the nation and what makes this particular nation unique. Although these narratives are framed as history, the education - especially of school children – lacks the nuances and acknowledgement of competing interpretations that form a necessary component of good academic History. As such, the historical narratives employed by states in a national curriculum must also be regarded as the creation of a cultural heritage, and thus require the attention of this research. Should states, for example, have the right to impose a particular account of the national past on school children; or should they (merely) stick to covering older, more ‘uncontroversial’ topics such as the ancient Greeks and Romans? Another question which is continually raised regarding education, though not pertaining to a national narrative, is the place of human evolution in the curriculum, and, for that matter, teaching about Adam and Eve; are they to be taught as Science, History, or Religious Studies – these too are questions which necessarily pertain to the treatment of cultural heritage. Education represents one very powerful means of conveying a specific account of the past. It is also an issue, therefore, which requires careful consideration.

The Prohibition of Other Heritages

I have thus far examined the promotion and destruction of heritage, as well as the accumulation of other people’s heritages. I turn now to one final instance on the control of cultural heritage, and this takes its form in the prohibition of certain cultural practices.

Legal provisions affecting the appropriate slaughter of animals, suitable head gear for riding a motorcycle, manners of personal dress and decoration have all received a great deal of attention in recent years as governments increasingly engage with the existence of a heterogeneous population. While legislation on these themes has, in most instances, not been aimed specifically at the control of cultural heritage per se, the consequences of such provisions do necessarily effect the cultural practices of

¹⁰² Oostrom, D. (2007): A Key to Dutch History, (Amsterdam University Press), p.19-20, p.23.

certain groups. For example, increased support for animal welfare has led to criticism of certain forms of ritual slaughter as practiced by Muslims and Jews, and in some countries has resulted in prohibition. The prohibition of such practices however does amount to the rejection of certain cultural heritages. Indeed, appeals to revoke laws that effect cultural practices often cite their customary nature and critical role as part of the group's cultural heritage. Thus, in considering the manners in which a state may control cultural heritage, it is necessary also to take account of legislation that implicitly results in the restriction of certain cultural heritages.

Beyond Pragmatism: The Significance of Cultural Groups

State sovereignty and a precedent of control over cultural heritage provide pragmatic reasons for asserting that states and governments are the primary agents in responding to cultural heritage (as opposed to NGOs or international organizations). Yet, beyond this pragmatism lies a more normative consideration and this is the fact that national governments are in the best position to respond sensitively and effectively to the concerns of a diversity of cultural groups and heritages. *But* not only are states in the best position to respond to such matters; as we have seen just now – governments continually make decisions that yield crucial outcomes for cultural groups and practices, and the significance of this is that national governments *need* to engage with issues of cultural groups and heritages.

As we have seen in the first chapter, all individuals require some sense of the past to give their lives meaning and context. Though individuals vary in their appreciation of this connection, the acceptance and recognition of a particular past ties us to a particular group which can be defined, in part, by a recognition of the shared meaningfulness of this historical experience. Historical experience manifests itself in both tangible (e.g. monuments and artefacts) and intangible (e.g. languages and rituals) cultural objects, and because of the extent to which historical experience (and cultural heritage) play a role in the construction and maintenance of a personal identity, the freedom to choose a particular cultural heritage is a matter of individual liberty. Drawing upon the experiences of Jedi knights, in the first chapter I asserted

that while states are not necessarily (or *a priori*) under an obligation to recognize cultural identity, they must respect and cannot deny an individual's ability to define their identity with reference to certain experiences and heritages.

States must maintain an interest in cultural heritage because of its significance for individuals and citizens. It is important to acknowledge, however, that interest does not necessarily imply action; maintaining an 'interest' can result in states deciding not to preserve anything at all, and simply allowing individuals to pursue and engage with heritage in a manner of their choosing, implying a sort of 'benign neglect.' Nevertheless, even deciding not to preserve a cultural heritage is the outcome of a process of interested *engagement* with the issue. Engagement does not necessarily require specific action. The issue of cultural heritage is not rendered outside of the public and political realm simply because states decide not to engage with the issue. If governments choose not to engage with (and preserve) cultural heritage and practices they need to explain why.

Of course, governments might respond that it is precisely this distinction between individuals and citizens which renders cultural heritage outside the realm of public interest; individuals may engage with cultural heritage but this is their own private business and not a political issue. Even if drawing a line between public and private interests were so easy, the fact remains that some, if not most, cultural identities are public and political – requiring the attention of the state.

Given the precedent of state interventions discussed above, aside from the public interest in cultural heritage, a significant reason for government engagement with cultural heritage is the fact that to do otherwise would leave governments liable to charges of hypocrisy. Through public holidays, museums, languages and monuments, states demonstrate a willing engagement with cultural heritage. For the sake of consistency and demonstrating a commitment to responding to public interest (as opposed to merely serving its own agenda), therefore, governments have strong normative reasons for engaging with cultural heritage.

The Value of Political Theory

In this chapter I have sought to problematise the issue of cultural heritage by asserting the value of examining the ramifications of cultural diversity. Cultural heritage is under threat but the question of how to respond to cultural heritage is not merely a matter of deciding whether or not to preserve, but also, as we have seen here, of *whose* heritage we ought to be preserving. There is not simply a single cultural heritage, but a diversity of national, ethnic, religious, racial and many other forms of heritage. The fact that UNESCO's 2003 *Convention for the Safeguarding of Intangible Heritage* and other treaty legislation place such a great emphasis on cultural diversity can only be regarded as a positive development. The extent to which previous legislation and treaties ignored diversity and minority groups effectively sanctioned and reinforced bias toward dominant groups and norms. The world is characterized by diversity and it is important to acknowledge this fact in domestic and international legislation in order for analysis and action to relate more closely to reality.

Yet, as I have sought to demonstrate, an engagement with diversity throws up a set of entirely different issues and problems. An awareness of difference is not always a good thing and can lead, for instance, to essentialisation as well as discrimination. Diversity, therefore, is not necessarily the panacea that is often supposed and there is a need for a more complex and nuanced understanding both of cultural groups and diversity. This is not to say that there is no value in the promotion of diversity. Rather, the intrinsic value of *promoting* diversity has become a premise upon which much research and legislation has subsequently been based and it is important not only to evaluate this premise, but also to examine its alternatives.

So what *are* the alternatives? As opposed to promoting difference, states could choose to promote unity *in spite of*, or *beyond*, diversity. They could actively renounce the notion of needing to promote or preserve anything at all, and actively privatize cultural heritage. Governments could simply leave heritage and diversity as they are – a fact of social life, but of no particular normative or political significance.

I shall build up a more concrete picture of these alternatives over the subsequent chapters. I will not, however, have to start from scratch because there is an existing body of literature and scholarship that already engages with the issue of cultural diversity and how to respond to it. Indeed, it is absolutely crucial for heritage scholars to gain a better understanding of background normative and socio-political issues by drawing upon contemporary scholarship on multiculturalism and diversity.

A great deal has been written over recent years about how to respond to cultural diversity within contemporary nation-states. Although many political theorists engage solely with the issue of culture (as opposed to cultural *heritage*), I believe that it is possible to draw out the implications of their work here for cultural heritage. Charles Taylor and Iris Marion Young, for instance, have both endorsed the politics of recognition for cultural groups; arguing that a lack of political recognition is detrimental to identity and a group's sense of self-worth.¹⁰³ Whereas, Will Kymlicka, argues for the right to engage with culture on the basis of its significance to exercising individual autonomy.¹⁰⁴ We can see echoes of these arguments in the works of heritage scholars such as Laurajane Smith (whose work was mentioned above); heritage can thus be transformed into a vehicle for the politics of recognition. This clearly fits into the notion of promoting diversity that has been discussed above. Nationalists, however, and constitutional patriots would argue for the alternative – for promoting unity as opposed to diversity - whereas libertarians might say that cultural heritage and diversity should simply be left to be.

This is not to imply that theorists of cultural heritage ought look no further for how to respond to diversity; on the contrary, it is my intent, not only to illustrate that diversity is an issue which has long concerned other disciplines, but also to demonstrate that the question of how to respond to diversity is inherently more complex than otherwise indicated by recent scholarship and international agreements. The positions that I have outlined above by no means encompass the broad spectrum of works on multiculturalism. Nor has my brief description captured

¹⁰³ Taylor 'The Politics of Recognition' (PR) in Gutmann, A. eds. (1994): Multiculturalism, (Princeton: Princeton University Press), and Young, IM. (1990): Justice and the Politics of Difference, (JPD) (Princeton: Princeton University Press).

¹⁰⁴ Kymlicka, W. (1996): Multicultural Citizenship, (MC) (Oxford: Oxford University Press).

the nuances of these positions. However, while such works of political theory do not provide the answers to the question of how to treat cultural heritage within a multicultural and diverse society, I do believe that they constitute a starting point for further interdisciplinary research. Indeed, it is surprising that heritage scholars have not thus far considered the implications of contemporary political theory on their work at great length. So, if Langfield et al, citing the Smithsonian Institute (2005), have identified the problem of the field's under-theorised state, it is my contention that part of the solution to theorising heritage lies in political theories of diversity and multiculturalism.¹⁰⁵

Conclusion

In this chapter I have attempted to problematise cultural heritage as being not merely a debate about whether or not to preserve cultural heritage, but also raising questions about *whose* heritage. The general response from within the heritage literature and in existing treaty legislation has been that we ought to *preserve a diversity* of heritages. Yet I have sought to demonstrate the importance of adopting a more cautious approach to diversity as well as preservation and have highlighted the necessity of exploring alternate positions. I have also been keen to emphasise that cultural heritage is a *political* matter that needs to be addressed by state governments. Debates about culture and diversity in contemporary political theory can therefore help to shed light on political responses to a diversity of cultural heritages.

Yet it is important to stress that examining cultural heritage through the lens of political theory will not simply result in a rehashing of existing debates. Indeed, if political theory can benefit cultural heritage, then cultural heritage is of similar value to theoretical debates about multiculturalism. With an emphasis on historical conditioning, examining cultural heritage allows us to give weight to the experiences of cultural groups – something that many scholars of multiculturalism and diversity have simply neglected. It also provides a means of theorizing culture as a *process* because, by definition, an analysis of cultural heritage necessarily rejects a view of

¹⁰⁵ Langfield et al (2010): Cultural Diversity, Heritage and Human Rights, (Routledge), p.17.

culture as static, ‘groupist’ and given. In the next chapter, therefore, I begin to discuss how an exploration of cultural heritage can benefit normative debates about culture and diversity by outlining a response to cultural heritage from the perspective of liberal political theory.

Chapter 3

A Liberal Response to Cultural Heritage

Liberalism provides a good starting point for outlining a response to a diversity of cultural heritages because it grows out of a need to accommodate difference. In this chapter, therefore, I shall begin to outline a *liberal* response to cultural heritage. Though many believe that liberalism provides the best guide for organising politics, I shall make no such claims for liberalism here. Rather, I believe that its reluctance to demonstrate any explicit preference for a particular form of the good life, combined with its commitment to universalism, renders liberalism a very strong contender for offering a sound solution for responding to a diversity of cultural heritages. It is also a response which is capable of yielding a large consensus. However, I also readily accept that the liberal response to cultural heritage offered here is but one possible response among many.

The first part of this chapter therefore says a little bit about liberalism and the sort of liberal state that is imagined here, before moving swiftly on to outlining the general principles that govern a liberal approach toward cultural heritage. A liberal response to cultural heritage, it turns out, is guided fundamentally by non-intervention, i.e. largely leaving heritage alone. As we noted in the first chapter, the normative

significance of cultural heritage lies in its value to personal and group identity. The liberal proviso therefore requires that individuals possess the greatest liberty possible to engage with their cultural heritages without state intervention. This is perhaps easier said than done - for leaving individuals largely alone to pursue their own meaningful cultural heritages means that the state will, at times, have to restrain itself from intervening in cultural practices which it, as representative of the majority or dominant view, might deem unsavoury. Non-intervention, therefore, requires a great deal of toleration on the part of governments.

It would be a mistake however to assume that liberal states ought do nothing at all about cultural heritage. It is important to remember that underlying non-intervention is a commitment to individual liberty. A liberal state is therefore charged first and foremost with maintaining this freedom. For the most part, this involves refraining from interfering in matters pertaining to individual conceptions of the good life but this may also, at times, require interventions in cultural heritage. Thus, in the second part of this chapter, I discuss exceptions to non-intervention. There are two reasons why liberal governments may intervene in cultural heritage and this is 1) to uphold toleration and 2) to maintain autonomy. Toleration and autonomy are two central features of liberalism and, although they have often been presented as contradictory, I shall attempt to largely reconcile them by setting strict parameters on the content of each concept. It is liberalism's commitment to individuals, however, that ultimately sets limits upon toleration. What emerges, therefore, is that, while guided fundamentally by non-intervention, a liberal state may only intervene in cultural heritage to uphold and preserve the liberal principle of individual freedom.

A Brief Definition of Liberalism

'Liberalism' is a word that has come to stand for many different things and, depending on the context, also carries with it a mixture of connotations. Within the context of my work, however, I am interested in looking at *political* liberalism, which is defined by a lack of commitment on the part of governments to any particular conception of the good. This is for the purposes of liberty, and allowing

individuals to pursue their own (private) ends, and it is for this reason that liberalism has so often been labelled ‘individualist’ – devoted as it is to the preservation of individual freedom. Indeed, it is a commitment to individual freedom which lies at the heart of liberalism – everything else, from toleration, to autonomy, equality and opportunity comes secondary to this.

A liberal state is thus identified by its unwillingness to promote or favour any particular religious, ethical, ethnic, or other way of living. Apart from individual freedom, it is therefore also committed to neutrality and indifference. It aims to protect individual liberty by balancing, negating and ignoring a number of competing interests. The liberal state remains neutral fundamentally out of a respect for the moral equality of persons. A ramification of neutrality is a commitment to *objectivity*, when confronted with competing conceptions of the good, and to *universalism*, such that the liberal state does not favour a conception of the good from a particular moment in history. Thus, the values that the liberal (and the liberal state) espouse are relevant not only in the current context, but – it is also assumed – for perpetuity. A liberal political theory therefore encompasses all generations, but at the same time it is also inherently ahistorical. Historically, however, liberal thought grew out of a scepticism about the authority of tradition combined with a parallel need to accommodate different ways of living. This means that a liberal point of view will attempt to avoid bias toward any particular tradition or cultural heritage and thus, in determining how to respond to a variety of cultural heritages, liberalism provides a strong starting point for inquiry.

Beyond this very basic conception, it is important to note that liberalism is by no means an uncontroversial or unified position. Indeed different liberal theorists will point to different notions of how a commitment to neutrality is to be maintained and, in some circumstances, when it may permissibly be superseded. Of course, the manner in which freedom is defined has great bearing on the liberalism that subsequently emerges. Much like ‘liberalism’, ‘freedom’ is also a concept that can scarcely be sufficiently defined and justified here. Like many liberals, however, the view put forth here is sympathetic to Isaiah Berlin’s distinction between positive and

negative liberty – with scepticism of the former and preference for the latter.¹⁰⁶ It finds that individuals need space to exercise choice and pursue their own conceptions of the good – thus requiring non-intervention on the part of liberal governments. However, the view of freedom asserted here also finds that governments have a role to play in the creation of this space - such that it is meaningful and worthwhile to individuals. Freedom is both being left alone and also having something of some value to do whilst being left alone. While this definition is likely to prove unsatisfactory, it will have to suffice for the time being; for a discussion about freedom – much like liberalism – could easily fill more room than is available here. Yet as liberalism and freedom are so closely intertwined, this position on freedom will hopefully be explained as well (if not completely justified) by the end of this work.

The fundamental aim of the liberal state envisaged *here* is to protect a diversity of interests and conceptions of the good by upholding respect for liberal values. This does not mean that everybody within the state needs to be committed to and exercise what are commonly regarded as ‘substantive’ ‘Liberal’ values such as freedom of speech, equality, assembly and so on. Rather, the liberalism that is outlined in this chapter and defended throughout the rest of this thesis is defined by a commitment on the part of government to uphold and encourage *toleration* for a diversity of ways of life and a respect for individual *autonomy*. Accordingly, one does not necessarily need to be a ‘Liberal’ within the liberal state envisaged.

Thus, there are a diversity of views – all of which might reasonably claim to be liberal. The argument offered here is not *the* liberal response to cultural heritage, but *a* liberal response (though undoubtedly in the author’s opinion it is also a *good* liberal response). It is a particular liberal solution to cultural heritage, but also a particular liberalism. With an emphasis on historical conditioning, examining liberalism vis-à-vis cultural heritage allows us to give weight to experiences. This can provide a remedy to the universal nature of liberalism, which has all too often been interpreted as *ahistorical*. History is often treated as a matter of contingency –

¹⁰⁶ See Berlin, I. (1998): Two Concepts of Liberty, op cit. p.194.

i.e. something that we can do little about. Thus, cultural heritage provides us with a means of tracing cultures and engaging with their processes of development, as well as factoring in experience. By engaging with cultural heritage, it becomes possible to acknowledge the significance of historical experience in the construction of personal, and hence group, identity. Furthermore, accepting the historical contingency of identity should also force us to reconsider our own liberal and supposedly universal beliefs. As much as liberals may try to ignore this, the liberalism that we conceive of today is equally the outcome of a particular set of historical circumstances. An engagement with cultural heritage should make us more aware of the particular nuances that liberalism may pick up when applied in specific contexts, and also more wary of our own liberal traditions and prejudices.

A Liberal Response to Cultural Heritage

In the first chapter I outlined the significance of an historical identity and the manner in which objects, which we regard as cultural heritage, are capable of conveying and representing that identity. Cultural heritage is capable of sustaining identity because it expresses historical experiences which can play a substantive role in the construction of an historical identity. Accounts of the past are not only maintained in abstract memories and narratives, but largely envisaged and manifested in particular objects, practices and rituals – and these objects, recognised and defined as cultural heritage, possess a symbolic and emotive content that individuals can derive meaning from and may perceive as intrinsic to how they define their own identity. It is also important to remember, as I have noted above, that this conception of the past is inherently tied to group membership; following the arguments of Maurice Halbwachs, a collective both sustains and is sustained by a shared understanding of the past. The personal significance of cultural heritage thus lies in its capacity to represent a meaningful past to the present generation; a capacity which is made all the more potent, in many cases, by the fact of its expressive nature – appealing not to reason, but emotion.

Yet, while our identities are to some extent historically contingent, it should be obvious that different individuals will attach different values to their historical connections; and the extent to which they engage with their connections to the past is as a matter of choice as well as chance. Some individuals may find their histories to be an inherited unalterable legacy, whilst others may ‘choose’ to emphasize certain aspects of their pasts whilst downplaying others. Some may make a conscious decision to reject their roots whereas others may simply be indifferent to them. Over the course of a lifetime, individuals may identify with many different historical legacies and indeed engage with several historical connections at the same time. So, cultural heritage can matter but it doesn’t necessarily matter equally to everyone.

The liberal state envisaged here is one that guarantees basic liberties out of a respect for individual dignity and freedom. It is a liberal state that is composed of a multitude of groups – some larger and more powerful than others. Given that a liberal state is one which aims not to promote any particular conception of the good life, and given that cultural heritage is, by definition, both representative and constitutive of particular conceptions of the good, a liberal response must therefore largely be characterised by non-intervention. The role of the liberal state is to allow individuals to make decisions about heritage for themselves as a matter of individual liberty.

In the same way that individuals must be free to form and define their own identities, *and* given that an account of the past can form an intrinsic facet of personal identity; individuals should also be free to identify with a past that is meaningful to them. This negative right to define relevant historical experiences thus forms a crucial component of a respect for individual identity and freedom of thought. A logical extension of this freedom to define an historical identity entails a similar negative freedom to define a cultural heritage. Individuals must be free to engage with certain cultural objects and practices (i.e. a cultural heritage) as these can play a crucial role for personal identity and well-being. Furthermore, a right to defining the content and significance of cultural heritage entails that individuals cannot be told or assumed to engage certain aspects of their past simply by virtue of their race, ethnicity,

nationality or religion. I frame this largely in terms of a negative right (i.e. non-intervention) for normative as well as pragmatic reasons. As a liberal project, I therefore begin with the premise that states should largely remain indifferent to identity and conceptions of the good – thus a liberal government's response to cultural heritage should largely be one of non-intervention.

The elusive nature of the acceptance and recognition of cultural heritage, which was discussed in the first chapter, leads me to assert a more pragmatic reason for why the definition of cultural heritage should be left to individual choice. The fact that cultural heritage is rarely explicitly recognised and continually subject to change does not undermine the significance and meaningfulness that cultural heritage can have for individuals. On the contrary, it is absolutely vital to acknowledge that this dynamism is a necessary condition of cultural heritage. It is only natural that, as time passes and values change, the content of what is defined by cultural heritage is also subject to variation. A shift in values and understandings of cultural heritage can occur for any number of reasons such as social change and revolution, the discovery of 'new' sources of heritage, or simply because the significance of certain artefacts and tradition have organically decayed into meaninglessness. The past and its significant attributes are malleable, and the manner in which we choose to convey and recognise them is subject to our own current needs and beliefs. To this extent, it is also reasonable to assert that cultural heritage is made meaningful by the fact of its dynamism. While it is true that this understanding of the significance of recognition *does* make cultural heritage harder to identify as an 'outsider', I believe that it is far more important to situate the control of cultural heritage amongst those who feel a genuine connection to it. The changing content of cultural heritage reflects the dynamism of values and social structures. Non-interference in identifying cultural heritage thus appropriately allows individuals to have room to discover and define a past and cultural heritage that is meaningful to them. Furthermore, although the significance of historic traditions may not be acknowledged on a daily basis, the threat of their demise or destruction will often be met with great hostility. It is also therefore important to respect the extent to which individuals do not necessarily wish

to explicitly identify their cultural heritage, and accept that a meaningful appreciation of the past may, in part, be an inherently private matter.

The third and final reason why individuals should have the freedom to define the terms of their cultural heritage also arises from a practical concern for the reality in which cultural heritage is manifested. While much of individual cultural heritage may be implicitly accepted and privately appreciated, it is crucial to recognise the extent to which cultural artefacts have also become commodities within the cosmopolitan marketplace, and thus widely disseminated in accordance with a logic that can be fundamentally driven by the pursuit of profits. Part of claiming an individual's right to define the terms of meaningful historical experiences, therefore, also stems from a conscious effort to avoid the prescription and essentialisation of cultural heritage, as resulting from its commodification. Thus, while I have attempted to defend the definition of cultural heritage as being contingent upon its acceptance by individuals, it is necessary to acknowledge that these very same cultural artefacts, affixed with the logo of "cultural heritage" as we have seen in the previous chapter, have also demonstrated themselves to be highly lucrative objects.

A (negative) right to defining the terms and significance of cultural heritage, therefore, also arises out of a concern for the reality in which cultural goods can be distributed. Such use of cultural heritage becomes inherently problematic when the commodification of supposedly sacred goods deprives them of their original meaning. Indeed, in the previous chapter I cited Theodor Adorno who decried the distribution of mass culture as well as the commodification of cultural heritage within the global marketplace for 'ethnic' goods. Thus, consumed as mass culture, cultural heritage is potentially reduced to a frill, an embellishment; subsequently, formulaic and meaningless.¹⁰⁷

In many regards, a meaningful personal cultural heritage is distinct from, and parallel to, the use of 'cultural heritage' in mass culture. It would also be incredibly idealistic to assume that cultural heritage will always be represented truthfully and respectfully

¹⁰⁷ Lowenthal, D. (1998): The Heritage Crusade and the Spoils of History, (Cambridge: Cambridge University Press), p.86.

by consumer culture. Nevertheless, despite the extent to which individuals can engage with their heritage in a personal and meaningful manner, the public presence of inherently superficial displays of cultural heritage can be still be very upsetting. By stereotyping the qualities of a particular group, such uses of ‘cultural heritage’ perpetuate the essentialization of cultural groups. It is difficult to swim against the tides of fashion and consumer culture, yet giving individuals the *moral* right to define the terms of their cultural heritage *is a starting point*.

Though largely leaving cultural heritage alone may not sound as though it requires a profound effort on the part of governments, in reality, this is a rather difficult stance to maintain. This is because governments are obligated not to intervene in many circumstances where it might very much like to. There are many cultural practices followed by a minority of the population which the government might deem abhorrent or distasteful. Yet the mere existence of a clash between the norms of the majority and minority does not in itself provide sufficient justification for intervention in cultural practices. Non-intervention thus requires, in the first instance, a great deal of toleration.

Toleration and Liberal Political Theory

Toleration is a key feature of any liberal theory and hence plays a crucial role in determining a liberal response to cultural heritage. Indeed, if the primary aim of liberalism is to protect the interests of a diversity of individuals and groups, then toleration of a diversity of cultural heritages becomes an absolute necessity. Liberal proponents of toleration often draw upon the works of John Locke and John Stuart Mill in order to demonstrate toleration’s provenance. Yet, the toleration of Locke is quite different to the toleration of Mill and so, despite a general consensus on the significance of toleration, its myriad interpretations necessitate a brief exploration of the concept. In this instance, I shall conceptualise toleration and discuss the implications of a number of interpretations of toleration before outlining how toleration of cultural heritage might manifest itself within the liberal state envisaged here.

According to Peter Jones, Toleration has two features:

1. We tolerate only that to which we object
2. We can only tolerate what we are able to prevent¹⁰⁸

Susan Mendus elaborates on these points, writing that

‘There are two features common to all [cases of toleration]: the first is that the problem of toleration arises in circumstances of *diversity*. The second is that toleration is required where the nature of diversity is such as to give rise to *disapproval, dislike, or disgust*...simply to allow the different practices of others, whilst not objecting to them, disapproving of them, or finding them repugnant, is not to display tolerance, but only to favour *liberty*.’¹⁰⁹

Mendus draws upon the work of Deborah Fitzmaurice and Mary Warnock to distinguish between weak toleration, which is characterised by mere dislike, and strong toleration, which is characterised by moral disapproval. The distinction between these two forms of toleration can be clarified with an example of reasons behind the ‘toleration’ of Muslim headscarves: to tolerate headscarves despite reservations about its aesthetic appeal is merely weak toleration – expressing a dislike of how headscarves look. Refraining from intervention despite holding the belief that the headscarf is a symbol for the subjugation of women within Islaam, perpetuating inequality between genders entails strong toleration – encapsulating a deeper, moral rationale. Like Fitzmaurice, Mendus believes that weak toleration is itself already part of a respect for liberty and liberalism – and does not require a separate principle. This distinction between weak and strong toleration divides scholars such as Mendus and Fitzmaurice, from other prominent liberal theorists such as John Rawls and Joseph Raz. It is the presence or lack of strong toleration that represents a crucial juncture for liberalism. The key issues, as Mendus writes, ‘is what the liberal attitude will be to those forms of life which do not place a high value on autonomy, and this question is most pressing in contexts in which the non-autonomous lifestyles take the form of a sub-culture.’¹¹⁰ Indeed, an acceptance only

¹⁰⁸ Jones, P. (2007): ‘Making sense of political toleration’ in The British Journal of Political Science. (2007: 37), p.385.

¹⁰⁹ Mendus, S. (1989): Toleration and the limits of liberalism, (Macmillan) p.8 – emphasis added.

¹¹⁰ Mendus: op cit., p.103.

of weak toleration can, as we shall shortly see, be quite damaging to a theory that presents itself as liberal.

Although John Rawls was not explicitly (or even implicitly) concerned with how to respond to a diversity of cultural heritages, his theory of justice remains the most prominent account of liberalism to have been conceived during the twentieth Century and is premised upon the existence of reasonable pluralism (and competing conceptions of the good – i.e. cultural groups) within society. Thus, his account of justice nevertheless provides a relevant starting point to a survey of toleration and cultural heritage. Like the view put forth here, Rawls recognises the necessity of limiting liberalism's ambit in order to allow multiple conceptions of cultural goods (or 'comprehensive doctrines' as Rawls calls them) to flourish.¹¹¹ The scope of justice is thus limited to the institutions which make up the 'basic structure.'¹¹² How then to arrive at a shared societal conception of justice which takes into account the fact of reasonable pluralism? The answer, in part, lies in Rawls' understanding of the 'overlapping consensus.' Rawls writes:

'The idea of an overlapping consensus is introduced to make the idea of a well-ordered society more realistic and to adjust it to the historical and social conditions of democratic society, which include the fact of reasonable pluralism. While in a well-ordered society all citizens affirm the same political conception of justice, we do not assume they do so for all the same reasons, all the way down....But this does not prevent the political conception from being a shared point of view from which they can resolve questions concerning the constitutional essentials'¹¹³

Thus, Rawls is able to ensure that for a variety of reasons, within a 'well-ordered' (i.e. liberal) society, citizens endorse two 'distinct although closely related views': a shared conception on justice and a conception of the good.¹¹⁴ By limiting the purview of justice, Rawls is able to accept a broad range of competing conceptions of cultural goods – at first blush, that is.

¹¹¹ See Rawls, J. (2003): *Justice as Fairness* (JaF), (Harvard: The Belknap Press), p.82.

¹¹² Rawls, JaF p.10.

¹¹³ Rawls, JaF, p.32.

¹¹⁴ Rawls, JaF, p.33.

Yet, when Rawls considers how to respond to comprehensive doctrines (cultures, and cultural heritages) that challenge accepted principles of justice, his view begins to appear somewhat less convivial. Rawls continues:

‘There are at least two ways in which comprehensive doctrines may be discouraged: those doctrines and their associated ways of life *may be in direct conflict with the principles of justice*; or else they may be admissible but fail to gain adherents under the political and social conditions of a just constitutional regime...the question is this: if, in a just constitutional regime, some conceptions will die out and others only barely survive, does this by itself imply that its political conception of justice fails to be neutral between them?’¹¹⁵

Rawls does not seem to think so. For Rawls neutrality is completely consistent with rejecting or undermining certain conceptions of the good. Yet, upon closer inspection, Rawls’ theory of justice doesn’t appear to be terribly tolerant at all. The comprehensive doctrines, or cultures, that Rawls is willing to accept ‘include religious doctrines that affirm liberty of conscience and support the basic constitutional freedoms, as well as various liberal philosophical doctrines, such as those of Kant and Mill, that likewise do so’¹¹⁶ – that is, essentially, substantively *liberal* conceptions of the good and cultures. The crucial point here is what exactly basic constitutional freedoms might consist of. To take one example, a basic and relatively uncontroversial freedom within most liberal societies is the fundamental value of moral equality between individuals – yet the majority of the world’s religious groups would be unable to endorse this, often distinguishing between male and female, young and old, devout and agnostic, and so on. Rawls seems perfectly willing to ‘tolerate’ liberal groups – but is not so accommodating to illiberal ones. This seems somewhat beside the point – this is weak, not strong, toleration. We may reasonably contend, therefore, that while Rawls might allow a significant number of cultural groups to engage unobstructed with their own heritages, groups that do not fit into the liberal framework that he envisages would be prevented by the state from following their traditions.

¹¹⁵ Rawls: JaF, p.153- *emphasis added*.

¹¹⁶ Rawls, JaF, p.33.

Joseph Raz, on the other hand, puts forth an altogether different argument for rejecting certain ways of living. He asserts that,

‘It is the duty of the state to promote the well-being of its citizens, and without state action there will not be the social pre-conditions of such well-being...It follows that a government whose responsibility is to promote the autonomy of its citizens is entitled to redistribute resources, to provide public goods and to engage in the provision of other services on a compulsory basis, provided its laws merely reflect and make concrete autonomy-based duties of its citizens.’¹¹⁷

Thus Raz envisages that it is the duty of the state to ensure that individuals have a variety of valuable ways of living to choose from. In doing so, the state necessarily endorses some cultures while rejecting others; yet ultimately, in promoting a spectrum of goods, it presupposes value pluralism.¹¹⁸ This is a view that, while promoting a diversity of cultural goods, remains distinctly intolerant of ‘deviant’ ways of living on the assumption that some ways of living are simply ‘better’ than others. This is an assumption which is implicit too in Rawls.¹¹⁹ As Chandran Kukathas writes,

‘[Rawls] presuppose[s] the existence of a liberal political order [or certain moral truths, in Raz’s case]; that is, an order in which the value of autonomy, embodied in principles of justice is authoritatively upheld in the public sphere. To put it slightly differently, *all presuppose the existence of a common standpoint of morality which is established*...However, *toleration is not possible when minority practice goes against the values implicit in the public sphere: values which have already been established*. Minority practice is tolerated only for so long as it abides by the fundamental moral principles of the wider society; otherwise minority communities will be restructured (so far as is practicable) to be brought into accord with majority practice.’¹²⁰

Thus, in presupposing a common viewpoint or understanding of moral truths (e.g. Rawls’ overlapping consensus), the sorts of liberal states envisaged by Raz and Rawls necessarily end up rejecting all conceptions of the good (i.e. cultural practices)

¹¹⁷ Raz, J. (1988): *The Morality of Freedom*, (Oxford: Oxford University Press), p.415.

¹¹⁸ Ibid.

¹¹⁹ Though for Rawls and Kymlicka this is an issue of shared conceptions – vs. Raz’s epistemic assumptions.

¹²⁰ Kukathas, K. (2007): *The Liberal Archipelago* (LA), (Oxford: Oxford University Press), p.125 – emphasis added.

that fail to comply with this common standpoint. Or, to paraphrase, only liberal cultural heritages and practices are permitted within these state. As Kukathas argues, toleration arises as an issue because of this deviation from the common standpoint.¹²¹ Kukathas has a point here. If liberalism's defining purpose is not to promote a particular conception of the good, it seems odd to only allow liberal conceptions of the good (and the cultural heritages of liberal groups) to flourish within the state. Raz explicitly, and Rawls implicitly rely upon a degree of consensus about the good life that is upheld by the state. A liberal state cannot, however, only allow liberal practices and forms of cultural heritage to exist within the state as this (as Peter Jones has noted) is not, in itself, toleration and does not take the fact of diversity seriously enough. As Simon Caney points out, [political] liberalism sets out the principles that should be upheld by political authorities such as governments, not all human associations.¹²² Thus secondary associations – such as churches, mosques and other cultural groups – do not necessarily have to conform to liberal or egalitarian principles in their internal organisation.¹²³

Kukathas endorses this latter view of toleration. Additionally, however, he does not want to rely upon the existence of a common standpoint and instead bases the value of toleration partly on its relationship with reason. He writes, '...toleration is important because if toleration is forsaken then so is reason. A stance of toleration *upholds* or *honours* reason since it forswears the use of force in favour of persuasion.'¹²⁴ As a consequence, Kukathas' own vision for the liberal state is much more permissive of cultural heritage because the state itself does not have the right to determine whether certain cultural practices are right or wrong. According to Kukathas, the freedom protected by toleration is freedom of conscience.¹²⁵ This devotion to protecting freedom of conscience combined with scepticism of state authority, however, leads Kukathas to some rather striking conclusions. Kukathas,

¹²¹ Kukathas, LA, *ibid.*

¹²² Caney 'Exceptions and Cultural Diversity' in Kelly, P. eds. (2002): Multiculturalism Reconsidered, (Cambridge: Polity), p.84. Note that Caney is citing Brian Barry in CE, p.156-9, 176. He also writes specifically about egalitarian liberalism, but I see no reason why this point does not apply equally to political liberalism.

¹²³ *Ibid.*

¹²⁴ Kukathas, LA, p.130.

¹²⁵ Kukathas, LA, p.131.

for example, is reluctant to allow state intervention on emotive issues such as female circumcision. In other words, all cultural heritages are permissible within the liberal state, including those that that liberal government might deem abhorrent. Kukathas writes that, ‘even in cases where there is clear evidence of terrible practices, there is good reason not to give the established authority a right to intervene’¹²⁶ – by placing emphasis instead on conversion by persuasion.¹²⁷ ‘In morality, as in politics,’ Kukathas asserts, ‘there should be a separation of powers.’¹²⁸

Rather than regulating cultural practices through law and institutions, therefore, Kukathas imagines a sort of civil society that emerges through *modus vivendi*, in the absence of state intervention:

‘[This *modus vivendi* is] not merely a balance of power. It describes something much more like the rules of the commons which have arisen and developed over time to deal with interaction between communities in areas where property rights do not exist and there may be conflicts over the use of common resources...the reason this amounts to more than a balance of power is that the agreements reached are not *merely* compromises made by groups (or their representatives) with one another. Agreements or understandings reached between individuals and groups come to be accepted (or internalized) as more basic norms governing social relations. The product over time is a commons which acquires the character of a public space without a sovereign power – unowned but governed by norms which circumscribe behaviour within it...*what we have here is a form of social order whose underlying characteristic is toleration, even though it is not the result of any attempt to produce such an order.*’¹²⁹

Kukathas’ scepticism of the political authority of governments leads him to entrust toleration and, indeed, the regulation of cultural practices to civil society. A conception of toleration operates fundamentally at the pre-political (as opposed to political) level. Yet it is curious that Kukathas never really explains why civil society is able to do a better job than the state. Kukathas concedes

¹²⁶ Kukathas, LA, p.136.

¹²⁷ Ibid.

¹²⁸ Kukathas, LA, p.137.

¹²⁹ Kukathas, LA, p.132-3, emphasis added.

‘it is possible that under a regime of toleration some associations will condone or uphold practices which are harmful to children – and to others in those groups who are weak and vulnerable. What it relies upon to temper this is *the pressures of civil association more generally, which induce a measure of conformity to the standards of wider society.*’¹³⁰

Kukathas recognises that the pressures of civil society may not always be able to undermine such harmful practices – but reconciles this with the fact that this is still preferable to conferring moral authority upon the state.¹³¹ Yet despite Kukathas’ well-articulated faith in civil society (and the right of exit), he remains susceptible to Barry’s charge that there is ultimately little that stands between ‘ritual’ cultural scarring that is frowned upon by civil society, but nevertheless not illegal, and sadistic scarring for fun.¹³² Indeed, in addition to ignoring the resolve of extremist groups, Kukathas marginalises the power relations that exist within civil society to a remarkable (considering his concerns with the abuse of power by the state) degree. Kukathas does not really consider the extent to which the ‘rules of the commons’ may merely reflect the interests of dominant groups and existing power relations within the state. While, admittedly, he does consider the possibility of ‘cultural imperialism’, Kukathas does not believe that liberalism can do much about this.¹³³

A fundamental problem with this degree of non-intervention is that it does not sufficiently engage with the fact that the *social* dominance of certain cultural groups may result in an equal, if not greater, level of intolerance toward minority groups, heritage and practices. Who is to say that the dominant groups within society will tolerate minority practices? As Cecile Laborde writes, the problem with the ‘benign neglect’ approach is that it largely presumes the existence of justice and well-ordered societies: its proposals are ‘designed to apply to ideal well-ordered societies but they are also offered as practical proposals designed to guide to reform the real world,’ -

¹³⁰ Kukathas, LA, p.147 – emphasis added.

¹³¹ Kukathas, LA, p.147, ‘some groups will always resist the pressures to conform. But equally, the standards of the wider society are not always likely to be more humane or civilized. Nonetheless, this may still be less dangerous than conferring greater powers upon the state on the assumption that it can do only good.’

¹³² Barry, B. (2009) : Culture and Equality (CE), (Cambridge : Polity Press), p.143-4.

¹³³ Kukathas, LA, p.156.

unfortunately, she notes, actual societies fall short of these ideals.¹³⁴ Furthermore, how should liberal governments respond to actions that so clearly violate principles of toleration and individual autonomy, such that they challenge the authority of the liberal government itself? Kukathas also seems to assume that a similar substantive degree of rationality can cut across groups – such that they a *modus vivendi* is even possible. This is somewhat presumptuous considering Kukathas' rejection of a common conception of the good in politics. Though he is sceptical of state authority, it is unclear how meaningful toleration is any more likely to occur at the level of civil society – nor how toleration can be maintained. Unless these issues can be resolved, it is the state (consisting of the institutions that possess the legitimate power to coerce) that remains in the strongest position to facilitate co-existence between cultural groups and toleration of minority cultural practices.

A comparison of the work of Chandran Kukathas, with other liberals such as Rawls and Raz, presents us with rather different conceptions of toleration and highlights a distinction between weak and strong variants. On one hand, by excluding a variety of cultural practices and ways of living from permissibility, Rawls and Raz provided insight into liberalisms that endorse only weak toleration, whereas on the other, the indifference of Kukathas' liberal government rendered it far more tolerant of diverse ways of living. In this sense, Kukathas' strong toleration is, in principle, more meaningful to a diversity of minority groups than its weaker alternative. Yet, as we have seen, the liberal state's response to diversity cannot merely be one of 'benign neglect' because this insensitivity to power relations between social groups may in fact perpetuate even greater intolerance and substantial disparities in the treatment of different cultures. To me this suggests that the liberal government ought to regulate toleration but it must do so with a clear vision of its own bias towards its own conceptions of the good and thus severely limit the scope of its intervention. It is necessary therefore to strike an appropriate balance between toleration and freedom by setting limits to non-intervention.

¹³⁴ Laborde, C. (2008): Critical Republicanism (CR)(Oxford: Oxford University Press), p.12.

Toleration and the Limits of Non-intervention

Kukathas, as we have seen, largely seems to equate toleration with non-intervention. Indeed, for the most part, this is what respect for individual liberty, and hence toleration, requires. Yet, it is also important to acknowledge the limits of this approach. Regarding toleration and non-intervention as mutually exclusive obscures the extent to which non-intervention can in fact undermine toleration for a diversity of cultural goods. Pure non-intervention turns a blind eye on existing power relations between cultural groups within the state. At best, it assumes a certain degree of benevolence on the part of stronger groups, to not impose their will and practices on the minority. At worst, a response to cultural heritage that consists purely of non-intervention, simply does not care about such sub-state social relations. Therefore, although a government may express tolerance, it cannot necessarily assume the prevalence of toleration among its citizenry.

Toleration can, and frequently does in fact, require action and intervention on the part of liberal governments. As Peter Jones points out, a government is not tolerant because it provides an arena within which people can engage in acts of toleration, but rather because it holds intolerance at bay.¹³⁵ He therefore envisages the role of institutions as *upholding tolerance by preventing acts of intolerance*.¹³⁶ Thus, while the liberal state cannot only accept liberal ways of living, part of accepting a broad spectrum of cultures requires occasional interventions to uphold toleration, as advocated by Peter Jones. It is in this manner that toleration is made truly meaningful for minority groups and cultural heritage.

It is important to consider the implications of this argument for cultural heritage. Although it is crucial that governments refrain from intervention in order to allow individuals to remain free to follow their own conception of the good, governments are also under an obligation to respond to actions which are intended to prevent or obstruct individuals from engaging with their cultural heritage as a crucial means of protecting toleration. This means, for example, upholding the right of teachers and students to wear headscarves to publicly funded schools. Intervention to uphold

¹³⁵ Jones: op cit., p.388.

¹³⁶ Jones: op cit., p390

toleration should largely manifest itself in legislation outlawing discrimination on the basis of race, ethnicity, nationality, religion etc. Though I shall turn to discuss this particular topic in greater depth in Chapter 6, it is important to stress that this approach does not require special exemptions or additions to law for entire cultural groups as advocated by scholars such as Will Kymlicka or Tariq Modood.¹³⁷ Furthermore, upholding toleration must be distinguished from *promoting* the cultural heritages of marginalised groups. The promotion of cultural heritages treats heritage (and cultures) as ends in themselves (and as I argue in Chapter 6, alienates individuals from their cultural heritage), whereas upholding toleration focuses solely on individual welfare. It is important to acknowledge that the actions that flow from these different principles are not mutually exclusive (i.e. both may yield similar outcomes) – for example, promoting culture and upholding toleration may both require the translation of voting and legal information into minority languages, effectively subsidising a cultural practice. However, the different principles behind such actions determine their scope, endurance as well as applicability for members of cultural groups.¹³⁸ The consequences of these two approaches will be contrasted in greater depth in Chapter 6. Thus, although governments may have strong moral reservations about certain practices they are nevertheless obligated, as liberal governments, to allow cultural groups to pursue their cultural heritage and to undermine obstructions to practicing this heritage should they arise.

Culture and Autonomy

Although I have taken issue with liberalisms that endorse only a weak conception of toleration, citing their limited value to a diversity of cultural groups, it is important to remember where the value of toleration comes from and it is this which sets limits on toleration. As mentioned at the beginning of this chapter, the fundamental feature of

¹³⁷ See Modood, T. (2007): Multiculturalism: A Civic Idea, (Cambridge: Cambridge University Press), p.56 - ‘who is to decide what is a marriage and what is divorce? Most Western countries forbid more than one wife at a time but put no limit on the number of girl-friends or live-in partners; some Muslims believe there is a place for up to four simultaneous female partners but not outside marriage. Should only one of these views be recognised by law courts? In all these cases, whatever specific view we may have on any of them, it is clear that a consistent, impartial application of a single set of rules, norms and conventions by itself is not enough to achieve equality.’

¹³⁸ I discuss this particular issue in Chapter 8 on Language. The primary goal of the liberal state, I argue, is to improve access to a dominant language.

liberalism is its respect and protection of individual liberty. The maintenance of individual liberty and an ability to pursue various conceptions of the good thus requires toleration on the part of governments as well as the rest of society, but it also requires an appreciation of individual *autonomy*.

Within the literature on liberal multiculturalism (or multicultural liberalism) a dichotomy seems to have been set up which pits toleration against autonomy. As George Crowder writes:

‘...On one side there are those who see liberalism as standing primarily for the autonomy of the liberal person. Non-liberal groups that place serious restrictions on the autonomy of their members will on this view be liable to criticism and perhaps intervention by the liberal state. On the other side, there are those who identify liberalism with maximal toleration of the beliefs and practices of different social groups. This kind of liberal tends to regard the ideal of individual autonomy as too demanding a principle for liberal politics, since many non-liberal groups do not value that kind of personal freedom.’¹³⁹

In outlining the limits of toleration, I shall attempt to undermine this dichotomy and argue that, far from conflicting, the two concepts are complementary and both equally sustain a liberal state. On the issue of tolerance and autonomy, Will Kymlicka asserts:

‘...it is not enough to say that liberals believe in toleration. The question is, what sort of toleration?...liberals have historically seen autonomy and tolerance as *two sides of the same coin*. What distinguishes *liberal* tolerance is precisely its commitment to autonomy.’¹⁴⁰

Yet, despite this, Kymlicka nevertheless sacrifices complete toleration for autonomy because he is unwilling to accept illiberal groups that constrain the autonomy of individuals. Kymlicka believes that liberalism requires ‘external protections’ for minority groups, against the dominant culture, but it should reject ‘internal restrictions’ which place limitations on the ‘right of group members to question and revise traditional authorities and practices.’¹⁴¹ On this issue I believe that, in

¹³⁹ Crowder, G.(2007): ‘Two concepts of liberal pluralism’, *Political Theory* (35:2), p.121-2.

¹⁴⁰ Kymlicka, MC, p.158 – emphasis added.

¹⁴¹ Kymlicka, MC, p.37.

principle, Kymlicka is correct. In a trade-off between toleration and respect for individual autonomy, the liberal response must prioritise the individual by undermining instances of cultural intolerance and promoting individual autonomy. Of course, this is contingent on a particular definition of autonomy and external protections (and as we shall see in a Chapter 6, I disagree strongly with Kymlicka's conception of both) but Kymlicka's arguments for ultimately protecting individual choice over the toleration of cultural practices is convincing. However, as Kymlicka himself recognises, his own particular view is likely to be perceived as illiberal because 'its unrelenting commitment to individual autonomy is intolerant of non-liberal groups.'¹⁴² This is also precisely the criticism levelled at Kymlicka by Chandran Kukathas.

Equally, however, it seems odd to profess an allegiance to liberalism (and hence, individuals), as Chandran Kukathas does, and reject autonomy. Of his own work, Kukathas writes:

'The conception of liberalism advanced...agrees that liberty of conscience is fundamental to toleration and, so, to liberalism, but rejects the connection with autonomy. Indeed, the protection of autonomy can run counter to liberty of conscience; and it those circumstances, liberty of conscience should prevail.'¹⁴³

He continues:

'[a liberal regime] upholds toleration not because it values autonomy but because it recognizes the importance of the fact that people think differently, see the world differently, and are inclined to live – or even think they must live – differently from the way others believe they should.'¹⁴⁴

The suggestion that autonomy must be rejected because of its clashes with freedom of conscience is indeed a curious one, for it would seem that freedom of conscience (and a right of exit, as endorsed by Kukathas) form a substantive part of autonomy. Yet this curiosity, and the dichotomy between autonomy and toleration, can be explained by the fact that many scholars of multiculturalism have tended to rely upon

¹⁴² Kymlicka, MC, p.154.

¹⁴³ Kukathas, LA, p.36.

¹⁴⁴ Kukathas, LA, p.39.

a very particular, and rather ethnocentric, conception of autonomy. The understanding of autonomy espoused by these theorists focuses on *substantive* outcomes or *positive* freedoms – such as equality between genders or an ability to query the practices of a particular culture. Conceived in *this* manner, autonomy has often been regarded as a western – i.e. liberal - concept. Examining this argument, Anne Phillips cites Louis Dumont who contrasted an ‘egocentric’ Western self, with a ‘socio-centric’ non-western self.¹⁴⁵ Indeed, the implications of Kukathas’ (and indeed Kymlicka’s) arguments about toleration and autonomy further compound a notion of autonomy which remains coherent only within a liberal, western context. In relying upon a very particular, or ‘western’ conception of autonomy, multiculturalists who have set themselves up as proponents of *either* ‘toleration’ or ‘autonomy’ reveal an inherently ethnocentric bias in their work when they presume a lack of autonomy within non-liberal minority cultures. Yet, as Phillips writes (citing Meyers), ‘while cultures may vary in the way they nurture or stifle the skills and capacities for autonomy, *no one* is without autonomy; autonomy is not an all-or-nothing concept but more a matter of degree.’¹⁴⁶ The manner in which autonomy is defined, therefore, is crucial.

A substantive account of autonomy is not, however, neutral¹⁴⁷ and can, in fact, be contrasted with a ‘proceduralist’ account of autonomy which places emphasis, instead, on the *processes* through which individuals come to make decisions about their lives. A ‘procedural’ account of autonomy can be defined as:

‘...the capacity to reflect on and, within the limits of our circumstances, either endorse or change the way we act or live – thus, in some significant sense, to make our actions and our choices our *own*.’¹⁴⁸

Of course, as Phillips notes, a completely ‘autonomous’ decision – defined by a lack of outside interference – is impossible; we are inevitably influenced by our relationships and the world around us.¹⁴⁹ Phillips also highlights the worry of how an

¹⁴⁵ Phillips, MWC, p.102-3.

¹⁴⁶ Phillips, MWC, p.104.

¹⁴⁷ Citing Dworkin 1989 – see <http://plato.stanford.edu/entries/autonomy-moral/>.

¹⁴⁸ Phillips, MWC, p.101.

¹⁴⁹ Phillips, MWC, p.101-2.

emphasis on ‘deciding for oneself’ appears to ‘associate freedom with the ability to separate oneself from others.’¹⁵⁰ The conception of autonomy defended here does not require individuals to lead an ‘examined’ life of stepping back to independently question beliefs and practices, but nor does it simply accept all choices – even those which have clearly been imposed – as genuine.

It is rather peculiar, however, that so many liberal multiculturalists have tended to focus on substantive autonomy, when it would seem that a procedural account of autonomy - which places no emphasis on a particular conception of the good – fits far more coherently within a liberal framework. By relying upon a substantive conception of autonomy, liberals effectively sneak in particular conceptions of the good into their analysis. Defined as a matter of procedure, liberals (such as Kukathas) have no reason to reject the value of autonomy because it cannot be seen as undermining toleration; the two values are complementary. Toleration is what protects individuals (and cultures) from dominant groups, and autonomy is what protects individuals from their own cultures, as well as dominant groups. Indeed the value of ensuring the individuals have the freedom to engage meaningfully with their own cultural heritages, without interference from the state, largely grows out of a respect for individual autonomy. Accordingly therefore, for the most part, individuals are free to engage with their cultural heritage and practices, unobstructed by the state. This freedom to follow a conception of the good is attenuated solely by a liberal commitment to the autonomy of the individual, which has been defined as the capacity or space to reflect upon and revise one’s own life choices. The liberal state therefore *only* intervenes in instances where it is apparent that an individual has been deprived of the ability to make a meaningful choice about a particular cultural practice. Autonomy thus acts as a form of protection both against the norms of an individual’s culture, as well as against the norms of the dominant culture. As Mendus argues,

‘We should tolerate all and only those actions which do not constitute an infringement of autonomy. If toleration is justified by the consideration that

¹⁵⁰ Phillips, A. (2010): Gender & Culture, (Cambridge: Polity), p107

people have the right to lead their own lives in their own way, then it is equally limited by that same consideration.’¹⁵¹

These instances should be relatively rare as, for the most part, the liberal state is charged with the duty of providing the space and opportunities for individuals to be able to make meaningful life choices. This is not so much forcing individuals to lead ‘examined lives’ as it is providing a background in which individuals can choose whether to lead an examined life. Because this response to cultural heritage ultimately relies so heavily on individual choice, it is important to make sure that choice is meaningful in order to undermine the problem that Anthony Appiah describes as ‘ascribing autonomy to automatons’, that is, affirming the autonomy of ‘people who couldn’t really want what they seem to want, but are subordinate to the will of others, or blinded by inadequate knowledge of the world.’¹⁵² Making sure that choice and, hence, autonomy is meaningful crucially applies to public information and education in drawing awareness to a range of options and cultural experiences, in addition to cultivating an understanding of choice choice¹⁵³, and providing support networks (such as legal advice and representation, counselling, education and shelter) for vulnerable individuals (especially women and children) who may choose to exit from their cultural groups. Thus, it is in this manner that the liberal state is able to really rely upon the value of choice as a means of gauging and sustaining autonomy, as opposed to merely keeping up appearances of doing so. It is important to stress that these resources should not only be aimed at supporting and informing those who need or wish to exit their cultural group. This would place too much emphasis on exit – rendering cultures ‘all or nothing’ entities. In designing such mechanisms, resources and support networks, it is important for governments to work with cultural groups to foster greater understanding of the opportunities within them, and not only the alternatives outside. This strategy also ensures that marginalised cultural groups feel less threatened by the state.

It may be argued that interventions, which prohibit individuals from following certain cultural practices because they have not been able to make a choice and had

¹⁵¹ Mendus: op cit., p.160.

¹⁵² Appiah: op cit., p. 53.

¹⁵³ This particular issue is discussed in much greater depth in Chapter 8.

an option to act otherwise, harm or fundamentally disrespect cultural groups. The viability of interventions, however, is obviously a matter of scale. The state will not simply intervene on banal, everyday decisions. Rather interventions, when necessary or *requested*, focus on *life changing* circumstances – which may take the form of one substantial act, or repeated small acts – examples of such changes in circumstances include, marriage or divorce, physical change or long-term changes to appearance, deprivation of medical attention or education, etc. If an individual is found not to have exercised autonomy on such matters (i.e. through the absence or inability to exercise autonomy¹⁵⁴) or has requested intervention, then the state possesses the right to intervene on *their* behalf, enshrined in the law, as a matter of individual liberty. It should be stressed that this applies to individuals from both the dominant and minority cultures. Therefore, by upholding complementary principles of toleration and autonomy, the liberal state is able to ensure that individuals are provided with the greatest liberty possible to engage with their cultural heritages whilst being protected from the pressures of the majority and indeed of their own cultural group. While this may seem disrespectful of groups, it must be remembered that the principles outlined here still allow for a great scope of cultural heritages to be practiced. However, when faced with the choice of upholding toleration *or* protecting individual will and freedom, the right choice – for a liberal state – is clear.

A Liberal Conception of the Good

I began this chapter by outlining a brief definition of liberalism. A liberal state, I asserted, is one which does not support any particular conception of the good life, allowing individuals instead to remain autonomous in choosing their own ways of living. A liberal response to cultural heritage, therefore, is one that is guided fundamentally by a norm of non-intervention. This, however, immediately necessitates a strong degree of toleration on the part of the governments as well as citizens because, with a diversity of goods, there is bound to be conflict about the

¹⁵⁴ I include children in this category. Thus, the state may intervene in instances where it objects to cultural heritage practices or conventions ‘which may take the form of one substantial act, or repeated small acts – examples of such changes in circumstances include, marriage or divorce, physical change or long-term changes to appearance, deprivation of medical attention or education, etc’ (taken from above).

proper way to lead one's life. Though liberal governments may disagree with how some groups choose to honour their pasts and lead their own lives, they are under an obligation - as liberal governments - not to intervene when they dislike or morally object to certain practices and patterns of behaviour.

Yet, despite originating from a position that remained most sympathetic to a response of benign neglect, this chapter has also identified circumstances where it is necessary for governments to intervene. Strong toleration, I have argued, is distinguished from its weaker variant by a refusal, on principle, to intervene in practices that clash with understood norms and morals - and vital in allowing a diversity of cultural groups to pursue their own conceptions of the good. Nevertheless, the exceptions to non-intervention outlined here - albeit grounded in liberal values - are equally based on *moral* objections to certain cultural practices. Does this mean that the liberal view endorsed here only supports weak toleration? Not at all. What this does highlight, I believe, are two things: firstly, toleration (much like autonomy) is a matter of degree; and secondly, unless based upon the smallest (and weakest) of governments, a liberal state cannot escape from possessing some sort of shared moral standpoint that is upheld and enforced by the state. When comparing the work of John Rawls and Joseph Raz with that of Chandran Kukathas, I indicated the need to establish a balance between the toleration of diversity and individual autonomy. My solution has been to endorse *and* sets limits on both by reinforcing the fundamental issue that is at stake - i.e. individual liberty. It is an interest in individual liberty, which both fuels and tempers respect for toleration and autonomy. Thus, although a liberal government may wish to intervene in certain cultural practices that it deems abhorrent, it is a respect for individual freedom that must undermine this desire; and while the government too may have certain ideas about how 'autonomous' individuals are likely to act, it has a duty to respect the decisions that individuals make for themselves. Conversely, toleration of cultural practices is limited when it becomes clear that an individual has not been granted decision-making power or a reasonable alternative. This is a position that clearly places a great deal of emphasis on individual choice - both in *cultivating* a capacity to choose, *identifying* instances where choice and autonomy are absent and providing meaningful alternatives. In

ensuring the choice is meaningful, I have stressed the obligation of the liberal state in setting up mechanisms for exit – including support networks such as counselling, housing, aid and legal advice. Education also plays a crucial role in this process and this will be discussed in greater depth in the final chapter. In short, the only ‘moral’ that constrains the strong toleration outlined here is the fundamental liberal value of individual liberty. As Susan Mendus writes, ‘we ought to tolerate what is morally wrong because it is part of being an autonomous agent that one should be allowed to do what is morally wrong.’¹⁵⁵ While it is true that this does set quite clear limits on toleration (indeed, some might argue that this isn’t toleration at all) it is what renders the vision of toleration outlined here distinctly liberal. A liberal state’s commitment to individual liberty places it under a duty to intervene, as a defensive strategy, and ensure that there are meaningful alternatives for individuals to choose from.

This first point leads quite neatly into my second point on the existence of a shared liberal viewpoint. Liberalism, I have stressed repeatedly, is a philosophy that aims not to promote any particular conception of the good life. It is committed to individual liberty – for better or worse. In the spirit of Voltaire’s famous dictum on defending a right to free speech, irrespective of the content of that speech – liberalism is committed to allowing individuals to pursue their own conception of the good. While this is not a conception of the good in itself, it does nevertheless indicate some sort of shared viewpoint. Indeed, although Kukathas makes a fair point in terms of the extent to which Kymlicka and Rawls presume a shared moral standpoint in terms of individual autonomy, we cannot completely reject the notion of shared values that are to be upheld by the state as they can play a crucial role in sustaining toleration and liberal values. However, these shared values needn’t be the thick, substantive, (supposedly) *liberal* values asserted by Rawls et al and I shall explore the extent of these values in the next chapter.

¹⁵⁵ Mendus: op. cit p.161.

Difficult Cases

It is possible to anticipate a number of difficult scenarios where it is not immediately clear how to apply the principles that I have outlined above, for example, instances where a clash of ‘impossible’ cultural goods renders it impossible to practice one cultural heritage without violating another, where there is conflict over ownership or possession of heritage (such as sacred land) or where it is not immediately clear what respect for toleration and autonomy require. Take the ‘cultural’ practices of foxhunting within the UK, whaling within Japan, Kosher and Halal butchery within Judaism and Islam, or shark-finning within Chinese cultures, for example. For proponents of animal rights, these practices entail gross violations of their conception of the good. Followers of such practices believe that they form a crucial part of their cultural heritage. Yet, without making assumptions about the moral status of animals, it is difficult to determine what respect for autonomy or toleration entails – indeed, both sides in these situations are unlikely to come to a common understanding in this regard. In seeking to maintain meaningful engagement with cultural heritage by upholding a minority practice, a liberal state in fact undermines its own (i.e. dominant) cultural heritage and there is no reason why the one, minority heritage, should necessarily take precedence over other heritages. Indeed, there is no reason of principle why the dominant practice (or interest) should take precedence or vice versa. Bhiku Parekh has suggested four points to consider when a group’s practices clash with the cultural norms of the dominant group:

- 1) [The practice’s] importance to the minority way of life;
- 2) the minority’s ability to offer a reasonable defence of it;
- 3) the wider society’s operative public values – or, what comes to the same thing;
- 4) the importance of the relevant value to its way of life;
- 5) the society’s ability to offer a reasonable defence of its values.¹⁵⁶

In these difficult cases, engaging with cultural *heritage* (as opposed to merely cultures) helps to shed light on possible resolutions to such problems. Although a group may claim the historical significance of certain practices, cultural heritage – as we have seen in the first chapter – is inherently malleable. Thus, an

¹⁵⁶ Parekh, B. (1995): ‘Cultural Pluralism and the limits of diversity’ *Alternatives*, (20), p.441.

acknowledgement of this flexible nature of cultural heritage allows us to scrutinise whether contested practices are constitutive of group identity, or (merely) subsidiary. The fact that some groups will engage with certain practices and objects for a while, only to discard them later, reveals the possibility of distinguishing between a group *and* its practices (and other attributes) – though of course we cannot completely separate the two. Unless a group is united only by a particular practice, in most cases specific practices and actions (as opposed to the beliefs and understandings that underlie them) are likely to be subsidiary; in that they stem from and are not necessarily encapsulated by a particular belief in and of itself. This can be determined by tracing the history of a practice, the length of time that it has been part of a culture, as well as the statistics for what percentage of a cultural group engages with the practice – and for what reasons. Conceiving of constitutive and subsidiary aspects of a culture undermines ‘groupism’ (something which I will discuss in greater detail in Chapter 6) by refusing to treat groups as static, and reinforces the notion of culture as an ongoing process. This distinction between constitutive and subsidiary aspects of a culture by no means implies that governments should pay attention to the former, whilst neglecting the latter. But it does provide a guide for action when there is a clash between cultures and a decision over which should take precedence needs to be made. It also provides insight to assessing the cost of permitting and rejecting certain cultural practices. An example that Bhiku Parekh mentions is that of whether Sikhs ought to be able to carry a covered *kirpan* (or small dagger); Parekh argues that where Sikhs are able to carry the kirpan, and others not, this is not a matter of discrimination but rather the exercise of religious freedom.¹⁵⁷ I would argue instead that it is important to examine the significance of carrying the *kirpan* and weighing the significance of this religious freedom against the value and purpose of laws against carrying concealed weapons. While the general principle that individuals must be free to engage with their cultural heritage maintains, in difficult situations where it is not immediately clear what respect for toleration and autonomy require, this distinction between constitutive and subsidiary aspects of cultural heritage and an analysis of the harm that prohibiting a cultural practice may cause can provide a guide for the application of principles in such difficult cases.

¹⁵⁷ Parekh (2000): op cit., p.249.

A further example and perhaps the most frequently cited clash of cultural heritages is that of the standard Monday to Friday work week within Western society, which ultimately discriminates against Muslims. While many devout Muslims may be able to circumvent this issue by seeking employment or schooling that is able to accommodate this schedule, children who wish to attend public schools and civil servants do not have this option at their disposal. Arguably Friday has quite a different significance for Muslims, than Saturday and Sunday have for Jews and Christians. It is not regarded as a day of rest, but rather a time for public worship. The harm that working or attending school on a Friday does to the cultural identity of Muslims is thus open to scrutiny, affecting some more adversely than it does others. In such instances it is not really feasible to redesign the work week to accommodate this minority of devout Muslims and thus they will either have to conform to convention, or seek education and employment in the private sector. This is an unfortunate and inevitable outcome. It is important not to ignore the imposed financial and ethical costs in such contexts. Recognising the extent to which collective identities are historically contingent also entails that if governments do have to reject or undermine practices that are associated with particular groups, they also need to acknowledge the damage that this may do to the identity of the group as an historical community, alienating individuals from their cultural heritage. Decisions which will have clear implications on the ability of groups to engage with their cultural heritage must take this into account - both when determining public policy as well as in framing a rationale for why a particular form of cultural heritage is prohibited by the state. Brian Barry is broadly correct in stating that, “if somebody says ‘we’ve been doing this for a long time, ‘the right response may be ‘well, in that case it’s high time you stopped doing it.’¹⁵⁸ However, it is crucial that the public justification of such a response must be framed with a great deal more tact and understanding. Even more importantly, however, than acknowledging the costs of certain laws and regulations on the practice of cultural heritage, is to remain cognisant of the fact that laws and regulations affect people from the same culture in different ways. It is for this reason that I reject exemptions from laws for cultural

¹⁵⁸ Barry, CE, p.254.

groups in Chapter 6. A liberal response to cultural heritage and, indeed, liberalism should respond primarily to the needs of individuals. Thus while I reject the view, proposed by Kymlicka et al., that some cultures ought to be excused from certain rules and laws, I do believe that in difficult cases it is important to examine the context, history and consequences of cultural practices, as well as their bearing on individuals and make efforts to undermine the consequences of cultural dominance. As mentioned, I shall discuss these issues in Chapter 6.

Conclusion

A liberal response to cultural heritage is guided fundamentally by a norm of non-intervention, such that although the state does not actively create or preserve cultural heritage, it does not impinge upon the freedom of *individuals* to create or preserve cultural heritage should they choose to do so. Indeed, this liberal approach to cultural heritage attempted to afford individuals the greatest liberty possible in engaging (or not engaging) with their cultural heritage. There are two exceptions to this approach: 1) interventions to uphold toleration, 2) interventions to uphold individual freedom and autonomy.

It may perhaps be asserted that the argument outlined here, by devoting more attention to the exceptions to non-intervention than non-intervention itself, (apart from saying remarkably little about cultural heritage) has deviated too much from the liberal ideal. I do not believe this to be the case. Rather, the position established here is one which remains guided by a liberal philosophy but it is also acutely aware of the socio-political context within which this philosophy is to be applied. It takes into consideration the reality of dominant groups and elites, extremist groups and minority cultures, as well as governments that maintain a vested interest in promoting a particular cultural identity and conception of the good life. This is not a deviation from liberalism, rather it is what makes this response a political liberalism – both in the sense of limiting the scope of liberal principles, but also by taking the political context in which these principles manifest themselves into account. In the next chapter I ‘deviate’ even further from the liberal ideal, but return to engage more

firmly with cultural heritage, by situating it firmly within the context of the contemporary nation state.

Chapter 4

The Necessity of a National Heritage

The fundamental aim of this chapter is to situate the liberal approach to cultural heritage, outlined in the previous chapter, within the context of contemporary nation-states. In the previous chapter I argued that, in order for individuals to engage meaningfully with cultural practices and their own conceptions of the good, a liberal response to cultural heritage is largely characterised by non-intervention. In this chapter, however, I shall demonstrate why placing this liberal response within the context of a contemporary nation-state requires recognition that, despite a general desire to allow individuals to engage freely with their own heritages, states – however liberal – will ultimately end up endorsing certain, frequently national, forms of cultural heritage in public places.

The chapter begins with a brief analysis of an array of existing state interventions in cultural heritage: objects such as flags, anthems, languages, and symbols are all examples of cultural heritage that contemporary states necessarily possess. However, in order to understand the *substantive* content of these public attributes of cultural heritage, it is necessary to examine the relationship between cultural heritage and

national identity. National identity, as I shall demonstrate, in fact commonly relies upon the existence of a particular heritage. Arguably, over the past 200 years, forging a link between the state and the nation has been mutually beneficial to both the political institutions of the state and national groups. Most nations have sought independence through political sovereignty (though some have been content with varying degrees of autonomy). States, on the other hand, benefit from the solidarity generated by nationalism insofar as a national identity reproduces the ‘natural’ relationship between the nation and state. While contemporary nationalism does not necessarily manifest itself in grand gestures, and despite recent arguments to the contrary, it remains a significant force to be reckoned with within contemporary politics. Thus, my work (and indeed any work concerning political identity) must engage with nationalism and national identity. In contemporary politics, therefore, the identity-grounding practices that states engage in are *typically* (though not necessarily) cast in terms of a national identity for the purposes of approximating a fit between the dominant-nation and the state.

My analysis of state interventions in cultural and national heritage therefore leads me to assert a key aspect of a liberal response to cultural heritage: all contemporary states – liberal or otherwise - require certain, frequently national, attributes of cultural heritage that contribute to the construction of a state’s identity. This is a pragmatic, non-moral argument. Indeed, a commitment to contextualising liberalism within a contemporary (nation-)state necessitates occasional slippage on the liberal state’s normative commitment to neutrality.¹⁵⁹ Accepting the necessary existence of certain (national) public symbols and practices constitutes such a concession. Though perhaps philosophically undesirable (at least from a purely liberal perspective), states also require a degree of cohesion and shared morality (albeit an extremely thin one). This chapter aims to demonstrate how a *limited* public cultural heritage contributes to social cohesion, partly, by facilitating the *recognition* of liberal values and the role of the liberal state and institutions in maintaining these values. This is not so much a liberal argument as an argument for how to defend and sustain liberalism and the liberal state. The purpose of the *liberal* project, therefore, lies in negotiating a

¹⁵⁹ For example, John Gray writes about the impossibility of a genuinely political liberalism in (2002): Two Faces of Liberalism, (The New Press).

boundary between *accepting* politically necessary attributes of cultural heritage and largely *negating* or *privatising* the forms of cultural heritage that extend beyond this. The arguments advanced in the previous chapter still apply – liberal states are under a moral obligation to undermine significant instances of cultural dominance and to sustain a space for individuals to engage with and revise their conceptions of the good life. However, placing this argument within the context of the liberal state allows us to recognise the necessity of certain strategies that are geared toward upholding liberalism.

States and the Necessity of a Cultural Heritage

All states necessarily possess what might reasonably be described as *cultural* attributes that are manifested in the public realm. I say reasonably, in this context, because while these attributes are conceived of as cultural, they are of a fundamentally political nature. These attributes contribute to, and reinforce, the identity of the state both domestically and internationally, to the extent that we might say that governments have an inherent interest in taking an active role in framing this identity. Examining the parameters along which a state's identity can be framed brings cultural aspects of identity into the picture. Although cultural heritage by no means provides the only source for political identity, it can and, indeed, has played a crucial role in the formation of a state's identity. The notion of inherited knowledge, practices, symbols and shared experiences lends credence to the perceived legitimacy of the state and its government. The extent to which a government's interest in controlling the state's political identity is a legitimate concern, however, is another matter. In this section, I am not interested in *justifying* the potentially identity-building practices that governments engage in – nor am I specifically discussing liberal states. Rather, my purpose here is to set up a fundamental premise that *all* states rely upon cultural heritage for the construction of a political identity.

In a previous chapter I demonstrated the political significance of cultural heritage. The precedent of state interventions in cultural heritage (from cultural policy, to iconoclasm, and school curriculums, to the prohibition of certain forms of cultural

heritage) necessarily renders cultural heritage – or at least some forms of it – a political matter. It is necessary to explore the relationship between cultural heritage and contemporary states in greater depth. Ranging from banal to monumental, everyday to extraordinary, flags, anthems, languages and symbols, museums, the iconography on currency and public holidays, are just some of the examples of state-sponsored cultural heritage. Cultural heritage, it must be remembered, is defined in this research as tangible and intangible objects and practices that are perceived as representing significant experiences and inherited knowledge and belonging to a particular people – and in this context, obviously, the people in question are the citizens of the state. Thus the flag, anthems, public holidays etc are presented in terms of their historical significance to all citizens of a particular state. They are perceived as meaningful because of their link to historical experience.

All of these political attributes mentioned just now are *necessary* components of contemporary sovereign states; to the extent that we could not conceive of a state without, for example, a flag or certain set of symbols.¹⁶⁰ These objects of cultural heritage help constitute and reaffirm part of what we regard as the political identity of a state, and as such, are primarily of a political nature and subject to governmental control. These attributes are necessary both on an international and state level. On the international level, within a system of sovereign states, such attributes represent each state as equal but distinct from others. As I noted in a previous chapter, the collections of state art museums illustrates this: fundamentally similar in character, state art museums compete to accumulate works of universal acclaim.¹⁶¹ Equally, one further example is the singing of anthems at international sporting events. At an international level, such attributes are indicative of equal sovereign status (i.e. the performance is a matter of respect) as well as the distinctive character and identity of the particular state and its citizens. But this notion of legitimacy operates at a state level as well; the everyday presence of certain state symbols¹⁶², as well as the extraordinary events of mourning and celebration, as objects of cultural heritage,

¹⁶⁰ Note that I am not making a comment on the sources of this culture – i.e. from above or below, elites vs. masses etc.

¹⁶¹ McClellan in Wright, G. (1996): op cit., p.34.

¹⁶² I shall discuss this point of banal (national) identity in a later section focusing on the work of Michael Billig.

facilitate the construction of a relationship between the state and its citizens – in the sense that people come to associate these objects and practices with the state. The presence of these objects therefore both reflects and reinforces a link to the state.

Given the role that these attributes can play in forging a relationship between citizens and the state – as well as distinguishing states from each other, we can see why governments have an interest in taking an active role in constructing a public cultural heritage. The repetition of symbols and icons suggests both the stability and legitimacy of the state and its government. In this manner cultural heritage can be manipulated and framed for sustaining security, stability and cohesion. So, on one hand, we might have certain symbols on coins, flags and public buildings; an anthem to be sung at official events; specific public holidays and so on – things that we might regard as essential to contemporary states. On the other, however, there is scope for much greater intervention in the identity of a state – for example publicly funded monuments, heritage conservation, art museums, ceremonies, oaths. The first citizenship ceremony, for instance, was held in the UK in 2004. Whereas an oath or affirmation of allegiance was previously made privately, citizenship ceremonies now entail a public oath of allegiance (or affirmation) and a pledge of loyalty to the reigning British monarch and British laws and values:

Oath of allegiance - I (name) swear by Almighty God that on becoming a British citizen, I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, her Heirs and Successors, according to law.

Affirmation of allegiance - I (name) do solemnly, sincerely and truly declare and affirm that on becoming a British citizen, I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, her Heirs and Successors, according to law.

Pledge - I will give my loyalty to the United Kingdom and respect its rights and freedoms. I will uphold its democratic values. I will observe its laws faithfully and fulfill my duties and obligations as a British citizen.¹⁶³

¹⁶³ For further details see http://legacy.london.gov.uk/view_press_release.jsp?releaseid=19779; and <http://news.bbc.co.uk/1/hi/3487892.stm>.

Intuitively, however, there seem to be some objects and practices that are more necessary than others, in the sense that their absence would disrupt the ordinary functioning of the state in transactions between citizens and the state and amongst states. Such necessary attributes might include: an official language/languages; a national flag; public holidays; symbols and icons for objects such as currency and coinage. Other objects and practices, e.g. a national curriculum that constructs a particular narrative of the nation's history and values, seem to go beyond this 'base-line'. Context and frequency also obviously play a role here too – for it is one thing to have a national flag on public buildings and a national anthem that is sung at extraordinary occasions, but quite another to have this flag displayed on every street corner and the anthem sung at the beginning and end of every day. For the time being, distinguishing between flags, on one hand, and oaths, on the other, seems largely arbitrary. Though in practice this is likely to take a lot of time and effort, let us simply assume for now that it is possible to distinguish certain necessary attributes, from other 'state-building' objects and practices. I shall return to this issue in a subsequent section.

Although we must accept that all states will possess certain attributes that contribute to the construction of an identity, and that these attributes are frequently the consequences of considered policies, the issue of the legitimacy of such actions is not one that I am interested in responding to at this point – nevermind about the legitimacy of these attributes in a *liberal* state. Rather, having demonstrated that these are prerequisites of contemporary states, my concern here is with how to negotiate both the content of these attributes, as well as the extent of their exposure in the political landscape. These concerns are made easier and more difficult at the same time, given that my project is intended to be a liberal one. Guidance on how to broach the issue of state identity comes from the liberal proviso that any outcome must not prefer to any particular conception of the good life. However, this complicates the task at hand because the state attributes which I have just described appear to do precisely this. Yet, one thing at this point is clear – in order for a political theory of cultural heritage to retain relevance for contemporary politics, it is necessary to accept the presence of certain forms of cultural heritage in public spaces

because for as long as the current state system exists, we can also safely assume that states will draw upon such objects and practices to distinguish themselves from other states and reinforce a particular identity. But before I may turn to examining the ramifications of these attributes for liberal states, it is necessary to add one further variable into the equation, and this is the continued significance of nationalism and nation-states. For we do not speak of state anthems, flags, languages and teams – but rather of *national* anthems, *national* flags, *national* languages and *national* teams.

States and National Identities

In the previous section I outlined the necessity of engaging with an understanding of the state that relies upon some degree of cultural heritage in the construction of its identity. Thus, we must begin with – rather than attempt to reject – the premise that all states require, domestically and internationally, certain attributes – such as a flag, symbols, icons and public holidays. In this section, I wish to clarify the content of these attributes and, in doing so, I shall be asserting the continued validity of nations and nationalism in contemporary politics. This is because, as noted above, we tend to think of these political attributes of the state in terms of their *national* significance; and this manner of thinking about the identity of the state is revealing as it indicates the persistence of an association of *nation* with *state*.¹⁶⁴ Indeed, for the foreseeable future, one cannot imagine states forgoing a particular identity, and preferring to refer to themselves as mere numbers, distinguishable only by land mass, resources and population size. A particular national identity continues to have a very powerful significance for states. Thinking about nations and nationalism, however, contextualises a state's intervention in cultural heritage in terms of a dominant – often national – group, existing alongside other national, cultural and ethnic groups within the state. Drawing upon the work of Margaret Canovan, I shall begin with a brief examination of the elusiveness of the nation in contemporary theorising about the state. I shall then proceed to define nationalism as employed within this work, and its relationship with the state, before turning finally to assert the continued

¹⁶⁴ I do not wish to determine or take a stance on the content of this identity – i.e. whether it is civic or ethnic.

significance of national identity within states and discuss the implications that this has for a theory of cultural heritage.

I begin with the work of Margaret Canovan, fundamentally, because she helps to illustrate the extent to which conceptions of the nation remain hidden within political theory, but also because I wish to highlight the significance of the shift from an ideal state to an (arguably, not terribly ideal) nation-state. Canovan writes, ‘underneath the discourse of democratic theory, presupposed by talk of people, representation and citizenship, lie assumptions about the existence of bounded, unified political communities that seem *suspiciously* like nation-states.’¹⁶⁵ She lists three features of theories that implicitly rely upon a conception of bounded community:

1. The existence of a polity resting upon sufficient generalized trust to outweigh the bonds of kin, caste, religion or ethnicity and to make possible equal laws, public probity and government that is effective but impartial
2. Social justice as requiring collective resources and communal solidarity
3. Democracy as requiring trust, common sympathies and the capacity to act as a collective people to undertake commitments and acquire obligations¹⁶⁶

Canovan clearly targets liberal political theorists in her work, and I believe that she has a point here. A great deal of liberal political theory either implicitly or explicitly relies upon the existence of a coherent community. As Craig Calhoun writes,

‘[Liberal political theory] is grounded implicitly but deeply in the presumption of states and nationalist ideas of how these relate to peoples. Yet it is also deeply committed to ideas of liberty and rights framed largely in individualistic terms. On the one hand there is a long tradition of work on ‘getting governance right.’ On the other hand there is a long tradition of debunking nationalism as the source of either state legitimacy or citizen solidarity.’¹⁶⁷

Canovan finds that even the most restrained forms of liberalism – that do not possess any degree of communitarianism and are dedicated to limiting the state - presuppose

¹⁶⁵ Canovan, M. (1996): Nationhood and Political Theory, (Surrey: Edward Elgar), p.27 – emphasis added.

¹⁶⁶ Canovan (1996): op cit., p.44.

¹⁶⁷ Calhoun, C. (2007): Nations Matter, (London: Routledge), p.7.

a kind of political community.¹⁶⁸ Thus, Canovan argues, we must engage with nationhood. Yet, while I do agree with Canovan's conclusion on the need to consider the role of nationalism, her shift from 'bounded communities' to 'nations', as largely based upon 'suspicions', is not a convincing one. It is never made authoritatively clear why such bounded communities are necessarily national communities.¹⁶⁹ Nevertheless, Canovan's underlying sentiment on the need to engage more explicitly with nationalism is one that I wish to take seriously. Given, however, that she does not succeed in demonstrating why the bounded communities required by political theories equals to nation-states, it is necessary to look elsewhere for inspiration in justifying a necessary engagement with nationalism – and for this I turn briefly to 'empirical' observation. My rationale behind this is not to assert the *necessity* of a national identity, but rather the *probability* of one. (I cannot and do not wish, at this point, to reject the possibility that a bounded community may well find its origins outside of a nation.) But before I may do this, it is worth setting out a brief definition of nationalism.

A Brief Definition of Nationalism

In defining nationalism I rely upon John Breuilly's definition of it as an inherently *political* matter. Nationalism is about the attainment of power as manifested in control over the state (though some nations have been content with various forms of autonomy) – the central issue, according to Breuilly is thus the relationship between nationalism and the 'objective of obtaining and using state power.'¹⁷⁰ Breuilly writes,

'Nationalism cannot be linked to any particular type of cultural attribute or social arrangement; or to any particular structure of communications; or to any particular class interest; or to any particular economic relationship; or to any particular psychological state or need; or to any particular social function or objective...nationalism is a form of politics.'¹⁷¹

¹⁶⁸ Canovan (1996): op cit., p.37.

¹⁶⁹ NB Kukathas, LA, p.27 also makes this point regarding Miller.

¹⁷⁰ Breuilly, J. (1993): *Nationalism and the State*, (Manchester: Manchester University Press), p.2.

¹⁷¹ Breuilly (1993): op cit., p.35-6. I should probably clarify, at this point, that my reliance here on John Breuilly's understanding of nationalism should not be regarded as a stance on the ongoing debate within the field of nationalism between 'modernists' and 'ethno-symbolists.' Given the pervasiveness of this debate within the field of nationalism studies, however, it is important to provide an extremely brief clarification for those not acquainted with it. 'Ethno-symbolists' such as Anthony Smith and John Hutchinson, by placing an emphasis on inherited myths, symbols, traditions and collective

Given, therefore, that nationalism is fundamentally about the desire for political power, Breuilly notes that, ‘once a nationalist, or even merely a national, opposition takes control of the state the specifically nationalist character of politics tends to diminish...in such a situation nationalism as a specific form of politics becomes meaningless.’¹⁷² This would appear to weaken the ties that I wish to establish between nationalism and the state. Breuilly, however, goes on to note that there are four exceptions to this: 1) Separatist movements; 2) ‘nation-building’ and an attack upon identities and loyalties which are believed to conflict with national commitment; 3) unification nationalist movements; 4) radical right challenges¹⁷³ - and to greater and lesser extents it is precisely these four exceptions that my project is broadly concerned with here. Nationalism is thus inherently tied to the state. As Craig Calhoun writes,

*‘Nationalism grew hand in hand with modern states and was basic to a new way of claiming political legitimacy. States furthered social integration among their subjects by building roads, mobilizing militaries, sponsoring education, and standardizing languages. But they were also shaped by a cultural change which introduced a new, stronger idea of ‘the people’ who were both governed by and served by a state...political legitimacy was to ‘ascend’ from the people rather than descend from God or proper dynastic ancestry. This placed a new stress on who the people might be...the idea of nation came to the forefront. It represented the ‘people’ of a country as an internally unified group with common interests and the capacity to act.’*¹⁷⁴

Thus, nationalism has helped to provide a particular solution to an age-old problem of approximating a fit between the people and the state. As John Breuilly notes, a

memories, maintain that nations have *ethnic* roots as their source; while ‘modernists’, such as John Breuilly and Ernest Gellner, reject this view, and instead situate contemporary claims to nationhood firmly with a modern context, such that nations are *invented* by nationalists as a response to the major transformations that have arisen in modernity. In considering how governments can relate and should respond to cultural heritage, and adopting a fundamentally top-down approach – i.e. I am looking at how states should react to identity building practices, and not the possibility of whether this identity can come from ‘below’¹⁷¹ - my work easily fits within a modernist framework. Yet, by engaging with a cultural heritage which encompasses myths, memories and traditions, my work also resonates deeply with ethno-symbolism. I believe that my agreement here, with the idea of nationalism as a political phenomenon, should not raise objections from ethno-symbolists who cannot possibly reject the extent to which nationalism is a claim to power.

¹⁷² Breuilly: op cit., p.221.

¹⁷³ Ibid.

¹⁷⁴ Calhoun (2007): op cit., p.48 – emphasis added.

nationalist ideology (used to justify nationalism) is especially successful for creating this fit for a number of reasons:

- 1) The ideology itself finds its basis in the ‘intellectual responses to the modern problem between state and society’ – fundamentally historicist in nature – the ideology is successful because it appears intellectually plausible¹⁷⁵;
- 2) A rational connection between the cultural and political concept of the nation is never made. Instead, ‘by a sort of sleight of hand it appears to demonstrate the proposition that each nation should have its nation-state.’¹⁷⁶;
- 3) In doing so, there is no need to distinguish between culture and politics, society and state, public and private. ‘The nationalist has access to a whole range of sentiments, idioms and practices which would hitherto have been regarded as irrelevant to politics but are now turned into the values underlying political action.’¹⁷⁷
- 4) Finally, a nationalist ideology is successful because ‘it has a quality of self-reference which is largely missing from socialist or religious ideology. Nationalists celebrate themselves.’¹⁷⁸

Therefore, having provided an outline in the first section of this essay as to how states rely upon conceptions of cultural heritage for a political identity, my discussion of nationalism helps to approximate what exactly may provide the content for this identity. Indeed, as Anthony Smith notes, it is the notion of a national ‘historic community’ which assists in sustaining political stability.

‘The pressing need to integrate culturally diverse peoples into a politically unified citizenry requires constant use of the mass media and the educational system on the part of bureaucrats and technocrats, in order to instil the appropriate civil sentiments of fraternity and solidarity. *But solidarity must be based upon an historic culture, which cannot be created by revolutionary fiat. Hence the need to incorporate pre-existing cultural traditions into the new political culture, secularising and changing their meanings to accord with the new vision of the political community.*’¹⁷⁹

¹⁷⁵ Breuilly: op cit., p.350.

¹⁷⁶ Breuilly: op cit., p.342.

¹⁷⁷ Breuilly: op cit., p.350.

¹⁷⁸ Breuilly: op cit., p.344.

¹⁷⁹ Smith, A. (1981): *The Ethnic Revival*, (Cambridge: Cambridge University Press), p.194 – emphasis added. Of course, he also goes on to reject the success of such tactics: ‘The political myths of the post-revolutionary, modern, period, have proved to be insufficient to the task of welding poly-ethnic states together; even in more monoethnic states, there have been periodic rediscoveries of an historic culture as an indispensable basis for communal regeneration.’

There is a strong case, therefore, for the capacity of a national identity (as a form of political identity) to successfully forge a link between a people and the institutions of the state. This is not, of course, to say that states have a legitimate interest in promoting a national identity. Recognising the significance of nations does not necessarily render this a liberal nationalist argument. Much as in the previous section, my argument here is not of a normative nature. Rather, given that states necessarily rely upon certain attributes for the construction of an identity, we need to engage with the power of national identities as serious contenders for providing the substantive content of these political attributes. I would, however, like to go one step further than simply recognising the relevance of a national identity for modern states. I would like to demonstrate that the identity that states possess (in their most basic and necessary attributes – flags, currency, anthems etc) are *frequently* of a national character. Note, once again, that this is a descriptive statement of how *many* states *are*, and not a normative claim of what they *should* be. The purpose of this is to legitimise my preoccupation with national solidarity (as opposed to a vaguer notion of ‘social’ or ‘community’ solidarity) in the latter half of this chapter. In what remains of this section, therefore, I wish to 1) mount a case for the continued significance of nationalism in contemporary politics, 2) consider the manner in which contemporary nationalism is manifested. In the next section of this chapter, I will examine the relationship between nationalism and cultural heritage, in order to reinforce an understanding of the ties between a national identity and the institutions of the state.

The Continued Significance of Nations and National Identity

The international system today remains fundamentally characterised by a system of states built upon the principle of sovereignty and *national* self-determination. Given the increase of global transactions and transformations that have been assisted by technological developments over the latter half of the twentieth century, however, it might perhaps be more prudent to speak instead of a cosmopolitan or global identity - which transcends national and state boundaries. While I do not query the emergence of such identities, I do maintain that this emergence is not at the complete

expense of nations and national identities. I agree with Craig Calhoun, who writes that, ‘globalization challenges nation-states and intensifies flows across borders, but it doesn’t automatically make them matter less.’¹⁸⁰ Calhoun puts forward two significant arguments in defending the ongoing importance of nations. Firstly, he is sceptical about the existence of cosmopolitanism. Calhoun notes that, rather than finding its basis in abstract universalism, much of existing cosmopolitanism depends as much on an amalgamation of older traditions, as it does on the production of new ones.¹⁸¹ While Calhoun by no means rejects cosmopolitanism¹⁸², he takes issue both with its scope and effect, noting for instance on the European Union that,

‘while European integration might be “post” the specific nation-state projects dominant for the last 300 years, it is not at all clear that it does not involve a new project of much the same kind, rather than fundamentally different....One could see the European Union as potentially a further centralization of political power and integration of both state administration and civil society of much the same sort as that which made modern France or Germany out of once less unified often warring smaller polities.’¹⁸³

Secondly, and perhaps more compellingly, Calhoun also argues for the ongoing significance of nationalism in the way that it continues to structure our conceptions of the world.¹⁸⁴ Importantly, as we shall see later, Calhoun is not using nationalist arguments in support of nationalism; he is willing to acknowledge the normative problems with nationalism.¹⁸⁵ However, for Calhoun, given the extent to which nationalism continues to support our understandings of the state, society and international relations – as well as our own roles within these structures, ‘it is important not to imagine [nationalism] as exceptional, about to vanish, a holdover

¹⁸⁰ Calhoun (2007): op cit., p.16.

¹⁸¹ Calhoun (2007): op cit., p.23.

¹⁸² See Calhoun (2007): op cit., p.26 ‘not of entirely abandoning cosmopolitanism because we cannot act effectively without it. Nor should we want to abandon it, since it enshrines many important ideas like the equal worth of all human beings and – at least potentially – the value of cultural and social diversity.’

¹⁸³ Calhoun (2007): op cit., p.16.

¹⁸⁴ Ibid., p.27.

¹⁸⁵ Ibid, p.46 ‘the idea that nations give states clearly identifiable and meaningfully integrated populations, which in turn are the base of their legitimacy, is as problematic as it is influential. It is of course an empirically tendentious claim. But it is part of a discursive formation that structures the world, not simply an external description of it. See also Calhoun, p.149; ‘we may doubt both the capacities of nation-states and the morality of many versions of nationalism, but we lack realistic and attractive alternatives....’

from an earlier era lacking in contemporary basis,’ – Calhoun adds, ‘it is hardly good scholarship to wish nationalism away.’¹⁸⁶ In response to Hobsbawm’s et al’s call to resist the formation of national myths, Calhoun notes that drawing upon fantasy does not make national myths, or indeed nations, any less real.¹⁸⁷ He goes on to argue that it is a ‘sociological misunderstanding’ to believe that the reality of nations depends on their accurate self-representation.¹⁸⁸ Thus, nations and national identity continue to matter fundamentally because we continue to conceive of them.

Although it is impossible to fully verify this latter hypothesis of Calhoun’s, I believe that it is a powerful argument for the continued significance of nationalism and national identity. Even the most vehement supporters of globalisation would be reluctant to claim that national identities are completely irrelevant. But to strengthen my case for the prevalence of nationalism within contemporary states, I would now like to discuss the manner in which nationalism is present in contemporary, predominantly liberal western states by referring to Michael Billig’s understanding of ‘banal nationalism.’

In arguing for the continued significance of nationalism in framing our understanding of social relations, Craig Calhoun notes that those who argue against his thesis fail to see ‘everyday nationalism’¹⁸⁹, and it is this notion of everyday, banal nationalism which is the focus of Michael Billig’s work. Billig asserts,

‘Banal nationalism is introduced to cover the ideological habits which enable the established nations of the West to be reproduced. It is argued that these habits are not removed from everyday life, as some observers have supposed. Daily, the nation is indicated, or ‘flagged’, in the lives of its citizenry. Nationalism, far from being an intermittent mood in established nations, is the endemic condition.’¹⁹⁰

According to Billig, the perception that nationalism is no longer relevant can be attributed to an understanding of nationalism as ‘extraordinary, politically charged

¹⁸⁶ Ibid., p27.

¹⁸⁷ Calhoun (2003): ‘The Variability of Belonging: Reply to Brubaker’ in *Ethnicities* (3:558), p.561.

¹⁸⁸ Ibid.

¹⁸⁹ Calhoun,(2007), op cit., p.27.

¹⁹⁰ Billig, M. (1995): *Banal Nationalism*, (London: Sage Publications), p.6

and emotionally driven.’¹⁹¹ By contrast, normalcy within the state is taken to be ‘banal, unexciting politically and non-nationalist.’¹⁹² A lack of extra-ordinary nationalist sentiment thus implies a lack of nationalism. Billig, however, finds that nationalism within a number of western societies has become inherently ‘banal’; embedded in everyday routines, nationalism has become a familiar part of the environment, such that it operates ‘mindlessly, rather than mindfully.’¹⁹³ To prove his point, Billig describes the role of flags in public places as well as the syntax adopted by newspapers (‘we, the people’; ‘our, fellow country-men’; ‘our team’; and ‘our weather’).¹⁹⁴ Although we do not necessarily acknowledge our nationality in grand gestures, (Billig in fact contests the ability of these occasional gestures to sustain national identity¹⁹⁵) nationalism persists on a subconscious level and shows no sign of abating. Billig’s work on ‘banal’ nationalism is important because it helps us understand how nationalism manifests itself within much of the western world. It also provides support for the continued significance of nationalism. As noted at the beginning of this section, we do not *speak* of state holidays, teams and anthems – but rather national holidays, national teams and national anthems.

It is important, however, not to exaggerate the pervasiveness of national identity. Will Kymlicka, for example, defines societal culture as follows:

‘a culture which provides its members with meaningful ways of life across the full range of human activities, including social, educational, religious, recreational, and economic life, encompassing both public and private spheres. These cultures tend to be *territorially concentrated*, and based on a *shared language*. I have called these ‘societal cultures’ to emphasize that they involve not just *shared memories or values*, but also *common institutions and practices*’¹⁹⁶

According to Kymlicka, societal cultures play a crucial role because, ‘freedom involves making choices amongst various options, and our societal culture not only

¹⁹¹ Billig, op cit., p.44.

¹⁹² Billig, op cit., p.44.

¹⁹³ Billig, op cit., p.38.

¹⁹⁴ Billig, op cit., p.116 -125.

¹⁹⁵ Billig, op cit., p.46 – This has interesting consequences for William Galston as we shall see in a later section.

¹⁹⁶ Kymlicka, MC, p.76 – emphasis added.

provides these options, but also makes them meaningful to us.’¹⁹⁷ As such, ‘the choice to leave one’s culture can be seen as analogous to the choice to take a vow of perpetual poverty and enter a religious order.’¹⁹⁸ Kymlicka, in fact, explicitly draws upon the work of Ronald Dworkin in elaborating upon the significance of a societal culture, he notes furthermore that:

‘To understand the meaning of a shared practice, therefore, requires understanding this ‘shared vocabulary’ – that is, understanding the language and history which constitute that vocabulary. *Whether or not a course of action has any significance for us depends on whether, and how, our language renders vivid to us the point of that activity. And the way in which language renders vivid these activities is shaped by our history, our ‘traditions and conventions’.* Understanding these cultural narratives is a precondition of making intelligent judgements about how to lead our lives. *In this sense, our culture not only provides options, it also ‘provides the spectacles through which we identify experiences as valuable’*¹⁹⁹

From this, and indeed as Kymlicka himself explicitly notes, it is clear that a societal culture is almost necessarily a *national* one. Equally clear is the fact that Kymlicka regards such societal cultures as coherent, more or less mutually exclusive and central to an individual’s conception of the good. Our membership within a societal – i.e. *national* - culture largely provides us with the source for understanding particular ways of living. Kymlicka exaggerates both the *coherence* and *pervasiveness* of national identity. As Jon Fox and Cynthia Miller-Idriss note:

‘National catastrophes, wars and, not least of all, international sporting events, provide important contexts for everyday articulations of the nation. Ordinary people recognize, interpret and align themselves with pressing issues in explicitly national terms. But most of the time, the nation is not something ordinary people talk about; rather it’s something *they talk with*... The nation does not resonate evenly across time or space; it comes to matter in certain ways at particular times for different people. The question this shifts from ‘*what* is the nation’ to ‘*when* is the nation’? *When – in what situations – does the category of nation become a salient frame for routine talk and interaction?* The answer, it turns out, is not very often. Most of the

¹⁹⁷ Ibid., p.83.

¹⁹⁸ Kymlicka, MC, p.86.

¹⁹⁹ Ibid., p83 citing Dworkin, (Dworkin 1985: 228). Emphasis added.

time nationhood does not frame people's understandings of themselves, their interactions, or their predicaments.²⁰⁰

Thus, nations continue to matter – especially when most people think about political or state identities. However, they don't matter all the time and certainly not to the extent that Will Kymlicka envisages. This sociological misunderstanding has distinct ramifications for Kymlicka's own thesis – and I shall return to discuss these in a later chapter.

The extent to which nationalism operates at a sub-conscious level – and indeed more generally within society - must, however, be distinguished from a particular form of national identity which is imposed or, minimally, controlled by the state. These are two related, but rather different things: to speak of nationalism, is to speak of a certain political force that frames our conceptions of the world; nation-building – and the sort of nation-building that I am interested in here – is not so much about the prevalence of certain ways of thinking, as it is about a particular form of control. Billig's study of subconscious nationalism is a convincing one, but it is not primarily concerned with the state's calculated efforts to inculcate this identity.²⁰¹ This chapter, by contrast, is concerned with liberal forms of control over a state's identity. So, it is important to distinguish between the presence of nationalism and a sense of affiliation to a nation, and a more normative account of how states should respond to this affiliation. Before moving onto the latter point in the second half of this chapter, it has been necessary to discuss the former.

This section has demonstrated that despite the prevalence of globalism, nationalism remains a significant force in politics. As we have seen, nationalism is political matter; a national identity is thus also a political identity. I have, however, been at pains to say that this point is not intended to justify a state's promotion of a national identity. Rather, my desire here has been to clarify the relationship between the state and a national identity. In contemporary politics the identity-grounding practices that states engage in are *typically* cast in terms of a national identity for the purposes of

²⁰⁰ Fox, J. and Idriss, C. (2008): Everyday Nationhood, in *Ethnicities*, (8:4), p.540, emphasis added.

²⁰¹ If anything, it undermines these latter efforts. More on this point in the next section.

approximating a fit between the dominant-nation and the state. Although I cannot prove that this is a *necessary* connection – that a state’s identity is necessarily and always a national one²⁰², I have attempted to build up a case for a close engagement with a state’s national identity by considering the ongoing significance of nation-states as well as the manner in which nationalism has become manifested in everyday life. It is important to recognise the ramifications of this step, because acknowledging the continuing validity of nationalism, entails an acceptance of the likelihood that a state’s political identity will contain elements of the nation. This is especially the case for political attributes that are constituted by aspects of cultural heritage (as demonstrated in the first section of this chapter). In the following section, therefore, I shall attempt to develop a clearer picture of the relationship between the state and a national identity by examining the relationship between cultural heritage and national identity.

National Identity, Cultural Heritage and Nation-states

In the previous section I attempted to support the claim that nationalism remains a significant force in contemporary politics. My rationale was to justify an engagement with national identity when considering the state’s relationship with cultural heritage. Although I have attempted to demonstrate the persistence of close ties between nations and states, I have also been at pains to state that these links are not necessary ones. In other words, I do not wish to exclude the possibility of a state’s bonds of solidarity being constituted by something *other* than a national identity. My argument thus far has been 1) that certain necessary attributes of contemporary states which assist in the construction of a political identity must be regarded as cultural heritage (i.e. the cultural heritage of the state); 2) that the construction of a political identity frequently relies upon a national identity. It is my intention to strengthen these two arguments in this current section by examining the relationship between national identity and cultural heritage, and from here will move to discuss the implications of cultural nationalism for the nation-state.

²⁰² Recall that a problem with Margaret Canovan’s argument was that she was unable to provide a compelling account for why a bounded community was necessarily a national one – vs. religious, ethnic, etc.

It is commonly acknowledged that nations have a vested interest in demonstrating the existence of an established history and heritage. Anthony Smith describes an ethnic community as distinguished (both by members and outsiders) as possessing:

1. an identifying name or emblem;
2. a myth of common ancestry
3. shared historical memories and traditions;
4. one of more elements of common culture;
5. a link with an historic territory or 'homeland';
6. a measure of solidarity, at least among elites.²⁰³

Cultural heritage clearly forms a fundamental basis for nations and a national identity. Indeed an ethnic account of the origins of nations relies upon an understanding of cultural heritage as necessary for sustaining an ethno-national identity. None more so perhaps, than myths of the nation. Anthony Smith writes,

‘These meanings and visions are encapsulated in distinctive ethnic myths which, like all myth, bring together in *a single potent vision elements of historical fact and legendary elaboration to create an overriding commitment and bond for the community...no national movement and no persisting ethnic identity can emerge without a bedrock of shared meanings and ideals*, which guide action and determine the direction of social change.’²⁰⁴

Smith argues convincingly that no national movement can emerge (and presumably be sustained) without the existence of some body of knowledge which accounts for the origins of the people. Yet, the value of cultural heritage for national identity is by no means limited to accounts of ethno-nationalists. Indeed modernists, such as John Breuilly, recognise the significance of a cultural identity for nationalism – though, of course, Breuilly is also keen to point out that it is nationalists (as opposed to a pre-existing *ethnie*) who attempt to exploit this identity.²⁰⁵ Breuilly also notes,

‘To work effectively as a popular political ideology it needs simplification, repetition and concreteness. It is because nationalist ideology is particularly

²⁰³ Smith, ‘The Origins of nationalism’, *op cit.*, p.25.

²⁰⁴ Smith, A. (1999): Myths and memories of the nation, (Oxford University Press), p.57 – emphasis added.

²⁰⁵ Breuilly: *op cit.*, p.35.

adaptive in these ways that it can have great popular appeal. Simplification involves above all the construction of stereotypes. There are stereotypes of the nation in terms of history or racial characteristics or cultural practices as well as stereotypes of enemies. Repetition through speeches, newspaper articles, rallies, songs, etc. is an essential part of the work of a nationalist party. *The turning of these simplified and repeated themes into concrete form is achieved primarily through symbolism and ceremonial.*²⁰⁶

We can see therefore that, despite their disagreements over the origins of nationalism, both ethno-symbolists and modernists can accept that cultural heritage can play a powerful role in the construction of a national identity. Yet, as noted above, I am primarily interested in the relationship between a national identity and actions of the state; and not nationalism in general – so it is necessarily to bring my discussion back to the context of the (nation-)state.

In the first section of this chapter, I demonstrated the necessity, both domestically and internationally, of a state's political identity – a significant part of which must be regarded as interventions²⁰⁷ in cultural heritage; in the second section I attempted to establish a correlation (though not a *necessary* one) between the state and a national identity; finally, in this section, I underlined the significance of cultural heritage in the construction of this identity by demonstrating how a national identity relies upon the existence of cultural heritage. My overall concern in this chapter, however, it must be remembered, is with a *liberal* state that endorses a particular (national) identity. I have not, as of yet, brought liberalism into the picture. I shall do so very soon, but before I do, I would briefly like to consider the implications of the prevalence of nationalism and its reliance on cultural heritage for states and loyalties to the state.

While we can perhaps understand why governments might perceive a vested interest in fostering loyalty by promoting a particular account of the people, it is worth speculating (for this is all that we can possibly do) about the success of state – i.e. imposed, top down - efforts to inculcate a national identity. It is on this specific topic that John Breuilly writes:

²⁰⁶ Breuilly: op cit., p344 – emphasis added.

²⁰⁷ Both implicit and explicit.

‘Common sense would suggest that too much of it can be counter-productive and may result in a rather bored, sceptical, apolitical but discreet view of affairs...I am led to the tentative conclusion that, unless there are existing features in the political and economic arrangements of the country conducive to the establishment of a strong sense of national identity, the politics of cultural engineering will have very little effect on the population... *Its effects in this area are probably confined to reinforcing an existing sense of national solidarity. But such a sense is more likely to be promoted by processes beyond the control or even understanding of nationalists.*’²⁰⁸

Debating the politics of identity-building, to some extent, requires a degree of assumption about the success of such practices. Recall that Michal Billig’s account of the prevalence of nationalism relied fundamentally upon a subconscious association with the nation – one which was not inherently imposed by the state. Billig’s account thus tacitly endorses Breuilly’s scepticism about the success of active ‘top-down’ nation-building. Even Anthony Smith, who as we have seen inherently ties (an ethno) national identity with cultural heritage and the state, recognises the limited ‘success’ of imposing a national identity:

‘Unfortunately, the standardization and replication of the scientific ‘nation’-states that normalisation entails, preserves the outward show of national differences while eroding the community’s historical way of life and attenuating the intimacy of collective action and the glow of shared myths and symbols. Culture is sundered from everyday life, as more and more areas of life become impregnated with scientific assumptions and rationalist norms.’²⁰⁹

For Smith, as we have seen, the power of nationalism and a national identity largely lies in its mythical and irrational character. Attempting to institute aspects of a national identity within the structure of the state will only, therefore, have a limited effect, because formalising and rationalising a national identity, largely deprives it of its emotive power.

Indeed while people may come to accept the presence of certain symbols and traditions as representative of the state, to what extent are people aware of their

²⁰⁸ Breuilly: op cit., p.241.

²⁰⁹ Smith (1981): op cit., p.192.

deeper meaning? This distinction between a *sense* of belonging and an *understanding* of what belonging means is highlighted by discussions on citizenship tests. The British media, for example, is often quick to point out that foreigners seeking British citizenship are expected to have an understanding of ‘Britishness’ that most ‘natives’ do not possess themselves.²¹⁰ Do the proponents of nation-building ask for too much when they construct an identity that is to be fully comprehended (and not merely grasped)? This has strong implications for my acceptance of certain public attributes as falling below the baseline of what we might consider as nation-building. Prudence suggests that governments will never be able to construct a coherent identity that will be understood and accepted by its citizens – never mind about the ethical implications of such actions. As Jon Fox and Cynthia Miller-Idriss note,

‘Most of the scholarship on national symbols and the rituals that deliver them has focused on their elite production. Yet the actual ways in which the meanings of these symbols are consumed – perceived, interpreted, negotiated and constituted – by those in attendance does not unambiguously follow from their elite designs. The national messages conveyed by symbols are *mixed – if not missed altogether*...while the state or polity may have the upper hand in affixing national meanings to symbols, both their meanings and valences remain subject to negotiation and reinterpretation by their receiving audiences...The nationalist passions of the multitudes are not always ignited by national holiday celebrations. Rather, such events often become occasions for family outings or consumer spending rather than the public affirmation of national pride. The national symbols adorning these commemorations are viewed by many as commercialized accessories, denuded of their officially sanctioned national venerability.’²¹¹

To sum up what has been established thus far, in the first section of this work I maintained that all states necessarily possess certain attributes that contribute to the construction of a political identity – and that these attributes could be regarded as cultural heritage. In the second section, I turned to examine nationalism and its relationship with the state, and found that there is a strong correlation between the political attributes of a state and a national identity. National identity, therefore, both endorsed and not endorsed by the state remains a significant force in contemporary

²¹⁰ For further details see: <http://news.bbc.co.uk/1/hi/magazine/4099770.stm> .

²¹¹ Fox and Idriss: op cit., p.546-7, emphasis added.

social relations. Although I did not prove a necessary correlation between a state's political identity and a national one, in this third section, I attempted to reinforce this correlation by demonstrating the extent to which national identity necessarily draws upon cultural heritage – a cultural heritage which may subsequently be used by the state. In many regards these possible – and by no means necessary – correlations between the state, national identity and cultural heritage might seem insufficiently coherent. However, I believe that there is a danger in necessarily assuming that a state's identity must (in a non-normative sense) be a national one – which, to some extent, is a problem with Margaret Canovan's thesis, explored above. From the outset, I do not wish to limit myself by excluding the possibility of, for example, a *constitutional* identity. Indeed, this is something that I will consider in the second half of this chapter. Thus, for the time being, these rather messy 'correlations' must suffice because I believe that they provide a more nuanced and accurate picture of the reality of national identity.

Cultural Heritage and Political Community

It is crucial to examine the ramifications of the above arguments for a liberal response to cultural heritage, outlined in the previous chapter, which is largely characterised by non-intervention. Non-intervention is intended to allow individuals the greatest amount of liberty possible to engage with their cultural heritages and conceptions of the good. The political liberalism defended here is underpinned by two complementary values, toleration and autonomy. Indeed, sustaining a norm of non-intervention requires a great deal of tolerance – both on an individual and political level. It is when toleration fails at an individual level that the state occasionally has to intervene and this is constitutive of political toleration. Toleration is limited, however, by a parallel commitment to individual autonomy, which has been defined as the freedom to make and revise decisions. When an individual is found to lack autonomy in significant life choices, the liberal state is permitted to intervene in order to uphold individual liberty and toleration.

Though political liberalism idealises a small state, with limited interventions, I have outlined a number of circumstances where intervention may be necessary. My motive in these instances has been driven fundamentally by a concern for power relations both amongst groups and within them. Interventions to support toleration and autonomy are occasionally required to protect the individual. It is a similar awareness of the reality of power relations within the state which has prompted me, from the outset, to recognise the necessary existence of public symbols of cultural heritage – such as national days, anthems, symbols etc – that will tend to reflect the experiences of the dominant group. While I have asserted their necessary presence, I have made no effort to justify their existence philosophically. Indeed, I do not believe that a purely liberal defence of this kind of ‘nation-building’ is possible – as I shall demonstrate in the next chapter. In this section, however, I attempt to justify the presence of certain minimal attributes of national heritage. Crucially, this hinges on a distinction between a *ideal* theory and a more pragmatic approach to political liberalism.

Political vs. Philosophical Liberalism

Within the literature, it is possible to distinguish (comprehensive) liberalism from political liberalism. Whereas the former applies to all aspects of life and often prescribes a specific way of living, the latter attempts to limit liberalism’s affect by referring only to political institutions. It should be clear by now that the argument established here has attempted to provide a version of the latter form of liberalism. Yet, of political liberalism, I believe that it is important to distinguish *ideal* political liberalism from a more pragmatic account of political liberalism. While the former adheres to the ideals of political liberalism and is philosophically coherent and consistent, it nevertheless remains divorced from many of the realities and necessities of political life. Some liberals, for instance, often overlook the distinction between the *state*, as a territorial entity, and *governments*, as possessing - in addition to the legitimate right to rule, maintain law and order and coerce (at least in theory) – a vested interest in the maintenance of power, stability and a common identity. They also, as Margaret Canovan and Craig Calhoun point out, are reluctant to

acknowledge the significance of national identity and community. Arguably, without engaging with these aspects of contemporary politics that embed themselves within the structure of government, it is relatively easy to maintain that liberal governments can and ought to remain culturally and politically neutral, by sustaining indifference toward competing conceptions of the good.

It is thus with an awareness of the context within which liberalism is to manifest itself that I have sought to construct a liberal response to cultural heritage – thereby shifting emphasis from *ideal* political liberalism to a more pragmatic account of how to sustain liberal values. In doing so, I respond to the existence of governments and political elites who possess an interest in the maintenance of stability and security – in addition to liberalism, of course – as well as a dominant culture. This shift in perspective has necessitated a deviation from ideal theory and thus the theory outlined here perhaps allows for more interventions in cultural heritage than many political liberals might be comfortable with. While I believe that the interventions outlined thus far in this chapter remain consistent with political liberalism, nowhere has the slippage from ideal theory been more apparent than in the admission that, despite professing neutrality, liberal states will necessarily maintain certain national symbols and practices. I do not, however, believe that these concessions impinge upon the philosophical coherence of political liberalism. Indeed, I attempt to demonstrate how it is possible to maintain a commitment to neutrality, toleration and individual liberty *despite* dominant nationalities.

The Value of Community

In maintaining an allegiance to political neutrality and not promoting any particular conception of the good life, liberals prefer a small state – allowing individuals the greatest freedom possible to engage with their own conceptions of the good – and are necessarily sceptical of attempts to construct a public identity. For instance, Chandran Kukathas writes of the importance of:

‘...resisting demands that the central authority take an active interest in shaping or constructing society to ensure that the communities which

compromise it conform to particular substantive values. It also means taking a more sceptical attitude towards established political authority, regarding it as (at best) not much more than the outcome of compromise among different peoples, with different ways, who have to find terms under which to coexist.’²¹²

It is for this reason that ‘orthodox’ liberals reject the liberal nationalist understanding of identity, the republican ideal of a substantial public culture and the constitutional patriot’s desire to ‘rationalise’ cultural identities. As John Rawls asserted, ‘the hope of political community must indeed be abandoned, if by such a community we mean a political society united in affirming a general and comprehensive doctrine.’²¹³

However, as Christian Joppke notes, this is a poor suggestion for contemporary states looking to foster integration and unity in diverse societies: ‘The shortcomings of procedural liberalism have been neatly identified by a variety of civic nationalists who point to its incapacity to motivate a preference for this over that collectivity.’²¹⁴ In remaining true to principle, liberals face a number of substantial problems: how is the liberal state able to *sustain* itself? In the face of extremist and dominant groups, social pressures and cultural biases, to what extent may the liberal state defend itself? When certain – liberal or illiberal – groups threaten the existence of toleration, how are other groups to be defended; especially when the threat comes from a dominant cultural group, against a cultural minority? Consider, for example, the banning of the *hijab* in schools or arranged marriages in supposedly dominantly liberal societies. In such instances if the state is to sustain neutrality between conceptions of the good, it will inevitably have to take a stance on such matters. As we saw in the previous chapter, the benign neglect view, as typified by Kukathas’ liberal state, would abstain from such matters – and would ultimately allow the outcome to be swayed by the dominant or majority opinion that emerges from the moral commons. *Part* of the solution, I have outlined in the previous chapter, lies in undermining cultural bias and upholding toleration. However, viewing this as a larger issue (and not just a question of how to respond to ethnic and cultural differences) if the state itself is effectively a

²¹² Kukathas, LA, p.164.

²¹³ Rawls as cited in Joppke, C. (2008): ‘Immigration and the Identity of Citizenship’ in Citizenship Studies, (12:6), p.534.

²¹⁴ Joppke, Ibid., p.535.

disparate ‘community of communities’ how will it be able to ensure the fulfilment of basic criteria for the maintenance of peace and stability - abiding the law and respecting the institutions and boundaries of the state (though not necessarily always agreeing with them) – all of which are necessary for the survival of the modern (liberal) state. All of these features of modern statehood, which we often take for granted, *require* a certain degree of social cohesion. A ‘community of communities’ with nothing to hold the various communities together is likely to split into smaller and smaller groups. There is nothing inherently wrong with this ‘splitting’ per se – indeed, in its respect for individual autonomy, the liberal state also commits itself to respecting a right to self-determination. However, continual splitting of the political community is likely to cause a great deal of instability and disturbance to the members of these various communities such that we might reasonably argue that it is in the public interest for the liberal state to aim to maintain some *limited* stability through a degree of cohesion. As Craig Calhoun writes, ‘though tolerance, interest in others, and openness to change may all be political virtues, they are not in themselves bases for constituting polities; they do not explain patterns of allegiance.’²¹⁵ In order for *any* state or concentration of power to function it needs to be able to cultivate at the very least a minimal degree of allegiance – not to particular statesmen or political parties, but at a more basic level, to the system of government and the state/community itself. As a *liberal* state, however, presumably taxation, laws and institutions will be no larger than absolutely necessary, and thus the level of cohesion that is required is minimal.

‘The truth is that multiculturalism,’ according to Joseph Raz, ‘while endorsing the perpetuation of several cultural groups in a single political society, also requires the existence of a common culture in which the different coexisting cultures are embedded.’²¹⁶ Though Joseph Raz, as we have seen, endorses a very different conception of a common culture than is compatible with the theory outlined here, there is a great deal of merit to the argument that a diverse political community requires some, at the very least minimal, shared sentiment to hold it together. As Bhiku Parekh argues, for the state to focus on principles of justice alone is not

²¹⁵ Calhoun, C. (2003): ‘Belonging in the cosmopolitan imaginary’, *Ethnicities* (3:531), p.541.

²¹⁶ Raz, J. (1994): *Ethics in the Public Domain*, (New York: Clarendon Paperbacks), p.187.

enough; this needs to be ‘balanced against the requirements of social harmony, integration of the excluded groups into the mainstream society, a rich and vibrant cultural life and a sense of social solidarity.’²¹⁷ This, as Parekh explains,

‘does not mean that members of such a society will not deeply disagree about important issues or find each other occasionally exasperating and incomprehensible, but rather that they are likely to feel sufficiently committed to it to live with their differences and not want to harm its well being.’²¹⁸

Indeed, some shared values are needed in order for toleration and autonomy to be respected. Political liberalism, with its agnosticism towards diverse conceptions of the good, faces the problem of how to respond to the *perception* of individuals and dominant as well as minority groups who feel that their rights and interests are not being taken seriously. It is true that, in general, the liberal state should not be overly concerned about the beliefs and perceptions held by individual citizens. Yet, the recent attacks in Norway on July 22, 2011 geared explicitly against multiculturalism, as well as in actions by groups such as the English Defence League and Euskadi Ta Askatasuna (ETA) – demonstrate how perceptions of cultural groups can result in extreme responses with disastrous consequences. The post 9/11 and 7/7 world consists of ever increasing legislation and security checks that, in practice, seem to disproportionately target certain ethnicities. Indeed, it is difficult to ignore the fact that within some areas of the UK you are much more likely to be stopped by police²¹⁹ and are likely to perform worse in school if you are from a black or minority ethnic group.²²⁰ Cultural identity all too frequently has significant bearing

²¹⁷ Parekh (2000): op cit., p.237.

²¹⁸ Parekh, Ibid., p238.

²¹⁹ Source: Metropolitan Police statistics – See for example, Redbridge http://www.met.police.uk/foi/pdfs/priorities_and_how_we_are_doing/borough/redbridge_stop_and_search_monitoring_report_july_2011.pdf (where you are twice as likely to be stopped by police if you are identified as black or south asian), or Croydon where 15% of the population is black and yet account for almost 50% of searches in 2011 http://www.met.police.uk/foi/pdfs/priorities_and_how_we_are_doing/borough/croydon_stop_and_search_monitoring_report_july_2011.pdf, similarly Kingston Upon Thames http://www.met.police.uk/foi/pdfs/priorities_and_how_we_are_doing/borough/kingston_stop_and_search_monitoring_report_july_2011.pdf (all websites accessed 10/2011)

²²⁰ Source: UK Department of Education, 2009/10 statistics for Key Stage 2 <http://www.education.gov.uk/rsgateway/DB/SFR/s000977/index.shtml> and GCSE <http://www.education.gov.uk/rsgateway/DB/SFR/s000977/sfr37-2010upd.xls> (NB, the data in this source goes back 5 years and indicates a clear trend with regard to performance levels of different ethnic groups.) All websites accessed 10/2011.

on individual welfare and opportunity, and cultural groups are becoming increasingly aware of this. The 2001 riots in Oldham, Bradford, Leeds and Burnley are testament to this fact. As Anne Phillips also points out, when cultural groups perceive themselves to be under threat, there is a tendency to move towards greater cultural conservatism, whereby traditions are ‘rediscovered or even created, and practices that have long been contested are given a central role.’²²¹ Combined with a parallel desire on the part of public authorities to tolerate and recognise a diversity of cultural goods, this cultural shift can result in an increase in ‘coercive practices that institutionalise women’s subordination.’²²² Most worryingly, however, a recent study has shown that up to 40% of the British National Party’s (BNP) supporters believe that armed conflict against ethnic, religious and racial groups in the UK could be necessary and justified.²²³

While the disparity in general welfare amongst different groups is not an issue that I tackle here, the liberal state must engage with these perceptions of disunity because they can have a strong impact on the political community. One possible solution to this issue is the establishment of a shared culture that can contribute to an understanding and belief that the multiplicity of communities that exist within the state, *ultimately* form a larger, though not necessarily coherent, whole. Indeed, as David McGhee writes, there is a growing literature on shared community in response to a perceived disharmony amongst cultural groups, in particular where ‘segregation between antagonised community groups...reaches deep into every aspect of social life including housing, employment and cultural activities.’²²⁴ Solidarity is a term that seems slightly misleading here because it conjures up notions of loyalty and allegiance that cannot be defended from a liberal perspective (as I shall discuss in Chapter 5), and so the best word to describe the shared culture required by the liberal state is perhaps ‘recognition’; that is, recognition of the political community as encompassing a diversity of cultural, ethnic and national groups.²²⁵ The notion of a

²²¹ Phillips (2010): op cit., p.39.

²²² Ibid.

²²³ ‘Far right hardcore ‘willing to prepare of armed conflict’’ in *Guardian* (March 9th, 2012) <http://www.guardian.co.uk/world/2012/mar/09/far-right-hardcore-armed-conflict?INTCMP=SRCH>

²²⁴ McGhee (2008): *The end of multiculturalism?*, (Open University Press), p53.

²²⁵ Note that recognition here is also not to be confused with political recognition as envisaged by Charles Taylor and Iris Marion Young, which will be discussed in a subsequent chapter.

shared (national) culture that fosters a sense of affiliation and community needn't be strong patriotism envisaged by constitutional patriots (whom I shall turn to in a subsequent chapter), nor the thick public culture embraced by republicans. The liberal state does not require this – indeed, it cannot allow this. Rather, in the attributes that the liberal state maintains in public culture, the state is able to foster a weak sense of social solidarity. This responds to some of the problems identified above by facilitating recognition and respect for one's fellow citizens. Indeed, this public culture can largely be manifested in cultural heritage.

The presence of a public heritage affects perceptions of community and solidarity. Though public heritage often reflects the experiences of the dominant, national group, a liberal state is distinguished by the fact that it is obliged to make efforts, not only to keep the cultural particularity of these attributes to a minimum, but also to ensure that they reflect and promote toleration and respect for individual autonomy. Maintaining a public heritage is therefore a political strategy for promoting understanding of identity and diversity within the state. Though I shall discuss this at greater length in Chapters 6 and 8, what makes a strategy of this kind 'liberal' is the extent to which symbols and practices are deprived of an exclusionary sentiment and supplanted with an appreciation of liberal values. Indeed, a public heritage can be designed to raise awareness of the plight of marginalised groups, in addition to undermining perceptions whereby such groups come to feel threatened by the majority.

The existence of certain attributes of cultural heritage, manifested in national symbols, days, anthems, education and official languages, can therefore be justified on the basis that they help forge an identity which can help sustain awareness of the greater political community. I shall discuss some parameters of this public heritage in the final chapter. It should be reiterated that nothing here justifies the particular national content of public heritage. Indeed, I have noted the need to ensure that a message of toleration is promoted as part of a national heritage. Though this is not an inherently liberal argument, I do not believe that there is anything here which stands in sharp contradiction with liberal principles – in fact, I have indicated how this

strategy can be applied to liberalism. Thus, though not inherently liberal, this is an argument about how to uphold and defend certain – in this case - liberal values.

Conclusion

This chapter has sought to outline the necessity of certain, minimal attributes of a national heritage. A national flag, currency, certain symbols, and languages are all requirements for contemporary statehood, necessary for the recognition of the state at both a national and international level. Yet aside from reinforcing a particular political identity, I have argued that these attributes also help to sustain recognition of the broader political community.

This is not a particularly liberal argument, nevertheless it is one that applies to liberal states as well. Indeed, a state that values difference and allows individuals to pursue a broad diversity of social goods – such as a liberal state – also relies upon some shared conception community in order to sustain respect for liberal values such as autonomy and toleration. Indeed, the arguments which I have relied upon to support the existence of public heritage were primarily made on pragmatic grounds. Although I am sceptical about the success of top-down nation-building, I have argued that a liberal state should be able to both accept and value the presence of certain basic public attributes that can, undeniably, be national in character. I believe this to be a necessary concession for ensuring that a (liberal) theory of political identity retains relevance for the world outside of ideal theory.

Thus, there is necessarily a public heritage, but this heritage is kept to a minimum so that individuals have the freedom to engage with their own heritages. Rather than trying to draw attention to difference, however, public heritage seeks to bring people together – in spite of their differences. It is in this manner that cultural heritage can be used to foster cohesion and stability. I shall examine the specific parameters of this public heritage in greater depth in the final chapter of this thesis. This is a view that, despite an inevitable bias toward dominant group, must nevertheless be distinguished from constitutional patriotism or civic republicanism by the limited

purview of public heritage, and extent to which individuals are free to engage with their own cultural heritages. Let us now turn, therefore, to these two broadly liberal accounts of political loyalty to examine further implications of a liberal state's engagement with a public cultural heritage.

Chapter 5

The Limits of a National Heritage

In the previous chapter I outlined and defended the existence of a necessary public heritage for the purposes of maintaining stability and cohesion amongst a diversity of cultural groups. Though I was keen to stress that this heritage would only be very marginal, I did acknowledge that it would likely, nevertheless, express a bias toward the experiences of dominant groups and nationalities. In this chapter I shall contrast the largely pragmatic argument for public heritage made in the previous chapter, with an examination of the practical ramifications of attempts to justify the promotion of a national identity on normative grounds, by considering the public cultural heritage envisaged by liberal nationalism and constitutional patriotism. I therefore evaluate the underlying principles of more explicit attempts to foster political loyalty through cultural heritage. The justification behind a national or civic heritage is crucial – as I shall demonstrate – because it largely determines the scope and pervasiveness of a public heritage. Though liberal nationalists and constitutional patriots do not discuss cultural heritage at any great length, I shall try to explore the implications of their arguments here. Ultimately, I argue that both constitutional patriotism and liberal nationalism remain incapable of reconciling a liberal commitment to the primacy of the individual with nationalist arguments.

Liberal nationalists (distinguishing themselves from ‘dangerous nationalists’) attempt to promote national identity as necessary for sustaining democracy and social justice. Despite their aims, liberal nationalist policies, I argue, ultimately result in the promotion of a particular, largely homogenous, heritage (e.g. in public monuments, symbols, history curriculum) representing the experiences of the dominant nationality - at the expense of other minority (cultural, ethnic, national) historical experiences, demonstrating insufficient concern for individual liberty and cultural diversity. While its intention is to differentiate itself from conservative variants of nationalism, it is difficult to see in practice (with the aid of cultural heritage) how liberal nationalism can sustain a public culture that remains true to liberal ideals.

Though articulated in the language of universal values constitutional patriotism similarly relies upon the promotion of a particular narrative – once again, marginalising the narratives of certain (ethnic) groups. While most of its proponents would be inclined to disagree with this argument, examining constitutional patriotism’s ramifications for cultural heritage reveals a particularism and a particular cultural heritage that lies not far beneath a language of universal rights and values. Constitutional patriotism requires substantive content which necessarily draws upon cultural particularities. Thus, constitutional patriotism is rendered far more ‘dangerous’ than the nationalism it attempts to supplant when framed in terms of universal – *i.e. neutral* – values.

While the criticism of cultural particularity might equally be levelled at the approach that I defend in this chapter, it is important to acknowledge that the promotion of a public heritage is obviously a matter of degree. This chapter rejects both liberal nationalism and constitutional patriotism fundamentally because both attempt to provide a *normative* defence for the inculcation of political loyalty that comes at too great a cost to individual liberty. Exploring the consequences of each for cultural heritage reveals the extent of this cost. Furthermore, their unlikely success in constructing a strong and coherent identity that will be accurately understood by all citizens only serves to undermine this goal. A commitment to individual liberty and,

in particular, an individual's freedom to engage with their own cultural heritage in a manner that is meaningful to them, entails that we cannot accept such arguments in favour of nation-building.

In contrast, although it will inevitably draw upon the historical experiences of the dominant nationality or group, the approach that I defend does not aim to build up a strong national commitment, but places significance instead on making room for individuals to meaningfully engage with their own cultural heritages. Given that states will, for the foreseeable future, rely upon the existence of certain political attributes that 'flag' a public identity, whether *liberal* states may allow such attributes seems largely beside the point. A liberal state will inevitably engage in cultural practices that undermine claims to neutrality. A liberal political theory of how to respond to cultural heritage cannot ignore this fundamental feature of contemporary statehood; the point rather is to determine how to limit and attenuate the potentially illiberal consequences of a necessary public heritage. The justification of a *national* heritage is necessarily limited to largely pragmatic arguments. To go further than this and attempt to provide a normative justification for the dominance of a particular national narrative in public space necessarily limits a liberal government's ability to recognise and respond to instances where this dominance is disproportionate and unreasonable.

Liberal Nationalism and the Preservation of a Particular narrative

In this section I provide a general overview of liberal nationalism, focusing primarily, though not exclusively, on the work of David Miller. This is because I find Miller's account of nationalism both comprehensive and persuasive. Miller is also the only liberal nationalist to provide an extensive account of public culture. I shall examine the ramifications of this position on cultural heritage. Ultimately, it is these ramifications that lead me to reject liberal nationalism on the grounds that its interventions in political identity go beyond what a liberal state may reasonably allow. While I reject liberal nationalism's promotion of national identity, I agree with

the need to conceive of culture as a matter of contingency and inheritance, as opposed to being timeless and given.

Broadly stated, liberal nationalism is an attempt to provide a normative defence of nation-oriented policies and the preservation or promotion of a national identity, that stems from fundamentally liberal values such as freedom, democracy and reciprocity. Liberal nationalism negotiates rather precarious territory and, although I shall ultimately reject this position, this attempt to recognise the significance of national identity is inherently laudable. The sheer number of works of contemporary political theory that deal specifically with the issue of culture and diversity and yet pay scant attention (if any) to national identity is alarming; firstly because, as I have just argued, nationalism remains a significant force to be reckoned with, and secondly, because of the extent to which the existence of nationalism seemingly poses a threat to liberal pluralism. As Craig Calhoun notes,

‘[Contemporary liberals] tend to underestimate the work done by nationalism and national identities in organizing human life as well as politics in the contemporary world. They often treat nationalism as a sort of error smart people will readily move beyond – or an evil good people must reject – and so as theories they grasp less well than they should the reality of the contemporary world.’²²⁶

Liberal nationalists are thus the rare theorists (recall Canovan’s argument on hidden nationalism, mentioned in the previous chapter) that engage with the presence of nations. But what distinguishes liberal nationalists is not merely an acceptance of national identity, but additionally, a normative defence of it.

Many liberal nationalists are at pains to contrast their own liberal views with more ‘dangerous’ variants of nationalism. Margaret Canovan, for instance, outlines the concept of Romantic Nationalism which finds that, ‘the reason why a nation has the right to form a state and to call upon the allegiance of its members is that its existence and its historic destiny proceed from a *natural order that is assumed to be the source of authoritative values*.’²²⁷ Canovan notes, ‘nationalists of this sort see the

²²⁶ Calhoun (2007): op cit., p.7.

²²⁷ Canovan (1998): op cit., p.7 – emphasis added.

nation rather than its members as the possessor of sacred rights, and stress that individuals are parts of something greater than themselves, with a duty to serve the whole.²²⁸ By contrast, a liberal-individualist account of nationalism approaches the issue from the opposite direction and finds that, ‘since legitimate government is government by the consent of the individuals concerned, and since *individuals identify themselves as members of nations, then there must be a right to national self-determination*.’²²⁹ Given, however, that the liberal proviso of not preferring any conception of the good life appears fundamentally at odds with the promotion of a national good, it is worth considering the ‘liberalism’ of liberal nationalism in greater depth.

So, what is *liberal* about liberal nationalists? Yael Tamir defines the characteristics of her liberal national entity as one which endorses ‘liberal principles of distribution inwards and outwards; *its political system will reflect a particular national culture, but its citizens will be free to practice different cultures and follow a variety of life-plans and conceptions of the good*.’²³⁰ Tamir’s liberalism thus essentially lies in her attempts to create a non-political space for minority nations to engage with their identity, whilst accepting the presence of an overarching national identity. William Galston equally professes himself to be a liberal whilst defending the virtues of a national identity. However, on his account, liberalism is defined by excellence and virtue, as well as equality and freedom²³¹ - and thus he notes, ‘the virtues needed to sustain the liberal state are requisites of *every political community*: the willingness to fight on behalf of one’s country; the settled disposition to obey the law; and loyalty – the developed capacity to understand, to accept, and to act on the core principles of one’s society.’²³² Finally, on the issue of the ‘liberalism’ of liberal nationalism, David Miller provides an interesting case in point, because while he is not explicitly a liberal, he is clear about the limits of nationalism’s compatibility with liberal values; the closing lines of *On Nationality* state:

²²⁸ Canovan (1998): op cit., p.9 – emphasis added.

²²⁹ Canovan (1998): op cit., p.5 – 6.

²³⁰ Tamir, Y. (1995): Liberal Nationalism, (Princeton: Princeton University Press), p.163, emphasis added.

²³¹ Galston, W. (1991): Liberal Purposes, (Cambridge: Cambridge University Press), p.11.

²³² Galston: op cit., p.245.

‘It does not follow, however, that nationality is an essentially illiberal idea. What it does mean is that *the principle of nationality makes a difference to the way we think about a wide range of issues* – citizenship, minority rights, education, the promotion of cultures, constitutions, political boundaries, duties beyond borders and many more. *Embracing the principle, we may still want to be liberals...but our assumptions have shifted.* My aim [in this book] has been to spell these assumptions out as clearly as I can to see where they lead us morally and politically.’²³³

Although some may be inclined to reject the view that Miller’s theory is a liberal one, and indeed, as Miller himself explicitly notes that, ‘the principles of nationality points us towards a *republican* conception of citizenship and towards deliberative democracy as the best means of making political decisions,’²³⁴ I would argue that the underlying sentiment of his work by beginning with individuals and accepting the fact of pluralism (and trying to accommodate it, as we shall soon see) is nevertheless profoundly liberal and thus worth investigating. Miller’s aim, it seems, is to see where an acceptance of national identity takes us with regard to broadly liberal political concepts.

Why nationality?

For Miller and other liberal nationalists, a national identity has both intrinsic and instrumental value. The *intrinsic* value of a national identity is based upon its ability to tie personal identity to an historical community. Miller refers to our ‘forebears [who] have toiled and spilt their blood to build and defend the nation.’²³⁵ This image of inheritance and descent is repeated throughout Miller’s work on nationality, implying the intrinsic value of belonging to a transgenerational community. Miller finds that holidays, roads, languages, festivals etc. are all ‘equally the sediment of an historical process which is national in character.’²³⁶ This is a *nationalist* argument that hinges on the perception of a particular transgenerational national *culture*.²³⁷

²³³ Miller, D. (1997): *On Nationality* (ON), (Oxford: Oxford University Press), p.195.

²³⁴ Miller, ON, p.150 – emphasis added.

²³⁵ Miller, ON, p.23.

²³⁶ Miller, ON, p.42.

²³⁷ Miller readily accepts the tautology of providing a nationalist defence of nationalism, ON, p.90.

By contrast, the *instrumental* value of national identity, for Miller and other liberal nationalists such as Margaret Canovan, is based upon its ability to promote certain liberal political values. This is essentially what distinguishes liberal nationalism from nationalism. A substantial portion of Miller's work *On Nationality* is in fact devoted to a defence of national identity for the purposes sustaining democracy and social justice. Miller argues that while a personal national identity is neither objective nor rational, it is nonetheless politically valid.²³⁸ Miller writes, 'to have a national identity is to take part in a continuing process of collective self-definition which is expressed in essentially *public* ways.'²³⁹ Miller goes on to argue,

'There are strong ethical reasons for making the bonds of nationality and the bonds of the state coincide...*obligations of nationality are strengthened by being given expression in a formal scheme of political cooperation, and the scheme of cooperation can be based on loose rather than strict reciprocity, meaning that redistributive elements can be built in which go beyond what the rational self-interest of each participant would dictate.*'²⁴⁰

States based upon principles of social justice, democracy, and reciprocity thus require a single national identity.²⁴¹ The underlying logic of this argument is as follows: liberal states rely upon the existence of a national identity in order to facilitate democracy and social justice.

What are the implications therefore of the cultural and political value of national identity for public culture – and by virtue of this, cultural heritage? Miller writes that while nationalists may prefer a neutral stance on some cultural issues, they are 'committed' to non-neutrality when it comes to national culture: 'where some cultural feature – a landscape, a musical tradition, a language – has become a component part of national identity, it is justifiable to discriminate in its favour if the need arises.'²⁴² This is an argument for the preservation of a particular, dominant national heritage over the heritages of other minority groups. Yet, by no means does Miller wish to completely exclude non-nationals. Though ideally other nationalities

²³⁸ Miller, ON, p.43 on the unchosen nature on national identity; see also, p.164 'clearly there are more restricted identities (i.e. a personal genealogy) still matter a good deal...but a national identity gives us a much more ambitious account of our place in the world.'

²³⁹ Miller, ON, p.172 emphasis added.

²⁴⁰ Miller, ON, p.73 emphasis added.

²⁴¹ Miller, ON, p.90.

²⁴² Miller, ON, p.195.

would possess their own states²⁴³, Miller makes concerted efforts to *integrate* other identities within a (national) political identity. He argues for a ‘collective conversation in which many voices can join’ in order to decide ‘what kind of people we are.’²⁴⁴ Underlying this argument, Miller, largely *assumes*:

‘The minority groups want to feel at home in the society to which they or their forebears have moved. They want to feel attached to the place and part of its history, even if they also feel some attachment to their place of origin. So they need a story to share with the majority, though a story that can be told in different ways and with different emphases by different groups. To see themselves only as bearers of a specific ethnic identity, let’s say, would be to lose the chance to join a larger community whose traditions and practices have inevitably left their mark on the environment they inhabit.’²⁴⁵

The implication of Miller’s arguments reveal that he is effectively proposing the creation of a homogenous national identity – one which incorporates different conceptions of the good – but, nevertheless, into a largely singular cultural narrative. Miller however rejects the claim that national identities will necessarily entail the ‘sanctification of traditional ethical relations’ on the basis that this conversation amongst various nations, cultures and ethnicities will be shaped by processes of ‘rational reflection.’²⁴⁶ Thus it is an argument for national identities ‘that have clear focus and are as far as possible independent of group-specific values.’²⁴⁷ This ‘rationalizing’ of national identity seems to push Miller in the direction of constitutional patriotism – a political loyalty that is devoid of substantive cultural content. Yet it is clear that Miller does not want to do this, largely because of the value that he places on national culture, but also because of his scepticism of cosmopolitanism. On the consequences of cosmopolitan culture, Miller writes:

‘The benefits of the global culture will be confined very largely to the elite, who can buy high culture at home (seats at the opera and so forth) and travel

²⁴³ Miller, ON, p.88 - ‘there are strong empirical reasons for thinking that national cultures will be protected most effectively when nurtured by states of their own.’

²⁴⁴ Miller, ON, p.127.

²⁴⁵ Miller, ON, p.138.

²⁴⁶ Miller, ON, p.70.

²⁴⁷ Miller, ON, p.137 Note, that in Miller, D. (2000): *Citizenship and National Identity*, (Cambridge: Polity), p79 Miller writes: ‘thus a republican form of politics in which group members enter the political arena as citizens and present their claims not in terms of group identity but in terms of principles and precedents that are already embedded in the practice of the political community is consistent with groups being granted special rights.’

around to sample the surviving indigenous cultures abroad. The non-elite will have to put up with a lowest common denominator mass culture exemplified by Disney, McDonalds, and Australian soap operas. In other words, if national identities are indeed being eroded, what is likely to take their place is not rich cultural pluralism for everyone, but the world market as the distributor of cultural resources.²⁴⁸

Culture has too much value for a political identity to simply be reduced to constitutional principles – instead, the existence of conflict between different conceptions of the good (Miller uses the example of religion) should prompt us to ‘strike a balance’ between the ‘faithful’ and ‘dissenters.’²⁴⁹

The desire not to promote a particular ‘ethical’ identity and rejection of pure constitutional principles reveals an inherent tension within Miller’s work. Miller seeks to justify his defence of a national public culture, in general, by saying that ‘everyone has an interest in not having their inherited culture damaged or altered against their will.’²⁵⁰ Yet, there is a contradiction here between rational political values that remain unbiased toward any particular conception of the good/nationality/ethnicity/religion etc. and Miller’s devotion toward sustaining a national public culture. Indeed, as I have hoped to demonstrate thus far, any statement on public culture is necessarily a statement about certain political values. Promoting a particular national culture to the extent that Miller seems to envisage inevitably has an effect on the ability of minority groups to engage with their own cultural heritage – language policy alone provides evidence for this.

There is also an evident tension between the inherent value of a *personal* national identity that is constituted by myths and traditions – that necessarily cannot be rationalised – and Miller’s ‘rational conversation’ about the *public* past as a response to the fact of reasonable pluralism. Miller justifies the significance of nationality in terms of its value for personal identity but the characterisation of the content of this identity is quite different when envisaged on a public scale. Miller begins *On Nationality* by spending a great deal of time fleshing out an understanding of a

²⁴⁸ Miller, ON, p.187.

²⁴⁹ Miller, ON, p.189.

²⁵⁰ Miller, ON, p.86.

personal national identity and its ‘irrational’ meaningfulness as based upon inheritance and the copious amounts of blood that our ancestors have spilt for us; and he ends by suggesting that a national public identity will largely be detached from traditional (i.e. *irrational*) meanings. Surely this outcome undermines the ‘intrinsic’ value of a national identity. Miller is unable to reconcile the inherent individual value of a national identity with its civic purpose; he both clings onto and rejects cultural particularity. Yet, Miller’s own statements on the value of a national culture make the implications of minority groups and minority heritages clear: there is no room for ‘rational’ negotiation.

So, to illustrate these principles in terms of cultural heritage: We can imagine a national narrative, under Miller’s conception of public culture that tells the story of people X who have existed within a given territory for 200 or so years. Though all the people of X across history have never met each other, bonds of culture, landscape and ancestry tie them together. This story will articulate the triumphs as well as tragedies of the nation and include its transition from nation to nation-state. This national narrative will require the assistance of symbols, icons, artefacts and monuments to give it credence. All of these objects of cultural heritage will work together to promote a single homogeneous narrative. But we can also imagine the entry of peoples Y and Z in the last 50 or so years. While they may not be ‘brothers of the soil’ and while they have different ancestors, they nevertheless want to and can be just like us. This more recent addition to the narrative can engage with the ethnic backgrounds of Y and Z – but ultimately the transition is one from potential outsider challenges to national identity, to acceptable sources of national identity; ethnic difference is permissible so long as it can be accommodated and smoothed into the overarching narrative. As Miller writes on the last page of *On Nationality*, the need to discriminate in favour of a national public culture is based on the fact that ‘a national culture gives the society its distinct identity, but may be unintentionally eroded in a cultural free-for-all.’²⁵¹ Yet, Miller has further reasons for doing this: he notes that radical multiculturalists rely upon an appeal to the majority (in claiming minority rights) and that this only makes sense if there is an existing common

²⁵¹ Miller, ON, p.195.

identity.²⁵² Thus, as I have noted above, despite his rejection of particular ethical values, David Miller's response to cultural heritage is fundamentally one of preserving a particular national identity (at the expense of other identities).

The Problem with Liberal Nationalism

The problem with liberal nationalism lies fundamentally in the fact that, despite efforts to demonstrate how national identity can be used to promote liberal values, the normative commitment of liberal nationalists to a particular national identity ultimately undermines their parallel commitment to individual liberty and cultural diversity. Liberal nationalists will necessarily promote the heritage of the dominant national group, and expect other cultural groups within the state to conform to this cultural heritage because of the value that is assigned to the dominant national culture.

Chandran Kukathas sheds light on the root of this particular problem when he notes that, 'it is not clear why this ethical community [i.e. national identity] should take precedence over the others it would displace or diminish. *If ethical community is what is important, this can be had without the nation-state.*'²⁵³ Similarly, Andrew Vincent queries the liberal nationalist conception of the individual and the disproportionate significance that it places on national identity; why does nationality matter more than other affiliations?²⁵⁴ The position that Miller ultimately adopts, though he does not admit this, can partly be explained by the fact that his work possesses a strong *ethno-nationalist* strain. He places an intrinsic value on the ethnic (by virtue of repeated references to 'inheritance', 'blood of our ancestors' etc.) roots of national culture – as prior to the state.²⁵⁵ (Recall how Miller writes that on issues of national culture, the nationalist cannot be neutral). Similarly, Yael Tamir also possesses an essentially 'ethnic' understanding of national identity when she defends

²⁵² Miller, ON, p.139.

²⁵³ Kukathas, LA, p.208.

²⁵⁴ Vincent, A. (1997): 'Liberal Nationalism: an Irresponsible Compound?' in *Political Studies*, (XLV, 275-295), p.295.

²⁵⁵ These exist before the advent of the nation-state, and it is the duty of a national state to preserve these national artefacts.

a public sphere ‘in which individuals can share a language, memorise their past, cherish their heroes, live a fulfilling national life.’²⁵⁶ As Cecile Laborde notes,

‘while officially inclusive, in practice [such accounts rely] on highly moralised and ethnicized constructions of the national community, which paradoxically confirm the position of the foreigner, Muslim, or *immigre* as perpetual outsiders. Thus, [for example] it is by singling out the Muslim girl as ‘refusing to be French’ that ethno-national constructions of Frenchness are affirmed and entrenched.’²⁵⁷

Fundamentally, however, though Miller partly accepts the tautology of his arguments, like other liberal nationalists he does not fully recognise the extent to which *nationalist* arguments pervade his work. In other words, arguments for sustaining social justice, democracy and other liberal values only really help to explain why *some* degree of solidarity is needed; not why this solidarity should be grounded in a national identity. Miller uses *nationalist* arguments to support his argument for the value of liberal nationalism – as opposed to some other kind of solidarity generating identity (e.g. religion, race or ethnicity). Miller (and other liberal nationalists, such as Tamir) commit the ‘sleight of hand’ mentioned by John Breuilly, above, of ‘never [making] a rational connection between the cultural and the political concept of the nation because no such connection is possible.’²⁵⁸ It is for this reason that national identity necessarily trumps other social affiliations. Indeed, this same criticism can also be levelled at Will Kymlicka whose work will be discussed in the subsequent chapter. This logical flaw renders liberal nationalism philosophically incoherent because it is unable to provide a reasoned defence of nationalism. This is all the more problematic given the extent to which liberal nationalists propose discriminating in favour of national identity.

As Miller writes, it is necessary to discriminate in favour of the national culture when the need arises.²⁵⁹ Although a national identity is to be ‘rationalised’, the value of a personal national identity, which is defined in terms of ancestry and shared

²⁵⁶ Tamir: op cit., p.8.

²⁵⁷ Laborde, CR, p.245.

²⁵⁸ Breuilly: op cit., p.342.

²⁵⁹ Miller, ON, p.195.

memories, undermines the possibility of extending this inherited legacy to ‘outsiders.’ Liberal nationalists are largely blind to the equal public potential of other heritages (be they of national minorities, or religious and ethnic groups) because the nationalist elements embedded within their principles. Miller writes of ‘favouring neutrality on some cultural questions’ but remaining ‘committed to non-neutrality’ where the national culture is at stake.²⁶⁰ He does not seem to recognise the pervasiveness of a national culture and how an unfaltering commitment to it necessarily undermines neutrality on other cultural questions. As a consequence, a public cultural heritage – such as a national flag, anthem, holidays, language, rituals and practices – are likely to reflect the experiences of the dominant national group.

By promoting a particular national narrative and marginalising other cultural goods, liberal nationalist arguments ultimately undermine a commitment to individual liberty and the diversity of cultural goods that this necessarily entails. The scope of intervention of liberal nationalism Miller goes above and beyond what a liberal state may reasonably allow; this is clearly active nation-building conducted by the state. To be fair, Miller explicitly labels his project a republican one; yet, his republican credentials appear on unstable ground when we find that his theory leaves little room for minorities who do not wish to engage with a national identity – they must either integrate by accepting nationality, or keep to themselves.²⁶¹ Similarly Yael Tamir’s utopian vision for national minorities (never mind religious or ethnic groups) highlights the inability of liberal nationalism to successfully engage with minority groups. Tamir writes of a future European community in which ‘many of Europe’s small nations which failed to establish independent nation-states... could become [part of] a community of nations that openly recognises the diversity of constitutive unity’ and nation-states effectively cease to matter.²⁶² Liberal nationalists appear fundamentally unable to respect and account for the existence of a diversity of minority groups. Instead, these identities need to be integrated into a national public culture.

²⁶⁰ Miller, ON, p.195.

²⁶¹ Miller, ON, p.145.

²⁶² Tamir: op cit., p.151.

Liberal Nationalism vs. Dominant Nationalities

Unsurprisingly, this is a view that liberals cannot accept. As Miller acknowledges, a republican conception of citizenship is far more demanding than its liberal counterpart.²⁶³ While I have gone to great lengths to prove the continued significance of nations and nationalism, unlike Miller, I have not engaged in *nationalist* arguments to justify them. We must accept the extent to which a state's political identity may engage with a national heritage as a matter of prudence in ensuring that theory retains relevance to actual politics. This, however, does not mean that we should go so far as to justify its presence, promotion and extension to minority groups. I believe that the difference between accepting a dominant nationality out of pragmatism and assigning this dominant nationality with ethical significance is crucial. For one, the view that I have defended does not justify an imposition of identity upon citizens. Although the liberalism outlined here and Miller's liberal nationalism can agree on the significance of a personal national identity, liberalism finds that it is precisely because a national identity matters – amongst other identities – that we cannot intervene to *inculcate* a national identity. It is one thing to accept the value of a personal national identity, and a very different thing to defend the promotion of this identity in the public sphere. As Andrew Vincent notes,

‘Nationalism is undoubtedly not going to disappear from world politics. If this is the case, then liberal nationalism is, without a shadow of doubt, the most acceptable form of nationalism. But there is a distinction to be made between pragmatic acceptance and a principled ethical acceptance of nationalism...humans are constituted by many and diverse forms of group and association. Brutal families, religious fanatics, criminal associations and large business corporations also have a constituting role. *However, although realizing it is very difficult, most of the time, to do anything but control the peripheries of such entities, we certainly would not accord them any ethical significance per se, simply because they are social entities which have a constitutive role.*²⁶⁴

²⁶³ Miller, ON, p.194.

²⁶⁴ Vincent : op cit., p.294.

Vincent highlights the distinction between liberal nationalism and the view that I wish to defend here. Although I accept the continued practical significance of nation states and national identity, I do not wish to assign any normative significance to national identity. Indeed, Erica Benner has queried the distinction between ‘good’ and ‘bad’ nationalism on the basis that,

‘We may choose to treat nationality as an intrinsic, unconditional value which can then be invoked to justify intolerance, repression and conflict. Or we can treat it as an undeniable social fact that sometimes supports ‘ethical’ life and sometimes undermines it, depending on the way it ties in with other facts and values.’²⁶⁵

The view endorsed here wishes to treat nationalism as a social fact. Although there may be an inherent ethical value in national identity, elevating this value onto a public or political level undermines individual freedom and respect for cultural diversity. While it is true that the public attributes of cultural heritage that I defended in the previous chapter may necessarily reflect a national identity, I do not believe that these attributes can necessarily be regarded as an imposition upon individual liberty. Accepting nationality as a social fact whilst maintaining a commitment to liberal values means that while the content of a public heritage, such as a flag, anthem, holidays, symbols etc., is likely to reflect the dominant nationality, there is no normative justification for this particular content. Indeed, liberal values – as I shall demonstrate in the next chapter – require interventions if and when the particular content of this heritage is found to place minority groups at a significant disadvantage. A commitment to liberal values therefore also *protects* individuals from the dominant of a particular public heritage and helps to sustain neutrality between groups.

Indeed, Tamir, Galston and Miller are, to different extents, all willing to compromise neutrality between conceptions of the good and individual liberty for nationalist purposes. This point is only exacerbated by the fact that liberal nationalists demand a loyalty to a national public culture because this is an important means, according to

²⁶⁵ Benner, E. (1997): ‘Nationality without Nationalism’ in Political Ideologies (2:2), p.205.

liberal nationalists, of promoting and upholding social justice and democracy. I shall discuss the implications of patriotism and loyalty building at the end of this chapter. However, as Brian Barry writes:

‘A theory that has the implication that nationalities (whether they control a state or a sub-state polity) have a fundamental right to violate liberal principles is not a liberal theory of group rights. It is an illiberal theory with a bit of liberal hand-wringing thrown in as an optional extra.’²⁶⁶

Liberal nationalism’s cultural particularism ultimately justifies a whole range of interventions in cultural heritage at the expense of individual freedom and cultural diversity. In the next section of this work therefore I turn to an attempt to remain loyal to political neutrality, as manifested in constitutional patriotism.

Constitutional Patriotism and the Neutralisation of Cultural Heritage

Part of my critique of liberal nationalism rested upon a rejection of its deep normative engagement with cultural particularity. While I believe that it is important to accept the necessary existence of some political attributes, such as a national flag, currency, language and anthem, liberal nationalism ultimately imposes and demands a particular cultural identity of its citizens and thus must ultimately be rejected on liberal grounds. Liberal nationalism’s *nationalist* arguments entail that it accords disproportionate ethical significance to a dominant national identity. Although it is necessary to accept the fact of national identity and the continued significance of nation-states, this does not mean that we ought to imbue them with normative significance. In this section, therefore, I turn to an alternative proposal for cultural heritage - one which attempts to remedy this problem by largely withdrawing cultural particularity from the public sphere: constitutional patriotism. I shall provide an outline of this approach, its understanding of political loyalty and consequences for cultural heritage. Once again, it is important to note that constitutional patriotism is fundamentally a republican doctrine. Thus, from the outset, it is of limited applicability to liberalism. Nevertheless, I believe that it is necessary to engage with constitutional patriotism, not only because it is receiving increasing attention, but

²⁶⁶ Barry, CE, p.140.

also because it is often posited as an alternative to liberal nationalism. While it similarly results in the promotion of a particular narrative, this narrative is to be articulated, instead, in the language of constitutional – and, occasionally, even universal values. However, as I shall demonstrate, examining constitutional patriotism's ramifications for cultural heritage reveals a particularism and a particular cultural heritage that lies not far beneath a language of universal rights and values. Constitutional patriotism requires substantive content, which necessarily draws upon cultural particularities. Thus, it is rendered far more 'dangerous' than the nationalism it attempts to supplant, particularly when framed in terms of universal – *i.e. neutral* – values.

In defining constitutional patriotism, I rely fundamentally upon the work of Jurgen Habermas and his proponents. Unfortunately, as Cecile Laborde notes, Habermas' general principle of constitutional patriotism has resulted in two broad approaches to the treatment of public culture: critical and neutralist.²⁶⁷ Critical attempts at constitutional patriotism have attempted to destabilise existing narratives²⁶⁸ and the 'neutral' approach to constitutional patriotism, Laborde notes that this interpretation essentially consists of '*valorising 'universalism' over particularism.*'²⁶⁹ Habermas and constitutional patriotism have also been read as entirely universalistic or cosmopolitan projects.²⁷⁰ I shall try my best to provide a more nuanced understanding of constitutional patriotism; though, this is admittedly difficult as Habermas' view has changed over the years and there are different variants of constitutional patriotism. Ultimately, however, I hope to demonstrate that despite some differences, variations of constitutional patriotism remain plagued by the same fundamental problems.

It is important to begin by acknowledging how constitutional patriotism grew out of a particular moment in Germany's history. The 'Historikerstreit' refers to a debate

²⁶⁷ Laborde, C. (2002): 'From Constitutional to Civic Patriotism' in British Journal of Political Science (32, 2002), p.595.

²⁶⁸ Ibid.

²⁶⁹ Laborde (2002): op cit., p.596.

²⁷⁰ For example, Calhoun, C. (2002): 'Imagining Solidarity' in Public Culture, (14:1) and, to some extent, Markell, P. (2000): 'Making affect safe for democracy?' in Political Theory (Vol 28 No. 1), among others

that largely took place in Germany's national papers, and primarily amongst historians, during the 1980s. The subject of this debate hinged on how Germany ought to respond to the Holocaust. It was here that Habermas first articulated what was later to become known as constitutional patriotism:

'If the traditional national symbols have lost their power for younger people, if a naive sense of identification with one's own history has given way to a more tentative way of dealing with history, if the discontinuities are felt more strongly and continuities are not celebrated at every turn, *if national pride and a collective sense of self-worth are forced through the filter of a universalist orientation of values – to the degree that these things are true we can speak of evidence for the formation of a post-conventional identity.*'²⁷¹

Furthermore, Habermas noted:

'The only patriotism that will not estrange us from the west is a constitutional patriotism. Unfortunately, it took Auschwitz to make possible to the old culture nation of the Germans binding universalist constitutional principles anchored in conviction. Those who want to drive the shame about this fact out of us...those who desire to call Germans back to conventional forms of their national identity, are destroying our only reliable foundation for our ties to the West.'²⁷²

Thus, we can see that constitutional patriotism grew out of a particular context of concerns about national identity, historical justice, and remembrance²⁷³, as well as diplomatic relations with other states. Though some have queried the applicability of constitutional patriotism beyond its particular context, as we shall see, it is an understanding of political loyalty that seems to be gaining increasing credence especially within the context of a *European* identity.

Broadly speaking, constitutional patriotism attempts to substitute 'traditional' loyalties to the state with 'constitutional' ones. It is a strategy for binding the population together with political, social and economic, as opposed to *ethnic*, values.²⁷⁴ As Patchen Markell notes, 'by grounding political integration in this way *on the very principles that also serve as the normative basis of political legitimacy in*

²⁷¹ Habermas, 'A kind of settlement of damages', in Knowlton, J. & Cates, T. (1993): Forever in the shadow of Hitler (New Jersey: Humanities Press International), p.43.

²⁷² Ibid, p.43-44.

²⁷³ Ibid, p.165 'if we cannot face our own traditions without illusion, then the remembrance of the victims will become a farce.'

²⁷⁴ Laborde, CR, p.232.

modernity, constitutional patriotism promises to bring the sustaining energy of affective identification into politics while avoiding the possibility of conflict between citizens' passionate attachments and their rationally grounded moral and political obligations.²⁷⁵ In doing so, it relies fundamentally on a distinction between 'traditional' and 'post-conventional identities.' Essentially, a 'post-conventional' identity entails an ability to step back from personal desires and from 'conventional social expectations', and critically reflect upon them. Identity thus, according to Mueller, becomes 'decentred' as individuals relativise what they want and what others expect from them in the light of wider moral considerations.²⁷⁶ Mueller quite neatly sums up the underlying thrust of constitutional patriotism when he writes that:

*'This concept does not imply that particularity has to be relentlessly purged, or that religion, tradition, 'family values', and other forms of 'conventional morality' are simply superseded; instead they are, at least partially, reinterpreted in the light of the universalist claims and perspectives that also find expression – however imperfectly – as basic civil rights and as constitutional norms more generally. In other words, citizens are asked to reflect critically upon particular traditions and group identities in the name of shared universal principles. This also means that they have reflectively to endorse – or, for that matter, reject – the particular national traditions with which they find themselves confronted. Put differently, the cold light of reason is not supposed to be a permanent glare, in which the dimly lit and warmly perceived objects of tradition appear naked and insufficient, but rather a searchlight that is employed from time to time to examine and, if necessary, clean up the complex store of ideas, styles, and normative frameworks that shape our lives not very consciously, for the most part. But we never replace everything at the same time, which is why the 'horror vision' of an entirely unattached, or, as the jargon of political philosophy has it, the 'unencumbered self' does not apply here. If we want to stick with the homey metaphors that communitarians often favour, it's a matter of good housekeeping, not philosophically prescribed homelessness.'*²⁷⁷

This quote, I believe, provides a good approximation of constitutional patriotism fundamentally as a *method* of critical reflection that is guided by universal principles. Tradition and culture are not explicitly demolished, rather, they are habitually held up for scrutiny. Mueller writes that,

²⁷⁵ Markell (2000): op cit., p.43-44, emphasis added.

²⁷⁶ Mueller (2007): Constitutional Patriotism, (Princeton University Press), p.27.

²⁷⁷ Mueller, (2007): op cit., p.28-9.

‘Rather than enshrining a *particular view of the past with sacralised rituals, interpretations of the past had to be renegotiated in an open public sphere*. The controversies surrounding, for instance, trials, the extension of statutes of limitations, films, and monuments could all contribute to a process of moral self-clarification, as long as claims about memories were subjected to shared public reason’²⁷⁸

It is important to distinguish this from cosmopolitanism: constitutional patriots are, for the most part, committed to the existence of the nation-state.²⁷⁹ Indeed, Mueller openly recognises that constitutional patriotism is a form of nationalism.²⁸⁰ However, like liberal nationalism, it is an attempt to dispel the dangers of ‘bad’, i.e. cultural, nationalism by focusing instead on constitutional or universal values. Maurizio Viroli explicitly contrasts his vision of patriotism with nationalism as follows:

‘The crucial distinction lies in the priority or the emphasis for the patriots, the primary value is the republic and the free way of life that the republic permits, for the nationalists the primary values are the spiritual and cultural unity of the people.’²⁸¹

The distinguishing feature of Viroli’s patriotism thus lies in the fact that it can act as an ‘antidote’ to nationalism by promoting particularly liberal values (as opposed to national ones) whilst being based upon shared life, language education and memories.²⁸² Furthermore, although J.S. Mill has often been read as a nationalist, Georgios Varouxakis convincingly demonstrates how Mill’s theories on nationalism situate him more firmly within constitutional patriotism.²⁸³ Like Viroli, Mueller and Habermas, Mill recognised the significance of nationality and nation-states as a fact. However, as Verouxakis adds,

‘Mill accepted nationality only as a means to other ends. But he did not attach any intrinsic value to nationality *per se* or to the preservation of national cultures. Rather, Mill’s attitude with regard to nationalism was informed by his paramount commitment to *rationality*.’²⁸⁴

²⁷⁸ Mueller: op cit., p.34, emphasis added.

²⁷⁹ Ibid., p.28.

²⁸⁰ Ibid.: op cit., p.78.

²⁸¹ Viroli (1995): *For Love of Country*, (Clarendon Press), p.2.

²⁸² Ibid., p.12, 13.

²⁸³ Varouxakis (2002): *Mill on Nationality*, (Routledge), p.19.

²⁸⁴ Ibid., p.22 – emphasis added.

Though nationalism or patriotism might appear to be at loggerheads with cosmopolitan values, Mill's position on such matters was that nationalism was a means of promoting general obligations toward humanity.²⁸⁵ Like other constitutional patriots, Mill sought to supplant unconsidered traditional beliefs about the nation with a rational patriotic identity. This 'rationalisation' of identity, advocated by so many constitutional patriots bears a striking resemblance to David Miller's understanding of public discussions over the national identity. Recall that Miller's discussions were to occur within the context of a state that endorsed democracy, social justice and relatively liberal values; and these, presumably, are the very same 'universal' values that constitutional patriots have in mind. I noted above, Miller's reluctance to consider at any great length the possibility that his public rationalisation of identity might result in a variation of constitutional patriotism. Similarly, constitutional patriots appear convinced that their version of scrutinising traditions is different to liberal nationalism.

So, what are the implications of a public rationalisation of traditional identities for cultural heritage in the case of constitutional patriotism? Habermas notes,

'Which of our traditions we want to carry on and which we do not, is decided in the public process of transmitting a culture. The disputes concerning this will flare up all the more intensely, the less we are able to rely on a triumphal national history, on the seamless normality of what has come to prevail, and the more clearly we are conscious of the ambivalence in *every* tradition.'²⁸⁶

It is possible to draw a parallel here to what Nietzsche described as critical history – which essentially consisted of attempts to counter the domineering, mythical or monumental effects of the past by continually subjecting it to scrutiny.²⁸⁷ Indeed, this approach to the past is likely to be incredibly popular with historians such as Eric Hobsbawm who has continually repudiated the appropriation of the past for purposes other than critical history.²⁸⁸ If this critical approach were adopted, it would seem

²⁸⁵ Varouxakis (2002): op cit., p.114.

²⁸⁶ Habermas (1988): 'Historical Consciousness and Post-Traditional Identity: Remarks on the Federal Republic's Orientation to the West' in *Acta Sociologica*, (Vol 31. No. 1), p.11.

²⁸⁷ Nietzsche (1997): *Untimely Meditations*, (Cambridge University Press) on 'critical history.'

²⁸⁸ See, for example Hobsbawm (2008): op cit., p.6. Hobsbawm notes '[For] *history is the raw material for nationalist or ethnic or fundamentalist ideologies, as poppies are the raw material for heroin addiction.*'

that there would be very little, if any, cultural heritage left in public spaces. This is because, as we have seen, cultural heritage is highly subjective and consists of myths and narratives that do not always correspond with historical truths. It is difficult to think of any ‘tradition’ that can stand up to critical scrutiny for traditions tend not to be followed on rational grounds. Thus a constitutionally patriotic response to traditional identities essentially justifies the removal, marginalisation and privatisation of cultural heritage. It is interesting to note, however, as a brief response to this approach to heritage, that while Nietzsche acknowledged the need for a critical element he also was careful to recognise that, ‘*if we condemn these aberrations and regard ourselves as free of them, this does not alter the fact that we originate in them.*’²⁸⁹

Despite these aims, in effect, constitutional patriotism *actually* culminates in the removal of very specific forms of cultural heritage. As Craig Calhoun notes, constitutional patriots have the tendency to equate (bad) nationalism with ethno-nationalism – i.e. an essentially *ethnic* understanding of nationhood.²⁹⁰ As a consequence, expressions of ethnic identity must necessarily be purged from the public sphere. According to Calhoun, Habermas (and by virtue of this, many constitutional patriots) rely upon an ‘overly sharp dichotomy between *inherited* (i.e. ethnic) identity and *rational* discourse’; voluntary public life is identified as entirely constitutive of the latter, thus obscuring the extent to which a public, constitutional identity may also rely upon ‘irrational’ processes of cultural creativity and communication.²⁹¹ Cecile Laborde, for instance, explicitly targets *ethnic* identity and seeks to substitute these with a ‘post-national’ loyalty.²⁹² Laborde argues,

²⁸⁹ Nietzsche: op cit., p.76

²⁹⁰ Calhoun (2002): ‘Imagining Solidarity’ in Public Culture, (14:1), p.150

²⁹¹ Calhoun (2002): op cit., p155; note similarity to Margaret Moore’s dichotomy between voluntaristic and unchosen., in Moore (2001): The Ethics of Nationalism, (Oxford University Press), p.178-9 – Moore notes, ‘I wish to disengage voluntaristic and civic. The latter conception is commonly used to denote a brand of nationalism that combines an emphasis on politics and political institutions (as manifested in the modern state) with a voluntaristic vision of community. The drawback with this widespread use of the term civic is that it conflates a particular symbolic resource (political values and institutions) and a specific mechanism of identity construction (voluntarism) into a single concept.’

²⁹² Laborde, CR, p.248.

‘The narratives of the nation must be told in a way which does not alienate or exclude minorities. Undoubtedly, national identity has an irreducibly ‘ethnic’ core and, to the extent, its ‘de-ethnicization’ should be imagined less as a fixed endpoint than as a process...instead of denying the relevance of national identity, critical republicans seek to expand the modes of national identification. They do so by fostering the progressive transformation of existing constructions of ‘we-ness’. Thus, the mainstreaming of Muslim identity in the French public sphere will detach dominant constructions of Frenchness from association with particular cultural traditions, be they secular lifestyles, particular culinary habits, or clothing styles.’²⁹³

Thus, in accordance with this argument, rather than citing certain objects as representative of a particular past, cultural heritage would simply be reconceptualised as testament to a sort of ‘universal’ genius and artistic ability of mankind; neutralising the particularism and symbolic content of heritage.²⁹⁴ Particular, ethnic heritages might remain within public spaces, but only on the condition that they can be ‘rationalised’ into a constitutional or universal framework. Indeed, this is the implication of many scholarly works on constitutional patriotism.

It is to Laborde’s credit, however, that she presents a more nuanced approach. Laborde, like many constitutional patriots²⁹⁵, explicitly targets the ethnic bias within public culture and suggests that this ought to be critically reflected upon.²⁹⁶ However, for Laborde,

‘De-ethnicisation does not mean turning a blind eye to on the pervasiveness of ethnicized norms and practices in contemporary society, or blaming

²⁹³ Laborde, CR, p.250-251, see also Mueller: op cit., p.89 on integration – cites Brubaker – not as something ‘done to them’ but something accomplished through mutual deliberative engagement – but above all with them in such a way that a reconstituted ‘we’ emerges. Integration thus understood is not normatively opposed to the value of difference or diversity, but practically meant to prevent marginalisation and ‘ghettoisation’ and therefore contrasts above all with benign neglect.’

²⁹⁴ James Clifford makes a very interesting point when he notes that since the 1900 non-western objects have been categorised either as primitive art OR ethnographic specimens. He notes, ‘*an ignorance of cultural context seems almost a precondition for artistic appreciation.*’ In Clifford, J. (2002): *The Predicament of Culture*, (Harvard: Harvard University Press), p.198 & 200, respectively

²⁹⁵ Note, however, that Laborde does not describe her approach as constitutional patriotism – rather she calls her argument critical republicanism. Nevertheless, on these particular issues, Laborde explicitly says that she is in agreement with constitutional patriotism. See, Laborde, CR, p. 247.

²⁹⁶ Laborde notes: ‘The difficulty is that the historical ethnicisation of the public sphere, as we might call it, still weighs heavily on the present, and creates often intangible obstacles to the fair incorporation of minorities...the incorporation of stigmatised ethnic groups can only take place through the de-ethnicisation of the actually existing civil sphere and the de-stigmatisation of the traits associated with minority groups.’ CR, p.233.

minorities for unreasonably stressing their ethno-cultural particularism at the expense of national citizenship. Rather, de-ethnicisation refers to *the elimination of institutional, cultural and social obstacles to the fair incorporation of minorities: the onus is on mainstream institutions radically to reform themselves in ways that promote the political and social participation of all.*²⁹⁷

This strategy for de-ethnicisation therefore entails neither the neutralisation of minority ethnic identities nor the recognition of difference, but rather the ‘mainstreaming’ of minority identities by reconceptualising the dominant perceptions of shared identity.²⁹⁸ As Laborde herself notes, this strategy renders her arguments more akin to the negative ideals of non-domination than the positive affirmation of cultural identity. In addition to endorsing an approach to culture that fundamentally aims at undermining cultural dominance within existing institutional structures, Laborde is also wary of essentialism or ‘ethnicisation’ (‘where citizens are reduced to their presumed identity, culture or religion’²⁹⁹) and critical of existing approaches, within Anglo-American liberal philosophy, that reason about multiculturalism in a way which presumes the existence of just institutions and does not question social change.³⁰⁰ The view that governments ought to pay more attention to undermining the ethnic bias in public culture, rather than promoting a diversity of minority cultures is one which was suggested in Chapter 3 and will be defended more thoroughly in Chapter 6. And, like Laborde, the view endorsed here finds that ‘benign neglect’ ultimately does not take cultural dominance both within institutions and amongst social groups seriously enough.³⁰¹ Indeed, the liberal response to cultural heritage, presented here, is sympathetic to many other aspects of Laborde’s arguments. For instance, the conception of education and critical reflection presented in this thesis agrees with the general sentiment of Laborde’s argument which ‘strongly advocates autonomy-promoting education yet denies that the actual exercise of autonomy is an ingredient of the good life.’³⁰² Laborde also adds that ‘people do not need to live autonomously to be good citizens, but they need to have

²⁹⁷ Laborde, CR, p.230. Emphasis added.

²⁹⁸ Laborde, CR, p.248.

²⁹⁹ Laborde, CR, p.17.

³⁰⁰ Laborde, CR, p.234.

³⁰¹ See Chapter 3 for my arguments on this issue. Laborde, CR, p. 246.

³⁰² Laborde, CR, p.25.

appropriate skills to combat servility and domination in public and private life.’³⁰³ While, unlike Laborde, I have defended the significance of autonomy, I have also been careful to place greater emphasis on the value of choice and the capacity to make decisions (as opposed to achieving specific, substantive ends. Thus, I am in agreement with Laborde on the value of education and of learning about strategies to respond to intolerance and domination.

However, despite these similarities (and, indeed, other similarities between the liberal view endorsed here and constitutional patriotism, more generally³⁰⁴), it is important to note that Laborde’s work, like other constitutional patriots’, ultimately fits within the framework of republicanism, not political liberalism. While there is a lot of common ground, liberalism and republicanism have fundamentally different ideas about the scope and goals of citizenship and the public sphere; though they may be in agreement on many issues, they *ultimately* differ on many topics which pertain to these fundamental differences. Thus, for instance, although sympathetic to many of Laborde’s (and, indeed, constitutional patriotism’s) underlying strategies for undermining cultural dominance, the scope and pervasiveness of a liberal public heritage is quite different to a republican public heritage. Whereas republicans generally emphasise the significance of a large public culture and its value for fostering inclusion, civic virtue and political participation, the variant of liberalism that I have endorsed here is only really interested in public culture insofar as it affects individual freedom and political stability. It is true that a sense of civic virtue develops out of a desire to sustain respect for toleration and autonomy. However, in comparison to the civic virtue of republicanism, this sense is much more minimal and limited. Furthermore, liberals generally place much more stringent limits on government, interventions and public culture. In other words, although a constitutional patriot’s response to cultural heritage may consist of similar strategies, liberal public culture and heritage will be guided by different principles.

³⁰³ Laborde, CR, p.25.

³⁰⁴ For example, both can agree on the problems with liberal nationalism.

The Problem with Constitutional Patriotism

The fundamental differences between republicanism and political liberalism account for a number of problems, from a liberal point of view, with constitutional patriotism. However, because as we have seen, constitutional patriotism is by no means a unified position, it is only possible to highlight a number of general problematic tendencies. First among these is the notion of *rationalising* identity, which is central to constitutional patriotism and inherently problematic for political liberals. Even Viroli who writes of the strength of our irrational attachment to patriotism³⁰⁵ believes that republican patriotism's love of reason will temper 'love of self...family and other relations.'³⁰⁶ In this regard, constitutional patriotism is far more demanding than even liberal nationalism, which asks for a public discussion of identity but not necessarily personal reflection. Indeed, one of the strengths of liberal nationalism is the fact that it is able to recognise that national (and other social) affiliations cannot necessarily be rationalised – even when it comes to public culture.³⁰⁷ Thus some constitutional patriots, as we have seen above, wish to harness the strength of social affiliations without really understanding their often irrational nature. The bonds of constitutional solidarity are likely to be significantly weakened when rationalised and held up to critical scrutiny. Of course, some constitutional patriots, like Mill, might be willing to accept this on the basis that rationality must triumph over national loyalty. But then one wonders whether these bonds will be able to generate the level of loyalty that constitutional patriots seem to desire – and indeed, why they would choose this 'new' identity over their own 'traditional' identities. Individuals, it seems, will not have the room to engage with their own traditional identities or cultural heritages under constitutional patriotism because they are required to critically reflect upon these beliefs in an attempt to move toward a 'post-conventional' identity. This is a view that fails to take individual liberty, privacy and cultural diversity seriously enough.

³⁰⁵ Viroli: op cit., p.8

³⁰⁶ Viroli: op cit, p.124

³⁰⁷ This issue was discussed above with reference to Miller's acknowledgement that public culture will always be biased toward a national heritage. While I accept this as a fact, unlike Miller, I am not willing to assign any normative significance to this fact.

Though she does not require that individuals reflect upon their own traditional or post-conventional identities, Cecile Laborde's vision of critical republicanism is susceptible to a similar problem. As I have noted above, Laborde's arguments are distinguished by the fact that she places greater emphasis on the rationalisation (or de-ethnicisation) of public identity, whereby institutions ought to actively undermine any ethnic (or other cultural) bias. I have expressed my sympathy toward this view as it does address a significant problem (articulated by other scholars such as Iris Marion Young and Will Kymlicka, as I shall discuss in the next chapter) about the existing bias toward certain dominant cultural norms within public culture. Yet, as outlined in Chapter 4, I am also deeply sceptical about the possibility of completely neutralising the public sphere (even Habermas, as we have seen above, accepts that constitutional patriotism is rooted in a particular history). Ultimately governments, no matter how liberal, tend to be rooted in certain cultural norms and, despite the noblest of intentions, ultimately possess a vested interest in maintaining at least some of these norms. (Indeed, scepticism of government and an awareness of self-interest lead liberals to endorse minimal government.) Furthermore, a problem in itself (that I shall mention shortly) is the fact that governments are often unaware of their own cultural particularity and the extent to which they reinforce certain cultural norms.³⁰⁸ The solution advocated here (and discussed in greater depth in Chapters 6 and 8) has been to engage with certain cultural biases by distinguishing between some instances, where the cultural bias is unjust and places individuals from marginalised cultures at a significant disadvantage (and ought to be undermined), and others, where the bias cannot be changed or is not sufficiently problematic. Though Laborde, admittedly, does not make any claims about the chances of achieving complete de-ethnicisation, the fact that she does not consider whether governments are *capable* of reflecting upon ethnic biases (despite her own critique of ideal theory as presuming the justness of institutions), is problematic. Laborde's own critique of ideal liberal theory can thus be levelled against her own arguments: she fundamentally presumes ideal just conditions and a lack of vested self-interest within governments. The goal of neutralising, de-ethnicising or post-conventionalising

³⁰⁸ Phillips, MWC, See below.

identity is problematic on a personal and political level because it fundamentally misunderstands the rooted, often irrational nature of identity.

By advocating a shift towards a post-conventional identity, a second problem with some conceptions of constitutional patriotism is that they effectively create a distinction between ‘us’ as having achieved a post-conventional identity, guided by universalism, and ‘them’ as stuck in their traditional – read ‘ethnic’ – ways of living. This is a variation of Calhoun’s description of certain critiques of nationalism, discussed earlier, which view national identity as something that ‘smart people’ should readily be able to move away from, while individuals that choose to follow certain traditional practices are viewed as backward or somehow ‘less evolved.’ The post-conventional identity suggests a similar distinction.

Thirdly, as Anne Phillips has noted, there is a tendency on the part of dominant cultures not to conceive of themselves as possessing a culture. ‘Culture,’ Phillips writes, ‘remains relatively invisible to those in the hegemonic position, who may readily acknowledge the influence of class or gender on their attitudes and behaviour, yet rarely cite culture as explaining why they think or act the way they do.’³⁰⁹ Thus, citing Hollinger’s post-ethnic America, Phillips writes: ‘the historical practices through which both cosmopolitanism and universalism have been articulated often enact the very parochialism they decry.’³¹⁰ This is likely to compound the above problem on the distinction between traditional and post-conventional identities. Indeed, it is minority groups who are likely to be stigmatised for not being able to move toward a post-conventional identity, fostering balkanisation and increased tensions amongst groups. A constitution, it must be remembered, can never be completely disassociated from the historical context in which its principles arose. Blind to this particularism, constitutional patriots run the risk of seeking to ‘rationalise’ all other cultural and ethnic identities that deviate from this supposedly neutral identity – masking cultural particularity with a supposedly universal rhetoric. Constitutional patriotism is thus rendered inherently more dangerous than the ‘bad’ ethno/cultural-nationalism it attempts to supplant as it tries to neutralise ethnic (i.e.

³⁰⁹ Phillips, MWC, p.63

³¹⁰ Phillips, MWC p.70.

minority) heritages, whilst placing emphasis, instead, on a constitutional heritage that is quite possibly just as (ethnically) particularistic as the identities that it wishes to supplant.

Indeed, constitutional patriotism is far more particularist than many of its proponents are willing to admit. Viroli, for example, accepts the particularity of the patriotism that he endorses but argues that this particularity is not exclusionary because it is based upon specific values about liberty.³¹¹ The cultural particularities of this view are revealed when Viroli outlines that these constitutional values are rooted in life, language, education and particular memories.³¹² Indeed, as Patchen Markell notes, the universalism of constitutional patriotism both *depends upon* and is *threatened by* the particularities that enable it to become the object of passionate identification.³¹³ Citing the work of John Schaar, Margaret Canovan notes,

‘The patriot, in other words, is not dedicated to defend the liberty of just anyone’, but specifically of his compatriots. The limitations of loyalty to a particular political community cannot be transcended by interpreting that community as the carrier of universal principles, which are the true focus of the patriot’s loyalty. Patriotism demands loyalty to a *patria*.’³¹⁴

By this logic constitutional patriotism is really an extreme form of *civic nationalism*. While it attempts to construct an identity and foster political loyalty on a fundamentally *political* basis, it ultimately relies upon a particular base and concept of community – such communities, as Margaret Canovan has argued, look suspiciously like *national* communities.³¹⁵ While constitutional patriotism is gaining leverage within political theory, it is doubtful whether many of its proponents would be comfortable with the notion that they are effectively endorsing a radical account of nationalism. Many constitutional patriots are very keen to distinguish their views from ‘bad’ nationalism – and yet it appears that this is largely an issue of semantics. This should not, however, come as a surprise to scholars of nationalism – for constitutional patriotism displays all the necessary features of a nationalist ideology

³¹¹ Viroli: op cit., p.12, 15.

³¹² Viroli: op cit., p.12, 13.

³¹³ Markell (2000): op cit., p.40.

³¹⁴ Canovan (1998): op cit., p.89.

³¹⁵ Canovan (1998): op cit.

(outlined above).³¹⁶ Furthermore, as early as 1981, when describing the ‘ethnic revival’, Anthony Smith noted,

‘Modern ethnic nationalisms have had to ground their aspirations in an overall critical discourse, *appealing to general principles like popular sovereignty, inalienable rights and cultural diversity*. They have had to become reflexive and make use of universal notions of ‘liberty’, ‘spirit’, ‘nature’ and ‘history’, which are applicable to many ethnic communities and to different strata of the population.’³¹⁷

Thus in masking a variation of civic nationalism behind a façade of universal rights and obligations, constitutional patriotism is not merely deceptive, it also fails in its ‘aims’ of superseding particularism. Constitutional patriotism thus simply asks too much of us. Unlike Miller’s liberal nationalism, however, many constitutional patriots fail to take seriously the extent to which individuals derive meaning from ‘irrational’ and uncritical affiliations to culture and conceptions of the good. Most worryingly of all, as Halikiopoulou and Vasilopoulou note, the recent success and growing acceptability of far right parties and particularly the British National Party in the UK, can in part be attributed to the fact that these parties are increasingly turning away from racial discourses and, instead, adopting ‘civic’ nationalist narratives – such as the language of rights and freedoms³¹⁸ – and, in doing so, make it increasingly difficult to distinguish between genuine and exclusionary freedoms.

Patriotism and Liberal Theory

In this chapter I have sought to highlight the weaknesses of liberal nationalism and constitutional patriotism by examining their ramifications for cultural heritage. Both seek to inculcate a particular public identity in order to foster loyalty toward broadly liberal values. Yet, as I have argued in Chapter 4, they have good reason to; many contemporary theorists remain blind to the necessity of shared values. I have argued, in the previous chapter, that although this idea may be unappealing to some liberals

³¹⁶ Recall, John Breuilly’s 4 points on a nationalist ideology, mentioned in the previous chapter. See Breuilly: *op cit.*, p.344.

³¹⁷ Smith (1981): *op cit.*, p.xiii.

³¹⁸ Halikiopoulou, D. and Vasilopoulou, S. (2010): ‘Toward a ‘civic’ narrative: British National Identity and the Transformation of the British National Party.’ in The Political Quarterly (Vol. 81, No. 4).

on the basis that it, minimally, requires an extremely thin shared conception of solidarity, a liberal public culture can help to sustain respect for individual liberty, tolerance, diversity and other liberal values. For liberal nationalists, this public identity is largely based upon the cultural experiences of the dominant nationality. For constitutional patriots, this is based upon civic values that are believed to have universal significance. With this in mind, it might be argued that the view that I have put forth – of a necessary public heritage, which remains biased toward the cultural experiences of the dominant group, whilst maintaining a commitment to upholding liberal values of respect for individual liberty and toleration – bears a striking similarity to a combination of these two positions. Indeed, I have also gone so far as to argue in the previous chapter that a pragmatic defence of a public heritage can be made on the basis that it can be used to sustain liberal values and promote a degree of social solidarity. Does this necessarily situate my work within broadly liberal attempts to justify the inculcation of political loyalty? I do not believe that it does, and so it is worth briefly clarifying the relationship between public heritage, liberalism and the inculcation of political loyalty.

Liberalism's historical genesis and emphasis on neutrality in the face of competing conceptions of the good must render it necessarily sceptical toward attempts to inculcate loyalty to particular forms of the good – even liberal ones. A public culture – no matter how 'liberal' – is ultimately a means of inculcating loyalty by 'flagging' the legitimacy of the government's dominance in certain attributes such as national symbols, flags, ceremonies etc. Liberal nationalists and constitutional patriots both outline the significance of a strong public culture in order to promote loyalty toward certain values but, in doing so, this public culture also promotes the legitimacy of the state. Writing on civic education, however, Harry Brighouse points out that such efforts – which extend to histories, national holidays and practices – seriously undermine the legitimacy of the state by conditioning support for policy and institutions.³¹⁹ Such implicit and explicit attempts to garner political loyalty necessarily undermine the liberal state's commitment to political neutrality. Of course, some might be willing to argue that the liberal state remains agnostic toward

³¹⁹ Brighouse, H. (1998): Civic Education and Liberal Legitimacy, in *Ethics*, (108:4), p.727.

all conceptions of the good with the exception of liberal conceptions of the good, which it actively promotes, but this is not a view that I wish to endorse here. Indeed, if we wish to take political neutrality seriously, then the liberal state cannot provide a normative justification for its engagement in these sorts of loyalty building practices. Indeed, it is important to acknowledge (as I have above) that supposedly ‘neutral’ values can in fact mask very particular policies; liberalism that is implemented in specific contexts can be influenced by historical circumstances and take on the indigenous cultural characteristics of that particular context.

This does not mean that all attempts by the liberal state to maintain cultural neutrality are in vain. Nor does this mean that we should give up on neutrality altogether (and simply focus on promoting a liberal conception of the good). Rather, it does suggest why liberal states should not be in the business of intentionally inculcating loyalty to political institutions. Attempts to foster political loyalty – even to the liberal state – represent incursions on neutrality and seriously undermine the legitimacy of the liberal state. Yet, I have argued in the previous chapter that a public culture can foster a sense of solidarity that is an important means of maintaining peace and stability. This is not explicitly patriotism, but it does arguably raise questions about political neutrality and the extent to which the state fosters loyalty. Nevertheless a number of strategies underlie a liberal public culture that can help to distinguish it from the loyalty-fostering public cultures of liberal nationalism and constitutional patriotism. I have argued in previous chapters that any intervention in cultural heritage must ultimately be for the purposes of upholding liberal values.

Yet, how is this different from the public culture of constitutional patriotism and liberal nationalism that is equally geared toward the promotion of broadly liberal values? One crucial means of undermining the potential problems for legitimacy and neutrality and the coercive nature of a public culture, as Brighouse has suggested, is to ensure that it is infused with a healthy degree of scepticism.³²⁰ In practice, this entails teaching critical reflection in civics classes, and emphasising a diversity of approaches to the good life, among other measures (this point will be discussed in

³²⁰ This is a general argument made by Brighouse: *op cit.*

greater depth in the final chapter). But it also entails concerted efforts to ensure that public heritage does not unduly reinforce the dominance of certain groups, whilst ensuring that any particular public heritage does not come at too great a cost to national minorities. So, while the state's response to cultural heritage is largely one of maintaining individual liberty and toleration (both through intervention and non-intervention), it is important that the liberal state's interventions on public heritage also include measures that serve to highlight the complexities of a diversity of cultural narratives.

Yet, it still might be argued that constitutional patriotism and liberal nationalism (to lesser extent) also advocate critical reflection. Reflection within the liberal state is at once both more and less demanding than both of these views. Unlike constitutional patriotism and liberal nationalism, scepticism within the liberal state extends to the government (and constitution) itself. This is more demanding than both views because liberal nationalism's enchantment with national identity renders it ultimately unwilling to query the cultural dominance of national identity, and constitutional patriotism similarly seeks to inculcate loyalty to the constitution. Yet, this view is also less demanding than both constitutional patriotism and liberal nationalism because, as mentioned above, it does not attach great significance to political participation and civic virtue. Public heritage is thus kept relatively small, such that it does not unduly impose upon individual freedom to engage with cultural heritage and reflect a desire to inculcate political loyalty.

Conclusion

In the previous chapter I outlined the necessary existence of certain attributes of cultural heritage that are likely to reflect the experiences of a dominant nationality. In this chapter I sought to explore the ramifications of this argument through an examination of two different responses to a public national or civic culture, liberal nationalism and constitutional patriotism. This examination helped to highlight the dangers and limits of a national heritage.

In recognising the personal significance of national identity, liberal nationalists fail to understand how this personal affiliation can be undermined when articulated on a political level. Though liberal nationalists work within a framework of reasonable pluralism, they fail to take affiliations that dissent from the dominant national identity seriously. Yet, I was even more sceptical about the consequences of constitutional patriotism. Fundamentally a method for filtering out undesirable ‘traditional’ affections, constitutional patriotism demands that we critically reconsider our most basic affiliations as a necessary condition of ‘post-conventional’ society. This is a far more demanding position than liberal nationalism which attempts to justify its radical position on universal values. Under a thin layer of universalism, however, lies a deep particularism. Constitutional patriotism is thus far more dangerous than liberal nationalism because, although it is framed in the language of universalism, it ultimately rests upon a radical form of civic nationalism.

Despite this, I remained somewhat sympathetic to the underlying premise of liberal nationalism. Indeed, it is absolutely crucial to recognise the continued significance of national identity and contemporary nation-states in order for a political theory to have bearing on the reality of political identity. However, although the attributes of public heritage defended in this work are frequently and predominantly representative of a national identity, in contrast to liberal nationalists such as David Miller and Will Kymlicka (as we shall see in the next chapter), I am keen not to assign any particular normative value to nationality. Public heritage is likely to reflect the experiences of a dominant nationality simply because contemporary states continue to remain largely structured around (dominant) nations – and not because there is anything of particular value about nationality. The arguments that I have used to support the existence of a national heritage have not drawn upon any intrinsic value of nationality and thus leave room to change a public heritage should this heritage be found to disproportionately discriminate in favour of the dominant nationality. Indeed it is this point that renders the position established here as distinct from the work of liberal nationalists.

Furthermore, it is also to liberal nationalism and constitutional patriotism's credit that both of these theories acknowledge the importance of social solidarity for maintaining certain political values such as liberalism. However, I have also highlighted how such measures can undermine freedom and toleration throughout this chapter. My argument is thus a much less ambitious and an inherently more liberal response to cultural identity and social solidarity. It is less ambitious because although I did argue for the continued significance of national identity, I drew a distinction between this social phenomenon of how people continue to conceive of themselves and others, and a national identity that is imposed by the state. While nationalism, in the former sense remains significant, I am sceptical about the coherence and success of a constructed 'top-down' national identity. I do not defend a strong cultural heritage partly because I do not believe that any use (never mind positive use) can come from it. Although public (national) heritage remains a feature of contemporary nation states and can be further justified, pragmatically, on the basis that it can help to sustain respect for liberal values, governments must take care that these attributes are kept to a minimum and explained with sufficient nuance and respect for a diversity of cultures and historical experiences. Whether there is a need to include alternative forms of cultural heritage in public places – by way of reconceptualising existing symbols, or by actively creating opportunities for the heritages of marginalised groups – is an issue that will be addressed in the subsequent chapter.

Chapter 6

Are a Diversity of Cultural Heritages a Public Good?

In Chapter 3, I outlined a liberal response to cultural heritage that aims to provide individuals with the greatest freedom possible to engage (or not engage) with their cultural heritage. For the most part this requires abstaining from interventions on cultural heritage – even when governments deem the cultural practices of certain groups abhorrent or unethical. The exception to this, I asserted, is when interventions are intended either to 1) uphold toleration by undermining restrictions to cultural heritage, or 2) sustain individual autonomy and decision making powers over cultural heritage. In the previous two chapters I outlined the necessity and limits of a public cultural heritage. I also demonstrated how the attributes of a public cultural heritage are likely to reflect the experiences of a dominant national group. My argument in defence of the presence of such attributes is not a specifically liberal argument; all contemporary nation-states will possess a certain ‘standard’ of cultural heritage. I have also acknowledged that some cultural heritage can also be regarded as a public good for promoting unity and liberal values - and so, while a bias in public culture represents a deviation from ideal liberal theory, I have attempted to demonstrate how this public heritage could nevertheless be regarded as means to defending liberalism.

The liberal response put forth in this thesis therefore only allows interventions in cultural heritage when they can be said to uphold liberal values.

In this chapter, I explore and evaluate the argument outlined thus far by considering alternative approaches to cultural heritage, which entail the promotion and public recognition of a diversity of cultural heritages, exemptions from certain laws for cultural groups, and group rights, to see whether these too might reasonably be regarded as heritage strategies that ‘defend’ liberal values. In doing so, I shall address two fundamental questions: firstly, what are the ramifications of a public (national) heritage on liberal neutrality; and secondly, whether cultural heritage – both of minority and dominant groups – should be regarded as public goods as well, and hence promoted within public spaces. As in the previous chapters, my intent here is to examine the implications of general principles – I shall discuss the treatment of specific forms of cultural heritage in the final chapter.

This chapter therefore begins by examining how the presence of institutionalised attributes of cultural heritage can undermine the neutrality of the state. I shall draw primarily upon the work of Iris Marion Young and Will Kymlicka here; both provide very convincing arguments that undermine the liberal state’s claims to neutrality. Examining the ramifications for the public presence of cultural heritage, I believe, lends further credence to their arguments. The *de facto* non-neutrality of public heritage poses a problem for a liberal theory which seeks to avoid promoting any particular conception of the good life, and framing this in terms of ‘historical contingency’ (i.e. not something that we can do anything about) seems largely disingenuous. In seeking to resolve this problem, I turn to discuss the viability of promoting a broad spectrum of cultural heritages in the public sphere.

As discussed in my second chapter, heritage is increasingly being perceived as threatened by destruction, development and global tourism. Furthermore, as we have seen, the free market and vending of global cultural goods also distorts and essentializes the cultural heritage of marginalised groups. Consequently, the notion of promoting (and preserving) a variety of cultural heritages for the purposes of

promoting diversity has garnered a great deal of support in the heritage literature over the past few years. It is therefore important to consider the role of the liberal state in responding to a diversity of cultural heritages. The question of whether a *diversity* of cultural heritages constitutes a public good (and therefore should be promoted) has been explicitly asserted as a matter of cultural survival, but it is also a largely a question about the politics of recognition (i.e. of a symbolic nature), which can further manifest itself in the allotment of special group rights. In this chapter I consider, and reject, all three of these suggestions.

Cultural heritage possesses instrumental value for cultural groups – to describe objects as possessing their own intrinsic value has the consequence of alienating a heritage from individuals and cultures, thus undermining its normative significance. Asserting that we can preserve a ‘culture’ (and hence diversity) by promoting its cultural heritage is therefore as problematic as claiming that the normative significance of a culture is merely the sum of its cultural heritage and practices: unless a culture is defined and held together solely by a specific practice or object, the preservation of this practice or object is unlikely to secure the survival of a cultural group, never mind about cultural diversity. Furthermore, in this chapter, I also query the extent to which cultural survival and the promotion of diversity should be the business of liberal (as opposed to conservative) states – i.e. cultural survival and diversity cannot be considered public goods as this impedes the creation and development of novel and equally valuable identities and practices.

The above indicates how the promotion of cultural heritage is a highly symbolic matter, whereby governments can indicate their recognition of group difference by promoting and preserving certain forms of cultural heritage. This would essentially entail reconceptualising cultural heritage as a political resource for the politics of recognition. Yet although we cannot alienate heritage from its particular culture, it is important not to assume that a cultural group can be adequately represented (and recognised) through the elevation of one particular aspect of its cultural heritage. There is, however, a distinct possibility that the recognition of a broad variety of cultural heritages may prove to be a double edged sword, leading to essentialization

of group identities. Treating cultural heritage as a public good in this regard may be largely self-defeating.

Finally, I address the question of cultural exemptions from laws. While it is intuitively appealing to take all contextual information (including cultural affiliation) into consideration when drawing up laws or making judgements in law courts, I demonstrate how cultural defences and exemptions commit the fallacy of groupism by assuming the stability and equal acceptance of group norms.

Promoting a diversity of heritages seems a rather difficult and dubious response to the manner in which public symbols and attributes necessarily undermine cultural neutrality. The chapter therefore rejects the view that liberal states ought to promote a diversity of cultural heritages for the public good, and draws to a close by elaborating upon the liberal response to cultural heritage first outlined in Chapter 3. A much simpler and infinitely more liberal alternative to the positions considered in this chapter is to reduce the extent to which certain heritages come to achieve dominance in the public landscape; by undermining significant instances of cultural bias and maintaining only a minimal level of cultural attributes, negating the need to promote a diversity of heritages (in order to combat oppression) and allowing individuals to pursue their own conceptions of the good. This is perhaps best described as a remedial account of non-intervention in the sense that while the state does not actively promote a diversity of cultural heritages as a public good, it still makes occasional and exceptional efforts to level out public culture. Although cultural heritage threatens cultural neutrality, political neutrality for the most part remains intact.

Dominant National Heritages and the Myth of Neutrality

In the previous chapter I outlined the necessity of certain public attributes of cultural heritage. Such attributes included an official language(s), symbols and icons on currency, public buildings and so forth, a national flag, a national anthem, as well as public holidays. These attributes, I also pointed out, frequently reflect the existence

and experiences of a dominant national identity. My argument was largely pragmatic: I did not attempt to defend the presence of a dominant nationality in public attributes of cultural heritage because I do not believe that a normative, liberal justification of *national* identity is possible. The content of a public heritage could just as easily reflect a religious or class dominance. My point, however, was to highlight the context within which a liberal response to cultural heritage must necessarily operate. Nation-states remain the dominant political structures and concentrations of power within the current international system and this is why it is necessary to engage with national identity. Indeed, in Chapter 4 and 5, I remained sceptical about the success of institutionalising cultural heritage as a means to fostering national or political loyalty and also rejected (broadly) liberal attempts to justify such practices. In this chapter I shall attempt to sharpen the parameters of a liberal response to cultural heritage by considering the role of minority heritages in public spaces. Crucially, I shall consider whether it is the duty of the liberal state to redress the ‘balance’ of public symbols by actively promoting the experiences of marginalised groups through cultural heritage. This, it must be remembered, is the prevalent position both within the heritage literature and of UNESCO.

This section, therefore, examines the ramifications of a public heritage – that necessarily reflects the experiences of dominant groups - on the liberal state (one which within this work, it must be remembered, is defined by neutrality between different conceptions of the good). If it can be established that this presence constitutes an injustice, there would appear to be a very strong case for considering the rectification of this imbalance through the promotion of ‘minority’ heritages. Indeed, I shall demonstrate that the dominance of certain forms of cultural heritage lends credence to arguments put forth both by Iris Marion Young and Will Kymlicka about the ‘myth’ of the neutral state. Yet, while the study of cultural heritage adds additional force to arguments about neutrality, it simultaneously undermines the validity of further claims that this particular form of ‘cultural dominance’ constitutes injustice. Thus, while I reject the view that the presence of liberal attributes of a public national heritage constitutes an injustice, this nevertheless poses a problem for ideal liberal political theory.

Will Kymlicka and Societal Cultures

It would appear that the presence of certain national attributes of cultural heritage, no matter how minimal, attests to increasingly prevalent claims that liberalism, despite what it may profess, is not and cannot be neutral. As Will Kymlicka notes:

‘A multination state which accords universal individual rights to all its citizens, regardless of group membership, may appear to be ‘neutral’ between the various national groups. But in fact it can (and often does) *systematically privilege the majority nation in certain fundamental ways* – for example, the drawing of internal boundaries; the language of schools, courts, and government services; the choice of public holidays; and the division of legislative power between central and local governments. *All of these decisions can dramatically reduce the political power and cultural viability of a national minority, while enhancing that of the majority culture.*’³²¹

Kymlicka uses this critique of neutrality to explicitly target a variation of liberalism which he describes as ‘benign neglect’ – a position which can be traced back to the liberalism of John Stuart Mill³²² - and which Kymlicka believes is simply ‘incoherent’, reflecting ‘a shallow understanding of the relationship between states and nations.’³²³ According to Kymlicka, proponents of this view,

‘may argue that cultures do not need state assistance to survive. *If a societal culture is worth saving, [they] argue, the members of the culture will sustain it through their own choices. If the culture is decaying, it must be because some people no longer find it worthy of their allegiance.* The state on this view should not interfere with the cultural marketplace – it should neither promote nor inhibit the maintenance of any particular culture...’³²⁴

Yet for Kymlicka, and indeed as we have seen in the preceding chapters, governments will inevitably make certain decisions regarding official languages,

³²¹ Kymlicka, MC, p.51-2, emphasis added.

³²² “It would be a great misunderstanding of this doctrine to suppose that it is one of selfish indifference, which pretends that human beings have no business with each other’s conduct in life...Instead of any diminution, there is need of a great increase of disinterested exertion to promote the good of others. But disinterested benevolence can find other instruments to persuade people to their good than whips and scourges, either of the literal or metaphysical sort...Human beings owe to each other help to distinguish the better from the worse.” Mill, JS. (1996): ‘On Liberty’, in Utilitarianism, On Liberty, Considerations on Representative Government, (Orion Publishing Group, London), p.144).

³²³ Kymlicka, MC, p.113, emphasis added.

³²⁴ Kymlicka, MC, p.107-108.

state symbols, public holidays etc that lend support to particular nationalities.³²⁵ While Kymlicka does not find the existence of certain prevailing forms of public cultural heritage³²⁶ regrettable, it is clear to him that the ideal of ‘benign neglect’ is infeasible. Kymlicka therefore proposes to ‘save’ liberalism, amongst other means, by ensuring that the state similarly attempts to support the language, culture and identity of minority groups.³²⁷ A liberal response to cultural heritage for Will Kymlicka entails the promotion of minority heritages to rectify the imbalance in national public culture.

Taking a closer look at Kymlicka’s theory, however, reveals that he only has rather particular groups in mind when addressing this imbalance; namely, what he terms ‘societal cultures.’ Kymlicka defines societal culture as:

‘a culture which provides its members with meaningful ways of life across the full range of human activities, including social, educational, religious, recreational, and economic life, encompassing both public and private spheres. *These cultures tend to be territorially concentrated, and based on a shared language.* I have called these ‘societal cultures’ to emphasize that they involve not just shared memories or values, but also common institutions and practices’³²⁸

According to Kymlicka, societal cultures play a crucial role because, ‘freedom involves making choices amongst various options, and our societal culture not only provides these options, but also makes them meaningful to us.’³²⁹ As such, ‘the choice to leave one’s culture can be seen as analogous to the choice to take a vow of perpetual poverty and enter a religious order.’³³⁰ Kymlicka, in fact, explicitly draws upon the work of Ronald Dworkin in elaborating upon the significance of a societal culture, he notes furthermore that:

‘To understand the meaning of a shared practice, therefore, requires understanding this ‘shared vocabulary’ – that is, understanding the language and history which constitute that vocabulary. *Whether or not a course of action has*

³²⁵ Ibid, and p.108, 111: Note that Kymlicka uses the term ‘societal cultures’ here – which, as we shall see, are essentially the same as nations.

³²⁶ Note that he does not use this term explicitly.

³²⁷ Kymlicka, MC, p.115.

³²⁸ Kymlicka, MC, p.76.

³²⁹ Ibid., p.83.

³³⁰ Kymlicka, MC, p.86 – emphasis added.

*any significance for us depends on whether, and how, our language renders vivid to us the point of that activity. And the way in which language renders vivid these activities is shaped by our history, our 'traditions and conventions'. Understanding these cultural narratives is a precondition of making intelligent judgements about how to lead our lives. In this sense, our culture not only provides options, it also 'provides the spectacles through which we identify experiences as valuable'*³³¹

From this, and indeed as Kymlicka himself explicitly notes, it is clear that a societal culture is almost necessarily a *national* one. It is national affiliations which, according to Kymlicka, bear the greatest significance on our identity – and thus, it is national identities that require protection.

It is important to note that Kymlicka regards societal cultures as coherent, more or less mutually exclusive and central to an individual's conception of the good. Indeed, Kymlicka's 'groupism' renders him a liberal nationalist in much the same vein as David Miller, whose work was discussed in the previous chapter, who also found that our membership within a national largely provides us with the source for understanding particular ways of living. Like Miller, Kymlicka essentially relies upon an *ethnic* understanding of nations with an emphasis on language, history and inheritance (as opposed to *civic* nationalism which places greater emphasis on things like citizenship, law and values) And, like Miller, Kymlicka also relies upon essentially *nationalist* arguments to provide a defence for according national groups with political autonomy. But while Miller is at least able to point to virtues of democracy and social justice in order to support the value of a national identity, Kymlicka's defence of national identity largely relies upon the assumption that it is more significant than any other group identity and thus the liberal value of autonomy is best protected through a promotion of national identity. An assumption which, upon closer scrutiny, seems largely suspect. As Tariq Modood notes,

'This bias in Kymlicka [towards national minorities] is not good liberalism, but even if it is not inconsistent with historical liberalism which we saw has been a movement of escape from religious oppression and conflict in favour of a (unified/hegemonic) national or public culture, it puts religious groups and especially Muslims *outside* multiculturalism as a civic or policy idea.'³³²

³³¹Ibid, p.83 citing Dworkin (1985: p.228). Emphasis added.

³³²Modood: op cit., p.29.

Modood further views Kymlicka's dichotomy between national minorities and ethnic groups as failing to capture the reality of immigration and immigrants.³³³ It is as though we inherit a societal culture (nationalism/ethnocentrism) and then need to choose it (liberalism). As Brian Barry notes, this is nationalism with a little bit of liberalism on the side; Kymlicka is 'spellbound by sub-state nationalities.'³³⁴

I hope that this brief discussion of Will Kymlicka's 'societal cultures' has helped to undermine the significance of *national* identity as an identity that is to trump all other affiliations, and highlight the importance of remaining sceptical of characterisations of cultural groups that treat them as more-or-less mutually exclusive and responsible for all of our decisions. Although Kymlicka makes some valid points regarding the problems that public culture poses for liberal neutrality, his undue emphasis on national identity is a key weakness.³³⁵ Indeed setting such *nationalist* arguments to one side, there is no reason why a national identity has greater significance than other cultural identities. This particular bias has distinct consequences for Kymlicka's theory of multiculturalism as I shall demonstrate in a later section. Let us turn therefore to Iris Marion Young to see how she engages with culture within the neutral state.

Iris Marion Young and the Politics of Difference

Iris Marion Young makes a similar criticism of liberal neutrality that is equally vindicated by the public presence of a national heritage. In *Justice and the Politics of Difference* Young attempts to undermine liberalism, and particularly its false neutrality, and puts in its place a politics of difference. Young outlines five faces of oppression and one of these, 'cultural imperialism', is defined as follows:

'to experience cultural imperialism means to experience how the dominant meanings of society render the particular perspective of one's own group invisible at the same time as they stereotype one's group and mark it out as

³³³ Modood: op cit., p.34.

³³⁴ Barry, CE, p.137.

³³⁵ Note that while I have accepted the potential dominance of national groups, in the previous chapter I was careful to stress that this particular dominance could not be normatively justified.

the Other...cultural imperialism involves *the universalization of a dominant group's experience and culture, and its establishment as the norm... the culturally dominated undergo a paradoxical oppression, in that they are both marked out by stereotypes and at the same time rendered invisible....*these stereotypes so permeate the society that they are not noticed as contestable. Just as everyone knows that the earth goes around the sun, so everyone knows that gay people are promiscuous, that Indians are alcoholics, and that women are good with children. White males, on the other hand, insofar as they escape group marking, can be individuals.³³⁶

While it is clear that Kymlicka is necessarily referring to the existence of a dominant nationality, the identity of Young's 'dominant group' is more ambiguous and this is to her credit because, for Young, dominance can encompass nationality and ethnicity as well as religion, class, gender and all manner of other affiliations. It is important to note that, although I have stressed the dominance of national identity, I have attempted to support this with evidence and have been careful not to draw any necessary connection between a particular national identity (vs. religious, ethnic etc) and the state. I have argued that a public heritage is likely to reflect a national identity because of existing political structures. On the other hand, Kymlicka's deep engagement with national minorities (which he refers to as societal cultures) renders him unable to grasp the equal significance of other cultural affiliations. Indeed, Young's conception of culture is far more flexible and is defined as follows: 'culture simply refers to *specific meanings* that people use and understand when they interact...on this meaning of culture, however, there is no reason to refer to a culture as a single substantial entity, with coherent bounded limits that unify it and distinguish it entirely from other similarly substantial cultures outside it.'³³⁷

The injustice of cultural imperialism, for Young, takes root in the fact that under the guise of neutrality, the dominant group is able to naturalise its cultural experiences; marginalising and suppressing the experiences of marginalised groups.³³⁸ Neutrality and impartiality, according to Young, are therefore not only impossible but also

³³⁶ Young, JPD, p.58-9, emphasis added.

³³⁷ Ibid., p.374 – emphasis added.

³³⁸ Young, JPD, see p.164 'the privileged groups implicitly define the standards according to which all will be measured. Because they don't recognise the extent to which 'neutrality' reflects privileged groups.'; p165 'the deal of universal humanity without group difference allows privileged groups to ignore group specificity – thus neutrality reflects the experience of the dominant group.'

possess ‘adverse ideological consequences’³³⁹ because they require the assimilation of marginalised groups into the dominant culture. Young’s critique and subsequent remedy, however, are far more radical than Kymlicka’s. Whereas Kymlicka does not explicitly frame cultural bias in terms of injustices³⁴⁰, Young does. Furthermore, Kymlicka’s affection for national identity ensures that he is only willing to promote the experiences of national minorities, whereas ‘ethnic’ immigrants are largely required to assimilate. Young therefore advocates a politics of difference which is aimed at, ‘creating affirmative expression for denigrated groups, becoming self-conscious about and reforming some bodily habits of interaction, and so on...civil society is the primary site of efforts to change habits, meanings and forms of expression...’³⁴¹ Subsequently, Young’s solution – as a matter of justice - therefore is to create a public and political space for all manner of differences.³⁴²

The Problem with Neutrality

Both Will Kymlicka and Iris Marion Young problematise the existing bias in public culture for different reasons and to different ends. It is possible to apply their critiques of liberal neutrality to the existence of a public national heritage. Indeed, the necessary presence of objects and practices which largely reflect the experiences of dominant groups within society adds credence to these critiques. Does this, however, constitute an *injustice*? Should liberal states simply give up on political neutrality? Or should they be aiming to promote the experiences of all groups as well? Before I may move to consider this, it is worth briefly examining how others have responded to these charges.

Some liberals have taken issue with Young’s underlying premise that liberalism is oppressive because it forces assimilation. For instance both Brian Barry and Chandran Kukathas have argued that liberalism neither promotes *nor* rejects assimilation. Barry notes: ‘for liberals, the right amount of diversity – and the right amount of assimilation – is that which comes about as a result of free choices within

³³⁹ Young, JPD, p.112.

³⁴⁰ The underlying principle at play in Kymlicka’s work is one of ‘fairness’.

³⁴¹ Young, JPD, p.375.

³⁴² Young, JPD, p.61.

a framework of just institutions.’³⁴³ Whereas Kukathas similarly adds: liberalism ‘does not explicitly recognise the different groups of which individuals might be members because it takes no interest in them, and does not presume to make judgements about them – and their worth or standing. Its outlook is culture-blind.’³⁴⁴ By rejecting the view that liberalism requires assimilation, both attempt to undermine Young’s charge of the oppressive nature of liberal neutrality.

Yet the extent to which public heritage undermines liberal neutrality between conceptions of the good – a value which this thesis takes as central to liberalism – is a problem that remains unresolved. Barry and Kukathas have responses to this issue too. Barry, in fact, accepts that liberalism cannot be *culturally* neutral.³⁴⁵ He notes,

‘It would seem that for liberalism – or any other doctrine for that matter – to be culturally neutral, there would have to be no existing (or possible?) world-view with which it conflicts. Since this is manifestly absurd, *the assertion that liberalism is not culturally neutral asserts something that could not conceivably be denied.*’³⁴⁶

Similarly Kukathas adds,

‘...at most it shows that claims about impartiality are *contestable*. The response here should be, not to jettison impartiality, *but to take seriously any challenge that an apparently impartial, or neutral and universal, requirement is simply a partial one in disguise...while liberalism refuses further to entrench such standards by giving them explicit recognition*, it does not purport to be able to eliminate them. *There is no solution to this problem.*’³⁴⁷

On the issue of *cultural* neutrality, both liberal theorists are willing to bite the bullet of ‘cultural neutrality’ albeit for different reasons. Barry reconciles such problems with neutrality by accepting that liberalism cannot be culturally neutral and instead asserts that ‘...the way in which liberalism is neutral is that it is *fair*.’³⁴⁸ The state is therefore neutral in terms of procedures and the equal treatment of individuals by the

³⁴³ Barry, CE, p.71.

³⁴⁴ Kukathas, LA, p.152.

³⁴⁵ Barry, CE, p.27 emphasis added.

³⁴⁶ Barry, CE, p.27 – emphasis added.

³⁴⁷ Kukathas, LA, p.156, emphasis added.

³⁴⁸ Barry, CE, p.28, emphasis added.

state. Thus, for example, all religions ought to be privatised.³⁴⁹ The law, according to Barry, treats individuals identically and thus equally.³⁵⁰ Because Brian Barry is a liberal egalitarian, he is able to reconcile the problem with cultural neutrality by placing greater emphasis on equality instead.

Kukathas, on the other hand, is willing to accept this bias within public culture on the basis that for him, there is simply no principled response to this issue. Regarding the ramifications of Young's critique of neutrality, Kukathas notes:

‘The fact that, in the absence of any deliberate decision to support one culture or another, one culture dominates, or some language is used is in no way an ‘embarrassment’ for the ‘benign neglect’ view...*the benign neglect view is characterised not by a failure to realise that neglect will have consequences, but rather by a willingness to accept the consequences of neglect. This position may be controversial; but it is not incoherent.*’³⁵¹

It may be possible to make certain changes to public symbols and heritage according to Kukathas; however, liberalism itself does not offer a particular answer to this issue. Much like Barry, Kukathas notes that in accordance with the ‘spirit’ of neutrality, we do ‘follow particular traditions of procedure’ and that the law does ‘recognise certain days as holidays’ – but this does not alter the character of the state as neutral as this does not constitute the pursuit of particular ends.³⁵² This is what Will Kymlicka means by ‘benign neglect’ – except the benevolence of this position is thrown into doubt when Kukathas argues that:

‘...when decisions have to be made about such matters, it may be better to *present these things as the result of accident and history, not policy and justice.* This may be best because it does not suggest that the status quo is fair; and also leaves open the possibility of change.’³⁵³

Kukathas is somewhat misleading here. The existence of symbols and attributes, public holidays and official languages are not always the outcome of ‘accidents’ as

³⁴⁹ Barry, CE, p.30.

³⁵⁰ Barry, CE, p.34.

³⁵¹ Kukathas, LA, p.237.

³⁵² Kukathas (1998), ‘Liberalism and Multiculturalism: The Politics of Indifference’, in Political Theory, (26:5), p.696.

³⁵³ Kukathas, LA, p.245-6 emphasis added.

we have seen and it is unclear what Kukathas means by ‘history.’ Governments – liberal and otherwise – necessarily explicitly recognise certain cultural experiences in a public heritage and very often this is the outcome of a deliberate policy. For a liberal state to present certain aspects of public culture as a result of ‘history’ seems largely to run contrary to the use of critical reason and justification (not to mention a skepticism of inheritance and tradition) which lies at the heart of liberal theory.

Along a similar vein, though Brian Barry stresses the importance of treating individuals equally through law, he also acknowledges that the law will inevitably reflect the interests of some over others. There is nothing inherently wrong with this, as Barry notes:

‘The essence of law is the protection of some interests at the expense of others when they come into conflict...the interests of women who do not want to be raped are given priority over the interests of potential rapists...[and] the interests of children in not being interfered with sexually are given priority over the interests of potential paedophiles...’³⁵⁴

Barry also accepts that legislation may also disproportionately impact upon the cultural practices of certain groups. He cites how certain provisions on the appropriate slaughter of meat impact upon Jewish and Muslim practices.³⁵⁵ However, within a genuinely liberal state it is not clear why one culture should necessarily triumph over others. Despite his egalitarian concerns, Barry does not seem to take the cultural bias within laws – and indeed, within liberal theory itself – seriously enough. Whereas Kukathas, however, does not seem to take this bias seriously at all. Indeed, in many instances the public justification that this is simply the result of ‘accident’ and ‘history’ is simply not good enough.

Some legislation and public heritage, such as a national flag or anthem, may have little bearing on cultural identity. Yet, other aspects of public culture such as official languages have great significance for everyday life within the liberal state. Thus, while it is unclear whether existing biases within public culture necessarily constitute

³⁵⁴ Barry, CE, p.34.

³⁵⁵ Barry, CE, p.35.

injustices, even the most orthodox of non-interfering liberals can agree that this raises issues for neutrality. What response these ‘issues’ require within liberal theory is a matter of debate. As Kukathas notes, it is necessary to take claims against the impartiality of neutrality seriously and the presence of a public cultural heritage clearly seems to threaten liberalism’s claim to neutrality. Barry and Kukathas believe that ‘orthodox’ liberalism – with its reliance on non-intervention and equal treatment – can withstand this challenge, and yet both of the views presented do not seem to take the harm that this can entail seriously enough. Consequently, this requires a serious consideration of alternative solutions to the problems with neutrality espoused by theorists such as Young, Kymlicka and Charles Taylor who propose promoting the culture of marginalised groups as a counterbalance to a dominant culture. As a means to responding to such alternatives, I shall have to consider whether a diversity of cultures, and cultural heritages, constitute public goods.

Are a Diversity of Cultural Heritages a Public Good?

In this section I shall consider whether a liberal state is under a moral obligation to provide resources for individuals to engage with their culture and whether a diversity of cultural heritages should be promoted in the public sphere, i.e. I shall, in part, be evaluating whether a *plurality* of cultural heritages are a public good. A public good in this sense is broadly defined as that which is deemed to be socially or politically valuable by the state, but cannot be adequately provided by the market. In what remains of this chapter, therefore, I shall lay out reasons for why it is necessary to reject the view that the liberal state ought to promote a diversity of cultural heritages. In the next chapter, when I consider the limits of non-intervention and the value of social and political solidarity, I shall assess whether cultural heritage is a public good owing to its ability to generate cohesion within the state. (Note that I already rejected arguments for the ‘goodness’ of fostering *national* loyalty in the previous chapter.)

As discussed in my second chapter, the notion of promoting (i.e. preserving) a variety of cultural heritages for the purposes of promoting diversity has garnered a great deal of support in the heritage literature over the past few years. The question

of whether cultural heritages constitute a public good (and therefore should be promoted) has been explicitly asserted by UNESCO and heritage scholars as a matter of cultural survival, but it has also recently been conceived of as a question about the politics of recognition (i.e. of a symbolic nature), which can further manifest itself in the allotment of special group rights. I shall discuss (and reject) each of these matters in turn.

Cultural Survival

Sometime before November 2007, the last two fluent speakers of the ‘Zoque’ language in the village of Ayapan, Tabasco, stopped talking to each other. The source of their antipathy was not clear, but it became apparent that the two elderly men had ‘really personal reasons’ for not speaking; reconciliation seemed unlikely. A spokesperson noted that, “we know they are not to say enemies, but we know they are apart. We know they are two people with little in common.”³⁵⁶ While the two men may not have had much in common, they had shared one particular attribute, and now that they were no longer talking, their local variant of Zoque was in serious danger of becoming extinct.

The notion that the two elderly men of Ayapan set should aside their differences and start talking for the sake of preserving cultural heritage is as unviable as it is absurd. Nevertheless this is precisely what many heritage scholars, UNESCO and some political theorists would seem to advocate. Before I move to reject obligations on the part of states to ensure cultural survival, it is worth examining how we might arrive at such a position in the first place.

According to UNESCO, half of the 6,700 languages spoken today are at risk of disappearing and this is worrying, it says, because languages are the ‘very essence’ of intangible cultural heritage.³⁵⁷ This loss of cultural heritage is distressing because - recall Article 2 of the 2003 UNESCO Convention on intangible heritage which notes

³⁵⁶ ‘Split Imperils Mexican Language’, BBC News, 16th Nov. 2007, http://news.bbc.co.uk/1/hi/also_in_the_news/7097647.stm .

³⁵⁷ Safeguarding Endangered Languages, UNESCO, <http://www.unesco.org/culture/ich/index.php?pg=00136> .

that – heritage ‘provides [communities, groups and individuals] with a sense of identity and continuity, *thus promoting respect for cultural diversity* and human creativity...³⁵⁸ Indeed, this link between cultural diversity and cultural heritage is increasingly being articulated within the heritage literature, where the default position is largely one of preserving a multitude of heritages for the purposes of sustaining or promoting diversity. According to the editors of *Cultural Diversity, Heritage and Human Rights*, it is a ‘lack of action by governments that is probably the largest threat to cultural diversity, cultural heritage and cultural rights.’³⁵⁹

‘Speaking abstractly,’ Anthony Appiah points out, ‘a concern for survival is perfectly consistent with respect for autonomy; otherwise every genuinely liberal society would die in a generation. If we create a society that our descendents will want to hold onto, our personal and political values will survive in them.’³⁶⁰ Indeed, as I have pointed out in an earlier chapter, interfering to uphold toleration does help cultures to survive. Yet it is one thing to say that the state ought to tolerate diversity by not destroying cultural heritage and undermining instances of cultural bias, but it is a big step from this to asserting that liberalism requires the promotion of a diversity of heritages as an end in itself. Indeed, although the notion of preserving tradition and culture stands at loggerheads with the Enlightenment values upon which liberalism was founded – appearing more at home within the scholarly writings of conservative philosophers – it is an idea which has garnered a surprising and somewhat puzzling level of support from liberal political theory. Will Kymlicka, whose treatment of ‘social culture’ draws upon Ronald Dworkin and was discussed above, writes:

‘The survival of culture is not guaranteed, and, where it is threatened with debasement or decay, we must act to protect it. Cultures are valuable, not in and of themselves, but because it is only through having access to a societal culture that people have access to a range of meaningful options.’³⁶¹

And along a similar vein, Bhiku Parekh asserts:

³⁵⁸ Emphasis added. UNESCO (2003): *Convention for the safeguarding of intangible heritage*, <http://www.unesco.org/culture/ich/index.php?pg=00006>, Article 1 – emphasis added.

³⁵⁹ Langfield et al: op cit.

³⁶⁰ Appiah (2005): op cit., p137.

³⁶¹ Kymlicka, MC, p.83.

‘Assuming that our culture is reasonably rich, our loyalty to it generates several duties. We have a duty to cherish the memories of those who creatively contributed to it and sustained it during trying times, and to exemplify its noblest ideals, both as an expression of our gratitude and as an earnest of our continuing commitment to our cultural inheritance. We also have a duty to preserve and pass on to succeeding generations what we think valuable in it, to defend it against its perverse misrepresentations...and to protect it against wanton attempts to destroy or discard it....’³⁶²

These accounts of the need to preserve cultures are surprising for reasons noted just now, but they are also puzzling because of their peculiar conceptualisations of the relationship between the state and culture, and cultural heritage.

To begin with, asserting that we can preserve a ‘culture’ or national identity, in Kymlicka’s case, (and hence diversity – as Parekh maintains) by promoting its traditions and cultural heritage entails a problematic conception of culture. This is because unless a culture is defined and held together solely by a specific practice or object, the preservation of this practice or that object is unlikely to secure the survival of a cultural group, never mind about cultural diversity. It is also a gross oversimplification of cultural identity. Furthermore, isolating specific practices and traditions has the effect of alienating them from their particular cultural context – fundamentally undermining the normative significance of cultural heritage.

It is likely, however, that Kymlicka and Parekh do not have this response in mind. Instead, we may assume that they are endorsing a ‘wholesale’ preservation of particular cultures – i.e., every attribute and aspect of a culture is to be maintained. Yet asserting a duty to preserve cultures in this regard is to commit the fallacy of ‘groupism’ (discussed above) whereby groups, their identities, members and practices are treated as permanent and mutually exclusive. It also runs the risk of essentializing groups: the nuances of group identity are unlikely to be visible once they are elevated onto a political level. Conceiving of culture as such, or when UNESCO mourns the loss of the conch shell as a means of communication or points out how compulsory primary schooling has undermined cultural practices of drawing in the sand, is what Appiah describes as ‘spectator sport diversity.’ He notes:

³⁶² Parekh (2000): *Rethinking Multiculturalism* (RM), (Palgrave), p.160.

‘I may fervently want there to be Amish driving buggies, Mennonites milking cows, and Shakers shaking on their exquisitely crafted furniture; but it would be a moral error to take measures, therefore, to discourage members of these pictureque communities from leaving and joining ours. *We’re* not the ones getting up at four and cleaning the stables, and they’re not doing it for our delectation. The decision of whether to ‘uphold’ tradition is for them to make, not us.’³⁶³

Appiah also picks up on the strategy of drawing a comparison between preserving cultures and biodiversity, arguing that this approach fundamentally denies agency. He points out that ‘although there are mennonite farm boys who have elected to become east village disk jockeys, yellow larkspurs, as a rule, do not decide to become daisies; nor is there any dissent in the social order of the giant sequoia.’³⁶⁴ Wholesale attempts to preserve cultures run counter to a liberal conception of freedom by effectively prescribing a certain way of living. This prescription also impedes the creation and development of novel identities and practices. Ultimately, however, such attempts are also in vain because it is unlikely that the state has the resources to preserve all cultures. The goal of preserving cultures is therefore fundamentally misguided.

Cultural Heritage and the Politics of Recognition

Pertaining *primarily* to symbols, objects, rituals and artefacts, the politics of cultural heritage is *largely* a matter of recognition and thus should primarily be assessed in terms of the politics of recognition – although obviously this has implications for more general cultural rights and exemptions (which will be discussed at the end of this section).³⁶⁵ Although I have denied that the preservation of cultural heritage can ensure cultural *survival*, it is possible to assert that cultural heritage can promote the recognition of cultural identity. Laurajane Smith has convincingly demonstrated how marginalised groups have successfully challenged dominant cultural norms through

³⁶³ Appiah (2005): op cit., p150.

³⁶⁴ Ibid., p151.

³⁶⁵ Of course, because cultural heritage includes cultural practices, the issue is not only a matter of recognition and does extend to questions about group rights and exceptions, and in reality these sets of issues cannot be disassociated. However, for the purposes of clarity, I try to separate them here.

cultural heritage and thus rejects the view that acceding to cultural claims are merely ‘empty gestures’. While I agree with Smith, I nevertheless reject the view that states should engage with promoting the cultural heritages of marginalised groups as a manifestation of the *politics* of recognition when recognition is treated as an end in and of itself. As I shall demonstrate, Smith’s work only emphasizes my underlying argument that individuals and groups should have the greatest freedom possible to engage with their cultural heritages, and thus, that liberal states should, to the greatest extent possible, refrain from interventions in cultural heritage.

Much of Laurajane Smith’s argument rests upon the existence of what she describes as the ‘authorised heritage discourse.’ In the West, Smith asserts, the authorised heritage discourse stresses the material, or tangible nature of heritage, along with monumentality, grand scale, time depth and aesthetics.³⁶⁶ These assumptions are then naturalised by taking certain understandings about the construction of identity, cultural values and meanings as facts, and as such, conceptions of heritage which defer from the authorised discourse are treated as inherently suspect.³⁶⁷ The authorised heritage discourse not only defines what is to be considered heritage but it also stresses and authorises a particular ethic: this is a heritage to be revered and passed onto future generations.³⁶⁸ Importantly, Smith’s conception of the authorised heritage discourse maps rather neatly onto the political attributes of national identity which I outlined in the previous chapter. Smith draws upon two case studies where marginalised groups have challenged the authorised heritage discourse to support her thesis that control over cultural heritage empowers marginalised groups. Smith is a heritage scholar and archaeologist, not a political theorist, but her argument cuts across several significant normative issues so it is important to dissect it carefully.

Smith’s first case study is of the Waanyi who sought a stake in managing the Riversleigh World Heritage Area and surrounding Boodjamulla National Park in the north of Queensland, Australia. The area is on UNESCO’s *Natural* Heritage list, due to the high density of fossils found in the region and their value to palaeontologists.

³⁶⁶ Smith, L.J. (2007): ‘Empty gestures? Heritage and the politics of recognition’, in Silverman and Ruggles (2007): Cultural Heritage and Human Rights, (Springer), p.164.

³⁶⁷ Ibid.

³⁶⁸ Ibid.

By contrast, the Waanyi – who were aware of the fossils prior to their discovery by palaeontologists – conceived of the fossil fields as part of a landscape defined by personal histories, individual and collective memories.³⁶⁹ Their claims for repatriating the fossils on cultural grounds were thus met with incomprehension. Smith writes: ‘The Waanyi requests for fossil repatriation to keeping places can be understood as symbolic demands *for recognition* of their *cultural custodianship* over the landscape in a way that *challenges* dominant conceptions of both the landscape and heritage.’³⁷⁰

Smith’s second case study also concerns the Waanyi, but in this instance, Smith demonstrates how the existing precedent in consulting with the Waanyi had been only to consult with male members of the group. It was presumed that the Waanyi men were generally the spokesmen for cultural issues. This was inherently problematic because much of the information about the cultural sites entailed knowledge that could not be imparted to men, and thus the Waanyi women were concerned that key knowledge about their sites was either unknown by park managers (and therefore endangered) or that the sites were being inappropriately managed.³⁷¹ Smith then notes how, by engaging with the Waanyi women, archaeologists were able to record and map sites, record oral histories and gather information, which they were then able to pass onto the park managers. Interestingly, Smith notes that specific knowledge of archaeology was not required for these tasks.³⁷² Rather, the women were able to make use of the ‘authority’ of the archaeologists to gain a degree of control over the sites which had hitherto been denied to them.

Both of these case studies demonstrate the complex reality within which questions about cultural heritage manifest themselves. What is clear with both, however, is the importance of allowing cultural groups to maintain control over their cultural heritage. This is the fundamental principle which must guide responses to cultural heritage and it is this principle which I attempt to defend here. Yet, both studies also

³⁶⁹ Smith, p.167.

³⁷⁰ Ibid, emphasis added.

³⁷¹ Ibid., p.168.

³⁷² Ibid., p.168.

highlight problems with what exactly this control should entail. As the first case demonstrates, there may be conflicts over control of cultural sites – both in terms of whether cultural claims should trump natural (or scientific) ones, as well as how to resolve conflicts when two or more groups claim ownership over cultural artefacts. In such instances it is necessary for the state to mediate between various cultural claims. What I wish to consider here are the ramifications of cultural heritage on the politics of recognition. I have noted the extent to which heritage scholars and UNESCO have zealously embraced the value of promoting diversity and, while this has generally required the preservation of cultures, it also touches on the politics of recognition. Smith's case studies provide the bases both for acknowledging the significance that heritage plays for recognition, as well as rejecting the politics of recognition as an end in itself. Having rejected the view that preserving cultural heritage preserves cultures, I am also sceptical about the further assumption that cultural heritage can symbolically promote the politics of recognition. In order to demonstrate why this is the case, it is necessary to briefly introduce the main ideas behind the politics of recognition.

The politics of recognition is an idea which stems from an essay by Charles Taylor, but it has also been endorsed by various theorists, among these, Iris Marion Young and Tariq Modood. Taylor begins with a notion of authenticity and moves to assert a fundamental premise that 'we as humans suffer from a lack of recognition.'³⁷³ That is, we suffer if this authentic self is not recognised. The problem, therefore, with the 'orthodox' liberal process of assigning universal and *identical* rights and duties (what Taylor describes as the 'politics of equal respect') is that it fundamentally requires assimilation – and this, according to Taylor is 'the cardinal sin against the ideal of authenticity.'³⁷⁴ The politics of equal respect is thus fundamentally inhospitable to difference. There are clear similarities between Taylor's arguments here and those of Iris Marion Young, whose work was discussed at the beginning of the chapter. Recall that Iris Marion Young argued that it is blindness to difference which facilitates the perpetuation of a façade of neutrality.³⁷⁵ Both Young and Taylor therefore proceed to

³⁷³ Taylor, PR, p.1.

³⁷⁴ Taylor, PR, p.38.

³⁷⁵ Young, JPD, p.165.

assert the necessity of recognising group difference. Taylor argues that a lack of proper recognition can cause great damage and self-depreciation can become a tool for one's own oppression; recognition is not merely a courtesy, it is a human need.³⁷⁶

There is a great deal of merit in the underlying sentiment of the politics of recognition. While much discussion has hinged on whether the state should *recognise* difference or whether it should seek to *transcend* it, there is as Anne Phillips writes, something distasteful about having to look *beyond* difference in order to perceive others as equals³⁷⁷ - especially when the attributes of supposedly universal human beings frequently reflect the very particular interests and experiences of dominant groups. This much is certainly clear from the discussion on the cultural attributes of the state: it is simply not true that minority cultures cannot be devalued if the state remains culturally neutral.

In practice, the politics of recognition necessarily entails a positive affirmation of difference. As such, Tariq Modood's suggestion that it does not entail 'morally approving or disapproving of that difference'³⁷⁸ is largely incorrect. It is simply inconceivable that a state would promote differences without making a value judgement about those differences – indeed, this would appear to run contrary to the very purpose of the politics of recognition. Manifested in terms of cultural heritage, the politics of recognition would entail not merely preserving and presenting the experiences of dominant groups in its political attributes, but promoting a multitude of experiences and cultural heritages reflecting a markedly heterogeneous society. Given the resonance that cultural heritage possesses for group identity, it is surprising that political theorists have yet to draw upon this link. However, as noted above, this has become the dominant assumption within the heritage literature: that the promotion of cultural heritage promotes diversity.

The reason why we read more works, or appreciate the artwork, cultural forms and performances created by individuals of certain ethnicities and cultures, for instance,

³⁷⁶ Taylor, PR, p.26.

³⁷⁷ Phillips, A (1999): Which Equalities Matter?, (Cambridge: Polity Press), p.25.

³⁷⁸ Modood (2007): op cit., p.67.

is partly because they had a greater opportunity to have their work published, performed, displayed and recognised. To deny the existence of meaningful artefacts produced by marginalised groups reveals an underlying bias in our own perceptions. Heritage could be used, therefore, to empower marginalized groups and foster greater cultural understanding by meeting claims for recognition in a creative and effective way. As Laurajane Smith argues, in such cases heritage becomes a ‘process in which identity, social and cultural meaning, memories and experiences are mediated and evaluated.’³⁷⁹ Governments could indicate their recognition of group difference by promoting and preserving certain forms of cultural heritage – e.g. by including minority artefacts in museums, erecting public monuments etc – thus demonstrating their appreciation of diversity in the public sphere by reconceptualising cultural heritage as a political resource for the politics of recognition.³⁸⁰

Yet *while* heritage scholars have been quick to jump on the value of promoting diversity, and *despite* the fact that the preservation of a diversity of cultural heritages fits quite neatly into the politics of recognition, I have noted that Smith’s case studies provide the bases both for acknowledging the significance that heritage plays for recognition, as well as rejecting the *politics* of recognition as an end in itself. Having drawn out the potential ramifications of cultural heritage for the politics of recognition, I shall now discuss reasons for rejecting the politics of recognition as an end in itself, before outlining why recognition nevertheless plays a significant role in according groups the freedom to engage with their cultural heritage.

My reasons for rejecting the politics of recognition with regard to cultural heritage largely stem from inherent problems with the politics of recognition – problems which manifest themselves far more clearly, however, when applied to cultural heritage. While I have acknowledged how heritage can be used to promote diversity, there is a distinct possibility that the recognition of a broad variety of cultural heritages may prove to be a double edged sword, leading to essentialization of group identities. Treating cultural heritage as a public good, in this regard, may be largely

³⁷⁹ Ibid.

³⁸⁰ This entire paragraph draws upon Tsang (2007): The Cuckoo in the Historians’ Nest: Reconceptualising Cultural Heritage as a Political Resource (Master’s dissertation submitted to the London School of Economics, 2007).

self-defeating. Nirmal Puwar, for instance, has explored the subtle ways in which institutionalised racism operates such that for example a black woman is received by packed audiences when speaking about her cultural experiences but when she assumes to speak about other issues her words fall on deaf ears.³⁸¹ It is not clear therefore whether greater concern for group difference does not bring with it essentialised conceptions of such groups; whereby we assume a static stereotyped identity of groups and expect them to conform to it. Heritage scholar, David Lowenthal, writes of Donald Trump who, when referring to a group of wealthy Pequots whose casino had surpassed his own, chided that they did not look like ‘real’ Indians; they had looked real enough, they retorted, when they were poor.³⁸² Lowenthal is a renowned heritage scholar who, while acknowledging the inherent malleability of cultural heritage, is also deeply sceptical about the uses of cultural heritage for political purposes.³⁸³ Indeed assessing the implications of the politics of recognition on cultural heritage only seems to prove what David Miller has described as the ‘paradox’ of this politics. Miller notes,

‘...identity politics cannot be infinitely flexible. It must designate certain groups for political recognition, fix their membership and determine what rights they are going to enjoy. In practice it relies upon taking some characteristic such as gender or race that can be readily identified in the great majority of cases and using this as a basis for group classification...it is simply not compatible with the claim that each person must be able continually to shift their preferred group identity on the basis of feelings of affinity.’³⁸⁴

The politics of recognition is thus unable to account for the nuances of cultural groups and this is to its great detriment. The appreciation of a multitude of ethnicities, identities and experiences within our culture has brought with it reserved spaces for the art and heritage of ethnic minorities. There is nothing intrinsically wrong with this, but when such spaces become prescribed such that minority cultural expressions are unable to deviate from the ‘role’ that has been prescribed them, such affirmative action is reduced to little more than new forms of domination. Writing about the preservation of ethnic heritages, Lowenthal argues,

³⁸¹ Puwar (2004): *Space Invaders*, (Oxford: Berg).

³⁸² Lowenthal (1998): op cit., p.87.

³⁸³ Ibid.

³⁸⁴ Miller (2000): op cit., p.85.

‘indiscriminate adoration is no less demeaning than aversion and many who claim to admire ethnic legacies betray patronising contempt in doing so.’³⁸⁵ Critiquing the politics of difference as envisaged by Iris Marion Young, Chandran Kukathas adds,

‘At best, the politics of difference will do nothing to reduce the levels of oppression in society, while serving further to divide one group from another, and further alienating many of them from the mainstream of society. Policies of affirmative action – indeed, preferential policies generally – will (as they already have done) provoke resentment against minorities. Perversely, they will discredit even benign or harmless forms of affirmative action practiced informally by individuals and organisations.’³⁸⁶

Thus, we can see that the politics of recognition as envisaged by Taylor and Young et al may, in fact, yield the converse of what may have originally been intended. In addition to essentialising groups, cultural heritage can also become a vehicle for increased balkanisation.

Indeed we can argue that the underlying normative arguments for the politics of recognition are themselves inherently suspect. Brian Barry has ridiculed the desire to simultaneously affirm all cultures.³⁸⁷ Barry argues,

‘The proposal is logically incoherent. The inescapable problem is that cultures have propositional content. *It is an inevitable part of any culture that it will include ideas to the effect that some beliefs are true and some false...*the demand for cultural equality runs into conceptual problems of a kind that are not inherent in the demand that we should find equal value in every cultural artefact such as a painting. This is an absurdly inappropriate demand. But the reasoning is simply that, *unless discriminations are made, ascribing value to something ceases to have any point*. It is true that a state can decide to treat all paintings as if they were of equal value, and buy them indiscriminately by the square foot. The Dutch government did for a time have exactly such a policy, but it still could not overcome the problem that people would insist on making discriminations. Even when this abundance of ‘art’ was offered free of charge to schools and hospitals, almost all of it was rejected....Young’s notion of treating all groups equally would amount to a generalization of the Dutch scheme, in accordance with the Dodo’s dictum: ‘Everybody has won, and all must have prizes.’³⁸⁸

³⁸⁵ Lowenthal (1998): op cit, p.85.

³⁸⁶ Kukathas, LA, p.159.

³⁸⁷ Barry, CE, p.271.

³⁸⁸ Barry, CE, p.270 – emphasis added.

Equally, Will Kymlicka's suggestion to draw up a schedule for public holidays which draws from different cultures (substituting a few Christian holidays for Jewish or Muslim ones, for instance) highlights the ease with which the recognition of a diversity of cultural heritages can slide into farce. Kymlicka writes:

'Perhaps a better solution would be to have one major holiday from each of the largest religious groups in the country. We could have one Christian holiday (say Christmas), but replace Easter and Thanksgiving with a Muslim and Jewish holiday. This would maintain the value of common holidays, and would also encourage people of each faith to learn something about the beliefs of other faiths.'³⁸⁹

Finally, in addition to the potentially undesirable outcomes of the politics of recognition, Seyla Benhabib has challenged Taylor's assumption that the significance of individual recognition should necessarily imply the public recognition of collectives. She notes,

'the term permits an all too easy slide between different levels of analysis and evaluation. Just as oppressed minorities may have the individual and collective responses to bear with pride and fortitude the wounds and indignities inflicted upon them, individual claims to authentic self-expression need not run in tandem with collective aspirations to cultural recognition. They may even contradict one another. Taylor's theses rests on the ambiguities of recognition, as this term slides between individual and collective spheres.'³⁹⁰

This argument is reinforced by the fact that, as we have seen above, groups and individuals are generally better off when their cultures are not subject to public scrutiny. Governments cannot assume that all individuals have a desire for their culture to be publicly affirmed.

Therefore, although cultural heritage may successfully promote the politics of recognition, the likelihood with which it can also promote intolerance and essentialisation combined with its inability to capture the nuances of cultural identity renders the 'end' of political recognition ultimately undesirable. This does not

³⁸⁹ Kymlicka, MC, p.223.

³⁹⁰ Benhabib, S. (2002): The Claims of Culture, (Princeton: Princeton University Press), p.52 - cites Markell, 1999.

however mean that any form of recognising cultural claims is inherently bad, but rather that states should not engage with the politics of recognition as an end in itself.

Exemptions from Law: the Cultural Defence

Some theorists have argued that, because of existing biases toward dominant groups and how these biases place minorities at a significant disadvantage, some cultural groups ought to be exempt from certain laws and regulations. Will Kymlicka, who we have seen in Chapter 3 advocates ‘external protections’ for minority groups, against the dominant culture, is a proponent of this sort of view – believing that liberalism requires special representation rights and exemptions from certain laws.³⁹¹ Thus Sikhs, for example, ought to be exempt from legislation which requires them to wear a helmet when riding a motorcycle or working on a construction site. Yet, interestingly, Brian Barry, who explicitly dismisses Kymlicka’s approach is also open to occasional exemptions when absolutely necessary. Despite being of the view that good cases for exemptions tend to highlight general problems with the rule itself, Barry is willing to accept that there may be some rare instances where some should be exempted from a rule and not others.³⁹²

The ‘cultural defence’ is a very specific form of exemption from law. Advocates of the cultural defence assert that an individual’s culture determines their reasoning and understanding of social contexts to such an extent that law courts *must* consider an individual’s cultural background when deciding upon a case. Cultural heritage, in this sense as in general exemptions, is used to provide a justification for certain actions. Alison Renteln asserts:

‘...to ignore the truth of enculturation is to bias the result for the beginning. In many jurisdictions, for example, courts generally adhere to a legal fiction known as the ‘objective reasonable person’ standard when adjudicating these

³⁹¹ Kymlicka, MC, p.37.

³⁹² Caney, S. ‘Exceptions and Cultural Diversity’ in Kelly, P. (2000): Multiculturalism Revisited, op cit., p.84. Indeed as Bhiku Parekh points out in the same volume: ‘The only difference between Barry and [multiculturalists who might advocate exemptions] and it is important, is conceptual. While many multiculturalists say that the exemptions are designed to equalize those involved with the rest and are demanded by the principle of equality itself, Barry would say that they involve unequal treatment, which is, however, justified on grounds of prudence, generosity, social harmony, balance of advantage and so on.’ In ‘The dangers of liberalism’, p.136.

types of claims. Judges and juries are asked to weigh a person's actions in light of what such an 'objective' person would do under similar circumstances....*the 'objective reasonable person' is merely a person from the dominant culture. Naturally, if a member of an ethnic group is judged against the standards of the dominant culture, his or her traditions are likely to be condemned as unreasonable.* If the traditions are considered in the context of the ethnic minority's standards of reasonableness, however, the result may be quite the opposite.'³⁹³

Renteln writes about the 'indignity' that individuals from ethnic minorities suffer of having to justify 'bizarre' traditions.³⁹⁴ On the issue of homicide, Renteln argues that while this is certainly a 'most reprehensible act' it is nevertheless necessary to consider cultural factors 'to determine the appropriate level of culpability and corresponding punishment.'³⁹⁵ Renteln asserts:

'A successful cultural defense would permit the reduction (and possible elimination) of a charge, with a concomitant reduction in punishment. The rationale behind such a claim is that an individual's behaviour is influenced to such a large extent by his culture that either 1) the individual simply did not believe that his actions contravened any laws, or 2) the individual felt compelled to act the way he did. In both cases the individual's culpability is lessened....*the reason for admitting a cultural defence lies not so much in a desire to be culturally sensitive; although that is surely a large part of it, but rather in a desire to ensure equal application of the law to all citizens.*'³⁹⁶

It unclear, however, why premeditated murder is any less bad when instigated for cultural reasons. As Brian Barry writes, equal laws will inevitably result in different outcomes for different groups; it is the intention of the law to prejudice the interests of some (i.e. victims) over the interests of others (e.g. rapists, paedophiles, etc.)³⁹⁷ Barry continues,

'...this is not to deny that the unequal impact of a law may in some cases be an indication of its unfairness. It is simply to say that the charge will have to be substantiated in each case by showing exactly how the law is unfair. It is never enough to show no more than that it has a different impact on different people.'³⁹⁸

³⁹³ Renteln, A. (2004): The Cultural Defence, (Oxford: Oxford University Press), p.15 – emphasis added.

³⁹⁴ Ibid, p.18.

³⁹⁵ Ibid., p.23.

³⁹⁶ Ibid., p.187 – emphasis added.

³⁹⁷ Barry, CE, p.34.

³⁹⁸ Barry, CE, p.34.

Doriane Coleman concurs on this point, though unlike Barry she does not ultimately accept the permissibility of certain cultural exemptions. Worryingly, however, she is able to demonstrate how the cultural defence generally focuses only on the rights of the defendant and thus ‘fails entirely to consider the primary function of the criminal law, that is, the protection of victims and the public generally from criminal conduct.’³⁹⁹ To illustrate this point, Coleman discusses *People v. Moua*, a rape case in which the defendant argued that he had merely been following a traditional Hmong practice in which a man selects his wife first by kidnapping and subsequently raping her:

‘[the victim] was an employee at Fresno State University who, like many other young people her age, had left her community to work in an office on campus. Had her parents not been Laotian, the California penal code would have demanded serious punishment for Moua. *Instead, simply because the victim could be identified as Laotian by the defendant, the state denied her the protection afforded by its penal code.* Her own decision to reject the aspects of her parent’s culture that are alleged to invite rape was irrelevant. Most frightening in this particular case is the fact that *because the court adopted the defendant’s view of the victim as a member of an immigrant group (of Laotians) rather than as an individual (who may or may not have acted that culture), she was deprived of the choice to say ‘no’ to her rapist.*⁴⁰⁰

Both Coleman and Anne Phillips also cite the case of Fumiko Kimura, a Japanese American woman who, upon realising her husband’s infidelity, drowned her two children and subsequently tried to drown herself. As Phillips writes, at her murder trial in 1985, ‘it was claimed that this constituted a traditional Japanese practice of parent-child suicide as the more honourable course of action’ as it would be ‘cruel to leave her children to live on without her in conditions of disgrace.’⁴⁰¹ As Coleman and Phillips note, Kimura’s cultural defence was ultimately successful because it reinforced the stereotype of a weak-willed woman prevalent in the dominant culture. Both therefore reject the cultural defence ultimately on the grounds that it has the tendency merely to reinforce (cultural and gender) stereotypes that work towards the detriment of women and children.⁴⁰² Seyla Benhabib adds, that by upholding a

³⁹⁹ Coleman, *ibid.*, p.1136.

⁴⁰⁰ Coleman, *op cit.*, p.1137 – emphasis added.

⁴⁰¹ Phillips, MWC, p.84.

⁴⁰² Coleman: *op cit.*, p.1095 and Phillips, MWC, p.96-98.

cultural defence, judges have reinforced a notion of cultures as ‘monolithic wholes, imperious to internal change and transformation.’⁴⁰³ As Phillips notes, ‘culture operates on a terrain already defined by mainstream assumptions: the idea that women are not really responsible for actions undertaken under the direction of male family members, or that men explode when they discover their women are involved in illicit affairs.’⁴⁰⁴ It is this latter point which Anne Phillips places emphasis upon, when she queries understandings of individuals as ‘at the mercy of cultural dictates.’⁴⁰⁵ Phillips goes on to argue:

‘It is important to recognise the choices people make, not read these as a reflection of their so-called culture or treat them as a false consciousness that can be set to one side in the promotion of gender equality. Yet the insight about learnt or adaptive preferences remains, as does the more standard point about many people not having much choice at all. *We cannot assume that all is well just because people nod their heads and bear it, or that individuals have consented to the way they are being treated so long as they refuse to leave.* In many cases, the issue will be how to differentiate choice from coercion. *This has to be approached differently once we drop the misguided understandings of culture.*’⁴⁰⁶

Phillips thus highlights both sides of the issue: while it is important not to assume that individual decisions are simply the product of a pre-given cultural identity, views that reduce the significance of all individual actions to individual free will are equally suspect.

Thus an action or practice should not be permissible (when it clashes with laws) merely because it forms part of a cultural heritage. Culture is not an excuse. While it may diminish *moral* culpability, this does not and should not alter *legal* culpability. There may be many reasons why people feel that they ought to be able to commit certain criminal offences and get away with it, but the law should not sway to these beliefs – irrespective of whether they are part of a cultural heritage. I believe that Barry’s initial sentiment, cited above, is correct: if we do have reservations about how laws affect certain people more than others, it may be necessary to revise the law in its entirety, as applicable to all people – and not merely members of particular

⁴⁰³ Benhabib (2002): op cit., p.90

⁴⁰⁴ Phillips, MWC, p.97.

⁴⁰⁵ Phillips, MWC, p.41.

⁴⁰⁶ Phillips, ibid.

cultural groups, otherwise the law must remain intact.⁴⁰⁷ Indeed, liberals have long been sceptical of arguments from tradition – it is this scepticism that, in fact, forms part of a ‘liberal tradition’. The question of a cultural defence is thus not a particularly new one – though it has received increased attention over recent years. However, as we can see, it can yield particularly harmful consequences – not only in terms of its effects on women and children. As Appiah points out ‘upholding differences among groups may entail imposing uniformity within them.’⁴⁰⁸ Pointing at multiculturalists such as Will Kymlicka who stress the existence and interests of a multitude of groups, Appiah argues that they also eliminate difference by representing the group as a ‘clump of relative homogeneity.’⁴⁰⁹ Thus, to conceive of culture as such is to commit the fallacy of groupism and assume that cultural beliefs (and groups) are to a significant degree unchanging and unchangeable, held equally by all members of the group.

A rejection of the cultural defence and exemptions from laws and rules should not, however, in any way undermine concern for individual welfare. While Coleman rejects the notion of a cultural defence’s ‘strong multiculturalism’ – which finds that ‘a culture and its people may be judged fairly only according to its own standards,’⁴¹⁰ she strongly endorses the notion of individualised (subjective) justice - which takes an individual’s past and habits into consideration - as a matter of good multiculturalism.⁴¹¹ Thus, while entire cultures should not be rendered exempt from certain laws, in specific cases it may be necessary to revise procedures for certain individuals. I do not believe that this represents a deviation from principle. Rather, the response outlined thus far - whereby liberal governments make concerted efforts to undermine bias in public culture, and uphold toleration and autonomy when individuals are placed at a significant disadvantage because of existing cultural biases – adequately protects individual freedom and cultural heritage. Having rejected cultural survival, recognition and exemptions, it is worth examining the ramifications of these arguments by returning to the issue of liberal neutrality.

⁴⁰⁷ Caney (2006): ‘Exceptions and Cultural Diversity’ op cit., p.84

⁴⁰⁸ Appiah (2005): op cit., p151.

⁴⁰⁹ Appiah (2005): op cit., p152.

⁴¹⁰ Coleman: op cit., p.1119.

⁴¹¹ Coleman: op cit., p.1094-5 and 1114.

Cultural Heritage and Liberal Neutrality Revisited

In the previous chapter I outlined the necessity of certain public attributes of cultural heritage; heritage, which I have acknowledged is likely to express the experiences of certain dominant, national groups within the nation state. These, I argued, are necessary for states to function at both a domestic and international level. Indeed, it is difficult to imagine contemporary states without a national flag, anthem, public holidays, official language etc. In this chapter I acknowledged the problems that this particularism raises for liberalism's commitment to neutrality. This led me to consider whether a diversity of cultural heritages should be considered a public good, such that liberal governments are under an obligation to promote the heritages of minority groups within the state. I considered and rejected the preservation of cultural heritage for the purposes of cultural survival, the promotion of cultural heritage for recognising the political significance of groups and exemptions from law for cultural practices and norms fundamentally on the basis that all three of these strategies overlook diversity *within* groups. They fail to account for the fact that different individuals relate to their cultural identity and membership in quite different ways and thus preserving, recognising and exempting cultures can ultimately stereotype groups and undermine individual freedom to engage with cultural in a manner that is meaningful.

A liberal government, however, would appear inherently hypocritical if it were to deny the recognition of marginalised heritages, whilst promoting (i.e. recognising) its own dominant national heritage – irrespective of how minimal or necessary this might be – and professing neutrality when faced with competing conceptions of the good. Indeed, this would only seem to highlight the fact that liberalism remains blind to its own cultural particularity and is only really neutral towards other conceptions of the good. This chapter has sought to come to terms with liberal neutrality and the significance of cultural heritage on this neutrality. While it has become clear that the liberal state cannot plausibly maintain complete cultural neutrality, the solution to this problem does not lie in promoting a diversity of cultural heritages either.

Yet, ‘orthodox’ liberal positions as articulated by Brian Barry and Chandran Kukathas are not satisfactory either. Both Barry and Kukathas accept that within the liberal state there are likely to be biases in public culture (in terms of national symbols, public holidays etc.) that favour the experiences of particular groups. As opposed to seeking to tackle this problem directly, both place greater emphasis on other issues. Kukathas focuses on impartiality – by refraining from any explicit engagement in public heritage, the liberal state is able to maintain neutrality. Barry focuses on equality – by ensuring that individuals are ultimately treated fairly (i.e. equally), biases in public culture are rendered irrelevant as far as neutrality is concerned. Yet both of these responses, I have argued, are unsatisfactory because they do not take a commitment to cultural heritage and the fact of diversity seriously enough. Kukathas simply accepts the detrimental affects of a dominant culture and Barry largely focuses on achieving equality through existing legal structures (which are equally likely to reflect the cultural interests of dominant groups).⁴¹²

My position on this issue is that while cultural neutrality may never be possible, liberals should primarily strive for *political* neutrality. These two concepts of neutrality are not mutually exclusive – culture undeniably has ramifications for politics and vice versa - but it is political neutrality that is of greater concern to the liberal state. While the public culture of the liberal state may inevitably be biased (e.g. a set of national symbols and icons, public holidays and work-weeks) toward the experiences of certain dominant groups (undermining cultural neutrality), it is important that this cultural bias does not disproportionately impede individuals from exercising their rights within the liberal state. The extent to which symbols and public holidays may reflect the historical experiences of certain groups indicates that the state is not culturally neutral. However, the liberal state strives to maintain political neutrality in the sense that it seeks to eliminate, undermine or account for cultural biases which significantly undermine the equality and interests of individuals. Thus, although there may inevitably be some cultural biases in public culture, political neutrality, in the sense of upholding the moral equality of all

⁴¹² Though, as I have noted above, he does also accept the necessity of occasional exemptions.

individuals, is sustained. In other words, a respect for individual autonomy and toleration ensure that political neutrality is upheld.

To conceive of neutrality as such – recognising inevitable, but occasional cultural biases – is to place greater emphasis on the idea of neutrality as a *process*. Thus, while necessary components of contemporary statehood – such as official languages, public holidays and so forth – may reflect the dominance of a particular culture, liberal governments should attempt to level the playing field. I do not, however, believe that political neutrality necessarily requires egalitarianism in all instances – though this can be a prudent guide for action when conflicts arise. Cultural heritage encompasses an incredibly broad spectrum of issues, and egalitarianism (in the sense of providing equal opportunity or outcome) even on the most significant cultural issues is not always feasible. Language policy and public holidays, for example, as well as the content of a school curriculum and citizenship studies cannot cater equally to all individuals. Rather than defending egalitarianism in all contexts, liberalism and individual liberty is best upheld by sustaining individual autonomy and toleration, identifying instances where egalitarianism is desirable and possible, and employing alternatives where not.

The liberal state is not particularly interested in culture in these instances of intervention. Culture is only relevant insofar as it may (partly) be responsible for the circumstances that individuals find themselves in and has an impact on toleration and autonomy.⁴¹³ As Kukathas notes:

‘From a liberal point of view it does not matter what happens to the identities of particular groups or the identities of individuals. Of course, it may matter enormously to the groups and individuals in question; but while liberalism

⁴¹³ A good example of this is language, whereby an individual’s cultural or national identity may mean that they are unable to understand the dominant languages. I do believe that individuals should be encouraged to learn the national languages (and discuss this particular issue in greater depth in Chapter 8), however, in the intervening period, liberal governments ought to ensure that such individuals do have access to translations of vital – such as legal, medical, tax, voting etc. – information.

does not counsel obstructing those who wish to preserve or enhance their identities, it takes no interest in supporting such endeavours either.⁴¹⁴

However, while I agree with Kukathas that the liberal state is not interested in cultural survival, an underlying argument of this thesis is that the impossibility of achieving complete cultural neutrality in no way implies that cultural matters, including heritage, are beyond the scope of liberal political theorising. Indeed, such cultural matters become relevant to politics because of the impact that they have on the political and social welfare of individuals. This can entail changing aspects of public culture, adding to it, and in some cases subtracting from it. While liberal governments obviously do not have free reign on promoting the culture of their choice, *some* public heritage (even if this does occasionally reflect a particular conception of the good) can be justified because this can be transformed (and deprived to the greatest extent possible of particular cultural content) to promote liberal values. The underlying rationale behind this is one of ensuring that public culture does not place certain individuals at a significant disadvantage. Therefore, although I deny that the cultural heritages of minority groups should be treated as public goods in the sense that governments ought to actively *promote* the heritages of marginalised groups or make a practice of exempting groups from general laws, efforts should nonetheless be made to undermine severely detrimental instances of cultural dominance. This strategy has a number of important features and I will discuss these in this final section.

Reducing cultural dominance: a defensive strategy

A liberal response to cultural heritage is guided fundamentally by a concern for individual autonomy and toleration. As a consequence, a liberal response to cultural heritage is largely characterised by non-intervention because this, I have argued in Chapter 3, is the best means of ensuring that individuals are able to engage meaningfully with their own cultural heritages. Yet, in this chapter I have demonstrated the problem with how ‘non-intervention’ can, nevertheless, entail the

⁴¹⁴ Kukathas, C. (1998): ‘Liberalism and Multiculturalism: The politics of indifference’ in Political Theory, 25:5, p.692.

promotion of a particular cultural heritage vis-à-vis the existence of certain national symbols and practices which are institutionalised by the state. On this issue, Brian Barry writes:

‘Ways of life that are compatible with liberal institutions are not threatened by institutions. the only ways of life that need to appeal to the value of cultural diversity are those that necessarily involve unjust inequalities or require powers of indoctrination and control incompatible with liberalism in order to maintain themselves.’⁴¹⁵

The problem, I have noted above, with this ‘orthodox’ position is the fact that it does not take the impact of a dominant culture seriously enough. Laws and decisions about public culture are invariably biased toward dominant groups and can disproportionately harm certain individuals as a consequence. I am thus tentatively in agreement with the underlying *strategy* of Will Kymlicka’s suggestion that:

‘It may be possible to avoid some of these issues by redesigning public holidays, uniforms, and state symbols. It is relatively easy to replace religious oaths with secular ones, and so we should. It would be more difficult, but perhaps not impossible, to replace existing public holidays with work-weeks with more ‘neutral’ schedules for schools and government offices.’⁴¹⁶

The *strategy* in this *instance* is to undermine significant cultural dominance and I find this to be largely sound when we consider the implications that a dominant national heritage has on the neutrality of the liberal state.⁴¹⁷ I have already rejected Kymlicka’s special treatment of national minorities and thus this strategy should apply equally to all cultural groups. The underlying *principle* behind this strategy is essentially one of fairness – not between cultural groups – but rather for the individuals within them.

Yet although the underlying sentiment of fairness which runs through this particular aspect of Kymlicka’s work is laudable, as Joseph Carens notes, Kymlicka’s own particular framework does not necessarily provide much guidance about what is

⁴¹⁵ Barry, CE, p.135.

⁴¹⁶ Kymlicka, MC, p.115.

⁴¹⁷ As acknowledged in the previous chapter, this is a similar strategy to the one advocated by Cecile Laborde. However as mentioned in Chapter 4, unlike Laborde, I do not believe that it is possible to undermine all instances of cultural bias.

right.⁴¹⁸ Carens highlights (on the particular issue of aboriginal language rights) the uncertainty that while changing official policy may be inherently desirable as a matter of symbolic recognition, it is not necessarily clear that this is what justice requires.⁴¹⁹ Similarly, saying that we should undermine significant cases of cultural dominance does not really get us to when exactly it may be necessary to intervene, and what form this intervention should entail.

I believe that the solution lies instead in distinguishing between ‘insignificant’ instances of cultural bias (for example with regard to the treatment of little known objects or practices by relatively small groups) and ‘significant’ instances (for example, with regard to language rights or specific practices where the group in question makes up a substantive proportion of the population).⁴²⁰ (That said, the size of a particular group should not always be the deciding factor of the legitimacy of a group’s claim.) My point here is to indicate that it is possible to identify a particular threshold of harm to individuals that warrants state attention, whereby the *same* principle of reducing significant cultural dominance may require different responses to different aspects of culture. This ‘harm’ threshold was initially outlined in Chapter 3⁴²¹ and I shall examine how this principle manifests itself with regard to various

⁴¹⁸ Carens, CCC, p.60.

⁴¹⁹ Carens, *ibid*.

⁴²⁰ ‘Insignificant’ in this regard to the *state* – this is not to say that a group may not be able to appeal to another body such as *UNESCO*, for example. Interestingly, on the issue of language rights Carens writes: ‘Furthermore, no aboriginal person can routinely expect to communicate with doctors, lawyers, dentists, bureaucrats, television technicians, and so on in her native language, much less to find employment in that language in the economy outside the reserve.’ (op cit. p.60) – I disagree that this is what making a language ‘official’ necessarily entails and will discuss this in greater depth in the final chapter.

⁴²¹ Note that significant cultural dominances can come from internal pressures within an individual’s culture, as well as external pressures from a different group. Significant instances are defined above as: ‘instances where it is apparent that an individual has been deprived of the ability to make a meaningful choice about a particular cultural practice.’ P.78. *Note also, however that* ‘The viability of interventions, however, is obviously a matter of scale. The state will not simply intervene on banal, everyday decisions. Rather interventions, when necessary or *requested*, focus on *life changing* circumstances – which may take the form of one substantial act, or repeated small acts – examples of such changes in circumstances include, marriage or divorce, physical change or long-term changes to appearance, deprivation of medical attention or education, etc. If an individual is found not to have exercised autonomy on such matters or has requested intervention, then the state possesses the right to intervene on *their* behalf, enshrined in the law, as a matter of individual liberty. It should be stressed that this applies to individuals from both the dominant and minority cultures. Therefore, by upholding complementary principles of toleration and autonomy, the liberal state is able to ensure that individuals are provided with the greatest liberty possible to engage with their cultural heritages whilst

aspects of culture in Chspter 8. A liberal response to cultural heritage is generally characterised by non-intervention in order to allow individuals to engage meaningfully with their cultural heritage. However, it is necessary at times to intervene in order to uphold liberal values of toleration and autonomy. Significant harm is therefore characterised by a lack of toleration and respect for individual autonomy. Thus, undermining cultural dominance (for example, by broadening the scope of official languages) helps to uphold both of these principles. It should be noted that these interventions are likely to be infrequent and are designed to be remedial efforts. As a rule of thumb, the legitimacy of cultural claims are deeply suspect if the group in question has to go to great lengths to persuade liberal governments that they are being unfairly and significantly disadvantaged by the dominance of the national culture. Furthermore, in the vast majority of instances, should significant⁴²² groups require resources to sustain their cultural heritage, it is likely that they will be able to appeal to sources of funding (such as, individual members or, indeed, UNESCO) other than the state.

Fairness and Group Rights

Liberal states, I have argued, maintain a commitment to a *minimal* national culture – even if this commitment cannot always be upheld in practice. Its interventions in cultural heritage are not strictly out of a concern for culture, but rather the circumstances that individuals may find themselves in as a result of their culture. It is a concern for political as opposed to cultural neutrality. The liberal response of non-intervention and reducing instances of significant cultural dominance outlined here has not been asserted in terms of claims for group rights, but rather in terms of cultural domination which can systematically place individuals at an unfair disadvantage both substantively and symbolically. Examples of unfair disadvantages may include:

being protected from the pressures of the majority and indeed of their own cultural group.’ See above, p.81-82.

⁴²² i.e. Both in terms of scope, size and political significance – such as racial, ethnic, national or religious groups

1. The recital of religious prayers and hymns in state schools or prior to public meetings⁴²³;
2. the existence of an official language within a state that includes a substantial national minority/minorities;
3. citizenship tests which are largely based upon a particular national culture;
4. citizenship oaths of allegiance that also invoke a particular religion;
5. a history curriculum which fundamentally only reflects the experiences of particular groups;
6. state funding of heritage that is representative of a particular group.

Although it may seem rather disingenuous to frame the moral duty of the liberal state in terms of its obligations to *individual* citizens when laws and customs remain clearly biased towards particular *groups*, this fundamentally grows out of a concern to respect the autonomy of individuals in their decisions to engage with a particular culture. Furthermore, it also acknowledges how various individuals may relate to the same culture in quite different ways. Of course, this *individual* right, *not* to be placed at a substantial cultural disadvantage by the state, may turn out only to be a matter of syntax (especially when efforts may target individuals from specific cultures); it is nevertheless crucial – from a liberal perspective – to reinforce the primacy of the individual. A liberal response to cultural heritage therefore officially rejects the notion of group rights, although in practice many responses to cultural heritage may have the same outcome or effect as assigning particular group rights. For example, an acknowledgement of the difficulties that individuals face in not being able to speak a dominant language will lead the liberal state to provide translations of certain vital information (e.g. on voting, taxation, laws etc.). Yet, while translations may be part of according special language rights and recognising minority cultures, the fundamental aim behind such actions is not the survival of a minority culture, but rather ensuring that individuals who are unable to speak the dominant language have access to important public information. Similarly, although I do not endorse the cultural defence, it is important that courts take all contextual information, including cultural identity, practices and norms, into consideration. The major difference in these instances, however, is that the state does not seek to actively *promote* the

⁴²³ For an interesting take on this latter point, see Drury (2012): ‘Christianity Under Attack’ in *The Daily Mail* (11/2/12) <http://www.dailymail.co.uk/news/article-2099300/Councils-BANNED-saying-prayers-meetings-sparking-fury-Government-church-leaders.html>

cultural identity of marginalised groups. This is an issue that will be explored in greater depth in the final chapter.

Recognition Revisited

While the end of politically recognising group difference was rejected in the previous section, it is important to grant that – as we have seen with Laurajane Smith’s study of indigenous claims on cultural heritage – acknowledging unfairness and disadvantages is a significant *part* of responding to these unfairnesses and disadvantages. Indeed recognition – in terms of official statements and apologies – may at times be all that is possible when responding to unjust political and cultural dominance. In this sense however, recognition is not directly about distinct cultural groups but rather about specific injustices and biases. As Seyla Benhabib has attempted to demonstrate, rather than leading to cultural separatism and balkanisation, recognition (outside of the framework envisaged by Taylor et al, discussed above) might be able to initiate ‘critical dialogue and reflection in public life about the very identity of the collectivity itself.’⁴²⁴ Bhiku Parekh has also asserted the importance of the state recognising itself as multicultural and characterised by diversity.⁴²⁵ He adds that once governments have made efforts to ensure that minorities have cultural space then ‘it should not matter if the definition [of national community] retains some bias towards the dominant majority community.’⁴²⁶ I maintain, however, that in order to yield positive outcomes, recognition should not be conceived of as a political end in itself, but rather treated as a means of responding to dominance and unfairness. I shall engage with recognition for the purposes of addressing injustices in greater depth in the next chapter.

Conclusion

⁴²⁴ Benhabib (2002): op cit., p.70.

⁴²⁵ Parekh (2002): op cit., p.235.

⁴²⁶ Ibid., p.236.

This chapter fundamentally sought to consider the implications of an institutionalised national heritage on policy towards the heritages of a diversity of groups. Though I rejected the view that the presence of minimal attributes of cultural heritage (as outlined in the previous chapter) constitutes an injustice, I did acknowledge the problems that this poses for the neutrality of the liberal state. While it is important not to give up on the political neutrality of the state, the necessary existence of certain symbols and attributes of a dominant national cultural heritage (which may well exceed the ‘minimal’ threshold established in the previous chapter) entails that we must accept that the liberal state is not and cannot be culturally neutral. The liberal state can nevertheless strive toward political neutrality.

Part of maintaining political neutrality requires that individuals should, to the greatest extent possible, have the freedom to engage with their cultural heritage without intervention from the state. In the second section of this chapter, I therefore expanded upon the normative significance of cultural heritage that was laid out in my second chapter. This found that while non-intervention should remain the guiding principle behind a liberal state’s response to cultural heritage, it is equally important to acknowledge existing biases (i.e. that of the dominant national culture) within the liberal state.

Given this public bias, it is necessary to seriously consider the alternatives proposed by Will Kymlicka, Charles Taylor and Iris Marion Young of promoting a diversity of cultures – and by extension, cultural heritages. In assessing the viability of promoting a diversity of cultural heritages as a public good, the third section of this chapter considered 1) cultural survival, 2) the politics of recognition and, by way of this, 3) group rights. The view that the promotion of a diversity of cultural heritages constitutes a public good, and ought therefore to be preserved or promoted, was rejected on the basis that the three strategies that underpin this strategy fail to capture the nuances of cultural identity and, as a consequence, ultimately serve to undermine an individual’s ability to engage freely with their cultural heritage.

The chapter was brought to a close by demonstrating how a liberal response to cultural heritage that fundamentally remains characterised by non-intervention, can nevertheless address significant instances of cultural bias. A liberal response to cultural heritage is driven by a concern for individual freedom and toleration. While this principle requires non-intervention for the most part, this same principle also authorises state interventions when individuals are placed at a significant disadvantage as a consequence of their cultural orientation and affiliations. The liberal state will therefore intervene to undermine instances where dominant cultural biases place certain individuals at a distinct disadvantage. This can entail making changes to public culture as well as providing certain individuals with additional help. This is not a group right, although attempts to undermine the dominance of the national culture may, at times, have the same effect as group rights. The strategy of undermining cultural dominance may require replacements or additions to the public culture, and sometimes subtractions from it. Thus, while a public heritage necessarily undermines a liberal state's claim to cultural neutrality, the existing biases within public cultural can be attenuated by upholding political neutrality.

Chapter 7

Cultural Heritage, Recognition and Remembrance

In this thesis I have aimed to outline and defend a liberal response to cultural heritage. The preceding chapters have primarily discussed the ramifications of this response in relation to cultural identity. Cultural heritage, I have demonstrated, both reflects and is constitutive of the historical identity of cultural groups and, because a liberal state is comprised of a multitude of cultural groups, it is important that liberal governments make concerted efforts to abstain from interference in cultural practices that it deems abhorrent, whilst ensuring that tolerance and respect for individual liberty are upheld. In this chapter I turn to examine the ramifications of another important feature of a liberal response to cultural heritage and this is its significance for collective memory and historical justice.

In defining cultural heritage I have argued that it can play a crucial role in communicating and sustaining collective memory. The central issue that I wish to address in this chapter is the role of memory and historical justice in the construction and maintenance of a public heritage. In earlier chapters I defended the existence of minimal attributes of public cultural heritage, that are likely to reflect the experiences of a dominant nationality, as both necessary for all contemporary states and valuable

for liberal states because this public heritage can be used to promote solidarity and respect for toleration and individual liberty. This chapter examines the content and rationale of a liberal public heritage by exploring the ramifications of symbolic gestures of historical justice, and determines whether a public heritage can include practices and objects that are designed to sustain collective memory. In doing so, I also wish to demonstrate how certain prevalent claims for symbolic responses to historical justice might manifest themselves in cultural policy.

This chapter begins with a brief discussion of possible liberal rationales for engaging with the past. Indeed, the recognition and remembrance of certain historical events and atrocities are often regarded as necessary symbolic gestures for achieving some sort of historical justice – liberal or otherwise. Both recognition and remembrance have specific outcomes for cultural heritage. There are few villages, towns and cities in Europe, for instance, that do not have some sort of monument or memorial for the first and second World Wars. I shall therefore examine the ramifications that these requirements of historical justice have on cultural heritage.

A key argument that I put forth in this chapter is the importance of distinguishing between recognition and remembrance. Indeed, in the historical justice literature, these two are often treated as synonymous. By examining their ramifications for cultural heritage, I wish to demonstrate that this is clearly not the case. While a liberal state can and should endorse the recognition of certain historical events, its response to cultural heritage cannot include obligations of public remembrance. Although the liberal state may take a minimal stance on cultural heritage, it is obligated to create room for individuals to freely engage with their own histories and heritages. The chapter draws to a close by examining what the normative distinction between recognition and remembrance means pragmatically for the maintenance and management of monuments, memorials and other public practices, as well as the permissibility of iconoclasm. Recognition fulfils the symbolic requirements of historical justice but, importantly for a liberal state, must also allow individuals to largely derive their own meaning from historical events. It is important therefore that cultural heritage that is sustained in public space for a prolonged period of time –

such as monuments, plaques, memorial days and rituals – is presented or framed in a manner that emphasises historical understanding and a diversity of experiences and opinions on the past, and *not* subjectively as a matter of collective memory.

Before I begin, it is worth noting that my primary aim here is to examine the ramifications of broadly accepted arguments about historical justice on cultural heritage and not to make claims about the desirability and feasibility historical justice more generally. In doing so, however, I necessarily highlight strengths and weaknesses of certain arguments. I would like to stress that my concern, however, is primarily with the question of how a liberal states' cultural policy is affected by historical justice.

Liberal Reasons for Engaging with the Past

Up until now, I have primarily discussed a liberal response to cultural heritage vis-à-vis its significance for individual and collective identities and conceptions of the good. Cultural heritage, however, also has a significant bearing on memory and the extent to which individuals engage with the past. Indeed, an underlying argument throughout has been to emphasise the historical significance of certain cultural practices and traditions. In discussing cultures and cultural practices, it is important to treat them not as ahistorical snapshots, but rather as the outcome of accumulated time and experiences. Yet, this historical aspect of cultural heritage also sits somewhat uneasily with liberalism, which grew out of a scepticism of custom and a rejection of the authority of tradition. It is important therefore to examine the consequences of the liberal response that I have defended, which allows for a minimal amount of tradition and custom in the public sphere, on memory and engaging with the past. One crucial question that I seek to answer in this chapter is whether it is permissible for liberal states to sustain a public heritage that requires collective memory.

Philosophical conservatives are known for their appreciation of a *sense* of the past – something that they claim cannot be fully articulated or rationalised. Indeed, the

value of respecting and sustaining the past has also been used as an argument to defend the continuation of certain traditions, practices and norms. In this sense, the past is used to legitimise the present. Yet a liberal cannot allow or defend these justifications for engaging with the past as they necessarily place tradition and custom beyond the scope of critical reasoning. Although liberalism remains sceptical of tradition, there are liberal reasons for engaging with the past and these, in turn, have distinct outcomes for cultural heritage.

The importance of engaging with *historical justice*, for instance, is consistent with liberal values. Before outlining the arguments in favour of pursuing historical justice, it is worth taking a moment to consider why a liberal defence of historical justice might be a little bit puzzling from the outset. Liberalism, as we have seen, is generally characterised by the maintenance of neutrality in the face of differing conceptions of the good and an adherence to universal values. In other words, liberalism has largely strived to be ahistorical. History and the experiences derived from history are not irrelevant; rather they are simply contingent. It is for this reason that a liberal argument in favour of engaging with the past might appear, from the outset, to be rather strange. However, ‘the past’ in liberal arguments for historical justice does not matter insofar as an event may have occurred many, many years ago; rather, liberal proponents of historical justice to some extent rely upon the assumption that certain actions violate what may be regarded as a *universal* threshold of permissible behaviour.⁴²⁷ Widespread torture, theft and enslavement, as well as mass murder and genocide, for instance, are generally regarded as actions that transgress this threshold. Furthermore, the lingering consequences of such actions have, arguably, also had a detrimental effect on the livelihoods, opportunities and welfare of proceeding generations and contemporary society – and thus historical justice is as much about obligations to the present as it is to the past.⁴²⁸ Historical justice therefore provides liberals with very strong reasons for engaging and responding to the past. Consequently, it is important to examine the impact of these arguments on cultural heritage. The next section examines the *general* relationship

⁴²⁷ To correlate, perhaps, with what is regarded in law as ‘universal jurisdiction’, such that geographical and, indeed, temporal boundaries may be transgressed.

⁴²⁸ Waldron, J. (1992): ‘Superseding Historic Injustice’ in *Ethics* (103. 1), p.7.

between cultural heritage and historical justice, before turning to discuss the implications of this for liberalism.

Cultural Heritage and Historical Justice

Though many scholars are in agreement about the importance of historical justice, *what* exactly historical justice consists of has been a matter of contention among its proponents. For instance, while Jeremy Waldron strongly defends the notion of ‘historical recollection’, he remains sceptical about the possibility of more ‘substantive’ efforts of rectification – such as, for example, land restitution.⁴²⁹ Robert Nozick, on the other hand, defends a version of historical justice that relies upon the validity of counterfactuals – namely, that attempts are made to ‘return’ to the state of affairs that would have existed had the historical injustice not occurred.⁴³⁰ Finally, Janna Thompson re-frames historical justice as a ‘past referring obligation’ and by rejecting the sufficiency of ‘abstract’ notions such as apology and forgiveness, as well as the possibility of returning to a former state of affairs, endorses the notion of reparation as a matter of reconciliation.⁴³¹ These are just a few examples of the many different positions taken on the possibility of historical justice. It is not my intention here to endorse or deny any of these positions. Rather, the point that I wish to focus on, and which is most relevant to my purposes here, is the fact that many accounts of the possibility of historical justice necessarily entail some degree of *recognition*, that is, the acknowledgement in the first instance that a wrong has taken place. Implicitly we may assume that any effort at rectifying an historical wrong will require some degree of recognition, but more importantly it is very often the recognition and acknowledgement that a wrong has taken place which matters most to victims of injustice and their descendants. If it were possible to rectify an historical wrong by way of returning land or giving over a sum of money, the value of these efforts would largely be diminished if not accompanied by some substantial form of recognition that displays an awareness (indeed, repentance) of historical events as well as the actors involved. Thus, I believe that it is reasonable to accept the widely

⁴²⁹ Ibid.

⁴³⁰ Nozick, R. (2003): *Anarchy, State, Utopia*, (Oxford: Basic Books), p.152-153.

⁴³¹ Thomson, J. (2002): *Taking Responsibility for the Past*, (Oxford: Blackwell).

held belief, in the literature, that the recognition of historical injustices is a necessary, if not sufficient, means of achieving historical justice; and indeed that this acknowledgement may well be as important as any possible material compensation.⁴³²

The recognition of an historical injustice, however, has distinct ramifications for the treatment of cultural heritage. Specifically, I wish to demonstrate here that what has been described in terms of recognition and acknowledgement has led to both the *creation* and *destruction* of cultural heritage. As noted above, recognition has been widely⁴³³ acknowledged as a necessary condition of historical justice – it has been framed in terms of what is ‘owed’ to the victims of past injustices as well as their ancestors. This recognition can be functional – as part of more substantial efforts, e.g. reparations, to rectify the past, but it is also highly symbolic. Efforts to respond to injustices are made not merely because a wrongful act occurred, but also because the past continues to have meaning for those who have suffered from it. We may therefore assume that efforts to recognise the past are unlikely to be limited to trials and abstract public statements by political authorities; acts of recognition are also likely to entail the construction of monuments and commemorative objects. The likelihood of these latter forms of recognition is high because it is precisely symbolic forms of commemoration that can, as we have noted, carry the most meaning for victims of injustices and their descendents. Yet all of these (i.e. monuments, plaque, memorial days, moments of silence etc), as we have established, are part of what may be regarded as cultural heritage. Therefore, we can see that the recognition of an injustice can lead to the creation of a cultural heritage; indeed the act creating a cultural heritage (in the case of constructing a monument) may actually be constitutive of recognition.

Conversely, however, the recognition of historical injustices can also lead to the destruction of cultural heritage. For instance, the findings of a commission that had

⁴³² See, for example, Waldron: *op. cit.*, p.7; Kukathas (2003): ‘Responsibility for Past Injustice’ in *Politics, Philosophy and Economics*, (2.2), p.172.

⁴³³ Caney, S. (2006): ‘Environmental Degradation, Reparations, and the Moral Significance of History’ in *Journal of Social Philosophy* (37:3), p.477.

been set up following German reunification in order to decide what should be done with a statue of Lenin that remained in Berlin-Friedrichshain noted,

‘The monuments erected by a regime, insofar as they serve its legitimation and solidification, lose their right to exist when this regime – and particularly a violent, unjust and hated one – collapses or is overthrown; monuments serving only the self-representation and ideological elevation of the Communist dictatorship or the glorification of its leaders have no place in a democratic society; *every society has the right to bring to prominence its own view of history.*’⁴³⁴

The destruction of the statue, as we can see, was justified as a matter of historical justice, and – more specifically – through the recognition that the past regime had been an unjust one. It was a means of recognising that the past regime had been unjust, as well as achieving some degree of historical justice. What this example also demonstrates is that the treatment of cultural heritage is a *manifestation* of historical justice. Taking a stance on historical justice thus to some degree necessarily entails taking a stance on cultural heritage, and vice versa – the treatment of cultural heritage necessarily has distinct outcomes for the achievement of historical justice. I shall explore the consequences of iconoclasm for liberalism in a later section, but will first discuss the distinction between recognition and remembrance in greater depth.

Cultural Heritage, Recognition and Remembrance

The relationship between historical justice and the maintenance of cultural heritage raises problems for how historical justice has generally been conceptualised. Although I have stated that efforts to recognise historical injustices can lead either to the creation or destruction of cultural heritage, implicit in the creation of a cultural heritage is the likelihood that this heritage will be maintained and preserved. The question of whether the longer term maintenance of cultural heritage can be justified out of a duty toward historical justice is interesting because it raises a potential problem for the broadly accepted understanding of historical justice that I have just

⁴³⁴ As cited in, Gamboni, D. (1997): The Destruction of Art, (London: Reaktion Books), p.85.

discussed above. We may reasonably assume, for instance, that a monument that has been constructed to recognise the contributions of men and women during a war will not immediately be torn down upon its completion. While the construction of a cultural heritage may itself constitute recognition, which as we have seen is fairly uncontroversial and accepted, I wish to demonstrate that the ongoing maintenance of that cultural heritage – for instance, an annual memorial day as well as a monument that is maintained in public space – marks a shift from *recognition* to *remembrance*, and this shift is potentially problematic. The shift from the creation of cultural heritage to its maintenance is potentially problematic because while the requirements of historical justice may well entail the creation of a cultural heritage for the purposes of *recognition*, it is unclear whether historical justice requires that we continue to *remember* historical atrocities through the sustained practice or presence of cultural heritage. This shift has a significant bearing on 1) the conceptualisation of historical justice and 2) the implementation of historical justice in practice.

Conceiving of the shift from the creation to the maintenance of cultural heritage (as mirroring a shift from recognition to remembrance) as problematic requires, in the first instance, that we accept the distinction between recognition and remembrance as valid and important. Recognition entails public acknowledgements, expressions of regret and mourning, apologies, trials, history and the construction of monuments. Remembrance is distinguished by the maintenance of all of the above demonstrating a desire to *sustain* the public presence of the historical injustice. In this sense, recognition is atemporal; unlike remembrance it does not, by definition, rely upon a specific amount of time to elapse. Indeed, recognition does not necessarily imply a desire to remember for perpetuity. For instance, James E. Young notes that, in attempting to transfer memories to material objects, ‘we have to some degree divested ourselves of the obligation to remember...In effect, the initial impulse to memorialise events like the Holocaust *may actually stem from an opposite and equal desire to forget them*.’⁴³⁵ The inclination to recognise and externalise the past can thus also be indicative of a need to rationalise or designate the past. The past has been engaged with but it has also been externalised in a suitable and appropriate

⁴³⁵ Young, JPD, p.5.

form, which can be interpreted as a desire to acknowledge the past, but also to move on.⁴³⁶ It is *sustained* efforts at maintaining the artefacts and practices of recognition, however that indicates a shift to remembrance. Remembrance requires continued rituals or performances of collective memory and for these actions and objects to be maintained for a certain period of time in order to be regarded as denoting remembrance. It also implies a certain type of emotional response of joy and celebration, or regret and mourning. It is deeply subjective and particular; above all it is emotive and not necessarily prone to rationalisation, suggesting a desire to sustain specific emotions such as mourning and regret. Indeed, it is worth reiterating the words of Pierre Nora – whose work I cited when distinguishing cultural heritage from history – who notes that ‘history [and recognition as I shall demonstrate] belongs to everyone and no one, whence its claim to universal authority,’ whereas memory, on the other hand, ‘*is blind to all but the group it binds.*’⁴³⁷ Recognition, on the other hand, is a somewhat ‘colder’ response. It is an acknowledgement of an event – undoubtedly with some emotion – but does not require that these emotions be sustained for a prolonged period.

It is impossible, however, to draw a clear line that distinguishes when recognition has ended and remembrance has begun partly because recognition (in the most banal sense) requires some recollection and remembrance of the past. Furthermore, as I have just noted, recognition is also largely atemporal; it is not defined with a particular timeframe. I have largely conceived of recognition and remembrance as ideal types. Nevertheless, I believe that the desire to *sustain* a specific *emotion* for a prolonged period of time can enable us to roughly distinguish a normative difference between the two. The recognition of a specific historical event, for example with an annual commemoration or the maintenance of specific objects such as monuments and plaques, cannot continue beyond a certain amount of time before turning into remembrance. Furthermore, recognition can potentially also place greater emphasis on historical understanding and, unlike remembrance, is more amenable to exploring the different perspectives of historical atrocities. While recognition and remembrance

⁴³⁶ Rowlands, ‘Remembering to Forget: Sublimation as Sacrifice in War Memorials’ in Forty eds. (2001): op cit., p.131.

⁴³⁷ Nora: op cit., p.9.

are two quite different responses to historical injustices, the problem – as I have noted above – lies in the fact that, in practice, recognition can frequently turn into remembrance.

Arguments in favour of recognition, however, have used the terms recognition and remembrance rather carelessly and the distinction between recognition and remembrance has not necessarily been acknowledged in the literature on historical justice. For example, in his essay *Superseding Historic Injustice*, Jeremy Waldron notes: ‘Perhaps the determination to *remember* is bound up with the desire to sustain a specific character as a person or community against a background of infinite possibility.’⁴³⁸ On the next page Waldron clarifies what this remembrance is to consist of: ‘only the deliberate enterprise of recollection (*the enterprise we call “history”*), coupled with the most determined sense that there is a difference between what happened and what we would like to think happened, can sustain the moral and cultural reality of self and community.’⁴³⁹ Waldron’s account of honouring victims of injustice thus consists of ensuring that the facts of the injustice are recollected and noted down – as defined by the ‘enterprise of history.’ This is recognition; it cannot however be described as remembrance as Waldron does not mention that recollection ought to be sustained for a specific amount of time. The problem with Waldron’s argument here, I think, is not merely one of semantics, but rather a genuine conflation of remembrance with recognition – what Waldron is advocating as remembrance is in fact recognition. Indeed, as he does not offer a reason for why remembrance (as defined in this chapter) ought to be sustained, the argument that Waldron makes can only support recognition. Waldron’s argument helps to highlight both the confusion in terminology as well as the difficulty in distinguishing recognition from remembrance. Thus the nature of recognition and the forms that it can take (for example, the construction of a monument) have strong implications for historical justice because, returning to the monument and other objects and practices that are generally designed and constructed to withstand a certain amount of time, we may presume in many cases that such expressions of recognition will continue to exist, indicating a shift from recognition to remembrance. As a specific manifestation

⁴³⁸ Waldron: op cit, p.5.

⁴³⁹ Ibid, p.6 (emphasis added).

of recognition, cultural heritage thus highlights a potential problem with our understanding of historical justice; we need to ask whether historical justice *requires* remembrance, or indeed if public remembrance is *ever* permissible. In other words, should liberal states impose a duty of remembrance alongside recognition, or is there something inherently wrong with this? I have already mentioned above that there has been a tendency to conflate the terms remembrance and recognition and thus ‘remembrance’ has received a fair amount of attention from within the literature. However, of the theorists that do mention remembrance, it is not clear to what extent sustained remembrance is actually endorsed. Indeed, there is a surprising lack of scholarship on the value of forgetting.⁴⁴⁰ This is a rather conspicuous gap in the literature on historical justice; no one seems willing to provide a reasoned rejection of remembrance. Historical justice is a topic that remains fraught with emotion and a desire to account and atone for psychological as well as tangible harms, so it is easy to understand why scholars might be unwilling to reject remembrance. Many have endorsed the abstract concept of recognition as a means of embracing the symbolic and emotional significance of historical injustices. Yet few have explored, in practice, what recognition should consist of. As we have seen, the waters can get quite muddy here because of the extent to which issues of historical justice can blur the lines between reason and emotion.

Recognition and the Liberal State

I have thus far attempted to demonstrate how cultural heritage poses problems for the manner in which historical justice is generally conceived by blurring the distinction between recognition and remembrance. I have argued that while certain objects and practices of cultural heritage (such as memorial days, monuments and plaques) may be designed and constructed with the aim of recognising certain historical injustices, their continued maintenance implies a shift from recognition to remembrance. In order to appreciate why this ambiguity is problematic it is necessary to accept the premise that recognition and remembrance are normatively different. In the previous section, therefore, I attempted to establish this premise and distinguished recognition

⁴⁴⁰ This is a more general point that is made by Forty throughout his introductory chapter, in Forty and Kuechler: op cit.

through its emphasis on acknowledgement and historical understanding, whereas remembrance was defined in terms of a more sustained emotional response to historical events. The shift in cultural heritage from recognition to remembrance is conceptually problematic for historical justice, therefore, fundamentally because although scholars have generally defended the value of recognition, it is unclear whether justice requires, or even permits remembrance. In this section of the chapter I attempt to prove part of this argument by exploring, evaluating and ultimately defending the value of recognising crimes against humanity.

A liberal government must necessarily engage in recognition as a crucial part of achieving historical justice and atoning for historical wrongdoings. When it has been either actively involved in historical injustices or wilfully neglectful of specific actions or events, the *government* itself incurs a specific duty of recognition, whereby it ought to acknowledge the wrong that it has committed. Although these events may have occurred far in the past, it is crucial that they are recognised because letting these events go unacknowledged undermines the state's commitment to justice and respect for other liberal values. This recognition, as I have noted above, manifests itself in the construction of monuments and commemorative objects, in ceremonies and speeches, as well as other ritualistic performances. Insofar as a liberal state does not consist of thick ties, however, it is not possible to assert that individuals have a political obligation to recognise such historical events as *citizens* of the liberal state by attending national memorial days and events, for example, or participating in moments of silence. While institutional continuity renders current governments culpable for the actions of previous governments, hence requiring that they recognise certain events, it is much more difficult to maintain that the same degree of cohesion exists amongst different generations within a liberal state that is characterised by diversity and different conceptions of the good.

However, there are some crimes – often referred to as crimes against humanity – which arguably transcend the different ideas about the good life. These are instances where universal principles such as individual freedom and toleration for others have been grossly violated both in terms of degree and the number of people affected

These crimes are deemed abhorrent by anyone who respects human life and dignity, and arguably require recognition because of their significance for humanity. Indeed, knowledge of such crimes, their causes and consequences, reduces the likelihood that they will be repeated. Thus, despite their differences, all members of a liberal society – who are bound to respect individual autonomy and toleration - ought to recognise such events.

Yet, although there are compelling reasons for states to endorse an obligation of public recognition, there are also powerful reasons to side against a general obligation of recognition. Recognition can manifest itself in a number of different ways, and not all of these are amenable to liberal principles. The complexities of this issue are perhaps best illustrated with regard to Holocaust denial. Holocaust denial or the refusal to *recognise* the Holocaust, and genocide in general, is considered a criminal offence in many European countries including, Austria, Belgium, Bosnia and Herzegovina, France, Germany, Hungary, Luxembourg, the Netherlands, Poland, Portugal, Romania, Spain, and Switzerland. By outlawing a denial of the Holocaust, these states effectively endorse a specific obligation of recognition and, in doing so, the state inevitably takes a stance on what it believes is the correct account of history. Yet, there is something deeply illiberal about outlawing and penalising deviations from this account. Indeed, while it may be important to recognise certain historical events (by outlawing deviations from the official account), this also compromises freedom of expression and opinion, which constitutes one of the cornerstones of liberal thought. As John Stuart Mill famously remarked:

‘If all mankind minus one were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind.’⁴⁴¹

Although the denial of certain historical atrocities is deeply offensive both to victims and their descendants, outlawing particular opinions through obligations of recognition stifles freedom of expression and debate – both of which are crucial for a

⁴⁴¹ Mill (1993): op cit., p.85.

liberal society. Indeed, this is also regarded as a universal right, enshrined by the Universal Declaration on Human Rights which notes that:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Rather than outlawing deviations from the official account of the past, as Timothy Garton Ash writes, the best way to refute patently absurd conspiracy theories and to combat racism, as well as xenophobia, is to engage with such views by gathering the relevant evidence in free and open debate.⁴⁴² Extreme views are unlikely to withstand the criticisms of public scrutiny. It is important for the liberal state to encourage freedom of speech and expression, as this is conducive to undermining such views, rather than simply outlawing them. Thus, while the recognition of certain atrocities is in one sense consistent with liberal values, the value of recognition is undermined by the fact that it threatens the central liberal value of freedom of speech and expression.

Arguing that citizens do not have an obligation to recognise certain historical events in no way precludes them recognising events if they choose to do so. It may well be the case that, as Margalit et al have asserted, we have a moral obligation of *humanity* to recognise and accept certain events, tragedies and celebrations – yet liberal governments must take care to adopt a more nuanced approach to the issue of historical recognition. Confronted by the apparent impossibility between the recognition of universal historical injustices and freedom of expression, I do not believe that it is desirable to decide unequivocally in favour of either – instead, a more balanced approach that appreciates the values and limitations of each is required.

In the first instance, reiterating the value of freedom of speech does mean that individuals should be given complete authority over expressions about the past. It is an altogether different matter, for example, when an historian intentionally

⁴⁴² 'The freedom of Historical Debate is Under Attack by the Memory Police' in *The Guardian*, (16 Oct, 2008), <http://www.guardian.co.uk/commentisfree/2008/oct/16/humanrights>.

misinterprets facts and uses their authority as an historian to propagate myths and incite violence. Furthermore, as Mill goes on to argue:

‘Even opinions lose their immunity when the circumstances in which they are expressed are such as to constitute their expression a positive instigation to some mischievous act...Acts, of whatever kind, which, without justifiable cause, do harm to others, may be, and in the more important cases absolutely require to be controlled by the unfavourable sentiments, and, when needful, by the active interference of mankind.’⁴⁴³

Thus, an historian, attempting to make reasoned arguments about historical events and maintaining what Antoon de Baets calls a ‘moral attitude of intellectual integrity’⁴⁴⁴, should be free to draw and publish conclusions by relying on adequate source material. Additionally, individuals within the liberal state must be free to draw their own conclusions and opinions about the past. If it is found, however, that individuals are using conceptions of the past to intentionally mislead, to stir up harm and threaten certain individuals and groups, then – as so eloquently advocated by Mill – the right to freedom of speech may be revoked. Indeed, the issue arguably becomes more one of harm and violence – and protecting those who are being targeted, and less a matter of freedom of expression.

Furthermore, although I have highlighted the dangers of recognition and of regulating understandings of the past, liberal states have additional reasons to support the universal recognition of such crimes because they also violate principles, such as respect for individuals and toleration, which lie at the heart of liberalism. The potential dangers to freedom of expression caused by laws that are intended to criminalise the denial of certain historical events do not, in any way, impede the construction of monuments and other objects and practices that are designed to recognise historical events. Indeed, there is powerful evidence which suggests that increased knowledge and understanding of these crimes can lead to their prevention.⁴⁴⁵ Thus, although I reject the view that liberal states ought to effectively

⁴⁴³ Mill: op cit., p.123.

⁴⁴⁴ De Baets (2002): *Censorship of Historical Thought*, (Greenwood Press), p.25.

⁴⁴⁵ See for example: the UN’s framework for the prevention of genocide: http://www.un.org/en/preventgenocide/adviser/pdf/osapg_analysis_framework.pdf.

obligate its citizens to recognise specific events, I do, however, believe that recognition of historical injustices should play a role in civic education. Making recognition part of the educational curriculum places greater emphasis on historical understanding, and particularly about the complexity of the past by not moralising about winners and losers, or victims and perpetrators. Yet this form of education does not necessarily only take place in the classroom and in the study of books. There is a lot of room for alternate expressions on this past – for example, in museums, as well as artwork and performances and plays. I believe that this is consistent with the view that the recognition of universal injustices cannot be enforced by outlawing certain conceptions of the past because it is in the interest of freedom of thought and expression that a diversity of understandings of the past are allowed to take hold, and some occasionally rejected, within the liberal state. Incorporating the study of the great crimes of humanity and exploring these events from a variety of perspectives and approaches thus encourages a more complex understanding of the past and of the universal heritage of mankind. I shall discuss this form of recognition in greater depth in the final chapter. I now wish to turn to obligations of remembrance.

Remembrance within the Liberal State

As I have demonstrated above, conflating recognition and remembrance poses distinct problems for both the conceptualisation and implementation of historical justice. Recognition implies an acknowledgement and acceptance of certain historical events. In this sense it treats an engagement with the past as a form of knowledge that carries symbolic significance. Remembrance, on the other hand, requires recognition but places a much greater emphasis on sustaining a particular psychological or emotional response. Although I have accepted the value of recognition, the normative distinction between recognition and remembrance implies that if remembrance is a requirement of historical justice, separate and additional arguments are needed to demonstrate the value of sustaining this particular psychological state within liberal states. In this section I briefly explore some

arguments that have been put forth in defence of public duties of remembrance but ultimately reject the role of remembrance in liberal politics.

From the outset it seems rather strange to endorse the view that we have a public duty to maintain a certain psychological state of regret or joy. An obligation, as citizens, to sustain a particular psychological state of sadness or joy and to acknowledge particular events on a regular basis, and especially for the state to enforce this, seems to run counter to a fundamental liberal freedom – namely, freedom of conscience. Indeed, in order for us to willingly circumvent this basic tenet of liberal thought, specific and much more powerful arguments need to be made in favour of sustaining remembrance. There are three theorists, however, that I wish to mention briefly who explicitly argue for the need to sustain remembrance. In *The Moral Demands of Memory*, Jeffrey Blustein argues that, ‘within limits and with respect to especially significant events, experiences, or people from the past, remembrance is *an indispensable ingredient of a good life and necessary ingredient of civic health*.’⁴⁴⁶ Thus remembrance is justified in terms of its value for the common good. Blustein articulates the existence of ‘imperfect’ moral obligations ‘*whose principles allow some freedom to choose which events will be remembered and which events will go unremembered*.’⁴⁴⁷ Therefore, according to Blustein, particular communities must remember particular historical events as derived from a general, universal obligation of remembrance.⁴⁴⁸ James Booth, on the other hand, finds that our history is tied to our identity and thus while we may not be able to choose our histories, we can choose whether or not to recognise them. For Booth to remember the past is to take responsibility for it.⁴⁴⁹ Drawing upon the political philosophy of Edmund Burke, he articulates an obligation to remember the past as intrinsic to the maintenance of a shared community identity across generations.⁴⁵⁰ Specifically, Booth argues:

⁴⁴⁶Blustein (2008): *The Moral Demands of Memory*, (Cambridge University Press), p.2.

⁴⁴⁷ Ibid., p.218.

⁴⁴⁸ Ibid., p.219.

⁴⁴⁹Booth, J (2006): *Communities of memory: witness, identity and justice*, (Ithica: Cornell University Press), p.180–182.

⁴⁵⁰ Ibid., p.177.

‘Not to recognise the fullness of our ledger, its debts and injustices, is itself a wrong of a special kind, a wrong by virtue of not bearing in mind one’s responsibility to the victims or of gratitude to one’s benefactors. It also, by attacking the bases of moral identity, undermines the possibility of trust by refusing to recognise the connection between past and present wills, which in turn weakens faith in the forward-directed power of the will to commit my/our future self.’⁴⁵¹

Conceived in these terms, historical injustices perpetrated by previous generations, become a burden that subsequent generations must bear. In order to sustain their arguments for remembrance, both Booth and Blustein rely upon a strong sense of intergenerational *community* and coherence and solidarity within the community, as well as a desire to sustain and project a certain *identity* within the community.

The degree of social cohesion required by Booth and Blustein is something that Avishai Margalit is somewhat sceptical about. Margalit recognises that such obligations to remember necessarily presuppose the existence of what he describes as ‘thick relations.’⁴⁵² Thus the duty to remember as envisaged by Booth and Blustein relies upon the existence of specific ties as well as a certain degree of homogeneity with regard to conceptions of the good. In other words, there is an *ethical* imperative to remember. This obligation to remember might be feasible therefore within religious, ethnic, or national groups that are characterised by a certain amount of cohesion and homogeneity (indeed as discussed in Chapter 1, such groups may be defined in part by the remembrance of certain historical events), but it appears more suspect when advanced for a political community that is not necessarily characterised by such qualities. If there is an obligation to remember, this seems contingent on a certain standard of relations between individuals. A multitude of such affiliations do exist *within* the liberal state, but I believe it would be wrong to assert that the liberal state itself is characterised by the thick ties that are needed to justify a public duty of remembrance. Indeed, if anything, a liberal state grows out of a determination to accommodate (and occasionally placate) a multitude of these ties, by refusing – on principle – to promote any particular tie. Furthermore, a liberal public heritage which, by nature, is minimal, aims to be objectively balanced and reflexive stands

⁴⁵¹ Booth: op cit., p.181.

⁴⁵² Margalit, A. (2002): *The Ethics of Memory*, (Harvard University Press), p.106.

fundamentally at odds with the spirit of remembrance which, as Pierre Nora has noted above, demands loyalty and is characterised by subjectivity.

A further reason for why liberal states cannot endorse a public duty of remembrance is because a public collective memory is likely to be biased, much like the rest of a public heritage, to a particular cultural (most likely, national group). Although public heritage is likely to reflect the experiences of the dominant group/nationality, what makes a public heritage *liberal* is that it places no particular normative significance on the content of this heritage insofar as it may draw upon a particular national identity (in fact, it actively tries to undermine this cultural bias). While I have conceded, out of pragmatism, that it is necessary to accept some cultural biases (in favour of the dominant group or nationality) in heritage on the basis that these do not necessarily harm other groups (or that the liberal state ought to remedy these harms), this particular bias cannot be justified – fundamentally because it also undermines the central liberal principle of freedom of conscience. As for whether the state ought to fund practices which are aimed at sustaining memory – such as public parades, rituals and memorial events - the response of the liberal state here must be consistent with its response on providing assistance to preserve cultures: that is, part of ensuring that individuals have the freedom to engage with their heritages as much or as little as they please also entails that liberal states refrain from interfering or funding such projects. It would also be unfair for the state to help sustain any particular historical memory whilst neglecting others. Though some, particularly liberal nationalists, might argue that a public duty of collective memory could be used to bind the various groups within the nation together, what distinguishes my view is that I am unwilling to accept any normative justification any existing cultural bias in public heritage – particularly if this bias, as I have noted above, violates a central liberal principle of freedom of conscience.

Yet, although the liberal state cannot oblige its citizens to remember certain national moments of trauma or celebration, what about obligations of humanity? While Avishai Margalit is doubtful about the possibility of a general moral obligation to remember within the political community, when pushed to consider what *humanity*

ought to remember, he points to ‘the great challenges of humanity’ that includes universal crimes such as genocide, mass murder, torture, enslavement and mass deportations.⁴⁵³ Margalit provides what appears to be the most ‘liberal’ response to remembrance by virtue of the fact that we, as humans, are only obliged to remember universal injustices. Margalit does not therefore rely upon a particularly strong sense of cohesion or homogeneity. Indeed, unlike Booth and Blustein, Margalit does not situate this obligation within the political community. He is not advocating that these obligations ought to be enforced by national governments, nor that our obligations to remember arise out of our membership within a particular state. In asserting a duty of remembrance, Margalit’s explanation for why humanity ought to remember specific injustices is as follows:

‘Why ought humanity to remember moral nightmares rather than moments of human triumph – moments in which human beings behaved nobly?...The source of the obligation to remember, I maintain, comes from the effort of radical evil forces to undermine morality itself by, among other means, rewriting the past and controlling collective memory.’⁴⁵⁴

It is not clear whether Margalit has anyone specifically in mind when he speaks of the ‘radical evil forces’ that attempt to rewrite the past. Yet, it is true that some crimes undermine the existence of a common humanity by refusing to certain treat individuals as human beings. The difficulty with Margalit’s argument, and indeed other potential defences of remembrance, however, is that it ultimately also relies upon a certain standard of relations between individuals. Ironically, it is a *lack* of the very qualities that Margalit et al rely upon in order to sustain a general duty of humanity to remember that allow such atrocities to occur in the first place, i.e. were such relations of humanity to exist, there would be no need to remember great injustices because, presumably, these injustices would never have occurred. It is precisely the perception of difference that facilitates such crimes of humanity. We are presented with an argument in defence of humanity with a fundamentally, and seemingly contradictory, pessimistic view of human nature.

⁴⁵³ Margalit, op cit., p.78 and 83.

⁴⁵⁴ Margalit, op cit., p.82-83.

However, like Booth's and Blustein's, Margalit's obligation to remember *also* relies to some degree on the need to sustain and reaffirm a certain identity – i.e. our common humanity; apart from respecting the past, Margalit believes that we also owe it to ourselves to remember. Indeed, although the loose bonds of citizenship within the liberal state preclude any obligations to remember national events, Margalit's point, as we have seen above, is that the bonds of humanity still require us to remember the great traumas that have affected mankind. This obligation is also reflected, for example, in the fact that January 27th has been designated International Holocaust Memorial Day by the United Nations.⁴⁵⁵ Indeed, liberal states – as I have noted above - have an added reason to engage with this type of reasoning because the great crimes of humanity have also been severe violations of liberal principles.

In keeping with liberal commitments, I believe that the role of the liberal state on such issues is fundamentally to allow remembrance to occur, without undermining freedom of conscience and expression. States often have a role to play in respecting and upholding universal values – as enshrined, for example, in the Universal Declaration of Human Rights. However, because of the nature of remembrance, the state's role in upholding obligations of remembrance must necessarily be minimal. The liberal state simply cannot *force* individuals to remember as this would seem to be deeply counterintuitive. Though some of humanity's obligations can be enforced by states (e.g. by intervening in instances of genocide and violations of sovereignty), for pragmatic as well as liberal reasons the enforcement of remembrance is simply impossible. Individuals may well mourn tragedies that affect fellow nationals and other human beings, but this arises out of a common bond of *nationality* or, even, *humanity* – and not out of an obligation to one's fellow citizens. Indeed, as I have noted above, there is something radically unfree about *requiring* individuals, as *citizens*, or states as *institutions* to sustain specific responses to specific events – to be happy on days on national celebration (such the anniversaries of the founding of the nation) and to be sad on days that mark national trauma (such as September or November 11th). This is not to say that people ought not to remember, rather that any political *requirement* or *obligation* to remember is fundamentally inconsistent with

⁴⁵⁵ UN News Centre (2005): 'General Assembly Designates Holocaust Memorial Day' - <http://www.un.org/apps/news/story.asp?NewsID=16431&Cr=holocaust&Cr1>.

liberal values. Furthermore, as Blustein points out, remembrance is an ingredient of a good life – and a liberal state, is defined by abstaining from interference in such issues. Remembrance, in other words, has no place in liberal politics.

Recognition and Remembrance in Practice

I have thus far attempted to argue that, while it is difficult to defend a public duty of remembrance, liberal *states* ought to acknowledge certain historical injustices of humanity by subsidising a variety of mediums that can inform and educate the public about these atrocities. Liberal *citizens*, I have argued, are not *required* to recognise these events. They may study historical injustices in school and learn about a diversity of historical experiences through artwork, history museums and public monuments; however, they ought not be penalised for disagreeing with these public accounts of the past. I have thus attempted to present a more nuanced conception of recognition in this chapter. While I accept that the rejection of certain historical events may be insulting and deeply disrespectful and some may feel that I have set the bar too low here, I want to stress that this account of historical justice and cultural heritage is consistent with liberal values. Liberal states simply cannot require their citizens to recognise and remember certain events because this runs counter to the very basic premises of liberal thought. That said, it is very likely that a great many individuals living within the liberal state will remember and recognise certain events – but they do so not out of an obligation as citizens, but rather as a consequence of their own private wills.

As I asserted at the beginning of this chapter, the long-term maintenance of certain forms of cultural heritage highlights a potential problem for the manner in which recognition and remembrance have generally been conceived. I have argued that recognition and remembrance are normatively different and yet I do not believe that this distinction is widely accepted by proponents of historical justice because many do not seem to consider how recognition is to be manifested in practice. As I have noted above, the construction of cultural heritage may be part of recognising an historical injustice. This recognition and acknowledgement of historical wrongs can

be just as significant as more substantive efforts to rectify historical wrongs (e.g. reparations). It is this meaningfulness which entails that recognition will often be highly symbolic in nature, that is, far from a simple and abstract expression of acknowledgement. Recognition may thus encompass memorial days, the construction of monuments, artworks, and plaques, as well as the creation of certain rituals (such as moments of silence). As I have demonstrated from the outset of this thesis, all of these objects and practices can be considered cultural heritage because they are recognised as capable of representing significant historical experiences and identities. It is clear that attempts at historical justice, therefore, have clear implications for the treatment, and specifically creation, of cultural heritage. Yet, given the symbolic nature of recognition, it is unlikely that monuments that are erected in acknowledgement of an injustice, for example, will immediately be demolished once the initial ‘phase’ of recognition has been completed. Indeed, states often choose to honour certain historical events more than once – e.g. September 11th, Columbus Day, or Guy Fawkes Day.⁴⁵⁶ It is far more likely that the objects and rituals that are created out of a desire to recognise an historical event will continue to remain in place. However, this prolonged existence in public space indicates a shift from recognition to remembrance; it is only possible to ‘recognise’ the past a certain number of times before this repeated acknowledgement takes on the character of remembrance. While it may be clear that justice requires that the liberal recognises universal historical wrongs, I have attempted to demonstrate above why obligations of remembrance run counter to fundamental liberal values. So, what should be done about practices and objects that are initially designed for the purposes of recognising injustices but eventually also sustained in the long run within public spaces?

It would appear that remaining faithful to liberal principles to some extent requires that governments ought to remove objects that are designed to recognise historical events and only observe days of commemoration for a certain number of years. Yet, to destroy objects that have been constructed with the intent of recognising and honouring certain events undermines the initial intent behind their construction –

⁴⁵⁶ It might be argued that these are national days of remembrance, not recognition. However, in response, I find that while many people do treat these days as such, the liberal state cannot oblige citizens to remember – for example by forcing them to attend memorials, ceremonies and other practices.

indeed, it is almost a kind of iconoclasm. I shall discuss iconoclasm and the liberal state in greater depth in the next section. However, while I do believe that the practical implementation of recognition and the existence of cultural heritage should force some theorists to reconsider their views of historical justice and recognition, I do not believe that liberal states ought to necessarily destroy objects or cease observing memorial days once a ‘sufficient’ period of recognition has ended. This is a particular issue where it is necessary to deviate from ideal theory and principles. Instead, liberal governments can maintain such objects and practices but this is on the condition that they also carefully control how these things are framed by placing greater emphasis, for example, on their educational value by encouraging individuals to form their own opinion about these events and experiences, and depriving these events and objects – to the greatest extent possible, of subjective and emotive content.

Throughout this thesis I have stressed the importance of creating a space for individuals to engage with their pasts and cultural heritage meaningfully. This has meant that while the state will inevitably promote some experiences over others, it ought not prohibit certain practices that it may deem abhorrent or, for that matter, impose practices and rituals that reflect the identity of a dominant group, on marginalised groups. First and foremost, however, are the two central liberal values of individual liberty and toleration which also act as a guide for action when there is a clash between a dominant and minority culture. Thus, while the liberal state cannot impose a duty of remembrance or require that citizens accept the public account of history, it is similarly important for the liberal state to nevertheless help create and sustain a space for learning as well as allowing individuals to meaningfully recognise and remember events by promoting toleration and respect for individual liberty. Let us take Columbus Day as an illustration of this. The US and some countries in South America celebrate October the 12th to mark the arrival of Christopher Columbus in the Americas, as a crucial part of American heritage. The arrival of Christopher Columbus is undoubtedly an event that altered the course of history. Yet, it also precipitated violence and slavery to the extent that Columbus’ legacy as a hero is seriously thrown into doubt. This is clearly a meaningful date and it would be

impossible to ignore its significance. However, a liberal response to this is to recognise the diversity of attitudes towards this public holiday by refraining from framing it with a particular moralising narrative of winners and loser and, instead, allowing individuals to derive their own meanings from this event. It is equally important to present the many sides to this story in public schools. Thus while the state necessarily takes a stance on public heritage by naming Columbus Day as a public holiday, it refrains from endorsing a particular narrative for this day. Of course, it is not inconceivable that with time, the significance of objects and practices may change and take on more general meaning (as opposed to being tied to a specific historical narrative), and appreciated more for their aesthetic or antiquarian value, at which point, governments may reconsider whether such objects and practices should continue to be observed publicly.

Destruction, Iconoclasm and the Liberal state

Although one of the primary aims of this chapter has been to distinguish recognition from remembrance, in practice, it is quite difficult to draw a line identifying where recognition ends and remembrance begins. Indeed, doing so might also seem most tactless, undermining the symbolic significance of recognition. Thus, pulling down or destroying objects and monuments (once a ‘reasonable’ period for recognition has elapsed) that are constructed in recognition of historical events is clearly counterintuitive; and sometimes a waste of time and resources. Though it is important that liberal governments do not endorse remembrance, I do not believe that this in any way allows for the permissibility of iconoclasm. Sustaining or preserving such objects out of obligations of remembrance runs counter to liberal commitments, as outlined above – this, however, this does not justify destruction. Indeed, having argued that liberal governments do not have an obligation to preserve cultural heritage, it is worth considering the permissibility of iconoclasm and the destruction of heritage more generally.

It is important to remember that I have defined cultural heritage in terms of its significance for cultural identity. Cultural heritage can thus be distinguished from art

and antiques, which tend to be analysed in terms of their aesthetic value or age. I therefore rejected a general obligation to preserve cultural heritage for liberal governments because liberal states have a duty not to promote any particular conception of the good life – and cultural heritage, it must be remembered, by definition, reflects and represents particular, cultural conceptions of the good. Individual liberty and cultural heritage are, instead, best served by liberal states refraining from intervention. The only instances where intervention in cultural heritage may be justified are 1) to uphold individual liberty, 2) to promote tolerance, 3) to maintain a necessary, but minimal, liberal public heritage. Of course, asserting that liberal governments do not have any obligation to preserve cultural heritage does not mean that such objects will not be preserved for other reasons. As I pointed out in Chapter 1, objects that are recognised as heritage may also be appreciated on aesthetic grounds and regarded as art or antiques. For example, objects that are readily discarded during times of conflict or revolution are often smuggled out of the country and happily bought up by art connoisseurs across the globe. Thus, while the liberal state may is not obliged to preserve cultural heritage, this does not preclude the possibility of some objects (which might reasonably be regarded as heritage) from being preserved on other grounds.⁴⁵⁷

With its inherent scepticism of tradition and rejection of any particular conception of the good life, challenging existing ideas lies at the very heart of liberal thought. In this regard, liberalism is *inherently* iconoclastic. However, while liberal governments do not have an obligation to preserve cultural heritage, this does not give them a general right to destroy cultural artefacts. Indeed, destroying objects because of their symbolic, cultural value runs counter to the basic premise of liberal thought, which is not to promote any particular conception of the good life. While the liberal state ought to refrain from promoting its own ideals – it similarly remains bound to not reject or deny conceptions of the good, *or* artefacts which represent conceptions of a good that it disagrees with. Thus, the principles of liberalism stand fundamentally at odds with iconoclasm.

⁴⁵⁷ Indeed, while I have argued that there is no obligation to preserve cultural heritage, a convincing case might still be made for public art subsidies.

There are limits to this restriction on destroying objects, however. It is important to bear in mind that there may be instances where limited resources - financial, spatial and temporal - necessitate the removal or destruction of certain forms of cultural heritage. It would be quite naive to suggest that the interests of cultural heritage should always trump other concerns, but equally so to find that other concerns, such as redevelopment, should always trump heritage considerations. In other words, it is very difficult to come up with a principled response to heritage that is threatened by a need to redevelop or make other policy changes. Prudence, however, suggests that in such instances, when it may be necessary to destroy heritage, for example, to build public facilities such as a hospital, school or reservoir, it is important to balance the ramifications of the loss of this heritage with the value of the public work being built, or public money gained or saved from the destruction of heritage. Liberal governments should also make efforts to consult with citizens to understand the range of positions on each instance. There is no general 'right' answer in such instances where heritage is challenged by development needs; rather the most suitable outcome should be determined on a case-by-case basis.

Finally, certain icons, symbols and objects can cause serious offense to others and this too places restrictions on the above rule on iconoclasm. While the liberal state does not possess a general right to challenge and destroy cultural symbols and objects (I have argued above and in previous chapters that it is obliged to refrain from intervention in most situations, with some exceptions), it is important to distinguish between the iconoclasm of individuals and of the state. On this issue, once again, the orthodox liberalism of John Stuart Mill provides us with a suitable response: namely, that freedom of thought and expression are crucial to a liberal society, but that even this freedom can be undermined when nefarious and harmful motives can be detected. For instance, swastikas or SS symbols might reasonably form part of an exhibition on the Second World War or military history. They take on a rather different meaning and character when used at a rally that advocates the deportation or extermination of racial minorities. While liberal governments do not possess a general right to destroy or challenge cultural symbols and ideas, these expressions lose their immunity when they are used to incite harm and violence

toward others (just as an individual freedom to challenge existing cultural beliefs and symbols is also limited by this harm principle). Yet, even in these contexts care must be exercised when deciding on the permissibility of iconoclasm. Unless it can be shown convincingly that the symbols themselves are being used to promote violence and harm, freedom of expression must be protected. I shall discuss this aspect of iconoclasm in greater depth in the final chapter of this thesis.

Iconoclasm and Historical Justice

Although liberal states do not possess a general right to destroy cultural artefacts, it is true that the collapse of hated regimes has often been officiated by pulling down statues of rulers and their symbols. Yet, as we have seen at the beginning of the chapter, while this may ultimately be justified as a matter of historical justice on the basis that the previous regimes have no right to maintain a continued presence in public spaces, there are further liberal reasons for not destroying all such objects. The story of Henri Grégoire provides a good starting point to this discussion on liberalism and iconoclasm, for Grégoire's response to the destruction caused by the French Revolution was possibly the first expression of what has become modern public policy on cultural property. The revolutionary government in France had commissioned a report on the cost of damage caused by the iconoclasts and Grégoire used this opportunity to draw attention to a previously unexplored issue for public policy: why should the preservation of artefacts concern the nation, especially when these items represented the skeletal remains of a hated regime?⁴⁵⁸ Fundamentally, Grégoire sought to look beyond the patronage of such items and focus instead on their creator. Grégoire argued that the preservation of such artefacts was a necessary condition for *liberty*. Liberty, he argued, could only be realised when the talents and creative energies of the individual were permitted to flourish, and it was *only where tolerance for difference and respect for creativity existed that flourishing could occur*. To throw away knowledge because this had been accumulated under the wrong regime was a celebration of wilful ignorance; ignorance that liberty had to

⁴⁵⁸ Sax (1990): 'Heritage Preservation as a public duty', (Michigan law review, 88:5), p.1145.

repudiate.⁴⁵⁹ What is most significant about this story is that by basing his defence on the value of liberty, Grégoire succeeded in linking the preservation of cultural heritage with specific political values. For Grégoire, cultural policy, in this case the treatment of France's heritage, *provided a litmus test for civilized values*.⁴⁶⁰ Thus by preserving aspects of culture the revolutionary government in France could demonstrate its appreciation of creativity, of toleration, and indeed of liberty itself.⁴⁶¹

Although governments do not possess a general right to destroy or outlaw cultural artefacts and practices, this does not mean that any object that exists in public space must continue to do so in perpetuity. Indeed, as I have noted, governments do not have a general obligation to preserve cultural heritage and in the aftermath of unjust previous regimes, liberal governments and citizens may wish to distance themselves from an unhappy past. However, the story of preservation in revolutionary France highlights the value of not destroying all of these objects – the treatment of such artefacts ultimately reflects the liberal state's attitude toward toleration, knowledge and creativity. Thus, while liberal governments may deem it fair to destroy many, if not most, of the monuments, artefacts and practices of a previous regime, it also has strong liberal reasons for maintaining some of these. These objects do not need to be *in situ*, and might more properly be maintained in a national museum or other locale. Budapest's Memento Park, which contains a collection of the previous communist regime's monuments, is a good example of how the remnants of a previous regime can be used in a creative and educational manner. Ultimately, however, the value of maintaining some objects cannot be characterised as an obligation to preserve because (as discussed in previous chapters) no such obligation (to preserve cultural heritage) exists, and the crimes of the previous regime may have been so great as to warrant a refusal by a general population to have their monuments maintained in general public spaces. Yet, there appear to be strong liberal reasons for preserving *some* of such objects.

⁴⁵⁹ Ibid., p.1156-1158.

⁴⁶⁰ Ibid., p.1161.

⁴⁶¹ This entire paragraph draws upon R.Tsang (2007): 'The cuckoo in the historian's nest: reconceptualising cultural heritage as a political resource.' Master's dissertation submitted to the LSE, in September 2007.

Conclusion

This chapter has sought to clarify a number of issues pertaining to the relationship between historical justice, recognition, remembrance and cultural heritage. A key argument that I put forth in this chapter is the importance of distinguishing between remembrance and recognition: remembrance requires continued or sustained rituals or performances of collective memory - implying a certain type of emotional response of joy and celebration or regret and mourning; recognition, on the other hand, is an acknowledgement of an event – undoubtedly with some emotion – but not requiring a sustained emotive response. Indeed, I have attempted to place greater emphasis on historical understanding within recognition. While a liberal state can and should endorse the recognition of certain historical events, its response to cultural heritage cannot include obligations of public remembrance. Indeed, obligating liberal citizens to remember and even recognise historical events runs counter to the basic liberal commitment to freedom of conscience. Citizens within the liberal state must be free to engage with their histories and cultural heritage as much or as little as they desire. This means that the denial of certain historical events or specific interpretations of history cannot always be regarded as illegal. Denial, however, does become subject to intervention when it is geared toward purposely inciting harm or violence toward others.

Thus, while liberal states are not obligated to sustain memory or preserve cultural heritage – indeed, they ought to refrain from doing so in the interests of remaining neutral toward a diversity of goods - they ought to abstain from acts of iconoclasm. While it may be tempting to destroy all the monuments and artefacts of a hated previous regime, I have argued that there is educational value in keeping some remnants, for example, by building up archives, maintaining monuments in a national park or displaying certain historical artefacts in a national museum. Knowledge of crimes against humanity decreases the probability that they will be repeated again, and keeping objects such as these can enhance and enrich the learning process.

Much as individuals must be free to recognise, remember or forget, they must also be free to express their cultural heritages in a multitude of different ways. Indeed, the only exception to this norm is in instances where symbols, objects and practices can reasonably be demonstrated to cause harm to others, such that concerns about justice and individual welfare take priority over cultural expression. The consequence of the arguments presented in this chapter is that a liberal public heritage may not draw upon remembrance or actively seek to cultivate a specific interpretation of historical events. Nor is it acceptable for a liberal state to destroy or prohibit objects and symbols that challenge the dominant national heritage. Indeed, while a public heritage is likely to draw upon specific national events, in practice, it is crucial that a liberal state distinguishes itself by ensuring that there is space for a multitude of narratives and interpretations of historical events to exist. Artefacts of historical memory must be kept to a minimum. While the liberal state may inevitably draw upon a collective national memory, it is obliged to make active efforts to undermine the particularity or exclusiveness of this memory and make room for other collective accounts of the past.

Chapter 8

Cultural Heritage and the Liberal State: Some practical cases

In the preceding chapters I have outlined and defended the principles behind a liberal response to cultural heritage. In Chapters 3 to 6, I defended the view that individuals ought to the greatest extent possible be free from interference in engaging with cultural practices and objects. I therefore argued that liberal states do not have a general obligation to preserve cultural heritage (be this a national heritage, or the heritage of any minority group) as this fundamentally undermines individual freedom to engage with cultural heritage. This means that governments are not under any particular duty, for example, to sustain indigenous practices, to preserve artifacts or divert public funds to maintain old buildings, monuments and other structures.⁴⁶² In fact, I argued, such interventions undermine the freedom to make our own decisions about heritage and history. But, discussing destruction and iconoclasm in Chapter 7, I also pointed out that this does not give states the general right to destroy cultural heritage either. A respect for liberal values necessarily negates the permissibility of iconoclasm: although a government may not be sympathetic to certain ideas and

⁴⁶² Note that while I have argued that there is no particular obligation to preserve certain objects of cultural heritage, states may well choose to preserve certain buildings or artefacts not as a matter of cultural heritage, but rather out of an aesthetic or antiquarian appreciation.

ways of living, this does not give it a right to destroy or damage any cultural artifacts and objects (unless the objects themselves actively incite violence or harm to others) as it pleases, because doing so would necessarily violate the liberal proviso to abstain for interfering in conceptions of the good. A liberal response to cultural heritage is guided by a norm of non-intervention, which finds that interventions can only be justified in order to uphold toleration or autonomy. When issues of urban development (and other similar matters) arise, however, I argued that it is necessary to decide the outcome for cultural heritage on a case-by-case basis.

However, I have also pointed out that it is in the liberal state's interest to maintain some objects of cultural heritage as these have instrumental value in fostering an understanding of the shared political community and respect for liberal values. Indeed in Chapter 4 I argued that all states – liberal or otherwise – necessarily maintain certain objects or practices that may also be regarded as cultural heritage, such as a national anthem, language, public holidays, symbols, etc. This public heritage is likely, however, to reflect a bias toward the experiences of a dominant (national) group. In Chapter 6, I reiterated that the liberal state is obliged to ensure that this cultural particularity is minimised (but not eliminated) and supplemented with liberal values of toleration, respect for diversity, and autonomy and a respect for individual choice. Therefore, although a liberal response to cultural heritage is fundamentally characterized by non-intervention such that individuals are free to engage (or not engage) with a heritage that is meaningful to them, any intervention in cultural heritage (be this to promote a public heritage or to intervene in 'private' heritages) must be for the purposes of upholding liberal values. Accepting the *de facto* bias in public heritage, to a certain extent, represents a departure from ideal liberal theory, but this is necessary in order to ensure that this response to cultural heritage retains relevance for contemporary liberal nation-states. The liberal response that I have outlined thus attempts to sustain liberal values whilst remaining mindful of contextual issues such as power relations between groups and the necessary constraints of contemporary nation-states.

In this final chapter I shall discuss the principles outlined in the previous chapters by applying them to some practical cases. This, I hope will not only clarify my arguments but also help to sustain them. Furthermore, as I demonstrate in this chapter, when issues of cultural heritage do arise in policy or public discourse they are often framed quite differently and normative issues concerning heritage (and particularly the heritage of minority groups) can become quite distorted. In addition to exploring some practical controversies of cultural heritage, this chapter also highlights the importance of carefully unpackaging the different arguments and issues that used to present these heritage controversies.

While the previous chapters have generally been structured around different responses to cultural heritage, this chapter is divided into four thematic sections: the cultural landscape; official narratives and knowledge; languages; oaths and rituals. Although the aim of this chapter is to explore and reinforce the liberal response defended thus far, I nevertheless also occasionally reflect upon the positions rejected in previous chapters. In the first section, therefore, I consider a liberal response to the built environment which includes buildings and monuments, but more specifically the construction of (particular) cultural structures within the physical landscape. I consider how the liberal state should respond to potential challenges to liberal values and what a liberal response may be when cultural objects and structures appear to explicitly challenge the legitimacy of the liberal state. In the second section I turn to discuss official knowledge and narratives which encompasses a broad spectrum from a public school curriculum, to citizenship tests, to the content of national museums. I examine the permissibility of ‘official’ narratives within the liberal state and what this might reasonably contain. In the third section I examine languages; more specifically, national languages and the treatment of minority languages. I will assess language requirements for citizenship and what obligations the liberal state has, if any, toward minority languages. Finally, I turn to the issue of oaths and rituals and will discuss the permissibility of certain public oaths (such as oaths of allegiance) as well as rituals that clearly challenge existing liberal beliefs.

It is, of course, impossible to cover every single issue of cultural heritage that arises in public policy but it is hoped that, in addition to clarifying any existing ambiguities from the previous chapters, the themes discussed here provide a response to many of the issues of cultural heritage that are the subject of controversy. One issue that is noticeably missing, however, is the question of the *hijab*. While I do find this topic very interesting and relevant to this research, a lot has been written about the subject within the West in recent years. I also believe that the implications of the arguments that I have provided in Chapter 3 are relatively clear⁴⁶³: so long as educational, social and welfare resources exist (providing meaningful options for exit, discussion and dissent), individual choice must be respected. Thus women who opt to wear the *hijab* or *niqab* must have the freedom to engage with their culture in a manner that is meaningful to them, and the liberal state and other individuals are obliged to tolerate this.

The Cultural Landscape

The role that the physical environment and landscape plays in shaping conceptions self and community should not be underestimated. A city, for example, that makes concerted efforts to preserve its 17th and 18th Century facades and roads is clearly a place that attaches great significance to its history and heritage. In contrast, constant redevelopment and a lack of buildings over 50 years old indicates that tradition and the past are not all that important – to the government, at least. As mentioned at the outset, architecture, monuments, flags, public squares and so on, all play an important role in constructing a local cultural identity both in terms of our everyday experience of the physical landscape and in marking extraordinary moments. Flags present a particularly interesting example because they are used in all manner of occasions and locations – marking solemn national events and ceremonies, as well as being hung outside of homes and businesses, sewn onto t-shirts, backpacks and wallets, and used to cover the coffins of those who died serving the nation. In this section I shall explore the implications of principles set out in the previous chapters by focusing on the permissibility of a diversity of expressions in the physical and

⁴⁶³ See, in particular, the section on ‘Culture and Autonomy’, p.77-83.

cultural landscape. Whereas old buildings denote a specific appreciation of history, a multiplicity of cultural forms in the urban landscape can also say a lot about multiculturalism and diversity within the political community.

Although I believe that the implications of the preceding chapters should be relatively clear, it is worth spelling out the consequences of these principles for the built environment within the liberal state, particularly because practical issues of cultural heritage are rarely framed as neatly (or presented as clearly) in public discourse (as they are in ideal theory). The physical landscape – public and private – cannot be neutral in the sense of avoiding cultural particularity because this is simply impossible. I have argued in Chapter 4, that a public heritage is likely to reflect the experiences of a dominant group. Similarly, public land and buildings are likely to reflect a particular cultural bias – for example, a public square may contain monuments that represent historical figures or events associated with the dominant national group. However, I also argued in Chapter 6 that, within a liberal state, it is important that these cultural biases are kept to a minimum and, where possible, reconceptualised for a broader appeal. Allowing individuals to engage with their cultural heritage without inference also has clear consequences for the physical landscape. Liberal principles entail that individuals and groups must be free to build and construct cultural landmarks within their own private space and land. Yet, such expressions of cultural identity are not always kept behind closed doors: many private cultural expressions, much to the distaste of others, can still be seen by all. In this section, I therefore examine two specific controversies and use these to highlight and reinforce general principles: the recent minaret controversy in Europe allows me to discuss the presence of cultural or religious buildings; and flag burning, which enables me to consider attempts to challenge the dominant national narrative by desecrating a national flag.

The Minarets Controversy in Europe

The response in recent years to minarets in Western Europe presents an interesting case study because of the sheer level of hostility that was leveled at these expressions

of minority cultural identity within broadly liberal states. (Despite this hostility, however, there is surprisingly little scholarship on the issue.) As mosques and minarets are, in part, assertions of Muslim identity in public space, the controversy surrounding them also presents questions about who has the right to control and define public space.⁴⁶⁴ As noted, all of the countries that were involved in these controversies were broadly liberal, with a respect for individual rights and cultural diversity – as indeed enshrined within the European Convention for Human Rights. Yet, this respect for liberal values, in fact, became part of the problem as the minarets were viewed as symbols that *challenged* liberal values. This presents an interesting problem for a liberal theory of cultural heritage because, while the liberal state may be committed to respecting cultural diversity and allowing different cultural groups to construct their own heritages within the built environment *in principle*, it is not immediately clear how liberal governments should respond to cultural heritage when it is perceived to challenge to these very values. Should liberal governments tolerate such challenges or attempt to undermine them?

In order to understand the minaret controversy, Todd Green argues that it is necessary to situate it within a broader context of *secularization* within Europe. The presence of particular religious structures within public spaces does not in itself explain the controversy as the minarets are strongly outnumbered by cathedral towers and church steeples.⁴⁶⁵ However, he notes:

‘...Many Europeans have learnt how to reconcile the presence of Christian structures with secular identity. In the case of minarets, what we have is not simply the presence of religion in the public sphere but the presence of a particular religion, deemed foreign, oppressive and inherently incapable of respecting western values.’⁴⁶⁶

Though more present in the physical landscape, churches are thus symbols that connect many Europeans to Europe’s past and cultural heritage – they lack ‘the taint of foreignness’ and their presence is justified because Christianity’s ‘natural’ home is

⁴⁶⁴ Green, T. (2010): The resistance to minarets in Europe’ in *Journal of Church and State*, (Vol. 52 no. 4), p.630.

⁴⁶⁵ Ibid., p.621.

⁴⁶⁶ Ibid., p.622.

on European soil.⁴⁶⁷ This is in contrast to minarets, which are symbols of ‘foreignness.’

Before discussing the controversy itself in greater depth, it is interesting to note that, although many view minarets as clear expressions (or even assertions) of difference, Muslim communities have in fact employed a number of strategies to ensure that the presence of mosques is less ‘problematic’. As Green notes, these strategies operate on the assumption that it is the *visibility* and distinctive presence of mosques in public space that is the real problem.⁴⁶⁸ While in Pforzheim, Germany, a minaret is only permitted if it is lower than the steeple of a local church, in Cologne, this same initiative came from the architect and sponsoring Islamic association.⁴⁶⁹ Green demonstrates how Muslims will agree to relocate the mosque to another part of town that is less visible or accessible to non-Muslims.⁴⁷⁰ Furthermore, in many cases, Muslims rely on architectural mimicry so that mosques blend in more with surrounding buildings, by eliminating the domes, crescent moons, or minarets, and by avoiding the ‘oriental’ architecture more commonly found in the countries of origin.⁴⁷¹ Green even writes that mosques are occasionally designed to more closely resemble a church.⁴⁷² In most places the *adhan*, or call to prayer, is not permitted, and yet Green argues that this is due more to a fear of what is on the horizon – as opposed to current practice, because many Islamic communities in fact rely upon alternate methods such as light, text messages or even short wave transmitters to call followers to prayer.⁴⁷³ He notes: ‘the key point is that Muslims find some success in alleviating concerns over mosques if those features that make mosques distinctly religious (read Islamic) are missing. *Absence, architecturally, enables Muslims to be present in a less threatening way.*’⁴⁷⁴ These efforts at ‘camouflage’ are significant because they demonstrate a commitment to cultural heritage whilst making clear efforts at integration within the cultural and physical landscape.

⁴⁶⁷ Green: op cit., p.630.

⁴⁶⁸ Green: op cit., p.627.

⁴⁶⁹ Green: op cit., p.632.

⁴⁷⁰ Green: op cit., p.627.

⁴⁷¹ Ibid.

⁴⁷² ibid. Emphasis added.

⁴⁷³ Green: op cit., p.633-4.

⁴⁷⁴ Green: op cit., p.627.

Despite these attempts, however, there has been a strong reaction to minarets within Western Europe. Green writes how, in 2000, following the mayor's decision to grant a plot of land for the purposes of building a mosque, a local branch of Italy's Northern League ordered a protest in the town of Lodi. Representatives from the league argued that 'Islamic fundamentalism' was incompatible with Italian values and participants of the protest were invited to sprinkle the proposed site with pig urine.⁴⁷⁵ In Cologne, Germany, Pro Köln, a radical-right wing citizen's association strongly rejected the construction of what would be Germany's largest mosque a mere two miles from the city's famous Catholic cathedral. A Pro-Köln leader, insisted that the mosque would wrongly 'reflect a parallel Islamic society and further encourage the subjugation of women.'⁴⁷⁶ Most famously, Switzerland, following a national referendum in 2009, banned the construction of minarets. Final results indicated that 57.5% of voters (1 534 054 citizens) had approved the proposals to ban minarets, out of a 53.4% turnout; only 3 cantons out of 23 had rejected the proposals.⁴⁷⁷ This came as a surprise to politicians and scholars alike. But, Green notes, 'the ban was all the more surprising in light of the fact that Switzerland only has four minarets and none of them are used for *adhan*, the Islamic call to prayer. Switzerland did not appear to have a real minaret 'problem.'⁴⁷⁸

With four official nationalities and a history of necessary compromise between different religious beliefs, the conceptualization of the minaret issue in Switzerland is interesting because advocates of the ban presented minarets (and indeed Islam) as a *political challenge* to liberal values. Green quotes Ulrich Schuler, one of the major figures behind the initiative, who responded to a reporter's comparison of a church steeple to minaret by insisting that the religions represented by the two structures stand for two very different things. Schuler noted, " I think Christianity is an attitude of freedom, of recognizing different meanings, of tolerance. Islam has nothing to do

⁴⁷⁵ Green: op cit., p.628.

⁴⁷⁶ Green: op cit., p.628.

⁴⁷⁷ Statistics from

http://www.swissinfo.ch/eng/Specials/Islam_and_Switzerland/Minaret_vote/Minaret_ban_approved_by_57_per_cent_of_voters.html?cid=7793916.

⁴⁷⁸ Green: op cit., p.619.

with tolerance.”⁴⁷⁹ Indeed, a press release for the initiative noted that minarets are ‘*nothing more than a religio-political claim to power and domination*’; they are visible ‘symbols of an unconditional religious claim and intolerance connected with that.’⁴⁸⁰ Another advocate from the initiative went on to note: minarets function as ‘*flags that generals place on strategic military maps to identify a conquered territory.*’⁴⁸¹ Indeed, the publicity materials for the initiative illustrated precisely this: the Swiss flag covered with minarets made to look like missiles, with a woman covered up in a *niqab* in the background.

Framing the minaret controversy as a *political* issue presumably meant that banning further construction of minarets could mask the cultural issues at hand – though, of course, many – including UN experts – would still find that it violated human rights.⁴⁸² More importantly, however, arguments describing minarets as a political threat – though largely without merit – seemed to imbue the initiative with greater legitimacy. I have argued that the liberal state should strive toward cultural and political neutrality (even though it may never achieve it), however, it is important to consider how it ought to respond to perceived political and cultural challenges to liberal authority. A public (national) heritage is geared toward, and can be justified on the grounds of, promoting an awareness of difference and respect for liberal values. In this sense it is a preventative measure for upholding social and political unity. Is the liberal state, however, justified in pursuing more aggressive (or defensive) strategies in addition to this – such as banning the construction of more minarets?

In such instances it is of paramount importance, first of all, to assess the extent and credibility of the threat or challenge that is being posed. In the case of the Swiss minarets, it is clear that Switzerland did not exactly have a minaret ‘problem’ as there were very few existing minarets and there were no plans for a significant increase in minaret construction. The credibility of the challenge, however, was even more suspect: it was one thing to recognise how minarets can alter the identity of the

⁴⁷⁹ Green: op cit., p.636.

⁴⁸⁰ Green: op cit., p.637.

⁴⁸¹ Ibid.

⁴⁸² See, for example, <http://www.un.org/apps/news/story.asp?NewsID=33089>.

physical landscape, but it was a huge step from this to asserting that these (four) structures directly threatened the value of tolerance in Swiss society. Indeed, the manner in which the minaret controversy has been framed highlights the importance of carefully distinguishing genuine facts and concerns with exaggerated rhetoric. Clearly minarets had become a proxy for a number of fears and (mis)conceptions about Islam more generally. In previous chapters I have stressed that in order for toleration to be sustained meaningfully across the political community, it is important to foster an understanding of diversity partly through a public heritage. Thus, had there been a greater general understanding of Islam, Islamic practices and the role of minarets, it is unlikely that the referendum would have been successful. In a later section of this chapter I discuss the role of education and official narratives in greater depth.

Let us assume, however, that this controversy arose in a state without a culture of public referendums, where the issue was left to the government to decide. I have argued in Chapters 3-6 that the liberal state, to a certain extent, is justified in its attempts to foster some shared conception of unity because this is broadly in the interest of sustaining peace and stability and, hence, largely in individual interest. However in Chapter 5 I also demonstrated that liberalism itself sets limits on what the liberal state may do to 'defend' itself from alternate conceptions of the good. A public heritage and a liberal state's response to cultural heritage cannot be geared at fostering or upholding loyalty to the state, and this is what distinguishes a liberal response to cultural heritage from liberal nationalism and constitutional patriotism. A respect for individual freedom and toleration ultimately tempers the liberal state's right to self-defence. Even if alternate views are perceived to be challenges to the authority of liberal values, the state – or more specifically, the dominant group – a liberal state is not justified in quashing these points of view because this violates a fundamental liberal commitment to neutrality between conceptions of the good. This issue is examined further in a study of flag burning.

Iconoclasm and the Permissibility of Flag Burning

While the minaret controversy has helped to highlight the importance of assessing the credibility of claims which assert that certain practices challenge liberal values and the state, it is worth examining whether the state may intervene in challenges to alternate conceptions of the good *and* more explicit (and genuine) cultural repudiations of the state. In the previous chapter I argued that the state cannot engage in acts of iconoclasm because this is an explicit rejection of a particular conception of the good. It is crucial that individuals are free to challenge and reject ideas within the liberal state as fundamental to freedom of both conscience and expression – but how far does this right extend? As we have seen, the construction of minarets has been interpreted as a challenge to liberal values – yet the authenticity of this claim is suspect. It is by no means clear that the physical structures of minarets challenge liberal values and there is little evidence to support this view. It is for this reason that flag burning and desecration provide an interesting further case study for a liberal response to cultural heritage because no other object reflects the authority of the state as universally as a national flag. Burning or desecrating a flag is therefore a clear challenge to the state and it is for this reason that such actions are deemed illegal in so many countries.⁴⁸³

Nowhere has the debate about the permissibility of flag burning been more controversial than in the United States. Daniel Pollitt describes the first instance that ignited this controversy as follows:

‘During the afternoon of June 6, 1966, Mr. Street, a resident of Brooklyn, heard the news reports that a sniper in Mississippi had shot James Meredith, the first African-American to enroll at the University of Mississippi. Street, also an African-American, took his United States flag from a drawer, went to the street corner, and set the flag on fire. He told a police officer, "We don't need no damn flag.... If they let that happen to Meredith we don't need an American flag." Street was convicted under a New York law making it a misdemeanor to "publicly mutilate, deface, defile, or defy, trample upon, or cast contempt upon *either by words or act*" any flag of the United States. The Supreme Court, in an opinion by Justice Harlan, reversed Street's conviction,

⁴⁸³ Places where flag burning is illegal include: Austria, China, Croatia, Denmark, Finland, France, Germany, Japan, New Zealand.

holding the New York statute unconstitutional because it permitted punishment "merely for speaking defiant or contemptuous words about the American flag."⁴⁸⁴

In a number of widely publicised cases, the Supreme Court has in fact continually upheld the right to desecrate the American flag (despite the rulings of regional courts) in accordance with the Bill of Rights that guarantees a right to freedom of expression. As Senator Terry Sanford of North Carolina, who was against the proposed amendment to outlaw flag desecration, noted in a speech to the Senate:

"Those who insult the flag, those who set fire to it, earn the wrath and condemnation they get from the rest of us, but the flag flies on-splendidly and easily prevailing over insult and injury. The flag is the symbol of freedom, and it glorifies the Bill of Rights, the full text of freedom. *We do not mutilate the flag. Misguided people do. We must not mutilate the Bill of Rights. That would violate the very soul of liberty.*"⁴⁸⁵

The permissibility of flag burning is a test for liberal states. Outlawing deliberate damage to the national flag represents a clear limit on the freedom of expression. Whereas allowing intentional damage demonstrates a liberal state's commitment to upholding liberal values, above the institutional interests of the state.

The permissibility of damaging a national flag has bearing on the treatment of other conceptions of the good more generally, as well as the treatment of national artefacts. Does upholding an individual right to this kind of iconoclasm, however, mean that individuals are free to damage the cultural artefacts from conceptions of the good that they disagree with? Not at all. As noted in the previous chapter and to reiterate J.S.Mill's point, it is important to distinguish between free expression and incitement to harm and violence. Similarly, a right to express opinions does not excuse criminal damage. Indeed, commenting on a flag-burning verdict, Justice Stevens noted that,

⁴⁸⁴ Pollitt (1991-1992): 'The Flag burning controversy' in North Carolina Law Review, (Vol. 70), p.558. On p559 Pollitt also notes the 2nd controversy: '*Smith* was the second "flag case" to reach the Supreme Court. Goguen had a small United States flag sewn to the seat of his trousers. He was convicted under a Massachusetts law that made it illegal to "publicly... treat [] [the flag] contemptuously." The Supreme Court upheld a writ of habeas corpus ordering Goguen's release.'

⁴⁸⁵ Pollitt: op cit., p.572-3 – emphasis added.

‘Had Johnson chosen to spray-paint or perhaps convey with a motion picture projector his message of dissatisfaction on the facade of the Lincoln Memorial, there would be no question about the power of the Government to prohibit his means of expression. The prohibition would be supported by the legitimate interest in preserving the quality of an important national asset.’⁴⁸⁶

Although individuals must have a right to reject conceptions of the good through cultural expression, such expressions can still be wrong for all sorts of other reasons. In Switzerland, for example, individuals are free to damage a flag – so long as it is their own private flag – and not attached to a national building or monument. Similarly, setting a flag alight is, in principle, permissible within the liberal state – but creeping into someone else’s garden or climbing onto a public monument or building in order to set a torch to their flag, is certainly not. Within a liberal state, individuals possess a right to challenge beliefs and ideas so long as this does not incite harm or damage public or other private property.

A right to freedom of expression in the cultural landscape is necessary within a liberal state, but not sufficient. In the aftermath of the unsuccessful amendment, it is disappointing to note that the state representative and former Ku Klux Klan Grand Wizard, David Duke, in Louisiana introduced a bill which effectively declared open season on anyone who desecrated the flag by cutting back the punishment for battery from a six-month jail term and a \$500 fine to no more than a \$25 fine and no jail time if the victim of the assault had desecrated the flag.⁴⁸⁷ The village trustees of Romeoville, Illinois went further than this by reducing the penalty for assault of a flag-burner to \$1.⁴⁸⁸ These developments were all the more tragic because they occurred, not in the 60’s as one might expect, but in the 1990s. What this outcome illustrates is that in order for this right to be meaningful it also needs to be given sufficient protection. In Chapter 3, I argued that individuals must have the freedom to engage with their own cultural heritage without intervention from the state. However, along with David Jones, I also found that the liberal state has a role to play in

⁴⁸⁶ Cited in Pollitt: *op cit.*, p.556.

⁴⁸⁷ Pollitt: *op cit.*, p.266.

⁴⁸⁸ Pollitt: *op cit.*, p.267.

upholding this freedom and ensuring that toleration for a diversity of cultural beliefs is sustained. The cultural and physical landscape within the liberal state is characterized by a diversity of cultural expressions – some of them sympathetic to the state, others not. This diversity, however, must be protected because it, in turn, helps to foster respect for liberal conceptions of toleration and autonomy.

Official Narratives

The official narratives covered here can be loosely defined as the body of knowledge that is accepted and, in some cases, promoted by the state. Official narratives are a significant part of a public cultural heritage which, within a liberal state, I have argued in previous chapters, is geared toward promoting respect and understanding for diversity, freedom and toleration. Official narratives fit into a category of necessary interventions and encompasses (among other things) knowledge embodied in state school curricula, in citizenship tests and in national museums.⁴⁸⁹ Though the necessity of state funding for these three institutions can be open to scrutiny, I largely take their subsidisation for granted. Indeed, I view the provision of state education up to the age of 18 as a necessary good. Citizenship tests also provide new citizens with the opportunity to learn about fundamental issues and processes necessary for living within a liberal state. Finally, national museums – as discussed in an earlier chapter – have become prerequisites for contemporary states, alongside national flags, anthems and symbols.

However, though the liberal state fundamentally aims to be neutral, it is – as we have seen – not always possible to remain as such. Indeed, in the previous chapters I have acknowledged the fact that some objects of cultural heritage are likely to reflect a bias toward certain dominant groups within the liberal state. In this section I therefore explore the general content of official narratives by considering the implications of approaches that were discussed (and rejected) in the previous chapters. Studying the consequences of different approaches (to cultural heritage) on education and official narratives only serves to highlight further problems with these

⁴⁸⁹ Necessary both in terms of their role for contemporary sovereign statehood and for promoting cohesion and respect for liberal values.

positions. In this section I examine a number of different narrative strategies that are geared at 1) fostering loyalty and assimilation, 2) a ‘politics of difference’, and 3) a difference-blind account of citizenship, as well as discussing the official narratives endorsed by the liberal state outlined in this thesis.

The Purpose of a Liberal Narrative

One might be tempted to ask why teach a liberal narrative at all? Why not, for example, simply teach school students about ancient history, thus largely avoiding any difficulty in terms of bias toward particular cultural goods, and abolish citizenship tests altogether? I have already argued in previous chapters that a liberal heritage can help to promote understanding of a diversity of ways of living, promoting cohesion and stability. Yet, beyond protecting interests in peace and stability, a public narrative is inherently valuable because it teaches children and immigrants about the values (or, more specifically, of the diversity of values) and norms within the liberal state. Official knowledge, as manifested in the school curriculum and citizenship tests, enables individuals to be aware of and exercise their rights such that they are able to engage with their own conceptions of the good, and capable of questioning, rejecting or even exiting from their cultures, should they choose to do so. Given these aims of promoting an understanding of liberal values, official narratives within a liberal state are geared at imparting knowledge that, though perhaps not *necessary*, is valuable for living within the liberal state, thus serving the goal of facilitating peaceful existence between groups and respect for a diversity of lifestyles. In this sense, the official narrative promotes a liberal form of civic virtue. Liberal values are taught in terms of their ability to facilitate coexistence between individuals and a diversity of groups and, in this regard, safeguard an ability to engage with one’s own conception of the good.

Given the aims and purpose of a liberal public heritage and narrative, therefore, the content of a liberal narrative must necessarily be minimal. Amitai Etzioni has outlined two conceptions of citizenship tests that prove useful in defining the ‘civic’

content of a liberal public narrative. He describes a 'libertarian' citizenship test wherein:

'...Tests are not only limited in scope but also largely cognitive; that is, they seek to establish people's knowledge of how to vote, what taxes are due and the content of basic laws, but little else. In short, such 'thin' citizenship requires but thin tests and relatively little preparation.'⁴⁹⁰

'Liberal' citizenship tests, however:

'...Determine whether future citizens are aware of their right to free speech, and that it cannot be denied. They seek to ensure that citizens know that they are free to form any associations as they wish, practice their religion and so on...Because immigrants are often unaware of their rights and what is to be done when these rights are violated, preparation for liberal citizenship needs to be quite extensive.'⁴⁹¹

This distinction between liberal and libertarian citizenship lies largely in the efforts made by liberal governments to remind citizens of their rights. I believe that the liberal narrative defended thus far would include practical knowledge (as envisaged in Etzioni's libertarian citizenship test) – such as how and when to vote (assuming that this is a liberal democratic state) and how to pay taxes – but also blend in more normative information (from the liberal citizenship test) about various freedoms and how these are enshrined in the law. It is worth exploring the strategies that underlie a national narrative in greater depth, however. The liberal state could reasonably pursue a number of different narrative strategies and this is important because, in addition to achieving a particular outcome, a specific strategy also largely determines the content of an official narrative.

⁴⁹⁰ Etzioni (2007): 'Citizenship Tests: A Comparative, Communitarian Perspective' (The Political Quarterly) – 78:3, p.358.

⁴⁹¹ Ibid.

The Content of Official Narratives

In *A Key to Dutch History*, a volume which justifies the need for a Dutch Canon, Van Oostrom writes:

‘The canon was the reason why the Council argued that education should fulfil a socialisation task and that its social responsibility be strengthened. The integration problem observed by the Council played a clear role in this vision. Certainly given the large number of children of foreign origin, the council regarded the proper teaching of Dutch history and culture at schools to be even more important.’⁴⁹²

The canon itself focuses on key moments in Dutch national history, as opposed to describing the various cultural groups within the Netherlands. It is a resource that clearly aims at integrating children and ‘new-comers’ within a Dutch national narrative. Indeed, van Oostrom notes that the canon is also aimed at providing newcomers with ‘sorely-needed insight into (and feeling for) the country in which they live.’⁴⁹³ William Galston has attempted to provide a normative justification for this type of policy by asserting that,

‘Few individuals will come to embrace the core commitments of liberal society through a process of rational inquiry. If children are to be brought to accept these commitments as valid and binding, the method must be a pedagogy that is *far more rhetorical than rational...civic education...requires a nobler, moralizing history: a pantheon of heroes who confer legitimacy on central institutions and are worthy of emulation.*’⁴⁹⁴

Though Galston’s proposal to openly ‘noblise’ history has been ridiculed by many, Robert Fullinwider makes the valid point that *all* history favours some interests over others. Fullinwider therefore dismisses what he describes as indifferent or ‘accurate’ history arguing that, ‘there is no guarantee that historical truth supports lessons in the love of truth. A comprehensive survey of the human ash pile may reveal that lies have served most human interests better than truth has.’⁴⁹⁵

⁴⁹² Van Oostrom (2007): *A Key to Dutch History*, (Amsterdam University Press), p.18.

⁴⁹³ Ibid., p.23.

⁴⁹⁴ Galston: op cit., p.243 – emphasis added.

⁴⁹⁵ Fullinwider, ‘Patriotic History’ in Fullinwider eds. (1996): *Public Education in a Multicultural Society* (Cambridge: Cambridge University Press), p.209.

Fullinwider therefore advocates the teaching of patriotic history to ‘elicit commitments, to inculcate values, and to create citizens.’⁴⁹⁶ Yet, such lessons in patriotism do not only manifest themselves in history classes within primary and secondary schools. Discussing the newly redesigned US citizenship test in 2010, Alfonso Aguilar, Chief of the United States Office of Citizenship, explained, “[by] study[ing] the fundamentals of [American] history and civics, they will also identify with them and become attached to our country.”⁴⁹⁷

This type of narrative strategy can fit into a broader framework of liberal nationalism, which was discussed in Chapter 5. Exploring the consequences of this strategy thus not only reveals inherent problems with liberal nationalism (and, indeed, other potential approaches to cultural heritage) but also sheds light on an appropriate liberal response to official narratives. There are two main problems with this approach: firstly, it projects a false homogeneity and marginalises the experiences of diverse groups; and secondly, it aims to promote a loyalty to the state that liberal values cannot allow. I shall deal with each of these issues in turn.

Accounting for Diversity in Official Narratives

By promoting certain aspects of a national history, Fullinwider, Galston and David Miller, necessarily overlook the heritage, experiences, practices and preferences of marginalised groups. In Chapter 5, I argued that this placed such groups at an unfair disadvantage. In Chapter 6, therefore, I explored the politics of difference. This strategy also has distinct outcomes for official narratives and education.

As opposed to promoting a single national mode of education, recent years have seen the growing popularity of diversity schooling that is aimed at promoting differences in culture, ethnicity and religion. In the UK for example, almost one third of schools are faith schools. While there is a long and established precedent of ‘Church of England’ schools in England, rather than choosing to roll these back in recent years, state schools catering to religious minorities were set up instead. Although the

⁴⁹⁶ Fullinwider: op cit., p.205.

⁴⁹⁷ Park (2008): ‘A More Meaningful Citizenship Test?’ in *California Law Review* (96) p.1012-13.

national curriculum is identical across all state schools, faith schools have the freedom to shape their own religious studies. Ironically, while racial discrimination remains illegal in the UK, discrimination on religious grounds within faith schools is permissible. Similarly, Amy Gutman writes about the teaching of ‘Afrocentrism’ in US state schools:

‘...some of the historical revisionism in Afrocentrism possibly constitutes an important challenge to established historical understandings, but a troubling account of Afrocentric history can at best be considered mythology and at worst fabrication...the chief problem...is not inaccuracy but *discrimination*. Its cultivation of a reverse racial mythology and sense of racial superiority makes Afrocentrism an uncivic ideology.’⁴⁹⁸

Thus, the inherent problems with the politics of difference are manifested more clearly when applied to the specific issue of official narratives and education. This is not a necessary outcome of the politics of difference but rather indicates what can happen when the politics of difference is taken to an extreme. In Chapter 6 I rejected the politics of recognition and difference on the basis that it has the potential to increase balkanisation and tensions between groups. In many regards, these types of national curricula and systems for education, though mindful of diversity and difference, end up reinforcing boundaries and segregation between groups. In doing so, they promote cultural difference over dialogue, cohesion and toleration. This runs counter to the aims of a liberal heritage, which is ultimately justified on the basis that it defends liberal values of toleration and autonomy.

A third approach to official narratives, one which may be perceived as remaining most faithful to liberal ideals of neutrality and blindness to difference, side-steps the problems with recognising diversity by not acknowledging any cultural particularity at all. This approach echoes some of the sentiments of constitutional patriotism, which aims to ‘de-ethnicise’ the public realm, as well as what I have described in Chapter 3 as the ‘orthodox’ approach to liberalism. Yet, although the liberal state is not obliged to preserve a diversity of minority heritages, it is crucial for the state to

⁴⁹⁸ Gutman ‘Challenges of multiculturalism in democratic education’, in Fullinwider eds.: *op cit.*, p.158 – emphasis added.

recognise existing particularities within its own traditions and national heritage, rather than projecting its views as universal – and hence, equally applicable to all. Again, some of the existing theoretical problems with attempts to ignore or overlook cultural particularity manifest themselves more clearly when applied to a specific scenario. In his discussion of the American citizenship test, Julian Park writes about how such approaches to an official narrative can be inherently distasteful. Park argues that the newly redesigned citizenship test positions immigrants and non-whites as antithetical to democratic values and, as a consequence, the state requires that these individuals relinquish their ‘otherness’ in order to assimilate into the community; this vision of citizenship does not therefore advance a universalist ideology but, in fact, ‘masks an exclusionary construct.’⁴⁹⁹ Park supports this claim with reference to the treatment of ethnic minorities within the citizenship test syllabus:

‘In the current test, citizenship means membership in a community that is predominantly white and male. There is no mention of the Native Americans living in America before the Pilgrims arrived, only reference to Native Americans helping the Pilgrims...Question 45 asks who Martin Luther King Jr. was, but the answer (“a civil rights leader”) and the longer explication make no mention that he was a *black* civil rights leader, or more importantly, that he worked for racial equality...*the new test excludes an Hispanic or Asian figures, related legislation, or historical events, even though Hispanics and Asians comprise the two largest ethnic groups who take the exam and are currently naturalised.*’⁵⁰⁰

Park goes on to argue:

‘Martin Luther king can be known as a civil rights leader, *but not as a black civil rights leader because this excludes other minority groups, which, it is assumed, can only identify with their own groups.* Thus, minorities, such as Hispanics and Asians, are paradoxically excluded from the citizenship test despite making up the majority of test-takers...Non-whites are cast out of the citizenship construct because they threaten the common ground of American citizenship. What is behind USCIS’s (the United States office of Citizenship and Immigration Office) *inclusive rhetoric is the assumption that race is antithetical to citizenship – that being coloured somehow inhibits*

⁴⁹⁹ Park: op cit., p.1002.

⁵⁰⁰ Park: op cit., p.1022-23 – emphasis added.

identification with common civic values. Of course, one racial group is clearly not excluded: the white majority remains the normative group defining citizenship. Thus a principle-centred citizenship is necessarily a *white* citizenship presupposed to be somehow colourless and universal...in short, whiteness provides the normative model for a principle-based citizenship promoted as being inclusive of all races.⁵⁰¹

Though I have been critical of an educational curriculum that promotes differences through segregation, it is crucial that official narratives do not paint a false homogeneity, and for liberal governments to recognise their own cultural particularity. Indeed, although individuals primarily engage with culture outside of the public realm, as Anthony Appiah notes, it is crucial that liberal states educate their citizens about the diversity of cultural experiences that exist within the state. Appiah goes on to argue: ‘because they have a great deal of impact on our relations, in communities and in the political life of the state, we are all the better prepared for life in this nation if we know something of the cultures and identities of others and if we learn to engage in respectful discourse with them.’⁵⁰² Crucially, this approach should not be confused with the *promotion* of a diversity of cultures: diversity is taught as a fact and not as something of inherent moral value.⁵⁰³

Inculcating Loyalty in Official Narratives

A second problem with the approach to official narratives suggested by Galston, Fullinwider et al, is that it seeks to inculcate loyalty to political institutions. As discussed in Chapter 5, however, it is morally and politically untenable for a liberal state to engage in such deliberate and unapologetic strategies for inculcating political loyalty – especially in its school curriculum. A national heritage may aim at fostering a shared understanding and knowledge of diversity and liberal values but it may not cross the line into attempting to garner loyalty to these values themselves. To reiterate, a liberal heritage is distinguished from constitutional patriotism and liberal nationalism partly because it does not attempt to foster loyalty towards liberal institutions. It is true that a liberal ‘narrative’ also acts as a preventative measure for

⁵⁰¹ Park: op cit., p.1024 – emphasis added.

⁵⁰² Appiah, ‘Culture, Subculture, Multiculturalism’, in Fullinwider eds.: op cit., p.81.

⁵⁰³ Brighouse: op cit., p.733.

maintaining peace and order but I do not believe that this is the same as inculcating loyalty. Indeed, as Harry Brighouse points out, a crucial aspect of a liberal education is the teaching of ‘critical scrutiny’ toward the very values being taught.⁵⁰⁴ Brighouse is sceptical about liberal education because of the extent to which it undermines individual autonomy and the legitimacy of the state. He writes:

‘If the state helps form the political loyalties of future citizens by inculcating belief in its own legitimacy, it will be unsurprising when citizens consent to the social institutions they inhabit, but it will be difficult to be confident that their consent is freely given, or would have been freely given.’⁵⁰⁵

This issue raises a clear problem for proponents of patriotic education such as Galston and Fullinwider (discussed above), but also for the legitimacy of the state as envisaged by liberal nationalists and constitutional patriots, whose views were discussed in Chapter 5. Brighouse, however, also points out that the liberal state generates its own legitimacy in all sorts of other ways, through official reports, histories, national holidays and practices but also by publicly guaranteeing rights, it conditions support.⁵⁰⁶ Each of these clearly limit the extent to which a liberal government – indeed any government – can be objectively legitimated. Yet, as I have attempted to demonstrate, many of these things – such as flags, holidays, etc – are *necessary* features of contemporary statehood. With this in mind, it is even *more* crucial, therefore, that a *liberal* narrative remains inherently sceptical and teaches children and new citizens the value of questioning and challenging accepted and inherited beliefs or what Eamonn Callan refers to as ‘serious and independent ethical criticism.’⁵⁰⁷ As Parekh points out, the *way* in which a curriculum is taught also has significant bearing.⁵⁰⁸ Thus, scepticism affects the way traditional academic subjects, such as history, are taught. As Parekh writes:

‘Each event has not one but several overlapping histories and is amenable to different narratives, all of them partial and biased though some more so than

⁵⁰⁴ Brighouse: op cit., p.720.

⁵⁰⁵ Ibid., p.719.

⁵⁰⁶ Ibid., p.727.

⁵⁰⁷ Callan (2004): *Creating Citizens*, (Oxford: Oxford University Press), p.5.

⁵⁰⁸ Parekh (2000): op cit., p.229.

others. Since events and institutions are multifaceted, so is the truth about them, and a balanced judgement on them can only be formed in conversation between different perspectives. *One of the central aims of education should be to equip the student to participate in such a conversation and, thereby, to broaden her sympathies and get her to appreciate the complexity of truth and the irreducible diversity of interpretations without nervously seeking for a final answer.*⁵⁰⁹

This kind of scepticism, as Brighouse proposes, must be accompanied by what he describes as ‘autonomy-facilitating education’ – which, within the liberal state that I have envisaged, translates into the promotion of choice and outlining the option of exit. It is also worth pointing out that Galston and Fullinwider’s proposals bear an unfortunate semblance to what Nietzsche described as ‘monumental history’ in which, ‘some great era of the past is erected as an idol and zealously danced around.’⁵¹⁰ Nietzsche, rather famously, went on to argue that such history

‘is the masquerade costume in which their hatred of the great and powerful of their own age is disguised as satiated admiration for the great and powerful of past ages, and muffled in which they invert the real meaning of that mode of regarding history into its opposite, whether they are aware of it or not, they act as though their motto were: *let the dead bury the living*.’⁵¹¹

Incorporating scepticism and adopting a more nuanced approach to official narratives thus also ensures that such subjects can retain relevance for future generations and does not devolve into a stagnant veneration of the past.

A charge often levelled at this form of civic education, however, especially if it encourages critical reflection and scepticism, is that it harms certain cultural groups (and more conservative traditions) by encouraging members to challenge their authority. This view is fundamentally based on the assumption that if people are taught to challenge existing beliefs, then these beliefs are unlikely to survive. Yet, it also makes a further assumption that people generally follow traditions for rational reasons, and that they only hold beliefs that can withstand rational scrutiny. I do not

⁵⁰⁹ Ibid.

⁵¹⁰ Nietzsche: op cit., p.71 – emphasis added.

⁵¹¹ Ibid., p.72.

believe that there is much evidence that supports either of these assumptions. Nevertheless, groups that respect autonomy and toleration fundamentally have nothing to worry about, as the liberal state is obliged to refrain from interfering in their cultural affairs.

A final point on education concerns the arguments that I made in the previous chapter about acknowledging universal historical injustices. Although I rejected the view that liberal states ought to enforce the *remembrance* or *recognition* of crimes of humanity in Chapter 7, it is worth reiterating that knowledge of these events should nevertheless form part of a liberal education. Indeed, crimes such as genocide represent the ultimate conflict between cultural groups and, as such, learning about these crimes is a vital part of learning about cultural differences. There is also growing evidence for the existence of indicators that can act as warning signals for an impending genocide.⁵¹² While such knowledge may form part of the school curriculum, it should be noted that this does not, in itself, constitute a violation of freedom of expression or, indeed, conscience. As part of a liberal education, students remain free to hold and express their own opinions about these events.

Official narratives within the liberal state – be they part of the school curriculum, a citizenship test, or exhibits within a national museum – fundamentally aim to equip citizens with the skills and knowledge that are of value in coexisting and functioning as citizens within the liberal state. The content of these narratives ranges from basic information on voting and taxes; to the significance of various rights, freedoms and values; to learning about the diversity of cultural experiences within the state and the importance of critical scrutiny. Rather than viewing this knowledge as a condition to becoming a citizen, emphasis should be placed instead on the value that this knowledge has on being able to engage meaningfully with one's own conception of the good and coexist alongside other citizens within the liberal state. As Parekh writes,

⁵¹² See for example the UN's framework for the prevention of genocide:
http://www.un.org/en/preventgenocide/adviser/pdf/osapg_analysis_framework.pdf

‘Multicultural education is an education in freedom, both in the sense of freedom *from* ethnocentric prejudices and biases and freedom *to* explore and learn from other cultures and perspectives.’⁵¹³

Fundamentally, official narratives within the liberal state aim at breaking down boundaries – be they social, ethnic, linguistic, or religious – because that, after all, is surely the point of any good education.

Languages

Of all the heritage issues engaged with by political theory, it is language that probably receives the most attention. Indeed, the scope of language concerns that arise within the liberal state is relatively broad. Such concerns range from issues such as official languages and the language used by the courts, government and other public services; to the medium of instruction within state schools (whether the state is obliged to teach minority and ‘heritage’ languages or whether it should force schoolchildren to ‘assimilate’ linguistically); in addition to the permissibility of language requirements for individuals seeking naturalisation; but also whether the state has any obligations toward making linguistic concessions in the services and information that it sponsors. It is possible to outline four general responses to minority languages: 1) active rejection and penalisation of any use; 2) indifference; 3) partial support; 4) ascription of official status.⁵¹⁴ By attempting to undermine the significant disadvantages that cultural minorities place and diminish the dominance of certain cultural groups, the liberal response outlined here ultimately supports a combination of the latter three options. In this section I shall consider a number of approaches before outlining my own position on a number of different language issues.

Given the attention that language has received, a broad array of different responses to it can be found within studies of minority rights and multiculturalism. Chandran Kukathas, whose work has been cited in earlier chapters, asserts:

⁵¹³ Parekh (2000): *op cit.*, p.230.

⁵¹⁴ Skutnall-Kangas (2008): Linguistic Genocide in Education, (Routledge), p.297.

‘The stance of benign neglect suggests not that nothing needs to be done but rather that there is, in more cases, no determinate solution that will conform to an ideal of equality. Such solutions as might be reached will have to be compromises. *All that can reasonably be assured to all groups is the freedom to pursue their aims to secure or promote their languages...* what the ideal of benign neglect suggests is that in the process of searching for compromise, special weight not be given to the idea of securing an outcome which honours the ideal of equality of groups. It cannot be attained. What is worth considering, however is how to make the potential for conflict over such issues as language less troubling and potentially damaging.’⁵¹⁵

Because the ideal of equality cannot be achieved, Kukathas believes that the best strategy with regard to the treatment of languages, and indeed, minorities in general, is for the liberal state to abstain from any kind of intervention thereby assuring the freedom of groups to promote and preserve their own languages as they desire. The beauty of this idea is its simplicity – there is no point in striving towards a goal that can never be met and in doing nothing, the liberal state also upholds freedom. One might perhaps be tempted to apply this logic to liberalism more generally. Indeed, the ideal liberal state is unlikely to ever materialise, so why bother?

Similarly, Brian Barry rejects the notion of separate language rights, offering a scathing critique of decisions within Wales that require school-children to learn and public office holders to be able to speak Welsh. Barry writes, ‘creating an artificially protected labour market in order to motivate acceptance of compulsory instruction...is simply to compound one abuse of state power by another.’⁵¹⁶ Unlike Kukathas, however, Barry adopts a more hands on approach with a commitment to equality of opportunity:

‘When we say then that equality of opportunity is a criterion on which an egalitarian liberal society can be properly judged, this must be taken to mean that *everybody should have an opportunity to acquire the country’s language*, to achieve educational success in that language, and to gain employment...in contrast, the provision of genuine equality of opportunity without linguistic

⁵¹⁵ Kukathas, LA, p.242-243 – emphasis added.

⁵¹⁶ Barry, CE, p.107.

assimilation by immigrants would be, if not absolutely impossible, almost unimaginably burdensome.’⁵¹⁷

This is a view that I am broadly sympathetic towards because while I have rejected the promotion and preservation of minority cultures (and languages), I do believe that the liberal state should attempt to address the significant inequalities that certain individuals face as a result of their cultural affiliation. I believe that Barry’s view here suitably accounts for the costs faced by certain individuals both of being unable to communicate and work without knowledge of the dominant language, as well as the costs for the state at managing this. I discuss this approach, however, in greater depth in subsequent sections.

Will Kymlicka’s response to this issue is that while national minorities should be given language rights, immigrants receive no such concessions.⁵¹⁸ Kymlicka, it must be remembered places great significance on the value of a national identity – particularly for indigenous national minorities – and language rights play a crucial role in the maintenance of a national identity. As he and Patten note:

‘Debates over the status of a regional language are also debates over nationhood. For the minority language group, recognition of its language is seen as a symbol of recognition of its nationhood. For the minority group, official multilingualism is desired in part because it is a symbol of, and a step towards, acceptance that it is a multinational state....’⁵¹⁹

While I have noted my sympathy towards Barry’s position, the argument that I wish to defend here also takes account of significant minorities – with some reservations, however, as we shall see.

Before I can outline my own position on this issue, however, I wish to briefly examine the concept of ‘linguistic human rights’ and provide this issue with a bit of context. Although this is a concept that has resulted in some rather extreme views, I

⁵¹⁷ Barry, CE, p.107 – emphasis added.

⁵¹⁸ Kymlicka, MC, p.46.

⁵¹⁹ Patten, A. and Kymlicka, W. (2003): eds. Language Rights and Political Theory, (Oxford University Press), p.5 .

do believe that the fundamental premises of linguistic human rights possess reasonable merit.

Linguistic Human Rights

The right to a minority language is in fact well represented within existing treaty legislation. The preamble to the European Charter for Regional and Minority Languages, states that,

‘The right to use a regional or minority language in private and public life is an inalienable right conforming to the principles embodied in the United Nations International Covenant on Civil and Political Rights, and according to the spirit of the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms.’⁵²⁰

The preamble, however, also goes on to note that:

‘...Stressing the value of interculturalism and multilingualism and considering that the protection and encouragement of regional or minority languages should not be to the detriment of the official languages and the need to learn them.’⁵²¹

As Skutnall-Kangas and Phillipson note, depriving individuals of their linguistic human rights may also prevent them from enjoying other human rights, including fair political representation, access to education and information, a fair trial, freedom of speech and the maintenance of their cultural heritage.⁵²²

For Skutnall-Kangas and Phillipson, linguistic human rights (LHR) imply a positive duty on the part of states to provide individuals with the means to learn the official language within their country of residence. It also, however, means the right to learn their mother-tongue, minimally in basic education, and for the right to use this

⁵²⁰ European Charter for Regional or Minority Languages (preamble) <http://conventions.coe.int/treaty/en/Treaties/Html/148.htm> .

⁵²¹ Ibid.

⁵²² Skutnall-Kangas, T. and Phillipson, R. (1995): *Linguistic Human Rights*, (Berlin: Mouton de Gruyter), p.2.

language in official contexts.⁵²³ Restrictions upon these requirements are to be regarded as an infringement upon fundamental LHR. Indeed, they note that only a few of the world's 6-7000 languages have any kind of official status and as such, it is only the speakers of these official languages who enjoy the full range of LHR.⁵²⁴ Skutnall-Kangas and Phillipson also go on to note that,

‘Most linguistic minorities seem reluctant to grant ‘their’ minorities rights, especially linguistic and cultural rights, because they would rather see their minorities assimilated...but this antagonism towards linguistic minorities is based on false premises, and in particular on two myths, that monolingualism is desirable for economic growth and that minority rights are a threat to the nation state.’⁵²⁵

From this, very particular point of view, Skutnall-Kangas has gone on to assert that formal education is, in fact, one of the main killers of languages that are not used as a medium of instruction, and this is a form of, what he describes as, linguistic genocide.⁵²⁶ Intriguingly, Skutnall-Kangas points to the preparatory documents of the International Convention for the Prevention and Punishment of the Crime of Genocide to demonstrate how the killing of language (as a form of cultural genocide that) was originally considered alongside physical genocide, before being struck out of the convention by some of its signatories.⁵²⁷ The documents defined cultural genocide as:

‘Any deliberate act committed with intent to destroy the language, religion or culture of a national, racial or religious group on grounds of national, or racial origin or religious belief, such as:

- 1) Prohibiting the use of the language of the group in daily intercourse or in schools, or the printing and circulation of publications in the language of the group.
- 2) Destroying or preventing the use of libraries, museums, schools, historical monuments, places of worship or other cultural institutions and objects of the group.’⁵²⁸

⁵²³ Ibid.

⁵²⁴ Ibid.

⁵²⁵ Skutnall-Kangas and Phillipson: op cit., p.3-4.

⁵²⁶ Skutnall-Kangas: op cit., p.297.

⁵²⁷ Skutnall-Kangas: op cit., p.316.

⁵²⁸ Ibid.

Though this preparatory documentation provides fascinating insight to the drafting of the Genocide Convention, it is quite a significant jump from outlining a right to speak minority languages to asserting that education in other languages constitutes linguistic genocide, however.

It is important to take the notion of linguistic human rights serious, but also not to take this concept too far. Indeed, Stephen May has highlighted a key criticism of LHR arguments in that advocacy of language rights for minority groups ‘inevitably *essentialises* the languages and groups concerned, fixing them eternally at a particular (usually long-past) point in time when their historically associated language(s) was widely spoken.’⁵²⁹ It is important therefore to acknowledge that linguistic differences do not always correspond to ethnic differences – furthermore, May stresses, membership within an ethnic group ‘does not necessarily entail an ongoing association with a particular language.’⁵³⁰ This, in fact, mirrors one of my earlier arguments; unless a group is held specifically and *only* together by a certain practice, we cannot say with any certainty that an inability to perform this practice will lead to the dissolution of the group or culture. Indeed, May also points out that, ‘more than one ethnic group can share the same language while continuing without difficulty to maintain their own distinct ethnic (and national) identities.’⁵³¹ There is, in fact, a growing consensus within social theory and linguistics that language is at most only a contingent feature of identity; in other words, our specific language is not what defines us.⁵³² Citing Brutt-Griffler, May notes that decisions about which language to speak can be made more often on the basis of social class rather than ethnicity.⁵³³

These arguments are particularly damning for those, such as Skutnall-Kangas and Kymlicka, who wish to assert that language is intrinsically tied up with identity –

⁵²⁹ May (2005): ‘Language Rights’ in *Journal of Sociolinguistics*, (9.3), p.327 – emphasis added.

⁵³⁰ May, (2003): ‘Rearticulating the case for minority language rights’ in *Current Issues in Language Planning*, (4.2), p.105.

⁵³¹ Ibid.

⁵³² May (2005): op cit., p.327.

⁵³³ Ibid., p.328.

particularly national identity. May demonstrates the importance of ensuring that language policy does not become another parameter along which minority groups are essentialised and discriminated against, as well as maintaining a healthy degree of scepticism towards arguments that hinge on the significance of language for a particular cultural identity. May, however, argues that contrary to essentialism, language rights can and should provide for a more diverse and open ended interpretation of language and identity, with the ‘opportunity or potential to hold multiple, complementary cultural and linguistic identities at both individual and collective levels.’⁵³⁴

Language Policy Within the Liberal State: Official Languages

As May writes, ‘the establishment of state mandated or national languages is, in almost all cases, an inherently deliberate political act and one, moreover, that clearly advantages some individuals and groups at the expense of others.’⁵³⁵ Much like public holidays, official languages clearly reflect the dominance of certain cultural groups within the state and, thus, conferring official language status upon a minority language is also a form of political recognition.

In the previous chapters, however, I was sceptical about the consequences of political recognition and this scepticism is also compounded by the evidence, provided by Stephen May, that language is not necessarily crucial to a particular cultural, ethnic or national identity. Much like Kukathas, therefore, I do not believe that it is entirely possible to arrive at an outcome for language policy *in general* that squarely meets liberal ideals – because, given the ambiguous relationship between cultural identity and language, it is not immediately clear what liberal ideals are when it comes to language policy. Unlike Kukathas, however, I believe that rather than ‘benignly’ neglecting language, this conclusion implies that the liberal state ought to make efforts, 1) to minimise the detrimental effects of being unable to communicate in an official language but also, 2) for decisions about language policy to be guided fundamentally by utility. Language policy in this sense cannot be geared at

⁵³⁴ May (2005): op cit., p.337.

⁵³⁵ Ibid., p.322.

sustaining a heritage language, but rather at ensuring that policy and practice reflect the interests of most, if not all, individuals. This solution thus meets liberal ideals by focusing on individual welfare. Therefore, without distinguishing between indigenous nationals and immigrant groups, official language status should only be conferred upon languages that are spoken by *significant* proportions of the political community. It is difficult to provide a concrete definition of ‘significant’, but common sense dictates that it would be very difficult to manage more than four national languages.

Language within Schools

Much like official language policy, the medium of instruction within state schools is likely to reflect a bias toward dominant groups. Yet, it is worth considering the purpose of education within the liberal state before jumping to conclusions about the injustice of this. Fundamentally, I believe that a liberal education aims to equip children with the skills and knowledge necessary for functioning – through employment, relationships and other social activities – within society. There are some issues and contexts where it is important to incorporate minority identities and experiences, in national museums or in the history curriculum as I have noted above. Education, however, is primarily instrumental. If we ask ourselves, therefore, why children ought to learn the dominant, as opposed to minority or heritage, languages – the response is because learning these languages is most likely to enable them to function and thrive within a liberal society.

Is this, however, as many might argue, a policy of assimilation? To some extent, in obliging school children, within publicly funded schools, to conform to the dominant languages, it is. Yet, as Iris Marion Young notes, ‘few advocates of cultural pluralism and group autonomy...would deny that proficiency in [the official language] is a necessary condition for full participation in society.’⁵³⁶ Nevertheless, unless the liberal state is characterised by a single dominant language and a vast multitude of minority languages, state schools should offer instruction in a number of

⁵³⁶ Young, JPD, p.181.

the dominant/official languages. Furthermore, it is important for schools to also provide secondary language classes in the other dominant languages, as well as options for students to learn ‘heritage’ languages – provided these are not compulsory – ensuring that students are competent in a diversity of languages, hence preventing segregation. Thus, to some extent this is a policy of assimilation, but on the other hand, children and their parents still have a relatively broad variety of language options to choose from. As Pogge notes, it is necessary to balance out the importance of adult minority members being able to communicate with their children with the prevalence of language in question.⁵³⁷ Yet, even this statement is in some ways misleading and open to misinterpretation (as May indeed has done), because although the primary medium of instruction is restricted to dominant languages within state schools, there is nothing that prevents parents from speaking to their children in their language of choice (or indeed sending their children for foreign language classes) outside of school. Furthermore, as Joseph Carens also points out:

‘It is one thing to say that immigrants (and especially their children) can reasonably be expected to learn the language of the country they enter and that their life choices will be affected by their formal legal rights and freedoms. *It is quite another to claim that their entire context of choice is or ought to be determined by the social practices and cultural meanings made available by the culture of their new land.*’⁵³⁸

Ultimately, however, within a liberal state, parents are given a significant amount of choice on the matter of how they wish to have their children educated and what medium they wish to converse with their children in outside of school. As Kukathas notes, ‘people will have to make assessments of what risks to take, to decide how far they wish to integrate into the mainstream.’⁵³⁹

In response to this, some might argue that this is a strategy that only allows the wealthy, who can afford to pay for private education that may cater toward minority languages, to engage meaningfully with their own languages. Yet, in response to this, it must be asked whether any child within the liberal state – other than the relatively

⁵³⁷ Pogge, ‘Rights of Hispanics in the United States’ in Kymlicka and Patten eds, op cit., p.117-8.

⁵³⁸ Carens, CCC, p.71. Emphasis added.

⁵³⁹ Kukathas, LA, p.229.

wealthy – can afford *not* to be educated in the languages of the state? Unless this child grows up to find a job that does not require any interaction with individuals outside of their own culture *or* can afford not to seek employment at all within the state, not learning a dominant language sets strict limits on the child's future life opportunities, placing the child at a distinct disadvantage amongst their peers. As it cannot be said that a child who only learns their own (marginalised) language is completely deprived of meaningful future employment opportunities, this disadvantage is not so severe as to warrant government intervention. However, it does indicate why learning one of the dominant languages is valuable.

Language Requirements for Citizenship

A similar logic to the one outlined just now regarding the medium of instruction in state schools applies to language requirements for citizenship: naturalisation within many states includes language requirements and an ability to communicate – albeit usually at a basic level – in one of the official languages. This is not an ideal liberal position because language requirements represent enforcements of a particular conception of the good life. Yet, as I have noted above, with regard to language – given the complex relationship between language and identity – it is not always immediately clear what an ideal liberal position should be. This doesn't mean, however, that the state should abstain from any language requirements of its new citizens – indeed, if all new citizens were unable to speak the official languages, this would come at a substantial cost to the liberal state. In choosing not to intervene on language requirements, the state would incur a huge cost in ensuring that these citizens had access and public information on services such as legal aid, unemployment benefits, voting materials and guidance on various duties, such as taxes, in their own language; not to provide access and information under these circumstances would constitute discrimination. We might also, quite reasonably, have concerns about how they intend to find employment.

One easy solution to this issue would be to only provide citizenship tests in official national languages – thus ensuring that all new citizens possess an understanding of

these languages. Yet there is quite a difference between being able to communicate in a language on a basic level and being able to pass a rather complex test in that same language. A better response might perhaps take the form of *either* completing the citizenship test in an official language *or* providing documentary proof that reasonable efforts have been made to learn and establish a basic standard at an official language. Individuals seeking naturalisation would, presumably, have been residing within the state for a significant amount of time and so this requirement would not be completely unreasonable. The documentary evidence would demonstrate a willingness to learn the official languages but would also mean that the liberal state is likely to incur lower costs for those who are not fluent speakers. This policy could also be justified on the basis that it is indicative of a willingness on the part of newly naturalised citizens, not necessarily to integrate, but rather to get along or at least be able to communicate with members of the community outside of their own linguistic group.

Maximising Linguistic Inclusion

The language requirements set out above might appear to run contrary to liberal values of abstaining from interference in conceptions of the good life. Indeed, official languages, limited mediums of instruction in state schools and language restrictions on naturalisation seem clearly biased toward very particular conceptions of the good life and very particular cultural groups. These are difficult situations, however, and it is not always possible to stick to principle – especially as, when it comes to languages, it is not immediately clear what liberal principles may require. As Stephen May has argued above, the link between language and particular ethnic and national identities is somewhat ambiguous as more than one ethnic/national group may speak a particular language, whilst many members of that same group may choose to speak a different language for reasons completely unrelated to ethnicity.

Ensuring that all languages spoken within the liberal state are equally catered for – in terms of schooling and other public services – would not only be expensive but also

utterly impossible. The language provisions that I have sought to outline here fundamentally seek to provide individuals with access to a dominant language in the interests of enabling them to function within the state, without hindering their ability to maintain connections to different languages of their choice. This, I believe is the best means of adhering to liberal principles. While I am in agreement with Brian Barry that businesses are not obliged to provide for a diversity of languages⁵⁴⁰, as part of their duty to undermine instances where individuals are placed at a significant disadvantage because of their culture, states also have an obligation to provide information in a diversity of languages. Although I fundamentally disagree with the language provisions outlined by Skutnall-Kangas, proponents of linguistic human rights make a convincing case, as we have seen above, about how the lack of access to certain information undermines individual freedom. Therefore, liberal governments should also aim to provide individuals with access to certain vital information (e.g. voting ballots, legal advice, information about taxation and public utilities). As mentioned in Chapter 3, although this is an instance of significant overlap, this strategy is ultimately distinguished from the promotion of diversity (through the preservation of minority heritages) by the fact that primary strategy of the state lies in improving access to an official language and thus such translations must be regarded as an intermediary measure in achieving the long term goal of maximising access to an official language.

Rituals and the Liberal State

In this final section of the chapter I shall address the issue of social rituals within the liberal state. In previous chapters I have argued in principle that, so long as individual autonomy and toleration are respected, individuals must be free to engage in their own rituals without interference from the state. While this may seem simple enough in principle, in practice, there are still important issues and problems that need to be resolved. For instance, I have defended a minimal liberal public heritage for the purposes of broadening understanding of diversity and liberal values, and so it is important to consider whether some ‘liberal’ rituals – such as citizenship

⁵⁴⁰ Barry, CE, p105-6

ceremonies, and voting – should be made compulsory. Indeed, even if the state is to abstain from this kind of intervention, the establishment of public holidays alone is a type of de facto ‘compulsory’ ritual. Furthermore, despite the liberal state’s commitment to toleration, is it really obliged to tolerate certain minority rituals that clearly challenge the authority of the liberal state or practices that run counter to dominant, ‘liberal’ values?

Before it is possible to weigh in on these issues, it is worth setting out a conceptual framework of rituals. Steven Lukes has defined a ritual as, ‘*a rule-governed activity of a symbolic character which draws the attention of its participants to objects of thought and feeling which they hold to be of special significance.*’⁵⁴¹ Social rituals, secular and otherwise, thus help to forge social unity. Indeed, as we have seen, many cultures are held together *in part* through the observation of certain symbolic practices – be it going to church on a Sunday, wearing certain clothing and ornaments, mourning on certain days, or adopting dietary rituals – but also in voting in elections, or watching national sporting events such as ‘Superbowl Sunday’, or dressing up for Halloween. Randall Collins, for example, has written about national solidarity and the rituals that were able to generate solidarity following the attack on the Twin Towers in September 2001. Collins argues:

‘Solidarity is produced by social interaction within the group, not by the conflict itself as an external event. What creates the solidarity is the sharp rise in ritual intensity of social interaction, as *very large numbers of persons focus their attention on the same event, are reminded constantly that other people are focusing their attention by the symbolic signals they give out, and hence are swept up into a collective mood.*’⁵⁴²

Though recent years have seen a surge of academic interest in rituals, particularly within sociology and anthropology, scholars of ritual continue to draw upon Durkheim’s theory of ‘collective effervescence.’ Amitai Etzioni has summarised Durkheim’s ‘functional’ approach towards rituals as follows:

⁵⁴¹ Lukes (1978): ‘Political Ritual and social integration’ in Essays in Social Theory, (Macmillan), p.54.

⁵⁴² Collins (2004): ‘Rituals of Solidarity and Security in Wake of Terrorist Attack’ in Sociological Theory, (22:1), p.55 – emphasis added.

‘(a) Profane (secular), routine, daily life, the conduct of instrumental activities at work, and carrying out household chores, tend to weaken shared commitments to beliefs and social bonds, and to enhance centrifugal individualism. For societies to survive these centrifugal, individualistic tendencies, they must continuously “recreate” themselves, by shoring up commitments to one shared (“common”) set of beliefs and practices.

(b) Rituals provide one major mechanism for the recreation of society, one in which the members of a society worship shared objects and in which they share experiences that help form and sustain deep emotional bonds among the members.

(c) The specifics of the rituals, and the objects that are being worshipped or celebrated in these rituals, be they colored stones or woodcuts or practically anything else, have no intrinsic value or meaning. It is the society that imbues these objects with significance, and, thus endowed, they become the cornerstones of the integrative rituals built around them.’⁵⁴³

Public Holidays

The liberal state – for better or worse – necessarily has its fair share of public rituals in the form of public holidays. It is holidays that in fact provide the clearest indication of the existence of an official narrative that reflects or is, at least, biased toward the experiences of the dominant group. Public holidays which mark the celebration of Christmas (over Hanukkah), for example, or of New Year in the Gregorian calendar (over New Year according to the Lunar, Hindu, Islamic or Jewish calendar), show clear partisanship toward Western and, in particular, Christian values – despite the supposed secularisation of Western Europe. As Kukathas notes, ‘when public holidays are declared, or not declared, all are affected – particularly when government offices close, or remain open on days that are culturally significant for some minorities.’⁵⁴⁴ While holidays will serve to bind some individuals closer together, they can heighten feelings of exclusion for those who do not subscribe to the values of the holiday. It is for this very reason that Will Kymlicka, as mentioned in an earlier chapter, suggests ‘replacing existing public holidays and work weeks

⁵⁴³ Etzioni (2000): ‘Toward a Theory of Public Ritual’ in *Sociological Theory* (18:1), p.45.

⁵⁴⁴ Kukathas, LA, p.244.

with more ‘neutral’ schedules for schools and government offices’ and having ‘one major holiday for each of the largest religious groups in the country.’⁵⁴⁵

Issues of funding and organisation aside, would such an initiative be likely to have much success, however? Amitai Etzioni in fact argues, somewhat counter intuitively, that religious holidays can be more easily redesigned, without losing their legitimacy, than secular holidays.⁵⁴⁶ He points to the Soviet Union, arguing that:

‘...Continuous, systematic, and deliberate efforts were made to secularize holidays. Christmas and Easter were abolished in 1920, and November 7 (the anniversary of the founding of the Bolshevik government) and May 1 (the day celebrating the unity of labor) were introduced as holidays. In 1929, Sunday was abolished to make a six-day work week. Gift exchanging was moved to New Year’s Eve, and a secular “Father Frost” replaced Santa Claus. These efforts were widely resisted. Religious holidays continued to be observed by millions, often though not always in secrecy. Sunday was restored in 1940. And while the Soviet regime did not survive, the celebration of religious holidays did.’⁵⁴⁷

A liberal state is unlikely to have much success in redesigning or reallocating its public holidays, nor are such measures likely to be terribly popular. Given the low probability for their success, these measures simply come at too great a cost - both financially and in terms of the discontent and disruption they are likely to cause. However, given the social value of holidays, it is important that beyond setting the dates of existing public holidays, liberal states should largely abstain from funding or promoting particular public holidays. I am thus broadly in agreement with Kukathas on this particular issue: it is impossible to resolve the general problems that arise with specific work weeks and public holidays with reference to overriding principles or justice and equality.⁵⁴⁸ Though some changes can be made, ‘when there are different minorities living in a society, some will often have no choice but to conform or adjust to their circumstances.’⁵⁴⁹ The same, however, cannot be said for all rituals within the liberal state.

⁵⁴⁵ Kymlicka, MC, p.115 and 223

⁵⁴⁶ Etzioni (2001): op cit., p.54.

⁵⁴⁷ Ibid, p.54.

⁵⁴⁸ Kukathas, LA, p.244.

⁵⁴⁹ Kukathas, LA, p.245.

Liberal Rituals I: Citizenship Ceremonies and Oaths of Allegiance

Within the UK there is growing support for citizenship ceremonies as rituals that mark and celebrate the entry of new members to the liberal state. Mark Rimmer of Brent County, who conducted the first citizenship ceremony in the UK, provided the following rationale for citizenship ceremonies as part of Lord Goldsmith's Citizenship Review:

‘Prior to the implementation of ceremonies the application process for acquiring citizenship was conducted entirely by post. The aspiring citizen filled out an application and sent it back with supporting documentation. Once a favourable decision was reached a hard copy of the Oath of Allegiance was sent to the applicant with instructions for it to be sworn before a person legally authorised to witness it. After it was returned to the Home Office the nationality certificate was dispatched by post – and that was counted as the point at which nationality was conferred...*The process was purely bureaucratic and impersonal...The idea behind the introduction of ceremonies was that they would give added significance to attaining citizenship and provide an occasion at which the applicant, their family and close friends could celebrate a life defining moment...*It would also provide the local authority with an opportunity to welcome their new citizens into the community and encourage participation in the democratic process...The only element of ceremony content that was prescribed in the legislation was the making of the *Oath of Allegiance* to the Sovereign and a new *Pledge of Commitment* to the United Kingdom. A number of other elements were set out in guidance but the overall feel and content was very much left to the local Council to determine.’⁵⁵⁰

While the liberal state should not make such rituals compulsory, I do believe that the state should offer citizenship ceremonies to new citizens as a means of welcoming newcomers to the community. This is an important social ritual that not only marks entry into liberal society but also provides new citizens with a sense of belonging and

⁵⁵⁰ Rimmer (2007): ‘The Future of Citizenship Ceremonies’, p.3. see <http://www.lacors.gov.uk/lacors/upload/15571.pdf>, emphasis added.

reinforces equality amongst all citizens. There is great social value in citizenship ceremonies.

Although I do believe in the value of offering citizenship ceremonies (but not making these compulsory), whether these should include an oath of loyalty is a separate issue that warrants further attention. As we have seen, an oath of loyalty to the reigning sovereign and the state forms a crucial part of the British citizenship ceremony. Indeed, this kind of oath for new citizens is also compulsory in the United States. As Sanford Levinson writes,

‘Loyalty oaths have been part of American history from its (English) origins in the seventeenth century. The Puritan settlers of New England had agreed even before leaving old England to prohibit settlement of those "not conformable to their government," and by 1634 local governments measured conformity in part by a citizen's willingness to take an oath of loyalty pledging, "by the great and dreadful Name of the Everliving God," to be "true and faithfull" to the government of the commonwealth. This entailed, among other things, a commitment to "yield assistance and support thereunto," not to mention "submitting myself to the wholesome Laws and Orders made and established by the same." Perhaps most interesting (or ominous) is the promise that "I will not plot or practice any evil against it, or consent to any that shall do so; but will timely discover and reveal the same to lawfull authority now here established, for the speedy preventing thereof." And the very first item printed, in 1639, by the first printing press in the English-speaking colonies was this loyalty oath.’⁵⁵¹

To this day, millions of schoolchildren, in America and in American schools outside of the US, pledge allegiance to the American flag on a daily basis.⁵⁵² Yet, as Levinson points out this kind of ritual runs counter to liberal beliefs that the state has no business in inquiring (and essentially determining – for compulsory oaths) the political views held by its members.⁵⁵³ However, Levinson also goes on to argue that a compelling case can be made for citizenship oaths on the basis that this forms a crucial part of the liberal tradition – namely, consent: new citizens (irrespective of

⁵⁵¹ Levinson (1985): ‘Constituting Communities Through Words that Bind’ in *Michigan Law Review*, (84), p.1449.

⁵⁵² Note that school children have the option of abstaining from this pledge.

⁵⁵³ Levinson: op cit., p.1450-51.

how long they have lived in the US as foreign residents) can give their *explicit* consent to liberal government through the citizenship oath, whereas indigenous citizens presumably – by virtue of birth – give tacit consent.⁵⁵⁴

Ultimately there is something distasteful from a ‘disinterested’ liberal point of view that some groups are forced to give consent and pledge their allegiance to the ‘liberal’ state, while others are exempt from this ritual. Indeed, the writings of Justice Jackson, following the Supreme Court’s reversal of *West Virginia State Board of Education v. Barnett* (in which a child member of the Jehovah’s Witnesses was punished for refusing to pledge allegiance to the flag), have become one of the most frequently cited sentences in constitutional law:

"If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein."⁵⁵⁵

A liberal state cannot force or oblige its citizens to pledge allegiance to it because this fundamentally undermines liberal freedoms of conscience and expression. Similarly, compulsory prayers – much like oaths of allegiance – have no place in state schools. These rituals do not generate consent. To echo Brighouse’s position on liberal education which was cited above, compulsory oaths seriously undermine the legitimacy of the liberal state. Rather than inculcating loyalty, the liberal state is obliged to teach scepticism alongside liberal values. Consent – if the liberal state wishes to rely upon it for legitimation - needs to be freely given and as such the state does itself a disservice by forcing citizens to swear allegiance or providing a platform for such oaths.

To return to the issue of citizenship ceremonies: while these must not include an oath of allegiance to the state or any ruler within the state, the ceremony itself might reasonably include a statement of knowledge and respect for liberal values of toleration, autonomy and other basic liberties. This would, however, merely reflect

⁵⁵⁴ Levinson: op cit., p.1460.

⁵⁵⁵ As cited in Levinson: op cit., p.1451.

the knowledge accumulated for the citizenship test. One might argue that this also is susceptible to a problem of legitimacy – because the liberal state arguably embodies these values. However, while it is true that the liberal state is charged with maintaining and upholding these values, they are also broadly manifested within the public sphere. A condition of liberal citizenship is knowledge and respect for values such as toleration and autonomy, but this knowledge is also complemented by a healthy scepticism.

Liberal Rituals II: Compulsory Voting

Voting is arguably the central ritual within liberal-democratic states. As Steven Lukes argues, this is partly because of the fundamental role that voting plays within the ideology of a liberal-democratic state, but also because of the high level of participation that they involve.⁵⁵⁶ Much like an oath of allegiance, Lukes notes, elections can be interpreted as an affirmation of the political system, legitimating and perpetuating political paradigms.⁵⁵⁷ Indeed, voting is so crucial to the liberal-democratic state that we might ask whether it should, in fact, be mandatory. Voting is compulsory in a number of states that might broadly be regarded as liberal, such as Australia, Belgium, France and Luxembourg.⁵⁵⁸ I have thus far been careful not to presume the existence of democracy within the liberal state; however, it is worth asking how consistent compulsory voting is with liberal principles.

Justine Lacroix's argument for compulsory voting within a liberal state is as follows: the duty to vote, far from undermining individual freedom, in fact promotes it and, according to Lacroix, is a necessary condition for the full exercise of equal liberty.⁵⁵⁹ Compulsory voting is thus conceived as a 'positive' liberty, enabling people to exercise control over the political community. There are also, according to Lacroix, favourable implications for liberal legitimacy. In most elections, Lacroix argues, it is the more educated segments of society that actually vote and thus, when voting isn't

⁵⁵⁶ Lukes: op cit., p.72.

⁵⁵⁷ Ibid.

⁵⁵⁸ Whether compulsory voting is actually enforced is another matter.

⁵⁵⁹ Lacroix, J. (2007): 'A liberal defence of compulsory voting' in *Politics*, (27:3), p.192.

compulsory, a government is not truly representative.⁵⁶⁰ Furthermore, by encouraging all citizens, even the least motivated among them, to be informed and voice their opinions, compulsory voting would undermine bias towards dominant groups and oblige political parties to pay heed to the more marginalised electors and groups within the state.⁵⁶¹ A government elected through compulsory voting is therefore able to be fully representative and, hence, legitimate.

Lacroix and Bart Engelen also argue that, strictly speaking, compulsory voting does not force people to vote: they are merely obliged to come to the polling station on a specific day.⁵⁶² Lacroix proudly notes:

‘The European Court of Human Rights ruled that the obligation to vote did not go against article 9 of the European Convention for the Protection of Human Rights – relative to freedom of thought, conscience and religion – and to Article 3 in the First Additional Protocol that establishes ‘the right to free elections’. In its ruling, the European Court declared that the citizen’s freedom of conscience was preserved because they could always cast a blank vote. Besides, the notion of ‘free elections’, as stipulated in the First Protocol, does not mean ‘elections in which voting is not compulsory, but elections in which the act of voting is free’ (Ruling on 22 April 1965).’⁵⁶³

This last point, however, seems to be largely a trivial one and yet proponents of compulsory voting place a huge emphasis on it – ultimately citizens are compelled to polling stations for no other purpose than voting. Furthermore, as Level notes, it is unclear whether there really is a moral duty to vote and if this duty is sufficient to justify legal compulsion.⁵⁶⁴ Lever goes on to note:

‘Low turnout, and political alienation by the young, the poor and the uneducated are of genuine concern. Being forced to turn out is unlikely to cure alienation; nor is it much of a cure for political inequality, as voters only

⁵⁶⁰ Lacroix: op cit., p.194.

⁵⁶¹ Ibid.

⁵⁶² Lacroix (2007): op cit., p.193, and Engelen (2009): ‘Why liberals can favour compulsory attendance’ in, *Politics* (29:3), p.218-9.

⁵⁶³ Lacroix: op cit., p.193.

⁵⁶⁴ Lever (2009): A liberal defence of compulsory voting: some reasons for skepticism, in *Politics* (Vol. 28:1), p.61.

get to choose from a range of candidates and platforms that have already been decided.’⁵⁶⁵

Ultimately, as Lever points out, compulsory voting promotes an engagement with politics – arguably, a particular conception of the good life. While the liberal state can perhaps use resources to encourage people to vote, forcing people to turn up at the polls, when many of them may have no interest or meaningful opinion on politics, at best results in a lot of spoiled ballots and, at worst, politicians who have come to power based solely on good looks or height⁵⁶⁶; rendering the entire ritual farcical.

In general, therefore, forcing citizens to engage with liberal rituals runs counter to basic liberal commitments. Voting should be a matter of choice, much like citizenship ceremonies. People should, however, be free to swear allegiance to whomever they please – even the liberal state – but the liberal state cannot provide a platform for this. It is true that public holidays are in some sense ‘forced’ rituals for schoolchildren attending state schools and employees within the public sector. It is worth pointing out, though, that a multitude of alternatives exist outside these state subsidized institutions. Ultimately, resolutions within such contexts need to balance out the relative importance of rejecting existing public holidays and the costs incurred in doing so.

Rituals that Challenge

In his essay on flag burning, discussed above, Pollitt tells the story of nineteen year-old Yette Stromberg who, in 1931, was a summer camp counsellor and member of the Young Communist League.⁵⁶⁷ Yette led a daily ceremony in which the camp children would raise a red flag, salute it, and recite a pledge of allegiance to the ‘worker's red flag and to the cause for which it stood.’⁵⁶⁸ Stromberg was tried and

⁵⁶⁵ Lever: op cit., p.63.

⁵⁶⁶ See for example, <http://www.csmonitor.com/Science/2011/1018/GOP-Debate-Does-height-matter-in-presidential-politics>.

⁵⁶⁷ Pollitt: op cit., p.566-7.

⁵⁶⁸ Ibid.

convicted in a local court, and her conviction was affirmed on appeal to the California District Court of Appeal.⁵⁶⁹ It was only when the case reached the United States Supreme Court that the ruling was reversed. The United States at the time, it must be remembered was gripped by a mass hysteria and fear of communism – as far as many were concerned, Yette might as well have been encouraging the children to pledge allegiance to the devil. Much like the issue of flag burning, this case, however, raises the question, once again, of the permissibility of rituals and practices that deviate and indeed – often stand diametrically opposed to – liberal values.

In the preceding chapters I have argued that the liberal state is obliged to exercise tolerance when confronted with practices that it deems abhorrent. Indeed, all too often, liberal states forget that they do not occupy an entirely neutral position and that the liberal values they espouse can be linked back to specific historical experiences and particular groups. It has therefore been my aim in this thesis not to *universalize* or neutralise these values (as constitutional patriots are wont to do) nor to encourage ‘deviant’ cultures to integrate within this history (as advocated by Liberal Nationalists), but instead, to attempt to reduce cultural bias by recognizing it and making sincere efforts to minimise this bias where possible. In order for tolerance to be meaningful, therefore, it is necessary for the liberal state to accept ‘abhorrent’ cultural practices – because these practices are only abhorrent when viewed through particular cultural lenses. However, and this is a significant however, the liberal state should only accept practices that run counter to liberal values when it is clear that tolerance and autonomy are being respected by the cultural group and practice in question, and the liberal state has a fundamental duty to ensure that these values are being respected. In instances where there is an irresolvable clash of ideas on different ways of living, when autonomy or toleration are difficult to establish (e.g. foxhunting or whaling, as well as arranged marriage) or when there are no legal provisions or precedents, in Chapter 3 I maintained that it is necessary to assess both the centrality of the practice to a particular culture’s way of life as well as the potential harm that restrictions on the practice can cause to a cultural group.

⁵⁶⁹ Ibid.

It might be argued that the view defended here places a great – indeed too great – emphasis on the value and existence of meaningful choice. I have defended toleration out of respect for individual freedom and choice. Given societal constraints and peer pressure, however, some might ask, when is a choice ever genuine? Though it is difficult to provide a definitive response to this question, I believe that the liberal framework that I have set up in this thesis provides ‘genuine’ choice with a very fair chance to flourish. Educational mechanisms outlined here and in Chapter 5, for example, not only emphasise the value of autonomy and of skepticism, but they also highlight the existence of alternative ways of living and encourage individuals to learn more about them. Additionally, in Chapter 3, I stressed the importance of devoting resources to setting up health, welfare and social mechanisms to support individual choices about cultural heritage. Such mechanisms are geared at those who may choose to question or reject their culture’s practices – ensuring that dissent and exit really are viable and meaningful options – but they are also devoted to undermining intolerance of those who may wish to pursue cultural practices that are generally shunned by the dominant group.

Conclusion

With the aim of clarifying and reinforcing arguments in previous chapters, this final chapter has sought to discuss these principles by applying them to some practical cases. I explored how liberal principles of upholding tolerance and autonomy apply to difficult issues such as language provisions and official narratives, and found that while the liberal state necessarily takes a stance on such matters, by designating official languages and designing citizenship or school curricula, individuals still have a significant amount of freedom to make their own choices about language and are encouraged to form their own opinions about public histories and other official narratives. Indeed, I also discussed how the liberal state ought to respond to rituals and practices that are perceived to challenge the state and indeed liberalism itself. A study of the minarets controversy highlighted the importance of assessing the credibility of such threats and the value of public culture in promoting toleration and a better understanding of different cultural norms and practices. Yet, even when

challenges are genuine or more explicit (as in instances of flag burning), a liberal response to cultural heritage suggests that individuals must have the freedom to express dissent on ideas and cultures in the built environment as well as in practices and objects, so long as this does not result in the destruction or damage of others' property or is found to incite harm or violence.

While a liberal response to cultural heritage is fundamentally aimed at sustaining liberal values, the state inevitably enforces certain rituals through the provision of public holidays. In such difficult cases, it is important to consider the feasibility of alternatives by balancing out the costs of such measures against the costs incurred (with the existence of these public holidays) by minority groups. Liberal states must make efforts to undermine instances of cultural bias, but it is not always possible to do so. Nevertheless, while the liberal state cannot resolve all cultural dilemmas, it can ensure that freedom and toleration are sustained, for the most part, by minimising state interventions in cultural heritage. The liberal state is many things, but fundamentally it is distinguished by a willingness to accept people's life decisions (so long as these do not harm others) – be they 'right' or 'wrong.'

Conclusion

When writing about cultural heritage for my Master's dissertation, my colleagues referred to my work as the research on 'buildings and monuments.' In my dissertation as in this thesis I hope to have demonstrated that while cultural heritage can encompass buildings and monuments, it also includes a much broader spectrum of objects and practices such as languages, narratives, knowledge, rituals, modes of dressing and adornment, symbols, artefacts, dietary habits, social interactions, habits, gestures, fine and performing arts, music, decoration and so on. These objects are defined as cultural heritage through their recognition as being able to reflect and represent some meaningful aspect of a culture's history and experience.

Inspired by the experiences of my homeland, Hong Kong, where cultural heritage has been a constant subject for discussion since the city's return to China a decade and a half ago, I have sought to outline a reasoned response to cultural heritage. As a student of political theory, I have been particularly interested in determining the general principles that underlie such an approach. When initially researching this issue, however, I quickly learnt that within the rapidly expanding field of heritage studies, the central question is not merely whether or not to preserve heritage, but also how to best protect heritage, and indeed, *whose* heritage. In many contexts where heritage issues arise, practitioners need to respond to often competing

narratives of cultural heritage. Thus, heritage scholars are beginning to engage with issues such as multiculturalism, diversity and human rights, and yet I was surprised to see that very few of the works that cover such topics ever engage with political theory. Much of contemporary political theory and particularly recent works on liberalism deal with these very same questions of how to respond to a diversity of, occasionally conflicting, cultural goods and so it seemed clear to me that liberal theory, with its commitment to individuals and not preferring any particular conception of the good life, is a clear contender for providing crucial theoretical insight into these normative issues for cultural heritage. Yet, while many contemporary political theorists are engaged with questions of culture, identity and diversity, very few scholars have engaged with the issue of cultural heritage at any great length. By responding to the fundamental question of how liberal states ought to respond to a diversity of cultural heritages, I therefore hope to have filled this gap within the literature in heritage studies as well as political theory.

Yet, some might ask, why cultural heritage and not simply culture? The objects that I have referred to as cultural heritage are just as easily referred to simply as ‘culture.’ This is broadly correct. However, by engaging with heritage as opposed to merely culture, I hope to resolve one of the key criticisms that is often levelled at contemporary liberal theory. When responding to cultural claims of a right to continue a particular practice because ‘they have been doing this for years’, liberal theorists such as Brian Barry like to respond: ‘well, perhaps it’s high time you stopped doing it.’⁵⁷⁰ While it is true that liberalism, by nature, remains sceptical of tradition and inherited beliefs, this type of response is unlikely to resonate with more conservative cultural groups. My point here is to highlight the fact that liberalism has frequently been accused of being insensitive to the weight of history and historical experiences and, in doing so, largely remains ignorant of the historical particularity of its own supposedly neutral beliefs. The liberal *state*, as much as it would like to claim neutrality, is biased by its own particular context and historical experiences. By engaging with cultural heritage (as opposed to simply culture), I therefore hope not only to have provided a liberal response to an existing problem for cultural

⁵⁷⁰ Barry, CE, p.249

heritage, but also to have provided a solution to a particular problem within liberalism. ‘Heritage’ thus marks a commitment to taking diversity of historical experiences and liberalism’s own cultural particularity seriously. While difficult decisions about culture will inevitably result in occasional prohibitions of certain cultural practices, liberals ought to be more sensitive to the harm that this does to the identity of the cultural group as well as their own cultural particularities. The solution provided here is not *the* liberal solution to culture and cultural heritage, but rather, more modestly, *a* liberal solution to these particular problems. Indeed, the liberal response to cultural heritage outlined here is also a particular liberalism.

Cultural heritage can manifest itself in grand monumental structures, in buildings, physical structures and extraordinary moments of celebration or national mourning, but cultural heritage most significantly impacts upon everyday life; in the practices and daily rituals that individuals follow. Individuals may choose to make their heritage matter a lot – by following cultural protocol to the letter – or their cultural heritage may matter very little; what is important, from a liberal point of view, is that individuals must have a choice to determine the content as well as significance of their own cultural heritage. Given the significance that cultural heritage has on personal identity and freedom, therefore, a liberal state’s response to cultural heritage is necessarily one that is characterised fundamentally by non-intervention. Individuals must be free to engage with cultural practices and beliefs largely unobstructed by the state. As a consequence, there is no general principle to preserve cultural heritage, partly because any intervention is likely to undermine individual choices about their own heritage, but also because liberalism does not provide any indication of whose heritage ought to be preserved. Conversely, the liberal state does not possess a right to destroy or prohibit cultural artefacts when these offend the sensibilities of the majority. Indeed, a liberal state that is defined, in principle, by its agnosticism towards competing conceptions of the good, would be in breach of its most basic proviso by interfering in a particular cultural heritage.

Yet, while states should not interfere in cultural heritage on principle, I have also acknowledged the reality of existing biases within public culture. Indeed, for as long

as political communities remained structured around the concept of a nation-state, necessary public heritage – in the form of a national flag, anthem, languages, symbols etc. – is likely to reflect the experiences of a dominant, national group. My acceptance of an inevitable cultural bias within the liberal state does perhaps undermine the cultural neutrality of the liberal theory outlined here, but at the same time, I hope that it has also rendered this theory more robust and applicable to states outside of the realm of ideal theory. It is true that a public heritage undermines a liberal state's claims to cultural neutrality, yet I have attempted to demonstrate why liberal governments ought to place greater emphasis instead on political neutrality. In other words, it is true that public culture may reflect the experiences of certain groups, however, this is not ultimately what matters to the liberal state. While the two concepts of neutrality are not mutually exclusive, political neutrality focuses on the moral and political status of individuals, not cultures. Thus, while a liberal state is committed to not interfering in cultures, some interventions on cultural heritage can be justified on the basis of upholding liberalism's commitment to individuals. Specifically, I have argued that interventions may be justified to uphold toleration in instances where individuals may be prevented from engaging with their heritage due to the fact that other, possibly more dominant, groups deem these practices to be abhorrent; and intervention may also be justified to uphold autonomy – that is, in situations where an individual's choice about their cultural heritage is not being respected by their own or other cultural groups. Indeed, it may also be necessary to intervene in situations where heritage is used to cause harm or incite violence against others to uphold these values. Frequently presented at loggerheads, I have attempted to demonstrate how strong toleration and autonomy can in fact be reconciled in liberal theory. A liberal state, in short, may only interfere with cultural heritage in order to uphold liberal principles.

Nevertheless, a public heritage that is likely to reflect the experiences of a dominant, national group, sits rather oddly with a commitment to upholding liberal values. Though it may be tempting to assert that liberalism requires interventions in order to promote the heritages of minority groups alongside that of the dominant nationality in order to achieve some sort of cultural balance, I have argued that such efforts are

likely to be in vain because they may in fact serve to heighten the division between groups and, more importantly, undermine individual freedom to engage with heritage. Indeed, liberalism's underlying commitment to upholding toleration and autonomy ensures that unfair public cultural prejudices are eradicated. This eradication can be achieved partly through the interventions in specific cases, but it also entails a general strategy of undermining cultural dominance in the form of rationalising official languages, symbols, the school curriculum, official rituals etc. to ensure that minority groups are not placed at an undue disadvantage because of their cultural orientation. While some public culture will inevitably reflect the experiences of dominant groups (e.g. public holidays), it does not necessarily place minority groups at a significant disadvantage. Indeed, public culture within the liberal state is aimed at promoting an understanding of diversity and liberal values of autonomy, toleration and scepticism.

This last point about scepticism is crucial, and a key point in distinguishing the public heritage defended here from the public culture imagined by liberal nationalists and constitutional patriots. While I accept the necessary existence of certain forms of public cultural heritage, I do not believe that the liberal state can justifiably use this heritage to foster political loyalty to the liberal government and its ideals. In its willingness to allow individuals to follow certain practices that the vast majority of the population may deem utterly abhorrent, the liberal theory outlined here places a great deal of significance on individual choice. Thus, teaching scepticism within the school curriculum and in citizenship tests not only addresses some of the moral concerns that we might have about a public culture and liberal legitimacy, but also helps to ensure that choice is made meaningful within the liberal state. A further strategy for supporting cultural choices within the liberal state comes in the form of ensuring that there is a network of support mechanisms to assist individuals should they choose to resist the pressures to conform to cultural practices and, possibly, exit from their cultural group.

The liberalism defended in this thesis thus fundamentally resists the view that all cultural symbols and practices fall outside the realm of political theorising. Although

accepting the existence of nation-states and the potential dominance of national identity undoubtedly represents a departure from the ideal liberal state, I believe that the theory offered here is able to present a principled response to cultural heritage nevertheless. Of course, there are many issues where a principled response might not be of much help. Indeed, I have noted that in situations of conflict between two competing conceptions of heritage and when the dictates of toleration and autonomy are not immediately clear, it is necessary to evaluate cultural beliefs by considering both the significance of a cultural practice to the group's identity as well as the potential harm that prohibition may cause. Cultural heritage can be deeply significant to personal identity but this does not mean that concerns about cultural heritage should always trump other issues such as development or environmental concerns. Indeed one significant area for further potential research is the role of natural heritage and wildlife, and examining what obligations, if any, might we have toward these objects. Similarly, while I have considered some inter- and intra-group conflicts about cultural heritage, I have not considered the international ramifications of heritage and what political morality and justice require when two states clash over the same cultural heritage. Thus, while I hope to have answered many questions about cultural heritage, there are still many others that remain unanswered.

Cultural heritage goes far beyond 'buildings and monuments.' It has significance for contemporary politics, historical justice and, most vitally, individual and group identity. Yet in order to ensure that cultural heritage does not become a tool for oppression and the essentialisation of cultural identity, it is important that liberal states ensure that individuals possess the freedom to engage with their cultural heritage meaningfully. In this thesis I have therefore provided a response to cultural heritage which attempts to sustain liberal values whilst remaining cognisant of contextual constraints. Whether liberalism can always provide the most desirable or even the most viable course of action in such contexts, however, is an entirely different matter. Nevertheless, it is important to remember that the past maintains its contemporary significance largely at our own discretion. Heritage never simply *is*; it always *can be*. When history was being re-written and yet another fallen comrade

was airbrushed out of a photo by Stalin's apparatchiks, there was a saying among Soviet citizens: *The future is certain, it is the past that is not yet clear.*⁵⁷¹

⁵⁷¹ As quoted in Smith (2006): 'Hong Kong tries to save a bit of its storied past', (International Herald Tribune, June 1st 2006) <http://www.iht.com/articles/2006/05/31/news/prison.php?page=2>.

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