The Links and Chains of Culture: How to Reach a Position on Culture

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Abstract

This thesis enters the debate regarding liberalism and multiculturalism and provides an answer to the question of how the state is to treat cultures. This involves first breaking down the assumptions made relating to culture into links and investigates how these links interact and form chains. This approach allows us to more easily examine the coherence of our thinking on issues relating to culture by showing us how a position on one element relating to culture has consequences for the outcome to our reasoning relating to how the state is to treat culture.

The thesis then builds on this approach and constructs a contractualist answer to the question of how the state is to treat cultures, premised around the most burdened. The position of the thesis is that the state is to act in the way which the most burdened could reasonably accept. After examining the assumptions which this thesis is premised on the project then applies this to four examples of the type of issues which the state is called on to take action in relation to cultures. Concluding that the state is best placed in taking action in situation where this would lead to an increase in the options of the members of cultures, and less suited to act when the action would decrease the options available.

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Introduction

The debate on how the state is to treat cultures has often been framed in terms of multiculturalism on the one hand, and Liberalism on the other. This thesis will add to this debate by adding a new method for considering and analysing our assumptions related to culture. And by constructing a contractualist answer to this question of how the state is to treat cultures.

The first five chapters of this project will elaborate on this method which consist in breaking down our assumption into links and then considering how these can be linked into chains. Then the project will construct a contractualist answer to this question. The need for a project of this sort can be seen in David Cameron's comment that state multiculturalism has failed.[1] If this position were to be accurate, we would still need a position on how the state is to treat cultures, controversial cases involving culture would still occur and the state would need to take a position or action. And as the state embodies our collective coercive power, this action needs to be justified. The motivation for this is the aim that people not be disadvantaged by their membership of their culture, either due to those outside the culture, or those in the culture.

This project will take a broad view of the state and assume that it is a liberal democracy. The reason for assuming this as a liberal democratic state is twofold, first that a democratic state is more likely to view the fates of cultures as its responsibility or to be concerned with cultures being mistreated, and second that democratic states are responsible to their citizens, representing the citizens coercive collective power, making the citizens complicit in the exercise of the state to some degree. Further to this it will also assume a certain degree a presence of what Parekh calls 'the facts of multiculturalism'.[2] The facts of multiculturalism is that there are multiple cultures existing together in a shared space, further to this it will also be assumed that the state is not actively hostile to this fact. We will also adopt Rawls's description "A modern democratic society is characterised not simply by a pluralism of comprehensive religious, philosophical, and moral doctrines but by a pluralism of

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[1] http://www.bbc.co.uk/news/uk-politics-12371994
[2] Parekh, B. *Rethinking Multiculturalism: Cultural Diversity and Political Theory* Basingstoke: Macmillan (2000). 6

incompatible yet reasonable comprehensive doctrines. No one of these doctrines is affirmed by citizens generally. Nor should one expect that in the foreseeable future one of them, or some other reasonable doctrine, will ever be affirmed by all, or nearly all, citizens. Political liberalism assumes that, for political purposes, a plurality of reasonable yet incompatible comprehensive doctrines is the normal result of the exercise of human reason within the frame work of the free institutions of a constitutional democratic regime. Political liberalism also supposes that a reasonable comprehensive doctrine does not reject the essentials of a democratic regime.'[3] Our starting position is then that society contains within it a multitude of different individuals and groups, and that this is not only a description of facts, but a desirable state of affairs.

This approach of breaking positions on how the state is to treat cultures into links and chains will allow us to examine how coherent our views relating to culture actually are. This will in turn allow us to construct a view of how the state is to treat cultures which would not be incoherent. This project will examine a number of assumptions relating to both the nature of culture and assumptions relating to how cultures should be treated, before constructing its answer. The first chapter will highlight some of the background and examine some of the authors who have written on the subjects which we are considering. The second chapter considers what type of value cultures can possess, intrinsic or instrumental. The third chapter examines what the sources of our obligation towards our culture would be founded in, with gratitude, reciprocity and consent as the possible sources. The fourth chapter concerns the ontological nature of the people who make up our culture and examine if they are atomistic or holistic. The fifth chapter examines the advocacy positions of communitarianism and individualism, as well as elaborating on the ends of the state. The sixth chapter outlines contractualism and defends it from the charge that it is excessively atomistic and individualistic. And the seventh chapter will draw on these previous chapters and construct an answer to how the state is to treat cultures.

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[3] Rawls, J. *Political Liberalism* (Columbia University Press, 2005). Introduction xvi

Summary of chapter

The first will provide an overview of the background for our deliberations. It will be done by highlighting the writing of influential writers in the field of multiculturalism and issues related to the links which we are going to examine. Highlighting authors such as Kymlicka, Barry, Parekh, Taylor, Modood, Okin, while also introducing issues relating to advocacy, ontology, the value of culture, the division between the private and public sphere.

Chapter 2 concerns what type of value which our culture can possess and outlines the characteristics of intrinsic value and of instrumental value. The chapter first describes what moral standing entails in this context, which would entail an object being worthy of respect and consideration. Section 2.2 outline instrumental value, which is when an object possesses value by virtue of its relationship to some external factor which possesses value. An object then is of instrumental value if it can act as an instrument for this other object. This means that object of instrumental value are only valuable in the appropriate context and if that context changes then the object can lose its value. Applied to cultures it would mean that a culture is only valuable if the culture can act as an instrument for something else. An example can be found with David Miller who describes the value of culture in an entirely instrumental manner, where culture is necessary in order for the solidarity necessary for individuals to make sacrifices for one another.[4] Here then the culture is valued for what it provides rather than for its own sake, which is the reverse of the position of intrinsic value which is examined in section 2.3. Intrinsic value then is where the object is valued for itself rather than as a means to some other end. This has the effect that objects of intrinsic value are not dependent on context for their value but has it independently. This leads to the difficulty of how to assign intrinsic value, what is it that decides that something is valuable in and of itself? Section 2.4 contains my suggestion for a solution to this with a constructivist approach where those objects which a reasonable person would find to be intrinsically valuable could be treated as such, this would preclude the possibility of any malicious objects being thought of as

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[4] Miller, D. Citizenship and National Identity,(New York Palgrave Macmillan 2000), 31-32

intrinsically valuable as no reasonable person would think of them as such. The chapter ends with section 2,5 which examines this distinction in the types of value by examining how prominent thinkers in the debate surrounding culture and multiculturalism map onto this scheme, these thinkers are David Miller, Charles Taylor, Will Kymlicka, Tariq Modood, Brain Barry, and Bhikhu Parekh.

In chapter 3 I examine the sources for our obligations towards our culture, with obligation rooted in gratitude, reciprocity, and consent as the options for consideration. Section 3.1 defines how obligation will be used in this thesis, this definition can be summarised as that which we are morally obligated to do.[5] Further this section outline Jones's categorisation of group rights, where group rights can be divided into collective and corporate forms of rights. With the corporate view of group rights, it is possible for the group to hold rights separate from the individual members that make up the group, and it is possible for the group to hold rights against the members of the group. While on the collective view of group rights, the group holds its rights through its members rather than by itself, here the rights can be exercised collectively but is ultimately held by the individual members of the group. Section 3.2 examines gratitude as the source for our obligation towards our culture. In this view our obligation towards our culture is due to our culture having provided us great benefits and so it incumbent on us to show our gratitude towards it. We do this by cherishing and acting in the interests of our culture. This would make it possible that we would have a duty to cherish parts of our culture which we find disagreeable. Section 3.3 considers reciprocity as the foundation for our obligation towards our culture. This view has similarities with the gratitude based view in that it is concerned with paying back for the benefits which we have gained from our culture, but here there is no requirement to adopt a positive emotional attitude towards our culture. And section 3.4 will examine consent as the origin for our obligations towards our culture. Two immediate problems with this approach is that we generally do not consider our cultural membership as being the result of a choice, and several of the definitions of culture earlier examined held that culture was a prerequisite for being able to make decisions, meaning that without already being a member of a culture, we could not choose to consent to be part of a culture. My suggestion is that we cast

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[5] Darwall, S "Moral Obligation: Form and Substance" *Proceedings of the Aristotelian Society* 110 (2010), 31

this as consenting to be part of a system of obligations, which include within it cultural obligations rather than envisioning choosing to be part of a specific culture.

Chapter 4 considers the question of ontology, what is the nature of the humans who make up these cultures. Section 4.1 covers the definitions of atomism and holism. With atomism taking the view that the individual is to be the focus in questions of ontology, the view is that social phenomena is explained best in terms of the individual, while Weiskopf takes the view that atomism is when 'A concept's identity is not even partially constituted by its relations to any other concepts.'[6] While holism focuses on the social dimension and views society as being more than just the sum of individual actions.[7] After establishing these definitions the chapter moves onto section 4.2 where the consequences of these ontological positions is expanded upon.

Chapter 5 considers the issues of advocacy and the ends of the state. 5.1 examines individualism and communitarianism. Individualism being described as the view that it is the individual which is a focus on the individual and individual rights,[8] amongst other considerations. We will then consider communitarianism which placed emphasis on the community and instead considers common institutions and understandings to be the source of moral standing.[9] 5.2 examines how this coheres with the previous links. 5.3 and 5.4 considers the ends of the state, what is it we think the state is for? 5.5 examines multiculturalism and the ends of the state, taking the view that the multicultural view of the ends of the state has not been as explored in the literature as the liberal view of the ends of the state.

Chapter 6 elaborates on and examines contractualism. 6.1 outlines the meta-ethical position of constructivism, the view that truths should be viewed as practical truths and are valid if they are the ones which would be chosen by the idealised deliberators.[10] 6.2 establishes contractualism, the view that an action is allowable if they would be agreed upon under the appropriate circumstances.[11] An example

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[6] Weiskopf, D "Atomism, Pluralism, and Conceptual Content" *Philosophy and Phenomenological Research,* 79,1 (2009), pp. 131-163

[7] Uyl, D and Rasmussen D "The Myth of Atomism" *The Review of Metaphysics* 59.4 (2006) 847

[8] Avineri, S and De-Shalit, A. *Communitarianism and individualism* (Oxford: Oxford University Press 1992) 7

[9] Thigpen, R B., and Downing L. "Liberalism and the Communitarian Critique." *American Journal of Political Science* 31, 3 (1987) 638

[10] Milo, R. "Contractarian Constructivism." *Journal of Philosophy*, vol. 92, no. 4, 1995 202

[11] Vallentyne, P. "Contractarianism and the Assumption of Mutual Unconcern." *Philosophical Studies*, vol. 56, no. 2, 1989 187

being Rawls's famous veil of ignorance.[12] 6.3 will consider contractualism in conjunction with the links which the previous chapter have established, and will show that far from requiring an atomism view of ontology and a individualist view of advocacy is compatible with a wide range of links. We also elaborate on the idea of using both forms of ontology at the same time.

Chapter 7 will construct our answer to the question of how the state is to treat cultures. 7.1 will establish what we take the ends of the state to be, in our case it will be plurality. 7.2 outlines our position on the links for this project, where we take the view that cultures have instrumental value, that the source of our obligations towards our culture is found in consent, and that we will use both forms of ontology. 7.3 begins to pull all these elements together to construct our own contractualist view of how the state should treat cultures, with the most burdened as our idealised deliberators. 7.4 highlights some of the difficulties posed by the division between the private and the public sphere, in particular as it relates to internal dissent. And 7.5 applies this to four examples, the first is Modood and his view that certain cultures need to have their members protected from irreverent literature.[13] The second is the exemption for Sikh motorcyclists from helmet regulation. The third is the events around the Ashers bakery. And the fourth is based on Okin's comments on how some cultures places limits women in ways which it does not place limits on men.[14]

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[12] Rawls, J. (1999) *A Theory of Justice Revised Edition* 11
[13] Modood, T. "Muslims, race and equality in Britain: Some post-Rushdie affair reflections" *Third Text* 4:11, (1990) 134
[14] Okin, S. "Feminism and Multiculturalism: Some Tensions". *Ethics*, 108,4 (1998) 682

Chapter 1. Background

This chapter will give a brief background of the literature and issues relating to the issues which we will examine in this project.

Multiculturalism as a term can refer to different things, as Okin points out, it is most commonly used to refer to either a set of educational practices, or refer to a normative position that take the view 'that minority cultures or ways of life are not sufficiently protected by the practice of ensuring the individual rights of their members, and as a consequence these should also be protected through special group rights or privileges'.[15] It is the later one of these which we are going to concern ourselves with. Culture itself in this context can be defined in different ways, one example would be Watson who describes culture as a distinctive way of life and that which separates us from others.[16] An alternative approach is to focus on particularly important parts of culture or to focus in on particular facets, such as Kymlicka's focus on 'societal cultures' which can provide a 'meaningful way of life' for its members.[17]

Different authors associated with multiculturalism make different assumptions on issues relating to culture and its relationship with liberalism. In this chapter we will see some who take an oppositional approach to liberalism, while others such as Kymlicka combine them into a liberal form of multiculturalism. And then the chapter will also look at some liberal criticisms of multiculturalism.

Parekh defines his form of multiculturalism in contrast to liberalism, taking the view that one of the flaws in liberalism is its ethical absolutism,[18] that liberalism assumes that it is the only morally acceptable position. Liberalism uses itself as the standard and compares every other approach against it and categorises everything else in terms of its similarity and compatibility to liberalism, and in doing so conflates non-

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[15] Okin, S, 'Is Multiculturalism Bad for Women?' in *Is Multiculturalism Bad for Women*? edited by Joshua Cohen, et al., Princeton University Press, 1999 2
[16] Watson C *Multiculturalism* (Buckingham: Open University Press 2000) 41
[17] Kymlicka, W. *Multicultural Citizenship: a Liberal Theory of Minority Rights*. Clarendon Press, 1995.75-76
[18] Parekh, B. *Rethinking Multiculturalism: Cultural Diversity and Political Theory* 110

liberal positions with illiberal positions.[19] The issue with this according to Parekh is that it on the one hand ignores the cultural and specific circumstances which lead to the development of contemporary liberalism, and on the other hand overlooks the possibility that other conceptions can have merit.[20] Parekh takes the view that there are multiple worthwhile and acceptable moral outlooks and not just the liberal outlook. Parekh maintains that this does not mean that this will lead to moral relativism but rather that we have a moral pluralism of several viable ethical outlooks all with their own cultural and historical contexts.[21]

Taylor also takes issue with certain forms of liberalism, specifically what he calls the proceduralist liberalism which imagines that it can be neutral on issues of culture.[22] The view which Taylor expresses is that the state cannot be neutral on issues relating to culture, and by pretending to be neutral this form of liberalism mistakes its particular views for that of universal moral truths. While both of these thinkers take issue with certain forms of liberalism, they are not best described as being illiberal, Taylor advocated a resurgence of a form of complex liberalism which is not committed to this proceduralism, a liberalism not committed to neutral states and exclusively negative conceptions of liberty.[23] Indeed, as Rorty highlights, Taylor's arguments for culture promoting policies are based inside the liberal state.[24] As his rejection is not of liberalism, but the type of liberalism which are not capable of accommodating collective identities, particular the contractualist form of liberalism.[25]

Taylor and Parekh are far from alone in that they view liberalism's claim to neutrality as overstated, Fierlbeck highlights how this only serves to make the view and priorities of certain sections of society seem natural.[26] A more sympathetic view can be found with Seth who takes the position that while liberalism is not neutral, and cannot be, it can still provide the grounds for a form of multiculturalism.[27] However

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[19] Parekh, B 'Contemporary liberal responses to diversity' in Matravers, D, and J Pike, editors. *Debates in Contemporary Political Philosophy: an Anthology.* (Routledge, 2003) 240
[20] Parekh, B. *Rethinking Multiculturalism: Cultural Diversity and Political Theory* 110
[21] Parekh, B. *Rethinking Multiculturalism: Cultural Diversity and Political Theory* 127
[22] Taylor, C and Abbey, R 'Communitarianism, Taylor-Made: An Interview with Charles Taylor' *The Australian Quarterly*, Vol. 68, No. 1 (Autumn, 1996) 3
[23] Taylor, C and Abbey, 'Communitarianism, Taylor-Made: An Interview with Charles Taylor' 9
[24] Rorty, A. "The Hidden Politics of Cultural Identification." *Political Theory*, vol. 22, no. 1, 1994, 152
[25] Birnbaum, P and Strong T. 'From Multiculturalism to Nationalism' Political Theory, Vol. 24, No. 1 (Feb., 1996), 34
[26] Fierlbeck, K 'The Ambivalent Potential of Cultural Identity' *Canadian Journal of Political Science / Revue canadienne de science politique*, Vol. 29, No. 1 (Mar., 1996), pp. 6
[27] Seth, S 'Liberalism, Diversity and Multiculturalism' *The Indian Journal of Political Science*, Vol. 62, No. 3, Special Issue on Globalisation and the State (September 2001)

this does not mean that multiculturalism necessarily has to be thought of as being incompatible or hostile towards liberalism, as we saw with Seth. Parekh was described by Rajan as a respect- based-liberal, as while he rejects the monoism of many forms of liberalism he is not against all of its features.[28] The debate then is not most accurately thought of as being between multiculturalism on the one hand and liberalism on the other, but is better described as being a discussion between varieties of liberalism.

The reason for Taylor and Parekh taking this approach to liberalism is that they take the view that liberalism does not adequately address the importance of culture for its members. The assumptions which are made on issues related to culture have an impact on their views of how cultures are to be treated. An example of this is Taylor who takes the view that all cultures have value, and that all cultures which have been the foundation for societies for a considerable amount of time have something of value to say to all humans.[29] This is derived from the view of the equal dignity of the members of the different cultures, and this dignity owed each member means that they are owed the presumption of value for their cultures in a similar way in which they are owed other rights, such as political rights.[30] However others, such as Barry, take a different view and take the position that equal respect for individuals does not entail respect for their culture.[31]

Part of the supposed antagonism between multiculturism and liberalism can be seen in Cowan's description of liberalism insistence on ontological atomism, the view that the individual is to be viewed as an isolated atom, is in his view at the very foundation of liberalism.[32] Parekh takes a similar view, as he puts it 'The view that the individual is conceptually and ontologically prior to society and can in principle be conceptualized and defined independently of society, which we shall call individualism, lies at the heart of liberal thought and shapes its political, legal, moral, economic, methodological, epistemological and other aspects.'[33] While we will explore this further in chapter 4, this characterisation of liberalism as atomistic is

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[28] Rajan, N 'Multiculturalism, Group Rights, and Identity Politics' *Economic and Political Weekly*, Vol. 33, No. 27 (Jul. 4-10, 1998), 1701
[29] Taylor, C, *Multiculturalism: Examining the Politics of Recognition*. Princeton, N.J.: Princeton University Press, (1994) 66
[30] Taylor, C, *Multiculturalism: Examining the Politics of Recognition* 68
[31] Barry, B. *Culture and Equality: An Egalitarian Critique of Multiculturalism* Polity Press (Cambridge) 266
[32] Cowan, J K. "Culture and Rights after Culture and Rights." American Anthropologist, vol. 108, no. 1, 2006, 15
[33] Parekh, B. "The Cultural Particularity of Liberal Democracy." Political Studies, vol. 40, no. 1_suppl, 1992, 161

something of a simplification, and even were it not it could hardly be said to be a universal feature of liberalism. As Jovanovic points out, some thinkers, such as Kymlicka and Raz, are not atomistic in their view of ontology, but this does not mean that they automatically embrace a communitarian view of what we will term advocacy.[34] This is a distinction drawn from Taylor which we will consider in chapter 5. Taylor examines the different ways in which ontology and advocacy can be combined, in this project we will consider how the value of culture, obligation towards culture, ontology and advocacy all interact and shape our view of the ends of the state and how we are to treat cultures.

While it would be inaccurate to describe the previous forms of multiculturalism as being illiberal, we can see a more explicitly liberal form of multiculturalism with Kymlicka, who positions his form of multiculturalism as drawing on the theories of Dworkin and Rawls, taking the view that culture ought to be consider a primary good.[35] Kymlicka basis his form of multiculturalism around individual liberty, as we can see in his division between internal restrictions and external protections, with external protections being when a culture receives group rights to protect it from outside forces and is to be allowed, while internal restrictions is when the culture is in a position to place restrictions on its members and is to be disallowed.[36] For Kymlicka culture is a resource which we all require, amongst the things which our culture provides for us is that of a context of choice which allows us to evaluate and makes choices.[37] Similarly, Parekh describes one of the functions of our culture as being a system of meaning, it also allows us to evaluate and make choices,[38] and also being part of our identity and providing a sense of rootedness.[39] Macintyre also takes the view that our culture is part of our identity, as he says 'The story of my life is always embedded in the story of those communities from which I derive my identity.'[40] This brings up the issue which we will explore in chapter 2, whether the value which a culture has is dependent on the benefits which it provides its members, or if its value is intrinsic to the culture itself. And depending on the type of

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[34] Jovanovic, M 'Recognizing Minority Identities through Collective Rights' *Human Rights Quarterly*, Vol. 27, No. 2 (May, 2005), 631
[35] Kymlicka, W. *Liberalism, Community, and Culture* Oxford, Clarendon Press (1991) 166
[36] Kymlicka, W. *Multicultural Citizenship:* 35-36
[37] Kymlicka, W. *Multicultural Citizenship* 82
[38] Parekh, B. *Rethinking Multiculturalism: Cultural Diversity and Political Theory*. 143
[39] Parekh, B. *Rethinking Multiculturalism: Cultural Diversity and Political Theory 162*
[40] MacIntyre, A *After Virtue: a study in moral theory* (Notre Dame: University of Notre Dame Press 1984) 205

value which our culture poses, different options for the types of obligations which we can owe to the other members of our group, which we will explore in chapter 3.

Barry is against the type of accommodations which the multicultural side have often argued for, and while he does not think that the state is necessarily required to repress freely chosen illiberal cultures, this is not based on a view of equal respect as we saw with Taylor, but based on the respect that is owed to the individual and their rights of free association.[41] Explicitly distancing himself from thinkers such as Parekh, who took the view that as we are culturally embedded creatures, respect for individuals also entailed respect for cultures.[42] Barry further disagrees with what he terms the 'rule and exemption' approach to issues relating to culture.[43] The idea with a rule and exemption approach is that in certain circumstances, some cultures could receive an exemption from a rule due to the effect which this rule would have on the members of that culture. Barry instead takes the view that if a rule had sufficient motivation to be enacted to start with, then it would have sufficient motivation to overrule the cultural considerations, otherwise if it cannot outweigh the cultural considerations it should not be a general rule to begin with.[44]

Those are some of the characteristic positions of multiculturalism and liberalism, a critique of both can be found in Okin and her comments on the role which women play in these theories, or rather do not have. Okin has critiqued Rawls for not initially including family as a jurisdiction of justice.[45] She has also criticised multiculturalism, for example in her work, *Is multiculturalism bad for women?* Okin takes the view that the desire to be respectful to culture could do great damage to the women and girls in those cultures.[46] In her view all cultures, including that of western liberalism, disadvantage women to some extent due to their design.[47] And to give special group rights would result in these disadvantages being exacerbated.

This is partly due to the focus of these theories on the public sphere, where much of the control of women happen. This leads to situations where while these women's political and civil liberties appear to be respected, they have their options severely

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[41] Barry, B. *Culture and Equality* 127-128
[42] Barry, B. *Culture and Equality* 127
[43] Barry, B 'Theories of Group Rights' 249
[44] Barry, B. *Culture and Equality* 33
[45] Okin, S. "Reason and Feeling in Thinking about Justice." *Ethics*, vol. 99, no. 2, 1989 236
[46] Okin, S. "Feminism, Women's Human Rights, and Cultural Differences." *Hypatia*, vol. 13, no. 2, 1998, 46
[47] Okin, S, 'Is Multiculturalism Bad for Women?' 2

limited and it might even lead to their deaths.[48] This is something which Kymlicka acknowledges and concedes is a problem, but he does maintain that his principle is sound and usable.[49] Other critics would be Prokhovnik, who argues that the separation between the private sphere and the public sphere serves to devalue the private sphere, and that while some women choose to live mainly in the private sphere, others have their choices limited by social pressures.[50] Modood offers a different perspective, and criticised forms of multiculturalism which sought to maintain this distinction between the private and the public spheres, and takes the position that this distinction will only serve to prevent the emergence of multiculturalism.[51]

It should be noted that Okin does not refute the argument that the individual is in need of their culture, and indeed takes the view that this line of reasoning is a strong one.[52] But this could be characterised as an issue of priorities, where Okin takes the view that when there is a clash between the needs of our culture and the needs of women, it is the side of women which ought to prevail, while Kukathas takes the opposite view.[53] This speaks to their differing views of the ends of the state, what we consider the state to be for. This is an issue which we will examine in chapter 6 and will be important for us in chapter 7 where we give our answer to how the state is to treat cultures.

An alternative view is offered by Vlopp, who takes the position that the view of multiculturalism and feminism as being in opposition is based on flawed assumptions, such as the assumption that cultural minorities are more likely to be oppressive towards women than western liberalism is. This is an assumption which she attributes in part to colonial origins, leading to assumptions which hides and obscures violence and repression of women in the west.[54]

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[48] Okin, S. 'Feminism and Multiculturalism: Some Tensions.' *Ethics*, 108, 4 (1998) 679
[49] Kymlicka, W. 'Liberal Complacencies' in *Is Multiculturalism Bad for Women?,* edited by Joshua Cohen, et al., Princeton University Press, 1999 1
[50] Prokhovnik, R. Public and Private Citizenship: From Gender Invisibility to Feminist Inclusiveness Feminist Review, No. 60, Feminist Ethics and the Politics of Love (Autumn, 1998)
[51] Modood, T. (2003) `Multiculturalism, Secularism and the State', in C. Harzig & D. Juteau (eds), The Social Construction of Diversity: Recasting the Master Narrative of Industrial Nations, Berghahn Books 1
[52] Okin, S, 'Is Multiculturalism Bad for Women?'
[53] Kukathas, C 'Distinguished Lecture in Public Affairs: Is Feminism Bad for Multiculturalism?' *Public Affairs Quarterly*, Vol. 15, No. 2 (Apr., 2001), 90
[54] Volpp, L 'Feminism versus Multiculturalism' Columbia Law Review, Vol. 101, No. 5 (Jun., 2001), 1196

These assumptions are what we will break into links, and the links covered in this project forms chains which effects our deliberations of how cultures are to be treated by the state. With different possible links being more readily compatible than others, and if we wish to construct a coherent theory to how the state is to treat cultures it will be helpful to use these links to consider how our underlying assumptions fit together. My project provides first a different way of conceptualising these assumptions in the form of the links, and shows how they interact. And then uses this to build an answer to the question of how the state is to treat cultures which is coherent and can form a chain from beginning to end, which centres around the idea of considering the perspective of the most burdened.

Chapter 2. The Value of Culture

This project concerns how the state is to treat cultures, this chapter will elaborate on the type of value a culture can possess in order to assist in this aim. The chapter will consider what type of value a culture can be said to possess, with the two types being that of instrumental and intrinsic value. The first one is where the culture is thought to be valuable due to the benefits it can provide for the members of the culture. And the second type is where a culture is thought to be valuable in itself, rather than because of what it could provide for its members. This second type, the intrinsic view of the value of culture, invites questions on the source and origin of this type of value, I will suggest that a form of constructivism could help to answer this. I then apply this division between intrinsic and instrumental value to several of the thinkers we have already considered in this project, in order to elaborate and make clear how this division impacts what culture is thought be and what it is thought to provide for its members.

The first part of this chapter will outline and consider the different types of value which we are going to consider, then the second part will use these categories and apply them to theorists and see what assumptions they have made relating to the value of culture.

The aim of this chapter is to make clear the difference between instrumental and intrinsic value and the importance of what moral standing we apply to cultures will have for the rest of this project. Once the value of culture has been examined then succeeding chapters can consider the nature and sources of obligation which our culture might create and the ontological nature of our culture and as well as what advocacy positions this might lead to, which in turn affect how we view the ends of society which is examined in chapter 6. Before we outline my suggested approach to how the state is to treat cultures.

 2.1 Moral standing and moral value

An assumption which will be made in this chapter is that culture has some form of moral standing or value which makes it worth considering and spending a project of this type on. This idea of moral standing will take different forms depending on the context and author, an example would be W.D Ross who talks about intrinsic and extrinsic goodness.[55] The value would then be found in an object, we will use the word 'object' to refer to that which might potentially have value, and in its relationship to goodness. It is something which is good in itself and is so possessing intrinsic goodness, while a different object could have an extrinsic goodness, where the goodness is located outside the object, in this description then the goodness is what has moral standing and the objects derive its standing from its relationship to this goodness.

This connects to this project with its aim of discerning how the state is to treat cultures, as it would be necessary to understand why we are considering culture and its role in decision making. Is it based on practical and prudential grounds or is it a normative judgement. Are we saying that cultures are useful or do they have moral standing on their own or is there a combination of the two? This because, if we view it in a practical manner then culture could be viewed in terms of preference in a way which is similar to other forms of association, which would be in the manner in which Brian Barry views it.[56] This however is normally not how we approach culture where we usually view culture as something more than a personal preference. A point which we shall see throughout this project.

One way of approaching this idea of moral standing, would be to think of it in terms of respect. Something with moral standing would be something which would be worthy of respect. Here it might be helpful to think of Kant's humanity formulation, where people are to be treated as ends in themselves rather than merely as means.[57] While we shall return to this view later to examine it further, here it captures something which is helpful in understanding this concept of moral standing as we will be using it. The point here then is that people are worthy of respect, as ends in themselves not only as means. Similarly, cultures would be worthy of respect in

[55] Ross, W. D. *The Right and the Good* (Oxford : The Clarendon Press 1930). 114-121
[56] Barry, B. *Culture and Equality* 148
[57] Kant, I. *Groundwork of the Metaphysics of Morals. Ed. M. Gregor and J. Timmermann.* Cambridge: Cambridge University Press 1998 (1785) 41

themselves, and to not treat a culture with this respect would be a moral transgression.

These are the essentials that will inform our thinking in terms of moral standing in this chapter and it is a helpful concept to keep in mind throughout the chapter. Next we will consider the manner in which something has moral standing or value, instrumentally or intrinsically. Starting with instrumental value before moving on to intrinsic value and then to consider how the different authors we have considered before would fit into this way of dividing value.

2.2 Instrumental value

In this project we are using a division between intrinsic and instrumental view of the value of culture and how it relates to moral standing. We have already seen W. D Ross use a distinction between intrinsic and instrumental goodness, Raz also uses this type of distinction between intrinsic and instrumental value, as well as what he calls conventional value.[58] Though I will argue that this is actually a category of instrumental value rather than an independent category.

This way of approaching cultures relation to moral standing by considering its relationship to value is based on categorising the relationship to value as being either intrinsic or instrumental. If it is intrinsic, then the value is found in properties and factors which are intrinsic to the object, while if it is instrumental, then the objects value is found in things which are extrinsic to the object. [59] That is the simplest way to describe the difference between the two approaches to value. There are other ways to divide different types of value, for example Mason, who in addition to the intrinsic instrumental divide also adds the category of extrinsic and non-instrumentally valuable.[60] However this additional dimension would not add anything for our purposes except for the possibility for confusion, and as with the conventional value mentioned before, these additional categories would in our way of looking at these concepts end up being subsumed in the categories we will be using. Here in

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[58] Raz, Joseph, *The Practice of Value*. (Oxford: Oxford University Press, 2005) 26
[59] Dorsey, Dale. "Intrinsic Value and the Supervenience Principle." *Philosophical Studies: An International Journal for Philosophy in the Analytic Tradition* 157,2 (2012) 268
[60] Mason, A. "Egalitarianism and the Levelling down Objection." *Analysis* 61.3 (2001) 246

this project the divide between intrinsic and instrumental will be sufficient and so those are the concepts we will make use of.

We will then limit ourselves to these two different types of value, which on the face of it would appear to be quite simple and intuitive, but on consideration we discover them to be more complicated then they might initially appear.

An object then, as we term it, is of instrumental value if the source of its value is found outside the object itself, if the value giving properties are extrinsic to the object.

One way to consider this is to think of objects that are of instrumental value as being those whose value is contingent. It only has value depending on the context, and this value is contingent on the thing which the object is an instrument for.[61] The object is deriving its value from some other object and is in a manner of speaking sharing its value. This would have the consequence that if the object which we are considering would cease to be an instrument to that which it derives its value from, then it would no longer have any value. Or if indeed the object which is conferring value on the instrumental object no longer was considered valuable then the instrument would also no longer have any value.

This leads us to the question, if an object of instrumental value derives its value from some other object, then from where does this prior object derive its value? An example of a view would be Thomas's description of Hume, where desires are what confers value on objects, and so if an object allows us to achieve our desires it has instrumental value.[62] As an example, if we were wishing to cross a bridge then a bridge would possess instrumental value for us.

While some do argue that desire is a suitable source of value or standing,[63] this for a few reasons would be insufficient for our purposes. One reason would be that this does not answer the question of from where an object receives its value, rather it

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[61] D. A. Lloyd Thomas. "Hume and Intrinsic Value." *Philosophy* 65,254 (1990) 420
[62] Ibid. 423
[63] Kupperman, J. "The Epistemology of Non-Instrumental Value." *Philosophy and Phenomenological Research* 70,3 (2005) 662

moves the question to another place, if an object is instrumentally valuable because it facilitates our desires then we would also need to establish that desire is in itself worthy of moral standing, and without such a position, then this formulation of instrumental value does not help us in this project. Another reason would be that this formulation does not help us to distinguish between benevolent and malevolent desires. If someone wished someone else harm, then a weapon would be an instrument to that desire, would that mean that we would have to label the weapon as having value and moral standing? Certainly the weapon would be useful, but this formulation does not take the normative dimension into consideration. When we discuss the value of a culture and the role and weight it should be given in decision making, it is not this type of value, that is the same as use, which we are talking about. This can be seen if we remember one of the other ways of considering moral standing, that of the object being worthy of respect. The tool for a malevolent desire would scarcely be worthy of respect.

This points towards further consideration about instrumental value being necessary before we have fully established how we are going to use the concept in this project.

In this context then, when we talk about value it is as an instrument for something else. This means that for object of instrumental value to have any value, it must be deriving it from something which does not derive its value instrumentally. It would be possible for there to be a chain of value relations where A derives its value instrumentally from B and B derives its value instrumentally from C and so on. But unless we find at the end of this chain something that derives its value not from some other object but rather is valuable in it-self, something which is not instrumentally valuable but intrinsically valuable.[64] A different way to explain this by reference to Aristotle and his view "…in every action and rational choice the end is the good. Since it is for the sake of end that everyone does everything else."[65] Here we have the idea of a good at the end, which we do other actions in order to arrive at and for Aristotle this chief end would be happiness, as that is a complete and self-sufficient good, we do not strive to be happy so that we can then arrive at some other good to make life worthwhile, the happiness is the end point.[66]

[64] Kagan, S. "Rethinking Intrinsic Value." *The Journal of Ethics* 2,4 (1998) 278
[65] Aristotle. *Nicomachean Ethics*. Trans/Ed. R, Crisp 10
[66] Ibid. 11

For Aristotle there was an end for which sake we did everything else, showing how there needed to be something to anchor the value for the other steps of the chain to be constructed from. One way to explain this to make it simple, is to express this in the terms of a formula. The formula for an object of instrumental value then would be $O + C = S$. here O stands for the object which has the instrumental value, C is the context and the S is for (moral) standing. The main element which this is meant to show is that for an instrumentally valuable object to have moral standing it needs the appropriate context, if the context disappears than it can no longer connect with this value. This, as will become more apparent when we shift to the intrinsic view of value, plays an important part in differentiating the two types of value.

A different approach is that by Kymlicka, which could be described as taking a view where cultures are treated as a resource for its members, and it is incumbent on the state to try and ensure that people have access to this resource.[67] The reason for wanting everyone to have access to this resource is that cultures provide a context of choice which is necessary to allow members of cultures to evaluate and make choices, and so they ought to be added to Rawls's primary goods in his thought experiment.[68] We will consider this further in the section which focuses on how the thinkers approach the type of value which a culture can have.

The main element of instrumental value then is that its value is contingent and dependent on context to possess any moral standing or value. This leaves us then with the alternate view, that of intrinsic value.

2.3 Intrinsic value

The other form of value we will consider is that of intrinsic value, which as a concept also raises some of the same challenges as the instrumental view did. Part of this problem is in deciding on a workable definition and in how to avoid circularity in how to ascribe value to that which confers value onto other objects.

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[67] Quong, J. "Cultural Exemptions, Expensive Tastes, and Equal Opportunities." *Journal of Applied Philosophy* 23, no. 1 (2006) 55

[68] Kymlicka, Will. *Liberalism, Community and Culture*. (Oxford: Oxford University Press, 1989) 165

A common definition of intrinsic value is that which is chosen for itself and not for its consequences.[69] Bradley describes one view of intrinsic value along similar lines with

"Intrinsic value is a kind of value such that when it is possessed by something, it is possessed by it solely in virtue of its intrinsic properties".[70] These two descriptions have a certain intuitive appeal, if we describe instrumental value as being contingent and depending on outside objects for its value. Then defining the alternative approach to value where the object is valuable due to factors internal to itself and for its own sake, would, on the face of it appear to be a simple way to define intrinsic value. However, this would leave important questions unanswered.

Two of these issues are that of what it means for value to be intrinsic, and what it is which gives objects of intrinsic value, its value. To use an example from Raz to demonstrate the difficulties in labelling something as being intrinsically valuable. The example he uses is that of a sunset, which he finds to be of intrinsic value as the factor which gives it its value, its aesthetical beauty, is contained entirely within it and it has no extrinsic properties which can be said to be such as to make the object be one of instrumental value.[71]

But this example shows some of the difficulty with this approach to intrinsic value. First, there is some question as to whether we can call the value that sunsets possess intrinsic. As it would be possible to argue that what a sunset possesses is in fact instrumental value and not intrinsic value. In this example it is not really the sunset that has value but the beauty that it contains, it would seem that the value is not in the sunset but in the mind of the observer of the sunset who finds it beautiful. And the second problem which this reveals is that this example does not help us to understand why a sunset would be thought of as being valuable. Here it is suggested that it is the aesthetic beauty which gives the sunset its value, but this means that the object only has value if a) beauty is considered valuable, and b) the sunset can be determined to be beautiful. This then would mean that the value of a sunset is in fact contingent on the observer of the sunset, they have to think that it is beautiful

[69] Harman, G. "Toward a Theory of Intrinsic Value." *The Journal of Philosophy* 64.23 (1967) 793
[70] Bradley, B. "Two Concepts of Intrinsic Value." *Ethical Theory and Moral Practice* 9,2 (2006) 112
[71] Raz, Joseph, *The Practice of Value* 34

and that the effect that this beauty has on them is valuable or that the existence of beauty is in itself valuable, meaning that the beauty of the sun would only be valuable if it was already thought of as being valuable.

This point is made clearer by the third value which Raz identifies, the aforementioned conventional value. An object possesses conventional value if it is traditionally considered valuable or if people find them valuable.[72] These would be objects that are valuable because they are valued. The source of the objects value lies in people projecting value onto them. If we consider this in conjunction with the example of the sunset and the issues mentioned, then we could say that this conventional value might be a better description for the value of a sunset than would the intrinsic value label. The conventional valuable object is that which has value because people ascribe value to it, in this case an observer appreciating the aesthetical beauty of a sunset, and so find it to be valuable. But this would mean then as pointed out earlier that this type of value would be contingent upon its circumstances, where we would need to have the observer be of the sort to find something valuable in the object.

If we remember the definition we used earlier, then the objects which are of intrinsic value are those that find value in factors intrinsic to themselves, and instrumental value is when the object finds value in factors extrinsic to the object. To continue with the example of the sunset, then one of the arguments for it being intrinsically valuable is that the factor which is imbuing it with value, its aesthetic nature, is intrinsic to this object. But if we remember the formulation we used for instrumental value earlier, that of O+C=S, then as we have said the sunrise would qualify for instrumental value as it is dependent on context in order for the object to have standing and value. And the same would apply to Raz's description of conventional value, as those objects would be those which are valuable because they are valued, which requires a context in which we have people who can value them for the object to have standing. Meaning that in the way in which this project is approaching the types of value, conventional value would be a form of instrumental value rather than being a distinct third category. As devoid of the appropriate context the sunset would

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[72] Ibid.26

have no value. This all then means that this example of the sunset is not an example of intrinsic value, and we must consider the nature of intrinsic value further in order to understand it.

One way suggested by Bradley to determine whether or not something is of intrinsic value is to think of it as something which when maximised, increased or brought about would mean an overall improvement of the world and the absence of it would be a loss.[73] Now this is not a true ironclad definition or test as we shall see in a moment, but I think it can be helpful in examining the nature of intrinsic value, first by looking at this as it is and then by inverting this little thought experiment.

One of the reasons I want to use this device is that it demonstrates the danger of confusing intrinsic value and instrumental value. An object might be missed if it was to disappear, but it would be fully feasible for us to miss it due to the instrumental ability and value that it possesses. Using the sunset again as an example we could still miss it even if we take the view that it holds instrumental value in as much as it gives pleasure to the spectator. In fact, we could say that the pleasure we gain from witnessing a sunset is unique to that object and can only be gained through it. But the value would still be instrumental as it is only a means to another factor, the enjoyment of aesthetic beauty, which is our actual goal. Imagine that one particular type of medicine or antidote were to cease to exist, we would no doubt miss it and its absence would be a loss to the world, but only as far as we would miss it being able to cure disease. Once the disease is gone then the medicine is no longer valuable to us. There might be some temptation to suggest that as the properties that make the object valuable is contained entirely within the object, it is to be thought of as having intrinsic value. But as it is possible to desire an object for its intrinsic properties in an instrumental way, as is the case with this sunset, what is desired is its aesthetic beauty which is contained entirely inside the object, but we desire this object for instrumental reasons, in this case the effect that the object has on us. We would need to find a way to describe intrinsic value in such a way as to avoid including within it objects which would be more suitable to be thought of as being of instrumental value.

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[73] Bradley, B. "Two Concepts of Intrinsic Value." 120

To further look at the concept of intrinsic value it would be helpful to look at a different description of intrinsic value. Here instead we should consider the point made by Brandt and consider the object in complete abstraction, without any considerations given to what consequences or effects it might produce.[74] In a way, here we are doing the opposite of the earlier method of imagining the absence of the object we are here considering it in isolation.

Obviously in the case of most objects it would be impossible for it to exist in isolation, but here the point is to see if in the absence of other considerations or context there can be any object of value. As Kagan puts it regarding intrinsic value 'Philosophers sometimes try to get at this kind of value by suggesting that it is the value that an object would have even if it were the only thing existing in the universe.'[75] As any value it possesses must be due to intrinsic factors as there would be no other factors at play. This device is mainly helpful in demonstrating its deficiency and the problems it creates. As we just saw Brandt suggests that an object is intrinsically valuable if we find it of value when it is viewed abstractly and distinct from its consequences and context.[76] This would seem to solve the problem of having objects of instrumental value being mistakenly viewed as objects of intrinsic value by requiring that all objects of intrinsic value be such that it can be thought of as valuable in complete abstraction, or in our version, complete isolation. As objects in isolation cannot provide any instrumental effects or consequences, all that would remain would be the factors what would give it intrinsic value. And while this indeed would solve this particular issue by disallowing objects of instrumental value, it would also seem to make very few objects intrinsically valuable.

Looking at the definitions of intrinsic value that we have come across so far, which relies on the object finding its value only in factors that is intrinsic to the object itself.[77] Earlier in the chapter we described the instrumental value as O+C=S, and now we will do the same for intrinsic value. The way to describe the formula for

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[74] Harman, G "Toward a Theory of Intrinsic Value." *The Journal of Philosophy* 64, 23 (1967) 794
[75] Kagan, S. "Rethinking Intrinsic Value." 278
[76] Harman, G "Toward a Theory of Intrinsic Value."794
[77] Kupperman, J. "The Epistemology of Non-Instrumental Value." 661

intrinsic value and its relationship to moral standing would be O=S. This is to signify that an object does not need any further context or additional factors to achieve moral standing, this means that everything which gives this object standing and value must then be contained within the object. As unlike instrumental value which draws its value from its relationship to other objects which have moral standing, here the standing is not due to some relationship with anything else but is entirely self-contained. So here the objects we are considering to be intrinsically valuable are those that are valuable in themselves.

If it is necessary for an object to be valuable in itself for it to be of intrinsic value, from where can this value be derived from. How can we know if something is valuable or not?

This returns us to the issues that were raised at the beginning, about what it means for an object to have moral standing. One interpretation being that ends imbue objects with value and the other being that value and standing means that the object is worthy of respect. There are a few issues which appear in conjunction with this. One is, how in either of those positions objects ultimately come to be considered valuable and worthy of respect, how would the end which brings standing to other objects itself acquire standing. Another question is whether this value is objective or not.

The first of these issues, regarding what makes either ends or respectability valuable is hardly a new one, as Mill pointed out ultimate ends do not admit of proof and that first principles cannot be justified by reasoning alone.[78] If we cannot prove the worth of the principles which are used to determine what is of value then it would seem that we cannot have objects of intrinsic value as then we could not prove that the qualities which they possess are indeed valuable, as the question of what it is that makes an object valuable would not be possible to answer. If for example we were to take the position that happiness is valuable and that it has intrinsic value, then the question becomes what it is that bestows moral worth on happiness, we might use the answer that Mill used, that everyone desires their own happiness.[79] But then we must already have taken the view that having our desires be satisfied is valuable. It

[78] Mill, J S. 'Utilitarianism' in *On Liberty and Other Essays*. (Ed John Gray Oxford; Oxford University Press, 2008) *168*
[79] Ibid *168*

would seem to me that to ascribe value to any object is to bestow it with some manner of pre-moral worth in order to designate it a valuable good. But to designate any object as a pre-moral good is to make a moral judgement, bringing us back to the issue of how to confer worth or goodness onto an object. One way to look at this issue is found in the work of Quinn who describes the difference between teleological and deontological theories as being different in how they view intrinsic value, with teleology being based on pre-moral judgements regarding what is of value while deontology relies on certain act types derived from reason.[80] Pre-moral judgements in this context being that some goods or objects are judged to be valuable, and after this has been determined we can derive our moral judgments based on these pre-moral judgements and use them as the starting point of our deliberations. But this way of looking at intrinsic value does not solve the problem as the shape of our pre-moral judgements has consequences on our subsequent moral assumptions, it means that the choice of our pre-moral judgements is a normative one, If for example we were to have as our pre-moral judgement that the preservation of life ought to be the overriding goal of our decisions, then the question why life and not something else like liberty or dignity could well be asked and we would be back in the problem Mill found himself in. If we cannot find a way to ascribe value to cultures or that which cultures provide, then we cannot justify giving culture this specific attention which we are giving it apart from practical considerations, rather than normative ones.

So the problem before us now is the need for some way to find a way to imbue objects of intrinsic value with their value, and these objects can then in turn share their value with objects of instrumental value. And second how to establish if any of these objects of intrinsic value hold their value objectively, and if not does this mean that value is a subjective evaluation akin to a preference, which would bring us back to the question of why the satisfaction of a preference would be worthy of respect.

2.4 Constructivism

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[80] Quinn, W S. "Theories of Intrinsic Value." *American Philosophical Quarterly* 11, 2(1974) 2

The answer to both these problems can be found I believe in embracing some form of constructivism. There are both meta-ethical and normative forms of constructivism, one relating to how we arrive at normative judgments, the other about the truthful nature of these judgments, we will return to both of these concepts further in a later chapter focusing on contractualism, for now we will only consider the necessary elements for our present purposes.

When it comes to finding objective first principles there are a number of different approaches one can take to what constitutes objectivity. The common colloquial use of the word objectivity tends to be used in a way which would correspond to how a mathematician might use the word, in that something is objectively true regardless of the circumstance or our opinion of the fact, 3+4 will always equal 7 no matter what we think of it. For Ross, objectivity comes from the fact that when he looks for objects of intrinsic value he looks for objects that hold this self-evidently.[81] What we have here is a case where objects are valuable in a similar way to a mathematically objective truth, we might decide on whether or not to observe and adhere to these self-evidently true principles but we cannot decide whether or not these are true or not.[82] An alternative use of the concept of objectivity is found in Kant who uses it to mean 'objectively, i.e., from grounds that are valid for every rational being as such'.[83] This represents a very different view of objectivity, where in the first version that which is objectively true is true independent of our judgment, while the second one presents a view of objectivity which is based on being valid for everyone. This shift in how one views objectivity allows us to create a position from which we can arrive at our first principles, or in the language this chapter has been using, to find what can be said to have intrinsic value.

If we look at what Rawls calls a Kantian constructivism, which is concerned with how to arrive and decide on first principles than we can see that it is quite helpful to use a similar approach here.[84] While Rawls uses this to try to find first principles for the basic structures of society,[85] an approach which he develops further in his *A Theory of justice.* Here we are using it to try and find a way to establish intrinsic value. As

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[81] Ross, W. D. *The Right and the Good* 29
[82] Rawls, J. "Kantian Constructivism in Moral Theory." *The Journal of Philosophy* 77,9 (1980) 567
[83] Kant, I. Groundwork of the Metaphysics of Morals 27
[84] Rawls, J. "Kantian Constructivism in Moral Theory 516
[85] Ibid.521

mentioned before, one of the other views on the source of intrinsic value frames it in term of finding what is self-evidently right, leading to the objection that any attempt to try and adopt or construct first principles must be flawed as we cannot simply chose what is right or valuable because that is an issue of truth and not one of opinion.[86] The answer to this objection would be that when we make use of constructivism of this type, be it via a device like Rawls's original position or similar, we are not trying to come to an agreement on pre-existing principles that are already established independent of the people who are going to be living by these principles.[87] Rather the starting point is that there is no such objective true moral order which we are trying to agree upon, but rather we are trying to find what the most reasonable moral order is.[88] The main core of this type of Kantian constructivist approach is to look for a device or a procedure 'in which rationally autonomous agents subject to reasonable conditions agree to public principles of justice.'[89] One example of such a device would be the aforementioned original position with its veil of ignorance which limits the rational agent's access to certain information, such as their ultimate ends or natural talents.[90] Here it is the ethos rather than the specific intricacies of the original position which we are after, that of reasonable people agreeing to reasonable principles regarding intrinsic value.

What this means for this work is that I take the most plausible source of intrinsic value to be that those objects are those that reasonable people could agree to find intrinsically valuable. This would mean that acts or objects of malevolence would find it hard to be considered reasonable by reasonable people. This would then also mean that an object that all could reasonably consider to be of intrinsic value would also be considered to be objectively of value, with objects of objective intrinsic value being those that everyone could reasonably agree to for their own sake, rather than the instrumental benefits that an object might have. We will return to this in the chapter on contractualism.

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[86] Ibid.567
[87] Ibid.568
[88] Ibid.554
[89] Ibid.554
[90] Rawls, J. *A theory of justice -Revised Edition* 16-7

2.5 Applied to other thinkers

The aim of this the first part of the chapter was to look into what it means to have moral standing and how an object might have this standing, the second part of the chapter will look at how some of the prominent thinkers on issues regarding multiculturalism and the treatment of culture view the value of culture. This to try to apply the schema of types of value outlined in part 1 to these thinkers in order to help our deliberations on how much value our culture possess.

The first theorist who we are going to look at is David Miller. Miller describes culture as almost exclusively possessing instrumental value. Culture he believes is necessary in order to establish solidarity between members of society, with this solidarity being necessary for one member of society to make sacrifices to the benefit of another member of society.[91] Two interesting elements stand out in Miller's description of the value of culture. One is the wholly instrumental basis for culture. And the second is that this view places the value in how it benefits society rather than it benefiting the individual members who are part of these cultures.
He does offer more in the way of justifying ascribing value to culture, this in his view that our sentimental attachments ought to have an impact on our ethical considerations.[92] This together with his view that we all do indeed have deep sentimental attachment to our culture, or nation in his vocabulary,[93] hence our culture ought to have special standing in light of this sentimental attachment. This then for our purposes means that culture would have instrumental value. As it comes to our sentimental attachments, then it would only have value as far as it fulfils our desire for them, here culture would only be the means to an end, with the end being our sentimental preferences. Using our formula from earlier, the sentimental attachment would be the C (context) and the culture would be the O (Object) and it is when those are together that they can reach S (standing).

This does have implications for how we view the value of culture when it comes to the question of whether or not this is an objective or subjective value. As Miller

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[91] Miller, D. *Citizenship and National Identity,* 31-32
[92] Ibid. 25
[93] Ibid. 38

believes that our culture does have value and requires ethical consideration in that it can create duties towards others in the same culture.[94] But if the source of this obligation is the attachments we have towards our culture then that would seem to indicate that it would have to be a very subjective value and obligation, where we only have an obligation towards other in our society if we feel like we do. Miller tries to answer this by commenting on how different cultures can have different political cultures as part of them, so that someone from a culture which has a more communitarian orientation would have a different obligation towards others in their culture than would someone from a more individualistic culture.[95]

This would mean then that while it is not possible to say that everyone who is a member of a culture has a specific duty which is the same in every culture, we all have duties which derive from the particular culture we are in. But while this might allow us to say that we all have a duty to follow the precepts of our particular culture, it does not help us answer how everyone might come to have these obligations and not just those who feel a particular attachment to their culture. While he does establish that the sense of believing oneself to be part of the culture is a defining element of it.[96] That does not help us in the cases where someone does not believe themselves to be part of the culture

This would make it seem to me that if we were to use Miller's view on culture then it would mean that we would also have to accept a certain amount of subjectivity in the level of value that culture can possess.

The second author we are going to look at is Charles Taylor, whose view of the nature of the value of culture is very interesting, as it has both elements of intrinsic value and instrumental value, but the former is placed much more central than the later. The instrumental nature can be seen among other places, in the insistence on the harm of misrecognition. Here your identity is a source of self-respect, in this sense it provides an instrumental function. It gives us the basis we need for self-respect, in this sense culture mainly has value in that it is capable of providing this form of identity and self-respect. This provides an interesting paradox where if our culture, which is a reflection of our identity, provides self-respect and to be

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[94] Ibid.38
[95] Ibid. 39
[96] Ibid. 28

misrecognized is to suffer harm,[97] then it would seem that as our identity and culture is misrecognized and brings us harm, the less able to provide us with self-respect it is and the less value it would have. But this is only one of the features or facets to Taylor's view of culture. The main aspect of culture is its intrinsic qualities and not its instrumental consequences and effects. It is our culture and our communities that help us to achieve some form of orientation towards the good life.[98] It is our orientation towards the good that allows us to discern what in life is of value and shape a worthwhile life assumes, it is through this that culture can act as a constitutive good,[99] it acts as a source from which we can derive our morality. If we look to Quinn's definition of intrinsic value as being that which is goodness or value making,[100] then it would seem that there is a degree of compatibility here with Taylor. If we take the view that our culture is that which can orient us in our moral views,[101] culture would be the object which provides us with our first principles and our ultimate ends. Here culture would be goodness making in the sense that it is in relation to our culture that things are deemed to be good or not, or of value or not. This stands in contrast to the Kantian constructivist approach mentioned earlier, where our first principles came from reasonable agreement, unlike here when they depend on our cultural membership. One of the main sources of contention between these views is in the assumptions it makes with regard to the people who make up these cultures and societies. Taylor seeks to question what he sees as the atomistic approach that some theories, with particular mention of the social contract theories of the seventeenth century, have adopted with regard persons.[102]

This atomism has meant that many theorists have taken a view of the individual which entails treating them as solitary agents who peruse their ends independently of each other and create their identities also independently of each other,[103] this in contrast to how Taylor views identity formation and subsequently creation of a view of the good life, which is dialogical in nature. As mentioned before, our culture

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[97] Taylor, C, and Gutmann, A. *Multiculturalism: Examining the Politics of Recognition*. Princeton, N.J.: Princeton University Press, (1994) 64
[98] Taylor, C. *Sources of the Self: The Making of the Modern Identity*. Cambridge: Harvard University Press, (2001) 26
[99] Ibid. 98
[100] Quinn, W. "Theories of Intrinsic Value." 131
[101] Taylor, C. *Sources of the Self: The Making of the Modern Identity* 42
[102] Ibid. 208
[103] Gutmann, in Gutmann, A ed. *Multiculturalism:Examining the Politics of Recognition* 1994. 24

enables our identity and it does this in part by allowing us a language community.[104] This allows us to engage in dialogue with others of the same culture and through that process discover our identity and our relation to the good life. Our culture also makes possible the extension of this dialogue to those who came before us and so our culture allows us to be placed in a historical perspective.[105]

This also creates a duty on us to make sure that this community with its culture remains viable for the future and to also make sure that there are people who in the future will want to be part of said culture or community.[106] This could include implementing policies which aims to ensure that future members of a culture will continue to identify as that culture, with an example being the French speakers in Canada.[107]

This is markedly different form the Kantian constructivism that we looked at earlier. instead of asking if arrangements are such that reasonable people would accept them, it becomes incumbent on society to ensure that people identify with their particular culture and to make sure that future generations does the same. This as mentioned before comes from different starting positions and different aims. For Taylor culture is a necessary part of our personality which we cannot reasonably agree to as it is our culture which shapes what it is we find to be reasonable. We will return to this question of atomism later and explore it more thoroughly.

Kymlicka's position on the value of culture is based primarily on its instrumental properties. One of the important roles which he sees culture playing is that of providing a source of self-respect and self-confidence,[108] which indicates an instrumental view of the value of culture.

For Kymlicka culture does not only provide a source of self-respect but also provides a context of choice for the members of the culture, as he puts it "The decisions about how to lead our lives must ultimately be ours alone, but this decision is always a matter of selecting what we believe to be most valuable from the various options

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[104] Taylor, C. *Sources of the Self: The Making of the Modern Identity*. 35
[105] Ibid. 39
[106] Taylor, C. *Multiculturalism: Examining the Politics of Recognition*. 58-59
[107] Ibid. 58-59
[108] Kymlicka, W. *Multicultural Citizenship*. 89

available, selecting from a context of choice which provides us with different ways of life. This is important because the range of options is determined by our cultural heritage."[109] It is our culture which enables us to evaluate and make judgements about what ways of life and which options are meaningful and worth perusing. This has some similarities with Taylors's constitutive goods, in that both concepts provide the individual with a sense of what is the good. The difference can be seen in that Taylors's constitutive goods enables or creates the good while the context of choice allows us to evaluate existing goods. For Kymlicka our culture plays a key part in creating this context of choice and culture is explicitly described as being valuable for being able to provide a context of choice '…then it is important to remember that it is a good in its capacity of providing meaningful options for us, and aiding our ability to judge for ourselves the value of our life-plans.'[110]

Kymlicka in his *Liberalism, Community, and Culture* argues that, not only are special rights for minority cultures compatible with liberalism, but it is in actuality essential that liberalism contains special rights for cultures. Taking the view that culture should be placed amongst the primary goods to be considered in Rawls' original position. Developing further Rawls's position that the sources for self-respect would be amongst the primary goods Kymlicka refines this and takes the view that culture is uniquely suited to provide the source of self-respect and the context of choice.[111] An objection to this approach can be found with Redhead, who takes the view that common goods, such as culture '…cannot be reduced to the individual interests of the citizens who share them because they in fact make possible these interests. To speak of common goods like a culture in instrumentalist terms as mere context of choice from which to construct one's own identity is to miss the larger normative issue: that a common good, such as the Québécois' francophone culture is something more than a mere Rawlsian primary good.'[112] The problem for Redhead is that in framing culture in instrumental Rawlsian terms, Kymlicka has shaped and biased our conception of culture to one which can be made compatible with a proceduralist liberal approach. [113] A different interpretation of Kymlicka can be seen

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[109] Kymlicka, W. *Liberalism, Community, and Culture* 164-165
[110] Kymlicka, W. *Liberalism, Community, and Culture* 166
[111] Ibid 165
[112] Redhead, M "Charles Taylor's Deeply Diverse Response to Canadian Fragmentation: A Project Often Commented on but Seldom Explored." *Canadian Journal of Political Science / Revue Canadienne De Science Politique* 36, no. 1 (2003) 74
[113] Redhead, M "Charles Taylor's Deeply Diverse Response to Canadian Fragmentation" 75

in Quong, who describes it as an attempt to help those who find themselves in cultures that are in precarious circumstances, and by treating cultures as primary goods to which everyone is entitled, cultures could be protected in a liberal scheme.[114]

Continuing the theme of Kymlicka attempting to construct this multicultural approach within the frame of liberalism, again this can be seen in the focus on the individual and on their choice. In addition, we also have the distinction between internal restriction and external protection. In short, internal restriction is about prohibiting intra-group limitations while external protections are about protecting against inter-group dominations.[115] This is about ensuring that authorities inside the groups are not in a position to place restrictions upon other members of the group.[116] While the external protections are about ensuring that a majority group is not in a position to marginalise or put restrictions on a minority culture.[117]

In essence what we arrive at is the situation where we disallow policies which would constitute internal restrictions, meaning that they would decrease the choices and options available to the members of minority groups. While allowing policies which aim to protect cultural minorities from having their options limited by the majority culture. This can be contrasted with Parekh's comments that one of the flaws of the western liberal approach is that choice is itself not a choice but an assumed essential component in the human make up.[118]

One of the difficulties which Kymlicka, and others arguing for multicultural policies, encounter is that of internal dissent, where a culture is divided on an issue, which places the state in the position where it will end up marginalising some culture no matter what actions, or inaction, it decides to take. This is a problem which we will return to later in the project, bit it is worth pointing out that this is one of the things which the prohibitions on internal restrictions is meant to remedy. But this illustrates the problem, if one section of the culture is arguing that a policy would amount to an internal restriction and so should not be allowed, the other side of the culture in favour of the policy could argue that not instituting it would be undermining the

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[114] Quong, J. "Cultural Exemptions, Expensive Tastes, and Equal Opportunities." 55
[115] Kymlicka, W. *Multicultural Citizenship*. 36
[116] Kymlicka, W. *Multicultural Citizenship*. 36
[117] Kymlicka, W. *Multicultural Citizenship*. 36
[118] Parekh, B. *Rethinking Multiculturalism*. 91

culture, and so whatever the state does, some section of the culture is left dissatisfied. This issue will be considered more fully in later parts of the project.

The next thinker we are examining is Patten, who takes a very complex view of cultures, that potentially also lends itself to being interpreted as utilising elements of both intrinsic and instrumental views on the nature of the value of culture.

Patten describes culture in this manner "A distinct culture is the relation that people share when, and to the extent that, they have shared with one another subjection to a set of formative conditions that are distinct from the formative conditions that are imposed on others."[119] What this means is that a culture is to an extent a practice and a set of beliefs, what distinguishes culture from other practices and beliefs on this account is that a culture has a particular social lineage.[120] The current members of a culture were inducted and socialised into the culture by people who were inducted and socialised into it by those who came before them, who in turn where socialised by those who came before them and so on. This view of culture would not be helpful for us in this project. As we are trying to find how the state is to treat cultures, we cannot define culture in such a way that the state could not understand that use of the word culture. And while this is a very interesting and in certain contexts possibly illuminating account of culture, it would not be feasible for the state to be aware of the manner and degrees in which individuals have been socialised into their specific cultures, and so is not a useful definition for us.

One of the issues which Patten uses his view of culture to analyse is that of cultural change and the ways in which cultures expire. While Patten takes the view that his description of culture can be combined with both an intrinsic and an instrumental account, I would suggest that his view is more suited to instrumental rather than to an intrinsic view of the value of culture. One reason why we might think the reverse was true is in his description of culture is his social lineage account as not addressing or speaking to the content of any particular culture.[121] This account of culture then does not speak to anything specific which a culture can allow its members to do, however, this would not preclude the possibility of our culture being able to enable us to evaluate choices, but it would mean that it would not speak to

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[119] Patten, A. "Rethinking Culture: The Social Lineage Account." *The American Political Science Review* 105, no. 4 (2011) 741
[120] Ibid.741
[121] Ibid. 739

the range and quality of those choices. And indeed, Patten acknowledges that some cultures would provide more options than others and some would qualify as being oppressive.[122] This would weaken the compatibility with instrumental value as here we could not rely on a culture necessarily providing a range of options for the members, and so the options based argument would become contingent on the realities of specific cultures. Despite this I would suggest that this view of culture is still better understood as an instrumental view rather than an intrinsic one. Part of this can be seen in Patten's arguments relating to the disappearance of cultures. This again relates to our culture providing us with a range of options, and if our culture were to disappear or to cease to be viable, then the members of minority cultures would lose valuable options, in the sense that they would not be able to rely on their culture for the options which it would provide, and in the sense that the options available in the dominant culture would likely not be viewed as being as valuable to the members of minority cultures.[123] This description of the value which a culture possesses is entirely based on the instrumental aspects, in how it provides options.

Patten takes the view that his account of culture is also compatible with an intrinsic view of the value of culture, but here I would suggest that this is not necessarily so. This, as his description of the intrinsic view of culture rests on the value which the members of the culture place on the culture,[124] this could either be similar to Raz's description of conventional value, which I suggested was in actuality a form of instrumental value, in that our culture would be considered valuable because it has traditionally been considered valuable. Or that the culture is valuable because of the preferences of the members of the culture, which would fit into our definition of instrumental view of culture as it would be both contextual and a means to the end of preference satisfaction.

Patten then would best be described as using an instrumental view of culture, rather than both as he suggested, and his definition of culture would be one which we could not make use of, as it would be exceptionally difficult for the state to make use of it.

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[122] Ibid. 747

[123] Patten, A. "Cultural Preservation and Liberal Values: A Reply to William James Booth." *The American Political Science Review* 107, no. 4 (2013) 878

[124] Patten, A. "Rethinking Culture: The Social Lineage Account." 748

Moving on to Tariq Modood. Modood has some similarities to some of the other theorists in that he places culture at the source of self-respect and self-image.[125] He also tries to solve the same problem as other authors who place culture as the core of pride and self-image, as he argues that vulnerable cultures need protection as they act as sources of group pride, and to lose that pride makes the members of that culture more vulnerable to attacks to their self-esteem.[126]

Nevertheless, Modood doesn't put culture as the sole possible source of this pride or esteem, but rather as one possible source. This would give culture a general instrumental value, this does not mean that culture is unimportant in Modood's description. In fact, he views it as a very important part of our identity and our sense of self, and to be misrecognised by society can cause enormous harm to the person and displays a great disrespect in regards to that person.[127] We also see in his views on how society should act in order to protect members of minority groups how he differs from some of the other theorists mentioned in this section. In particular his view that there are times when it might be allowable to empower the minority with some power that the majority does not possess, the example here being the protection from irreverent literature, [128] as some groups may be able to make use of the irreverent material, other would be harmed and demoralised by it and it would therefore be good if not every group were exposed to the same degree of irrelevant literature.[129]

This is quite different from Kymlicka and his internal restriction /external protection distinction, where choice was the end goal. Here instead the individual must be protected from certain literature on the grounds that it might do him or her harm. If we return to our constructivist approach from earlier, it would present some difficulty in being certain that all reasonable agents would opt for a system of first principles which would end in them not having access to some material on the grounds that it

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[125] Modood, T. *Multicultural Politics : Racism, Ethnicity and Muslims in Britain*. (Edinburgh: Edinburgh University Press, 2005). 109
[126] Ibid.. 122
[127] Ibid.. 17
[128] Modood, T. "Muslims, race and equality in Britain: Some post-Rushdie affair reflections" *Third Text* 4:11, (1990) 134
[129] Ibid. 134

might be considered irreverent. As someone would have to make the decision on what would and would not be allowable material, as it would be of little use to have a principle where anyone can access whatever they want and then afterwards decide that it was damaging and that they should have been protected from it, the result would be that someone would have to decide on behalf of the whole of the minority what they should be protected from.

While Modood places a great level of importance on culture, it is still instrumental, but that does not mean that it is not important, here it means that it is a means for self-esteem and self-image, it is a unique object in that it is necessary in order to have these other considerations, but it is still instrumental.

The final author is Bhikhu Parekh. Like Taylor, Parekh thinks that one's culture can create meaning, but one difference between the two is that Parekh has a lesser focus on the transcendental element of culture. For Taylor our culture is something that exists before us and will continue long after we are gone.[130] That is not to say that Parekh doesn't also view our culture as something which exists before us and will go on after us, but he places a greater emphasis on the change that we bring to our culture and on the malleability of our culture.[131] This difference notwithstanding, they both view culture as something of intrinsic value. As Parekh puts it "Cultural communities are not voluntary associations like clubs, political parties and pressure groups, and are wholly misunderstood if conceptualized as such. They are not instrumental in nature in the sense of being designed to promote, and to be discarded if they fail to promote extrinsic interests."[132]

This can be contrasted with Brian Barry who, as alluded to earlier describes culture and community in terms that would make it very similar to a voluntary association.[133] That does not mean that he does not recognize that there are some differences between the two, and that we generally do not choose our community but find ourselves in them. But that if someone has the ability to leave their community but

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[130] Taylor, C. *Sources of the Self: The Making of the Modern Identity*. *38*
[131] Parekh, B C. *Rethinking Multiculturalism: Cultural Diversity and Political Theory*. 122
[132] Ibid. 161
[133] Barry, B. *Culture and Equality* 148

does not exercise that ability, then society should interpret this as the member perceiving the benefits of membership as being greater than the benefits of leaving the community or association.[134] I bring this up to demonstrate the difference in approach that these two authors take when it comes to the value of culture. As for Barry it is cast in terms of benefits to be evaluated, with the problematic cases for society occurring when it is such that the (instrumental) value of leaving the association or community is so low in comparison to remaining in the community that the individual member does not have any meaningful choice in whether they should stay or leave.[135] This contrasted with Parekh who as the earlier quote shows does not place the value of culture or community in what it can do to further the individual member's extrinsic interests. That is not to say that Parekh does not believe that membership in a cultural community provides benefits, there are some benefits which it provides which he considers vital, such as our cultures ability to provide a structure and foundation for our identity.[136] A different way in which Parekh highlight some of the importance of culture is in his view of culture as duty making where we have a duty to other people in the culture, which in turns generates duties to the culture itself, Parekh asserts that we have a duty of loyalty to our community which means that we are obligated not to harm or damage it as this would be harmful for the other members of the culture,[137] part of this entails being loyal to the core precepts and principles of our culture.[138] This is not to say that this means that we must unquestionably accept every element of our culture as we also have a duty to try and improve our culture, meaning that we must look outside it and see if we can discover something which our culture could benefit from incorporating.[139]

For Parekh culture is a system of meaning, it creates and shapes the good for its members.[140] Parekh's view of the value of culture is intrinsic in the same manner that Taylor's is in that they both view them as good making objects that are capable of acting as the foundation of value for objects of instrumental value. Again, similar to

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[134] Ibid. 149
[135] Ibid. 152-153
[136] Parekh, B C. *Rethinking Multiculturalism* 150
[137] Ibid. 159-160
[138] Ibid. 160
[139] Ibid. 167
[140] Ibid. 3

Quinn's view of intrinsic value as goodness making,[141] here our culture is what provides us with our conception of the good life, enabling us to live rich and fulfilling lives.[142] This might make it seem like culture fills a mainly instrumental role, that of providing a perspective from which one can orient one's life and to provide its members with a vision of the good life. But as mentioned, if we here take the view of intrinsic value as being something which can create goodness or value, then as culture would be that which creates values for their members then this could work. Alternatively, if one takes a view which follows the Aristotelian line then one could possibly argue that culture represents a self-contained and self-sufficient good, a good which is only sought for itself and which makes full life possible.[143]

If one were to try and fit in this particular view of culture into the constructivist view looked at before then a number of challenges appear. For Parekh the source of our obligation towards our culture is not rooted in some form of reasonable consent. One of the main factors that are singled out as being the source of our obligation towards our culture comes in the form of reciprocity. The reason for us owing loyalty to the culture we grew up in is that we benefited in growing in a culture, and we therefore owe loyalty to it and its members.[144] We also see that in regards to decisions that people make that 'their lives belong not just to them but also to their family'[145] and that our family should not be excluded from important decisions if that is an important part of one's culture, as values such as personal autonomy and choice cannot be thought of as universal values but are culturally contingent.[146] But that leaves us with the question as to why reciprocity should be regarded as a universal value and be considered strong enough to create loyalty towards our culture.

I would also suggest that it is unlikely that a reasonable person would agree to a system of morals which places the origin of our first principles in the culture we grow up in, leaving us in positions where depending on the circumstances surrounding our

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[141] Ibid. 126
[142] Ibid. 132-133
[143] Aristotle. *Nicomachean Ethics*. Trans/Ed. R, Crisp. 11
[144] Parekh, B C. *Rethinking Multiculturalism* 160
[145] Ibid. 275
[146] Ibid . 275

upbringing we are in a position where personal autonomy is considered desirable or not.

2.6 Summary

The aim of this chapter was to establish how we are going to approach the concept of value and moral standing as it relates to culture. The chapter considered the two variations of value which we will make use of in this project, that of instrumental value and intrinsic value. Instrumental value is where a culture is considered valuable due to the benefits which the culture provides for its members. An essential component of instrumental value was established to be that of its contingency, an object of intrinsic value only has value in the appropriate context, this was explained with the formula $O + C = S$. With O standing for the object, in our case culture. C is for the context and S is for standing. This highlight the contextual nature of instrumental value where if the appropriate context disappears, so does the standing of the object.

Then we examined the concept of intrinsic value. Intrinsic value is where the object does not derive its value from external properties but due to intrinsic qualities. These objects are not contingent in the same way in which objects of instrumental value are. It was emphasised that there was a risk to mislabel objects which are valuable because of our enjoyment of them as being intrinsic rather than as instrumental as would be more accurate, as in those cases that object would require the context of having a person who are in a position to enjoy the object for it to have value. Objects of intrinsic value were said to be those who hold their value independent of the context in which we find the object, this was expressed with the formula $O=S$, where again O is for the object and S is for the standing. An object of intrinsic value has value in itself regardless of its context. It was also highlighted that a shortcoming of this definition was that it does not explain why an object becomes intrinsically valuable. And I suggested that the answer to this is a form of constructivism where the objects which a reasonable person would find to be valuable would be considered valuable, this has the benefit of excluding malevolent desires or object from being considered valuable.

This division between the types of value was then applied to a number of thinkers where Miller, Kymlicka, and Modood were of the view that cultures were of instrumental value. And Parekh was of the view that cultures were of intrinsic value with Taylor having elements of both. This was to display the consequences and potential that adopting different positions on the type of value that a culture can possess. As well as elaborating on concepts which will reoccur frequently in the project.

This chapter expounds on the type of value which we will attribute to culture in this project and establishes why culture merits any special consideration in considering its moral standing. The next chapter builds upon this and considers the obligations which a culture might potentially claim against its members based on this value, and consider the potential sources of obligation to be found in either gratitude, reciprocity or consent.

Chapter 3. The Source of Obligation

The last chapter considered what type of value that a culture might possess. This chapter considers the possible sources of the obligations which members of a culture might potentially have towards their culture. This helps us to understand how to analyse cultures better as this helps us to see why members of cultures would have obligations towards their culture.

The question of whether we have obligations towards our culture can be approached in different ways. One would be Taylor, who takes the view that cultures are owed respect, but that this is the expression of respect owed to the members of the culture.[147] A different view is that of Parekh, who takes the view that obligations can be owed both to the members of a culture, but also to the culture itself.[148] For Parekh our obligations towards our culture entails being loyal to the value and tenets of the culture.[149] In this chapter we are going to consider if we have any obligations towards our culture, then what could these obligations be based in, and who are they actually owed.

The three sources that are going to be considered are gratitude, reciprocity and consent. Gratitude as the source of obligation is based on the idea of members of a culture being grateful to their culture for the benefits which they have received and as a consequence they have an obligation to support their benefactor in its aims. The second view of the source of obligation towards our culture is reciprocity, where the obligation is to pay our culture back for the benefits which it has provided us, I will also consider the consequences of shifting the beneficiary of reciprocity from the culture itself and instead aiming it towards our fellow culture members. And the final source to be considered is that of consent, where the weaknesses of a consent based approach is highlighted and I attempt to respond with a heavily Rawls inspired solution.

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[147] Taylor, C, Multiculturalism: Examining the Politics of Recognition 68

[148] Rajan, N 'Multiculturalism, Group Rights, and Identity Politics' 'Economic and Political Weekly', Vol. 33, No. 27 (Jul. 4-10, 1998), 1701

[149] Parekh, B. (2000) *Rethinking Multiculturalism* 158-159

These three will also be considered in conjunction with the types of value considered in the last chapter, as well as with two different types of group rights based on Jones's division between collective and corporate group rights.

The aims of this chapter are to build on the previous chapter and to establish what view of the source of obligation is open to us and how our position on group rights and the type value of culture will impact on the available possible positions one can take on the nature of obligations towards our culture. In this chapter, we can also start to see the interconnectedness and interdependence of these links, and how taking a position on one link can have consequences for the possible positions we can adopt on other links.

3.1 Meaning of obligation

The meaning of the word obligation, as with most concepts, is dependent on its context and by the author. One view expressed by Hart and utilised by others such as Rawls and Simmons is that an obligation is only that which we have agreed to incur.[150] Or to put it differently, on this view the word obligation refers to those demands or constraints which are the result of our own choices or actions.[151] Here then obligations are strictly voluntary in a way which separates them from duties.[152] Duties here being that which we must do regardless of us having agreed to have these duties or not, they are not contingent on us agreeing or contracting into anything. One of the noteworthy distinctions between duties and obligations which can be drawn under this potential separation is that obligations are owed to specific and particular people,[153] where for example *A* could have an obligation towards *B*. While on the other hand a duty can be held in rem, i.e. be owed to no one in particular but more general in nature.[154] Here the duties would be owed by each of us, to each of us.[155] We will return to this distinction later.

Using this terminology then obligation as presented here would be more suitable for our use than would duty. As when making an argument for us having obligations or

[150] Steinberger, P "Political Obligations and Derivative Duties." *The Journal of Politics* 64, 2 (2002) 450
[151] Brandt, R. B. "The Concepts of Obligation and Duty." *Mind*, New Series, 73, 291 (1964) 376 we also find this in Beran, Harry. "In Defense of the Consent Theory of Political Obligation and Authority." *Ethics* 87,3 (1977)
[152] Feinberg, J. "Duties, Rights, and Claims." *American Philosophical Quarterly* 3. 2 (1966) 143
[153] James K. Mish'alani. "'Duty', 'Obligation' and 'Ought'" *Analysis* 30, 2 (1969) 37
[154] Jones, Peter. *Rights*. (New York: St. Martin's, 1994) 15-16
[155] Steinberger, P "Political Obligations and Derivative Duties." 451

duties towards our culture, it is usually specifically our own particular culture that we have this obligation towards, not all people or cultures in general. It would be strange to require of a member of a culture that they are obligated to work for the advancement of cultures in general rather than their own specific one.

It is easy here to become trapped in a game of semantics, the aim of this chapter as stated at the beginning is to find the source and nature of our obligation to our culture, if indeed we have any, and at this stage fixating on whether or not what we have is a duty or an obligation or perhaps some third category would be a mistake and would confuse the issue needlessly. Here when we talk about obligation we are talking about a moral must. In the words of Darwall '… what it would be *morally* wrong not to do'.[156] If we do not live up to the obligations we have we are committing a moral wrong. These obligations are that which morally we ought to do, or are required to do or to act according to. We will return to this distinction between obligation and duties later in this chapter in the section addressing obligation from consent.

If then as we saw earlier, obligations are owed by one identifiable entity to another identifiable entity. Then the distinction which we made earlier between an instrumental and an intrinsically valuable culture will have an important part in discerning what our obligations towards our cultures are and on what grounds we might have them. Are cultures the type of entities which can make claims against their members as separate valuable entities or are they only able to do this in reference to the value of the members of the culture? This goes to the issue of who we have an obligation towards when we say that we have an obligation towards our culture. Is our obligation towards the individuals who make up the culture, or is it towards the culture itself? On one view the obligations we owe to our culture is actually something which we owe the other members of that culture,[157] that would mean that on that view if we fail to live up to the obligations we owe to our community it is actually the other members of the community we are failing rather than the culture/community itself, the parts rather than the whole. This would mean

[156] Darwall, S. "Moral Obligation: Form and Substance." *Proceedings of the Aristotelian Society*, New Series, 110 (2010) 31
[157] Parekh, B. (2000) *Rethinking Multiculturalism: Cultural Diversity and Political Theory*. 161

then that when we are under an obligation to our culture it is the members of that culture who are in the position to claim this obligation.

If we can be said to have an obligation towards our culture itself, the whole rather than the parts, would this mean that our culture has a right against us? Here it is helpful to look at Peter Jones' view on group rights.

Using Jones's division of group rights, where group rights can be divided into either collective or corporate group rights. With a collective group right, the group (in our case the culture which we are part of) possess the right through its members,[158] here the right is derived from the rights and interests of the individual members but it is exercised as a group, while on the corporate conception of group rights it is the group itself apart from its members that hold the right.[159] To expand on this, starting with the corporate conception of group rights where it is the group rather than the members of said group who holds the right. On this view it would be quite possible for one or several members to be under a duty towards our culture and the culture having the right to demand that this obligation is observed. This as the culture possesses moral value and standing in itself which is separate from the value of the members of the culture. What this means is that this could potentially create the situation where the members of the group and the group might have separate interests from that of the culture.

What allows for this situation where the interests of group and members diverge is that under the corporate view the group have this moral standing in itself, which it does not have as a means for the ends of its members. If we remember the earlier chapter when we looked at the type of value that a culture could possess, then we can see that this would assign intrinsic value to the group, giving it a value that is separate from its members. It would also seem that it would not be possible to combine the corporate group rights for culture with an instrumental view of value. As then our culture (which if using an instrumental view is a means to an end) would take priority over our own interests, or we would have a conflict between the means to further our interests and the aims and interests themselves. Or rather in some views, we would be under obligation to the means to our ends with these means

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[158] Jones, P. "Human Rights, Group Rights, and Peoples' Rights." *Human Rights Quarterly* 21, 1 (1999) 83-85.
[159] Jones, P. "Group Rights and Group Oppression". *Journal of Political Philosophy*, 7 (1999), 363

having possible claims against us. This would mean then that the group which derives its standing from its being an instrument for our ends, would then have standing which would be separate from us and have us under obligation towards it. This incompatibility comes from the fact that as our culture's moral standing is ultimately derived from its members, while at the same time it is in a position to hold obligations against us.

But if we suppose that our culture does indeed have some form of value which is not only gained by the use it is to its members, it would be easier to imagine an argument for the culture to exercise a right over its members. This would then depend on the view that this cultural value can be of a type that can in certain situations take priority over individual interests.

On the collective group rights view, the right is held by the group, but is exercised through the people in the group rather than the group itself.[160] This casts the group right as being something of a tool for the members to use in situations where their individual rights do not suffice, this could be because what they are trying to claim a right to is something which could only be exercised in a group, as an example, a right to free association can only be utilized in a group, as an individual would not be enough to have an association. Or possibly there could be cases where individual rights would be outweighed by other considerations, the establishment of a road in a particular place might take place over the objection of one or two individuals but they might have a better chance of stopping this if they were to press their opposition in the terms of a larger group (a village) being against the road.

This leaves the collective form of group rights as being the most suited for the instrumental view of value, as this is a type of right that serves to enable members of groups to do what they could not do as individuals and the instrumental view of value places value in things (this case a culture) in as far as it allows us to accomplish our goals. Here then, the group or culture would not have any value that is separable from its members. And this feature of collective group rights makes it difficult to combine it with the intrinsic view of the value of culture, which means that a situation where members are under obligation towards their group/culture when their interests diverge becomes harder to imagine, as the group would derive its value from its

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[160] Jones, P 'Human Rights, Group Rights, and Peoples' Rights', (1999) 3-4

ability to further its members end, which would mean that it could not really form ends that are separate from that of the members and a member with a different interest from the group would now no longer be part of the group, as the element which makes them group members is the shared interest.

A complication to this appears when we add to this the view that it is the other members of our culture which we owe our obligation to rather than the culture itself, this would be incompatible with the collective conception of group. As it would mean that we again would be obligated to sacrifice our interests in the service of our interests.

3.2 Obligation from Gratitude

Here then we will consider gratitude as the source of our potential obligation towards our culture. In essence this idea would be that if something gives us a great benefit, then we have an obligation to be grateful to this thing,[161] in our case, our culture. As we need our culture, we would be bound to be grateful towards our culture. In examining this closer we will first contrast this with reciprocity to give a clearer outline of the concept before moving onto the emotional component that this approach requires from members of culture, where we are to cherish our culture. Before considering the potential drawbacks of this view where it would leave little room for personal preference and that this risks treating members of cultures as means to the cultures ends.

In trying to explain what I mean by gratitude in this context, it might help to contrast it with the similar but distinct concept of reciprocity, which we will return to again later in the chapter. Starting with some of Parekh's writing helps to frame the issue of gratitude in relation to culture, as we could interpret his views such that we do indeed have an obligation towards our culture and this obligation finds its source in gratitude, as Parekh describes it 'We then feel and should feel a sense of loyalty towards our culture because of its profound contribution our lives'.[162] Part of this is that we have a duty to cherish our culture due to the positive influence it has had on our lives.[163] Here is where we can see where the confusion with reciprocity can

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[161] Klosko, G. "Political Obligation and Gratitude." *Philosophy & Public Affairs* 18,4 (1989) 352
[162] Parekh, B. *Rethinking Multiculturalism: Cultural Diversity and Political Theory*. 160
[163] Ibid. 160

occur, if we take reciprocity in its simplest form to mean to pay back in kind for what we receive.[164] How this could be read is, that when we cherish our culture for the benefits it gives, we are paying it back. But the difference between gratitude and reciprocity in this context is that the former requires an emotional component, we are to have a positive attitude towards our benefactor.[165] And a well-meaning attitude towards the benefactors' interests and aims.[166] With reciprocity we generally mean that someone should respond to actions with the same kind of actions, *A* does *B* a favour and *B* later does *A* a favour in return.

Transposing Walker's point on gratitude and obligation from political obligation to our discussion on culture, he takes the view that "The person who benefits from X has an obligation of gratitude not to act contrary to X's interests."[167] It becomes incumbent on the recipient to be grateful towards their benefactor and to advance their interests, in the case of culture, its continued existence. [168]

As an example of this, with Parekh we have an obligation to cherish our culture, together with another obligation we have towards our culture would be to not damage it.[169] The combination of these two would suggest that it would not be enough to simply not slander or deliberately damage our culture, but that we have to be actively positively predisposed towards it and work towards its furtherment.

The main difficulty with this view of obligation towards our culture is that it would seem to put an unreasonable burden on the individual member of a culture. The difficulty is the obligation to cherish the culture, this could be difficult if the individual member takes the view that some core aspect of their culture is disagreeable.

If we remember the types of value which we looked at in the last chapter, and use that to see what sort of value this particular view of our obligation towards our culture would be most compatible with, intrinsic or instrumental, then also consider which form of right our culture can hold against us. Then in this case I believe we find that

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[164] The same line of reasoning can be found with Etzioni's sentiment "it is immoral to take but not to give, to diminish and not to restore." In Etzioni, A. "Are Particularistic Obligations Justified? A Communitarian Examination." *The Review of Politics* 64, 4 (2002) 573-598.
[165]. Walker, A. D. M. "Political Obligation and the Argument from Gratitude." *Philosophy & Public Affairs* 17,3 (1988) 201.
[166] Ibid 205, however Klosko argues against this type of gratitude as it would place a too great a burden on individuals based on too weak an obligation, insisting that we would always (or nearly always) have some other obligation which would take priority over our obligation of gratitude. Klosko, G (1989) 'Political Obligation and Gratitude'.
[167] Walker A. D. M 'Political Obligation and the Argument from Gratitude' 205
[168] Parekh, B. *Rethinking Multiculturalism: Cultural Diversity and Political Theory*. 77
[169] Ibid. 159-161

this view would be most compatible with the corporate form of group rights. Here it is the group in separation from its members that holds the right against the members, it is not necessarily the other members we must feel gratitude towards but the culture itself, it is the culture that we are to avoid damaging.[170] When it comes to which type of value a culture possesses, here the most compatible view would be that culture has intrinsic value. As it is the culture which is to be cherished rather than the other members it is not being viewed as a means to our ends but is something with value on its own.

That was a look at obligation from gratitude, we will now look at two slightly different ways of using reciprocity as the basis for our obligation towards culture.

3.3 Obligation from reciprocity

In this section we will examine how it could work to use reciprocity as the foundation for obligations towards our culture, before moving on to the final section which looks at consent as the basis for obligation.

Here we are going to consider two different approaches to reciprocity. First a view based on Parekh, where the focus is on avoiding inflicting damage to our culture or leave it in a worse state than how it was when we had use of it. While the second view instead focuses on the effort we devote to our culture and the avoidance of free riding.

If we read Parekh in a different way from how we have done in this chapter until now and instead of thinking about our obligation in terms of gratitude and instead shift towards reciprocity, then we might find something a bit more coherent. The main difference that would allow us to do this would be to remove the element of sympathy towards our benefactors from our discussion, and move away from obligation requiring members to have certain emotions and attitude towards their culture and instead focus on what action they need to take in regards to their culture. This still leaves us with a set of issues to look into before we can see if reciprocity is a suitable source of obligation towards our culture.

Staying with Parekh we can find an example of this with his view that we have an obligation not to damage our culture, and to leave it in no worse state than we found

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[170] Parekh, B. *Rethinking Multiculturalism: Cultural Diversity and Political Theory*. 159-161

it.[171] This particular duty is quite compatible with the idea of reciprocity as its basis. What we have here then would be an obligation *pay-back* to a culture what we got out of it. Here then as our culture helps us to become fully functioning individuals, we would then have an obligation grounded in reciprocity to pay back to the culture as we have befitted from it a great deal.

For Parekh as we have mentioned before, our culture is a vital part of who we are, it gives a sense of rootedness[172] and a system of meaning.[173] What we have then is a situation where the individual is reliant on his/her culture in order to be a complete individual, and so owes their culture or community a debt for having provided this service. Part of this obligation is as said before not to damage our culture, this could mean for example a duty to not act in a way which would make our culture appear bad in the eyes of others or in some way lower the prestige of our culture.[174] Our duty is not only to our culture and the current members of it but also to previous members of our culture as well as to the future generations of the culture.[175] This duty to future members takes the form of making sure that our culture continues to exist in a recognizable form for future generations.[176]

There are a few issues with this view of obligation towards our culture which makes it potentially quite undesirable. One is the circular nature of this view of our obligation, as what we have here are members of a culture who are under obligation to try to keep their culture recognizably similar to its current configuration, a responsibility they inherited from the previous generation who had the same obligation and will pass the same thing on to the next generation.[177] This would then mean that every generation would be duty bound to continue the culture in its present form without the members having an opportunity to make any choice in the matter.

A second important point in this view of reciprocity is that it in a sense treats its members as a means, going against the classical Kantian idea of always treating

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[171] Ibid. 313
[172] Ibid. 162
[173] Ibid. 143
[174] As an example, this is what Parekh considers to be one of the main fallings on the part of Salman Rushdie in his book *The Satanic Verses* is that he uses his knowledge of his culture to portray it in an unflattering light and so lower its prestige and the amount of respect it is afforded by others. Parekh, B. *Rethinking Multiculturalism: Cultural Diversity and Political Theory*. 295-336
[175] Parekh, B. *Rethinking Multiculturalism: Cultural Diversity and Political Theory.* 160
[176] We can find a similar idea with Taylor who puts it "if we are concerned with identity, then what is more important than making sure that it is not lost?" Taylor, Charles. *Philosophical Arguments*. Cambridge: Harvard University Press, 1995 235
[177] Parekh, B. *Rethinking Multiculturalism* 161

people as ends in themselves.[178] What I mean here is that the aim is not the fulfilment of the aims of the members but the aims of the culture or community, with the members being treated as a means to keep the culture going.

It should be made clear that Parekh does not entirely rule out the possibility that there might be some internal dissent or dissatisfaction with the culture as it is at present, there is room to try and change our culture from within, but this is tempered with an assertion that it is mainly up to 'cultural' leaders,[179] and the earlier assertion that we have an obligation to our forerunners and successors to keep our culture as recognizably similar. This would seem to me to leave little room for the individual members of a culture to have significant impact on the culture or community in which they live and if there is a conflict between the interests of the two, then it would appear that on this view it is the community which wins out.

This would work quite well with the previously discussed ideas of corporate group rights and of placing the value of a culture as something intrinsic to it. Here if we use this interpretation of Parekh's view then we can see that in viewing a culture as an entity which has an intrinsic value which is separate from that of its members it allows for a corporate view of group rights where the group can overrule individual interests. Parekh maintains that it is to the other members of our culture that we have obligations toward rather than the culture itself,[180] but when taken in context with some of the features outlined earlier this might not be so clear as that statement might give the impression of. If we accept that it is to our fellow members we owe obligation but the obligations have the culture as their subject rather than the other members. By which I mean that the focus of obligations which Parekh mentions aim at the betterment of the culture, rather than the betterment of the people in them. Look for example at the obligation to keep our culture in a recognizable state, even if we owe this obligation to the other members of our culture, it is the culture itself that we are to preserve, it is the culture which benefits. A counter that could be made to this would be to point out that the reason for wanting to preserve a culture is that it provides a range of benefits to its members, like the capacity to evaluate choice and options, formulate an idea about the good life and a sense of rootedness as we have

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[178] Kant, I. *Groundwork of the Metaphysics of Morals* 40
[179] Parekh, B. *Rethinking Multiculturalism* 165
[180] Ibid. 161

mentioned earlier. It is in the end for the benefit of the members of the culture that we try to preserve our culture and so we can say that when we are acting to further the interest of our culture we are paying the other members back for what they have done for us, i.e. enabling the culture which gives all these benefits. However, I do not think that reciprocity will necessarily get us to the type of obligations that Parekh has talked about.

Or rather reciprocity alone will not get us all the way to those obligations. I think that one of the problems that a reciprocity based view will run into is the issue mentioned a while back, that of separating the culture from the individual, it is something that is separate from us that we can be grateful to or pay back for what it has done for us, while at the same time maintaining that it is actually the other members of the culture which we actually owe these obligations. This can become a problem if we consider the possibility that we could have a duty to the other members of our community to pay back and ensure the survival of a culture they may or may not have an interest in preserving. To put this in a different way, these obligations would only really be relevant when a member would otherwise be unwilling to do what the obligation demands, we rarely talk about an obligation to do what we already want to do, so what we might have is a situation where we are under obligation to help ensure the continued existence of our culture in order to pay it back for the benefits we have received from it, while we personally might not be overly concerned about the continued existence of our culture. And if it is possible for us to be disinterested in the fate of our culture or have preferences which are at odds with it, then it should be entirely possible for other members to have a similar relationship with the culture. So what we have then is the possibility of us owing an obligation to our fellow members which might go against their preferences. But even if it was not the case that potential other members of our culture happen to have preferences which are incompatible with our culture, then the separation between member and culture would still pose a problem, as then we would owe obligations of reciprocity to the other members of our culture but we pay back to this partially separate entity. Imagine if A loans B some money, and B then returns that money to a church, thinking that both are members of the church and receive benefits from the church.

One approach to alleviating this problem is by arguing that our culture is the appropriate target for reciprocity as it could be argued that it would be in the

members' interest to continue to have the culture available, or that the instances where they would be at odds with their culture are outliers and that the by far most common situation is that members of a culture/community want it to continue to survive and prosper. But this would not show that culture would have to be that which is best suited to be the subject of our obligations of reciprocity. If our view is that we have an interest in our culture surviving then reciprocity would not be the only source of obligation which could fit, for example, a utilitarian approach could be used, but this would not necessarily show that culture is the object which is best used in maximising our utility or interests. Similarly, if it is the fact that most would want to see their culture prosper then it is the preferences of the members which are the real subject of our obligations and we would be back at the previous problem of members potentially not wanting their culture to prosper or having other stronger preferences.

Before moving on to the alternate view of reciprocity, we can now with a greater understanding of this first form of reciprocity consider how this view functions in the context of those factors we have already covered in the earlier chapters. Here I would say that the best match for this Parekh influenced view of reciprocity would be the corporate view of group rights and of placing the value of a culture as something intrinsic to it. Here if we use this interpretation of Parekh's view then we can see that, as has been said repeatedly, in viewing a culture as an entity which has an intrinsic value which is separate from that of its members it allows for a corporate view of group rights where the group can overrule individual interests.

That was one view of reciprocity which was based on Parekh, we will now consider a different approach to reciprocity, where our main concern is the effort people put into their culture.

In the previous views of culture which we have looked at, there was a certain expectation that we would have a deep sympathetic connection with our culture, either as something to be grateful to or something which gives us a sense of rootedness and security.[181] Under that view our culture is similar to a family, something which despite occasional misgivings we still have great affection towards.

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[181] Ibid. 162

A different way to look at a culture or a community is to think of it as a cooperative-venture.[182] And all the members are duty bound to put in as much effort into the culture as the other members of the culture. All other members will have had to make sacrifices and devote their energies to the benefit of the culture, so having received the benefits of cultural membership, or as it would be here, the benefits of other member's sacrifices and energy. It is then incumbent on us to match this effort by the other members of the culture, our obligation would in essence be not to free ride on the efforts of the others in our culture.[183]

This shift might seem a bit trivial, but what it does is shift to whom this obligation is owed. On the view that we have to pay back to our culture what we have gained from it, it is the culture itself that is the beneficiary of our efforts to live up to our obligations. But on this view where we have to 'keep up our end', it is the other members of our community or culture which is to benefit from our fulfilling our obligations. Here the aim is to stop the other members of our community having to put an unreasonable burden and in a sense to also repay their effort by providing our own effort.[184] Indeed one way of looking at this using a Kantian style analysis is to conclude that failing to live up to this obligation is to compromise the autonomy of our fellow members of our community.[185] This connects to the point we made in the earlier part of this chapter, where we mentioned that while Parekh is open to the possibility of obligations towards both the individuals in the culture and the culture itself, other thinkers, such as Kymlicka and Taylor views rights and obligations towards cultures in terms of the individual members of the culture.

But the problem which we encountered earlier reappears here, how do we get from paying back the effort put in by others to specific obligations to maintain our culture. If it is free riding which is to be avoided, then this would allow for other ways of paying back than helping to ensure the continued existence of our culture, or any of the other obligations we have looked at earlier. If it is effort or burden which is the main concern here, could not one person then possibly try to pay other members of the culture to compensate for their effort? Or in a slightly glib suggestion, could

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[182] Buchanan, A. "Justice as Reciprocity versus Subject-Centered Justice." *Philosophy & Public Affairs* 19,3 (1990) 231
[183] Jordan, B "Justice and reciprocity", *Critical Review of International Social and Political Philosophy*, 1,1, (1998) 83
[184] Rawls, J. *A Theory of Justice Revised Edition* 433
[185] Mason, A. "Special Obligations to Compatriots." *Ethics* 107, 3 (1997) 435

someone pay an outsider to somehow take on the burden of our community and in essence outsource our community?

This view also requires a separation between the individual and the culture. As here culture is something which imposes burdens on its members which they are to carry their fair share of. It would then encounter trouble in those cases where some individuals do not want to continue to associate with the culture, as then presumably they would not consider the benefits which comes with a culture to be worthy of its cost or even worse, maybe someone would not consider what a particular culture offers to be a benefit, but would still be required pay in so as not to deprive other members of their efforts. So if someone were to find their culture to be disagreeable they must continue to make sacrifices to support it, as other people are also making sacrifices to support it. Our obligation towards our culture viewed like this would then take on qualities similar to either our obligation towards states and to voluntary associations in which we are members. The problem which we encounter here is that as it is the effort which our compatriots have spent on our culture that is the subject of our obligation of reciprocity, it is then when we fail to meet this obligation that we can be accused of free riding on the efforts of our fellow members of our culture, or to use a helpful definition by Arneson "…where the collective benefit is either voluntarily accepted or such that voluntary acceptance of it is impossible, those who contribute their assigned fair share of the costs of the scheme have a right, against the remaining beneficiaries, that they should also pay their fair share. A moral obligation to contribute attaches to all beneficiaries in these circumstances…"[186] and when we fail to pay our fair share, then we are failing to meet our obligation towards our fellow members of our culture.

This type of view has in a sense been brought up before, and as has been said, this type of view falls short in that this is generally speaking not how we look at our culture. While that may or may not be true, one of the main problems we find with this view of culture is that it does not help us reach any particular obligations when it comes to culture. If we take this view that our culture is akin to a voluntary association then once we have paid the other members back, what is to stop any of us from simply leaving the culture, leaving it with dwindling numbers. And of course

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[186] Arneson, R J. "The Principle of Fairness and Free-Rider Problems." *Ethics* 92, 4 (1982) 623

the fact that we generally do not evaluate our culture the same way in which we evaluate potential membership in any voluntary association, in terms of benefits and sacrifices which is why we have in this work often repeated assertion that cultures are not like voluntary associations.[187]

This view of culture would be best suited to be combined with an instrumental view of its value and a collective take on group rights, as here we are looking at a culture like something akin to a voluntary association, without the emotional component to connect us to it and seemingly nothing else to give intrinsic value to our culture it reduces it to a scheme of mutual advantage. While this would avoid any risk to romanticize our relationship to our culture, it would also limit the use of it. If we for example remember Miller's view of our culture's role in making us willing to make sacrifices to benefit our compatriots out of our attachment to our culture.[188] Miller's view of the benefits of culture would be entirely incompatible with this approach to culture, while this in itself is not necessarily a flaw, it is an example of how reciprocity viewed like this reduces the usefulness of culture, which becomes problematic as when we view it through a reciprocal lens, what use we get out of our culture becomes rather important.

What this leaves us with in regards to using reciprocity as a means for finding obligations towards our culture, is that reciprocity by itself is not enough to get us to obligations. Using the types of views we have looked at here, one where an emotional attachment to our culture is not the main motivator and instead it is treated like a voluntary association, then we do not get enough importance to culture to justify any special attention being paid to it. And if we take the view that it is something which holds special attachment for us then we would still need some other form of prime virtue or first principle to add to culture in order to make it work with reciprocity, though it should be said that this is not necessarily a fatal blow to a reciprocity based view of obligation, but only an indication that it needs more elements to be completed.

3.4 Obligation from consent

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[187] Parekh, B. *Rethinking Multiculturalism* 161
[188] Miller, D *Citizenship and National Identity* 31-32

Here we will look at consent or agreement as source of our obligations, as well as to whom these obligations would be owed, i.e. how does this manifest in terms of the group rights that emanates from these obligations, as well as looking at what view of value a consent based take on culture would need. At first we will look at some of the problem with using consent as the foundation for our obligation towards our culture when consent is seen as the act of choosing a culture, and then another view borrowing from Rawls to try to come up with a different way of looking at consent in terms of culture.

As said before, some theorists take the view that obligations are those demands which are consequences of voluntary actions. Here an obligation is something which we commit or contract ourselves into.[189] Earlier we looked at how some, like Feinberg, separated obligation from duty, in that obligations are things which we acquire through our choices and voluntary actions, while a duty is something which we have regardless if we have chosen it or not.[190] This is a distinction which we have not paid much attention to, but here we will have to consider this. In this chapter we are considering whether we can have obligations towards our culture and how we would incur these obligations, this segment will examine this to try and see if it is possible to make a reasonable argument for these constraints to originate entirely with some form of contract of voluntary actions on behalf of the members of a culture or community. The aim here is not to make an exhaustive examination of this line of social contract style thinking, as that would be such an enormous topic which could easily occupy the entirety of this project, instead we will try to limit our focus and scale to how it directly relates to what we are trying to look at in this section.

Can we then find a way to describe obligations as we have used the word up till now completely in terms of consent?

There are two problems with this idea, first that we do not generally choose which culture we are to become part of, generally we are born into a culture without making any choices in this regard. And second, the capacity for choice is (in some views) contingent on cultural membership.

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[189] Steinberger, P. 'Political Obligations and Derivative Duties. 452-453
[190] Feinberg, J. 'Duties, Rights, and Claims.' 140

With the first of these two problems, I mean that generally we do not choose which culture we grow up in, we find ourselves in one and are socialised into it over the course of our lives. It is not like some voluntary association where we can evaluate the pros and cons of membership and then in the end make a deliberate decision.[191] And for the second, if we take for example either Kymlicka's view that our culture provides us with a context of choice,[192] or Taylor's view of our linguistic community as enabling us to place ourselves in the moral geography and decide on worthwhile ends and conceptions of the good life,[193] then we would not be able to make a choice or consent to be part of a culture before they were already part of a culture. We are never in a position where we stand apart from our culture with the faculties to evaluate and judge whether or not we wish to be part of it. Though it should be made clear that while Kymlicka thinks that we might want to maintain our culture, we do not have any duty to do so.[194]

What I am trying to show with this is that the joining of a culture cannot be seen as a conscious decision, or at least in most cases as there are people who emigrate or sever their ties to their old communities and opt for new ones but most stay with the one they were born into,[195] meaning that we would have to look somewhere else if we wanted to find the source of obligation towards our culture in consent.

One place we could look to is the receipt of benefits from our culture as indicating our consent to that culture. This is different from the earlier point about reciprocity as here the aim is not to pay back what we got out of society or to return the effort put into our culture by others, but rather that by accepting the benefits from something (in our case our culture and community) we signal our consent for that thing.[196]

While this argument might work in some context, it would not be as effective here when arguing about culture. As our culture is not like membership in a club where the benefits are quantifiable and identifiable, having received the ability to make worthwhile judgments about what constitutes the good life it is not something one can really give up, or if we look at this in terms of identity, it would be strange to say

[191] Parekh, B. *Rethinking Multiculturalism* 165
[192] Kymlicka, W. *Multicultural Citizenship* 92-93
[193] Taylor, C. (1989) *Sources of the Self: The Making of the Modern Identity*. 35
[194] Kymlicka, W. *Multicultural Citizenship* 100
[195] Kymlicka, W. *Multicultural Citizenship* 85-86
[196] Stark, Cynthia A. "Hypothetical Consent and Justification." *The Journal of Philosophy* 97, 6 (2000) 315

that we have made a conscious decision to choose to continue to identify with our culture after we have grown up in it. To identify with our group is an emotional attachment rather than an intellectual commitment, making it often difficult to say that we have made a choice to identify with or cherish a group of people. Looking at the community element of this and while it becomes more possible it is still quite unfeasible to suggest that we have consented to our culture. As here it would seem that membership of a community *is* the benefit that the community brings, so it would be the case here that continued presence and membership of a community constitute acceptance of the conditions of said community and through that, we incur obligation towards the community or culture.

To start with, this faces the same objection as the previous view, as again our culture is not some voluntary association which we can simply choose to quit when we no longer wish to be part of it. Secondly, we in our daily life generally do not think that being part of a culture or not leaving or disassociating from our culture, constitute agreement for the obligations that might be incurred from membership in a culture. And thirdly, this would not be fully satisfying in cases where members do not wish to continue their association with their culture, as then we would face problem with either someone being under an obligation to a culture which they no longer consent to being part of, or alternatively we could find ourselves in a case where a person could reap the benefits of cultural membership and then later opt out of the culture, leaving us with the sort of free riding we mentioned earlier.

An alternative which we have looked at in a different context would be a view where while we do not agree to a particular culture but, agree to the idea of being part of a culture. Here if we start with the assumption that membership in a culture does provide the various benefits attributed to it and that cultural membership is the only thing which can provide this, and from this move to the assumption that everyone would want, or indeed need, to be part of a culture of some form. With this starting point we could shift what was being consented to, from a particular culture, to agreeing to an ethical system in which we have some obligations towards our culture.

Here it would be helpful to consider the different type of consent that would go into most forms of social contract theory, to use Rawls' thought experiment in *A Theory*

of Justice as an example, in this famous thought experiment we imagine a person making a decision on the principles that govern the basic structure of society while being unaware of their personality or their position in this society.[197] This would not mean that we expect this hypothetical person to agree to each individual instance or case where the principles would come into play, but rather that they would agree to a system of principles which would govern the particular instances. To use an element of the principles Rawls thinks a person would opt for as an example. According to the difference principle inequalities are allowable so far as it benefits the least well-off.[198] But this does not mean that the person directly chooses their place on the equality scale, but rather how this scale operates.

Looking at how Rawls's ideas work in the context of culture, we can see that there is room to incorporate considerations of culture into the thought experiment of the original position and the veil of ignorance. One of the primary goods to be distributed to the benefits of the least well of, is that of self-respect, and indeed might be one of the most important one.[199] Self-respect for Rawls "includes a person's sense of his own value, his secure conviction that his conception of his good, his plan of life, is worth carrying out".[200] And secondly it also means to have access to associations which provide support and enhance our self-esteem.[201] If we compare this to some of the views of Parekh and Kymlicka, we find some areas of similarity, with Parekh, one of the functions of culture is to provide a sense of rootedness[202] and esteem[203] which follows closely the just cited element of Rawls view of the primary good of self-esteem, and for Kymlicka, one of the main functions of culture is to provide a context of choice, in which we can evaluate our plans of live and our choices.[204] Which sits well with Rawls' view on knowing that our life plan is worthwhile, as that is what the context of choice will allow us to determine.

One important point on which they differ, is the nature of the thing that enables this. For Kymlicka and Parekh culture is unique in its ability to offer these benefits in

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[197] Rawls, J. (1999) *A Theory of Justice Revised Edition* 15-19
[198] Ibid. 65-73
[199] Ibid. 386
[200] Ibid.386
[201] Ibid. 387
[202] Parekh, B. (2000) *Rethinking Multiculturalism* 162
[203] Ibid. 130
[204] Kymlicka, W (1995). *Multicultural Citizenship*. 89, we also find a good description of the context of choice in Gutmann, A. *Identity in Democracy*. (Princeton, N.J: Princeton University Press, 2003) 41

regards to self-esteem. But for Rawls this can be found in voluntary associations, as he puts it "Thus what is necessary is that there should be for each person at least one community of shared interests to which he belongs and where he finds his endeavours confirmed by his associates."[205] And further that "it normally suffices that for each person there is some association (one or more) to which he belongs and within which the activities that are rational for him are publicly affirmed by others."[206] We see the difference between the two views on associations which serves as the foundation for self-esteem, for Rawls it suffices that the association is one of shared interest and there is the possibility for multiple associations to serve the role.[207] Further to see the difference we see that for Parekh our culture is of intrinsic value while the associations are only useful to Rawls as far as it provides this sense of worth for their members.[208]

What this means is that if we wish to use the idea of original position in order to establish the basic structure of society, we can combine this with the idea that cultures are worthy of special attention, on the basis that they can provide one very important primary good. However as Rawls was looking for the basic structure of society this could be difficult to use in the precise way in which we are using it to find if you can have obligations towards your culture, it simply put was not the question he sought to answer. But appropriating his tool for our purposes here, and considering what a person in the original position would opt for in regards to what a culture or community can demand of its members. The view that a person would come to would be, I believe, not entirely dissimilar to the logic of the difference principle. The difference principle in its simplest form is that inequalities are only allowed so far as it is to the benefit of the least advantaged.[209] And the way that the principle regarding obligations towards culture would be shaped is that obligations towards cultures can only take the shape that the least advantaged would agree to. To clarify, by obligation towards cultures I mean here the obligation from members to their specific culture. And the least advantaged here would be the one who has the

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[205] Rawls, J. (1999) *A Theory of Justice Revised Edition* 388
[206] Ibid. 387
[207] This is one of the reasons why Rawls can be said to have a metaphysics which supports a politics of interests rather than a politics of identity. As it focuses on the interests and motivations of people and gives little room for their identities and emotional ties. Green, L. "Consent and Community." *On Political Obligation*. Routledge, 114
[208] Rawls, J. (1999) *A Theory of Justice Revised Edition* 388
[209] Ibid. 65

most onerous burden placed on them by their culture. The question we face then when trying to decide if a particular obligation to a culture would be permissible would be to ask if those who would carry the heaviest burden of that obligation would agree to it. Reusing the example we used in an earlier section, imagine someone who was gay was facing pressure from their culture to not be so. Here having an obligation to adhere to the precepts of one's culture, would be such that few people, if any, in this situation would agree to it. This would mean that if we use this culture principle then this would be an obligation which the culture could not demand from its members. Or if the culture/community were to try and put such pressures on its members, they would not be guilty of free riding or ingratitude if they were to resist or refuse such pressures. One way to approach this is to take the view of Arneson, in a cooperative scheme all members receive a benefit, this benefit is greater than the cost of the individual's fair contribution to this scheme.[210] While Arneson's description comes more easily to the more material world I would suggest that it applies just as well to our situation here. As he suggested that it would not be accurate to describe someone as a free rider if they were to refuse to pay if the cost of their share were to be greater than the benefit incurred. Here if the precepts of our culture were to be such that no reasonable person would agree to them then it would be as if the cost for the individual would be larger than their reasonable fair share. And so if someone was to refuse to pay, or in our context to keep to the precepts of our culture, they would not be free riding as their share would have become unreasonably expansive.

What this leaves us with then is that we would agree to an ethical system which contains in it the possibility of obligation towards our culture, rather than specific obligations to specific cultures. This has implications for whether we can view a culture as having intrinsic or instrumental value. If we stick to the strictly Rawlsian view then a culture would simply be an association for the benefit of the individuals' sense of self-esteem, and would be strictly instrumental in nature, they are essential but still only valuable as far as they provide worth for their members. And if we look at the slight modification we just made then the same holds true, here our focus is

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[210] Arneson, R J. "The Principle of Fairness and Free-Rider Problems" 621

not on the need of the culture but on the choice of the member, we are treating it as something which exists for their benefit rather than for its own.

This then has the effect on what type of group rights that a culture can have, as the group right a culture holds is part of the manifestation of the obligations it can demand of its members, and the best match for what we have just looked at would be for cultures only to have collective group rights. If it had the corporate type of group rights then we could get into the type of situation mentioned earlier, where someone would be under obligation to act in a manner which they would not agree to, like hypothetically be forced not to be gay or similar.

Though I said that collective group rights were the best suited, it would not be impossible for someone to argue that the corporate type of group right could be made to fit. One could argue that the group's needs does outweigh the preferences and projects of the individual member. And those individuals that find themselves at odds with their culture would simply have to make the sacrifice in order to secure the needs of the wider community, and if one takes that view then the corporate type of group rights would fit quite well. It would depend on what other moral assumptions and commitments that a person would imagine would have to be in place. The issues surrounding culture does not exist in a vacuum, it is part of a wider moral system and should not be looked at exclusively in isolation. This is something which we will be looking more at in the next chapter.

3.5 Summary

This chapter elaborated on the meaning of obligation in this context and on the sources of our potential obligation towards our culture and the other members of our culture. The first step was to consider the difference between an obligation and duty, then to consider Jones's separation between corporate and collective group rights. Collective group rights are those rights which a group possess which it has in virtue of its members. While the corporate group rights are those which the group itself possesses. A key element to highlight being that under a scheme of corporate group rights the group could hold a right against the members of the group which would not be the case with collective group rights.

The three sources of obligation considered were gratitude, reciprocity and consent. Gratitude as the source of obligation would take the position that as our culture

provides us with an innumerate amount of benefits, the members of a culture owes an obligation to be grateful towards their culture. This would entail having an obligation to cherish our culture and based on Walker's account of gratitude, not act contrary to the culture's interests. The shortcoming with this perspective is that this would put a heavy burden on individual members who disagree with some of the precepts of their culture or find some of their cultures interests to be disagreeable, as they would then have an obligation to still cherish and act according to the precepts of the culture.

The second source of obligation was that of reciprocity, which was described as being in some respects similar to gratitude, but with the key difference that the emotional component of the obligation towards our culture was not present. But instead the way in which this was explained was that we owed an obligation towards our culture to pay back for what we have received from it. One of the possible obligations of reciprocity which was identified was an obligation to ensure that our culture remained in a similar and recognizable to its current form. Shortcomings of this perspective was identified as being the possibility of the cultures interests overriding the interests of the individual members, as well as a Kantian problem of the members of a culture being treated as a means to the cultures ends, rather than being treated as ends in themselves.

The third source of obligation is the consent based approach. The flaws in this approach were identified as the fact that we do not choose what culture we are part of, and secondly that our capacity to make choices is culturally contingent. My attempt to resolve these problems was by the use of a heavily Rawls inspired approach were the obligation would only be as demanding as the least advantaged, or most burdened would agree to. This would avoid a situation where unreasonable burdens would be placed on individual members of cultures. This would shift the object of our consent away from agreeing to be part of specific cultures, to agreeing to be part of a system in which we would have obligations towards our culture.

This chapter considered these possible sources of obligation in conjunction with the different types of value considered in the last chapter, as well as which form of group rights were compatible with the different views on the source of obligation towards our culture, in an effort to demonstrate the consequences of taking a position on one

point has on the compatibility of the other points of consideration. The next chapter focuses on the ontological question of the nature of the humans who occupy these cultures and considers whether we are atomistic or holistic in nature. This is followed up in the succeeding chapter with the question of advocacy and considers communitarianism and individualism.

Chapter 4. Ontology

This chapter will add to our consideration of how to analyse culture by examining the ontological nature of the people who make up these cultures. The two ontological approaches we are going to consider are that of atomism and holism. Atomism places the individual at the centre of its attention, while holism takes the view that individuals must be viewed in a social context and that people are not solitary isolated atoms. The chapter will first define these two positions, before considering the consequences which opting for either view of ontology can cause. An example used is Taylor's view of how the ontological positions adopted by Hobbes and Locke allow them to come to their conclusions on the issue of advocacy,[211] this is similar to the point this thesis has been making about the interdependence between these links. I then suggest that it would be useful to consider the issue of ontology twice, first to establish how people actually are. And second to establish how we wish to use ontology.

The chapter further demonstrates the interconnectedness of these links, in particular the impact that the link of ontology has on the link of advocacy, the subject of the next chapter, with ontology having a very clear impact on the possible positions on other links. This chapter also prepares us for the next chapter which focuses on the advocacy positions of individualism and communitarianism.

4.1 Definition of atomism and holism

These two approaches concern what the fundamental unit of analysis ought to be. With atomism focusing on the atomised individual, while holism focuses on the group. We will start with atomism and then move onto holism.

The core of atomism, also referred to as methodological individualism in certain contexts, is that it takes the individual as its starting point. When we are considering questions and problems we do so from the point of view of the individual. Elster, in

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[211] Taylor, C *Philosophy and the Human Sciences* 187

defining this style of approach, described it as "…the doctrine that social phenomena (their structure and their change) are in principle explicable only in terms of individuals - their properties, goals, and beliefs."[212] Similarly, Goldstein, in describing this principle in the social sciences describes it as "…the claim that in social science all explanation is to be individualistic"[213], or as Taylor puts it "atomism affirms the self-sufficiency of man alone or, if you prefer, of the individual"[214]. The core of this approach, then, is that it takes the view of the individual.

The other approach is that of holism, where rather than imagining people as isolated individuals, they are social beings which need a societal context in order to operate and function.[215] Where atomism found the individual to be the most fundamental unit of analysis, holism takes this social dimension into account and the social group would be the most fundamental unit of analysis. As Uyl and Rasmussen puts it "in (a), the order of explanation, you can and ought to account for social actions, structures, and conditions in terms of the properties of social wholes; and in (b), the order of deliberation, you can and ought to account for social goods in terms of a social good that cannot, without remainder, be reduced to the goods of individuals"[216]. Or to put it simply "Society is the 'whole' which is more than its parts".[217] The individual, therefore, is a context dependent entity rather than the seemingly context independent and self-sufficient individual of atomism. The holistic approach takes the view that relationships between people are a constituent part of who they are, so any analysis of people must take the social circumstances they find themselves in as part of it for it to be complete. [218]

These are the basics of the approaches of holism and atomism. We can now move onto what some of the consequences or opportunities are of adopting either of these approaches.

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[212] Elster, J. "The Case for Methodological Individualism." *Theory and Society* 11,4 (1982) 453

[213] Goldstein, L, J. "The Two Theses of Methodological Individualism." *The British Journal for the Philosophy of Science* 9, 33 (1958) 6

[214] Taylor, C *Philosophy and the Human Sciences* Cambridge: Cambridge University Press, (1985) 189

[215] Meijers A. W. M. "Can Collective Intentionality Be Individualized?" *The American Journal of Economics and Sociology* 62.1 (2003) 173

[216] Uyl, D and Rasmussen D "The Myth of Atomism" 847

[217] Agassi, J. "Methodological Individualism." *The British Journal of Sociology* 11,3 (1960) 246

[218] Pettit, P. "Social Holism and Moral Theory: A Defence of Bradley's Thesis." *Proceedings of the Aristotelian Society*, New Series, 86 (1985) 176-177

4.2 Consequences

Adopting either of these positions will lead us to come to different conclusions in our reasoning about culture, and depending on our ontological view different avenues become open to us.

To demonstrate this, Taylor makes use of Hobbes and Locke as examples of atomism,[219] Taylor takes the view that the ontological positions adopted by these thinkers have consequences for the advocacy position they come to adopt. In this case, the position on advocacy that the rights of the individual takes priority over the rights of the community.[220] Utilising these two writers as examples it is also possible to see that atomism is not a monolithic entity but rather contains gradients and nuances within it, which then allows for many different outcomes in terms of advocacy positions.

Starting with Hobbes in our examination of the role that the ontology plays in their positions. Hobbes famously described the state of nature as a place where 'life is nasty brutish and short'[221], and to secure ourselves from the threat posed by others, we seek to protect ourselves by creating a political society.[222] For our purposes, the exact nature of the society which Hobbes envisioned is not entirely relevant. Rather it is his view of the nature of the problem which allows us to examine some aspects of atomism. Two elements in particular, that society exists for the benefit of the individual, and the adversarial role in which he casts the individuals in the state of nature. First, the benefits which Hobbes ascribes to the state are benefits from the view of the individual,[223] conforming to Taylor's description of the atomistic outlook as one which concerns itself with the individual holds true.[224]

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[219] Taylor, C *Philosophy and the Human Sciences* 187
[220] Ibid. 187
[221] Hobbes *Leviathan (Reprint Ed, 1651)* chapter XIII
[222] Hobbes *Leviathan* chapter II
[223] Den Uyl, D and Rasmussen, D "The Myth of Atomism" 844
[224] Taylor, C *Philosophy and the Human Sciences* 188

However, the second point, that of the adversarial and competitive relationship between the people in Hobbes's views, demonstrates some shortcomings in the conception of atomism as completely context independent and isolated. As the impetus for creating the state is the interaction with others, the view is not that of the individual alone, but the individual in relation to others.[225] So here the individual is not sufficient in itself for our analysis, it needs the setting the individual find themselves in.

In Locke's view of ontology, we can see further complications. Locke who is also described as an atomist has a different view, demonstrating that similar starting points can lead to different outcomes as Locke's familiar view on the state of nature is 'the enjoyment of the property he has in this state is very unsafe, very unsecure'[226]. While this might sound like it shares Hobbes's view of the antagonistic relationship between individuals, this is not quite accurate, as we see in his separation between the state of nature and the state of war.[227] And again we see that a so called atomist does not create a view of the individual as a context independent self-sufficient creature, even if he does so more than does Hobbes.[228] What we have here then is the demonstration that while both are labelled by Taylor as being atomists, they come to very different outcomes despite both operating with the individual as their starting point. As here we have Locke opting for an even more pronounced role for individual rights than does Hobbes,[229] and indeed ascribes rights to the individual even with the absence of the state.[230]

While there are consequences to the ontological positions which we adopt, consequences which we will explore further in the next chapter, it must be noted that ontology is not by itself the sufficient determining factor in coming to decisions about advocacy and policy, however, it is still necessary to consider this question of ontology so that we know what type of entity we are applying policy and advocacy to.

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225 Den Uyl, D and Rasmussen, D "The Myth of Atomism" 845
226 Locke, J *Second Treatise of Government* chapter IX sec 123
227 Locke, J *Second Treatise of Government* chapter III sec 19
228 Den Uyl, D and Rasmussen, D "The Myth of Atomism" 845
229 Taylor, C *Philosophy and the Human Sciences* 188
230 Den Uyl, D and Rasmussen, D "The Myth of Atomism" 844-845

So that the advocacy positions we adopt is compatible with our ontological position and so that our views have some relation to reality.

Looking at an extreme form of atomism to emphasise this point, we can return to the issue from earlier, that of a context dependent or independent view of the individual. If we take the most extreme case of atomism imaginable, then as indicated before the subject will be context independent, which means that all its relevant qualities entirely independent of the context that the subject finds itself in, so that any changes in the circumstances of the subject will leave the relevant qualities intact.[231] To use Brown's light-hearted example based on Chips, in short, Chips with gravy is better than chips alone, the only difference in quality is that provided by the gravy. Under an atomist view, the quality of gravy must be context independent, so if we add the same gravy to ice-cream then it must be improved to the same degree as where the chips by the gravy.[232]

Clearly, this extreme position is untenable, since the same holds even if we transfer the approach from quality of food to the nature of people. While on the one hand we can say that in the strictest sense that humans can *exist* in a context independent setting, it is unlikely that this context-free isolated human would have the same quality of life as would one which had grown up in in a social context. But even if a completely context free individual would be feasible, they would not be relevant to us in this project, as this project is about how society should respond to pluralities of cultures. Those who would be affected by any of the links and considerations which we have examined in this project are those individuals who are found in society, and for that matter, in a culture. So even if context-free atomistic individuals could exist, they would not be the ones which we had to concern ourselves with.

If we discount the entirely context-free view, we would still have issues to address. If we assume that the people who we are going to encounter in our deliberations are entities which finds themselves in some form of social context, and that this context has some form of effect on these individuals. This does not mean that we can dismiss all of atomism altogether, we could still opt for a weaker form, where we take a view that the existence of individuals and individual consciousness to be an

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[231] Pettit, P "Social Holism and Moral Theory" 176-177
[232] Brown, C. "Two Kinds of Holism about Values." *The Philosophical Quarterly (1950-)* 57,228 (2007) 457

independent phenomenon even if people can influence each other.[233] In other words, individuals exists as separate beings, but these separate beings can influence and be influenced by the similar beings around them.

The reason for considering the ontological nature of humans is not entirely about determining what the reality of humanity is in actuality (although that is not to say that this is a complete irrelevance) but rather to find what our theories are meant to achieve. To explain this, we will examine some of the criticisms made about individualist/atomist views of ontology and show that some of these alleged short comings are not necessarily problems at all.

Starting with Taylor, what he finds problematic with the atomistic or individualist view is that its ascription of rights does not conform to our (or at least his) conception of what it is to be human, as he put it "…our conception of the specifically human is not at all irrelevant to our ascription of rights to people. On the contrary, there would be something incoherent and incomprehensible in a position which claimed to ascribe rights to men but which disclaimed any conviction about the special moral status of any human capacities whatever and which denied that they had any value or worth."[234]

As it is the specifically human that makes humans deserving of rights that are not available to non-human entities, to ignore the facts that help to establish these human specific qualities would be untenable, as this would be viewing humans in a way which does not include the particular facets that makes humans worthy of special human rights.[235] Or to put this simply, it is our human faculties that make us worthy of rights, these faculties can only develop in dialogue with others in a communal setting. So, to ascribe rights to people on an atomist basis would be to ignore what makes us worthy of rights while we are ascribing rights.

To understand the significance of this it might be useful to remember the ontology/advocacy distinction which Taylor used, what we have here then would be the argument that when we debate on our position in terms of advocacy (for simplicity's sake, in this example, we can interpret this as meaning the rights that someone can justifiably claim) we start by looking at ontology and then move on to

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[233] Pettit, P "Social Holism and Moral Theory" 179
[234] Taylor, C *Philosophy and the Human Sciences* 193
[235] Ibid. 190-196

advocacy. So we would start by asking ourselves what is it to be a human, and then based on our answer to this we can move onto asking ourselves what rights those creatures might have. This does not mean that we must take a particular view of advocacy simply because we have taken one view of ontology;[236] we can have disagreements about what particular rights humans should have. The problem with the atomistic view is as said earlier that it undermines the sources of the rights which we give to humans and so should not be employed.

The way to solve this problem, I will suggest, is to do the first step twice; once where we take reality into account and once where we do not. Or, first where we consider reality and second what this will enable us to do. To explain this, it would be helpful to remember why we go through any of the stages or why we bother to consider the nature of people, in essence, what are we trying to accomplish with our theories. Looking at two people who are described as using an individualised/atomised view of people, Kant and Rawls, will help to make this point plain.

One view of Kant is, as Pogge puts it, "Kant's moral agent is, like his transcendental subject in the KrV [Critique of Pure Reason], an essentially a-historical and solitary being."[237]. That is to say, he does not consider the circumstances that people find themselves in when he is trying to find the moral fundamentals. But this does not mean that Kant thought that this represented the experience of actual humans, but rather that taking this view would allow him to solve the problem which he is working on, to find fundamental moral principles with only a priori reasoning.[238] Taking people's actual situation into account would make that impossible, as then we would be drawing on experience and we could not reach universal principles. Pogge further explains, "Kant's fiction is designed to furnish a restriction on motivation (determinants of the will), excluding the more specific, inconstant, and morally unacceptable natural inclinations, and thus a criterion for moral reasons"[239].
The question which this leaves us with is whether this aim is a worthwhile one. If it is then not including anything which is not part of the a priori reasoning is not a

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[236] Taylor, C 'CROSS-PURPOSES: The Liberal–Communitarian Debate' 196
[237] Pogge, T,W. "The Kantian Interpretation of Justice as Fairness." *Zeitschrift Für Philosophische Forschung* 35, 1 (1981) 58
[238] Kant, I *Groundwork of the Metaphysics of Morals* Eds, Gregor, M,J. and Timmermann, J. (Cambridge: Cambridge University Press, 2012) 33
[239] Pogge, T "The Kantian Interpretation of Justice as Fairness" 61

problem. The objections we can make against this is that either this project is not worthwhile, or that the method does not help us get to the end which it is designed to get us to. In this case if we think that Kant's view of the moral agent is actually a hindrance to finding a fundamental moral principle based on a priori reasoning, or alternatively that such a principle would be irrelevant and not worth pursuing. It would not succeed or fail because of its view of the isolated nature of the individual moral agent.

To reinforce this, let us look again at Rawls. While his view of individuals is quite atomistic, it is not adversarial like it is for Hobbes, rather, the people who are in the original position and are considering what principles they would opt for when it comes to constitutional essentials are viewed as being mutually disinterested.[240] The main point I wish to make here is to make clear that this does not mean that we imagine the person in the original position as necessarily being an egoist. While some actual persons put their own prospects and benefits as their final purpose, this would be the difference between 'His dominant interests are in himself, not merely, as they must always be, interests of a self.'[241] And it is the last part of that statement which is important for us. While the original position does seem to take a very atomist form, with individuals deliberating under the assumption that they do not care what others have as their final ends and makes no assumptions about the emotional bonds that people have towards each other, they are doing just that, making no assumptions on the strength of the emotional bounds between members. It is not assuming that people have no emotional bonds to other individuals, but rather takes no position on that issue, so as to make sure that the deliberations made in the original position is not based on strong assumptions.[242] Further, as will be explored deeper in chapter 6, another reason for assuming that the deliberator under the veil of ignorance is disinterested is that this will allow us to mimic the effects of benevolence, and while this might seem to lead to atomism, it is actually due to considerations for others.[243]

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[240] Rawls, J. A Theory of Justice 12
[241] Ibid. 111
[242] Ibid. 111
[243] Rawls, J. *A Theory of Justice* 148

What this would allow us to do is to find what principles people would opt for in a situation of equality.[244] The important factor to consider here is not whether or not the situation encountered by people in the original position is anything like the situation as they would actually encounter in reality. What is important here is whether or not the thought experiment allows us to achieve this goal, that of finding out what principles people would opt for in a situation of equality, if that goal is of any worth at all, if they are then I don't think that deviating from reality is much of a problem. Although this does not mean that reality is entirely unimportant. In fact it is the important and pressing nature of the problem which we face in reality which encourages us to look at ideal theory as "The reason for beginning with ideal theory is that it provides, I believe, the only basis for systematic grasp of these more pressing problems."[245] What this ideal conception of justice allows for is comparison "Viewing the theory of justice as a whole, the ideal part presents a conception of a just society that we are to achieve if we can. Existing institutions are to be judged in the light of this conception and held to be unjust to the extent that they depart from it without sufficient reason."[246]

These cases of Kant and Rawls show, that while they did not use a view of people that is particularly realistic, it does not have to be as their view of people is not meant to conform to reality but allow them to take positions which allows them to construct their theories. Approached in this way ontology is a question which should be looked at, not as something to which we want to find the correct answer, but rather the most useful answer. That is not to say that reality is entirely irrelevant; we must still have some sense of what people are actually like. But this is mainly so that we may know in what ways we are deviating from the reality of the situation. What this means is that while on the one hand we must accept the holist nature of actual people in reality. We can then imagine that people are atomistic.

To elaborate, as said before, the pure atomistic position, with the view that individuals are completely isolated and context independent, is unsustainable. No one exists who is like this, and even if someone like this did exist they would be irrelevant for our purposes as this concerns how society should deal with culture,

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[244] Ibid. 102
[245] Ibid. 8
[246] Ibid. 216

and so any individual we consider would be a member of a culture and so not a context independent individual. So this is our starting point, we will assume that people exist in a social context and that they need this context in order to develop into fully functioning individuals.

But when moving on to considering the advocacy position we might adopt, it could be useful to imagine that we were atomistic, as we will soon explore. So, in considering what a reasonable person would want or consent to, it is beneficial to consider people in atomistic terms.

In effect, when examining first our ontology and then our advocacy, we benefit from doing the first step twice. First looking at humans as they actually are and second, as slightly different entities more helpful for our purposes, before moving on to the possible advocacy positions we might adopt.

There are two main benefits to taking this approach, on the one hand, it aspires towards universality and on the other it allows us to keep the contingent factors in mind as well.

These two elements do create a certain degree of tension, as the first part aims to not depend on particular circumstances, while the second is the direct opposite. The need for the later of the two comes from the fact that we are creatures who exist in a social context and we need our culture to develop into fully formed human beings. Simply put, we need our culture. So, any view of human nature will need to acknowledge this. But on a second level by looking at people atomistically we can avoid some of the potentially unwanted aspects of a communitarian approach might encounter, such as the individual being forced to sacrifices their interests for the sake of the culture, and so would open up more options. If we take an atomistic outlook in mind when considering issues of advocacy it will allow us to ask what an individual would find reasonable to accept, given that they will also need their culture (or at least access to a culture) in order to function.

While this puts us in the position which Taylor highlighted, where "…our obligation to belong to or sustain a society, or to obey its authorities, is seen as derivative, as I said on us conditionally, through our consent, or through its being to our advantage. The obligation to belong is derived in certain conditions from the more fundamental

principle which ascribes rights"[247]. What this means is that our obligations towards our culture, is derived from our individual rights, or if we recast this to fit the discussion of this chapter, we acquire communitarian obligation only due to individualist considerations, which implies an atomistic view of the individual. What this approach will do for us is to allow us to guard against the interests and preferences of the individual being sacrificed for the benefit of the community. But by remembering that the individual would need a culture, and so it would be reasonable for them to accept the possibility of having some obligation towards their culture as it is something they need, but they would not accept obligation which would place a too stringent a burden upon them. We will return and consider this further in chapter 6 and chapter 7.

4.3 Summary

This chapter examined the concept of ontology as we will be using it in this project. This concerns the nature of the humans who make up the cultures which we are considering, and examines whether people ought to be viewed according to atomism or holism. The chapter first defines atomism and holism, with atomism being the position where the individual is our primary concern and any investigation of social phenomena must use the individual as its unit of analysis. And holism taking the view that people cannot be viewed as solitary atoms but must be considered in a social context, the structures and systems must be considered and not just individuals.

The chapter then considered some of the consequences of adopting either of those positions can have on other positions in other areas. An example of this was Taylor's comments on Hobbes and Locke, where the position adopted by these thinkers on ontology allowed them to reach certain conclusion in terms of advocacy. For Hobbes, taking an atomistic view of ontology meant that he could view the state as existing primarily for the benefit of individuals, and could cast people's relationship in the state of nature as being primary adversarial.[248] And Locke's focus on individual rights is made possible due to his atomistic view of ontology.[249] This however

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[247] Taylor, C *Philosophy and the Human Sciences* 188
[248] Ibid. 201
[249] Ibid. 188

highlights the differences possible in terms of ontology and consequences, as both are labelled as being atomists but come to very different conclusions on issues of advocacy. With the view that ontology does not determine advocacy, even if it influences it. I then suggested that when we consider ontology and advocacy, it would be useful to consider ontology twice. Once in terms of how humans actually are, and secondly how we wish to treat humans. This would have the effect of allowing us to acknowledge that humans are holistic in nature, but would leave the option to view people atomistically for the purposes of advocacy. This continues to demonstrate the interconnected nature of these links, where in this context, our conception of ontology is seen to have a dramatic effect on our position on advocacy.

This chapter considered the ontological approaches of atomism and holism, the next chapter builds on this and investigates the issue of advocacy and examines the positions of individualism and communitarianism.

Chapter 5: Advocacy and The Ends of The State

This chapter will follow on from the last chapter's examination of ontology by considering advocacy. In this chapter we will consider some of the normative outlooks which influence our view of how the state is to treat cultures, first by examining the link of advocacy where we examine how we view the people who make up these cultures, are they to be approached in in terms of individualism or communitarians. The chapter then examines the question of the ends of the state and considers what the state is for.

The first half of the chapter examines the link of advocacy, first it will define how we will be using these terms in this project, before outlining the possible combinations of ontology and advocacy, we will then proceed to examine how all the links in this project combine with this latest addition of advocacy. After having looked at the members of society, and how they should be approached, the next section will consider society itself, where we will examine the concept of the ends of the state. First, we will elaborate on the concept of the ends of the state, after this we will examine some of the views of the authors we have covered in this project, with particular focus given to the multicultural side as I take the view that this has been under explored. We then highlight the difficulties of the multiculturalist approach to the ends of the state, chief amongst them being the problem of internal dissent.

This approach will help us to further illuminate the possible paths to a conclusion on how we are to treat cultures, as well as highlighting some of the difficulties which must be addressed if we want to come to a coherent and satisfactory conclusion, by outlining how we should approach the people who make up society and society itself. This prepares us for the next chapter where we will explore further one of the possible approaches to addressing these problems, that of contractualism. This in turn helps us to further come to a conclusion on how the state should treat cultures.

5.1 Individualism and communitarianism

It is worth remembering Taylor's comment on the difference between ontology and advocacy, put simply, an atomist ontology does not require that we adopt an individualist view on advocacy, nor indeed does holistic ontology demand communitarian advocacy.[250] Before considering these highly contextual terms further, it will be useful to define them for our purposes.

The use and meaning of the term individualism is very contextual and depends on its circumstance. We are going to use it as one of the links in our chain, meaning that it must be defined in such a way that it can be used in connection with the other links, but still recognizable to the ways in which it is used in other contexts.

The advocacy position of individualism is at times confused with the ontological view of atomism, which we looked at in the previous chapter. This can lead to attempts to dismiss individualism by dismissing atomism and try to paint them as being one and the same and so reject both at the same time.[251] But as has been repeatedly emphasised in these chapters, ontology and advocacy are not the same thing and if we want to reject individualism it is best to do so on normative grounds rather than factual grounds as individualism is an advocacy position concerned with normative issues rather than ontological matters. A look at Grant's view of Locke makes this distinction between atomism and individualism plain. Grant highlights that Locke is clearly not viewing individuals as isolated atoms, but always in relation to others.[252] The core of the individualism as used by Locke resides in its opposition to hierarchy and individual consent as being the basis for obligation.[253] Here we can see part of the core of individualism, that is, as the name implies, focuses on the individual, and

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[250] Taylor, C 'CROSS-PURPOSES: The Liberal–Communitarian Debate' in *Debates in Contemporary Political Philosophy: An Anthology* (London: Routledge 2003) 196

[251] Villa, D. "Hegel, Tocqueville, and "Individualism"" *The Review of Politics* 67, 4 (2005) 660

[252] Grant, R 'Locke's Political Anthropology and Lockean Individualism." *The Journal of Politics* 50,1 (1988) 60

[253] Grant, R. 'Locke's Political Anthropology and Lockean Individualism' 51

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in the example of Locke, individual consent and the rejection of the subordination of the individual to authorities to which they have not consented.

Connected to this is individualism's focus on individual rights, which springs from its focus on the individual. Individualism is not the only view which has room for rights, but the focus is on the rights of individuals rather than those of communities, making one way of looking at individualism to think of it as the politics of individual rights.[254] As the view of the individuals who make up society is different from that of communitarianism, the view of society is different. In that individualism can view society as a system of co-operation for mutual benefit.[255] This point demonstrates quite clearly that on the individualist view, even when the social nature of our existence is clearly acknowledged, it is still viewed through the prism of individuality. This does not mean that it is thought that the factual origin of society is to be found in these terms, but rather that this is how we should approach the issue of what the aim and goal of society is, which in this case would be that each individual is to be able to enjoy the advantages which communal existence enables. The issue of the aims and ends of the state will be returned to later in the chapter.

Underlying these previous points is the view that individualism is '...a belief that the individual is an end in herself and ought to realize the self and cultivate judgement...'[256], this is similar to the Kantian language encountered earlier in this project, continuing the theme of focusing on the individual as an end in themselves. They are not mere means for the perpetuation of a culture, but must be respected as individuals and as ends in themselves.

The other concept we will be utilising is that of communitarianism. The name again gives us an idea of what the concept concerns, i.e. communities. But while this conveys the essence, it does not give us the whole picture. In the last chapter, where we considered holism, and established that on a holistic view, the individual is thought to be part of social whole and cannot develop outside a social context. Many communitarians would go further and suggest that this social context and the communal ties are valuable in themselves.[257] This view would still leave questions

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[254] Avineri, S and De-Shalit, A. *Communitarianism and individualism* (Oxford: Oxford University Press 1992) 7
[255] Mulhall, S, *Liberals and Communitarians* (Oxford: Blackwell, 1996) 15
[256] Triandis, H C. *Individualism & Collectivism*. (Boulder: Westview Press, 1995) 6
[257] Avineri, S and De-Shalit, A. *Communitarianism and individualism* 6-7

relating to the nature of this value. As was just stated, one view is that communal ties have value in themselves, but is this value intrinsic to the community? Or is it derived from the use it provides for its members? Or both, and if so are these types of values connected or independent of each other? This is the type of question we have considered earlier in this project in the chapter on types of value, and it is one which we will return to later in this chapter. But for now, we will take it as a feature of communitarianism that it considers there to be value in community and culture which is not only reducible to the utility it brings to the individual members.

In contrast to individualism's view of treating peoples as ends in themselves and not placing the individual under unchosen authority, two of the goals to be found in communitarianism are on the one hand to avoid moral chaos, and on the other hand is the promotion of the common good. The first point relating to moral chaos is that communitarianism helps to remedy the '...moral chaos and absence of common purposes...'[258] which some ascribe to the more individualistic views of advocacy. The view on the communitarian approach to advocacy is that '…moral authority should be lodged in shared understandings and institutions, not in individual choice.'[259] This is clearly quite different from how we described individualism earlier, where individual choice is central to moral authority. In communitarianism the authority does not stem from our choosing the moral system, but rather the authority is found in shared convictions and institutions. And secondly, the focus on the common good differs from the individualistic view, which we described as the politics of rights. Instead communitarianism could be said to be the politics of the common good.[260] While this leaves questions such as to who gets to define what is the common good, that is not the question we will be looking at in this chapter.

In summary, individualism, as the name implies, focuses on the individual. In one sense, the fairly common use of the word individualism or derivatives thereof as adjectives to denote when something is more focused on individuals gives us the essence of the concept. The main element to remember is that this is a normative viewpoint which puts the individual at its centre and is concerned with them as ends, as opposed to the ontological approach which was considered in the last chapter.

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[258] Thigpen, R B., and Downing L. "Liberalism and the Communitarian Critique." *American Journal of Political Science* 31, 3 (1987) 648
[259] Ibid, 638
[260] Avineri, S and De-Shalit, A. *Communitarianism and individualism* 7

Communitarianism on the other hand concerns itself with communities and the common good. The next section will examine how the view of advocacy adopted is impacted by the links we examined in the earlier chapters.

5.2 How this coheres with the previous links

As was established in the last chapter, a person's position on issues of advocacy is not determined automatically by their position on issues of ontology. But it must be stressed that some positions combine and coheres better than others, and this applies not just to the links of ontology and advocacy but to all the different links we have examined in this project. When adopting a position on advocacy, we will also have to make a number of assumptions about the earlier links. Consequently, if we want to fully understand and adopt a coherent position on how the state is to treat cultures, we will need to see how these links interact and fit together before we can come to any conclusions on how the state is to treat cultures. We will start by laying out how advocacy and ontology can be combined, before considering possible combinations with communitarianism and then the possible combinations with individualism.

Starting with how advocacy combines with ontology, then we have four ways in which these can be combined. These combinations are 1) atomism-individualism, 2) holism-individualism, 3) holism-collectivism and 4) atomism-collectivism.[261] Some of those are more compatible than others are. An example would be Taylor dismissing the fourth option as 'atomist collectivists, as in the nightmarish programmed utopia of B. F. Skinner, "beyond freedom and dignity." This last category may be of interest only for the student of the bizarre or the monstrous'[262]. As here we would take the view that people are to be treated as parts of a social whole but at the same time view them as being factually isolated atoms. This helps to demonstrate that some of these combinations are more viable than others. An example would be, the combination of atomism and individualism is quite compatible, and as was said before, these two are even at times conflated and confused.[263] On this view, the ontological unit of analysis is the individual and the same applies to the advocacy position. Similarly, on the third option, there is intuitive compatibility as on the

261 Taylor, C. *Philosophical Arguments (*Cambridge: Harvard University Press 1995) 185
262 Taylor, C. *Philosophical Arguments* 185
263 Uyl, D and Rasmussen, D "The Myth of Atomism" *The Review of Metaphysics*, 59,4 (2006) 867

ontological view the individual must be viewed as being part of a community, and on advocacy the focus is on communities. And finally there is the second option, we acknowledge the holistic ontological nature of people, but treat them as separate individuals when it comes to advocacy.

The next link to add to our chain, is the type of value which a culture can possess, which was considered in chapter 2. The easiest way to discover which of these links combines with which is to simply go through them and see how these combinations coheres. We will begin by considering communitarianism of the type which has been outlined in this chapter.

As a reminder, when we consider the type of value that a culture can have, it can either be intrinsic to the culture, where the value is in the culture itself or instrumental, where the value of the culture is found in the services it provides for its members.

The combination of communitarianism and intrinsic value of culture is quite coherent. One of the features highlighted in communitarianism was that it viewed interconnection between members as a good in itself, and from our earlier discussion on culture one view would be that our culture is the manifestation of this interconnectedness. And so, this combination becomes quite easy.

Shifting to an instrumental view of the value of culture, we would still have a viable combination. If we think that communal ties are a good in themselves, and that culture provides access to communal ties, then there would be no contradiction or conflict between these two links. The culture would on this combination be valuable as it gives us a community.

The next step is how these two links combine with the source of obligation to our culture and the nature of that obligation. The sources of obligation we considered in conjunction with culture were reciprocity, gratitude and consent. Beginning with gratitude as the source of obligation, where we are obligated to be grateful to that which has brought us benefits. As was said in the earlier chapter, this works ill with a view of culture as having instrumental value, as it would entail us to have to be grateful to the means or instruments to our ends and adopt its ends and projects as our own. As this chain of links does not cohere successfully the whole way through, we can rule out the combination of communitarianism with instrumental value of

culture and a view of obligation based on gratitude. Gratitude combined with communitarianism and an intrinsic view of the value of culture could work better. On this view, cultures have value that is independent of the individual members of the culture. And the members of the culture could have an obligation to be grateful to the culture for enabling them to have access to this valuable culture. This would avoid the problem of being made to adopt the ends of the means to our ends, it does face a different difficulty. A culture which is viewed to possess intrinsic value would be a culture which we do not value because of the benefits which it provides its members. But if we are not valuing it because of the benefits it provides us, why are we to be grateful? This could be ameliorated if we view the culture as being intrinsically valuable and we have an instrumentally valuable view of the culture at the same time where we are grateful to the other members of our culture for giving us access to this intrinsically valuable thing that is our culture. In essence, both intrinsic and instrumental views of the value of culture would have to be used for gratitude to work in combination with communitarianism.

Reciprocity is the next source of obligation towards culture to consider in combination with communitarianism. This combination suits communitarianism better, as on this view we are to pay back to our culture for the benefits it has provided us, but without the emotional component where we need to adopt a certain attitude towards the culture. Part of the problem which occurred with gratitude also applies here, if the value of the culture is intrinsic and not based on what we get out of it, then why are we paying back to it. Again the culture would be intrinsically valuable and worthy of respect, as well as deserving to be paid back to for the benefits it has provided for us. This problem can be mitigated if we think of reciprocity as being owed to our fellow members of our community rather than the culture itself. On this combination we are paying back to our compatriots for them enabling us to have access to the intrinsically valuable culture, this also works quite well with the communitarian view of it being a good itself that we are constituted by our communal ties. This leaves us with a situation where we can combine communitarianism with intrinsic value and reciprocity.

The final source of obligation towards our culture is that of consent, which on the face of it is a poor combination with communitarianism as we have established it here. We can see this for example in Downing and Thigpen, who describes it as

common institutions and understanding rather than individual choice that ought to be the source of morality. This is the opposite approach to having consent as the source of our obligations towards our culture. This can be further seen in the line from Parekh that cultures are not voluntary associations and should not be treated as such,[264] showing the difference between these two approaches. On the communitarian view, community is not a choice and so we cannot make a chain which links consent and communitarianism.

One interesting point to note is made by O'Neil, which can help us to see how one could have a communitarian view combined with a consent based view of the source of obligation, highlights that Kymlicka does not view cultures in a communitarian way.[265] This is a result of the role which Kymlicka gives to culture, in presenting his view where our culture exists primarily to provide a context of choice and so to enable us to make decisions and experience freedom.[266] As has been pointed out in earlier chapters, this allows for a different view of the role of the culture in our lives, and it is here more plausible that someone could indirectly come to consent to being part of a culture. By taking the position that a person needs a context of choice in order to be free, and to have a context of choice we need a culture and that a culture needs a common set of institutions and meanings in order to be viable. While this might not be entirely what Kymlicka had in mind, is still compatible with Kymlicka's approach. By adding a few non-instrumental elements into its conception of culture, you could have a communitarian view of culture and combine it with a consent based view of the source of obligation. This would also involve treating the type of value of a culture as being both of intrinsic and instrumental value, with more emphasis being placed on the later. As we would have to treat our culture as something which had intrinsic value in order to help develop the circumstances which can allow them to develop but we are doing it entirely for instrumental reasons. So we would have to make sure that Kymlicka's prohibitions on internal restrictions, the ability of our culture to impose restrictions against us against our will,[267] would still be in place, as to avoid undermining the entire point of the exercise. This was meant to show one avenue one could take to try to make the consent based view congruent with a

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264 Parekh, B. *Rethinking Multiculturalism: Cultural Diversity and Political Theory* (Basingstoke: Macmillan 2000) 161
265 O'Neill, D. "Multicultural Liberals and the Rushdie Affair: A Critique of Kymlicka, Taylor, and Walzer." *The Review of Politics* 61, 2 (1999) 223-225
266 Kymlicka, W. *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Oxford University Press, 1995) 92-93
267 Ibid, 35

communitarian view, but it would require some work to justify and even then there is still some tension, a better option would be to simply look for a different combination of links.

As was done with communitarianism, we will now examine what combinations can be made with individualism. As was said at the beginning of the chapter, individualism is often confused with atomism. But the two are not necessarily the same, rather individualism is a moral outlook which has the individual as its focus and atomism is an ontological outlook. In individualism, an individual is viewed as being an end in themselves and living in a society which can be thought of as a scheme for mutual co-operation, with consent to the structures in which they operate taking a central role. As an example we can look to the language used by Rawls in describing a well ordered society.[268]

Beginning with the type of value which a culture can have and how these views combines and coheres with individualism then moving onto the source of our obligation towards our culture. The instrumental view of the value of culture is quite compatible with individualism. On the instrumental view, a culture would be valuable as far as it is beneficial to the individual members of the culture. This would fit quite well with what we said about individualism, where we take the individuals point of view, so this combination of links is workable. The intrinsic view of the value of culture could be made to work with individualism depending on how we approach this value. A potential difficulty can appear if we hold both individuals and cultures to be of intrinsic value. The problem being that were there to be a conflict between the interests of the culture and the individuals who are in the culture, then we would need some way to determine which of these intrinsically valuable entities are to take precedence over the other. If the value of the culture is to take precedence, we can get into the problem which we have observed in earlier chapters, that of the member being subordinated by the culture and being used as a tool for the culture to further its own ends, contrary to the aim here of viewing individuals as ends in themselves, rather than merely as a tool. Meaning that individualism is compatible with an instrumental view of the value of culture, and can be compatible with an intrinsic

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[268] Rawls, J. 'Kantian Constructivism in Moral Theory' *The Journal of Philosophy* 77,9 (1980) 538

view, depending on how that value is conceptualised. The next step is to consider the source of obligation towards culture and how it links with individualism and the views on the value of culture.

Starting with obligation from gratitude before moving onto reciprocity and consent. As was said in the section on communitarianism, gratitude is not readily compatible with an instrumental view of the value of culture, and so a chain cannot be constructed to connect the links of individualism, an instrumental view of the value of culture and gratitude as the source of obligation, since parts of this chain is incompatible with each other. Moving on to the intrinsic view of value and again the problem of being made subordinate to the means to our ends appears, a particular issue for the individualism view if we take Locke's objection to individuals being made subjects to structures which we have not consented to.

With gratitude not being compatible with individualism, this leaves reciprocity and consent. Proceeding with reciprocity, I would say that a combination of the links of individualism, instrumental view of value and reciprocity as the source of obligation works quite well. On this view, as our culture is to our benefit, we are to pay back for the benefits we have received, and here it would be done on an individual basis. There are two points worth examining here, to who or what reciprocity is owed, this is similar to the discussion we had in the earlier chapter about obligation, and secondly the fact that this can be conceived as being an individual obligation.

In the chapter on the sources of obligation, in the section on reciprocity, we established that when we talked about having a duty of reciprocity towards our culture, we can mean that it is either the various people of the culture that we in fact have obligations towards, or the culture itself which we are duty bound to. When linked with reciprocity, the type of value which our culture has effects who the reciprocity is owed. If we view the value as being instrumental, then the reciprocity is directed towards the members of the culture. While if the culture is intrinsically valuable, it is directed against the culture itself, rather than the members. On the view where we owe an obligation of reciprocity to our fellow members of a culture, this can be thought of as being similar to a transaction. As the other members of our culture has provided us with a great benefit, enabling us to have a culture and receive the benefits associated with that, we have an obligation to pay them back for

what they have given us. Or this could be thought of as paying back the other members of our culture for the resources which they have spent giving us these benefits through our culture, be this in time or effort or whatever the case maybe. This leads to the second point, that this is an obligation that is observed by individuals. In an earlier chapter when exploring group rights, the difference was drawn between rights that are *in personam* and *in rem*, and a similar phenomenon is at work here, in that our duty is not in rem but rather to individuals, not the culture in general, it is a more personal debt.

The final link for consideration is that of consent as the source of obligation towards our culture in combination with individualism. Consent is considerably easier to connect to individualism than it was to connect it to communitarianism. As said earlier one of the traits of communitarianism, as we have used the term, is that it considers community to be a good, not because it is the result of decisions made by its members, but because of the shared institutions which it consists of, which makes consent difficult connect to communitarianism. Individualism was described as a view where society is conceptualised as a scheme of cooperation for mutual advantage. This can fit well with the view of society as something which we would need to agree to be part of, rather than thinking of society as an organism which we do not have choice in being part of. This view based around the choices made by individuals would be quite compatible with an instrumental view of the value of culture. It is important to remember that this is not meant to be a description of reality, someone taking this combination of views is not suggesting that people weighed the pros and cons on whether to form a society, but there is still some use in imagining something along those lines. Indulging in this kind of exercise, while not nearly as developed as that used by Rawls, where we imagine that society is a voluntary association, this could help us see what demands could be thought to be reasonable to put upon an individual. Taking this approach shows how the instrumental view of the value of culture fits with a consent-based view of obligation, as we can see how the people deliberating would think about the costs and benefits and motivations in building a society. This would help us see where the line for what burdens it would be unreasonable for us to carry for our culture, by asking what someone would hypothetically agree to. The chain of an instrumental view of the value of culture and a view of our obligation towards our culture as being rooted in

consent and an individualist view of advocacy is quite coherent. But again, it must be pointed out that the consent is a hypothetical tool to be used to arrive at what a person could reasonably agree to rather than a description of what actual persons have in realty agreed to. Leaving the final link to consider, that of combining an intrinsic view of the value of culture with individualism in conjunction with a consent based view of obligation.

This combination is less plausible than the instrumental one. The central difficulty in this combination is that if our culture is intrinsically valuable, then our consent should not be the deciding factor in our obligations towards it. If we find the source of our obligation towards culture in the fact that we are consenting to it, then we are not respecting the intrinsic value of the culture, but rather respect the value of consent. As we said earlier, we can say that these two factors are independent of each other. We could have a culture which is valuable due to its intrinsic qualities, and what gives us obligation to said valuable culture is that we consent to have obligations towards this intrinsically valuable culture, but these two factors do not reinforce each other. This does not make this necessarily incompatible, but we would not be treating the culture with the appropriate respect as we are not treating it as valuable due to its own intrinsic features.

The sketch of how these links combines, coheres, strengthens and weakens each other helps us to see how the state is to treat culture, in that it helps us to understand the interplay of the assumptions we must make in order to arrive at an answer to this issue. In the next section we will consider how the state is envisioned and what the state is envisioned to be for.

5.3 The Ends of the State

In the second half of this chapter we will consider this issue of the ends of the state. The reason for considering this is that if we are to come to a conclusion on how the state is to treat cultures, we should have an idea of what the state and society is for, by asking the question of what the aim of society is, if it can be said to have one, will help us come to conclusion on how we are to treat cultures.

The liberal approach to the ends of the state has been examined in a multitude of different ways, with different liberal approaches and thinkers coming to different conclusion over the shape of the liberal ends of the state. Framing this and adapting it to suit our needs in the discussion on how we are to treat cultures, and thus emphasising how this relates to cultures, the liberal view of the ends of the state could be summarized as a view featuring state neutrality, where the state is to take no action regarding the view its inhabitants take on the subject of the good life. And as culture is a manifestation of the view of the good life, it is to take no position on cultures.[269] The common criticism of this view is that it is impossible for the state to be truly neutral, and also that neutrality is not desirable.

The multicultural view of the ends of the state has not been as frequently examined, this project attempts to add reflections on a multicultural view of the ends of the state and be part of remedying this shortfall. Amongst the possible ends of the state considered are liberty and well-being.

First we will define the issue a bit further, before the next section sets out and frames the multicultural view of the ends of the state by considering some of the different thinkers we have encountered throughout this project. The chapter will also highlight some of the issues and criticisms related to multiculturalism's approach to the ends of the state, chief amongst them being the problem of internal dissent, which occurs when a culture is divided on an issue. The difficulty which this creates is that, I argue, multiculturalism as normally understood will inevitably end up in a situation where it has to marginalise some parts of a culture. The chapter demonstrates this by exploring a few ways in which multiculturalism could attempt to resolve this difficulty.

5.4 What we mean by 'ends of the state'

When we are considering the ends of the state, we are considering what the state is for. This is to find what we expect the state to do, as when we are considering how society and the state is to treat cultures, we are basing these deliberations in part on what we think the state exists for.

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[269] Balint, P. "Identity Claims: Why Liberal Neutrality is the Solution, Not the Problem" *Political Studies* 63, 2, (2013) 501-502

The ends of the state can be approached in many different ways, an example would be Rawls's description of society as being well ordered when it is designed for the benefits of its members and is guided by a public conception of justice.[270] But even this quite thin description can help us see the importance of considering the ends of the state, as on this description the state does not exists to foster any particular trait or virtue in its people, nor does it exist to pursue particular ends. Rather it exists for the benefits of its members and its action is in accordance with the public conception of justice. This view of the ends of the state is not about the contents of a society but rather with the form of society.

This topic has been mentioned earlier in this project but we will consider it in greater depth here. When we are considering the ends of the state, it is not about the factual circumstances which lead to the establishment of the state which we are concerned about. But rather what reasons we could imagine someone might have for wanting to be part of the state. To explain the difference, if we take a constructivist approach to this topic, then the justification for the state and its power lies in us having in some manner consented to it. This does not suggest that we think that people have had an opportunity to deliberately make the choice to consent to be part of society, but we wonder why someone would consent to be part of society if they could and use that to determine how the situation which we find in reality is compared to the ideal which we imagined, or in Rawls's description 'Viewing the theory of justice as a whole, the ideal part presents a conception of a just society that we are to achieve if we can. Existing institutions are to be judged in light of this conception and held to be unjust to the extent that they depart from it without sufficient reason.'[271]

We are looking for the first principles of the state, and if we can discern these we can consider if they are likely to lead to an amicable coexistence between cultures.

We will consider in the coming section multicultural views of the ends of the state.

5.5 Multiculturalism and the ends of the state

While there are too many strands of multiculturalism to do a comprehensive and exhaustive examination of the different ways multiculturalism could be thought to view the ends of the state. In this section we will consider core features of

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[270] Rawls, J. *A Theory of Justice Revised Edition* 4-5
[271] Rawls, J. *A Theory of Justice Revised Edition* 216

multiculturalism and see what views of the ends of the state they lend themselves to by considering some of the multicultural theorists we have examined earlier in this project.

The multiculturalist view of the ends of the state has not been explored as much as the liberal alternative. Often the general features of contemporary society are assumed and then arguments provided for improvements in certain areas. Some examples of improvements would be wider space for minorities to practice their culture, or greater willingness to engage in intercultural dialog, but this does not give us the entire picture of how multiculturalism envisions the ends of the state. Part of this absence can be explained by multiculturalism often being committed to a political project, that is, trying to improve the conditions for marginalised groups. Indeed, Kymlicka describes multiculturalism as having developed in an ad hoc way, but he views this as a strength,[272] while I take the view that this is a shortcoming. This has meant that the focus for many multicultural thinkers have been on concrete problems in the real world, and attempts to find solutions to these real shortcomings and problems. This is not to suggest that multiculturalism is devoid of theory, far from it. But rather that as the focus has been on actual difficulties faced by actual people, the question of what the ends of the state is has not been as pressing as it should have been. But here we have the room to focus on the more theoretical dimensions rather than the concrete practicalities, so the question before us in this section is, what are the general features and needs of a multiculturalist view of the ends of the state?

As the ends of the state is not often explicit in these writings, we are forced to make deductions and inferences as to what some of these authors consider the ends of the state to be. To make a start with Taylor, who seems to be using a form of wellbeing as an end of society. If we consider how Taylor uses misrecognition, we can see wellbeing being a factor in his reasoning. Misrecognition was said to be when a person is made to suffer as an effect of the dialogical process of identity formation leading to a negative self-view.[273] As our self-view is in part a response to how others see us, and if we are not given the form of recognition we need we will

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[272] Kymlicka, W. "The Three Lives Of Multiculturalism" in *Revisiting Multiculturalism in Canada Theories, Policies and Debates* Eds Shibao, G and Wong, L. Boston: Sense Publishers 2015 17

[273] Taylor, C, *Multiculturalism: Examining the Politics of Recognition* (Princeton, N.J.: Princeton University Press 1994) 24

respond with a diminished self-view. Modood comes to a similar view and takes the position that the state is to act to help assist and preserve cultures in order to prevent harm to the sense of self of the people in these cultures. As an example, Modood talks about the possibility of the need to protect young Muslims from irreverent literature and so it might be for the best for the state to place limits on people's freedom of speech.[274] The views expressed by these thinkers would imply that they consider wellbeing to be one of the ends of the state.

A different way to approach this question can be seen with Kymlicka, who seems to put liberty as one of the ends of the state. As has been said before, Kymlicka puts at the core of his view the idea of the context of choice. We need the context of choice which our culture provides in order to be able to make evaluations and make choices and to have freedom.[275] Further we can see the focus on liberty with Kymlicka's distinction between external protections and internal restrictions. External protections, where a culture is provided the means to protect itself from external pressures are allowed. But internal restrictions, where the culture applies restrictions to the individuals in the culture, are disallowed. As Kymlicka's view is that being part of a culture is necessary for us to have freedom, it would be counterproductive to allow cultures to restrict our freedom. On this point there is some similarity to the position taken by Parekh, in that he also thinks that we need our culture in order to make evaluations and to be able to assign value and meaning to choices, indeed he refers to culture as a 'system of meaning' [276] it creates and shapes the good for its members. However, Parekh stresses that personal autonomy and choice are not necessarily universal values.[277] For Parekh the value of a culture is not instrumental but intrinsic, once again, his view is that 'culture is not a voluntary association',[278] but a culture has intrinsic value on its own. We can then perhaps assume that he takes the view that this means that the state has as one of its ends the protection of this kind of intrinsic value, but this raises the question of why the state is to concern itself with things which can be thought of as intrinsically valuable, a question we will return to in the next chapter.

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[274] Modood, T. "Muslims, Race and Equality in Britain: Some Post-Rushdie Affair Reflections." *Third Text* 4.11 (1990): 134
[275] Kymlicka, W. *Liberalism, Community, and Culture* 166
[276] Parekh, B C. *Rethinking Multiculturalism* 3
[277] Ibid, 275
[278] Ibid, 161

To use Kukathas as a contrast to the other thinkers we have considered until now, as while he does propose a system which would allow for a great amount of power to cultural groups, he is not a multiculturalist in the same ways as the other thinkers we have covered.

For Kukathas, it is not for the state to ensure or promote any particular group,[279] or to ensure the autonomy or happiness of the members of society.[280] Rather the end of society is to make possible the peaceful coexistence amongst groups.[281]

If we consider how Kukathas views political community, we will have an easier time understanding his views of its ends. He describes the political community as "an association who share an understanding of what is public and what is private within that polity"[282] and also crucially "Membership of such a community is thus not constitutive of an individual's identity because political community is only one of the communities to which an individual may belong"[283], for Kukathas the political community while not unimportant and some might take it to be an important part of who they are, for many other communities are of far greater importance to our identity. The political community for Kukathas just one of the many different groups which people are members of, and we should be careful to not give too much prominence to the political group. One reason for this worry is that if we promote the political community over other groups, then these other groups will be marginalised, and those aspects of our identity will be denigrated.[284] A reason for this is that Kukathas takes the view that all groups are partial, even the political community, as he says 'Few, if any, communities can constitute an individual's identity because few, if any, individuals are locked in a single community which leaves no room for other attachments to which the group is indifferent. In this sense, (almost) all communities are partial communities.'[285] And that the state should not decide for people which of these partial groups they are to prioritise over others.

The goal for Kukathas is a tolerant society where members can live according to their conscience. And the way to achieve this goal is to allow a great amount of

[279] Kukathas, C. *The Liberal Archipelago: A Theory of Diversity and Freedom* (Oxford: Oxford University Press 2003) 5
[280] Kukathas, C. *The Liberal Archipelago: A Theory of Diversity and Freedom* 29
[281] Kukathas, C. "Liberalism and Multiculturalism: The Politics of Indifference." *Political Theory*, 26,5 (1988),691
[282] Kukathas, C. *The Liberal Archipelago: A Theory of Diversity and Freedom* 171-172
[283] Ibid, 174-175
[284] Ibid, 175
[285] Ibid, 171

freedom for each group, and to let them do as they wish, provided that the members of that group consent to them. Resulting in a system which on the one hand could be viewed as being very communitarian due to the power and focus given to groups. But on the other hand it does this based on consent of individual members for the gain of individual members, and is in many way an incredibly individualistic outlook.

While I see the appeal in the view of the liberal state as one which does not dictate for its citizens what ends or even types of ends are acceptable or laudable, but rather one which leaves those decisions to the various members of society to make for themselves, this view faces two immediate problems which we are going to focus on, first, why use conscience as the primary end of society? And second, this would seem to encounter a contradiction in its reasoning as it relates to different types of groups. On the first point, if we take it as starting point that the state is not responsible for its members happiness or autonomy or any other end, then why is conscience acceptable when the other ends are not? If the view is that the state is to take a hands off approach with minimal interference aiming for toleration, as this is the approach which Kukathas believes will be most likely to lead to a society where individuals are able to live as their conscience dictates,[286] then why is conscience specifically better suited as a fundamental principle than any other principle?

The second point follows from the objection made by Okin and others, that for the state to take this hands off approach would underestimate the effects of socialisation and the power which groups can exercise over its members.[287] And continuing on from this line of argument, if the reason for having the state not interfere in the affairs of groups is to not determine or influence which types of identity are considered important or which views of the good life are promoted, for fear of marginalising or putting undue pressure on individuals, why would this type of pressure be acceptable from other types of groups such as culture? For Kukathas the state is just another group, so if the state is to take a non-interference approach why should not the same restriction be placed on cultures or other groups? The reason Kukathas gives groups the amount of power is that the groups will allow people to live according to their conscience, provided they are free to leave the group if they wish. But this rests on an assumption that there will be both, other groups to join after we leave our initial

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[286] Ibid, 76-77

[287] Okin, S. "Feminism and Multiculturalism: Some Tensions." *Ethics*, 108,4 (1998) 664

one, and that the other groups would actually be able to help you to live as your conscience dictates. This problem could be exacerbated by Kukathas's view that the state is to take no part in ensuring that groups or cultures survive, but is open to the possibility that groups will cease to exist as people leave it.[288]

This point also encounters the objection, if we allow groups to interfere with individuals as long as they consent to be part of the group, why can't the same be true for political groups and the state? On a contractualist approach we could make the argument that people have consented to be part of political society and as the political group is to be thought of as being the same as the other groups, then why wouldn't the same rules apply here and we could say that the state is free to interfere with groups as long as people have consented to be part of society and the state leaves emigration as an option. Particularly as Kukathas is explicit in his view that costs of exit do not constitute bars to exit. As Kukathas puts it 'The reply to this objection, however, is not to deny that exit can be extremely costly. It is simply to acknowledge that exit may, indeed, be costly; but the individual may still be free to decide whether or not to bear the cost.'[289] A different way of approaching Kukathas might be to take the view that the role of the state is not to ensure that people can live according to their conscience but rather that the state is not to be in the way of people living according to their consciences. And so, the limited role there would be left for the state would be to keep the peace between groups and to foster the most tolerant society.

In these examples of approaches to the ends of the state, we can see that some authors are quite explicit and clear on what they consider the ends of the state to be, with Kukathas being an example, while the multicultural authors required us to work out their positions. Another reason for multiculturalism's lack of attention to the ends of the state, is that multiculturalism is not a comprehensive theory, nor is it a complete political theory for lack of a better term, it is specific and sectional rather than general approach. To elaborate on this, what I mean is that multiculturalism tends to focus on a specific set of issues relating to culture, and not on providing answers to every question which a theory of justice might be faced with. This it must be stressed is not a deficiency or a problem and should not be thought of in that way.

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[288] Kukathas, C. "Liberalism and Multiculturalism: The Politics of Indifference." 694
[289] Kukathas, C. *The Liberal Archipelago: A Theory of Diversity and Freedom* 107

Some authors's work is meant to be read in the context of other works or should be thought of adding to a pre-existing theory and develop it further. An example would be Kymlicka, whose *Liberalism, Community and Culture* is written in the context of Rawls and Dworkin and demonstrates how their theories would support his view of minority rights.[290] And some thinkers are addressing situations and issues where it would be redundant to write about what society is for and it might be more effective to focus on more specific issues rather then begin at the more abstract level of the ends of the state. This focus on culture has meant that there has not been a need to focus on the ends of the state, as would have been necessary in a more broad reaching approach, but rather it has been sufficient to examine the parts of society which concerns issues relating to culture, and to consider reasons why the state is to concern itself with issues relating to culture. A later chapter is going to develop this line further, but in the last portion of this chapter we will consider one of the challenges which a multiculturalist approach to the ends of the state will, I suggest inevitably, encounter, the problem of internal dissent.

As we have been using it, internal dissent is when there is disagreement in a culture in regard to some issue, with the issues which would be of interest to us in this project being those which relate to views of the good life or points on which the culture is receiving aid from the state. The difficulty for the state is that there would appear to only be unsatisfying answers to how the state is to act in these circumstances. The view commonly found in multiculturalism is that cultures deserve or require special protections and considerations, the difficulty appears when the culture has disagreements on a topic where they are the recipient of these considerations. If a minority within the culture dissents from the majority or dominant view, then no matter how the state reacts, it would end up undermining some section of the culture. This is a problem as one of the goals which we have recognised in multiculturalism is to promote and assist cultures. The problem being that if the state sides with the majority or dominant section of the culture against the minority, then it goes against this goal of multiculturalism, as it is marginalising and undermining a cultural minority group. But if it sides with the internal minority against the internal

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[290] Kymlicka, W. *Liberalism, Community, and Culture* 5

majority, it will still be undermining a part of a cultural group, but this time the dominant part, again the very opposite of the aim of multiculturalism.

It is important to remember that cultures are not fixed and immutable, but rather change overtime. But this raises the issue of how a culture is going to develop. One view is that put forward by Parekh, that the culture will decide for itself, guided by the community leaders.[291] But the states's actions, or inaction, in regard to these changes will benefit or disadvantage some of the people in the culture. In addition to this we have the issues which Okin highlighted, that the view where community leaders guide the development, will benefit the most powerful segments of the culture, and usually to the detriment of women in the culture,[292] which would in a sense mirror the criticism which multiculturalism has levied against liberalism, that the more powerful section or culture in society marginalises the less powerful minority cultures, but it would here be happening in the cultures, rather than society at large.

To make this problem of the state not having any real options clear, it might be helpful to consider the possible ways the state could try to act so as not to marginalise cultures or parts of cultures, in relation to their views of the good life. To avoid the situation where the state would be favouring one part of the culture's views over another part of the culture, the state could take the position that all views of the good life are valid and actively affirm them all equally. This approach would have unsatisfactory aspects, one of which would be that there is every possibility of some of these views of the good life being incompatible with each other, undermining the feasibility of the state to support all sides if there is conflict between the views, however, this is only a possibility and would not necessarily occur and would depend on the actual circumstances of any given society. Another difficulty is aforementioned issue of internal dissent. If there is a division within a culture relating to how they view the good life, and if the state is to give support to the dominant group endorsed by the community leaders, then the minorities in that culture could say that they are being undermined and marginalised by the state as it is siding with the part of the culture they are dissenting from. But if the state sides with the internal minority, the internal majority could say that they are being undermined by the state

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[291] Parekh, B. *Rethinking Multiculturalism: Cultural Diversity and Political* 165
[292] Okin, S. "Feminism and Multiculturalism: Some Tensions". *Ethics*, 108,4 (1998) 669-670

and that the culture is being unjustifiably interfered with. As said before, whichever way the state acts, it will result in it acting against the interest of some culture, which is the opposite of what multiculturalism is trying to achieve. The problem remains even if the state decides to take no action and try not to take a side, as then the internal minority of a culture could argue that the state is by its inaction assisting the internal majority, and so even in inaction it would be affecting how a culture develops.

An alternative to validating and supporting all views of the good life would be to instead take the view that the state is to take no view of the good life and affirm or support none of the possible alternatives. This on this face of it would seem quite similar to how we have described the liberal approach to how cultures should be treated, with the idea being that the state is to have no view of the good life and leave it up to its members to decide for themselves. But one of the differences between the view of many multicultural thinkers and those who argue for versions of liberal neutrality on the part of the state, is the difference on whether the state is to take an active or a passive role in regard to cultures. As we have seen throughout this project, part of the multicultural view is that the state is to take an active role in the promotion of cultures. Combining this active component of multiculturalism with the view that the state is to support no particular view of the good would translate to the state actively promoting cultures but taking no position on the substance of the culture, or its view of the good life. This would seem quite compatible with Kymlicka's view of culture and multiculturalism, with his focus on the context of choice which a culture can provide.[293] This would result in the end position where multiculturalism must support every view of the good but cannot comment or take a position on any of them, so as not to give favour to any specific culture or part of culture. A liberal view which also remains uncommitted to any view of the good life and also seeks to not favour any culture, by not actively supporting any of them.

The reason for this dilemma is that it becomes imperative that the state not favour some cultures over others, one of the crucial weaknesses identified in liberal neutrality is that it is not really equal but favours certain cultures over others, Kukathas summarises this point as, '…the defenders of the original politics of

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[293] Kymlicka, W. *Multicultural Citizenship: A Liberal Theory of Minority Rights*. 92-93

universal dignity claim to be neutral on this issue, the charge they then meet is that their so-called neutral, difference-blind principles, in fact, are hardly neutral at all; they are, indeed, reflective of the standards of the dominant culture. In short, the politics of difference accuses "liberalism" of being nothing more than another instance of the particular masquerading as the universal.[294] So any form of multiculturalism to avoid falling into the same shortcoming as the liberal neutrality view must also adapt some form of principle of neutrality. This means that there is a certain overlap in liberalism and multiculturalism in that both require some conception of neutrality, with the difference between them being that liberalism approaches this negatively and multiculturalism views it positively.

Part of the reason for this difference can be found in their differing focus, with liberalism often focusing on neutrality of justification and multiculturalism on the neutrality of outcomes. Multiculturalism highlights that the neutral justifications which the liberal outlook favours still have unequal outcomes and result in non-neutral effects. This would be quite compatible with Wall's view that the state is to be responsible for the consequences of its actions,[295] even if the state acted on neutral justifications. The essence of this objection is that, the view where the ideal order is, as Dworkin describes it "political decisions must be, so far as is possible, independent of any particular conception of the good life, or of what gives value to life."[296], this could not be done. Balint's view is that this is unfeasible but even if it would be possible for the state to be neutral, it would not be desirable.[297] The unfeasibility is in that the state must opt for some action, or inaction, which will inevitably favour some groups more than others. As for desirability, the argument is that it would be preferable to have a system where everybody is given equal recognition and is supported in a positive and active way, rather than the liberal view, where no one is given active recognition and is treated in a manner of speaking with indifference.[298]

Again this speaks to the different views which multiculturalism and liberalism have concerning the subject of state neutrality. As Schaller puts it "Most defenders of

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[294] Kukathas "Liberalism and Multiculturalism: The Politics of Indifference" 688-689
[295] Wall, Steven. "Neutrality and Responsibility." *The Journal of Philosophy* 98, 8 (2001) 394
[296] Dworkin, R. "Liberalism" in Hampshire, S.ed *Public and Private Morality*. (Cambridge ; New York: Cambridge University Press, 1978) 127
[297] Balint, P. "Identity Claims: Why Liberal Neutrality is the Solution, Not the Problem" 497
[298] Ibid, 496

"liberal neutrality" argue the state ought to be neutral only in the justification of its institutions, laws, and policies; they deny that the rationale for neutrality requires neutrality of effect."[299]

5.6 Summary

This chapter sought to establish the necessary background on advocacy and the ends of the state in preparation for the later chapters and the conclusion of our deliberations on how the state is to treat cultures. The first part of the chapter considered the advocacy positions of individualism and communitarianism, and second part considered the ends of the state.

The first half sought to explore the link of advocacy and to see how it combines with the other links which we have explored earlier in this project. This was done by first establishing as definition of individualism and communitarianism, the essence of individualism is the focus on individuals rather than communities and collectives, with a predilection for the view that individuals ought not be placed under an authority to which they did not consent. We also ascribed it the Kantian view that individuals must be viewed as ends in themselves and not merely as means to a culture's ends. That was how individualism approached the individual, while it also approaches society as being a system of cooperation for the mutual benefit of the individual member of society.

Communitarianism was defined as being focused on the avoidance of moral chaos and the promotion of the common good. The point was a response to the perceived lack of common purpose in individualism and puts the moral authority in common understanding and shared institutions rather than in individual choice. A further contrast with individualism can be seen in that where individualism was described as the politics of right, communitarianism was described as a politics of the common good.

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[299] Schaller, Walter E. "Is Liberal Neutrality Insufficiently Egalitarian? Neutrality of Justification versus Strong Egalitarianism." *The Journal of Philosophy* 101, 12 (2004) 639

The chapter then proceeded to map the different ways in which the advocacy can be combined with the other links which we have examined in this project. We found that communitarianism could be combined with both an intrinsic and, depending on how it is conceived, an instrumental view of the value. And that communitarianism combines with reciprocity depending on how we conceptualise this reciprocity, if this reciprocity is directed against the other members of the culture rather than the culture itself. But that communitarianism does not combine well with either gratitude or consent as the source of obligation towards our culture. And we established that individualism can be combined with reciprocity as the source of obligation and an instrumental view of the value of culture, with the view that we are repaying our fellow members for the effort they have put into the culture which has been for our benefit. We also saw that individualism combines well with an instrumental view of the value of culture and a consent based view of the source of obligation towards our culture, even though this does not correspond to circumstances as we find them in reality, in theoretical terms, we can describe it this way. But we also established that individualism does not combine well with gratitude as the source of obligation towards our culture, nor with consent if it is paired an intrinsic view of the value of culture.

The chapter then goes on to consider the questions of the ends of the state. First it sought to clarify what we meant by ends of the state, that it is about what we think the state exists for. It contended that the multicultural view of the ends of the state has been underexplored and then tried to suggest a few possible multicultural ends of the state by examining the authors previously examined in this project as well as using Kukathas as a contrast to bring the concept into sharper focus.

It then considered some of the difficulties for multiculturalism in this context, principally the issue of internal dissent. The problem being that if the culture is divided on an issue, then no matter which side the state comes down to it will alienate one side while supporting another, in direct opposition to what multiculturalism seeks to do. The suggested way to try and mitigate this was to either take the view that the state is to support all views of the good life, or that the state is to take no view of the good life. With both approaches having their weaknesses.

The next chapter will focus on contractualism and consider how that approach will help us come to a decision on how we are to treat cultures. Before developing our own view based on this and the other topics covered in this project in the final chapter.

Chapter 6. Contractualism

The preceding chapters leading up to this one has focused on the links of value, obligation, ontology and advocacy. This chapter will prepare for the next chapter where we will use what we have explored in the earlier chapters and construct our answer to the question of how the state is to treat cultures. To do this, this chapter will outline and consider some of the features of contractualism. We will focus the discussion around the links which we have used in this project. The aim of this chapter will be on the one hand to elaborate and establish what contractualism is in the context of this project, and on the other hand to demonstrate the benefits of this approach in answering how the state is to treat culture, as well as show that contractualism is not dependent on an excessively atomistic ontology.

The first part of the chapter will examine some of the meta-ethical issues relating to contractualism by outlining the meta-ethical position of constructivism. The next section will sketch out the basic features of contractualism as it relates to our project. One prominent feature is the idea that moral permissibility hinges on a contract being agreed to by a set of neutral idealised hypothetical deliberators, the idealised deliberators as we will refer to them. We will also highlight some of the criticisms of contractualism. This will enable us to see some of its potential for this project and some of its shortcomings. Then the chapter will consider contractualism in conjunction with the links framework we have used in the project. This will further outline the potential and drawbacks of contractualism, as well as showing which positions on these links are most compatible with contractualism. We will also be defending contractualism from the accusation of being excessively atomistic, as well as further describing the previously mentioned approach of using both a holistic and an atomistic ontology at the same time and the benefits which this can bring to our project.

6.1 Constructivism

In the second chapter which focused on the value of culture, we broached the issue of moral standing. With contractualism the question would become, why would agreeing to something, in the form of a hypothetical contracts, endows moral authority. Contractualism takes the view that things are permissible if they would be agreed to under suitable circumstances of deliberation.[300] This makes a number of assumptions which we will consider in this section, one of which is that on this view moral facts are only facts if people in the appropriate situation of deliberation would agree to those facts.

Describing an alternative approach helps to explain constructivism by way of contrast. On the moral realist view moral truths are '..these truths are part of the fabric of wholly mind- or judgment-independent reality, waiting 'out there' to be discovered by us.'[301] Or as Street approaches it, the question becomes, are things valuable because we find them to be valuable, or are objects valuable independent of us and possess value whether we acknowledge it or not.[302] In the simplest terms, moral realism takes the view that moral facts are like other facts. They are true or false regardless of our views on them. If moral realism is true then the idealised deliberators in the appropriate situation could not determine if something is true or not, they could decide if it was agreeable but not if it is accurate.

By contrast then, the constructivist method would have moral facts be dependent on the view of the idealised deliberators. One element of this which Milo points out, is that the idealised deliberators are not deliberating on what the true moral facts are, but rather that the facts they chose are true, by virtue of them being the ones which would be chosen.[303] This is a very different way to approach truth and objectivity. As Milo describes it 'This is to conceive of moral truths as practical truths rather than theoretical truths that we are justified in accepting because of the explanatory necessity of positing them. Practical truths are truths about what there is reason, for some individual or group of individuals, to prefer, choose, or do, from some point of view'.[304] That is not to say that constructivism represents a complete rejection of

[300] Scanlon, T. *What We Owe to Each Other*. (Cambridge: The Belknap Press, 2000). 153
[301] Schafer, K. "Realism and Constructivism in Kantian Metaethics (1): Realism and Constructivism in a Kantian Context." *Philosophy Compass*, vol. 10, no. 10, 201 690
[302] Street, S. "What Is Constructivism in Ethics and Metaethics?" *Philosophy Compass,* vol. 5, no. 5, 2010 370
[303] Milo, R. "Contractarian Constructivism." *Journal of Philosophy*, vol. 92, no. 4, 1995 202
[304] Milo, R. "Contractarian Constructivism." 186

objectivity, as Schafer suggests, constructivism like realism believes that there are moral facts.[305] The difference is how they arrive at those facts.

Similar to Milo's description of moral truths as practical, Scanlon also uses a similar approach, the question of moral truths is a question of practicality rather than metaphysics. Judgement about moral truths would on this view not be a judgment about the world, but 'The point of such judgments is, rather, a practical one: they make claims about what we have reason to do.'[306] This does not necessarily mean that metaphysics and questions of ontology are entirely irrelevant, but that on this view that the question of how we can use a moral fact are more important than the ontological questions. A similar attitude can be seen in chapter 4, which focused on ontology, where I suggested that there is a value in considering not only the accurate ontological nature of people, but also the most useful ontological view, depending on what we are trying to achieve.

Continuing this approach we can see with Scanlon 'In order to show that questions of right and wrong have correct answers, it is enough to show that we have good grounds for taking certain conclusions that actions are right or are wrong to be correct, understood as conclusions about morality, and that we therefore have good grounds for giving these conclusions the particular importance that we normally attach to moral judgments.'[307] Again this demonstrates the focus on the usefulness of the moral facts, we are not only interested in the truth of the moral judgements we make, but also the persuasiveness and the usefulness of these judgements.

However, taking this view blurs the line between the meta-ethical and the normative, which we will move onto now.

6.2 Contractualism

Depending on the word's context, constructivism, contractarianism, and contractualism are used by different writers to signify widely different concepts and indeed are sometimes even used as synonyms. In this project I will for simplicity use contractarianism and contractualism as synonyms to each other, and will use constructivism to refer to the meta-ethical approach we just looked at. The core

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[305] Schafer, K. "Realism and Constructivism in Kantian Metaethics" 690
[306] Scanlon, T. *What We Owe to Each Other* 2
[307] Scanlon, T. *What We Owe to Each Other* 2-3

concept of contractualism, which we will be exploring and expanding upon in this section, begins with the idea of asking what idealised deliberators would choose in the appropriate setting of deliberation.[308] In this section we will sketch the outline of contractualism by considering some of its features and some of the critics of it. We will consider how the deliberators are envisioned to be mutually disinterested and how they should be designed to be as neutral as possible, keeping in mind the guiding principle that of people being governed by principles they could reasonably agree to.

There are different contractarian devices used by different authors in service of their theories. And while there are differences, there are some core features which we can identify. As Vallentyne puts it 'A contractarian moral theory states that an action (practice, social structure, etc.) is morally permissible if and only if it (or rules to which if conforms) would be agreed to by the members of society under certain circumstances.'[309]. There are features of this which can be unpacked, starting with the idea that it is dependent on the agreement by the members.

This shows the centrality of some form of consent to the contractualist approaches. This is in contrast to, for example, the view we saw in the previous chapters where we outlined communitarianism. Where it was shared institutions and understandings rather than consent which was the foundation for moral authority.[310] On the contractarian view we do not accord any special standing to traditional practices or shared understandings, unless those are the ones which would be accepted by the members of society. Of course, this is not to suggest that people have at some point actually assembled to draft a contract for the organisation of society, but it is a helpful device for discovering what people would agree to in the appropriate circumstance. The last chapter discussed the ends of the state, and the approach of contractualism would suit that framework quite readily. As the contractualist account is concerned with finding what people would commit themselves to in terms of the

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[308] Koppelman, A. 'The Limits of Constructivism: Can Rawls Condemn Female Genital Mutilation?' *The Review of Politics*, Vol. 71, No. 3 (Summer 2009) pp 460

[309] Vallentyne, P. "Contractarianism and the Assumption of Mutual Unconcern." *Philosophical Studies*, vol. 56, no. 2, 1989 187

[310] Neal, P. and Paris, D 'Liberalism and the Communitarian Critique: A Guide for the Perplexed' Canadian Journal of Political Science / Revue canadienne de science politique, Vol.23, No. 3 (Sep., 1990), pp. 422

foundation of society, we would be able to see what they determine to be the ends of the state as it could be seen in the principles which they agree to.

A second aspect of Vallentyne's comments is that this is focused on principles which would be agreed upon under specific circumstances. While there are many different aspects to this which could be unpacked, the aspect we are going to focus on here is the assumptions made about the people who are making these decisions, the people in the deliberative devices, the ideal deliberators as we are going to refer to them. Different authors take different views about the nature of ideal people, for example, Rawls's famous method using the veil of ignorance assumes that people are rational, have certain basic level of knowledge about the world and that they are mutually disinterested.[311]

This point about the idealised deliberators being mutually disinterested is an interesting one, as in reality we are, generally speaking, not disinterested in others. We are often quite interested in the projects of those close to us and others, but there are reasons for taking the view that the idealised deliberators are mutually disinterested, even when they might not be so in real life. A reason is that we do not know what views a deliberator might actually have, and in designing the situation for the deliberators we would not want to model it on specific people with specific views. The aim is to find the constraints on conduct and principles which would apply no matter what preferences and views which the individuals might happen to have.[312]

And further, the assumptions which we make about the idealised deliberators must be, as far as possible, such as to not prejudge the outcome of the deliberations before they begin. If we make assumptions about the desires and temperaments or substantive ends of the deliberators, we would be pre-empting and biasing the outcome, this would lead to the procedures losing both its ability to persuade and its validity due to how the outcome was partisan. As an example, if we were to design a procedure where hypothetical idealised deliberators are to agree the foundations for society, and we deliberately ensure that all the deliberators are by design broadly speaking liberal, and the outcome of their deliberations resulted in principles which are decisively liberal, we have not really proved anything useful. Bias does not need

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[311] Rawls, J. *A Theory of Justice: Revised Edition* 12-13
[312] Vallentyne, P. "Contractarianism and the Assumption of Mutual Unconcern." 188

to take this obvious and overt form. It could also take a more indirect and subtle form, as an example, the type of ontology which we use when envisioning the deliberators could have an impact on the deliberations. This is one of the critiques which Taylor makes. In particular, he argues that the atomised view of the individual in contractualism of the type seen in Rawls and Kymlicka biases the deliberations in favour of specific outcomes.[313] This topic of contractualism and atomism will be returned to later in the chapter, but in chapter four we made the point that the accusation of atomism has often been overstated, and of course if we accept the criticism that atomistic ontology biases deliberations in one direction then the opposite would also be true, that assuming a holistic ontology would also bias the deliberation in another direction. One way to try and counter this objection is to once again remember that ontology is not the same as advocacy, as pointed out by Abbey, adopting a position on ontology does not commit us to a position on advocacy.[314] But at the same time there are certain combinations which are more logically compatible than others. We will return to these combinations later in the chapter and see which positions on these links are most compatible with a contractualist framework.

That is one of the reasons why the conception of the idealised deliberators are to be as neutral as we can make them. If we have a procedure which does not depend on any substantive normative view or specific preferences on the part of the deliberators, then the procedure ought to be able to produce a result which could be acceptable to people with different substantive normative views. We will return to this issue in the next chapter which outlines a suggestion for a contractualist approach to how we are to treat cultures.

The core of the points which we have seen so far is concerned with the principles which we employ are those which people could agree to, potentially making use a hypothetical procedure where idealised deliberators are to decide on these principles. We also take a view of the truth of the moral judgements which these deliberations deliver ought not only be judged in terms of how accurate they are, but also how useful they are. As Galvin puts it, contractualism is agnostic about the truth,

[313] Taylor, C. *Sources of the Self: The Making of the Modern Identity*. (Cambridge: Harvard University Press, 2001) 42
[314] Abbey, R 'More Perspectives on Communitarianism: A Reply to Chandran Kukathas' The Australian Quarterly, Vol. 69, No. 2 (Winter, 1997) 77

'The agnostic view, guided by the need for ethics to be practical, neither asserts nor denies the existence of an independent moral order, maintaining that the principles and judgements which emerge from the constructive procedure are objective whether any independent moral order exists …'.[315]

If we take Milo's suggestion that we do not use contractualism and constructivism to find the 'true' moral facts, but rather 'practical truths', that is, truths which we would have reasons for believing.[316] This would assist us in getting to Scanlon's aim of principles which nobody could reasonably reject. The reason this aspect of contractualism is particularly useful for us in this project, is its relevance in societies marked by substantive pluralism and diversity. The assumption of this project is that society is marked by a diversity, both in terms of individuals and in terms of cultures. In this diversity an outlook based on principles which nobody could reasonably reject, or some other contractualist framing which is not based on a substantive view of the good, and could so be accepted by a wide variety of peoples, would be of use , as it would allow it to be agreed to even when there is disagreement on many substantive issues. If we instead take a different perspective and decide that the ends of the state should be based around a particular conception of the good or the advancement of a particular virtue, then society will favour those cultures who are more compatible with those particular aims. A comparable goal can be seen in Kukathas's view that the state is to be a minimal one and one of its chief priorities keeping the peace between the groups.[317] While the aim has some similarities it has significant differences, one being that the contractualist view of the state would be one based on the outcome of the deliberations, while for Kukathas it is based on a complete theory of justice. Further this also assumes that the idealised deliberators desire a pluralist society containing within it a multitude of cultures, rather than an explicitly and actively assimilationist society dedicated to a particular conception of the good, a topic we will return to later in the next chapter.

The aim of this section was to outline some features and criticisms of contractualism. Of course, there are different forms of contractualism with different ideas of how the idealised deliberators are to operate, but the aim in this section was not to highlight

[315] Galvin, R. "Rounding Up the Usual Suspects: Varieties of Kantian Constructivism in Ethics." *The Philosophical Quarterly*, vol. 61, no. 242, 2011 30
[316] Milo, R. "Contractarian Constructivism." 186
[317] Kukathas, C. *The Liberal Archipelago: A Theory of Diversity and Freedom* 212-213

and examine all possible versions but to highlight some features of what contractualism aims to do.

The core precept which was highlighted in the beginning of the section was that the principles adopted should be those which people could be said to consent to, with the device of idealised deliberators choosing the principles to be adopted. We also highlighted how contractualism seeks to define the idealised deliberators and their setting in such a way as to not bias the outcome of the deliberations before they had begun. The benefit of this view was that it could aim for universality and towards principles which would be acceptable for different sections of society.

In the next section we are going to examine how contractualism works with the links we have examined in this project, that being the value of culture, the source of our obligation to our culture, ontology and advocacy. This will allow us to further see the shape and form of contractualism by considering how it interacts with these links, as well as highlighting some of the difficulties and issues which a contractualist outlook will help us to mitigate, while also showing us which positions on the links are difficult to occupy if we make use of a contractualist framework. This will help us in the next chapter when we will be constructing our answer to how the state is to treat culture, by outlining how the links interact with contractualism, we can see what assumptions most easily lends themselves to contractualism.

6.3 The Links

The difference in considering contractualism in conjunction with the different links which this project has already covered ought to be highlighted at the outset. Contractualism is an approach for arriving at normative positions, whereas the links we have examined in this project are the constituent parts of a normative position. However, as Scanlon pointed out, the underlying assumptions we have going into our deliberations effect what we get out of the deliberations.[318] In this section we will consider how these different assumptions and position on the links combine with contractualism, this will allow us to further outline the features of the contractualist outlook, while also seeing which assumptions sits ill with contractualism and in

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[318] Scanlon, T. *What We Owe to Each Other* 194

certain cases see if they would be positions chosen under idealised deliberative circumstances. This will also allow us to see how contractualism can help us to solve some of the difficulties which we have encountered in this project and prepares us for the next chapter where we will construct a contractualist answer to how the state is to treat cultures.

Beginning with the link of what type of value a culture can possess will help to demonstrate some of the challenges in combining these links with contractualism, specifically the intrinsic view of the value of culture.

The first position on the link of which value a culture can have is that cultures have instrumental value. This position is quite easy to combine with a contractual approach to culture. On this position, we could imagine for example that the idealised deliberators would take the view that culture and the access to culture should be treated as a primary good, as Kymlicka suggest they should.[319] There would be no incongruity or difficulty of combining this position with an instrumental view of the value of culture as this could mean that the view is that the benefits which the culture brings, are such that the idealised deliberators would want these benefits and the culture is the instrument to receiving them. This shows that the instrumentalist view of the value of culture can be made to work with contractualism.

The other position which we can take on the view of the value of culture is that it has intrinsic value. On the face of it, it would seem as though this position sits ill with contractarianism. As was mentioned in the chapter on the source of obligation towards our culture where the intrinsic view was combined with consent as the basis for our obligation towards our culture, if it is our consent which gives culture its value then it is not intrinsically valuable but rather it is our act of consenting which confers the value. Part of the solution, as was suggested back in the chapter on the value of culture, is that contractualism could be used to solve this difficulty of how intrinsically valuable objects gain their value. One of the suggestions in that chapter, was that we take the view that the idealised deliberators decide on a set of principles or a system. This system would contain as part of it the stipulation that the intrinsic value of culture would entail specific obligation towards the culture.

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[319] Kymlicka, Will. *Liberalism, Community and Culture*. (Oxford: Oxford University Press, 1989) 165

There would, however, still be a difficulty with this approach, if the idealised deliberators decided on this system, it would still not explain where the intrinsic value originates from. If it is the deliberators who chose that cultures have intrinsic value, then the value is not truly intrinsic but contingent. But if we take the view that the deliberators would chose a system which contains within it the view of cultures as being intrinsically valuable, then where does this value come from? In addition, if the idealised deliberators are faced with cultures which are viewed to be intrinsically valuable pre-deliberation, that is that cultures are not thought to be dependent on the views of the deliberators to have value, then they could decide that this pre-deliberational value does not command any specific obligation or notice, in effect rendering this value useless. This would leave us with the conclusion, that the view of the intrinsic value of culture would be incompatible with a contractarian outlook, or to try and address this difficulty. The second option is well worth exploring, particularly as the problem of where objects of intrinsic value would gain their value from is one which is not limited to its being used together with contractualism, but is a difficulty in any setting. In the second chapter concerning the value of culture, it was suggested that a contractualist approach could be used to try and mitigate this issue. The idea was to take the view that those objects which an idealised deliberator agree to label as intrinsically valuable, would therefore be intrinsically valuable. This would have some similarities to Raz's concept of conventional value, where those objects which people typically value, are those objects which are to be considered valuable.[320] One difference between the two is that conventional value refers to objects which actual people find to be valuable, whilst this other view would depend on idealised deliberators. But they both would encounter the problem which we have already highlighted, that this would be contingent on the deliberators choice and so not truly intrinsic. There are I would suggest, two ways to solve this. One would be to consider the perspective of the members of society which live with the decisions which the idealised deliberators construct, the other is to consider the meta-ethical position of constructivism and use that to redefine what we mean with intrinsically valuable.

The first of these two approaches would be to take the view of the people in the society created by the idealised deliberators. This would entail expanding on the type

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[320] Raz, Joseph, *The Practice of Value*. (Oxford: Oxford University Press, 2005) 26

of thought experiment often used with contractualism. We could, for example use Rawls and the original position as an example, while of course no one would actually be able to make use of a veil of ignorance to choose the Constitutional essentials of society. But if we play this experiment out and assume that society were to be structured as the idealised deliberators had imagined, how would objects of intrinsic value appear to the people in that society? If we imagine that the idealised deliberators take the view that cultures were intrinsically valuable, for someone in the society constructed according to that principle, the culture would appear to them as though it had intrinsic value. With this view we could use the contractualist device to suggest one solution as to how to imbue objects with intrinsic value, but it would have meant that we would have redefined it into a form of hypothetical intrinsic value. The other way of approaching this is to follow Milo's view of constructivism which as we saw earlier, where a constructivist statement was true not because it was what was chosen by the idealised deliberators, but because it is what they would have chosen. It is not the act of choosing the principles which would make them true, it is the fact that they are the ones which would have been chosen, or in our case, the objects which would have intrinsic value.[321]

For the link of the value of culture, then, the instrumental view is entirely compatible with contractualism, and indeed has been used, for example by Kymlicka to argue for special rights for cultures.[322] But the intrinsic view of the value of culture requires more work to be made compatible with contractualism, as we saw. This is due to the nature of the intrinsic view of the value of culture not being based on people consenting to objects possessing value, However, as we have seen, contractualism does present us with a possible way to solve the problem of how to imbue objects of intrinsic value, but it would require us to change how we think about objects of intrinsic value.

The next link was that of the potential source of our obligation towards our culture. The possibilities outlined were obligations based on gratitude, reciprocity and on consent. These different views on the source of our obligation presents a much smaller difficulty than did intrinsic value in the last link. Beginning this link with

[321] Milo, R. "Contractarian Constructivism." 184-185
[322] Kymlicka, W. *Multicultural Citizenship* 7

gratitude as the source of our obligation towards our culture in conjunction with contractualism.

Contractualism and gratitude can be made compatible with each other, depending on how we view gratitude. It would be entirely possible for the idealised deliberators to take the view that we would be obligated to act in a particular way towards our culture, that is not to say that this is necessarily what an idealised deliberator would agree to, but it is not incoherent to suppose that they would. As was highlighted in the chapter on the source of our obligation, when we use gratitude in this manner, we are using the word in two different ways at the same time. That is, we are obligated to act in a certain manner, because we feel grateful. And we are also obligated to feel grateful. With gratitude the idea was that as our culture has done a lot for us, we have an obligation to adopt a positive emotional attitude towards it, otherwise we are falling to live up our obligations. Here again contractualism can help us with one of the links, as the combination of gratitude as the source of our obligation towards our culture and contractualism gives us a way to anchor our reason for why failing to feel grateful would be to fail to live up to our obligations. The reason being that the idealised deliberators decided that we are obligated to feel gratitude towards our culture. Of course, this does not only apply to culture but could be applied more broadly,[323] but it shows how contractualism can help us with how the links interact with culture, which is the concern for us in this project.

The second position on this link was that of reciprocity as the source of obligation towards our culture. Which can also be readily combined with contractualism, as it is not impossible, nor would it be incoherent for the idealised deliberators to chose a system which would entail as part of it that we are to pay back to our culture for what it has given us. Unlike with gratitude it does not obligate us to have any particular feelings towards our culture, but would require us not to free ride on our culture. It is quite possible to imagine that the idealised deliberators would come to the position that as our culture is valuable, or as some have argued essential, for individuals to have access to, and as the maintenance of our culture is something which could take up resources, be it money or time or energy, then we would owe it to our benefactor

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[323] Walker, A. D. M. "Political Obligation and the Argument from Gratitude." *Philosophy & Public Affairs* 17,3 (1988)

to payback for the benefits and resources which we have received by doing our part or carrying our share of the burden.

Contractualism can also help to alleviate a difficulty which many have tried to remedy, that of how we can have special or particular obligations to fellow members of our society, in our case, our culture.[324] In simple terms, why would we have special obligations to the other members of our community, which we do not have to those outside the community. Why would compatriots have better claims on us than strangers? One way to solve this problem is to frame it in a contractarian way, where the solution would be that the idealised deliberators would chose a system where we have to pay back for what we have gained, and our community would be one of the parties to be paid back to. Or simply, if we remember the point made in our look at advocacy, where it was suggested that our society could be viewed as a scheme for mutual benefit, we could argue that a deliberator would agree to be part of this scheme, and it would entail special obligations to the others also in that scheme.

The final sources of obligation in this project is that of consent. Consent is compatible with our form of contractualism in two senses. One is to treat the choice of the idealised deliberators as constituting consent to have an obligation towards our culture, and a different way is to take the view that the deliberators would decide that we would only have the obligation which we have specifically agreed to. The first of these two options is relatively simple. If the view is that we should only have the obligations that are the results of our agreeing to them, and contractualism as we understand it centres around the moral principles which we live according to are those which suitably idealised people would agree to. Then if the hypothetical agreement made by the idealised deliberators could constitute consent, then we could say that obligations arising from the hypothetical agreement by the idealised deliberators constitute consent for those obligations. In the chapter addressing our obligation towards our culture, it was suggested that we could consent to a system which, as part of it would contain obligations towards our culture, and the hypothetical agreement could fill this role. This could also be part of a system of balancing the needs of the culture and the needs of the members of the culture. When considering if we have a specific obligation towards our culture, we could think

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[324] An example of this would be Mason, A. "Special Obligations to Compatriots." *Ethics*, vol. 107, no. 3, 1997

of whether an idealised deliberator would agree to a system which would have this particular obligation as part of it, with the result that it would be likely that obligations which were too onerous and placed undue burdens on individuals were to be rejected.

The other way to approach this was to say that consent to obligations towards our culture did not rest on a hypothetical agreement by idealised deliberators, but rather consent would be found in our actual choices, Steinberger describes this as where obligations are those things which we deliberately agree to.[325] This might involve obtaining obligation upon receiving benefits, or some other way if defining our agreeing to incur obligation towards our culture. But for our purposes, the most important point is that this would not be incoherent or an impossible combination with contractualism. The deliberator could decide on a system where we would be required to consent to incur obligation towards his or her culture. The difference between these two approaches to consent would be in what qualifies as consent, on one view it is enough that the idealised deliberators agree to it, and in the other it must be the specific individuals themselves who agree to it.

The next link is that of ontology, which was divided into atomism and holism. On the atomist view, people are viewed as isolated atoms, and on the holistic view people are thought to require a social context.[326] The accusation has been that the contractarian view is inherently far too atomistic and ignores the realities which people find themselves in.[327] One of the examples of this would be the accusation that the idealised deliberators as presented by Rawls are abstractions without histories or personal ties.[328] This, as we have pointed out earlier, is something of an oversimplification, but it is compatible with contractualism. The difficulty would be if it were to turn out that contractualism requires some form of atomism and if we decide that atomism is an untenable ontological position, the question then is, can we combine a holist ontology together with a contractualist framework? Contrary to what one might naturally assume, I suggest that contractualism is compatible with holism,

[325] Steinberger, P. 'Political Obligations and Derivative Duties. 452-453
[326] Lewis, J and Weigert, A. 'Social Atomism, Holism, and Trust' The Sociological Quarterly, Vol. 26, No. 4 (Winter, 1985) 455
[327] Sandel, M. Liberalism and the Limits of Justice. (Cambridge: Cambridge Univ. Press. 1998) 149
[328] Schwarzenbach, S. 'Rawls, Hegel, and Communitarianism' Political Theory, Vol. 19, No. 4 (Nov., 1991) 545

and I also suggest that we can make use of the process suggested in the chapter on ontology, that of doing the link of ontology twice.

As an example of the charge of atomism, we can look at the criticism that Rawls's contractualist thought experiment, which is accused of being too atomistic and treats the idealised deliberators as isolated atoms.[329] But as we shall see this is not really an accurate description of Rawls's contractualism, which will help us to see how contractualism could be made compatible with a holist ontology. In a sense, the criticism that the original position is too atomistic is countered by a different criticism or shortfall of this perspective. This would be the issue that Okin highlighted, that by making the idealised deliberators in the original position heads of the family, and as the head of the family is often assumed to be male, it will help to disadvantage women.[330] Further, by assuming that the family is a just institution, the Rawlsian thought experiment helps to hide the injustices in the family.[331] These are points which Rawls acknowledged and changed in his later writing.[332] However, this assumption does show that this view of the idealised deliberator is not a completely isolated atom, but is very much compatible with a type of social context, particularly that of the family. That is, it shows that there is nothing inherent in the contractualist position which prohibits acknowledging that people are creatures which are found in a social setting. Another example would be Scanlon's form of contractualism, which eschews the device of the original position and instead formulates the aim of contractualism as '…foremost is the aim of finding principles that others who share this aim could not reasonably reject.'[333] Built into this aim is an acknowledgement not only about the processes of others but also the importance and standing of others. Scanlon takes the view that we all wish for our reasons to be accepted by others and to be validated by them, and indeed we need to take others' reasons into consideration for them not to reject our reasons.

When we think of those to whom justification is owed, we generally think first of the specific individuals who are affected by specific actions. But when we are deciding whether a given principle is one that could reasonably be rejected we must take a

[329] Hill, G. 'Citizenship and Ontology in the Liberal State' *The Review of Politics*, Vol. 55, No. 1 (Winter, 1993) 70
[330] Okin, S. "Reason and Feeling in Thinking about Justice." *Ethics*, vol. 99, no. 2, 1989 236
[331] Okin, S. "Reason and Feeling in Thinking about Justice." 236
[332] Rawls, J. Political Liberalism. (New York: Columbia University Press, 2005) xxix, Okin elaborates on this further in, Okin, S. "Political Liberalism, Justice, and Gender." *Ethics*, vol. 105, no. 1, 1 Oct. 1994, pp. 23–43
[333] Scanlon, T. *What We Owe to Each Other* 192

broader and more abstract perspective.[334] Further to this, we can see that the role which Scanlon gives to reasonableness, means that it must take others into account, as he puts it 'Given this aim, for example, it would be unreasonable to give the interests of others no weight in deciding which principles to accept. For why should they accept principles arrived at in this way? This then leads to further, more complicated questions about how, more exactly, we can be asked to "take others' interests into account" in various situations.'[335] What these points aim to demonstrate is that, far from being a method which relies on atoms making decisions in isolation thinking only about themselves, it is in fact a method which has concern for the views of others built into its very core. Reasoning and deliberation requires us to make our views mutually responsive. In short, Scanlon assumes that we will want to consider the positions and views of others, we will return to some of these points in the later section about the possible combinations of contractualism and advocacy.

Even Rawls's theory is not as atomistic as it has at times been claimed. As we saw with Scanlon, we can also see that Rawls does not consider people to actually be atomistic, but as being part of a social context, as he says when correcting the view that his conception requires that people be disinterested egoists 'For the fact that in the original position the parties are characterized as mutually disinterested does not entail that persons in ordinary life, or in a well-ordered society, who hold the principles that would be agreed to are similarly disinterested in one another. Clearly the two principles of justice and the principles of obligation and natural duty require us to consider the rights and claims of others.'[336] This description demonstrates that the people in the original position are disinterested in others not because they egotistically do not care about them, but rather the reverse, it is to approximate the effect of benevolence.[337] As he says 'For this combination of conditions forces each person in the original position to take the good of others into account.'[338] In effect this means that while the person in the original position might appear to be an isolated and ahistorical entity, as Schwarzenbach thinks it is,[339] the design is such that the

[334] Scanlon, T. *What We Owe to Each Other* 202
[335] Scanlon, T. *What We Owe to Each Other* 192
[336] Rawls, J. *A Theory of Justice* 128
[337] Rawls, J. *A Theory of Justice* 148
[338] Rawls, J. *A Theory of Justice* 128-129
[339] Schwarzenbach, S 'Rawls, Hegel, and Communitarianism' 545

deliberator in the original position must consider others in the social context which they are choosing principles for.

The point of this consideration of the ontological positions compatible with Rawls's and Scanlon's contractualism, is to show that they are not in their ontology assuming atomistic and isolated individuals. But rather creatures who take others into account. In the case of Rawls, where initially seen as being heads of families, necessitating a social context, as well as the designing of the original position being such that it forces the deliberator to take others and their projects into consideration. And with Scanlon the presence of others is constant, and the choice of deliberative device can almost be described as a social activity as it forces the individual to frame their argument in forms which others can accept, or at least not reasonably reject.

The next and final link which we have covered in this project is that of advocacy, and we will now see how that combines with contractualism. The two perspectives on advocacy were communitarianism and individualism. As has been mentioned before, contractualism has been accused of being atomistic and individualistic.[340] In earlier sections we have established that contractualism is not necessarily atomistic and in this section we will see how it combines with individualism, before sketching out how contractualism could be compatible with communitarianism.

On the face of it, the individualistic position on advocacy fits quite well with contractualism. The basic concept of contractualism as we have seen is in what individual idealised deliberators would choose in the appropriate setting. As we have seen, some such as Sandel have accused this of encouraging selfishness.[341] As Sandel also thought, that it cannot properly account for communal goods, as it is focused on what the individual would choose.[342] As we saw in the section on ontology, this is something of a simplification which misses some of the dimensions of contractualism, we will explore this further when we examine communitarianism. But contractarianism does tend to make use of individuals as the idealised deliberators, and thanks to this approach it becomes quite compatible with the individualist view of advocacy. As we said in the chapter on advocacy, some of the

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[340] Okin, S. "Reason and Feeling in Thinking about Justice." 230

[341] Caney, S. "Sandel's Critique of the Primacy of Justice: A Liberal Rejoinder." *British Journal of Political Science,* vol. 21, no. 4, 1 Oct. 1991 512

[342] Sandel, M. *Liberalism and the Limits of Justice* 150

defining traits of individualism are a focus on individual rights, that individuals should not be made subjects of hierarchies to which they do not consent,[343] and the view that individuals are to be thought of as ends in themselves.[344] These are all positions which are quite compatible with a contractualist framework, there is nothing amongst these which would be impossible or incoherent for an idealised deliberator to agree to. And even stronger, an individual idealised deliberator is unlikely to opt for a scheme of rights which does not treat them as ends in themselves or place them under arbitrary hierarchies. The next chapter, where we will construct a contractualist answer to how the state is to treat cultures, will go further into the specifics of what an idealised deliberator could agree to in the context of how the state is to treat cultures.

This section is going to show that communitarianism is compatible with contractualism and that contractualism does not require an individualist position on advocacy. While we did this earlier with the ontological position of holism, to demonstrate that it was compatible with contractualism, there is a difference between these two in how much work is needed to make them compatible. There are a number of points which would indicate that communitarianism is entirely compatible with contractualism. To show why we will again consider some of the facets of Scanlon's and Rawls's work and show how they lend themselves to compatibility with communitarianism as well as more general points.

As we saw with Scanlon in the last section, the role played by others is a key one, not only in that it shows that Scanlon does not imagine our deliberators as isolated atoms, but also that there is a possibility for communitarian elements and conclusions arising out of those deliberations. The aim for Scanlon was that the principles decided upon were those which others could not reasonably reject. We can see this with his view that 'we have reason to consider whether there are standpoints other than our own present standpoint from which the principles we are considering could reasonably be rejected.' And also "Others" figure twice in this schema: as those to whom justification is owed, and as those who might or might not be able reasonably to reject certain principles.'[345] This shows that Scanlon does

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[343] Grant, R. 'Locke's Political Anthropology and Lockean Individualism' 51
[344] Triandis, H C. *Individualism & Collectivism*. (Boulder: Westview Press, 1995) 6
[345] Scanlon, T. *What We Owe to Each Other* 202

imagine that his idealised deliberators are conscious of their social context. If we were to take the view that communitarianism is the position on advocacy which best served people, we could then argue that the communitarian advocacy position is the only one which the other idealised deliberators would not reject. Although that is not an avenue which we will pursue in this project, it is merely to point out that this could be a way to arrive at a communitarian advocacy position with the use of contractualism.

If we remember the qualities we assigned communitarianism in the last chapter, amongst the attributes we ascribed it was a desire to avoid moral chaos, a view of communal connections as valuable in themselves, and a focus on the common good.[346] The position that communal ties are valuable is quite readily compatible with contractarianism as we have used it. It would seem to be possible to combine this view of advocacy and contractarianism as we have used it in this chapter. On the Scanlonian approach for example, where the idealised deliberators are not only being used to establish basic political principles but moral principles in general,[347] it is not impossible that the deliberators would take the view that communal ties which we have are goods in themselves. If we remember the earlier discussion on the difficulty of where objects of intrinsic value gain their value, one of the suggested solutions was that we use a contractualist device to imbue objects with value. Then the combination of these two would make it easy to see how the contractualist and communitarian position could be made to work together. In other words, the suggestion was that if those objects which people could agree to as being intrinsically valuable were to be the ones to be considered intrinsically valuable, if our cultures would be considered to be intrinsically valuable by the people who make up the cultures, then they would in effect be of intrinsic value. If the idealised deliberators were faced with the situation where people found their cultures to be of intrinsic value, then it is not impossible that they would take the view that communal ties being viewed as being intrinsically valuable would be a position which could not be reasonably rejected. As well as being capable of determining that cultures should be thought of as being intrinsically valuable, the same process could lead to the

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[346] Lehrer, K 'Individualism, Communitarianism and Consensus' The Journal of Ethics, Vol. 5, No. 2 (2001), 107
[347] Scanlon, T. *What We Owe to Each Other* 4

deliberators to decide that the focus ought to be on the common good, though it does raise more issues than does the issue of the value of the culture.

It would not be impossible to argue that the idealised deliberators could take the view that the common good is to have considerable standing, and that this would be a view that this on its own could not be reasonably rejected. The difficulty appears when the possibility of a clash between the common good and the good of the individual good is considered, a familiar issue in discussions between individualist and communitarian takes on advocacy. As the ideal deliberator would be unlikely to take the view that their own good could be overruled by the common good, or even if some did, others could reasonably reject this position. This does not necessarily mean that communitarianism and contractualism are entirely incompatible with each other, as the advocacy positions are best thought of not as absolutes, but rather like a spectrum. Our choice is not between two caricatures, on the one side, the solitary individual that exists unencumbered by, and oblivious to, the existence of others. On the other side a view where the individual's needs and wishes are completely subsumed by the collective and they merely the present a vessel for our cultures propagation with little interest in their wellbeing whatsoever. The question would rather be, where should the balance be, how much could the community demand or expect from its members? With this outlook it should not be impossible to envision a contractarian communitarianism. If we consider Kymlicka and use elements of his theory, we can see a starting point of how this could be done. As we saw with Kymlicka, he suggested that we should add access to our community to our list of primary goods.[348] While Kymlicka is quite clear on the relationship between individual and community and the potential for conflict between the two, in that he sets up the prohibition on internal restrictions, it does show the that there is room for a contractual view which does have room for community. While the balance with Kymlicka rests more on the side of the individual than it does on the side of the culture, someone could argue that as the culture is essential for the individual, putting the individual in a position where they are to make sacrifices for their culture would be coherent, as then the argument could be that the sacrifices would still be worth it compared to the damage of losing the culture, and so, could argue that the

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[348] Kymlicka, W. *Liberalism, Community, and Culture* 165

ideal deliberator would make some sacrifices in order to ensure that their culture would survive.

The bigger challenge for the combination of communitarianism and contractualism is the position that it is in shared understandings, and not in choice, where moral authority rests. But of course, these were not ironclad exhaustive definitions of individualism and communitarianism but rather outlines to help guide our discussions.

The difficulty with this issue is that on the communitarian view, the choices of idealised deliberators does not provide moral authority, as rather this is to be found in shared institutions and understanding. This objection would encounter the problem we mentioned before, exemplified by Mill's view that first principles admit no evidence.[349] As, if we take this position that it is shared institutions and shared understandings which grant moral authority, as we saw in Thigpen and Downing, then the question becomes how intrinsic objects become valuable, how do shared institutions gain the competency to confer moral authority? One view we could adopt is that without widely shared substantive moral ends, the result would necessarily be moral chaos where principles are in effect arbitrary and only represent the preferences of those professing them.[350] But the same problem would present itself with a widely shared view of substantive ends, as the same critique could be made, with the modification that principles simply turn on the preferences of the most numerous in society.

Similar to the situation with intrinsic value, we could use a constructivist methodology to solve this problem. We could say the shared institutions which people believe have the ability to provide moral authority, have this authority. The fact that people give these institutions authority is the act of consenting to them and so they would have the moral authority ascribed to them. An objection to this from someone who did believe that it is the institutions and understanding and not choice which creates moral authority, could be that we are here using choice and consent to justify a system built around rejection of choice and consent as the basis for moral authority,

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[349] Mill, J *Utilitarianism* chapter 4
[350] Thigpen, R, and L Downing. "Liberalism and the Communitarian Critique." American Journal of Political Science, vol. 31, no. 3, 1987 637-638

such as perhaps Simons description of communitarianism which rejects liberalism as it relies on choice rather than authority and certainty.[351]

A variant of this could be the Rawlsian form of contractualism rather than Scanlon's, in that Scanlon has a much broader range of application than does the Rawlsian form, as Scanlon's contractualism is meant for a variety of moral principles.[352] While Rawls restricts his theory to the basic institutions, it is not meant to cover every general moral issue.[353] If we take Rawls's device, we could take the position that the idealised deliberators would choose a system which in part supports the view that moral authority should be vested in shared institutions and understanding and not in further acts of consent. We encounter the same potential objection as we saw in the last section, that this ultimately still places consent at the root of moral authority, even though it is later placed in institutions. Though it might not be entirely what some communitarians would have wanted, we can use the contractarian device to solve the problem of how and why shared understandings would have moral authority, as they were what would be chosen by the idealised deliberators.

These considerations present a challenge to a combination of contractarianism and communitarianism, but with the suggested modifications from above, it would, I think, be possible to combine the two. This might not be the preferred interpretation for a communitarian, but it would be a possible approach to take which would help to solve some of the issues which we found with the communitarian view of the importance of shared understanding.

This section aimed at demonstrating that contractualism and communitarianism are compatible and that contractualism is not reliant on an individualist advocacy. Part of this entailed examining the role of others in Scanlon's form of contractualism, and showing that contractualism could be used to arrive at a communitarian outcome. We highlighted how one of the most difficult areas for the combination of contractualism and communitarianism was in the communitarian position that moral authority rests in shared institutions rather than consent, we also considered how contractualism could be used to solve the issue of how the shared institutions gain

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[351] Simons, R 'A Community of Freedoms' *The Australian Quarterly,* Vol. 68, No. 1 (Autumn, 1996), 32
[352] Scanlon, T. *What We Owe to Each Other* 178
[353] Rawls, J. *A Theory of Justice* 10

the competency to bestow this moral authority. The next section considers the idea of doing the link of ontology twice.

6.4 Ontology twice

Returning to the earlier suggested method of doing ontology twice, this is an approach which would be suited to the contractualist framework which we have been considering. The impetus for this can be seen in critiques and comments such as that by Walzer, where he takes the view that individual rights were 'a bad sociology. They do not provide either a rich or a realistic understanding of social cohesion; nor do they make sense of the lives individuals actually live, and the rights they actually enjoy, within the framework of on-going institutions.'[354] The essence of complaints like this is that the individualist perspective does not match with reality as we find it, people are not individualistic, but require a social context.[355] This echoes the comments we found in the chapter on ontology, where the objection was that atomism as often presented is untenable.[356] One way to address this problem would be to again stress the distinction between ontology and advocacy, that the sustainability of atomism does not necessarily impact the sustainability of individualism, that as we have said, while positions on one can limit positions on the other, one does not determine the other.[357] This tactic of separating ontology and advocacy can be seen for example in Rawls's claim that the behaviour and attitudes of the people in the original position do not behave the same as they do in society in general.[358] The people in society in general do not have to be mutually disinterested or similar as the people under the vail of ignorance were, as we saw earlier. An alternative would be to consider ontology not only to describe how things are, but also take into account how we want to make use of the link of ontology. On this view, we are not only considering how things actually are, we would for example have great difficulty finding any idealised deliberators, but we might be able to make better use of the link of ontology if we make use of both a holistic and an atomistic approach.

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[354] Walzer, M. "Liberalism and the Art of Separation." *Political Theory*, vol. 12, no. 3, 1 Aug. 1984, p 324
[355] Simons, R 'A Community of Freedoms' 32
[356] Thigpen, R, and L Downing. "Liberalism and the Communitarian Critique." 638
[357] Abbey, R 'More Perspectives on Communitarianism: A Reply to Chandran Kukathas' 77
[358] Rawls, J. A Theory of Justice 128

As was said in the chapter on ontology, we would first adopt a holistic approach to ontology, as that would be how we find reality to be, or at least the people we would be concerned with, and then we consider what type of ontology would be most useful to us. If we accept the earlier point about individualism being bad sociology, then the response would be that this is not endeavouring to be sociology at all, good or bad. While we do need to, to an extent, acknowledge reality, if only to ensure that we do not make impossible demands on ourselves, we might want to consider the benefits we could gain if we could make use of an atomist ontology. As an example, if we consider the charge made against Rawls's conception of the person, where it was accused of being excessively atomistic and treating people as a historical entity devoid of connections.[359] While, as was pointed out earlier, this is something of a mischaracterisation of Rawls's position, but an alternative tactic would be to take the position that if the tool which Rawls is trying to use is reliant on a questionable view of ontology, then we can either abandon that tool, as the critics suggest, or change our approach to ontology. If we take the view that at first, we acknowledge that in reality, people need their social context, we can then move on to consider the hypothetical ontology, with the aim of the tool is to find what the idealised deliberator would choose. Then using the ontology which would allow us to construct this idealised deliberator can help us achieve this goal, as the idealised deliberator is not a real person, the sociology around them is not that important, as it is not describing a real person.

This way of approaching ontology and advocacy does arguably blur the line between advocacy and ontology which has been stressed repeatedly. As here we are in effect treating ontology as an extension of advocacy, this as we are looking at what type of advocacy we are interested in constructing and then based on that modify the approach to ontology by using both of the possible positions but for different purposes. In this project, it allows us to develop an alternative way for how to view ontology. Using the critique of Rawls mentioned earlier, if we accept the position that his outlook is too atomistic to be acceptable in reality, although that is not strictly an accurate characterisation. On this model we would first assume that people are holistic, but if the idealised deliberator is unreal in its isolation, then that is still acceptable as we are not after what real people would have chosen but the idealised

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[359] Dagger, R. "The Sandelian Republic and the Encumbered Self." *The Review of Politics*, vol. 61, no. 2, 1 Apr. 1999 182

person. And if that involves the treating them atomistically then that would be acceptable if we found that the aim of finding the principles of justice which idealised deliberators would choose to be a worthwhile one. We can also benefit from this method in using a communitarian view of advocacy together with contractualism.

Consideration of some of Sandel's criticisms of Rawls will allow us to further see the benefit of utilising both forms of ontology. One of Sandel's critiques of Rawls is that the Rawlsian subject is necessarily an individual stood apart from its ends, 'But a self so thoroughly independent as this rules out any conception of the good (or of the bad) bound up with possession in the constitutive sense. It rules out the possibility of any attachment (or obsession) able to reach beyond our value and sentiments to engage our identity itself.'[360] The view is that the subject as Rawls describe it, cannot engage with its ends which are not chosen, and so cannot engage with ends which are discovered or make up part of the person's identity.

While the contractarian account together with this method of doing ontology twice does not necessarily help to solve this problem, if we were to think of this as a problem. Part of the reasoning for this can be found in the before mentioned aim to not base the view of the person on strong assumptions.[361] If we assume that a person will be constituted by a particular end we will be forced to take particular ends and people into account rather than the idealised persons we have been using. What the method talked about in this section would allow for this to be considered by the idealised deliberators. As this project is concerned about how the state should treat cultures, and adapting the objections brought by those such as Sandel into our framework, this would be to suggest that if the state were to be operating according to an individualistic view of advocacy, it would not be biased against those conceptions of the good which are constituent parts of our identity, such as our culture, for the benefit of those types of ends which are not central to our self-view and could be described as chosen. What this method would do is allow us to, while supposedly treating the individual as an atomised individual distinct from their ends, the idealised deliberator would also be aware of the other way of approaching ontology as both are being used, they could choose principles which would be such as to allow the state to aid in the pursuits of culture and so address this issue. The

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[360] Sandel, M. *Liberalism and the Limits of Justice* 62
[361] Rawls, J. *A Theory of Justice* 129

objection is that the ontology does not reflect the reality of individuals and so misses what the real individuals would find valuable, i.e. their culture. But by considering both the forms of ontology an idealised deliberator could take into account what an ontologically holistic person would require.

A point we saw earlier from Sandel, was that of the true community, or community as a site where justice is not the main virtue, but other virtues are in play, and we pointed to Okin's criticism about the potential for injustice in the family. But again, this method could be useful if suitably applied in trying to mitigate the potential for abuse. If we take the aim of the objection which we have used Sandel to exemplify to be that the community is to be understood as the site in which rights are not only not needed but might actually be a hindrance and lead to a individualising and isolating society.[362] The way to approach this would be, as in our earlier suggestions, to consider the individual both as a part of a holistic whole and as isolated individual. What we ask ourselves is, on the one hand, what would a person who is viewed as being constituted, in part by their community, as for example Sandel suggested agree to?[363] And secondly, what would a person viewed atomistically agree to? In this situation where benevolence and fraternity are what some have suggested are the primary virtues for a community could find a lot of sympathy with someone who takes the view that they require their community in order to have their identity be complete. But by also having the perspective of what the isolated individual could agree to, we can see that they would not want to be put into the situation where their desires are made secondary or through a process of socialisation are made to believe that the view of the community is the one they must adopt, and so would not want to have a situation where we do not consider the community or similar units to be beyond the scope of justice and would insist on individual rights. Further, we have Caney's point, that individual rights are not a hindrance to the communal feeling which those such as Sandel wishes to attribute to communities and families.[364] The individual rights might take the form of oppositional rights, that is rights which we have against other people and other groups, and so in a sense puts us in conflict with those against whom we have these rights. [365] But having these rights does not

[362] Sandel, M. *Liberalism and the Limits of Justice* 35
[363] Sandel, M. *Liberalism and the Limits of Justice* 150
[364] Caney, S. "Sandel's Critique of the Primacy of Justice: A Liberal Rejoinder." *British Journal of Political Science*, vol. 21, no. 4, 1 Oct. 1991 521
[365] Caney Sandel's "Critique of the Primacy of Justice" 520

mean that we necessarily will exercise or make use of these rights.[366] The true community of the kind which Sandel describes would still be possible, assuming that the members did indeed have an attitude of benevolence towards it and identified with it, but it would have a safeguard against abuses, and so could arguably be said to be the stronger for it, that the members could exercise their rights against the community but decide not to, demonstrating their connection to the community. This shows one way in which this approach could be used to have a combination of contractarianism and communitarianism.

This section sought to sketch out further what I meant by doing the ontological step twice, once holistically and then atomistically. This gives us the benefit of allowing us to acknowledge reality as people experience it, as well as allowing us to consider what an idealised isolated individual would want. This approach is going to be used again in the next chapter when we construct our answer to how the state is to treat cultures.

6.5 Summary

This chapter was concerned with outlining contractualism and preparing for the next chapter where we will construct a contractualist answer to the question of how the state is to treat cultures. The chapter aimed at establishing the basic outlines of contractualism, demonstrate some of the benefits which contractualism brings to this project and defending contractualism from the accusation of being dependent on an atomistic ontology.

The chapter started by considering meta-ethics and outlining the position which we called constructivism, with the conclusion that constructivism took the view of moral truths as being those things which we had reasons for believing, and we described them as practical truths.

While there are several different forms and approaches to contractualism, we highlighted some common features which are useful for us in this project. We identified the idealised deliberators as being part of the core of contractualism, be it in a Rawlsian form where the deliberators are operating behind the veil of ignorance,

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[366] Caney Sandel's "Critique of the Primacy of Justice" 513

or the Scanlonian where they are similar to how they are in reality, but motivated to find the principles which nobody could reasonably reject. We then considered the nature of these deliberators and established them as needing to be as neutral as possible. This for two reasons, firstly that a partisan conception of the idealised deliberator would mean that the whole contractualist endeavour would be pointless, as we would not have shown what the position which they arrived at would be a reasonable one, but at most that it is what those who agree with that partisan position would agree to. And secondly, if it is based on neutral deliberators, it would make it more possible for a variety of people who hold different views to agree to the principles.

The chapter then considered contractualism in conjunction with the different links which we have already explored in the chapter to see which are most compatible. We saw that on the link of the value of culture, that the instrumental view of the value of culture was very compatible with the contractualist approach. And on the position of culture having intrinsic value contractualism can help us to solve the problem of how objects of intrinsic value gain their value. Here the idea was that the objects which the idealised deliberators could agree to as being valuable are thus valuable.

The next link was the source of obligation towards our culture. On this link all were compatible with the contractualist outlook, and beginning with the position of gratitude, then contractualism could be used to solve problems brought up in earlier chapters, such as using the idealised deliberators to determine that we ought to be grateful to our culture. The second position on this link, that of reciprocity was also said to be compatible with contractualism, and again said to be able to solve a difficulty, this time the problem of why we would have particular obligations towards our compatriots, as we and our compatriots would be part of the scheme, with the responsibilities towards others in the same scheme outlined by the idealised deliberators. The final position was that of consent, which was described as being compatible with contractualism, in both senses of the word highlighted. Both if we view the consent as consisting in the agreement by the hypothetical deliberators, or by actual people.

The next link was that of ontology, on this point we wanted to defend contractualism from the charge of being dependant on an excessively atomistic ontology, and show

that it can be made to work with a holistic view of ontology. This was done by highlighting the ways in which contractualism is compatible with a view which focuses on our social context and acknowledges the presence of others, with the examples of this being the contractualism of Rawls and Scanlon. The final link was that of advocacy, where we again wanted to show that contractualism, while compatible with the individualist position, is not only compatible with that position but could be made to work with the communitarian view. One option was to suggest that it would not be impossible for the idealised deliberators to take the position the communitarian advocacy position is one which could not be reasonably rejected, and we pointed to the theories of Kymlicka, who while not necessarily an example of this, would be a promising place to start. One of the main challenges to the combination of communitarianism and contractualism was the communitarian view that it is shared institutions and understandings rather than consent which is to be foundation for moral authority. The question this led to was what it is about shared institutions which grants it the competence to bestow moral authority. It was suggested that we could use the contractualist device of the idealised deliberators to solve this problem by taking the view that it is the idealised deliberators who bestow this capability on the shared intuitions.

We then considered the idea of using both forms of ontology and how this could help in this project, in particular in conjunction with contractualism.

This approach was based around the idea of first using the holistic ontology, to match reality as we find it, but then adding the perspective of the atomist outlook. By doing this we can account for the reality of the people in the culture we are considering, as well as considering what an individual in isolation would want or agree to. A benefit of this approach is that it would allow us to see both the need of the social context which the individual finds themselves in, as well as safeguarding the well-being of that individual from undue pressure from that context.

This chapter outlined the basics of contractualism and showed through the possible position on the links how versatile a tool it can be, being capable of being combined with most positions, even if there was some work that needed to be done to make it completely compatible. The next chapter will utilise this tool to find an answer to the question of how the state is to treat cultures, by an examination of our view of the

ends of the state, our position on the links in the context of a contractualist framework based around what the most burdened in a culture would reasonably agree to.

Chapter 7. How the state is to treat cultures

In this the final chapter we will attempt to construct a contractualist answer to the question of how the state is to treat cultures. This will draw on the various topics we have covered in this project in order to arrive at an outcome. Our position at the outset of this project in the introduction, was described with the plain language description that we did not wish for people to be unjustifiably disadvantaged because of their culture, nor did we want people to be unjustifiably disadvantaged by their culture. That has been our starting point, and from here we will try to come up with an answer to the question of how the state is to treat cultures.

My suggested contractualist device in summary, is that we are to take the view that the state is to treat cultures and take the actions, which those most burdened could reasonably be expected to agree with.

We will consider what view of the ends of the state we are operating under, which we designate as plurality. Then we will consider the positions on the links which we have been exploring throughout this project, as well as the distinction between the private and the public sphere, ending with four examples taken from the literature on multiculturalism to demonstrate how this contractualist device can be used.

7.1 The Ends of the State

In earlier chapters I addressed the concept of the ends of the state, and showed how a position on this question greatly affects how we view the answer to the question of how the state is to treat cultures. As we are attempting to answer a question of how the state is to act, we ought to first have an idea of what the state is for. We previously outlined a number of examples, such as liberty which we ascribed to Kymlicka. In the case of Kukathas, invoked here as a helpful contrast for other

positions, the view that the state is to have a very limited role and mainly concern itself with keeping the peace.[367]

In these views of the ends of the state there is an often unarticulated assumption in addition to what is being discussed, namely that there is a measure of stability for the state or that the state will continue into the future. The state cannot keep the peace between cultures if it no longer functions, nor could it continue to provide liberty or wellbeing or whichever other view of the ends of the state could opt for. This assumption, while perhaps obvious, ought to be acknowledged, though as Rawls points out this does not mean that we assume that institutions do not change, rather, they will change due to the diverse nature of society.[368] In arriving at our view of the ends of the state for the purposes of this project, we will return to what we said in the introduction to this project. There we looked at Rawls's comment in *Political Liberalism* that the society which he is addressing is characterised by plurality. In his words:

'A modern democratic society is characterised not simply by a pluralism of comprehensive religious, philosophical, and moral doctrines but by a pluralism of incompatible yet reasonable comprehensive doctrines. No one of these doctrines is affirmed by citizens generally. Nor should one expect that in the foreseeable future one of them, or some other reasonable doctrine, will ever be affirmed by all, or nearly all, citizens. Political liberalism assumes that, for political purposes, a plurality of reasonable yet incompatible comprehensive doctrines is the normal result of the exercise of human reason within the framework of the free institutions of a constitutional democratic regime. Political liberalism also supposes that a reasonable comprehensive doctrine does not reject the essentials of a democratic regime.'[369]

I also said in the introduction that I take this account of society to be not only descriptive, but also a desirable state of affairs, and one which is foundational to our view of the ends of the state. This has implications for our views of what position on the links which are available to us, which we will examine in the next section.

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[367] Kukathas, C. "Liberalism and Multiculturalism: The Politics of Indifference." *Political Theory*, 26,5 (1988), 691
[368] Rawls, J. *A Theory of Justice* (Belknap Press of Harvard Univ. Press, 2003) 400-401
[369] Rawls, J. *Political Liberalism* (Columbia University Press, 2005). Introduction xvi

The ends of the state is not the entirety of how the state is to treat cultures, it is our starting point. When we are going to deciding how the state is to act, it obviously helps to have an idea of what the state is for. In this section we are going to highlight some of the problems with other views of the ends of the state, which will make it clearer why we take the ends of the state to be plurality. I mentioned Kukathas as a starting point in an earlier chapter and I referred to the appeal of his conception. He started with freedom of conscience and proceeded to develop his views of how the state is to treat cultures. This focus on the freedom of conscience has its appeal given the amount of freedom it ascribes the members of society.[370] But as we saw in comments by for example Kymlicka, this fell short in that it did not take culture appropriately into account.[371] But as we shall see in the next section where we consider the positions on the links, the background assumptions we have made their will lead us towards a individualistic advocacy conception, but one which takes culture into account.

And as we will see with Kymlicka, the problem of internal dissent made that conception not be viable for us. In the quote from Rawls from the beginning of this chapter, pluralism of different conceptions of the good life was the natural outcome of people living together exercising their free reason. This speaks to the same issue as does internal dissent. To put simply, people are very different and will come to different conclusions on issues, including their views about the good life. That does not suggest that people do not need their cultures, but rather that cultures are not homogeneous, and a culture will have divisions within it. The problem highlighted by this preoccupation on my part with internal dissent is that state action which does not account for this lack of homogeneity will do wrong by those who are made to modify their behaviour for the benefit of the rest of the culture. If we did not take the view that some being to a degree marginalised due to their membership of a culture as being a problem then internal dissent would not be a problem, it would merely be a factual description of events. This then assumes that people have an interest in developing their own reasonable view of the good. This assumption has the benefit of being able to fit within the criteria we have set ourselves. It fits with the general aim of not disenfranchising people because of their culture or due to their culture,

[370] Kukathas, C. *The Liberal Archipelago: A Theory of Diversity and Freedom* 76-77
[371] Kymlicka, W. 'The Rights of Minority Cultures: Reply to Kukathas' *Political Theory*, Vol. 20, No. 1 (Feb., 1992), 145

and it would I think, be acceptable to the idealised deliberators. After all who would be unlikely to accept a view of the ends of the state which held within it the possibility of being made to follow the decrees of their culture against their will, on the basis on their relative power position within the culture.

This view of the ends of the state makes a further assumption which needs to be acknowledged, that of equal dignity or standing of each member of society. Otherwise it wouldn't be a problem in cases where there is internal dissent if one section of the culture is denigrated or disenfranchised. This could be seen as an extension of the multicultural argument against minority cultures, as we saw for example with Parekh, who used equality as the basis for his argument for group differentiated rights.[372] But we also apply the logic of not marginalising minority cultures to the internal workings of a culture and ask why an internal minority of a culture can be permissibly marginalised when the culture cannot. But drawing on several of the authors we have encountered throughout this project, we are taking on the Rawlsian view of society as containing a plurality of reasonable views of the good life, and from other authors such as Kymlicka and Parekh we are taking the view that our culture is a necessary component of formulating our view of the good. This is in some way similar to Kymlicka who for similar reasons added culture to the Rawlsian primary goods,[373] but our big break with Kymlicka is in trying to mitigate the problem of internal dissent.

In that quote from Rawls we see the acknowledgment of the need for the comprehensive doctrines to not be incompatible with a democratic regime. While we will return to what we mean by what constitutes 'reasonable' later, this does speak to the assumption that whichever positions which we expect the state to adopt, that this requires that the doctrines in society are compatible with the continuation of society. Kukathas also assumes that society will consist of people with a wide variety of consciences and ends, and takes the view that the state is not to interfere with these people's freedom of conscience.[374] The starting position of these two positions are in a sense similar, in that they both assume a very varied society. This helps to

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[372] Modood, T 'Rethinking Multiculturalism, Interculturalisms and the Majority' in Uberoi, V, Modood, T. *Multiculturalism Rethought: Interpretations, Dilemmas and New Directions: Essays in Honour of Bhikhu Parekh*, (Edinburgh University Press, 2015). 357
[373] Kymlicka, W. *Liberalism, Community and Culture* 166
[374] Kukathas, C. *The Liberal Archipelago: a Theory of Diversity and Freedom* 23

highlight that the assumptions which lead up to our view of the ends of the state, do not necessarily determine what our take on the ends of the state will be. To take a position on the ends of the state does bring with it the issue which we brought up before, that difficulty which Mill highlighted in the fourth chapter of *Utilitarianism,* that first principles do not admit of evidence.[375] We can only argue why one is more suitable than another, but not demonstrate that one end of the state is the only possible one or the only true one. We will therefore need to show why plurality is a suitable view of the end of the state.

As we established in the last chapter, what constitutes proof or evidence differs depending on our meta-ethical position. For us in our consideration of the ends of the state that would mean that what we would consider as argument for one set of ends to be preferable to others would depend on which view of meta-ethics we adopt. And as we outlined in the last chapter, we will be using a constructivist approach in this project. A simplified view of the realist position would be that there are objective arguments for the true and proper view of the ends of the state, and we have to discover them.[376] But on the constructivist take it is about which arguments about the end of society which could be acceptable to the idealised deliberators.[377] While I used the words 'proof' and 'evidence' to describe the arguments for the ends of society, we are also using the term 'facts' which, as we outlined in the previous chapter, we take them to be practical facts. That is, those which we have good reason to believe rather than those which we can prove.[378] In short, a view of the ends of the state which an idealised deliberator could accept would be a view which we have good reason to believe to be a valid view.

The approach we are going to use is that our deliberators are those who are the most burdened and we are concerned with what they could reasonably accept. So far, the constraint on our view of the ends of the state is that it must be such that idealised deliberators could accept it, and that it is in accordance with what we outlined as being part of our original goal of people's not being disenfranchised because of, or at the hands of, their culture, as well as being compatible with a

[375] Mill, J Utilitarianism chapter 4
[376] Schafer, K. "Realism and Constructivism in Kantian Metaethics (1): Realism and Constructivism in a Kantian Context." Philosophy Compass, vol. 10, no. 10, 201 690
[377] Milo, R. "Contractarian Constructivism." Journal of Philosophy, vol. 92, no. 4, 1995 186
[378] Scanlon, T. *What We Owe to Each Other* 2

pluralistic society. A contrast with Kukathas help us highlight some of the difficulties and challenges before us. His theory does allow for a wide array of different views and cultures, and so meet part of our requirements, in that it allows for a pluralistic society. But it could be reasonably rejected because of the powers which it grants the various groups that make up society. As we saw in the earlier chapter, Kukathas would entrust the groups with a considerable amount of power, as long as the members of the groups had the option to leave the group, and any cost associated with leaving, regardless of how steep, would not constitute a barrier to exit.[379] While the idealised deliberators might be open to Kukathas's view about the ends of society being found in ensuring the freedom of conscience, they could reasonably reject it on the grounds of the power entrusted to the groups and its unrealistic view of the cost of exit. To say that the possibility of exit from a group is sufficient to ensure freedom of conscience has a variety of disadvantages, some of which were pointed out in the earlier in chapter 5 where Kukathas was discussed. One of the criticisms of this view could be seen in Okin's comments that this does not take socialisation into account, or at the least it underestimates the effect of this phenomena.[380] Okin highlights how there are situations where the expectations and constraints placed on certain members of the culture makes it more difficult for those members to leave the culture, with the result being that the option of leaving the culture is not always realistically open to the members of the culture. An example which Okin uses is of girls having pressures put upon them which the boys of the family do not, in terms of expected behaviour aimed at continuing the culture.[381] These girls expressed a reluctance to follow with these expectations but did not see any realistic alternatives.[382] Kukathas approach offers no protections from this, as for him the theoretical capacity to exit is protection enough.[383] This would mean that the most burdened in this type of situation could reasonably say that they could not accept the view of the end of the state which Kukathas envisions as his view would place on them a considerable burden.

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[379] Kukathas, C. *The Liberal Archipelago* 107
[380] Okin, S '"Mistresses of Their Own Destiny": Group Rights, Gender, and Realistic Rights of Exit' 206
[381] Okin, S, 'Is Multiculturalism Bad for Women?' in *Is Multiculturalism Bad for Women?*, edited by Joshua Cohen, et al., (Princeton University Press, 1999) 5
[382] Okin, S 'Feminism and Multiculturalism: Some Tensions' *Ethics*, Vol. 108, No. 4 (July 1998), pp. 682
[383] Kukathas, C. *The Liberal Archipelago: A Theory of Diversity and Freedom* 107

Although it should be said that there is an alternative argument in relation to Okin's examples, made by Spinner-Halev, who takes the view that because these girls said that they planned to allow their own children greater freedom than they had themselves experienced, the problem will rectify itself in a few generations.[384] This line of argument has difficulties. One is that, as Spinner-Halev himself seems to acknowledge that this can be seen as a problem,[385] the solution of waiting for the problem to solve itself would seem to be a bit callous to the intervening generations in allowing the situation we have judged to be unsatisfactory to persist. Connected to this is another reason for why this line of argument is not entirely satisfactory, in that the idealised deliberators would be unlikely to accept the argument that they are to discontinue the pursuit of their ends on the premise that the culturally imposed obstacle would be solved for future generations. That is not to say that it is inconceivable that we could take the view that we are willing to make sacrifices for the sake of our descendants, but in this situation the 'problem' to be overcome would be solved, if those structures of the culture imposing upon the members were to desist.

Amongst the concerns for us in this project is that this does not necessarily help us with either of the aims which we have laid out as being part of our original motivation, that of people not being disadvantaged by their culture, either because of, or due to their culture. On the one hand, Kukathas does not set out any provisions to protect groups from any difficulties or challenges which would result from the relative strengths of different cultures. An example of this could be Kymlicka's point about Canadian aborigine, who needs to spend more resources on merely continuing to exist, while the dominant or more secure cultures do not have to spend resources in this way.[386] Giving those cultures which are more secure in a stronger position than the more marginalised ones who need to spend resources on survival.

The other way in which Kukathas falls short for our purposes is that while he does expect the state to help keep the peace between cultures, he does not concern himself with the continuation of the group or culture if it is in danger due to its members leaving it for other groups. As will become apparent throughout this

[384] Spinner-Halev, J, 'Feminism, Multiculturalism, Oppression, and the State Source' *Ethics*, Vol. 112, No. 1 (October 2001), pp.89-90
[385] Ibid 89-90
[386] Kymlicka, W. *Liberalism, Community and Culture* 188-189

chapter, this particular point is extremely tricky since, while it, falls short in that it extends no real protection to cultures, at the same time there would be considerable danger in going too far in the other direction by lending protection to cultures in a way which would prevent those who wish to disengage from their culture from doing so. Still, if we take the view of those who stress the importance of our culture to our self-view and our ability to form our view of the good, then to extend no protections to cultures could potentially do the members of that culture a tremendous harm, colliding with our aim of people not being disadvantaged unjustifiably by their culture.

This shows that we cannot use Kukathas's view of the ends of the state in this project. However, if we consider Kymlicka's views, we see that here too we encounter difficulties. The main element of Kymlicka's view is his allowing for external protections, but placing a prohibition on internal restrictions. As was said in an earlier chapter this comes as a result of his view of the ends of the state, and in particular his view that liberty is one of the aims which the state is responsible for. If we again consider the example from Okin which was used in relation to Kukathas, then we see that Kymlicka's rule against internal restrictions would seem to solve this problem. But the difficulty with this position is that the situation which Okin describes is one which is not based on any official rules or regulation. The state is not deliberately acting or intervening in order to limit the range of options available to these young people, but the effects of the expectations and informal prohibitions are such that limitations have been set. The difficulty, therefore, would be in ensuring that internal restrictions would not be created by stealth, or that external protections do not become internal restrictions. If the state is to take no action and each generation allows the following generation more freedom, then the other members of the culture could argue that this inaction is a form of stealth assimilation, that their culture is being hollowed out. But if the state take any action to support the more restrictive elements of the culture, then the other members could argue that this would break the rule against internal restrictions or that their view of what would constitute a hollowing out or being assimilated differs from that of the restrictive part of the culture.

This is an example of the problem of internal dissent which we examined earlier, where no matter what the state does, it will end up favouring some sides of a culture over others. Our approach to how the state is to treat cultures needs to be aware of

this problem and try to mitigate its effects, even it cannot solve it in its entirety. We are then not able to simply use Kymlicka's views of the ends of the state and the conclusions he draws from that assumption, as it does not do enough to mitigate the problems of the issues of internal dissent. This is a particular problem for Kymlicka's view since according to that conception of the ends of the state could be found in liberty while through state action or inaction, some part of the culture will have their liberty diminished. That is, any action on behalf of the state would go against the very point of the state. When we decide upon our view of the ends of the state we need to keep this issue of internal dissent in mind and consider its implication on what we see as the end.

Again as we said earlier, the ends of the state is not the only thing which we need to establish to find how the state is to treat cultures, an example would be Kymlicka's description of internal restrictions and external protections, which are not a description by themselves of the ends of the state but builds on it and provides guiding principles for how the state is to treat cultures. This chapter will build on the ends of the state and the position on the links which we will examine in the next section and establish a principle of our own to guide how the state is to treat cultures. Our aim will be to find principles which take culture more into account than do Kukathas's and Barry. Barry for example takes the view that if a rule or principle is strong enough to be enacted then it is strong enough to override cultural consideration, or if it is weak enough not to override cultural considerations then it is probably too weak to be a law anyway.[387] And at the same time does not fall into the problem we saw with thinkers such as Parekh, Modood and Kymlicka, where internal dissent becomes a problem. This formulation which we will outline further in the third section of this chapter, will take the view that when it comes to how the state is to treat cultures, only those actions which those most burdened could reasonably accept are those that are allowable.

This section sought to establish how we are going to approach the ends of the state for this chapter. By establishing what we take to be the view of the ends of the state,

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[387] Barry, B 'Theories of Group Rights' in Matravers, D, and J Pike, editors. *Debates in Contemporary Political Philosophy: an Anthology*. (Routledge 2003) 255

that of plurality, and then examining some of the issues with some other conceptions to see why we cannot use those views of the ends of the state.

7.2 Our positions on the links

In this section we will consider which positions we will adopt on these links and see how this interplay with our view of the ends of the state and the restrictions we have placed upon ourselves in terms of the aims and goals of the project. This will also prepare for the final section where we will use these factors and construct an answer to how the state should treat cultures. The aim of this section is to outline a coherent chain through the links, and so see that our assumptions about culture are compatible. We will then use these links to design our contractualist answer to how the state is to treat cultures, which will take the form of considering how the most burdened could reasonably accept the state action.

We will take the view that the value of our culture is instrumental, that the basis for our obligation towards our culture is grounded in consent, and that we are going to use both approaches to ontology in the manner which we outlined in the last chapter and we take an individualistic view of advocacy.

As we have outlined how the links work several times in the project already, we don't have to outline as many details as has been done previously.

We will again begin with the type of value which a culture can possess, and see how this link helps us. As was said in the last chapter, both the instrumental and the intrinsic could be made to work within the contractualist framework we are using. I will be suggesting that the instrumental view is the view of the value of culture which we should be utilising, this of course will need to be justified.

There are two factors to keep in mind when deciding on what position on the links which we adopt, these two are accuracy and usefulness. As we said in the last chapter, moral facts under constructivism are those which we have reason to believe and those which the idealised deliberators could accept. Again it is not that those are the moral facts which the deliberators accept which is what makes them viable, but

that they are the ones which could be accepted.[388] And as these are moral facts about how we perceive the value of culture, on this point it becomes an issue of if we believe that the most burdened could accept a view of their culture as possessing instrumental value. And the second consideration, which is connected to this, we have also in several places emphasised that these assumptions on the positions on these links allows us more easily to take certain positions. Which brings the consideration of whether these positions on these links are coherent and compatible with our aims. That is, are the positions which we have adopted on these links compatible with the aim which we set out in the introduction to this project, that people not be marginalised due to or by their cultures, and is it compatible with our view of the ends of the state, which we said was plurality.

In our case I suggest that the instrumental view of the value of culture is usable in light of these constrictions. The view that the value of the culture is instrumental does not conflict with our view of the end of the state which was that of pluralism, as we said this was about members of society having a range of different possible views of the good life. The position that cultures have instrumental value is also compatible with the aim which we set out in the introduction to this project, that of not wanting people marginalised either due to their culture or by their culture. And adopting the instrumental view avoids situations where the intrinsic value of the culture could come into conflict with the personal interest of the individual members of the culture. Moral facts then being those which we have reason to believe, and I would suggest that these would be reasons for believing in the instrumental view of the value of culture.

That is the position we will adopt in this chapter, that the value of the culture is instrumental in nature. The next link we are going to consider in relation to our constructing an answer to how the state is to treat cultures is that of the source of obligation towards our culture, with the possible positions being gratitude, reciprocity and consent.

On this link the position which we will be adopting is that of consent. Again, the issue of accuracy and usability come to the fore. As we are using a contractualist approach to find the answer to how the state is to treat cultures, the consent based view works

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[388] Milo, R. "Contractarian Constructivism." *Journal of Philosophy*, vol. 92, no. 4, 1995 202

quite well with it, as both are concerned with what would be consented to, as we mentioned in the chapter on contractualism. Further to that, it would not be suitable to employ the view where gratitude is the source of our obligations towards our culture as that sits ill with the instrumental view of the value of culture which we have just opted for, and so that position on this link would not be as usable to us.

Reciprocity could be made to work, that is that as we need our culture to formulate our view of the good life, it could be argued that we would have an obligation to pay back to our culture for this essential service which it has provided for us. The shortfall with this link for us is that it does not help us with that particular problem which is that of internal dissent. If we imagine that we are to pay back to our culture for what it has done for us, then the question becomes who gets to determine what it means to pay back to our culture. This again comes back to the problem that what some members of a culture consider to be payback could hypothetically be argued by some other member to be a threat to a culture. Or possibly that what some members of the culture would consider to be fair repayment, some would consider to be an almost intolerable burden. While this is not the necessary outcome of the combination of links, there is no protection or mitigation built into these positions. In the next section we will return to this point and highlight how this position fits with our contractualist view of focusing on the view of the most burdened.

The next link is that of ontology. As outlined in earlier chapters, this link has some complications. In particular, we have already discussed the idea of doing ontology twice, and so in effect using both atomism and holism, which is the approach which we are going to use. This allows us to on the one hand acknowledge the need for our culture, as we have said, I am operating under the assumption that we need our culture to shape our views of what the good life consist of and to shape our views of the good life. And on the other hand, this will allow us to make use of the atomistic perspective which is helpful for us in our goals with this project. The holistic part of the ontology is seen in the assumptions built into all our stated goals for the project, the aim to have people not be disadvantaged due to, or by, their culture. The atomistic view of ontology will be helpful in the next section where we outline the view that it is the perspective of the most burdened which we are focusing on.

This two-fold view of ontology also helps us to more easily see the effects of internal dissent, in that while we see the individuals's need for their culture, we can also see them apart from their culture and see where one section of the culture is being marginalised by another section of the culture. By contrast, if we had relied entirely on a holistic view, this could have potentially masked these internal divisions, as we would be focused more on the group than on its individual members.

The next and final link is that of advocacy. Where the two positions were that of communitarianism and individualism, and our position will be that of an individualistic view of advocacy. The reason for this can be found in the difficulty for the communitarian view to fit into our stated aims, that of not being marginalised due to our culture and the ends of the state being plurality, and the difficulties being again the problems of internal dissent.

This as the communitarian view focuses on shared understandings and institutions rather than what a set of individuals in the culture would think. This again leads to the difficulty of that ever-present issue of internal dissent. If there is an issue upon which the culture is divided to some extent, let us say that the division is between those who would be burdened and those who would benefit from a particular policy position, then on the shared understandings view we would either say that the dissenters are a small minority and have their views overruled, or that this dissent shows that there is no 'shared' understanding. But as there is always likely to be some manner of disagreement, even within a culture, this later conception is not going to be sustainable. Particularly since, as was outlined in earlier chapters, the communitarian approach is not as concerned with the consent,[389] which our view is, means that the communitarian conception is not suitable for our purposes. The individualist view then is something which would be compatible with our view of the ends of the state as it would not lead to individuals having their possible views of the good life limited by other section of their culture and would help to avoid the problem of internal dissent. This will also be relevant in the next section where we consider the position of the most burdened.

In summary, then, what we have is the position that on the links which we have opted for is the instrumental view of the value of culture, a view that the source of

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[389] Thigpen, R B., and Downing L. "Liberalism and the Communitarian Critique." 648

obligation is found in consent, we are combining both views on ontology and using an individualist advocacy. These will help us see the assumptions which have gone into the position which we will elaborate upon in the next section. It will also help us to see where we can avoid some of the difficulties which other writers have found themselves in, particularly as it relates to internal dissent.

7.3 How the state should treat cultures

In this section we are going to try and answer how the state is to treat cultures, building on what we have done before. This is not the only possible answer to the question of how the state is to treat cultures, but it is one which is coherent and one which will try to avoid the problems associated with internal dissent. First in this section we will outline how our positions on the links leads to the particular formulation of contractualism which we will be using, then we will consider the issue of internal dissent, and then compare it to some other forms of contractualism and other approaches to how cultures should be treated.

This will be done in the context of our general overall aim, that people should not be made to suffer unjustifiably due to their culture, either by those outside it or those inside it. We said that the end of the state is that of plurality, and that the positions on the links we have adopted is that of an instrumental view of the value of culture, a view of our obligation towards our culture that is rooted in consent, we will be utilising both forms of ontology and an individualist view of advocacy. We also highlighted internal dissent as one of the main difficulties to mitigate.

In the last chapter we listed some of the benefits of the contractualist methodology, amongst these were the possibility that this could help us to mitigate internal dissent, and to solve the issues we saw with the ontological positions which we wished to occupy. And this is the methodology which we will adopt to use in answering how the state is to treat cultures, and as has been said, the answer I will suggest is that the state should treat cultures in such a way that the most burdened could reasonably accept.

The approach of using the most burdened is arrived at in part from our position on the links, and in part due to our view of the ends of the state and our initial aim of people not being marginalised on the grounds of, or by, their culture.

Our aim is that people not be marginalised on the grounds of their culture and that the state is to be pluralistic, the question for this section then is how do we formulate a contractualist approach which conforms to those aims, and fits into our position on the links. The suggested view of using the most burdened as our idealised deliberators would fulfil these criteria.

As this would entail evaluating state action from the perspective of what the most burdened could reasonably accept, we can see first that this would be compatible with the link of consent as the source of obligation, as the obligation placed on the members of cultures would be those which those most burdened would agree to. The focus on the individuals most burdened fits with our position on advocacy, that of individualism. And as we said in the preceding section, the instrumental view of the value of culture would mean that we could avoid situations where the culture's intrinsic value was put at odds with the interests of the individual members of the culture.

When we consider the ways in which these links interact and form chains. The connection between our position on the link of ontology and our approach to contractualism becomes clearer. As was said in the last section, we are utilising both forms of ontology which we have identified, atomism and holism. As was also said, one of our assumptions is that we do require our culture, but at the same time we do not wish to be put into a position where our culture can make unreasonable demands of us, as we outlined in our goal at the beginning. The formulation for our form of contractualism must then be capable of meeting both these needs. In taking the most burdened to be the idealised deliberators we can fulfil this as we can on the one hand allow for the possibility that the members of cultures would need their culture and would make some sacrifices for their culture. But would also prevent unreasonable burdens being placed on the individual members of the culture.

By using both of the types of ontology we can on the one hand acknowledge the need for culture in that we can make use of the holistic view of ontology, but we can also look at the individual apart from their culture. In looking at the most burdened we can accommodate both of these as this view can accommodate a need for the culture, but has protection from unreasonable demands on behalf of cultures. When this is combined with the individualist view of advocacy, our view of the value of

culture being instrumental, and our view of obligation which was rooted in consent, we can with this formulation of contractualism have a view where it would be possible for us to take the view that the idealised deliberator would agree to some sacrifices for their culture, as we do have an instrumental need for our culture. But preclude the culture placing unreasonable demands on the individual member of the culture.

The reason for the focus on the most burdened is that it allows us to address that problem which we mentioned at the very start of the project, of members of cultures being marginalised by their culture. But by considering the position of those who would be the most burdened by an action we can see the line at which it would become unreasonable for the culture to demand more of its members. Here the position that we are to take an individualist view of advocacy shapes our approach, as if we had used a communitarian view then the difficulty would be that communitarianism as we have used it is dependent on shared understandings rather than choice.[390] If then we had used a communitarian view of advocacy, there had been a risk of the individual becoming lost in the collective, or the individual having their positions and preferences overruled by the rest of their culture resulting in their range of option being limited, which is the opposite of what we are trying to achieve. We will return to this later in this section when we examine how this formulation helps us to mitigate the effects of internal dissent.

This approach will allow us to mitigate the issue of internal dissent as when we consider state action, our focus will be on those most burdened by the action. In the last chapter we identified the idealised deliberator primarily in the terms of being reasonable, while our current view also contains within it a conception of reasonableness, there are more dimensions of it that needs to be unpacked. As we said in the last chapter, if we over define our version of the idealised deliberator, we injure the ability of this tool to help us. Returning to Rawls's and Scanlon's form of contractualism helps to provide more context for our view of contractualism and the idealised deliberators. As we have already outlined, Rawls's version of contractualism entails the idealised deliberator being substantially modified by the veil of ignorance,[391] while Scanlon's version assumes a reasonableness and a desire

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[390] Thigpen, R B., and Downing L. "Liberalism and the Communitarian Critique." 638
[391] Rawls, J. *A Theory of Justice* 17

to come to an agreement.[392] In this case our conception is closer to that of Scanlon, in that we do not assume that our deliberator is substantially modified, but we do take the view that they act reasonably. Further to this, when it comes to the ontological design of these deliberators we are assuming both a holistic and an atomistic viewpoint, for the reasons we outlined earlier. Meaning that we can both consider what they would want as entities which are dependent on their social context and what as individuals they could reasonably be expected to accept in the terms of bearing burdens.

This form of contractualism has its differences from those which we have looked at previously in terms of scope and applicability. Rawls applies his contractualism specifically to the basic structure of society,[393] rather than specific policy or actions, while Scanlon is much broader in his application, and considers general moral principles to be the appropriate site to use his form of contractualism,[394] as we saw in the last chapter. We, by contrast, are only intending to use it for the sectional question of how the state is to treat cultures, that is not to suggest that it is inherently unsuitable to be used in other contexts, but that our use of it will be limited. A further difference between this and the other forms of contractualism we looked at is in how it views the idealised deliberators. This has clear similarities to Rawls's idea of the difference principle and considering the least advantaged.[395] Amongst the differences, however, is that for Rawls the idealised deliberator is not characterised as being the least well off, the focus on them is a result of the deliberators, the person behind the veil of ignorance, choosing to focus on them.[396] Our version of the deliberator is, as was said earlier, not modified by a veil of ignorance. And in contrast with Scanlon we are actively looking for the perspective of the most burdened, as his view of contractualism being more general in application does not have this type of focus. A reason for focusing on the most burdened, is to have a way to mitigate the problem of internal dissent. This by it preventing situations where the most burdened would be placed in a position where they are marginalised by the more powerful section of the culture in overly burdensome situations. Similar to Scanlon we are assuming that our idealised deliberators are also reasonable, as we said in the last

[392] Milo, R. "Contractarian Constructivism." 186
[393] Rawls, J. *A Theory of Justice* 6-7
[394] Scanlon, T. *What We Owe to Each Other* 4
[395] Rawls, J. A Theory of Justice 65-67
[396] Rawls, J. *A Theory of Justice* 65-73

chapter, has benefits over that of the rational deliberator, one such reason is that the rational subject could find reason to freeride on the efforts of the rest of their culture. [397] Further, following on from Scanlon's comments regarding the issue of utilising rationality as our defining trait in our deliberators not only raises the issue of individuals and groups maximising their own interests, it also runs into potential problems in terms of our aims of plurality. In that reasonableness, in borrowing again from Scanlon, also considers what others could accept.[398] It is a conception which would help us avoid accepting principles where one party tries to benefit from the excessive burden being placed on others.

In our definition of reasonable must also make further assumptions. Where Rawls highlighted that the reasonable views need to be compatible with democratic governance,[399] we must take a similar view that the reasonable position is one which is compatible with democratic governance as we have imagined it, that is, being defined by plurality. Additionally we add a view that the reasonable person is not malicious, by which I mean that they are not supremacists who takes the view that their particular culture is the only one which should be allowed to be practiced, and would use the force of the state to ensure this.

Another perspective to consider is that of Kymlicka. A reason for considering Kymlicka here is that both our positions encounter a difficulty in the informal aspects of culture. As we have seen before, internal restrictions are where the culture limits what options are available to their members, as Kymlicka says 'Internal restrictions involve intra-group relations the ethnic or national group may seek the use of state power to restrict the liberty of its own members in the name of group solidarity. This raises the danger of individual oppression.'[400] The specification that this concept concerns the use of state power is not a single occurrence, as he later defines it like this ''internal restrictions' that is, the demand by a minority culture to restrict the basic civil or political liberties of its own members.[401] This will be considered later in relation to an example brought forward by Okin, this could be where a section of a culture has its options limited by other sections of the culture by use of informal

[397] Scanlon, T. *What We Owe to Each Other* 193
[398] Scanlon, T. *What We Owe to Each Other* 192
[399] Rawls, J. *Political Liberalism* (Columbia University Press, 2005). Introduction xvi
[400] Kymlicka, W. *Multicultural Citizenship* 36
[401] Kymlicka, W. *Multicultural Citizenship* 152

means rather than formal rules and oppression.[402] At this point we should note that this would seem to fit Kymlicka's comments on internal restrictions as 'Internal restrictions are intended to force people to maintain their traditional way of life, even if they would not voluntarily choose to do so because they find some other way of life more attractive.'[403] However if we consider these types of cases, then it would seem that Kymlicka offers few solutions to this situation, as here the sections of the culture is not using the power of the state to limit or curtail this sections civil or political liberties.

My approach of looking to the most burdened for what state action is allowable, is also limited in these type of cases. For the same reason for the difficulty which Kymlicka finds himself in, in that it too concerns state action. The difference, I contend is that my process is more sensitive to these situations than Kymlicka's is. For Kymlicka this problem would not really be visible, as there is no state action involved necessarily in the type of cases which this example is meant to represent.[404] Kymlicka himself admits that this type of situation presents a challenge for his theory, but maintains that the idea at the core is still sound.[405]

By looking to the most burdened, this way of approaching things could be more open to the cumulative effect of the power which the culture has, meaning that we could be more open to indirect consequences of state action. We can then consider how the culmination will result in pressures being put onto members of the culture, and if those burdened by those pressures could agree to the actions which lead to those pressures being applied.

7.4 Private and public spheres

In this section we are going to consider the separation between the public and the private sphere and the difficulties which this brings in relation to culture. The difficulty can be seen with the example of Okin's critique of Kymlicka which we just saw, regarding the differential treatment of men and women in some cultures.[406] The issue being how to determine the reach of the state. Of we draw the line between the

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[402] Okin, S, 'Is Multiculturalism Bad for Women?' 3-4
[403] Kymlicka, W. Multicultural Citizenship 204 fn 11
[404] Okin, S, 'Is Multiculturalism Bad for Women?' 10
[405] Kymlicka, W. 'Liberal Complacencies' in *Is Multiculturalism Bad for Women?*, edited by Joshua Cohen, et al., (Princeton University Press, 1999) 1-3
[406] Okin, S, 'Is Multiculturalism Bad for Women?' 9

public sphere, where we expect the state to frequently interfere, and the private where we expect it to interfere much less frequently.

While we do not have the space to outline a complete view of the nature of the separation between the public and private sphere, some consideration will allow us to better understand the difficulties in deciding how we think the state is to respond in these cases. Any line of demarcation between these spheres is bound to be controversial, with different authors taking drastically different views on where the line is, and even the definition of what these spheres are. As an example, take Habermas's description of the public sphere 'By "the public sphere" we mean first of all a realm of our social life in which something approaching public opinion can be formed. Access is guaranteed to all citizens. A portion of the public sphere comes into being in every conversation in which private individuals assemble to form a public body.'[407] This description of the public sphere, while possibly helpful in some setting does not help us to decide when it is appropriate for the state to interfere. Further to this, a different interpretation of the Habermasian public sphere is that it is the site where matters which concerns everyone are to be discussed.[408] Fraser, in further demonstrating how the definition and use of these spheres are controversial, objects to this on the grounds that this can obscure relations of domination because they have been judged to be private, arguing that what belongs in the public sphere should be subject to fierce debate.[409]

The reason for us to consider is to see where we can expect the state to act. As we've seen, it is a controversial act to assign something to the private or public sphere. Our reason for considering this is found in Charney's description of the private sphere 'What I mean by the private sphere is simply the familiar liberal concept of a realm of thought and action that is protected from the coercive power of the state…'[410] And if we further look to Walsh's description of Locke's treatment of the private and public sphere where she describes it as 'In doing this, Locke creates a paradigm which discourages tyranny and maximizes individual liberty. In establishing and protecting the family as private, Locke disarms political, tyrannical

[407] Habermas, J, Lennox, S and Lennox, F "The Public Sphere: An Encyclopedia Article (1964)." *New German Critique*, no. 3, 1974, p. 49.
[408] Canaday, M 'Promising Alliances: The Critical Feminist Theory of Nancy Fraser and Seyla Benhabib' Feminist Review, No. 74, Fiction and Theory: Crossing Boundaries (2003), 63-64
[409] Canaday, M. 'Promising Alliances: the Critical Feminist Theory of Nancy Fraser and Seyla Benhabib.' 63-64
[410] Ibid 97

intrusions in that sphere.'[411] Here, then, is a key reason for not discarding the concept of a private sphere with less intervention than the public sphere, this also ties into the earlier elements which we have talked about in this project. In particular, it refers back to our view of the position on the links as well as our position on the ends of the state. Plurality we said was about taking the view of the state as a mix of differing views of the good life. This can lead us to take the view that the state is to have an extensive role in the maintenance and development of this plurality, or we can take the view of the state as a comparatively limited one when it comes to culture. The position I suggest that we would be committed to would be one closer to the limited rather than, extensive view, this is due to our positions on the advocacy link, the nature of the value of culture, and the stated aim of avoiding the problems of internal dissent. These interlink in such a way as to create the image whereby the main object of concern for us is that of the individual who needs occasional assistance from the state, rather than the idea of the state taking an extensive role in maintaining cultures.

One view we could take is Modood's description of what he calls the *plural state*, which entails a view of the citizen as being composed of the different groups which they are members of and requiring formal representation of the various cultures with the state taking an active role in both the private and the public sphere.[412] There are reasons why we cannot make use of this conception of the relation between the state and culture, with internal dissent being a main one. Part of this view is that individuals and their groups need to be 'provided for in the formal and informal distribution of powers, not just in law, but in representation in the offices of the state, public committees, consultative exercises and access to public forums.'[413] While it does acknowledge the need for some baseline protections in the form of basic individual rights, by putting our cultures into such prominent positions, we again incur the problem of what happens to the individuals who are in the minorities in their culture. Take the 'consultative exercises' Modood mentions for example. How, one might ask, would they take into account the internal diversity of any given culture, as the problem which we have been highlighting is that favouring different sections of a

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[411] Walsh, M. "Locke and Feminism on Private and Public Realms of Activities." *The Review of Politics*, vol. 57, no. 02, 1995, p. 277

[412] Modood, T. `Multiculturalism, Secularism and the State', in C. Harzig & D. Juteau (eds), *The Social Construction of Diversity: Recasting the Master Narrative of Industrial Nations*, (Berghahn Books 2003) 21

[413] Modood, T. `Multiculturalism, Secularism and the State', 20

culture could marginalise other sections of that culture. So, by giving this prominence to the culture as a group it can help to obscure the internal minorities which would exist in any culture.

Further, as we said earlier our view of advocacy is that we start from the individual's perspective, which was part of our use of the most burdened, and that we took an instrumental view of the value of culture. This would sit ill with a view which has as part of it the representation of the culture rather than the individual members of the culture, we would run the danger of the instrument, our culture, becoming a hindrance to the individual. Similarly, this potential of the individuals being limited by their culture would be counter to our view of the ends of the state, that of plurality. If then the representation would include the culture as a group and the actions of the state based on this leads to an individual within the culture having their options limited, it would go against the very point of the state.

The question remains of how to determine whether the state ought to intervene in areas which have traditionally been considered the private sphere. What belongs in the private sphere then is as we have seen controversial, from Sales's analysis of Habermas view of these spheres 'On the one hand, the core of the private sphere is the nuclear family, which continues to play its socialization role…'[414] and the family is an area which is often taken to be the core of the private sphere according to Okin.[415] This can be seen in our earlier look at Okin's criticism of Rawls's assumption that the family is not a site which is suitable for the discussion of justice. This is similar to the problem which we see in this example from Okin of the women who through pressures have their options limited, and the state not intervening in this private sphere where this pressure is applied. As we have already seen, several feminist theorists have commented that this division between private and public helps to mask injustices and empower the abusers.[416] How then are we to know when to intervene in these affairs. As we saw with the comments on Locke, who took the view of the state invading the private sphere as representing tyranny, for a similar reason, but perhaps not as forcefully stated, we do not want to have the state

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[414] Sales, A. "The Private, the Public and Civil Society: Social Realms and Power Structures." *International Political Science Review*, vol. 12, no. 4, 1991 305

[415] Okin, S 'Feminism and Multiculturalism: Some Tensions' 664

[416] Okin, S. "Political Liberalism, Justice, and Gender." *Ethics* 105, 1 1994 27

interfere in decisions in the private sphere extensively, and again internal dissent is the reason for us wanting to have a line of demarcation.

Okin's point about socialisation is well made and worth keeping in mind, echoed in comments by, for example, Soper who comments on our cultures capability to make things seem natural to us.[417] If we take the view that as the culture has a tremendous amount of power in the private sphere, both to apply pressure and to socialise us into accepting situations which we would otherwise not accept, then the inevitable question becomes about how we can say which decisions are to be thought of as valid and which are to be thought of as being the result of undue pressures or socialisation which has resulted in unacceptable outcomes. This would put the state into the position of having to decide what decisions are to be thought of as valid, with the problems of internal dissent, this would be an impossible position for the state to resolve. However, Okin's point is persuasive, what our contractualist position could do is consider state action not only in isolation but in terms of its cumulative effect. This means that while it is not necessarily predisposed to intervene in the private sphere, if state action to support or hinder an aspect of culture would be such as to create a situation which the most burdened could not reasonably accept. This would warrant rejecting that action as the most burdened would not accept it. This would be so even if it would be mainly manifest in the private sphere rather than the public sphere.

We have now outlined our view on the ends of the state, we have established our position on the links, and we have an idea of how the contractualist method can help us to avoid some of the problems which would otherwise cause us to stumble. We will now consider how we can use this to formulate of our contractualist tool of considering what would be acceptable to the most burdened by considering some examples where this approach will help us to arrive at conclusions to how the state is to treat cultures, and also to show its limits where we are only able to try and mitigate the problems rather than solve them.

7.5 Examples

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[417] Soper, K. *What Is Nature?: Culture, Politics and the Non-human*. (Oxford: Blackwell, 1995) 110

The question before us then is how is the state to treat cultures, and as we have said, our answer is that it should treat cultures in a way which the most burdened could reasonably accept. In this section we will use some of the examples found in the literature which concerns multiculturalism and see how our approach responds in those types of situations. We will consider the examples of Sikh helmet exemptions, the case of the gay cake row connected to the Asher's bakery, Modood's comments on irreverent literature, and to demonstrate the limits of this, and indeed any approach, we will again return to the case cited by Okin about women in America who felt limited by their culture. The point in considering these examples is not necessarily in the details of the particular cases on which they are based, but rather the type of situation which they represent. As such we will not over elaborate on the particularities but focus on the essential components.

Let us begin with Modood and his comments regarding irreverent literature. In this case it was suggested that to prevent damage to people's self-view, the state might need to intervene to protect certain cultures from being exposed to irreverent literature.[418] The premise on his view is that it falls to the state to help to protect peoples self-view and prevent harm coming to them, the state would have reason to overrule the ordinary rules concerning free speech and try to protect a culture.[419] The precise method this would entail, which if this was considered as a genuine state policy would matter quite considerably, is not the most important consideration for us at the present juncture, but rather it is the basic principle we are concerned with right now.

The recurring issue of internal dissent plays an important role here, and will be significant in most of our examples. The way in which it matters in this example is that it is unlikely that the entirety of the culture would be in agreement as to what constitutes irreverent literature and to what extent it would represent harm to have it available and freely read. What this means is that it is always going to be the case that there would be literature which some in a culture find irreverent and some did not. Consequently, whichever side the state takes in this, some section of the culture would end up feeling marginalised. Here we can see the effect of our position on the links of ontology and advocacy as well as the type of value which the culture has, in

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[418] Modood, T. "Muslims, race and equality in Britain: Some post-Rushdie affair reflections" *Third Text* 4:11, (1990) 134

[419] Modood, T. "Muslims, race and equality in Britain: Some post-Rushdie affair reflections" 132

that we use both holism and atomism, and that we take an individualist position. In this example, we can see that the argument of the type which Modood advanced, that it would harm our self-view to be exposed to irreverent literature denigrating our culture,[420] would be reliant on a holistic view of the person, in that the assumption would be that our connection to our culture is such that we need it for our self-view. But as we also view this from the atomistic perspective, we can consider what the atomist individual would want. And as we also take an individualist position as well as the view that our culture is instrumentally valuable to us, we would see that the most burdened would not accept having their individual options limited by their membership in their culture, which would be an instrument for their ends. And although it is not the focus of our deliberations, depending on the method used to protect members of cultures from these types of cases, it would also add a burden to those outside the culture who might be denied this literature.

Simplified for our purposes, the main two parties which we would be concerned with would be those in the culture who wishes to be protected from a certain type of literature, and those in the culture who do not wish to have this protection. While there may indeed be other parties who have interests in this case, but it is the minority cultures which we are interested in. Our solution to these problems is to consider what the most burdened could agree to, the difficulty of course being that it is not always clear who could be said to be the most burdened party, indeed it would not be unlikely that in most disputes that all sides would consider themselves to be the most burdened if the decision did not go their way. In this example I suggest that those who would be most burdened if the decision went against them would be the part of the culture which did not wish to have this protection. The reasoning being that while those who do wish to be protected would receive some burden from being exposed to this literature, they could achieve this by not reading it, or if this case was expanded beyond only concerning itself with literature, not taking part in whatever activity is viewed to be harmful to their self-respect. While those who do not wish the protection would not have the same option would the case be reversed. This case might illuminate, as will some later ones, the utility of the 'rule and exemption' approach, while Barry objected to it,[421] as long as the implementation of exemption

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[420] Modood, T. "Muslims, race and equality in Britain: Some post-Rushdie affair reflections" 134
[421] Barry, B. *Culture and Equality: an Egalitarian Critique of Multiculturalism.* (Polity Press 2001) 321

remained voluntary, in accordance with our position on the link of obligation towards our culture, would allow us to help make it so that the internal minority would not be marginalised due to their membership in a particular culture. And the state could extend some assistance to the culture. At the same time the cost in this case to other parties and the state, would seem to not be egregious.

To move onto a different example to further illuminate this aspect of our approach, if we look to the discussion about exemptions for Sikh motorcyclists from requirements of wearing helmets while riding motorcycles. We again have the situation where it does not have a substantial impact on any third parties, since the fact that someone is riding a motorcycle without a helmet does not directly affect anyone else. While the cases have some similarities, the outcome is different. As in the previous example it was suggested that the state ought to do nothing, as taking any action would be to someone's detriment. In this case the state would actively chose to take the view that the culture would be an acceptable reason to give an exemption. In this case the effect of internal dissent would playout differently, and not be as pronounced, in that, if the ban on riding motorcycles was to be upheld without exemption, the impact would only be felt on those who took helmet wearing to be particularly problematic. Those in the culture who did not think that wearing a helmet to be a problem could continue to ride without difficulty, but those who took this to be an important part of their culture could not. The most burdened would then be those who took the view that they cannot wear the helmet, if the law was implemented without exception. However, as Jones points out in his description of these events, on the balance of considerations, as all the cost of the exemption would be borne by the motorcyclist, the state has good reason for exempting the Sikh motorcyclists from this regulation.[422]

An argument could then be made that, in this particular example, that it would not do any perceivable harm to those outside the culture, or to the others in the culture to allow for this exemption, with the similar condition as in the other example, that the exercise is one which is entirely voluntary and that the state does nothing to try and influence people one way or another. If they do, then the issues of internal dissent again become an issue. Here we can see the influence of our positions on the link

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[422] Jones, P. 'Liberty, Equality, and Accommodation' in Uberoi, V, Modood, T. *Multiculturalism Rethought: Interpretations, Dilemmas and New Directions: Essays in Honour of Bhikhu Parekh*, (Edinburgh University Press, 2015) 132-133

regarding obligation towards our culture, in that we took the view that our obligations towards our culture is to be based in consent. Only if it was voluntary to make use of this exemption could we consider it. If it would create an obligation to those in this culture who would prefer to use a helmet which was not based on their consenting to it, then we not be able to support it. We also see the influence of our position on the value of culture and our individualist view of advocacy, in the insistence that the exercise of the exemption for using a motorcycle helmet be left to the decision of the individual. The party which is to decide if they are to make use of the exemption is the individual and not the community, and similar to how we said in the example of Modood, that as we view the culture to be of instrumental value, we would want to avoid situations where the individuals options where limited by their culture.

There is an additional issue which could in some circumstances be worth considering. That is the symbolic act of granting an exemption, with this turning it into a question of whether the state by allowing for this exemption is providing a signal to the other members of the culture, to those who did not care as much about the helmet law, that the exemption is the expected behaviour from the members of that particular culture. Barry's approach to this issue is that there is no basis in justice to call for an exemption to the rule regarding motorcycle helmets, rather he maintains that if we have a reason for creating a law regarding motorcycle helmets, and this has as a consequence that members of certain cultures would have a difficulty in using a motorcycle, then provided the law is applied equally to everyone in society then there is no grounds for any exemptions for the Sikh.[423] We might want to consider granting this exemption based on other grounds, such as practicality, but then take the view that if practicality is sufficient to allow certain cultures to be exempted, there would be no reason to limit this to only cultures and this excuse should be available to those who want it in general, meaning that the law might as well not be enacted in the first place.[424] This point approach shows our difference again as we take the view that it is dependant on the perspective of the most burdened, and so in the appropriate circumstances it could be grounds to allow for exemptions to certain rules.

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[423] Barry, B. *Culture and Equality* 44-5
[424] Barry, B. *Culture and Equality* 321

The next example is that of the Ashers bakery who were involved in what was termed the Gay cake row.[425] This row concerned a bakery that wished to break an agreement to make a cake when it was discovered that the cake was meant for a group campaigning for the legislation of equal marriage in Northern Ireland. The argument from the bakery was that as they were a specifically Christian bakery and that the demands this placed on them meant they could not support or endorse equal marriage.[426] Part of the customer's counter-argument was that they were from the same religious background but did not object to equal marriage.[427] While there are other dimensions to this case, but what it allows us to exemplify is that of a type of case where internal dissent plays an important role, and that will be our focus in this example.

Internal dissent effects this case in that not all the employees at this bakery were as dedicated in their opposition to equal marriage, and some were willing to make the cake until convinced otherwise by the other members of staff. In this example it is one part of the community which has opposition to equal marriage as an important part of its view of itself, while we have another part of the community which is not as devout or eager for this specific element of the community. The danger in empowering one side in this dilemma is that if we side with the side which does not want to make the cake, we marginalise those in the community who would have no problem with the baking of the cake. But if we side with the other side we risk the section of the community who feel that they could not bake this cake be put into difficulty. If we consider the positions we adopted on the links, then in this case we can again see that the value which we ascribe culture is of importance, in that depending on which section we side with, it could create difficulties for the other side due to their community. And as we will consider later, if we also consider the position of the third party in this case, the customer, then we would see that the section of the community which does not wish to bake this cake would be to add a burden to the customer due to the communal view of the bakers, which we take to be of instrumental value, and so the customers would be discriminated against on the

[425] Gay cake' row: MLA in equality law 'conscience clause' (http://www.bbc.co.uk/news/uk-northern-ireland-30165511)
[426] GARETH LEE V ASHERS BAKING Co Ltd, COLIN McARTHUR, KAREN McARTHUR Neutral Citation No. [2015] NICty 2 [22]
[427] GARETH LEE V ASHERS BAKING Co Ltd [11]

grounds of the baker's instrumentally valuable views being valued above the burden being placed on them.

In this case it would be a matter of deciding if the most burdened are reasonable in thinking that their burden is unacceptable. I take the solution here to be that we ought to side with the customers against that of the bakers who wished to break the agreement to produce this cake. This case is a bit different than the others considered so far in that in this case as it is not only those in the community who are affected but also a party outside of it. If we side with the part of the community which does not want to complete this assigned job, then we would make it more difficult for those in the community who are of the alternate point of view and do not object to equal marriage. It would mean that those members who did not object to the cake are being pressured by the community and the state. And they could say that this pressure is unacceptable as it would only serve to limit their options.

Further, if we side with the side which did not want to act in such a way as to support equal marriage, we would establish the principle that a group could discriminate against other groups if it was something which they considered to be an important part of their community. This is a position which they themselves would not want to be the victim of, and so it is plausible to say that their rejection of this potential burden would not be reasonable.

Connected to this, this would create problems with our view of the ends of the state, in that this does not seem to be compatible with the aim of plurality. It would mean that the state would take actions which would lead to circumstances unfavourable to a plurality of reasonable views coexisting, in that the state is acting in such a way as to support making it easier for marginalised groups to be discriminated against.

In this case we would have to assess who we considered to be the most burdened depending on which side of the culture we sided with and consider if any of these could be said to be reasonable in wanting either the state to intervene or not to intervene.

We end these examples by borrowing from Okin. Looking again at the examples from Okin which we mentioned earlier, which showed that there are limitations and that there is a delicate balance to draw in terms or the private and the public. In Okin's example, we had a study which showed that a group of young women felt that

pressure was being put on them by their culture which was not being put on their brothers, that their options were being limited by the expectations of their culture.[428] As we said earlier, Spinner-Halev's suggestion that we simply wait generations for this to solve itself is, in the form that he presents it an unsatisfactory conclusion. He agrees that this is less than desirable but takes the view that we should just let this uncomfortable position continue, and that time will deal with this for us.

The difficulty as we said earlier is that this is not the result of any official rules or similar formal pressures but the result of informal pressures. If we were to use Kukathas's approach, this would not constitute much of a problem, we could just say that as long as these women are free to leave their groups, then the onus is on them to leave if they think remaining in the group is worse than leaving it.[429] Another view is that of Barry, and his metaphor of a group of sailors caught in a storm who refuses to enter a safe port due to cultural reasons. His suggestion is that because there is nothing stopping them from entering but themselves, there is no reason for Interference.[430] This attitude misses the importance of our culture in shaping what we find to be acceptable or possible, to continue this metaphor, it is our culture which allows us to not only understand what a port is, but also a storm or for that matter what sailing is. This again brings up Okin's point that our culture socialises us and effects what we think of as possible options.[431] Our solution to this has been to consider what the most burdened would reasonably accept, but complicating this for us is that this has concerned state action. If these pressures are more informal and not the result of state action this would put a limit on what this approach could do.

What we would be left with is the position that the state ought not do anything which would add to the ability of the culture to limit the options of its members. Here we see a similarity with the problem faced by Kymlicka's device of internal protections and internal restrictions, in that both have difficulty in dealing with the informal elements to the power which a culture possesses. The way in which my device differs on this point is that it is capable of trying not to add further cumulative burden with its action in a way which Kymlicka's position does not. In the type of cases which Okin brings us, it would involve that when we are considering an action or an exemption for any

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[428] Okin, S 'Feminism and Multiculturalism: Some Tensions' 682
[429] Kukathas, C. *The Liberal Archipelago: A Theory of Diversity and Freedom* 107
[430] Barry, B. *Culture and Equality* 37-38
[431] Okin, S 'Feminism and Multiculturalism: Some Tensions' 665

of the cultures which these women are part of, one of the elements which would be to consider if this placed additional barriers for them and if these limitations would be such as to make it unreasonable for them to accept these new circumstances. And if we concluded that it did, we would not commit to that hypothetical action.

On this point we again see some of the links having clear influence on the position which we have ended up on. Here we see the position we adopted on the value of culture, it being instrumentally valuable. As Okin has pointed out, this type of treatment which has limited the options of these women has been defended on the grounds that it is vital for the continuation of the culture.[432] And if we had adopted the view that the culture had intrinsic value then we could have considered if the culture could demand of these members that their options be limited. But as we are taking an instrumental view, we are open to the possibility that the state might have to intervene at some point in order to assist them. We also see the impact of us using ontology in the way in which we have outlined, as we acknowledge the members need for the culture, and so are hesitant to interfere in the private sphere, but we also consider them automictically and ask how they would want to treated as individuals not only as members of the culture.

This in the end amounts to a position where what the constructivist view we have outlined is that we aim to give special rights or take action based on cultural belonging when doing so would lead to the options for that individual being increased, and rejected in those situations where giving culture's special rights or exemptions from existing regulation would be such as to put the most burdened in such a position which they could not reasonably accept. An example of this would be the exemption for Sikh motorcyclists from the requirement to wear helmets, as Jones points out, the cost in this situation is not substantial to those involved,[433] on the additional condition that this would be genuinely voluntary and that this would not create pressure on those Sikhs who wold prefer to wear helmets to not do so. And another example would be the gay cake case, where giving a particular culture support would create a burden on third parties and would make it more difficult for certain sections of the culture to act on all their options. This would be compatible with our view of the ends of the state which was concerned with plurality, with the

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[432] Okin, S 'Feminism and Multiculturalism: Some Tensions' 665

[433] Jones, 'Liberty, Equality and Accommodation' 132-133

individual members of the different cultures being able to pursue their view of the good life. It is also compatible with our position on the links, in that it uses both views on ontology, acknowledging that while we need our culture and so we might need the state to take some actions which benefit our culture, but we also keep in mind the atomist perspective to allow us to consider what the individual person could be expected to accept. This is again seen in the advocacy position being an individualised one, as our contractualist device is based around what the most burdened individuals could reasonably accept. This does not mean that we expect individuals to accept no burdens for the benefit of our culture, but that we take the view that these obligations would be the ones which they could consent to, hence our view of them being reasonably acceptable. And we take an instrumental view of the value of the culture and when evaluating state action does so on whether assisting the culture helps or hinders the members in the culture, rather than considering if this helps the culture in isolation.

7.6 Summary

In this chapter we outlined what our view of the answer to how the state is to treat cultures. With the position that we would only allow those state actions which those most burdened could reasonably accept.

We began by considering our view of the ends of the state, where we opted for what we called plurality, the view that society is to be composed of a plurality of different views of the good life. We then outlined some of the drawbacks of Kymlicka's and Kukathas's views and argued that internal dissent and our contractual device of considering the position of the most burdened would preclude us from utilising their views.

We then considered which positions on the links we would adopt in this project and decided on a view of the value of culture as being instrumental, our obligation towards our culture being based in consent, an approach to advocacy which is individualistic, and we are using both views on ontology.

The chapter then further outlined the contractualist tool of focusing on the most burdened, and considered what reasonable in this context entails. We said that they are reasonable rather than only rational, and that they are not malicious. We highlighted the issue with Kymlicka's approach to cultures, specifically his distinction

between internal restrictions and external protections, with internal dissent being the main problem.

The chapter highlighted some of the difficulties which theorists such as Okin brings up in relation to the distinction between the private and the public sphere. We saw that the decision of what we included in our definition of the public and private sphere is itself a controversial act. We looked at Okin's comments that women are frequently subject to pressures in the private sphere which are rendered invisible by the focus on the public sphere, an example of this was Kymlicka and his focus on political rights and actions in the public sphere. Reasons for maintaining the distinction between these two spheres was Locke's argument about avoiding tyranny, and that again internal dissent means that there would never be agreement on what the state would enforce in terms of cultures, and so a private sphere is necessary. We also took the view that the focus on group representation in the public sphere presents problems with internal dissent and we therefore suggested that representation ought to be done on an individual basis in accordance with our view of the link of advocacy.

The chapter finished with a set of examples to demonstrate how our contractualist view would work in those type of cases. Our examples were Modood's point about cultures being protected from irreverent literature, the example of Sikh motorcyclists being exempt from helmet laws on cultural grounds, the case of the Ashers bakery, and the previously cited example from Okin about cultures applying pressures on women which are not placed on the men in the cultures. As with several of these cases, internal dissent is a considerable problem. If the position is that members of a culture needs to be protected from a certain type of literature for fear of it causing harm to their self-view and their self-respect, there will always be potential for there to be dissent in the culture as to what literature is to be considered irreverent, and even if there was agreement on which literature, this would not mean that there was agreement to this meaning that the members of the culture would need to be protected from it. If we considered the most burdened, in this case then if certain literature was to be banned, then those in the culture who did not take irreverence to be sufficient grounds for overriding ordinary rules concerning freedom of speech would be burdened in that a certain set of options would be denied them and the section of the culture which would want this literature banned would be

strengthened. On those grounds I suggested that they could reasonably say that the state should not assist in protecting the culture from this type of literature as the most burdened could reject it.

The next example we considered was that of exemptions for Sikh motorcyclists from wearing helmets in certain jurisdictions. In this example we suggested that the state could exempt Sikh motorcyclists from this helmet requirements. The reason for this was that the most burdened could accept this state act. This was based on the assumption that the adoptions and exercise of the exemption is entirely voluntary on the part of those who are to use it, with reference to our view of the source of obligation towards our culture. In this case we can see that the state is well placed to act when it leads to the members of the culture gaining options rather than situations where state actions lead to members have their options diminished.

The next example we used was of the events relating to the Ashers bakery, where the owners of a bakery wished to break their agreement to make a cake when they realised that the cake was meant for an event relating to the campaign for the legalisation of equal marriage in Northern Ireland. In this circumstance we suggested that the state should not side with the bakers but with the customers, this again due to the issues relating to internal dissent and how this would affect the most burdened, internal dissent in that not all of the employees of this bakery agreed that their view of their community demanded that this cake not be done. The point here is there is no unanimity on this point and so strengthening the hand of those in the community who wishes to not make this cake would be against those who would have no problem with it. The most burdened in this situation could be seen to be either those in the community who would have their options limited due to their group membership if the state were to side with those bakers who did not want to sell the cake, or the customers who would be put into a position where they could be discriminated against if the group or community has significant antipathy towards them.

The final example we used concerned those situations that Okin highlighted, where a study had found that in some cultures women had pressures put on them which the men in the culture did not in terms of regulating their behaviour in order to ensure the continuance of the culture. This example demonstrated the difficulty in deciding how

the state is to act in situations which takes place primary in the private sphere. The difficulty is found in that there have been no rules broken or any state action which is putting these women in an undesirable position but rather it is informal pressures which are the cause. This is a problem shared with Kymlicka and his view of the difference between internal restrictions and external protections. The difference for us is that we can more easily consider the cumulative effects of state actions and in the future evaluate whether addental action or lack of action would be such as to put these women in a position which they could at that point reasonably accept.

Thesis Summary

This project adds to the debate about how the state is to treat cultures by using a different approach to how we reach our positions on the nature of culture, and by using a different type of contractualism to arrive at how the state is to treat cultures. First the project broke down the assumptions into links and the chains which these links form when combined, and examined how these links interacted. The goal of this is to allow us to see if our positions can be constructed in such a manner as to be fully coherent and connects all the necessary links into a chain, which helps us to reach our conclusion, we then based on these links formed our view of how the state is to treat cultures. This adds to our understanding of how our underlying assumptions shape our deliberations about culture, which can be used to test the coherence of our assumptions in regards to culture. The project also added one way of answering the question of how the state is to treat culture, that is by focusing on what the most burdened would agree to. This is not the only possible answer which could be constructed, but it is one which fulfils our goals from the start of the project and which minimises the effects of internal dissent while meeting the test of coherence.

The project began by outlining some of the background of the debate regarding multiculturalism and liberalism, by emphasising the work of a number of authors covering topics relating to the definition of culture, and highlighting some of the assumptions which we then examined more closely throughout this project. After we had considered the background, the type of value which cultures might possess was evaluated and classified in terms of intrinsic value and instrumental value. Instrumental value was defined as those objects which possessed their value by virtue of their relationship to an external object. And intrinsic value as objects which possessed value by themselves without reference to external objects. A key distinction between the two types of value was said to be the dependence on context on the instrumental account, as an object of instrumental value only has value in the appropriate context, while objects of intrinsic value are valuable independent of

context. One difficulty highlighted in this chapter was in explaining the origin of intrinsic value, in that it does not explain why objects of intrinsic value can be said to be valuable. My suggestion was to employ a form of constructivism where those objects which reasonable people could describe as intrinsically valuable were to be considered to be intrinsically valuable. A shortcoming of this view is that this view is not truly context independent, as objects would need the appropriate context to be considered valuable, that of potentially being considered valuable by reasonable people. However, this is the closest usable approximation of intrinsic value which the scope of this project allows for.

In the third chapter, we can begin to see the impact of combinations of links. The chapter elaborated upon the sources of our obligation towards our culture, with the possible sources being gratitude, reciprocity and consent. Gratitude entailed paying our culture back for all the benefits it provides us. Reciprocity also entailed paying back to our culture, but did not require the same emotional response as gratitude did. The final source was consent, which entailed agreeing to incur obligations towards our culture. The shortcoming of this view was that people do not as a general rule choose which culture we are part of. Additionally, several theorists attribute the capacity to make choice to cultural membership, making pre-cultural consent to incur obligation towards our culture impossible. My attempt at a solution to this problem was to apply a Rawls based approach where rather than consenting to be part of a particular culture, members of cultures would consent to a system which involved obligation towards their culture. This approach also entailed not imposing heavier burdens of obligation than a reasonable person would agree to impose upon themselves. At this stage, it was possible to see the effect that these links can have upon each other, this became even more clear when the chapter added considerations of types of group rights, where, for example, the corporate view of group rights was shown to be incompatible with an instrumental view of the value of culture.

Chapters 4 and 5 were concerned with ontology and advocacy, and demonstrated further the interconnectivity and interdependence of these links. Ontology in this context concerned how we envisioned the nature of the people who make up cultures. Are they to be viewed as solitary and isolated, as with atomism, or as part of a social context as in holism, the chapter dedicated to advocacy and the ends of

the state examined the normative perspectives of individualism and communitarianism, as they relate to culture, and the concept of the ends of the state and asked what we think the state is for. Chapter 5 described individualism as being primarily concerned with individual rights and approached society as a system for cooperation with a view of the individual as an end in themselves. In contrast, the communitarian view was described as considering communal ties and social context as goods in themselves and as a view which seeks to avoid moral chaos and promotes the common good. The links of ontology and advocacy are closely related, but still distinct. An example of this is that if we take an atomist view of ontology, it is easier to come to a position on advocacy which favours individualism. While the thesis demonstrates how all the links are interdependent and connected, this connection has often been acknowledged on the topics of ontology and advocacy, indeed as Villa pointed out, the two have at times been conflated as being one and the same.[434] While connected, the two are distinct, ontology concerns how we view people while advocacy concerns how we should treat people. The approach I suggested of considering ontology twice further complicates the matter as then we are first considering ontology in terms of how people actually are, and on the second turn we take into account how we wish to utilise ontology. This aims at allowing us to both acknowledge ontology as we truly perceive it, while at the same time allow us to adopt advocacy positions which would otherwise be ill-fitting with our ontological views. The chapter then considered the ends of the state, first by outlining features of the concept, then it took the view that this has been an underexplored issue in relation to multiculturalism. The chapter also considered the problem of internal dissent, the problem being that if the culture is divided on an issue, then no matter which side the state assists, it will be to the detriment of some other aspect of the culture, the very opposite of what multiculturalism seeks to do.

Chapter 6 considered the features of contractualism and how it can help us in this project with devising a way to come to terms with how the state is to treat cultures. The chapter was concerned with establishing the assumptions underpinning contractualism in terms of the links which we have made use of throughout the project, as well as defend contractualism from the charge that it is reliant to an excessive degree on an atomistic view of ontology and an individualistic view of

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[434] Villa, D. "Hegel, Tocqueville, and "Individualism" 660

advocacy. It considered the meta-ethical positions of realism and constructivism, with constructivism being the view of moral truths as practical truths which are those which we have a reason for believing, further we described the role of the idealised deliberators in relation to constructivism. The chapter then identified some of the core features of contractualism. Such as the use of the idealised deliberators, be it in the Rawlsian form where the deliberator is operating behind a veil of ignorance, or the Scanlonian form which does not assume any significant change be done to the deliberator, only that they are reasonable and wish to come to an agreement. We highlighted the need for the conception of the deliberator to be as neutral as possible, as if they are biased the whole exercise becomes pointless. It considered the links which the project has outlined in conjunction with contractualsim, and found that contractualism is far more compatible with a much wider range of positions and options than is normally thought. The chapter specifically showed that far from relying on an atomistic view of ontology, forms of contractualism do in actuality have at its foundation a view and acknowledgement of others built into it. Far from the characterisation of it as being dependent on a view of deliberators as isolated atoms. Additionally it sought to show that contractualism is not necessarily individualistic on its view of advocacy, and that it could be used to arrive at communitarian viewpoints, in contradiction to accusations to the contrary. While there are some difficulties with this combination, it is quite possible to accomplish. The chapter also highlighted how contractualism could be used to solve difficulties found in the previous examinations of the links, with examples being that it can be used to imbue objects of intrinsic value with their value, and to the problem of how shared institutions gain the competency to bestow moral standing in the way it is used in communitarianism. We then further elaborated on the idea of using both forms of ontology together, both atomism and holism. The benefit to this approach was that it would allow us to acknowledge the individuals need for their social context, but also consider what the individual could accept when taken apart from this context.

Building on what the sixth chapter had established, the seventh chapter outlines our view of how to answer the question of how the state is to treat cultures. The core of the answer being that we should only allow those actions related to culture by the state which the most burdened could reasonably accept.

This required a view of the ends of the state, where we decided to take plurality as the ends of the state. This was done in contrast to the views and assumptions of Kukathas and Kymlicka and concluded that the problems related to internal dissent would prevent us from using their views on these issues.

We then outlined our positions on the links, where we said that the project will use an individualist view of advocacy, both views on ontology in the manner which we outlined in earlier chapter, the view of the source of obligation was that of consent, and the value of culture was that of instrumental value.

We considered further the contractualist tool we were using, the main features of this conception was that it took the perspective of the most burdened, this form of the idealised deliberator was further described as being reasonable rather than rational following from Scanlon, we also took the view that they were not malicious. We also highlighted the issues with internal dissent relating to Kymlicka's distinction between internal restrictions and external protections.

The chapter then highlighted some of the difficulties which this conception can encounter, as was seen with the division between the private and the public sphere. Before moving onto four examples of issues related to multiculturalism which we then applied our device to in order to see how it helped to come to a decision on how to treat cultures. Starting with Modood's comments on the need to protect members of cultures from irreverent literature, where we used our contractualism to come to the view that the state ought not act to protect members of cultures from irreverent literature, this was based in combination of our view of the links, and the difficulty of internal dissent. As the state taking the side that wished there to be protection from certain literature would mean that those who are on the other side of the culture could reasonably say that they did not agree to this. As this would limit their options due to their membership of the culture.

The second example was that of the exemption from wearing motorcycle helmets for Sikhs on cultural grounds. Here we argued that the state ought to act to give an exemption to Sikhs, on the condition that the use of this exemption was entirely voluntary. This again tied back to our view of the links and in this case the state acting to give this exemption would lead to an increase in the options for the members of that culture. The third example was that of the 'gay cake row', where we

took the view that the most burdened would not accept the position of the state siding with the bakers and allowing them to break the agreement to bake a cake for an event which was in support of equal marriage in Northern Ireland. This as it would mean that the most burdened could be thought to be either those in the bakers' community who did not object to equal marriage, who would have their position weakened by this position, or the most burdened would be the costumers who could be discriminated against as long as the culture doing so had enough antipathy towards them. Additionally, if we took the view that the most burdened was the bakers if they were not to be allowed to break this agreement, then it would not be reasonable for them to not accept, as they would not wish to be in the position of being discriminated.

The final example was that issue which Okin had brought up, where studies had showed certain cultures had put pressures upon the women in certain cultures which were not placed on the men in the culture. This example showed the difficulty which this view can encounter when the issues involved mainly concerns actions and pressures being applied in the private sphere, as in this type of situations the political and civil rights are not being limited, but these women still felt their options to be limited. Our attempted solution was to suggest that we can take into account the cumulative effects of state actions, and consider if additional actions or exemptions would add to the pressure and limiting of their options, and if so we could ask if it would be reasonable for them to accept that situation.

This approach of dividing our positions into links and consider their interactions will allow us to consider the whole chain of assumptions which have led to our coming to our conclusions about how the state is to treat cultures. This would enable us to examine whether our positions on issues relating to culture coheres with our assumptions as we have understood them, or if we find ourselves having to revise either our assumptions on the links or our positions on the outcome of a case. This was then used in outlining the assumptions which went into our designing of our contractualist approach.

The difficulties with this approach is that it, as we could see in the seventh chapter, has difficulty with the division between the public and the private sphere. As we saw, similar to Kymlicka, as our focus is on the state and how it should treat cultures, that

which takes place in the private sphere is challenging to deal with, as we on the one hand does not want to over extend the reach of the state, but at the same time we run the risk of allowing actions which we might find regrettable to take place as they are in the private sphere.

A further shortcoming of this project is that it is premised on a number of assumptions of its own, and so could lack persuasive power to those who did not share these assumptions. Examples of this would be the assumption from the start of the project, that we do not wish people to be made to suffer due to their culture, either by those outside the culture or by the other members of the culture. This assumes that we take culture to be a valid criterion for consideration, someone who did not think that discrimination on the grounds of culture was an important issue would not share our starting point. A related point is the assumption built into our view on the ends of the state, as we saw in the quote we used from Rawls, that society is characterised by plurality, and as we said, we took this to be not only a statement of fact but a desirable state of being. This assumed that no one view of the good would be affirmed by all members of society, and that this was a good thing. Someone who took the view that society was to be based on a specific conception of the good, or alternatively one which is simply culturally supremacist, would not be as receptive to our arguments as they are based on these assumptions. A further assumption which has been mentioned before, is the view that internal dissent presents a problem. If we were willing to accept the situation where a section of the culture was being made marginalised by the rest of the culture, possibly justified on the grounds of cultural survival, then this would not be the problem which we have considered it to be in this project. The project also makes assumptions regarding the connection between corporate group rights and intrinsic value in a way which could be explored further.

Apart from those assumptions mentioned, areas which would be, I would suggest, fertile grounds for further exploration, would be further investigation into the impact that our assumptions of the ends of the state has on our deliberations, in particular as it relates to culture. This could benefit from further engagement with feminist critiques and further considerations of the distinction between the private sphere and the public sphere.

This project aimed at answering the question of how the state is to treat cultures, to do this it first developed a method for analysing the component parts of our position on culture and see how these links interact and form chains. We then based on this used our own approach to contractualism to answer the question of how the state is to treat cultures by considering the perspective of the most burdened, and asked what they could reasonably be expected to accept.

Bibliography

Books:

Aristotles *Nicomachean ethics*. Translation and Edit, Crisp, R. Cambridge Cambridge University Press (2000).

Avineri, S. and De-Shalit, A. *Communitarianism and individualism.* Oxford: Oxford University Press (1992)

Barry, B. 'Theories of Group Rights' in Matravers, D, and Pike, J, editors. *Debates in Contemporary Political Philosophy: an Anthology*. Routledge, (2003).

Barry, B. *Culture and Equality: An Egalitarian Critique of Multiculturalism* Cambridge, Polity Press (2001)

Gutmann, A. *Identity in Democracy*. Princeton, N.J: Princeton University Press, (2003)

Gutmann, in Gutmann, A ed. *Multiculturalism:Examining the Politics of Recognition* (1994)

Hobbes, T. *Leviathan*. Edited by C.B Macpherson. London: Penguin Group, (1985)

Jones, P. 'Liberty, Equality, and Accommodation' in Uberoi, V, Modood, T. *Multiculturalism Rethought: Interpretations, Dilemmas and New Directions: Essays in Honour of Bhikhu Parekh*, Edinburgh University Press, (2015)

Jones, Peter. *Rights*. New York: St. Martin's, (1994)

Kant, I. *Groundwork of the Metaphysics of Morals. Ed. M. Gregor and J. Timmermann.* Cambridge: Cambridge University Press 1998 (1785)

Kukathas, C. *The Liberal Archipelago: A Theory of Diversity and Freedom* Oxford: Oxford University Press (2003)

Kymlicka, W. 'Liberal Complacencies' in *Is Multiculturalism Bad for Women?,* edited by Joshua Cohen, et al., Princeton University Press, (1999)

Kymlicka, W. *Liberalism, Community, and Culture* Oxford, Clarendon Press (1991)

Kymlicka, W. *Multicultural Citizenship: a Liberal Theory of Minority Rights.* Clarendon Press, (1995)

Locke J, Second Treatise of Government Eds McPherson, C Hackett Publishing
      Company Cambridge (1980)

MacIntyre, A *After Virtue: a study in moral theory* Notre Dame: University of Notre
      Dame Press (1984)

Mill, J S. *On Liberty and Other Essays.* Ed John Gray Oxford; Oxford University Press, (2008)

Miller, D. *Citizenship and National Identity* Polity Press (2000)

Modood, T. *Multicultural Politics : Racism, Ethnicity and Muslims in Britain.* Edinburgh: Edinburgh University Press, (2005).

Modood, T. `Multiculturalism, Secularism and the State', in C. Harzig & D. Juteau (eds), The Social Construction of Diversity: Recasting the Master Narrative of Industrial Nations, Berghahn Books (2003)

Mulhall, S. *Liberals and Communitarians* Oxford: Blackwell (1992)

Okin, S, 'Is Multiculturalism Bad for Women?' in *Is Multiculturalism Bad for Women?*, edited by Joshua Cohen, et al., PDF, Princeton University Press, (1999)

Parekh, B *Rethinking multiculturalism : Cultural Diversity and Political Theory.* Basingstoke, Macmillan. (2000)

Rawls, J. *A Theory of Justice: Revised Edition.* The Belknap Press of Harvard University Press, (1999).

Rawls, J. *Political Liberalism.* Columbia University Press, (2005).

Raz, Joseph, *The Practice of Value.* Oxford: Oxford University Press, (2005)

Ross, W. D. *The Right and the Good* Oxford : The Clarendon Press (1930).

Sandel, M. *Liberalism and the Limits of Justice.* Cambridge Univ. Press., (1998).

Scanlon, T. *What We Owe to Each Other.* The Belknap Press, (2000).

Soper, K. *What Is Nature?: Culture, Politics and the Non-human.* Oxford: Blackwell, (1995)

Taylor, C *Philosophy and the Human Sciences* Cambridge: Cambridge University Press, (1985)

Taylor, C, *Multiculturalism: Examining the Politics of Recognition.* Princeton, N.J.: Princeton University Press, (1994)

Taylor, C. 'Cross-purposes: The liberal-communitarian debate'. In Derek Matravers & Jonathan E. Pike (eds.), *Debates in Contemporary Political Philosophy: An Anthology.* Routledge (2003)

Taylor, C. *Philosophical Arguments.* Cambridge: Harvard University Press, (1997)

Taylor, C. *Sources of the Self: the Making of the Modern Identity.* Harvard University Press, (2001).

Triandis, H C. *Individualism & Collectivism.* Boulder: Westview Press, (1995)

Watson, C. *Multiculturalism* Buckingham: Open University Press (2000)

Journal articles:

Abbey, R 'More Perspectives on Communitarianism: A Reply to Chandran Kukathas' *The Australian Quarterly*, Vol. 69, No. 2 (Winter, 1997), pp. 73-82

Agassi, J. "Methodological Individualism." *The British Journal of Sociology* 11,3 (1960)

Arneson, R J. "The Principle of Fairness and Free-Rider Problems." *Ethics* 92, 4 (1982)

Balint, P. 'Identity Claims: Why Liberal Neutrality is the Solution, Not the Problem' *Political Studies* 63, 2, (2013)

Beran, Harry. "In Defense of the Consent Theory of Political Obligation and Authority." *Ethics* 87,3 (1977)

Birnbaum, P and Strong T. 'From Multiculturalism to Nationalism' *Political Theory*, Vol. 24, No. 1 (Feb., 1996), pp. 33-45

Bradley, B. "Two Concepts of Intrinsic Value." *Ethical Theory and Moral Practice* 9,2 (2006)

Brandt, R. B. "The Concepts of Obligation and Duty." *Mind*, New Series, 73, 291 (1964)

Brown, C. "Two Kinds of Holism about Values." *The Philosophical Quarterly (1950-)* 57,228 (2007)

Buchanan, A. "Justice as Reciprocity versus Subject-Centered Justice." *Philosophy & Public Affairs* 19,3 (1990)

Canaday, M. 'Promising Alliances: The Critical Feminist Theory of Nancy Fraser and Seyla Benhabib' *Feminist Review*, No. 74, Fiction and Theory: Crossing Boundaries (2003), pp. 50-69

Caney, S. "Sandel's Critique of the Primacy of Justice: A Liberal Rejoinder." *British Journal of Political Science*, vol. 21, no. 4, 1 Oct. 1991, pp. 511–521.

Charney, E. "Political Liberalism, Deliberative Democracy, and the Public Sphere." *American Political Science Review*, vol. 92, no. 01, 1998, pp. 97–110.

Cowan, J. "Culture and Rights after Culture and Rights." *American Anthropologist*, vol. 108, no. 1, (2006), pp. 9–24

D. A. Lloyd Thomas. "Hume and Intrinsic Value." *Philosophy* 65,254 (1990)

Dagger, R. "The Sandelian Republic and the Encumbered Self." *The Review of Politics*, vol. 61, no. 2, 1 Apr. (1999), pp. 181–208.

Darwall, S. "Moral Obligation: Form and Substance." *Proceedings of the Aristotelian Society*, New Series, 110 (2010)

Dorsey, Dale. "Intrinsic Value and the Supervenience Principle." *Philosophical Studies: An International Journal for Philosophy in the Analytic Tradition* 157,2 (2012)

Dworkin, R. "Liberalism" in Hampshire, S.ed *Public and Private Morality*. Cambridge, Cambridge University Press (1978)

Elster, J. "The Case for Methodological Individualism." *Theory and Society* 11,4 (1982)

Etzioni, A. "Are Particularistic Obligations Justified? A Communitarian Examination." *The Review of Politics* 64, 4 (2002)

Feinberg, J. "Duties, Rights, and Claims." *American Philosophical Quarterly* 3. 2 (1966)

Fierlbeck, K. 'The Ambivalent Potential of Cultural Identity' *Canadian Journal of Political Science / Revue canadienne de science politique*, Vol. 29, No. 1 (Mar., 1996), pp. 3-22

Galvin, R. "Rounding Up The Usual Suspects: Varieties Of Kantian Constructivism In Ethics." *The Philosophical Quarterly*, vol. 61, no. 242, (2011), pp. 16–36

Goldstein, L. "The Two Theses of Methodological Individualism." *The British Journal for the Philosophy of Science* 9, 33 (1958)

Grant, R (1988) 'Locke's Political Anthropology and Lockean Individualism." *The Journal of Politics* 50,1 (1988)

Green, L. "Consent and Community." *On Political Obligation*. Routledge,

Habermas, J, Lennox, S and Lennox, F "The Public Sphere: An Encyclopedia Article (1964)." *New German Critique*, no. 3, (1974), p. 49.

Harman, G "Toward a Theory of Intrinsic Value." *The Journal of Philosophy* 64, 23 (1967)

Hill, G. 'Citizenship and Ontology in the Liberal State' *The Review of Politics*, Vol. 55, No. 1 (Winter, 1993), pp. 67-84

James K. Mish'alani. "'Duty', 'Obligation' and 'Ought'" *Analysis* 30, 2 (1969)

Jones, P. "Human Rights, Group Rights, and Peoples' Rights." *Human Rights Quarterly* 21, 1 (1999)

Jones, P. "Group Rights and Group Oppression". *Journal of Political Philosophy*, 7 (1999),

Jordan, B "Justice and reciprocity", *Critical Review of International Social and Political Philosophy*, 1,1, (1998)

Jovanovic, M *Recognizing Minority Identities through Collective Rights* Human
  Rights Quarterly, Vol. 27, No. 2 (May, 2005), pp. 625-651

Kagan, S. "Rethinking Intrinsic Value." *The Journal of Ethics* 2,4 (1998)

Klosko, G. "Political Obligation and Gratitude." *Philosophy & Public Affairs* 18,4
(1989)

Koppelman, A. 'The Limits of Constructivism: Can Rawls Condemn Female Genital
Mutilation?' *The Review of Politics*, Vol. 71, No. 3 (Summer 2009) pp 459-482

Kukathas, C. 'Distinguished Lecture in Public Affairs: Is Feminism Bad for
  Multiculturalism?' *Public Affairs Quarterly*, Vol. 15, No. 2 (Apr., 2001), pp. 83-98

Kukathas, C. 'Are There Any Cultural Rights?' *Political Theory, 20,*1, (1992). 105-139

Kukathas, C. 'Liberalism and Multiculturalism: The Politics of Indifference'. *Political
Theory, 26*, 5 (1998) 686-699

Kupperman, J. "The Epistemology of Non-Instrumental Value." *Philosophy and
Phenomenological Research* 70,3 (2005)

Kymlicka W. 'The Three Lives of Multiculturalism'. In: Guo S., Wong L. (eds)
Revisiting Multiculturalism in Canada. Transnational Migration and Education.
Sense Publishers, Rotterdam (2015)

Kymlicka, W. 'The Rights of Minority Cultures: Reply to Kukathas' *Political Theory*,
Vol. 20, No. 1 (Feb., 1992), pp. 140-146

Lehrer, K 'Individualism, Communitarianism and Consensus' *The Journal of Ethics*,
Vol. 5, No. 2 (2001), 107

Lewis, J and Weigert, A. 'Social Atomism, Holism, and Trust' *The Sociological
Quarterly*, Vol. 26, No. 4 (Winter, 1985), pp. 455-471

Mason, A. "Egalitarianism and the Levelling down Objection." *Analysis* 61.3 (2001)

Mason, A. "Special Obligations to Compatriots." *Ethics*, vol. 107, no. 3, (1997), pp.
427–447.

Meijers A. W. M. "Can Collective Intentionality Be Individualized?" *The American
Journal of Economics and Sociology* 62. 1 (2003)

Milo, R. "Contractarian Constructivism." *Journal of Philosophy*, vol. 92, no. 4, (1995), pp. 181–204

Modood, T. "Muslims, race and equality in Britain: Some post-Rushdie affair reflections" *Third Text* 4:11, (1990) 127-134

Neal, P. and Paris, D. 'Liberalism and the Communitarian Critique: A Guide for the Perplexed' *Canadian Journal of Political Science / Revue canadienne de science politique*, Vol.23, No. 3 (Sep., 1990), pp. 419-439

Okin, S. "Political Liberalism, Justice, and Gender." *Ethics* 105, no. 1 (1994): 23-43.

Okin, S. 'Feminism and Multiculturalism: Some Tensions.' *Ethics*, 108, 4 (1998) 661-684

Okin, S. "Feminism, Women's Human Rights, and Cultural Differences." *Hypatia*, vol. 13, no. 2, (1998), pp. 32–52.

Okin, S. "Political Liberalism, Justice, and Gender." *Ethics*, vol. 105, no. 1, 1 Oct. (1994), pp. 23–43.

Okin, S. "Reason and Feeling in Thinking about Justice." *Ethics*, vol. 99, no. 2, (1989), pp. 229–249

O'Neill, D. 'Multicultural Liberals and the Rushdie Affair: A Critique of Kymlicka, Taylor, and Walzer.' *The Review of Politics,61*, 2 (1999) 219-250.

Parekh, B. "The Cultural Particularity of Liberal Democracy." *Political Studies*, vol. 40, no. 1_suppl, (1992), pp. 160–175

Patten, A. "Cultural Preservation and Liberal Values: A Reply to William James Booth." *The American Political Science Review* 107, no. 4 (2013)

Patten, A. "Rethinking Culture: The Social Lineage Account." *The American Political Science Review* 105, no. 4 (2011)

Pettit, P. "Social Holism and Moral Theory: A Defence of Bradley's Thesis." *Proceedings of the Aristotelian Society*, New Series, 86 (1985)

Pogge, T,W. "The Kantian Interpretation of Justice as Fairness." *Zeitschrift Für Philosophische Forschung* 35, 1 (1981)

Prokhovnik, R. 'Public and Private Citizenship: From Gender Invisibility to Feminist Inclusiveness' *Feminist Review*, No. 60, (Autumn, 1998)

Quinn, W S. "Theories of Intrinsic Value." *American Philosophical Quarterly* 11, 2 (1974)

Quong, J. "Cultural Exemptions, Expensive Tastes, and Equal Opportunities." *Journal of Applied Philosophy* 23, no. 1 (2006)

Rajan, N 'Multiculturalism, Group Rights, and Identity Politics' '*Economic and Political Weekly*', Vol. 33, No. 27 (Jul. 4-10, 1998), pp. 1699-1701

Rawls, J. 'Kantian Constructivism in Moral Theory'. *The Journal of Philosophy, 77*. 9 (1980) 515-572.

Redhead, M. "Charles Taylor's Deeply Diverse Response to Canadian Fragmentation: A Project Often Commented on but Seldom Explored." *Canadian Journal of Political Science / Revue Canadienne De Science Politique* 36, no. 1 (2003)

Rorty, A. "The Hidden Politics of Cultural Identification." *Political Theory*, vol. 22, no. 1, (1994), pp. 152–166.,

Sales, A. "The Private, the Public and Civil Society: Social Realms and Power Structures." *International Political Science Review*, vol. 12, no. 4, (1991), pp. 295–312.

Schafer, K. "Realism and Constructivism in Kantian Metaethics (1): Realism and Constructivism in a Kantian Context." *Philosophy Compass*, vol. 10, no. 10, (2015), pp. 690–701.

Schaller, W. 'Is Liberal Neutrality Insufficiently Egalitarian? Neutrality of Justification versus Strong Egalitarianism'. *The Journal of Philosophy,* 101, 12 (2004) 639-650.

Schwarzenbach, S. 'Rawls, Hegel, and Communitarianism' *Political Theory*, Vol. 19, No. 4 (Nov., 1991), pp. 539-571

Seth, S 'Liberalism, Diversity and Multiculturalism' *The Indian Journal of Political Science, Vol. 62, No. 3, Special Issue on Globalisation and the State* (September 2001), pp. 321-333

Simons, R 'A Community of Freedoms' *The Australian Quarterly*, Vol. 68, No. 1 (Autumn, 1996), 32

Spinner-Halev, J, Feminism, Multiculturalism, Oppression, and the State Source: *Ethics*, Vol. 112, No. 1 (October 2001), pp.89-90

Stark, Cynthia A. "Hypothetical Consent and Justification." *The Journal of Philosophy* 97, 6 (2000)

Steinberger, P "Political Obligations and Derivative Duties." *The Journal of Politics* 64, 2 (2002)

Street, S. "What Is Constructivism in Ethics and Metaethics?" *Philosophy Compass*, vol. 5, no. 5, (2010), pp. 363–384.

Taylor, C, and Abbey, R. 'Communitarianism, Taylor-Made: An Interview with Charles Taylor' *The Australian Quarterly*, Vol. 68, No. 1 (Autumn, 1996), pp. 1-10

Thigpen, R, and L Downing. "Liberalism and the Communitarian Critique." *American Journal of Political Science*, vol. 31, no. 3, (1987),

Uyl, D., & Rasmussen, D 'The Myth of Atomism'. *The Review of Metaphysics, 59*, 4 (2006) 841-868

Vallentyne, P. "Contractarianism and the Assumption of Mutual Unconcern." *Philosophical Studies*, vol. 56, no. 2, (1989), pp. 187–192.

Villa, D. "Hegel, Tocqueville, and 'Individualism.'" *The Review of Politics* 67, 4 (2005) 659–86.

Volpp, L 'Feminism versus Multiculturalism' *Columbia Law Review*, Vol. 101, No. 5 (Jun., 2001), pp. 1181-1218

Walker, A. D. M. "Political Obligation and the Argument from Gratitude." *Philosophy & Public Affairs* 17,3 (1988)

Wall, S. 'Neutrality and Responsibility'. *The Journal of Philosophy, 98*, 8 (2001) 389-410.

Walsh, M. "Locke and Feminism on Private and Public Realms of Activities." *The Review of Politics*, vol. 57, no. 02, (1995),

Walzer, M. "Liberalism and the Art of Separation." *Political Theory*, vol. 12, no. 3, 1
Aug. (1984), pp. 315–330.

Other:

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