Assimilation and Nationality in the Modern State

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Chapter 1: Introduction – the assimilation question

The native people of high-immigration countries are often heard to complain that immigrants are not assimilating. This complaint implies that immigrants can be legitimately expected to assimilate and that if they do not, the state ought to do something about it. In this essay, I plan to examine whether or not this expectation is legitimate, and, if it is, what a modern state with liberal institutions may do about it. I will argue that the expectation is legitimate, based on the value to the state and to its people of an established nation respectful of its traditions, and the free choice of immigrants in coming to a new country the institutions of which they know to be connected to a common culture. This expectation can be balanced against the liberal principles inherent in the modern state with the result that the state can actively coerce a limited kind of assimilation necessary for participation in the polity but is not required to support multiculturalism and therefore can passively encourage or incentivise a deeper kind of assimilation involving the adoption by the immigrant of the private cultural practices characteristic of his new nation.

Tensions in multicultural societies

Recent years have seen an increase in the discomfort caused by immigration, largely because of widespread doubts about the ability or desire of Muslims to adapt their ways of living to their new countries. But the current wave of Muslim immigration has not created the issue for which it has become exemplary. Unease about foreign cultures taking root in one’s country in opposition to, or at least separate from, the dominant culture is one of the original political problems. What informs the debate now in an historically unprecedented way is the idea that immigrants are entitled by right to maintain their old cultures in their new lands.

Whereas states once aspired to the defence of a common national culture, it has become increasingly common for them to pursue a strategy of unity through the recognition of diversity. Kymlicka characterises the new policy as one “which expects that many immigrants will visibly and proudly express their ethnic identity, and which accepts an obligation on the part of public institutions (like the police, schools, media, museums etc.) to accommodate these ethnic identities.”¹ We see here the claim that it is an imperative for

¹ Kymlicka (2007) Multicultural Odysseys p. 72
states to accommodate immigrant cultures. This is a claim that has been widely accepted by governments in Western states over the last 30 years.

And yet, I would argue, public sentiment has not changed.\(^2\) The near abandonment of assimilation as a political goal (and the now common, much stronger claim that state-encouraged assimilation is unjust) has not diminished the feeling among the people that new arrivals ought to conform to the existing pattern of life in the country. This tension between public sentiment and public policy tends to lie below the surface of political discourse but raises it head whenever the majority’s feeling is outraged. In cities with high numbers of immigrants, incidents will occur from time to time that cause the majority culture to wonder out loud just when and whether assimilation will occur. Some examples are the following:

- The inability to speak English (or the local language, whatever it may be)
- Special privileges for cultural groups at public institutions
- Clashes between ethnic groups
- Violent attacks perpetrated by immigrants against members of the general public

The multiculturalist may say that these problems can be solved by appropriately mediating between the various ethnic groups present in society and by ensuring the state properly accommodates them and encourages tolerance as a common societal value. Yet it is arguable that what is offended by these examples is national solidarity itself, the very bonds tying the population together and to the state. The trust one citizen gives to another on the basis of common culture and the feeling that this is our country and it exists for our benefit are what makes freedom possible and makes palatable submission to the authority of the state. Confronted with outsiders in their midst, people may begin to question their trust in others and the motives of their rulers.

Culture clashes, then, are important not just as problems for public policy but as questions about the nature of the state itself. If there is, as I shall argue below, a strong connection between the authority of the state and traditions of the nation, and a corresponding relationship between the strength of the national culture and its reflection in public institutions, then assimilation becomes a relevant question. We need to distinguish here between the question of what it is permissible for the state to do (is multiculturalism an imperative?) and the question of what the state ought to do (is multiculturalism desirable?).

\(^2\) See Barry (2001) *Culture and Equality* pp. 292-9 in which he tracks the prevalence of multiculturalism as public policy against its lack of popular support, even in countries like Canada.
So, on what grounds might immigrants be expected to assimilate, and, if they can, what public policy should result? Answering this question will be the main undertaking of this essay.

**A conservative argument for assimilation and its liberal limits**

In what follows, I will argue that the modern state maintains a connection to the traditional culture of the nation which it represents and that it is not obligatory for this connection to be severed. The separation of the nation from the state can only be seen as a loss for the nation, and it is a loss that may be prevented. While the institutions of a liberal society create an assimilative pressure on immigrants, this pressure is not problematic because the state justly represents a national culture and this connection leads the people of a society which receives immigrants to expect that those immigrants will adapt themselves to the existing way of life in their new country. It can be reasonably assumed that immigrants know before they arrive that they will encounter a different way of life, and this assumption lends additional legitimacy to the expectation that they will assimilate.

Nonetheless, immigrants are entitled to expect that a modern state will grant them the same formal liberties that are granted to all citizens. I will argue that the modern state may pursue the assimilation of immigrants into the public life of society through insisting that they become familiar with the institutions and processes of the state and learn the native language. This much assimilation is necessary to the functioning of a liberal-democratic modern state. I will further argue that the state may encourage the assimilation of immigrants into the common private culture of the nation by maintaining its connection to that culture. It is not imperative that the modern state reform itself to accommodate immigrant cultures. However, the state cannot force immigrants to amend their private behaviour; it cannot ban harmless practices it does not like, it cannot tell people how to live. I argue the assimilation of immigrants into the common culture of the nation is legitimate public policy, but only to the extent that the institutions of a modern state naturally create an assimilative pressure in this respect.

I will begin by giving some definitions in Chapter 2. In Chapter 3, I will consider the liberal position that the state ought to be neutral on cultural questions. This leads to the argument that the assimilation of immigrants into the common culture of the nation is unnecessary, and
that the state has no role in promoting it. I associate this position with John Rawls. There are a number of reasons for thinking that this position is untenable, chief among which is its inability to provide a basis for social unity. Both the Canadian liberal-nationalist Will Kymlicka and the English communitarian David Miller have made strong arguments that this unity depends on a common culture. Kymlicka starts from liberal individualism and argues that it is immersion in an institutionalised societal culture that makes freedom meaningful. Miller, by contrast, starts with society, arguing that individualism itself is only meaningful if one is a participant in a political community. Despite their different starting points, however, both envision a society that is pluralistic and that recognises immigrants’ claims to state support for the ongoing practise of their cultures. I will argue that both of these arguments are deficient.

In Chapter 4, I will introduce the idea that cultural assimilation may be expected by the people of the receiving nation, and that this will legitimise some sort of state action in this regard. In Chapter 5, I will argue that if nationality is meaningful in the way that is claimed, it can only be because the national culture is traditional in the sense that the individual takes it as given. This requires the maintenance of the connection between the state and the common culture of the nation, and this makes the expectation of cultural assimilation legitimate. To draw out this connection, I will look at the English conservative philosopher Roger Scruton and his vision of the state. From this I will extrapolate an assimilationist argument that is nonetheless respectful of the liberties individuals in modern states expect. In effect, I will concede that the standard liberal position creates an assimilationist pressure, but I will argue that Kymlicka and Miller are wrong to see this as problematic. In Chapter 6, I will look at the idea of a contract between the receiving state and the immigrant. I will reiterate that such a view supports the moral permissibility of an assimilationist policy. Finally, in Chapter 7, I will look more closely the implications of my argument for public policy and the concept of citizenship.

The position of the paper, then, could perhaps be described as conservative liberal nationalist. I outline a vision of the state which sees its proper role as guarding the common culture which gives meaning and structure to the lives of members of the nation as well as the liberties of all citizens. I do not concede that the nation must give up its privileged position in society. This may well have a morally permissible assimilationist effect.
Chapter 2: Definitions

Before our discussion can continue, it is necessary to provide a few definitions of key terms that will come up in the essay: the difference between nation and state, what I mean by assimilation and who I take to be an immigrant.

Nation and state

In this essay, I intend to use the word *state* to mean a territorially-situated authority with a government that administers various institutions like schools, universities, hospitals and arts and sporting bodies. The state is all the apparatus by which a territory is governed. Public institutions are not necessarily organisations; a public holiday is an institution, sporting events, parades, festivals and the like are public institutions. All the things upon which a culture depends and which are regulated by the state are public institutions.\(^3\)

In contrast, I will use the word *nation* to refer to a group of people bound to each other by a common culture and a mutual feeling of togetherness.

The relationship of belonging to the state I will call *citizenship* and I will contrast it with the relationship of belonging to the nation, which I will call *membership*. The two are not coextensive, which creates the possibility of there being *citizen members* and *citizen non-members* in states where citizenship is not dependent on being part of the nation (that is, most states).

Finally, I am talking about the *modern state*. I use this term to refer to those states (typically in the West) that are representative democracies and which profess, to varying degrees, a commitment to individual liberty and have systems of civil rights. I use this term so as to avoid the claim that such states are committed to the theory of liberalism per se. I argue later on that, although a certain amount of individual liberty is a moral imperative for states, because the achievement of that liberty is culturally contingent the protection of the culture which supports it is a legitimate concern of the modern state.

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\(^3\) As we shall see, an important part of the assimilationist argument is how the common culture is institutionalised and how this depends on the state lending its authority to the common culture through public institutions.
Defining assimilation

In practical terms, a distinction can be made between two different levels of assimilation. The distinction is an extension of the difference between citizenship of a state and membership of a nation.

Juergen Habermas defines the distinction as between:

Assent to the principles of the constitution within the scope of interpretation determined by the ethical-political self-understanding of the citizens and the political culture of the country...

And

The further level of willingness to become acculturated, that is, not only to conform externally but to become habituated to the way of life, the practices, and customs of the local culture...

So, on one hand, there is what I call ‘political assimilation’, which occurs when an immigrant is active in civil society and conforms to the rules of public institutions. He professes loyalty to the state – he is patriotic. He is part of the polity. In short, political assimilation is the adoption of the norms of the public sphere by an immigrant. He can be a citizen.

On the other hand is a more demanding standard, which I call ‘cultural assimilation’. This occurs when the immigrant is immersed in the common culture of his new country. He has developed most of the habits of the native culture such that he is indistinguishable from other members of that culture except by his own particular individual characteristics. His distinguishing features mark him as an individual and not as a member of another cultural group. He identifies with the native culture and his fellow members. If he retains old practices, the native culture is either ambivalent towards them or shares in them. They are not in any way proscribed by the native culture. People from both inside and outside the culture are likely to identify him as a member of it. In short, cultural assimilation is a change in the private behaviour of the immigrant, conforming to popular standards. He is a member.

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The relationship between political assimilation and cultural assimilation is the following: One can be either on its own, neither or both. That is, one can be politically assimilated without being culturally assimilated. It is my contention that in countries with immigrants there are many people who are loyal to the state and follow its laws and accept its practices and procedures without being members of the culture which has historically informed, and continues to inform, those practices and procedures. It is possible, as I will argue later, to be loyal even to a state that reflects a culture to which you do not wholly subscribe. Similarly, one can be culturally assimilated and not politically assimilated. This I imagine to be a rarer state of affairs, but it is certainly possible. A political radical may believe that the state does not represent his national culture, and that it ought to be remade to be more in line with it. For such a person, his lack of acceptance of the state and its institutions is motivated by his cultural assimilation. On the other hand, a radical who wants the state to be destroyed and remade in line with some foreign or abstract philosophy is neither politically assimilated nor culturally assimilated; he accepts neither the state and its institutions nor the national culture that is reflected in them. So a radical who wants the national culture to be more prominent in the state can be culturally assimilated, but a radical who rejects the connection between the two is probably not. And of course, one can both accept the authority of the state and be part of the nation whose culture it reflects.

In policy terms, assimilation is the opposite of multiculturalism. Whereas the latter calls upon the state to be neutral in its approach to cultural ties and, where necessary, to support minority cultural groups and their members, the former is about using or not using the power of the state to encourage the continuing existence of the traditional nation within the state. So, in this paper when I refer to an ‘assimilationist’ policy, I mean one that is aimed at cultural assimilation in addition to political assimilation and the contrast I draw is with ‘multiculturalism’, which is a policy that includes political assimilation, but rejects cultural assimilation.

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5 The possibility of being politically assimilated without being culturally assimilated at all is theoretical, mirroring the liberal separation of state and culture. If we accept, as I later argue we should, that such a separation is not possible, it follows that to be politically assimilated entails being culturally assimilated to whatever extent the definition of the national culture depends on the formal aspects of the state. That is, to the extent that one must be a good citizen to be a good member, then someone who is politically assimilated is also to that extent culturally assimilated – at least in the sense that he accepts that it is legitimate for that culture to be represented by the state. The question is whether it is permissible for the state to ask this of its citizens even though by doing so the state may well create some pressure to adopt the established culture in one’s own life.
I have mentioned the distinction between public and private. Allow me to say a few words defining what I take this distinction to mean. ‘Private’ refers to those practices and habits of individuals and associations that are not regulated by the state. What one does in one’s home and how one runs one’s business is private, subject to the limits the law places on those activities. At the point of breaching those laws, those activities become ‘public’, since they are a concern of the government. Additionally, there are two senses in which something may be public. Customs, activities, practices, procedures and habits that are recognised by the state are public in the sense that they are official. They are certified by the state, backed by its authority and deemed to apply to all citizens. This is the sense in which I used the term in the above example. Some such things, however, may be public in the sense that they are popular. What is popular is what is common to a majority of people, and it does not rely on state certification. Cricket is popular in Australia, and it is public in the sense that it is shared in by the people. However, the term political assimilation refers to those activities (etc.) that are official. To the extent that that which is popular is official, cultural assimilation must also encompass the public sphere. For this reason, in the essay when I mean that which is public in the sense of popular, I use the term common culture, and when I refer to the ‘public sphere’ I mean that which is official, unless otherwise stated.

The key question for public policy is whether the official practices of the state can permissibly reflect the popular practices of the nation. As we shall see, one of the virtues I claim for the conservative account of nationality is that it is capable of drawing the connection between that which is popular and that which is official, and between civil society and state, through the idea of establishment. This is a key idea in the argument I will make for cultural assimilation as morally permissible public policy.

Let us leave that for now, though, and look again at the examples that I raised earlier and how the above distinctions might apply to them.

When people complain about immigrants’ inability to speak the native language, on one hand they are calling on the immigrants to assimilate politically. Learning the lingua franca is the first step towards participation in the polity. There is also, on the other hand, arguably a strong cultural argument for learning the native language and immersing oneself in it. If a person has a functional command of a language but in his private life uses another language, he will miss the great literature of his new land and the subtleties and norms that are encoded
within it. While this is not an argument against being multi-lingual, there is a cultural interest in immigrants making the native language their first language.

Similarly, when people object to exemptions and concessions and privileges for immigrants, they are asking for immigrants to conform to public standards. They are saying, you may have your own practices, but in the public sphere they come at a cost. In an official sense, this leads to rejecting, for example, the idea of a ‘cultural defence’ in the criminal law, whereby a member of an immigrant culture pleads his cultural habits as mitigating circumstances for a crime. Or suppose you belong to a religion which bans smoking but live in a country which allows smoking in bars and nightclubs, and where smoking is very popular. You do not have to smoke; you do not have to change your private behaviour at all. But you cannot expect accommodation of your non-smoking ways when drinking or eating out in that country.

Clashes between ethnic groups are a failure of cultural assimilation. For instance, there has been in Australia a history of violence at soccer matches between ethnically-affiliated clubs. On one level, this is obviously decried for breaching the peace. But violence is perpetrated by non-ethnics all the time and does not prompt quite the same outrage. This is because of the additional concern that the people involved remain so attached to other countries that they bring those countries’ historical conflicts to their new country. While people object generally to violence, they object in particular to conflicts in Australia between Serbs and Croats or Turks and Armenians being waged by people who all carry Australian passports.

The final example I gave is the one that troubles native populations the most: immigrants that perpetrate crimes largely, and sometimes specifically, against members of the native culture. In Australia, a famous case was a series of gang-rapes perpetrated by Muslims and targeting white females. An even more extreme case was the terrorist bombing of London on 7 July 2005, the perpetrators of which were all British. Again, obviously violence is to be deplored and is not perpetrated exclusively by ethnics. However, the fact that native-born citizens can hold their own country in such contempt that they will do such things indicates that concerns about cultural assimilation are valid, at least to some extent.

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6 Although you can of course lobby the government for a change in policy. But you probably won’t succeed in a country where smoking is very popular. Again, we see how that which is official is related to that which is popular; this is a relation I am to defend as the paper continues.

The above examples highlight real frictions in modern states with high immigrant populations, but they can also be seen as isolated crimes or problems that do not call for any overarching principle or policy of assimilation. Certainly it must be noted that criminality by itself is not indicative of a failure to assimilate. We do not decry the ‘non-assimilation’ of native-born criminals. While criminality is a form of non-conformity it is only relevant to the question of assimilation to the extent that it arises from culture, say through the perpetuation of ideals of justice that are different from that of the majority culture, or to the extent that non-assimilation has ensconced the minority on the fringes of society, making criminal activity more attractive. So if radical Islamists believe that it is permissible to kill non-believers then this is both an issue of criminality, since murder is illegal, and assimilation, since if they were assimilated they would not have this belief and hence would not commit the crime that stems from it. And likewise, if an immigrant group has lost all connection to the majority culture and its members are significantly more prone to commit crime than other members of society then this is an issue of assimilation to the extent that the social position of those in question would be advanced were they not members of a minority culture.

Who is an immigrant?

Anyone who chooses to move from one country to another is an immigrant. But this definition is too narrow for our current purposes. The issue of assimilation is multi-generational. Cultural assimilation may not be achievable for a first generation immigrant. It may not even be achievable for his children given that they have been brought up by him and surrounded by his customs. The lower threshold of political assimilation is achievable for most first-generation immigrants and certainly for their children provided they come into contact with members of the majority culture and are taught an appropriate curriculum at school. It is clear then that ‘immigrant’ must pertain to immigrant families down the generations. So assimilation is a question not just of new arrivals but of native-born citizens of a country. This poses the difficulty, as I will discuss later, that assimilation policy will have to differentiate not just between citizen and non-citizens but between citizens themselves.

Of course, some might argue that this is a problem just as easily solved by subsidising the minority culture and advancing the position of the group as a whole. As I will argue later, however, though this may be true, if the choice is between the state changing and the minority changing, there is no reason the state must prefer the former course to the latter.
Of course, once assimilated, a family is no longer classifiable as ‘immigrant’. The point at which assimilation is achieved will depend on the acceptance by the native culture of the immigrant’s claim to membership. This may or may not involve a loosening of cultural ‘standards’ by the nation, making its definition of itself more expansive. Another difficulty with the term ‘immigrant’ as it applies to multi-generation families is that technically, any native-born person is not an immigrant. Colloquially, however, it is common to refer to children and even grandchildren as part of ‘immigrant’ communities. Although this is somewhat unfortunate, I will use the terms ‘immigrant’ and ‘immigrants’ in the essay as a shorthand for these groups because it fits with common usage and is easy to read.

The issue of choice in immigration is also vexed. There is a clear enough distinction between a citizen of one modern state leaving for another modern state voluntarily and a citizen of a failed state fleeing his homeland for his life. In between the two, however, is a class of people sometimes referred to as ‘economic refugees’. These are people whose home countries, while not war-torn or subject to civil unrest, are wracked by poverty and who seek better lives elsewhere.

I will focus my argument on people for whom there has been a choice largely unencumbered by circumstances of misery or coercion. That is, people whose lives in their homelands were minimally decent and who realistically might have stayed put. However, I think that anyone who makes a permanent home in a new country falls under the argument I will make to some degree. The key distinction for me is not between ‘immigrant’ and ‘refugee’ but between those who will stay permanently and those who are seeking asylum with an eye to returning home when circumstances permit. I will briefly give two reasons her for thinking this is the more important distinction. First, although we may feel that states with the resources to take refugees (of all kinds) are obliged to do so, it does not necessarily follow that refugees have a right to bring their old culture to their new country. And second, since assimilation is a long-term, multi-generational process, it is obvious that those granted temporary asylum will not be able to achieve it, and one should not be compelled to do that which one cannot do. There may well be other requirements for asylum-seekers but I will not in this essay attempt to describe them. Although I make this claim about the position of refugees, I will not defend it at length. If you believe that the different circumstances in which refugees arrive in their new country entitle them to different treatment from immigrants, I will not make any further attempt to disabuse you of that notion and I invite you to exclude refugees from the scope of this paper as you read it.
Finally, it might be thought that since I am including the children and grandchildren of immigrants in the discussion that, if I am to be consistent, I ought also to include indigenous groups, since, like indigenes, later generations of immigrants have not chosen to be present in a society with a culture different from their own. Suppose that upon entry the state waived whatever claim it had on the new arrival that he assimilate and instead encouraged and subsidised the practice of his original culture. In doing so for many immigrants from the same culture, the state created the possibility for an ethnic group identity to develop. Subsequent generations of native-born citizens are born into the group and their assimilation into the mainstream culture is not supported by their parents since such support was not mandatory in any sense. The position of these subsequent generations might seem to be the same as that of indigenes. Andrew Mason argues, “The children of immigrant groups which have succeeded in partially recreating the cultural structures which they left behind are in an analogous position to members of indigenous groups: neither chose to be members of minority cultures.”

This would be true were the only difference between later-generation immigrants and indigenes the choice of the former to join a new society. But of course this is not the only difference. Indigenous minorities, by definition, were present before the birth of the majority settler culture. It is not an exaggeration to say that the new country was built on top of them. There are therefore other considerations of justice that do not arise in the context of immigrant minorities. So the key difference between indigenes and immigrants is that the claim by the former for positive government support of their culture will be decided based on factors different from those affecting the immigrant case. One can reasonably say that just because indigenous minorities may deserve the support of the state it does not follow that immigrant groups should attract the same support.

But the most important point to make about later-generation immigrants is that even if their families have managed to preserve some aspects (or even the entirety) of their old culture this does not necessarily create a claim on their part for state support or accommodation of that culture. As I shall argue, the free choice of the immigrant in coming to their new country is only a subsidiary part of the justification for expecting cultural assimilation from immigrants; the main justification is simply that the state has an historical connection to a national identity.

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that need not be severed. Additionally, I will argue that immigrants are free to maintain as best they can, in the absence of state support or accommodation, their original cultures. No modern state can justifiably come into their homes, clubs and organisations to stop them from attempting to do so.

10 The long-term presence of an immigrant culture in a society might see the nation itself change to accommodate it. A culture that has been able to recreate itself to a certain extent in a new country may well come to be part of the established national culture if the nation ratifies this change.
Chapter 3: The Left-Liberal Consensus – Political Assimilation and Multiculturalism

The common answer to the assimilation question is that only political assimilation, as I have called it, is obligatory for immigrants because the functioning of a modern state depends on the citizenry’s allegiance to the processes, norms and institutions of the public sphere. Cultural assimilation, on this view, is not the legitimate business of the state because it is not necessary for the functioning of the state. In the literature, there are three positions of note, each subtly different from the others but all agreeing on the proper relationship between the state and immigrants. They are standard liberalism (as I shall call it, and which I associate with Rawls), liberal nationalism (which I associate with Kymlicka) and left-communitarianism (to use Miller’s name for his own position).

In this chapter I will describe each of these three positions with the aim of showing how they form a consensus: that the modern state must pursue a policy of multiculturalism. In the next chapter, I will make the alternative claim that a modern state may justly encourage cultural assimilation. So the purpose of the current chapter is to establish what the current prevailing idea is to anchor the discussion and provide a point of reference for the argument I will give.

The Standard Liberal Position: The Neutral State

The standard liberal position on culture, cultural groups and the proper relationship between citizens and the state is that the state ought not to discriminate against nor give positive support to any one culture or conception of the good life. The state is to be neutral in its treatment of cultural groups. Kymlicka calls this the “strict separation of state and ethnicity”\(^\text{11}\) (and, as we will see, it is a position that he rejects). I will take Rawls as emblematic of this view, specifically the position he describes in “Justice as Fairness: Political not Metaphysical”, which is where we find a clear statement of the distinction between the public idea of right and private ideas of the good. For our current purposes, the content of his famous theory of justice is not important – that is, the ideas by which he thinks the public sphere ought to be governed do not concern us here, only his idea of the separation of that sphere from the day-to-day lives of the citizenry.

**Rawls’ purely political society**

In the aforementioned paper, Rawls outlines his vision of a society governed by principles that are purely political, carrying no implications about truth or identity: “Briefly, the idea is that in a constitutional democracy the public conception of justice should be, so far as possible, independent of controversial philosophical and religious doctrines”. It follows from this idea that to function society needs only that people subscribe to the governing principles of the public sphere and that their private cultural practices are immaterial to this functioning.

Rawls conceives of the principles of justice as applying to the “basic structure” of a modern state, determining the operation of society’s “main political, social and economic institutions, and how they fit together into one unified system of social cooperation”. Within this society, individuals’ different conceptions of the good will not be affected by the operation of justice and their reasons for supporting those principles may differ. What is required is that each individual does subscribe to them and therefore individuals form an “overlapping consensus” in their support for the basic structure.

The aim of Rawls’ theory of justice is to locate the ideas and principles found in the public political culture (like, for instance, our objection to slavery and religious persecution) and order them into a coherent understanding of political justice. In this way, the basic structure will be supported by our “considered convictions” viewed from a position of “reflective equilibrium”. Rawls’ theory then makes no claim to the truth, seeking only to form the basis for a society conceived of as the cooperation of free and equal persons.

This separation Rawls makes between the principles governing the public sphere and the private conceptions of the good forms the basis of the idea of the culturally neutral state – that is, a state which governs not based on the common life of its citizens but adjudicating the interaction of diverse ways of life.

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13 Ibid. p. 225
14 Ibid.
15 Ibid.p. 228
16 Ibid.p. 230
This vision of the state is accompanied by a vision of the individuals who will be citizens in such a state. Rawls attributes two abilities to the free and equal citizen:

1. A capacity for a sense of justice and a capacity for a conception of the good. A sense of justice is the capacity to understand, to apply, and to act from the public conception of justice which characterises the fair terms of social cooperation. The capacity for a conception of the good is the capacity to form, to revise, and rationally pursue a conception of one’s rational advantage, or good.  

As we will see later in the essay, the ability of persons to revise their conceptions of the good and the attachments that go along with it is crucial to any assimilationist argument. Briefly put, the assimilationist must argue, above all else, that it is possible for a person to transition into a new culture. Rawls description of the capacity for a sense of justice is of parallel importance to the argument that it is possible for anyone to ‘politically assimilate’ and adopt the norms of their society’s public sphere.

Rawls elaborates on what he means by citizens being free later in the same essay. People are free, he writes, because they have, and attribute to others the having of, the “moral power to have a conception of the good” which they are capable of reflecting on and revising should they wish to. Given their independence from conceptions of the good, the public identity of persons does not change as they change their minds on such questions; they remain the bearers of legal rights and duties capable of acting in the public sphere. This is true despite the fact that for many people revising the cultural attachments they have in their private lives is simply unthinkable. Even though some people may not wish to step back and evaluate their attachments it is a fact that people experience changes in their “non-public identity” frequently. What is important is that when such changes occur the person’s status in the public sphere remains unchanged; the public sphere is always neutral with regards to such things.

What we see here is that for Rawls there is a strict division between what is required by justice as it regulates the public sphere and the way people might live in private. The public

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17 Ibid. p. 233
18 Ibid. pp. 241-2
sphere of a state is entirely independent of, and neutral towards, the attitudes and attachments found in the private sphere, and thus in the non-political common culture of the country.\textsuperscript{19}

It is this separation between the public and private cultures of citizens (and by extension the community) that informs Rawls understanding of social unity, which he argues depends not on people sharing a conception of the good but only their common loyalty to society’s basic institutions. He writes,

\begin{quote}
Social unity and the allegiance of citizens to their common institutions are not founded on their all affirming the same conception of the good, but on their publicly accepting a political conception of justice to regulate the basic structure of society.\textsuperscript{20}
\end{quote}

Thus we see in Rawls the foundation of the idea that a society depends only on the subscription of the polity to the principles of the public sphere. For newcomers to society then it follows that they must only assimilate to the extent that they are able to participate in public institutions (ie political assimilation). Indeed, for Rawls, they are entitled to base their loyalty to such institutions on anything they like as part of the state’s inherent indifference to the private culture of citizens.

\textit{Problems with Rawls’ theory}

There are a variety of difficulties bedevilling this seemingly neat theory.

First, there is a common line of argument against Rawlsian liberalism: it is inherently unclear about the nature of the group of people to whom it is supposed to apply. As Miller writes,

\begin{quote}
Rawls appears to assume that citizens are always citizens of some national society – this is what determines membership – but this assumption is kept well hidden in the background, presumably for fear that if it were brought out into the open, it might cause trouble for the distinction between justice and conceptions of the good.\textsuperscript{21}
\end{quote}

The neutrality of the state on cultural questions is endangered if the principles by which it is governed depend on an underlying pre-existing national or cultural unity. At the very least, this would suggest that the people may have an interest in maintaining their pre-existing identity.

\textsuperscript{19} Ibid. p. 245
\textsuperscript{20} Ibid. p. 249
\textsuperscript{21} Miller (2000) Citizenship and National Identity p. 46
This leads to a second difficulty: how can such a state attract the loyalty of citizens who believe themselves committed to higher duties and ideals? Without official recognition of their beliefs, religious groups, for instance, have no reason to participate in a polity which asks them to subordinate their beliefs to the state policy of tolerance towards those with whom they necessarily disagree (i.e. non-believers). The Rawlsian position on pluralism is that the public principles of the state should be shaped such that people who wish to may freely revise their private cultural attachments but that it is possible that some people feel their identities are encumbered by those attachments and will not even conceive of revising them. Again, this point is made by Miller, who questions why someone who would not conceive of revising his cultural attachments would agree that the state should nonetheless be shaped as though he might do just that. “Why shouldn’t the principles of justice themselves be made responsive to the demands of an (encumbered) personal identity?” There is no reason to assume that people who in their private lives are illiberal will agree to be liberals in public life.

And the same point is made by Kymlicka. Rawls argues that communitarian groups can accept liberal politics because doing so does not cost them anything. Even though, as citizens, they would have formal liberal rights, whether or not they value these rights in the private lives is up to them to decide. People who reject autonomy as a value in their private lives can nonetheless accept it as a matter of public policy: “[O]ne way to understand Rawls’s ‘political liberalism’ is to say that, for Rawls, people can be communitarians in private life, and liberals in public life.” Kymlicka sees two problems with this approach. First, the mere existence of rights of autonomy may be detrimental to communitarian groups. If members of religious groups know that they are free to revise their beliefs, this makes it harder for such groups to retain members. Second, and more important, the state will be obliged to ensure that such rights are exercisable by members of religious groups and this will involve restricting the practices of those groups. For example, the state may impose educational standards that conflict with religious teachings. Legal rights inevitably spill over into private life.

A third difficulty is that, to the extent that this idea of society depends on the idea of a social contract it must answer the questions of privity: who is a party to the contract and why should

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22 Ibid. p. 47
24 Ibid. pp. 237-8
I contract with these people and not others? Kymlicka has argued that Rawls theory does not depend on the social contract that he describes in *A Theory of Justice*. Nonetheless, the problem of how to limit membership of the community governed by the state is important. As we will see, states that are conceived as non-neutral on cultural questions but are avowedly multicultural in practice are confounded by this question just as the Rawlsian liberal is. This will be an issue that arises in the later discussion of Miller but I flag it here so that a comparison might easily be made between his position and that of Rawls.

What is the relevance of these difficulties to the current discussion about assimilation? Firstly, they call into question the possibility of the state being neutral on cultural questions. If the state is necessarily partial to the culture from which it arose then this means liberals are wrong to assume that multiculturalism is a natural (indeed, necessary) part or ideal of the modern state. The assimilationist can point to the connection between the state (and public institutions) and a pre-existing culture as a reason for insisting that new citizens be culturally assimilated. Second, should there be a connection between the state and a common culture, any state that commits to multiculturalism will need to give positive support to minority cultures to mitigate the state’s natural bias towards the dominant culture. We might ask whether the state is obliged to give such support as opposed to that simply being something that it can do, should it wish to. We will take these points up in the next chapter.

Concerns about the standard liberal position have been addressed by the liberal-nationalists, who seek to give liberalism a national basis and nationalism liberal limits. It is to that group that our discussion will now turn.

**Liberal-nationalism and the rights of immigrant minorities**

Liberal-nationalism is a response to the idea that a liberal state must be neutral on cultural questions. On this view, of which I take Kymlicka to be the foremost representative, the state cannot be neutral but this is not to say that it can do nothing for minorities. Instead, the state is seen as bearing an obligation to ameliorate the effects of the connection between the state and public institutions and the dominant culture by reforming itself and those institutions to accommodate minority cultures.

Kymlicka argues that group rights for minority cultures are “not only consistent with individual freedom, but can actually promote it”\(^{26}\). This is, of course, on the proviso that those minority groups are respectful of basic individual rights. Kymlicka aims to show that the kind of freedom envisaged by liberalism depends for its meaning on a cultural context.

Not all cultures have this relationship to freedom, however. Kymlicka is concerned with “societal cultures”:

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\text{That is, a culture which provides its members with meaningful ways of life across the full range of human activities, including social, educational, religious, recreational, and economic life, encompassing both public and private spheres. These cultures tend to be territorially concentrated, and based on a shared language... [and] they involve not just shared memories or values, but also common institutions and practices.}^{27}\]

Societal cultures are made necessary by the nature of the modern state. The modern state relies in its politics on an informed public, in its economics on education and literacy, in its welfarism on a willingness to sacrifice, and in its freedoms on a willingness to let others be. All of this requires a high level of solidarity among the citizenry.\(^{28}\) Even in a diverse state like the USA, there is a “dominant culture” which is embodied in the nation’s institutions. Immigrants to America come as individuals and as families and settle throughout the country. They are expected to learn English and use it in the public sphere. Nonetheless, immigrants have not developed distinct societal cultures within America because they have not been able to establish the “social, educational, economic and political institutions, encompassing both public and private life” on which such cultures depend. For this reason, the children of immigrants find their freedoms defined by the dominant Anglophone culture and the immigrant culture cannot survive for more than a few generations.\(^{29}\) Such is the importance of institutions to societal cultures that Kymlicka concludes: “Given the enormous significance of social institutions in our lives, and in determining our options, any culture which is not a societal culture will be reduced to ever-decreasing marginalization.”\(^{30}\)

So far, Kymlicka’s view seems to hint at the possibility of a state pursuing an assimilationist policy towards immigrants. A state has a societal culture that is intimately bound up with its

\(^{26}\) Kymlicka (1995) *Multicultural Citizenship* p. 75
\(^{27}\) Ibid. p. 76
\(^{28}\) Ibid. p. 77
\(^{29}\) Ibid. p. 78
\(^{30}\) Ibid. p. 80
institutions. Given that immigrants do not generally come as groups and do not have the opportunity to establish the institutions necessary for creating their own societal culture, they will be exposed to the subtle assimilationist pressure created by the bias public institutions naturally have towards the established way of life in the country. The assimilation of immigrants can be encouraged simply by institutions carrying on operating in the manner they always have operated. This is the position that I will defend as this paper continues, and I will have more to say about it in the sections following this one.

But it is not Kymlicka’s position. To understand Kymlicka’s objection to this idea, a few words will need to be said about how he connects individual freedom to culture.

For Kymlicka, as for all liberals, the individual must be free to determine for himself what the good life is. He must be free to choose a life and lead it and he must be free to revise his convictions if he comes to think them wrong. The idea of “rationally revising” one’s convictions is essential to liberalism, and we saw the idea in Rawls earlier. As Kymlicka writes, “[M]uch of what is distinctive to a liberal state concerns the forming and revising of people’s conceptions of the good, rather than the pursuit of those conceptions once chosen”.

The connection between this kind of freedom and societal cultures is this: “Put simply, freedom involves making choices amongst various options, and our societal culture not only provides these options, but also makes them meaningful to us”. For this reason, it is a legitimate end of politics to protect societal cultures from undermining influences. It is also a reason for liberalism to be concerned with ensuring people have access to a societal culture.

This might sound surprisingly conservative since it seems to suggest a reason for insisting on immigrants assimilating – namely the protection of the existing societal culture and the immigrant’s own access to it. But Kymlicka does not see it this way. States are not obliged to let immigrants establish new homelands within the national territory and enable them to recreate their old societal culture. Nonetheless, immigrants do have certain claims against the state vis-a-vis their ethnic identities. He writes, “Integration is a two-way process – it requires the mainstream society to adapt itself to immigrants, just as immigrants must adapt to the mainstream.” For the state, adaptation to immigrants involves recognising “polyethnic rights”: the creation and enforcement of anti-discrimination laws and changing the way

31 Ibid. p. 82
32 Ibid. p. 83
33 Ibid. p. 96
immigrants are portrayed in school textbooks, government documents and the media. He
continues,

*Without these [changes], certain groups would be disadvantaged (often
unintentionally) in the mainstream. Immigrants can rightfully insist on maintaining
some of their heritage, and dominant institutions should be adapted to accommodate
those differences.)*

Importantly, then, the needs of immigrants can be met by reforming the existing societal
culture and do not require that immigrants be allowed or enable to establish a societal culture
of their own. This is the crux of Kymlicka’s position on the assimilation of immigrants. A
nation will have at least one societal culture and because the meaning of the freedoms granted
immigrants will in large part be defined by that culture, immigrants will be exposed naturally
to an assimilative pressure. But this pressure is to be ameliorated by public policies aimed at
accommodating ethnic differences and adapting public institutions to the needs of
immigrants.

As we saw, Kymlicka rejects the standard liberal “separation of state and ethnicity” – the idea
that the state can be neutral on the question of ethnic identity. On that view, the state should
not “promote or inhibit the maintenance of any particular culture”. But, Kymlicka points
out, the state cannot help but do so when it settles such things as holidays, territorial
boundaries, public languages and state symbols. The important thing is that the state, in the
name of equality, accommodates ethnic group differences.

This idea maps onto the distinction I have made between political and cultural assimilation in
the following way. If Kymlicka did not advocate the reform of public institutions, his position
would be in favour of cultural assimilation, in effect. Since he accepts that the institutions of
a society reflect the culture of that society, the ongoing operation of those institutions in the
absence of the reforms he has in mind would naturally affect cultural assimilation. The
reforms he proposes are designed to keep the state and public institutions from having this
effect by enabling the maintenance of immigrant cultures in the private sphere. That is, the
public recognition of ethnic differences enables the maintenance of those differences in the
private sphere. This position puts Kymlicka in the ‘political assimilation only’ camp.

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34 *Ibid.* pp. 96-7
So despite denying the standard liberal premise of the culturally-neutral state, Kymlicka endorses the same public policies as any other liberal. The only difference – as far as the issue of immigrant minorities is concerned – between liberals and liberal-nationalists is that the former sees multiculturalism as resulting from the state not interfering in the private lives of the citizenry whereas the latter sees multiculturalism as something requiring the positive support of the state. And the liberal-nationalist sees the state as obliged to offer this support by the concept of equal citizenship. Because culture is what makes freedom meaningful, for every citizen to get the same value from his freedoms he must have access to the culture of his choice and that culture must have institutional support.

The issue that I will take up with Kymlicka is whether or not these reforms he speaks of are morally required of us with respect to immigrant minorities. I will argue that it is morally permissible for the majority to not reform its institutions and by not doing so incentivise the cultural assimilation of immigrants. One way of looking at this argument is that if standard liberalism entails some sort of assimilation, this is not problematic.

Before turning to the argument for cultural assimilation, there is one more multicultural theory that I want to introduce and examine: the communitarian nationalism of David Miller. In the next section, we will look at Miller and then the section after that will connect the multicultural theories together and lead into counter-arguments.

**Left-communitarianism, republican citizenship and nationality**

Miller defends a position that he calls “left-communitarianism”. He distinguishes it from conservative communitarianism and liberal nationalism. It is different from the former in that it stipulates that “the community should be actively self-determining rather than subject to the authority of tradition... [It] is not seen as sanctified by past tradition, but as open to revision when the members deliberate collectively about their aims and purposes”. It is different from the latter because liberal nationalism cannot supply the kind of inclusive politically community which makes communal diversity possible:

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36 The liberal nationalist does not see standard liberalism as properly multicultural; his argument proceeds from the claim that standard liberalism creates passive discrimination in favour of the dominant group. But the standard liberal sees his position as multicultural – this is what I am driving at.

This, if you like, is the left critique of multiculturalism: an exclusive emphasis on the celebration of specific cultural identities may be incompatible with preserving just that form of political community which allows such separate identities to co-exist in relative peace.\(^{38}\)

Here, though, it is important to note that Miller is using ‘multiculturalism’ in a particular way. He means that a society must be supported by a common nationality but he does not mean to object to the idea of there being a multiplicity of cultural groups in society. In fact Miller is himself a multiculturalist in the sense that I have been using the term – that is, he believes that society can sustain a variety of private ethnic identities. Miller’s multiculturalism derives from his definition of ‘nationality’, which is very thin, making few if any claims on the private lives of members. Miller’s objection is to the idea that the state should recognise ethnic identities at the expense of a common nationality. My response to Miller will turn on my belief that his definition of nationality is too thin to be meaningful.

Nationality, as Miller defines it, rests on three claims. First, an identity claim: that it is not “irrelevant or bizarre” to refer to one’s nationality when defining one’s identity, so that it is meaningful to say, for example, “I am Australian”. Second, an ethical claim: that nationality is relevant to ethics and that we owe a greater duty to our co-nationals than to others. And third, a political claim: nations have a right to self-determination and “there ought to be put in place an institutional structure that enables them to decide collectively matters that concern primarily their community.”\(^{39}\)

A national identity has a variety of features. It is “constituted by belief”, meaning that its existence depends only on people believing that it is real. A nation is located in particular place – “a nation... must have a homeland”\(^{40}\) – and the people of the nation must believe that they belong together naturally are distinct from other peoples. “The common traits can be cultural in character: they can consist in shared values, shared tastes or sensibilities. So immigration need not pose problems, provided only that the immigrants take on the essential elements of national character.”\(^{41}\)

Nationality also has an historical element, with the national origins stretching back in time and one’s involvement in the community seen as involving obligations to other members, to

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\(^{38}\) Ibid. p. 106  
\(^{39}\) Ibid. p. 27  
\(^{40}\) Ibid. p. 29  
\(^{41}\) Ibid. p. 30 (my emphasis)
ancestors and to future generations. But despite this very Burkean note, Miller does not see nationality as conservative. One aspect of nationality to recommend it is that it provides the kind of solidarity that a modern state requires; it provides the reason for people to accept the obligations of life in the community and the freedoms of others. But nationality is also recommended by its imaginary element. Since national identity is a matter of belief it is capable of changing over time.

It allows people of different political persuasions to share a political loyalty, defining themselves against a common background whose outlines are not precise, and which therefore lends itself to competing interpretations. It also shows us why nationality is not a conservative idea... Nationality invokes the activist idea of a people collectively determining its own destiny, and this is anathema to the conservative view of politics as a limited activity best left in the hands of an elite who have been educated to rule.

Miller’s defines nationality as a political identity, separate from a thick culture. He claims that the fact that this identity may change over time makes it incompatible with conservatism. He further claims that conservatism is elitist. All of this is misguided, and I will address the first two of these points as the essay continues. Here I note only that in every modern state politics is left to an elite; in a representative democracy the people do not wield power directly but rather through an elected class of career politicians. It is not clear to me that there is anything especially elitist about conservative politics.

Miller’s “activist” idea of nationality is informed by a peculiar ideal that he calls “republican citizenship”. Unlike liberals, who see citizenship as a “set of rights”, Miller sees it as involving the citizen participating in the political life of the community, actively “shaping the future direction of his or her society through political debate and decision-making”. The citizenry as a body are bound together by their common participation in politics and the projection of community life into the future.

Since the nation decides its future together it might seem that this will disadvantage minorities because the majority will obviously have the power to determine the future direction of the nation. Miller believes that this concern is overstated. To engage in public discourse one does not have to shed all of one’s attachments and preferences (and thereby

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42 Ibid. p. 29
43 Ibid. p. 32-33
44 Ibid. p. 53
confirm to some supposedly white heterosexual male-centric norm of behaviour) one needs only to find reasons that might persuade those who disagree and a willingness to compromise.\textsuperscript{45} However, because discourse relies on compromise, there can be no guarantee that a group will have its demands accepted by other groups in society:

\textit{Everything will depend on whether the demand can be linked to principles that are generally accepted among the citizen body, such as principles of equal treatment... [But] for a group to insist that only the full recognition of its demands can respect its identity is to reject the very essence of republican citizenship.}\textsuperscript{46}

The main difference between the liberal and republican conceptions is that while the former stipulates certain principles which citizens must live by, and thereby excludes from politics by definition all those people whose conceptions of the good are non-liberal, the latter allows (indeed requires) those people to engage in a debate with their fellow citizens to produce an agreement about how society is to be governed.\textsuperscript{47} The result of the adoption of an impartial point of view in a pluralistic society will be the adoption of principles similar to those in a liberal society. There is therefore in practice little difference between the two positions.

This is a point worth emphasising. Despite his belief in a communitarian politics based on political participation and a thin national identity, Miller argues that, in practice, there will not be too much difference between left-communitarianism and the liberal-nationalism of Kymlicka.

It is not surprising, then, that Miller believes his theory can incorporate cultural pluralism.

As Miller conceives it, nationality is the relationship of citizens to the state and to each other. They are bound to the state and to each other through political participation; they owe their loyalty to the former because it implements the decisions of the nation and to each other as equal participants in the national project. Since nationality is conceived in political terms, it is sufficiently thin as to allow a diversity of private lifestyles and conceptions of the good. He writes,

\textit{Nationality is not of its nature an all-embracing identity. It need not extend to all the cultural attributes that a person might display. So one can avow a national identity and}

\textsuperscript{45} Ibid. pp. 54-5
\textsuperscript{46} Ibid. pp. 56-7
\textsuperscript{47} Ibid. p. 59
also have attachments to several more specific cultural groups: to ethnic groups, religious groups, work-based associations and so forth. A line can be drawn between the beliefs and qualities that make up nationality, and those that fall outside its scope. The place where that line is drawn will be specific to a particular nationality at a particular time, and it will be a subject for debate whether its present position is appropriate or not.\textsuperscript{48}

This seems to indicate that, for Miller, there might be states in which cultural assimilation is legitimately required of immigrants. He moderates this position by claiming that nationality is divorceable from the culture of a society’s dominant group. Responding to the claim that national identities are usually determined by the dominant cultural group in its own favour, Miller argues that this, while historically often the case, is not necessarily true: “[O]ne thing we may be doing in the course of redefining what it means to be British, French, etc. is to purge these identities of elements that necessarily entail the exclusion of minority groups.”\textsuperscript{49}

In the case of immigration, this results in nations being willing, in practice, to make members of anyone who adopts the national characteristics.\textsuperscript{50} There will be mutual adaptation. The definition of nationality will be thinned down to make room for minorities and those groups will abandon any beliefs or practices that will shut them out of public debate.\textsuperscript{51} This is, of course, the same argument that Kymlicka made. At another point, Miller describes how, despite nationality often arising out of an ethnic identity, it can be broadened to incorporate marginalised groups. In recent history many groups – the middle and working classes, blacks, women – have been able to appeal to the principles of the nation to work their way towards its political centre. Immigrants, then, are in a situation parallel to that of other previously marginalised groups.\textsuperscript{52}

In a paper dealing specifically with immigration, Miller argues, as one would expect, that the state and immigrants must adapt to each other. But the cost falls disproportionately on the receiving state. The state is obliged to ensure that immigrants have equal citizenship rights and “that these rights are equally protected and equally able to be exercised”.\textsuperscript{53} This will involve extending subsidies, should they exist, from churches to mosques and synagogues; or

\textsuperscript{48} Ibid. p. 34
\textsuperscript{49} Ibid. p. 35
\textsuperscript{50} Ibid.
\textsuperscript{51} Ibid. p. 35-6
\textsuperscript{52} Ibid. p. 87
\textsuperscript{53} Miller (2007) “Immigrants, Nations and Citizenship” p. 11
from domestic sports to the sports the immigrants like to play. The provision of public amenities should take into account immigrant needs.\textsuperscript{54} The state should also cater to immigrants’ cultural differences by extending existing subsidies in the arts to forms that immigrants enjoy and teaching the national history and literature of minorities in schools in which those minorities are well-represented.\textsuperscript{55} Equal opportunity is essential to equal citizenship and the state has a positive duty to ensure that opportunities are equal regardless of cultural differences.\textsuperscript{56} The state cannot require immigrants to change their private behaviour and in fact must accommodate their different practices.

In return for these rights, immigrants must “be willing to accept the responsibilities of citizenship”, whatever they may be.\textsuperscript{57} They must accept and obey the law and cooperate with the police when required. They ought to vote. They ought to be active in civil society. They ought to fight in legitimate wars and wars of self-defence when asked. However, they do not have to identify only with their new country.\textsuperscript{58}

Miller therefore arrives at the same conclusion as his liberal counterparts: only political assimilation is justified, and far from being able to promote cultural assimilation, the state must positively ensure the equality of immigrants in the public sphere. It is certain that for Miller there are cultural practices that are “national” and some that are “non-national”. Finding a difference, at least in practice, between this distinction and that found in Kymlicka and Rawls is difficult. It seems like what the others argue is essential for citizenship, and that make up what I have called political assimilation – like learning the national language, understanding the law and the functioning of public institutions – Miller takes as constitutive of the national identity. His thin nationality, then, has no non-public attributes.

For Miller, as I read him, it would be a nonsense to say that part of the national culture of Brazil is playing football, since this is not something that is relevant to citizenship or political participation. (Of course, the people of Brazil could, in democratic deliberation, elevate football to a national characteristic, but Miller suspects that they would not.) And this makes him the same as Rawls and Kymlicka in that they would argue that football is either irrelevant to the state (for Rawls it would be just one sport among many that a person might prefer) or cannot be subsidised by the state at the expense of other sports (Kymlicka’s view

\textsuperscript{54} \textit{Ibid.}
\textsuperscript{55} \textit{Ibid.} p. 16
\textsuperscript{56} \textit{Ibid.} p. 13
\textsuperscript{57} \textit{Ibid.} p. 11
\textsuperscript{58} \textit{Ibid.} pp. 11-13
might be that, if there were a wave of Indian immigration to Brazil, cricket should be subsidised to whatever extent football is).

Sport can be seen as a trivial example but it highlights an important truth: when we talk of nationality we mean more than simply a way of relating to one another in official institutions. It is the case, I submit, that football is part of the Brazilian nationality: it is public in the sense that it is popular, and it is popular because it is part of many people’s private lives. Any definition of nationality that cannot explain this simple fact is deficient. Miller would have to say that it is part of the common culture of a majority of Brazilians but exclude it from the definition of the Brazilian nationality. What is lacking is the connection between the common culture of the country (which exists largely in the private sphere, but is also in a sense public) and the national culture (which for Miller exists in the public sphere). It is better to say that nationality is informed by both spheres, and to keep the idea of citizenship separate and confined to the public sphere, as I have tried to do, and as Rawls and Kymlicka do.

The key point is that Miller’s definition of nationality maps on to the standard liberal view of the public sphere and rests on a terminological confusion between membership of the nation and citizenship of the state. This confusion arises from Miller’s identification of nationality with an active participation in the public sphere; an identity that he willingly creates as part of an idealised notion of citizenship and national self-determination. What Miller calls nationality is a public identity similar to the loyalty liberals expect citizens to show to the procedures of the state. Miller’s position then is a political assimilation-only, multicultural one, like the others. The confusion is just that Miller thinks that by politically assimilating, you become a member of the nation.

**A left-liberal, multicultural consensus: political assimilation is the limit of public policy**

For liberals, the state ought to be completely neutral on cultural questions. It is not to favour or disfavour any culture. This is to protect the individual’s right to choose his cultural attachments, a right which is predicated on his ability to rationally consider those attachments and revise them at will. In such a society, individuals are bound together only by their common allegiance to the institutions and procedures of the state. They base their allegiance on whatever reasons they have for believing that the state is governed by just principles. They
do not have to agree on what those reasons are. The position of the state regarding
immigrants, then, is just an extension of the principle of non-interference. So long as
immigrants are willing to give their loyalty to the state – to become politically assimilated –
they require no special treatment or recognition.

We saw that this view of the state has been the subject of many criticisms. The standard
liberal view of culture cannot adequately explain social unity. As both Kymlicka and Miller
point out, the idea of the culturally-neutral state seems to depend on a pre-existing cultural
unity among the citizens. Why else would they agree to be governed together? This leads to
the related point that the Rawlsian liberal state cannot attract the loyalty of anyone who
believes himself committed to ideals other than those represented by the state. People who
believe themselves to be defined by their cultural attachments gain nothing by participating in
a society based on the idea that those attachments are revisable and subordinate in value to
individual autonomy. And, as Kymlicka points out, the strength of the ties they value may be
weakened should their members be given a liberal education premised on the possibility of
revising those ties. Finally, to the extent that a liberal society must be seen as an arrangement
of mutual benefit organised by free individuals, it must explain why some individuals are
privy to the contract and others are not. If society can be seen as an agreement on what is fair
in the eyes of rational persons then it might as well include everyone who wants to join.

Both the liberal-nationalism of Kymlicka and the left-communitarianism of Miller can be
seen as responses to the difficulties inherent in the standard liberal view.

Liberal-nationalism starts with the rejection of the possibility of a state being entirely neutral
on questions of culture. In the way it, for example, fixes holidays or writes the school
curriculum, the state cannot help but institutionalise the dominant culture of the country it
governs. This is not the problem that liberals fear, however, because it is only within the
context of a culture that permeates all the institutions of the public and private spheres that
the freedoms so highly valued by liberals become meaningful. Additionally, it is this
common culture which gives society the solidarity on which its functioning depends. By
itself, these principles seem to indicate that immigrants ought to culturally assimilate: given
that the state necessarily represents the existing dominant culture in their new country, to get
the full value of their freedoms and to sincerely give their loyalty to those institutions they
ought to share in the common culture which shapes them. Kymlicka, however, instead
proposes that it is the state which must adapt to the presence of the immigrants. For their
citizenship to truly be equal, the state should grant immigrants concessions or reform its institutions to accommodate them. Despite the fact that they have chosen to come to a new country, immigrants have a right to expect this kind of accommodation. Therefore, cultural assimilation is not, after all, necessary on the liberal-nationalist view. Because immigrants can expect the public sphere to accommodate them they have no reason to change their private lives. But it should be noted that Kymlicka does anticipate “mutual adaptation” by the state and immigrants, so he is only advocating against cultural assimilation to the extent that the state can possibly minimise the pressure it places on immigrants through its association with the dominant culture. This pressure probably cannot be eliminated entirely. (Though Kymlicka might say that it would be ideal if it could be, I do not want to misrepresent him by suggesting that this ideal dictates liberal-nationalist policy with regards to immigrants.)

In the next chapter, I will address whether, and to what extent, the state really is obliged to reform itself in this way.

Miller’s response to the problems confronting the liberal view is more radical. It starts with the idea that the state should be representative of a national identity. But this national identity is to be sufficiently thin as to allow a multiplicity of cultural attachments and practices to flourish in society. The basis of nationality on this view is an ideal of citizenship that involves active participation in the public sphere and a contribution to the self-determination of the nation. Because it is a vision of a society actively determining its own destiny rather than continuing an established way of life it is not a conservative idea of nationality. For Miller, the common culture of a country can be divided into those aspects of it that are “national” and those that are “non-national”; this line will be decided by the people in concert exercising their democratic will. But in a pluralistic, modern society, the line will probably be drawn along the same public-private divide typical of liberalism. While everyone in society must be willing to compromise when he takes part in democratic debate it is likely that, because of this diversity, the principles by which the nation is governed will be liberal and tolerant of a variety of cultures and conceptions of the good. Because nationality on this view is defined by political participation and will largely exclude the private practices of citizens it is very similar to the liberal-nationalist view. For this reason, Miller also anticipates mutual

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59 To the extent that Kymlicka thinks that the functioning of the state depends on its connection to a national culture, he must support some kind of cultural assimilation since the state’s continuing function would be called into question without it. His point is that it is unfair for immigrants to have to do all the adapting and that the state should look to minimise as much as possible the extent to which immigrants must culturally assimilate.
adaptation by the state and immigrants. But to the extent that in a modern state the line between “national” and “non-national” cultural characteristics will be the same as the public-private divide, the immigrant will only need to adapt to the norms of the public sphere – that is, politically assimilate.

By three different accounts, then, the modern state ought not to encourage the assimilation of immigrants into the dominant culture of the country. If the state naturally creates some pressure on immigrants to culturally assimilate it should take steps to alleviate that pressure and ameliorate its effects. We can therefore say that there is a consensus that the state’s policy regarding immigrants should be to enable them to maintain at least some, if not all, of the heritage and culture they bring with them from their old countries. As far as is possible\textsuperscript{60}, the state should ensure that immigrants need do no more than politically assimilate. Since the state’s main interest in this area is the political assimilation of immigrants its policy can accurately be called multiculturalism.

In the following chapters, I will look at reasons for rejecting this consensus position in favour of a public policy that reflects desire of the existing culture to maintain its influence on public institutions through the encouragement of cultural assimilation. I will describe an exclusive form of nationality. It can perhaps be thought of as a conservative response to multiculturalism.

\textsuperscript{60} It should be noted, however, that although both Kymlicka and Miller argue for the state to adapt itself to immigrants, both of their theories point to the possibility of some cultural assimilation being required of immigrants by some states because both reject the idea of the state completely divorcing itself from the national culture. Again, Kymlicka’s response is to reform the institutions of the state to minimise the amount of cultural assimilation asked of immigrants. Miller’s is to thin out the definition of nationality to achieve the same end. And it is for this reason that I call their positions multicultural and not assimilationist.
Chapter 4: The expectation of cultural assimilation

In the previous section we saw three arguments for restricting public policy to the encouragement of political assimilation only. This is a problem because, as you will recall, some of the complaints we dealt with in the first section of the essay implied that cultural assimilation is expected of immigrants. Are we therefore to just dismiss these complaints out of hand? I don’t think that we should.

The standard liberal view can be rejected for the reasons given above. In this chapter, I will argue that the people of modern states may expect the connection between their traditional national identity to continue. In the two chapters following this one, I will argue that this expectation is legitimate and therefore that an assimilationist policy that takes it into account is morally permissible.

Joseph Carens makes a distinction between immigration policies which are just because they are “morally required” and those that are just because they are “morally permitted”. This is an important distinction. I want to say that the positive support for immigrant cultures called for by Kymlicka is not morally required and that, on the contrary, withholding such support is morally permissible. Carens also gives a useful description of the ways in which states might respond to the issue of integration. He distinguishes between requirements, expectations and aspirations. A requirement is “formal and explicit” and stipulates conditions that immigrants must meet to obtain legal rights or naturalisation. An expectation is “informal” and enforced through “social sanctions” rather than by the law: “For example, the public officials or ordinary citizens in the receiving state may have expectations about how immigrants should behave or how they should adapt culturally, and, if these expectations are not met they may be critical of the immigrants even though no formal sanctions follow.” Finally, aspirations are hopes that the people of the receiving society might have for how the immigrants will assimilate but are not considered to be enforceable.

The importance of these distinctions lies in the fact that “a demand that may be morally permissible if expressed as an expectation may be morally impermissible if constructed as a

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61 Some passages in this section were first submitted as part of an earlier essay written while studying at NTNU Trondheim.
63 Ibid.
In other words, while it may be permissible for the people of a nation to expect cultural assimilation it may not be permissible to make cultural assimilation a legal requirement. So while the liberal institutions of the modern state protect the private freedoms of individuals, the citizens of a modern state can still have a legitimate expectation that, over time, maybe even over several generations, immigrants will culturally assimilate.

This is a point worth emphasising. It is possible that cultural assimilation, while not strictly necessary for the functioning of the modern state, is an expectation of the people of a receiving nation, and not a mere aspiration. I want to argue that it follows that if this expectation is legitimate (in the sense of being morally permissible) then it is legitimate for the state not to thwart it by implementing policy that runs counter to it. This is not to say that any policy running counter to such an expectation is illegitimate, only that it is legitimate for public policy to follow the expectation. If the former were the case, Carens distinction between formal and informal would collapse because if we were to say that policy must follow the expectation then the expectation would be formal in a *de facto* sense. And if we say it is legitimate for public policy to reflect a legitimately-held expectation of the community we say nothing controversial. It is in fact a truism. I see it therefore as beyond debate that if a community holds an expectation of cultural assimilation and it can be shown that it is morally permissible for a community to hold that expectation then it follows that it is morally permissible for the state to act in accordance with it.

The effect of this expectation therefore is not to undermine the injunction against the state interfering with the private freedoms of citizens and residents but serves instead to call into question the shift from this injunction to the presumed need for the state to make a positive commitment to multiculturalism by reforming public institutions to accommodate immigrant cultures.

In the next two chapters, I will offer two arguments for thinking that this expectation is legitimate, and that it makes some kind of assimilationist policy morally permissible.

The first argument is what I will refer to as the conservative conception of nationality: the idea that the meaningfulness of a national identity is derived from its traditions and its

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64 Ibid. p. 31
65 Of course, a good way to test whether this expectation exists in the community and whether it has widespread support is an election. Consider the 2001 election in Australia that was dominated by the issue of illegal immigration and John Howard’s convention declaration: “We will decide who comes to this country and the manner in which they arrive”. Howard’s Liberal-National coalition duly won the election.
connection to the state. The second is the free choice of the immigrant in coming to a new country with a culture different from his own and what he might reasonably be assumed to know about and expect of his new country. I will argue that this gives additional weight to the expectation of cultural assimilation, at least in certain circumstances. It is an argument that I take to be subordinate to the first, however, for reasons I will later give.
Chapter 5: The conservative conception of nationality

The expectation of cultural assimilation reveals the connection people feel exists between their common culture and the state. None of the arguments for restricting public policy to political assimilation only can explain the connection between the way the public sphere is arranged and the way people live their lives in private, that is, between what is official and what is popular. The state does represent a majority culture and that culture – public and private instantiations both – is determinative of the national identity. The important thing is not that such a connection between the majority culture and the national identity and the institutions of the public sphere is *vital* or *necessary* to the functioning of a state – it is perhaps possible for a state to survive in its absence – but that in a state where such a connection exists (and I propose that this is true of all modern states) it is not illegitimate or morally impermissible for public policy to reflect it and protect it. This tie does not need to be severed.

So the claim that the expectation of cultural assimilation is legitimate, and that therefore some kind of assimilationist policy will be morally permissible, depends not on the importance of the nation to the state, but on the importance of the state to the nation. The claim that I will make is that for nationality to be meaningful in the way Kymlicka and Miller claim it is, it must be rooted in tradition, that the traditional national identity is bound up with the institutions of the state and that separating the two in the name of multiculturalism will damage the national culture, and this provides a reason not to make the kinds of reforms called for by the left-liberal consensus position.

In this chapter, I will address Miller’s arguments first, describing why I take his description of nationality to be deficient, and then draw a conservative picture of nationality in response, making explicit the connection between tradition and the meaningfulness of nationality, and the connection between the national culture and the state. I will use this description of state and nation to argue against the idea that the state must adapt itself to immigrant cultures, for example through the polyethnic rights that Kymlicka calls for.
Against Miller on nationality

Miller himself acknowledges that “the people who compose a nation must believe that there is something distinctive about themselves that marks them off from other nations, over and above the fact of sharing common institutions”. For Miller this distinctive something is a “public culture” independent of the various private cultures existing among the citizenry. But it is not a conservative idea and its qualities are not sanctified by tradition.

For Miller then, nationality has the following characteristics relevant to our discussion. It is: more than institutional, public and non-conservative. To my mind, nationality cannot be all of these things. His rejection of tradition as the bonds between co-nationals creates a vacuum that is very difficult to fill.

We might wonder what, other than tradition, can be both non-institutional and public. He cannot mean the idea of political participation, since that surely must take place within public institutions: through Parliament, through political parties, through trade unions, through advocacy groups and lobby groups. Even in a direct democracy, there must be a forum and there must be a system for deciding administrative matters like the agenda of the meeting. Aside from protests and rioting on the streets, there is no political action that is not institutional in some sense. And even those activities are usually planned in advance by organised groups. Political action must also, of course, come to a resolution. The touted issue must be dealt with in some way, say through legislation or a court decision. This resolution will be the result of established procedure. Political participation, then, is an institutional affair and if it is, as Miller suggests, to be the basis of citizenship, and citizenship is to be the basis of nationality, there is no reason to reject the liberal assertion that people’s loyalty can be directed solely to the institutions and procedures of the public sphere. Put another way, it is difficult to see how Miller can separate the notion of public from the institutions of the state. If he means public in the sense of popular, we must wonder how what is popular can be separated from the private cultures of the citizenry. Surely popularity is an aggregate of private preferences.

I say “apart from tradition” because it seems obvious to me that tradition is more than merely institutional and is certainly public in the sense that it is shared in by the people (ie popular). It is also institutional and therefore public in the sense of official. And its great virtue is precisely this connection it makes between the way people live and the way their institutions

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work. This connection is what makes people value their nationality. But Miller rejects tradition as the element which gives nationality its ability to attract the loyalty of even culturally-diverse people. In an earlier book, *On Nationality*, Miller rejects the conservative argument for the value of the nation. He argues that the national identity is always changing and that there is no reason to think that the current identity is especially important. Social change should result from a conversation in which “those who seek to defend traditional interpretations enter the conversation on an equal footing with those who want to propose changes.”

He summarises his rejection of the conservative view:

The conservative nationalist moves from a valid premiss – that a well-functioning state rests upon a pre-political sense of common nationality – to a false conclusion – that this sense of common nationality can be preserved only by protecting the present sense of national identity and the authority of the institutions that now express it.

And, as we have seen, Miller’s conception of nationality turns on a particular ideal of citizenship and he argues that people are bound together by their common participation in deciding the future of the nation. But here he presupposes what it is he ought to be explaining: the fact of their common participation. Why should people cooperate in this way, we ask? They do so because they are co-nationals, he replies. And why are they co-nationals? Because they cooperate with one another, of course.

Miller’s idea of citizenship, predicated on political participation, is supposed to replace tradition as the glue which binds a nationality together. But political participation is brought about through the sharing of a common culture. It is therefore common culture which is the basis of nationality and not political participation. The institutions within which that participation takes place are explicable only by reference to the culture from which they grew and are valuable for this reason.

Miller argues that while this might historically be the case, nationality can be thinned out over time. As we saw, over time previously marginalised groups have successfully appealed to the principles of the nation to justify their inclusion. In this way the nation loses its association with the dominant ethnic group. Immigrants, therefore, are in a situation parallel

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68 *ibid* p. 129
to that of other previously marginalised groups and the national identity can be diluted to include them.

But when the nationality loses its cultural associations, what is left but the (now hollow) institutions with which all cultural groups identify? The principles of the previously dominant group may seem now to stand astride all those groups which have used them to argue for their inclusion. But these principles are hard to separate from the institutions which apply them. Furthermore, even if we can conceive of such a separation, these principles can be revised in democratic debate by the people who used them to join the debate in the first place. So, for instance, a religious group can appeal to the ideas of freedom of speech and freedom of conscience to establish itself in the political debate and then use its influence to bring about a change in policy weakening free speech on the basis that there is “no right to offend”. This change is made more likely if there are a number of religious groups using the same tactic. Therefore, it cannot be the traditional principles of the dominant group which become the public culture, especially if that is supposed to be somehow more than institutional.

Furthermore, the idea of the citizenry actively making and remaking the national identity calls into question the closed nature of the community. Just as the liberal social contract cannot explain why we should contract with some people and not others, Miller cannot say why this debate should be restricted to members only. If our nationality can incorporate a multiplicity of cultures and is made by the people in concert it is not clear why we should not include any persons or groups who want to participate in our nation. Miller’s republicanism can be seen as a ‘rolling social contract’ the terms of which are always up for debate and revision. It therefore faces the same problem as any social contract: it cannot explain why some people are privy to the contract and others are not.

Miller might argue that nationality is historically-based: there are nations that exist and which are self-determining and the question is therefore not how to create a nation but how a nation might be re-created from within. However, stripped of tradition, which is the projection of the national identity from the past to the future, the historical fact of nations must be arbitrary. Why does a nation exist if not to perpetuate itself? If it is to be remade, and the process by which it is to be remade is not sanctified by the tradition, to paraphrase Miller, there is no reason for the nation of the future to bear any connection to the nation of the past. The future of the nation might as well be determined by non-members or prospective members as by members.
One factor we have not yet considered is geography. Miller correctly asserts that a nation must have a homeland and it is also true that geography plays a large role in separating one group of people from another. Thus it is arguable that geography naturally restricts the membership of a nation. A state may restrict membership to those within its territory. But if we as a nation are to make a claim to our land it can only be because we consider ourselves to share an identity with those who lived on our land before us. If, instead, we, the current generation, claim the right to determine our identity for ourselves we must justify our control of our territory in some other way. Of course, the identity of a people will always be shaped by the place where they live. But geography is not by itself enough to justify a closed national identity. One cannot say, this is an island and you may not live here; one must say, this is our island and you may not live here. The very idea of a homeland depends on the historical continuity of the nation that lives there. The land is a home because it is the place where the nation has made its life\textsuperscript{69}, not just now but for time immemorial (at least in theory).

I do not want to delve any deeper into the heavily contested notion of national rights of possession. The point I am endeavouring to make is just that geography cannot by itself explain the existence of nations and so cannot be relied upon to avoid the question of how national identity remains important if not through tradition. While the national territory shapes the national identity – for instance, being Australian would be vastly different were Australia not a big desert island at the end of the Earth – it does not by itself explain it. The fact of a group’s existence in a place at a particular moment is not enough to justify closing that place off from outsiders. In truth, it is not the land that is being closed off but membership of the group which controls the land. If the nature of that membership is indeterminate then there is no reason to exclude others from it and thus no reason to exclude others from the land controlled by the membership. Therefore, the fact of geography cannot give nationality continuity over time – that continuity must be based on something else.

Nationality is sentimental, a matter of belief. But there have to be reasons for believing in it. Common institutions are not enough to engender national sentiment and neither history nor geography can explain its existence without reference to the idea of tradition and its authority through time, which Miller rejects.

If public institutions and the state are informed by a national culture, as Miller and Kymlicka agree, and this culture is important only because it is traditional, as I shall argue, then this

\textsuperscript{69} Thompson (2002) \textit{Taking Responsibility for the Past} p. 59, quoting Michael Walzer
provides a reason for saying that the state has a role in preserving the traditional way of life of the nation even at the expense of immigrant cultures. It is the intuition that the state has this role that, in part, leads people to expect cultural assimilation from immigrants. In other words, the state will have a valid interest in promoting, subject to justice, the cultural assimilation of immigrants and not just mere political assimilation. At the very least, this calls into question the polyethnic rights that Kymlicka proposes.

The main idea then that I want to develop in response to Miller is that nationality only makes sense when it is rooted in tradition. Only a conservative vision of nationality can explain why people are bound together by more than just their institutions because tradition is the only reason one can give for closed communities whose members are partial to one another at the expense of outsiders.

**Tradition as the basis of nationality: the value of the given**

I have claimed that nationality only works as a conservative idea. Without tradition the idea is meaningless.

What do I mean by tradition when I use it in this sense? To answer this it is best to contrast it with what unites the political assimilation-only views: the idea that public institutions and the state are based on the consent of the individual. For the liberal-nationalist, as for the liberal, the individual is bound to society by the notion that society is governed by principles to which he would have reasonably consented given the choice. While autonomy depends on a cultural context, cultural ties must be rationally revisable. And for the left-communitarian, allegiance to society is based on common participation in the public discourse about how society is to be governed; that is, on the condition that the individual has some role in shaping that to which he is to give his allegiance. A traditional society is instead based on the idea that the character of society is in a sense given and that one belongs to it not by consent but as of course.

The conservative position takes society as a precondition for autonomy but it argues that one’s allegiance to society is not based on consent and is owed to society itself and not just to other members. Scruton argues that the idea of a consenting individual itself depends on an
ordered society already existing.\textsuperscript{70} The basic idea is just that you would have no reason to contract with others and to trust them if you were not already a social being. The contrast with Miller and Kymlicka is that, for Scruton, it would not make sense to reorder society based on the individuality which is a product of that society. Individual freedom depends on maintaining the order from which it springs. Therefore, even though conservatives may want the state to refrain from intruding into the private lives of citizens, they must be sceptical of an individualism that is stripped of allegiance to something greater than persons. Because, Scruton argues, “Individuality too is an artefact, an achievement which depends upon the social life of people”.\textsuperscript{71}

In Scruton we see a clear example of society conceived as an extended family. The first authority that a child encounters and gives his allegiance to is his family. Learning from this example, the child grows into a man capable of giving his allegiance to authority as it is found in society and comes to be enmeshed in a web of cultural attachments which he recognises as greater than himself. For Scruton,

\begin{quote}
People are amplified and not diminished through their participation in such arrangements. Mere individuality, relinquished first to the family, and then to the whole social organism, is finally replaced by the mature allegiance which is the only politically desirable form of ‘freedom’.\textsuperscript{72}
\end{quote}

It is for this reason that patriotism is “indispensable”.

\begin{quote}
Patriotism... is, simply, the recognition that we stand or fall together, and that we therefore owe it to each other to maintain the customs and the symbols of our common membership.\textsuperscript{73}
\end{quote}

What is worth noting here is Scruton’s incorporation of customs and symbols into the national identity that commands our allegiance. The implication is that patriotism is more than allegiance to, or activity in, public institutions. The individual must “relinquish” some

\textsuperscript{70} Scruton (2002) \textit{The Meaning of Conservatism}, p. 20
\textsuperscript{71} \textit{Ibid.}, p. 24
\textsuperscript{72} \textit{Ibid.}, p. 25
\textsuperscript{73} \textit{Ibid.}, p. 26

Here I have omitted Scruton’s rejection of a nationalism predicated on the superiority of one’s own people at the expense of other peoples; I have done so because I do not read Scruton as opposed to nationalism in the sense that we have been discussing it, which is as an identity embodied in institutions and as the expression of a common way of life. In the section immediately following the one from which this quote is taken, Scruton discusses how allegiance is always to a particular country and a particular form of life, which he calls “national”.

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measure of his identity to society; in return he gains the freedom that comes from being embedded in society. It is important that society be seen as something that transcends the individual and which is to a certain extent beyond his control, for society cannot be both the cause of and caused by the individual.

It is the transcendent quality of society that is ‘imaginary’ in the sense endorsed by both Miller and Kymlicka. An essential feature of an established order, argues Scruton, is “myth”. All institutions must cultivate to a degree this quality, but it is most important to the nation. He writes,

Thus there emerges the myth of the ‘glory’ of the nation, the myth of its absolute unqualified right to allegiance. This myth belongs to every national culture, determining the form of its religion, art and literature, and being reinforced with every manifestation of civil or military power.74

Allegiance to society has no purpose. It is not the means to an end but an end in itself. While for left-liberals, society is the means by which to secure your freedom as an individual, conservatives cannot see it this way because “there is no description of the end in question that does not refer back to the values – and hence to the customs, institutions and allegiances – of those who pursue it”.75

It follows, then, that the customs and institutions of society must be taken by the individual as pre-existing himself and as pre-determined. It is only if it has this quality that society can be meaningful:

[People] must see themselves as the inheritors, not the creators, of the order in which they participate, so that they might derive from it... the conceptions and values which determine self-identity. They will see their extension in time from birth to death as taking on significance from social stability: their world was not born with them, nor does it die when they depart from it.76

Here then is a direct response to Miller’s conception of nationality. The value of society is that it is given. While the two agree on the normative value of society, they disagree on its source; for Miller society is valuable because of one’s participation in its political life,

74 Ibid. pp. 156-7
75 Ibid. p. 29
76 Ibid. p. 60
whereas for Scruton the value is in knowing that you belong to something greater than yourself and that will survive you.

Miller might argue that his nationality has this same value that Scruton claims is conservative. He might say that the nationality will live on. But though the name will live on, there is no consolation in just that fact; there is no consolation if the society you have been part of will be remade after you are gone. In fact, it is an insult that what you valued might be destroyed completely and something new erected in its place, bearing, rudely, the same name. This is not to deny your children and grandchildren their freedom, and it is not to claim that society must never change. It is just to say that the connection of one generation to another is essential to the meaning of society and if the current generation claims for itself the sovereignty to recast the national character they lose the reason for their togetherness. I will return, at the end of my discussion of tradition, to the idea of social change.

For Scruton, the chief failing of liberal individualism is

\[ T \text{hat it reposes all politics and all morality in an idea of freedom while providing no philosophy of human nature which will tell us what freedom really is or why it matters. It isolates man from history, from culture, from all those unchosen aspects of himself which are in fact the preconditions of his subsequent autonomy.}^{77} \]

I have argued that this same criticism can be levelled at Miller's left-communitarianism, which similarly cannot explain why an individual ought to voluntarily give his allegiance to a bounded community. The virtue of the conservative account of nationality is that it does not depend on the consent of the individual; in fact, its meaning is found in the impossibility of it being a matter of consent.

**Conservatism and the person**\(^{78}\)

An objection may be raised at this point. I mentioned earlier that the assimilationist must take the position that culture is important enough that it informs the operation of the state and the state has an interest in protecting it while simultaneously claiming that culture is not so

\(^{77}\) *Ibid.* p. 112

\(^{78}\) The parts of this section dealing with Kymlicka's rebuttal of the communitarian view of the self were first submitted as part of a paper written for a class taken as part of my Master's studies at Linköping University in 2008-9
constitutive of individual identity that one’s attachments are beyond revision. I have made a conservative argument for the connection of culture and state. Am I not then committed to a view of the person that precludes assimilation? If the value of society is that it is given and if society is what makes individuality possible then how can an individual assimilate into a new culture? Doesn’t a conservative vision of society imply that cultural identity is immutable?

Some communitarians have argued that the liberal insistence on the rational revisability of cultural attachments is in opposition to the true nature of the self, which is necessarily embedded in society. Kymlicka has argued that such a view of the person is incoherent, and I agree.

Kymlicka offers a defence of the liberal view of the self against three communitarian attacks.

First, Charles Taylor argues that the liberal view of the self is “empty” because it cannot provide meaningful self-determination. The choices an individual makes are meaningful because of the social context within which they are made. If we do not accept that our social relations constitute “authoritative horizons” and insist on a limitless conception of freedom, the result is the rejection of all social ties and thus the annihilation of meaning. Kymlicka replies that liberals too believe that it is social goods and projects that make life meaningful. But the difference between liberals and communitarians is not their position on life-projects but rather their views of how such projects are acquired. For communitarians, they must be dictated to people by the community they live in. Liberals believe that people can reject social practices and determine their own projects.

The second communitarian argument questions whether it is possible to perceive a self that is independent of its ends. On the liberal view, Michael Sandel argues, we ought to be able to, on introspection, perceive a self that is “unencumbered” by its ends. The fact that we cannot do this indicates that our ends are fundamental to our selves. Kymlicka counters by arguing that the liberal view does not depend on an unencumbered self being possible, it relies on the possibility of the self changing the ends by which it is encumbered. Although reasoning is always dependent on the ends of the self, it does not follow that those ends cannot change over time.

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79 Kymlicka (2002) op. cit. p. 222
80 Ibid. p. 223
81 Ibid. p. 225
The third argument offered by communitarians, then, is to deny that our ends can change over time. Instead they are socially-determined. Thus, freedom is not really a question of self-determination but one of self-realisation. We do not choose our ends but rather discover them through a process of introspection. Kymlicka argues that this violates how we see ourselves. We do not believe that we are incapable of revising our attachments. When we examine the ends that we have, whether they were set for us by society or chosen by ourselves earlier in life, we do not feel that we cannot abandon them. Kymlicka writes, “The idea that deliberation is completed by this process of self-discovery (rather than by judgements of the value of the attachments we discover) is implausible.” And in fact, Sandel himself admits that the self can contribute to its own constitution through choices it makes about its ends. Therefore, Kymlicka argues, Sandel’s view of the self is indistinguishable from the liberal view. If a person can revise his ends then we ought to favour a political system that allows such revision. Communitarian politics either rests on a fallacious view of the self or a view of the self that is indistinguishable from the liberal view of the self, and therefore leads to liberal politics.

But does a liberal view of the self lead to liberal politics, as Kymlicka suggests?

The individual’s capacity to reason is not reason enough for him to be reasonable. As Scruton points out, the central problem of liberalism is that it cannot explain why we ought to act rationally. While liberalism can prescribe rights to individuals, it cannot tell one individual why he ought to respect the rights of others.

Kant began with the premise of the autonomous individual who acts because he has chosen to act and who is motivated by reason. From this, Kant derives the categorical imperative, which takes three forms: we must act only for reasons we can universalise, we must treat others as ends and not means, and we must act so as to bring about the ‘Kingdom of Ends’ in which all are free and equal. For Scruton, the problem with this is that Kant cannot derive from the idea of autonomous individuals motivated by reason the conclusion that individuals are subject to “an objective principle of equal rights”. It is only by abstracting oneself from the ‘here and now’ that one can properly be motivated by reason. But in so abstracting...

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82 Ibid. p. 226
83 Ibid.
oneself, one loses his connection to the real world from whence his reason for reasoning issues. He writes,

*In short, the Kantian abstraction invites me to think of myself as the subject of an irresoluble [sic] dilemma: either I am a transcendental self, obedient to reason, in which case I cannot act; or else I am able to act, in which case my motives are part of my circumstance and history, and remain unresponsive to the voice of reason, which calls always from beyond the horizon of the empirical world. The supposition that I am a concrete, historical agent of change, and at the same time bound to recognise the rights of others, becomes contradictory.*

Motivation for action has to be rooted in the real world. But the only proper motivation, for Kant, is reason, and reason is arrived at abstractly. What then is my motivation for being reasonable? Liberalism cannot supply one.

Nonetheless, we cannot reject liberalism entirely. Kant is right that reason must play a role in any consideration of what it is that one ought to do. “The Kantian thought-experiment is, in one form or another, integral to our condition as autonomous beings – as beings who have values and intentions in addition to desires”. Furthermore, it is not possible to do away with the first-person perspective and look for motivation only from the third-person perspective (the objective reality of the world). Such a perspective cannot make reasons my own – though a reason may exist objectively, to motivate me it must be my reason. The move to the third-person perspective is “to leave motivation behind”.

The solution, if there is one, is to provide a third-person justification for taking the first-person perspective.

*It is impossible that I should be a transcendental self; but it is necessary that I should suffer the illusion that I am. If I am to be fulfilled at all, I must belong to a world in which this illusion can be sustained, so that my projects are also values for me, and my desires are integrated into a vision of the good.*

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84 Scruton (2002) op. cit. p. 189
85 Ibid. p. 189
86 Ibid. p. 191
87 Ibid.
88 Ibid. p. 192
This world is the world of society, of custom and tradition. It is our embeddedness in society that provides the reason to be reasonable, the motivation for action. And it is essential to this vision of society that it be seen as something given and not the product of the individual will, for that could not sustain the illusion of meaning because it would raise the question we are trying to suppress, the question of “Why?”

*People are born into a web of attachments; they are nurtured and protected by forces the operation of which they could neither consent to nor intend.*

Conservatism is thus prior to liberalism, in the sense that the individualism prized by liberals is only made possible by a conservative society.

*For we must conserve the institutions, customs, and local attachments through which the first-person perspective of the liberal is nurtured.*

Scruton can be read as agreeing with Kymlicka about the capacity of the person to reason and about the necessity of reason to action and value. But Scruton emphasises that this capacity is only useful within the context of a culture that the individual accepts as greater than himself and beyond his control. It is only by quieting his natural tendency to ask “why?” that a person can come to be at peace; so it is not that the liberal is wrong to attribute rational revision of cultural attachments to the person, but he is wrong to suggest that man can live well if he makes that capacity the centre of his life. It is only a transcendent society which can supply a reason to be reasonable. Kymlicka is right to reject the idea that society is an “authoritative horizon”, in the sense that it is inescapable, but if the individual is to derive meaning from society, he must accept its norms as authoritative if he is to accept them at all.

At this point in the argument, you do not need to accept Scruton’s assertion that only a traditional society can provide meaning and motive. The purpose of this section is simply to make clear that there is nothing explicit in the conservative view of society that precludes a person from successfully embedding himself in a society which is different from the one into which he was born. Certainly, Scruton agrees with Kymlicka that it is possible to revise one’s cultural attachments, and both Kymlicka and Rawls admit that people need or want to see their attachments as transcendent. There is therefore no great difference between their views of the person. Thus, taking a conservative position regarding nationality does not mean

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89 *Ibid.* p. 192
adopting any of the questionable metaphysics typically associated with communitarians. And it does not make cultural assimilation impossible.

**Tradition as institutionalised**

As we have seen, for Scruton individual liberty exists as a product of social arrangement that has evolved over time. Thus, for conservatives, freedom is less important than the “authority of established government” because it is only by their immersion in a society governed with legitimate authority that individuals can be free at all.\(^{91}\) Thus freedom is made possible by institutions. It follows from this that the importance of preserving institutions lies in their essentiality to the continuity of society, and in turn, that it is the continuity of society that lends public institutions their authority.

Authority is established power. How it is exactly that power comes to be seen as legitimate by society over time and thus authoritative is not important; what is important is that society cannot function without this notion. He writes, “People have the idea of legitimacy, and see the world as coloured in its terms; and it is how they see the world which determines how they act on it.”\(^{92}\) The evidence of this is that people will readily give their lives for authority and for the sake of their allegiance to it.\(^{93}\)

What is clear is that through established usage, the customs and ceremonies and the practices of institutions come to be seen as legitimate just because they have stood the test of time. In a society that is successful, in some sense defined perhaps by itself, tradition will be valued simply because the established way of doing things has provided people with a way of living that they value. Tradition has a value that abstract speculation about the ideal way to arrange society does not, as Scruton makes clear:

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[W]e \ must \ remember \ the \ distinctive \ place \ of \ the \ past \ in \ our \ practical \ understanding: \ unlike \ the \ future, \ the \ past \ is \ known.^{94}
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However, not all traditions are valuable. Scruton gives three qualities that traditions should have if they are to lend their weight to society’s way of life.

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\(^{91}\) Ibid. p. 8
\(^{92}\) Ibid. p. 19
\(^{93}\) Ibid. p. 18
\(^{94}\) Ibid. p. 30
[Firstly] The traditions which conservatives uphold have the weight of a successful history – which is to say that they are a palpable reminder of something that has flourished, and not the latest in a series of abortive starts. Secondly, they engage the loyalty of their participants, in the deep sense of moulding their idea of what they are and should be... Finally [and thirdly], they point to something durable, something which survives and gives meaning to the acts that emerge from it.95

Thus the important thing about tradition is that it provides a continuing and meaningful structure for people’s lives. It is relevant to a person’s identity as a social being. It provides a reason for action where perhaps no other could be found and insulates a person against the “empty solipsism” brought on by the search for action’s “justifying aim”.96 Examples of tradition include the family, customs of hospitality and manners and common courtesy. All are relevant to the running of the state:

Only some of these institutions, it might be thought, are truly political. But to take such a view is to take too narrow a view of politics. Every tradition of importance in the life of the citizen will tend to become part of the establishment of a state.97

Establishment will occur as the state lends its protection through the law to that which is valued by the citizenry. Importantly, we see here the connection between the common culture of the country and the institutional basis of the public sphere. It is because of the process of establishment that the public political culture is inseparable from the common culture, and thus the national culture must span the public-private divide. And it is the fact that the traditional common culture is embodied in public institutions that makes it possible for the individual to see it as transcendent and authoritative and thereby derive meaning from it.

In Scruton’s conservatism, this means that the distinction between civil society and the state cannot be as clear-cut as liberals (and Miller, I would add) argue. In part, this is because the state is not to be conceived as something with a purpose. It is an end and not a means98; the only benefit it provides is membership itself. There is no great aim of the state, no project it has set itself, only continuous authority providing a structure of meaning to life. Given this conception of the state, it follows that the state is not as separate from civil society as liberals argue. Liberals, Scruton argues, make a separation of civil society and state that parallels the

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95 Ibid. p. 34
96 Ibid. p. 35
97 Ibid.
98 Ibid. p. 39
Cartesian distinction of soul and body. Scruton collapses this distinction: civil society and state are “one entity seen under separate aspects”. The relevance of this is again the connection between the common culture of the nation and the public culture. The reason political assimilation is insufficient is because it is impossible to separate from cultural assimilation to the extent that the state cannot be separated from civil society.

But this might be a little too strong for our current purposes. I want to make the weaker claim that the state does not have to divorce itself from civil society and thus does not have to limit itself to political assimilation only. That is, to the extent that civil society is established and public institutions part of the common culture of the nation, it may be considered desirable public policy to maintain this connection and for that reason encourage the cultural assimilation of immigrants, especially given the role of establishment in making culture meaningful to individuals. But the argument at hand does not, I think, depend on one accepting Scruton’s assertion that civil society and the state are indivisible. It depends only on one accepting that there is in fact a cultural link between the state and civil society and that the state has the right to maintain that link. Consider again the minor example of popular sports. In most countries, sport is subsidised by the government but administered by independent bodies. Which sporting bodies attract the most public funding is typically determined by their popularity and their place in the common culture. You do not need to accept that there is no division between sporting bodies and the state to accept that the importance of a particular sporting body is determined by cultural values. In the funding of traditional sports, the state discriminates against newer sports and the sports of immigrants, and it does so, at least in theory, for cultural reasons.

Another, more important, way in which the state is affected by the common culture can be found in the working of constitutional law. The core of the state is the constitution. But, as Scruton argues,

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A \text{ constitution, whether written or unwritten, is not a body of rules. What rules there are can be interpreted only in terms of a background of custom, habit, convention and a certain \textquote.quote{style} which shows how things are done.}^{101}
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\footnote{See Scruton (2002) op. cit p. 44}
Again we see how the common culture informs the operation of the state; in this case, we see that the constitution of the state is explicable only in terms of the common culture and must function as part of it. Adapting Scruton’s example of the British Parliament, if we Australians are happy that the office of Prime Minister, the head of government and the locus of political power, is not mentioned in our constitution it can only be because we are not a people striving for a perfected form of government but a people content to carry on as we have always carried on, relying simply on the convention that the head of the party with the most seats in the House of Representatives will be invited to form government. Were we a more idealistic people, or even a more literal people, we might have found the need to write such a thing down.

The constitution can be separated from the customs of civil society: it is the customs and rules that pertain to political power, and is thus manifest mainly in the law. The law, as it is wont to do, will develop through judgement, precedent and argument by analogy. But it will remain in essence the same and guided always by the same customs.102

The state therefore derives its character and authority from the common culture of the nation. This is not surprising given the importance of culture in shaping the lives of the citizens of the state. While liberals see the individual as existing pre-politically and as equipped with certain capacities, like the ability to choose and revise cultural attachments. Scruton is a communitarian, and we see in the following passage a point of agreement with the left-communitarian Miller and even the liberal-nationalist Kymlicka.

\[
The \text{ conservative view begins [with the premise] that the abstract ideal of autonomy, however admirable, is radically incomplete. People have free will: they make choices, act on reasons, are guided in everything by a conception of what they are, and what they wish to be. But the ‘form’ of freedom requires a content. Freedom is of no use to a being who lacks the concepts with which to value things, who lives in a solipsistic vacuum, idly willing now this and now that, but with no conception of an objective order that would be affected by his choice. We cannot derive the ends of conduct from the idea of choice alone.}\]

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This is precisely the same critique that both Miller and Kymlicka offer of Rawlsian liberalism. In its form, this argument of Scruton’s resembles Kymlicka’s liberal-nationalism.

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102 Ibid. p. 45
103 Ibid. p. 65
You will recall that as a solution for the emptiness of freedom, Kymlicka prescribed a ‘societal culture’ which would lend the idea meaning. On this point then we can see total agreement between Kymlicka and Scruton.

But of course, the different value each gives to tradition informs the policies they support in regards to the operation of the institutions in which the societal culture is found. At least, this is what I want to argue: giving tradition its proper weight undercuts Kymlicka’s idea of polyethnic rights. I will return to this point once I have finished sketching the conservative definition of nationality by addressing the most common critique of conservatism: that it cannot explain nor accommodate social change.

**Tradition and change**\(^{104}\)

The question of change is important because any nation with immigrants will likely be changed in some way. For the conservative, the important thing is that institutionalised traditions of the country continue as usual and are subject only to change from within, responding to meet new circumstances as the arise. I have argued that if culture is to be meaningful it must be rooted in tradition. And I want to argue that the importance of tradition argues against the reform of public institutions to accommodate immigrants. But this implies that this is the sort of change that tradition cannot sustain, assuming it can sustain any at all. It might be argued instead that traditional forms of life need not be adversely affected by the opening up institutions to alternative cultures. In order to head this argument off at the pass, as it were, I will address the role of change in conservative argumentation now.

Conservatism is, in a way, a lot more than a political theory. It is a way of approaching the world in general, not just politics. In the words of another English conservative, Michael Oakeshott, it is “not a doctrine, but a disposition”, a preference for the present because it is familiar.\(^{105}\) This attachment to the familiar manifests in different ways: in all activities which are not means but ends in themselves, like friendship or sport, we find an expression of the conservative sentiment.\(^{106}\) This is because these things rely on established order. Friends accept each other as they are, their relationship is based on respect and not a desire that the

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\(^{104}\) Part of this section was originally written for a paper on conservatism, submitted as part of my studies for my honours degree at Monash University in 2006

\(^{105}\) Oakeshott (1969) "On Being Conservative" p. 168

\(^{106}\) *Ibid.* pp. 177-8
other change; in sport the rules of the game are accepted as settled, the playing of the game is as much a ritual as a competitive event. To quote Oakeshott again, “All activities, then, where what is sought is enjoyment springing not from the success of the enterprise but from the familiarity of the engagement, are emblems of the disposition to be conservative.”¹⁰⁷ This is not to say, however, that the conservative is always opposed to change, only that he prefers continuity and gradual change to upheaval and radical change. Change must be suffered; conservatism is a way of accommodating it by preserving what can be saved and assimilating the new “without becoming unrecognizable.”¹⁰⁸ On the other hand, “innovation”, as Oakeshott calls it, can be designed. It is best to be cautious, and the onus is on the innovator to show that he is offering an improvement, but change that is growth does not inflame the passion of the conservative.

In politics, this disposition leads to support for the party which does not threaten, or least threatens, the existing order and the things that the conservative has learned to value. The conservative believes that, in the words of Oakeshott, “the office of government is merely to rule.”¹⁰⁹ This is, of course, the same sentiment that Scruton expresses when he describes the state as being without purpose. What is meant by this is that it is not the place of government to set about remaking society in accordance with a plan or principle. We do not need any special justification for preferring the society that we have, according to Oakeshott, “[s]omething much smaller and less pretentious will do: the observation that this condition of human circumstance is, in fact, current, and that we have learned to enjoy it and how to manage it.”¹¹⁰ We do not need to defend the institutions of the present by reference to a grand, or even modest, political theory. They are defensible simply on the grounds that we are used to them and have learned to live with them. In order to preserve society as it currently is, many changes will have to be opposed, but some may not need to be. Many conservatives have acknowledged this fact in one way or another. Oakeshott’s distinction between change and innovation, when applied to politics, is just a variation on a theme that goes right back to Burke and the beginnings of modern conservatism. Burke called it the distinction between reform and change.¹¹¹ Scruton, sums up the conservative attitude neatly,

¹⁰⁷ Ibid. p. 178
¹⁰⁸ Ibid. p. 172
¹⁰⁹ Ibid. p. 187
¹¹⁰ Ibid. p. 187
“The desire to conserve is compatible with all manner of change, provided only that change is also continuity.”

What does this mean in relation to immigrants?

Samuel Scheffler has argued that the point of immigration is change; change for both the immigrant and the receiving society. For this reason,

*One thing is clear... It cannot be the aim of a reasonable immigration policy to insulate either the host country or the new immigrants against cultural change. To think that we must choose between preserving the national culture of the host country and preserving the imported culture of the immigrants is to accept a false dilemma.*

He goes on to say that the aim of cultural preservation cannot be to ensure that the national culture never changes. Even an isolated culture changes over time simply because one generation is replaced by the next and each successive generation must react to changes in circumstances, art and science. It is simply an untenable position to say that a culture must not change. Nonetheless, in any society there is room for a “conservative project”. Everyone is conservative in the sense that they wish to preserve that which they value. Indeed, the idea of value would not make sense without the “conservative impulse”. There is a notable similarity between this idea and Oakeshott’s affection for the familiar.

For Scheffler, the conservative impulse must also include an understanding of how it is that culture can be preserved. Not all change is destructive; some changes are necessary for the preservation of culture. He writes, “[W]hat it takes for a culture to survive is for an ever-changing but sufficiently large and continuous group of people to use enough of the culture’s central ideas, practices, values, ideals, beliefs, customs, texts, artefacts, rites and ceremonies to structure sufficiently large portions of their lives and experiences.”

Again, this is very similar to the conservatism of Burke, Oakeshott and Scruton. It imagines that change will be gradual and that the continuity of traditional society will be found in the use by a majority of people of most of the nation’s ideas and principles down the generations.

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112 Scruton, (2002) *op. cit* p. 11
113 Scheffler (2007) “Immigration and the Significance of Culture” p. 103
While it is unrealistic to expect that there will be no change in society, what is realistic is that at any given moment in a nation’s history a majority of people will be using ideas that can be found at an earlier point that history. So when Scheffler says, “Survival is successful change”\textsuperscript{118}, success must be defined as adaptation of existing principles to new circumstances and clear continuity with the past.

To connect this back to the assimilation question, then, we can say that since the way of life of the nation can be considered changeable and yet continuous with the past, the emphasis that a cultural assimilationist position places on tradition does not carry with it the unrealistic expectation that the national culture should never change. A culture can be established in the sense that makes its survival a concern of the state without being in stasis. What is important is not that the culture should not change, but that its connection to public institutions should continue, and that the people who derive meaning from it see it as connected with the past and thereby can accept it as given.

**Against the idea of ‘mutual adaptation’ as public policy**

I have argued that the tradition which makes nationality coherent is flexible and does not preclude the idea of social change. It might be asked why, then, if tradition can change, should it not be changed to accommodate immigrant cultures? After all, if tradition responds to new influences then surely it can accommodate, even incorporate, ideas and values from immigrant cultures.

This is to misunderstand the objection to making such accommodations. The central argument that I am making is not that such reforms are impossible or wrong, but rather that they are not morally obligatory. There is no multicultural imperative, if you like.

What I have done in this chapter is to give a description of the way states are and to assert that based on this description the people of a nation may expect to maintain the relationship between their common culture and the state and public institutions – that is, the fact of establishment. This is not a normative claim about the way a state should be. It is my suspicion that states must operate in the way that I have described because I cannot see how else they can be seen as authoritative as opposed to just powerful. But the argument for

\textsuperscript{118} *Ibid.* p. 108
cultural assimilation does not depend on any such abstract speculation. It depends only on one accepting that:

1. A nation has a common culture rooted in tradition
2. That culture is established in public institutions
3. The national culture is made meaningful in part by the fact of establishment, and the connection it creates between the official and the popular.
4. For that reason, the people of the nation expect establishment to continue despite immigration

So the cultural assimilation argument, or rather, this limb of it, rests on the idea that people give their allegiance to institutions based on their rootedness in the traditional common culture of the country and without that rootedness, there is no reason to continue giving that allegiance. To maintain their authority, which is found in their links to the common culture, institutions may resist multicultural reforms. The alternative is to gamble on people continuing to give their allegiance to institutions once those institutions have abandoned their connection to the people.

Disestablishment of the national culture undermines the authority of the institutions in question. Moreover, it does damage to the national culture, described by Scruton as follows:

_Just as private individuals need to find themselves reflected in the social order, so as to recognise externally the value of what they do, so must that order find its image in law... The civil society is confirmed in the institutions of the state; law, as the will of the state, is therefore the concrete reality of civil life. To the extent that, one by one, customs, manners, morals, education, labour and rest are ‘liberated’ from its jurisdiction, so too does the sense of their social validity suffer a decline, as citizens find the gulf widening between their customs and their form of life, and the law which supposedly protects them._

Kymlicka imagines that the national culture can be disestablished and yet carry on more or less as always. But the act of disestablishment is an act of violence. We do not need to go as far as Scruton and claim that those institutions cannot survive this violence; we need only say that since it is clear that there is a cost to the national culture involved, it is appropriate to ask

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119 Scruton (2002) _op. cit._ p. 75
whether this is a cost that must be borne. I am inclined to believe that it is a cost that is not compulsory for a nation to pay when they take in immigrants.

It is for this or similar reasons that Scheffler writes,

\textit{In enforcing the political culture, then, and so in shaping the broader national culture, the state will inevitably be enforcing a set of practices and values that have their origins in the contingent history and traditions of a particular set of people. This is not in itself inappropriate, and there is in any case no alternative. The state can neither avoid promoting a national culture nor invent that culture ab initio.}\textsuperscript{120}

The connection between the state and the history of the nation is unavoidable. Kymlicka concedes this much. But Scheffler makes the point that it is not unfair that that connection should persist as it has always done even in the presence of immigrant minorities. He argues,

\textit{Although immigrants may find the public political culture alien and although its historical roots may be remote from their own, the coercive pressure that the culture exerts is not by itself unjust. It is not by itself unjust that immigrants should be expected to obey the laws and support the institutions of their new society, even when the character and the content of those laws and institutions has been shaped in part by historical circumstances and traditions with which the immigrants have no antecedent identification.}\textsuperscript{121}

Miller and Kymlicka both argue that the state and immigrants must share the cost of adaptation; the immigrant must adopt the norms that govern the public sphere and do his duties as a citizen and the state must make this possible by reforming public institutions to accommodate immigrants’ cultural differences. I have argued that it is legitimate for a state to insist that the cost of adaptation be borne, by and large, by the immigrant. It is permissible for a state to insist on its connections to a traditional national culture, which provides meaning and certainty to its citizens, and therefore refuse to reform its norms, procedures and ceremonies.

This is not to say, however, that the nation cannot or need not do anything to accommodate immigrants. The assimilationist position depends on the people of the receiving society being willing to accept immigrants as members. It would not make sense to argue that immigrants

\textsuperscript{120} Scheffler (2007) op. cit. p. 113
\textsuperscript{121} Ibid. p. 114
must adapt themselves to the existing way of life, in order to get the full value of the institutions of the public sphere, only for nativist prejudice to keep them from obtaining that value. Consider, for example, an archly racist white society in which the people have no intention, say, of accepting black people as members no matter how they act, no matter how acculturated they become. In this state, the immigrant could never fully participate in public life. It would be understandable if he did not even try. Complaints in a racist society that people of other races are not assimilating are meaningless. Arguably, this is the case in France. Immigrants from France’s former colonies have no trouble obtaining formal citizenship, but remain forever on the outskirts of national society because they will not be accepted as French. The ghettos of Paris and the constant unrest surrounding them are testament to the fact that citizenship is different from membership and that assimilation depends on the receiving society adopting the right attitude towards new members.122

More broadly, the people of the receiving society owe to immigrants common courtesy and basic decency. As Scheffler argues,

*In general, it is essential to the successful functioning of any society that its members be prepared to accommodate one another on an informal basis in a wide range of contexts, and this willingness to engage in informal accommodation is an especially important element of a society’s treatment of new members, whose place in the society might otherwise seem marginal or precarious.*123

So while the state may take a position against formal change, this does not excuse the public from their duties to be civil. It may be the case that a society decides not to reform its institutions to accommodate a particular religious belief. This does not mean the followers of that religion can be demonised or harassed on the streets. It also does not preclude private citizens from engaging with them in an open-minded fashion. To put it crudely, just because the state does not mandate that food sold in public institutions must be kosher to accommodate Jews does not mean that you should goad your Jewish neighbour into eating a hotdog at the local football club.

Mutual adaptation will probably happen. The important thing is that this process happens naturally. One way of putting the point would be to say that it is the nation that will adapt to immigrants, not the state. There is no need for the state to coerce the nation to change its

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122 Barry (2001) *op. cit.* makes a similar point about the place of Turks in Germany on p. 83
definition of itself. As Brian Barry points out, in the process of assimilation, the ratification of one’s identity by other members is just as important as any changes one might make to one’s behaviour. The nation may choose to ratify as new members people whose acculturation is not complete, and “how culturally ‘thick’ are the necessary conditions of identity will be one of the defining characteristics of the group.”124 The point is just that this since this ratification must come from the nation and not just from the state, it should not be a contrivance of activist public policy.125

A conservative conception of nationality argues against the idea of the state adapting itself to immigrants in an attempt to force the nation to do likewise, in favour of the state maintaining its established norms and practices. It does not provide an excuse for the maltreatment of immigrants. And, of course, such maltreatment can only frustrate the cause to which I have enlisted conservative nationality: the cultural assimilation of immigrants.

**Conservative nationality, tradition and the expectation of cultural assimilation: a recap**

In this chapter, I have sought to defend the state’s right to maintain its connection to the traditional national culture at the expense of immigrant cultures. My defence began with the observation that some of the complaints and problems we saw in Chapter 2 arise from an expectation on the part of the receiving society that immigrants will eventually culturally assimilate. If that expectation is legitimate, it follows that it would be legitimate for the state to pursue a public policy in line with it. That is, the expectation of cultural assimilation provides a justification for not pursuing a policy of multiculturalism.

The task at hand then was to describe why that expectation might be legitimate. The answer lies in the fact that the state represents the common culture of the nation. This is a fact acknowledged by most people on the political spectrum, from liberal nationalists to left-communitarians to conservatives. But the importance of that connection can only be explained by the role tradition plays in the common culture. For this reason, only a

124 Barry (2001) op. cit. p. 81
125 One question I have not addressed is an idea that is popular in America, and somewhat popular in Australia: the idea of a hyphenated identity, like, for example, ‘Irish-American’ or ‘Greek-Australian’. This refers to one’s membership and not necessarily to one’s citizenship status. That is, not all Irish-Americans have dual citizenship. I hope it is sufficient to say, given what I have already said, that the validity of the Irish-American identity depends on its acceptance and ratification by one’s fellow Americans as a proper or valid way of being American. [And likewise for Greek-Australians.]
conservative account of nationality can provide the proper description of the state’s relationship to culture.

To develop the idea that tradition is central to any meaningful account of nationality, I first attempted to describe why Miller’s republican nationalism is incoherent. Miller bases his conception of nationality on political participation. But by rejecting tradition, he leaves himself with no way of explaining why a group of people ought to cooperate with one another in this way. Their cooperation can only be explained by a pre-existing group identity. Miller argues that this original identity can be thinned out over time. This thinning out, however, robs the culture of its meaning and thus its ability to tie people together.

Tradition is capable of providing institutions with the authority they need to attract allegiance because it transforms institutions from something manufactured into something transcendent. Rather than searching for a meaning or purpose for institutions, people accept them as given. It is the non-consensual nature of institutions that makes them meaningful. This is not to say that the person does not have the capacity to question his cultural attachments, it is to say that he gets meaning from them only when he sees them as given and without purpose. The purest kind of friendship is not two people joined in common cause but two people who enjoy each other’s company. We do not search for purpose in friendship and we should not search for it in society. Thus the human capacity for rational questioning must be quietened if one is to find meaning and solace in culture, and it is quietened by the soothing consolation of tradition.

An institution or tradition that is valued by people typically becomes a concern of the state. This is the process of establishment. Consider as an example trade unions. The state has recognised the value of trade unions to people by granting a variety of legal concessions to them, like the right of union representatives to make unannounced inspections of workplaces. The state likewise takes an interest in private schools by mandating curricula and basic conditions for students and staff. It also takes an interest in corporations, regulating they way they operate, and, on some theories, by granting corporate personality itself. The point that the conservative derives from this process is that civil society and the state are not strictly divisible. The state will decide, based on cultural reasons, which institutions deserve

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126 I draw this example from Scruton (2002) *op. cit.* pp. 163-5 where he discusses whether trade unions are part of the establishment of the UK.
recognition and which do not. This is another way in which the state is affected by the operation of the seemingly private aspects of the common culture.

It is the ties between the public and the private, the official and the popular, and the state and civil society, which conservatives argue should not be severed. The assimilationist must argue only that it is permissible that they not be severed. The cost of making a greater separation between state and civil society, which is what liberal nationalists call for when they ask that public institutions be reformed to accommodate immigrants, may be deemed too high. The state may ask immigrants to do most of the adapting.

Kymlicka is not wrong to claim that it is immersion in a societal culture that gives autonomy its meaning. But he fails to acknowledge the role of tradition in making that societal culture important to people. Once it is understood that culture can only supply meaning if it is traditional, in the sense that it seen as something given, some of the conclusions that Kymlicka draws from his description of societal cultures can be rejected. Chief among these is the idea of polyethnic rights. Because a societal culture must be traditional it is fair enough for the state to maintain current practice and not extend too much by way of accommodation to immigrants.

The connection between the state and the national culture is understood intuitively by people. When the state operates at too much of a distance from the common culture, people become restless. It is this restlessness that leads to the complaints about immigrants not assimilating into the native culture. The fear is that state policy is too far removed from the sympathies and prejudices of the people. Because people belong not to a state but to their state, they see it as natural that immigrants should adapt themselves to existing practice. This is what they expect. This expectation is legitimate because it is their established traditional culture that individuals find meaning, and it is natural that they should want to preserve that which they value.
Chapter 6: The contract argument – reasonable terms and the appeal to the modern state’s own values

The second reason for the existence of the expectation of cultural assimilation is that immigrants are seen as having chosen voluntarily to come to a country that does not share their culture. Their arrival is seen as being ruled by a kind of contract: there was an offer of entry made by the state to the immigrant but it carried certain conditions, chief among which was the acceptance by the immigrant of the existing way of life. It is often claimed that from this it follows that the state has no obligation to accommodate immigrant cultural differences. And the common reply is to point to the modern state’s own principles regarding individual liberty as giving rise to that obligation. In this section, I want to look at this form of the argument for multiculturalism and reiterate that the principles of the modern state balance individual rights against the common culture which gives them meaning. From this it follows that an immigrant can reasonably be assumed to know that his culture will likely not be accommodated by his new country. This knowledge coupled with the immigrant’s subsequent decision to come anyway lead the native people to reasonably expect that he will assimilate.

A contract of entry

As the world currently stands, admission into a particular territory is controlled by the state that is sovereign in that territory. Theoretically, then, the state in question can impose whatever conditions of entry it likes, including an expectation (or even a requirement) of cultural assimilation. The only relevant test of the fairness of those conditions is whether they are accepted by the immigrant. If the state feels that it is in its best interests to require and enforce assimilation by immigrants then it is welcome to do so.

The contract of entry can be conceived as a kind of unilateral contract: an offer is made on certain terms for an action to be performed and performance of the action fulfils the contract subject to the terms contained within it. Thus when I post a flier offering a reward for finding my lost dog, the person who finds my dog is entitled to the reward because he has performed the action requested. If I include an offer of extra compensation for expenses incurred in bringing the dog to me, the finder is entitled to that as well. But if I did not include such a term then it is not part of the contract. The terms of a unilateral contract are determined by
the party making the offer. In the immigration case, then, the state makes an offer to potential immigrants: fulfil these conditions and you will be admitted to our country. The explicit conditions of the contract are things like applying at the proper place, proving you will not be a burden on the state, divulging personal details and the details of family members and so on.

Where this image of immigration as a matter of contract becomes difficult is in the idea of implied terms. Implied terms are terms that are not stated but are nonetheless part of the contract because they are deemed to be reasonable. Much of what is relied on by natives and immigrants alike when discussing the terms under which the latter were admitted to the former’s country is of this kind. No modern state (that I know of) explicitly tells immigrants that they are expected to culturally assimilate and that public institutions will not be adapted to their cultural differences. On the other hand, modern states do not really tell immigrants that they will be accommodated in this way either, and the claim that they ought to be is usually derived from principles taken to be inherent in the modern state. The discussion revolves around what each party can reasonably expect from the other.

**Reasonable terms**

It is for this reason that Miller describes the admission of immigrants as a “quasi-contract”, with each party claiming rights against, and being under obligations to, the other. This is not a contract per se; immigrants would agree to any terms that allowed them a better standard of living than they have in their home country. The question is what terms constitute a fair bargain between them.\(^{127}\)

For Miller, the fairness of the terms offered depends on the principles of the modern state. That is, because of their liberal principles, modern states are obliged to offer certain terms to immigrants and refugees. I will return to this argument. But first I would like to consider an implication in this passage of Miller’s: the implication that the free choice or otherwise of the inbound person has no bearing at all on whether the “terms of integration” are fair or not. This is an interesting claim because as I stated above, one of the justifications typically offered for the expectation of cultural assimilation is that the immigrants in question came to their new country of their own volition.

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Free choice and what is reasonable

In rejecting the idea that immigrants ought to be allowed by states to establish themselves as national minorities, that is, as distinct socio-cultural groups within the territory of the nation, Kymlicka offers the following observation:

After all, most immigrants (as distinct from refugees) choose to leave their own culture. They have uprooted themselves, and they know when they come that their success, and that of their children, depends on integrating into the institutions of English-speaking society.\(^{128}\)

As we saw, Kymlicka goes on to grant a variety of polyethnic rights to immigrants in lieu of granting them the same status as indigenous groups. What is noteworthy here is what is claimed by Kymlicka to be important in the immigrant case: free choice in coming and knowledge of the society they are joining.

I am inclined to believe that the second of these factors is more important than the first. The choice made by an immigrant in coming to a new country is only important if we first stipulate what the immigrant knew or can reasonably be assumed to have known about the society to which he was moving. If the immigrant’s assumed knowledge includes the conservative view of the state that I have outlined, and he chooses to come anyway, then he cannot complain about the conservative aspects of his new society.

Consider a trivial example. A man is invited to a party which he shows up to without anything to drink. He sees everyone else drinking. He stands awkwardly, hands empty. He sees the host, beer in hand. Walking over, our man says, “Hey mate, where’d you get the beer?”

“What, didn’t you bring anything to drink?”

“Well, it’s a party. I figured there’d be something to drink here.”

“No mate, BYO.”

How reasonable it was for the man to show up empty-handed depends not on his choice in coming to the party in and of itself but on whether he knew or should have known that the party was BYO (“bring your own”). If BYO had been written on the invite, or he had been

\(^{128}\) Kymlicka (1995) op. cit. p.p. 95-6
told at all before the party, or he had previously been to a party in that house, or with those friends, that was BYO you could reasonably say that he should have known. Likewise if the party was informal, for it is a general rule that the more formal a party is, the more likely there will be drinks served or supplied.

Similarly, what is important in the immigrant case is what the immigrant can be assumed to have known about the society he is moving to. When people expect immigrants to culturally assimilate because they chose to move countries, what is being claimed is that the immigrant must have known that his new country would be different and that to get full enjoyment or satisfaction from his life there he would have to change some parts of his way of life. What is important is what the immigrant can be assumed to know about the modern state. This will depend on how the modern state is characterised. And from that characterisation we will be able to derive what limits there might be on how states can treat immigrants.

**Reasonable requirements of the modern state**

What it is reasonable to expect of immigrants, including whether it is reasonable to expect cultural assimilation, will depend in part on the characteristics of the modern state. So far in this essay I have drawn a contrast between different ways of defining the modern state, and I have looked at the immigration issue from the state’s perspective, asking what might be expected of immigrants. In this section, I want to discuss how the conservative conception of nationality effects the obligations that the modern state has to immigrants. This will lead into the final chapter in which I discuss how cultural assimilation might be manifest as public policy.

This claim for accommodation issues from a particular view of the modern state. The modern state is held to have liberal principles which commit it to non-discrimination, as far as is possible, against immigrant cultures. We saw that for Miller this means thinning out nationality so that it is inclusive of all cultures in society, and for Kymlicka it mean granting a raft of polyethnic rights that ameliorate the effect of the state’s association with a national societal culture as much as possible.
A popular argument for the accommodation of immigrant cultures is to point to the supposed liberal features of the modern state and say that the modern state is obliged by its own principles to treat immigrant cultures equally (or as equally as possible).¹²⁹

Miller’s quasi-contract contains a form of this argument. The rights of immigrants, he writes, “depend on the character of modern democratic nation-states”. For Miller, whereas historically states claimed the right to set whatever conditions of entry they liked, based on the premise that the function of government would be thwarted by a constant influx of culturally-diverse immigrants, modern states are not in a position to make this claim because they are committed to the idea of equal citizenship. Every citizen has equal rights and responsibilities and “no one can legitimately be a second-class citizen”. This principle commits the state to the prevention of discrimination, equality of opportunity, and ensuring that public expenditures do not favour one group of citizens at the expense of others. Immigrants to states that have made this commitment are admitted with the idea that they will become citizens and as such they get upon entry basic rights as well as basic obligations, so that “inequalities, either of opportunity or of contribution, are seen as a problem that state policy needs to address”.¹³⁰ As a result of their liberal principles, modern states are not able to pursue the kinds of nation-building activities that states may have pursued in the past and necessarily “are committed to tolerating or even encouraging the co-existence of different cultural groups within their borders...”¹³¹

The real problem with this kind of argument is that by relying on the principles of the modern state to make its case for multicultural rights, it invites the reply that that conclusion only seems to follow because the principles of the modern state have been mischaracterised. It stipulates that the principles of the modern state lead to multiculturalism, and so cannot convince anyone who refuses to accept the stipulation.

In the previous chapter I argued at length for a connection between the modern state and the national culture, which I defined as traditional and established. The conservative view of nationality does not concede that multiculturalism follows from the modern state’s inherent principles. Briefly put, I have made the argument that the state derives its authority from its stewardship of a traditional national culture which, by being established in public and civil

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¹²⁹ Joseph Carens makes such arguments regularly. See his “Live-in Domestics” (2008) p. 8, where he talks about working conditions in modern states, or his “The Integration of Immigrants” (2005) p. 31, where he talks about legal procedure.
¹³⁰ Miller (2007) op. cit. p. 5
¹³¹ Ibid. p. 6
institutions, provides meaning and structure to the lives of its citizens. For this reason, the multiculturalist claim that immigrant cultures ought to be accommodated by the modern state based on its own principles can be rejected. Exactly what the principles of the modern state are is hard to say. States may reasonably differ on their approaches to immigrant populations depending on their traditions and culture. And of course, I have not claimed that multiculturalism is impermissible. But it is highly unlikely to be reasonable to suggest that modern states are obliged by their principles to reform their institutions for the benefit of immigrants because by their principles they are also committed to maintaining a traditional way of life for the benefit of citizen members. So the state’s liberal principles cannot be taken to frustrate its conservative basis.

The argument just given has the same limitation as the one to which it is a response: they are both predicated on the presumed principles of the modern state. Neither addresses concerns that are rooted in universal principle. That is, one might argue that China is obliged by its principles to censor the internet. This may be true but it ignores the question of whether those principles are good or bad. Therefore, how willing you are to accept the free choice of the immigrant as a basis for the expectation of cultural assimilation depends on how reasonable you think it is to assume the immigrant knew the conservative nature of his new society, and how reasonable you think that is will depend on whether you accept the description of the state given in the previous chapter. It will also be affected by which state is in question – perhaps (and I concede a lack of expertise in saying this) Japan is more conservative in this regard than Sweden. As I said earlier, then, the contract argument must be subsidiary to the argument that only a traditional nation is meaningful and the preservation of that nation depends on its ongoing connection to the state.

The conservative nature of the modern state does not excuse it from its duties to citizens. A criticism often made of conservatism is that it lacks the means by which to criticise the state.

132 To be fair, Carens is aware of this. In “The Integration of Immigrants” (2005), p. 35, he makes a moral claim about racist admissions policies that is not predicated on the internal workings of the modern state:

[T]here is a crucial difference between saying someone has a right to decide some issue and saying that whatever they decide is right. Obviously, states must decide for themselves what their laws regarding access to citizenship (by birth or naturalisation) will be. This does not mean, however, that their laws cannot be subject to critical scrutiny from the outside. For example, it is not morally permissible for states to exclude people from citizenship on the basis of race or religion as the United States, Germany, and South Africa have done at times in their past.
and that it must accept “whatever arbitrary despotism might have achieved or usurped the power of the state”. This is not the case, according to Scruton. The conservative will criticise the operation of the law in a despotism as invalid, based on the principle of natural justice:

*By natural justice I mean a process of reflection recognised (but not always obeyed) by everyone in their mutual dealings, a process without which no human intercourse could be conceived in the spirit of friendship...[Thus] there are natural rights, to the extent that there are natural obligations – to the extent, that is, that a concept of ‘just dealing’ arises naturally between people.*

So the relationship between the state and the citizen is criticisable on the same grounds as any relationship between people: whether or not there is honest treatment of the other as an end and not as a means. This conception of justice is instinctive and part of the very nature of human interaction. If people did not have this instinct, society would be impossible. The relationship between the two parties depends on this spirit of friendship. For the institutions which embody the national tradition to gain the allegiance of citizens they must respect the dignity of the individual. The whole conservative project, then, depends on the relationship between the state and the individual being one of common decency, with rights and obligations on both sides.

Therefore, none of the above should be taken as a denial that one of the key features of the modern state is a respect for individual liberty. I did not set out to deny this commitment. I want only to put it in its proper place: as an historical achievement of universal principle secured by culturally-situated institutions. As such, the liberty of the individual depends on the tradition from which it arises. But likewise, the meaningfulness and authority of tradition and the institutions in which it is found depends on respect for the individual. It is only if the state allows citizens to operate as individuals that they can flourish and create the institutions and traditions upon which the state and civil society depend.

The key distinction is, as ever, between public and private. I have argued that the state derives its authority from its connection to a national culture that, in a way, collapses the distinction between state and civil society. But it is clear also that there must be room for the

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133 Scruton (2002) op. cit. p. 78
134 Ibid.
135 Ibid. p. 79
individual to live his own life. The argument has so far been against the reform of institutions for the benefit of immigrants, but it has not been in favour of forcing immigrants to do anything. In effect, the position I have taken is that it is justifiable for the state to reflect a thick national identity and if this reflection has an assimilationist effect then that is justified. The state has no duty to enable the liberty of immigrants by subsidising their cultures. Immigrants, however, retain their negative liberties; if the state cannot interfere with the private life of one citizen then it cannot interfere with the private life of another. The compromise between the institutionalised liberties of the modern state and its historical contingency that I propose is that all citizens retain their formal equality but that it is not unjust if some are members of the national culture and others are not, and therefore feel they must conform to the existing standards of society if they are to get the value of being part of an institutionalised culture.

In the final chapter, I will elaborate on this position by looking at what it may mean for public policy, given that the modern state has to have citizens that identify with the institutions and practices of the state, which may wish to maintain an association with a traditional national culture (for the purposes of assimilation), and yet respect the individuality of its citizens.
Chapter 7: Assimilation as public policy

I have argued that it is permissible for states to take an interest in cultural assimilation, subject to the restrictions they face in interfering with citizen’s private lives. In this section, I want to elaborate on what these restrictions on assimilation policy may look like in practice.

At the start of the paper I set up a distinction between political assimilation, which was the adoption by the immigrant of the norms of the public sphere and his giving of his loyalty to the state and public institutions, and cultural assimilation, which was the adoption by the immigrant of the common way of life in his new country and a consequent change in those aspects of his private life that might mark him off as an outsider. I have subsequently argued that the state may encourage cultural assimilation by maintaining the link between public institutions and the common culture of the nation. But I have also claimed that a modern state is restricted in the way it may treat individuals. It follows, as I shall argue in this section, that the modern state must pursue the aims of political assimilation and cultural assimilation differently.

Public and private: passive and active policy

There are, then, two sorts of policies that might be implemented with the aim of assimilating immigrants into the culture of the nation.

Passive assimilation policies are policies that allow assimilation to happen through non-intervention and lack of support for minority cultures. As we have seen, without concessions, privileges and subsidies, minority cultures cannot survive; hence the argument for accommodating them in the existing institutions of the state and civil society. A state that refuses to grant those things, then, is passively allowing those cultures to die. An example of this would be refusing to subsidise sports popular with minority groups. This would make

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136 Parts of this section were originally included in an essay submitted as part of my Master’s course at NTNU Trondheim in 2008.
137 I was influenced here by Mason’s distinction between coercive and non-coercive policies. The difference between his distinction and mine is that passive policies can be coercive. See Mason (1999) op. cit. p. 268
138 Whether or not the state subsidises traditional sports, there may be an assimilative effect so long as immigrant sports are not subsidised, since traditional sports will not lack for funding either way, given their popularity.
it more likely for the sports to be unaffordable and therefore less popular. In search of recreation, people who might have played that sport may, and probably will, turn to mainstream sports.

Active assimilation policies are policies which give positive preference to the mainstream culture, say through the curricula of state schools, especially in history and language.

We saw that political assimilation may be pursued actively. Whether or not you accept that cultural assimilation is a legitimate policy of the state, it seems clear that political assimilation must be. Rawls, Kymlicka, and Miller all agree that public institutions require citizens to know how they function and citizens need to know what is expected of them in the public sphere. In the modern state, citizens must share a common attachment to and confidence in their public institutions. There is a positive duty on citizens to make this commitment. It follows then that the state is entitled to hold citizens to this duty through policies that prepare citizens for their role in the public sphere. This should include the compulsory teaching of the state’s official language, a compulsory national curriculum that explains the history of the state’s institutions and how they work and inculcating a respect for the law, the government and the democratic process.\(^{139}\)

On the other hand, cultural assimilation may only be pursued passively. The liberal institutions of the modern state prohibit it from invading the private sphere and demanding cultural practices be abandoned. However, the fact that those institutions are instantiated by a nation for national purposes is sufficient to justify the modern state withholding positive support for non-traditional cultural practices. In practice, this means that a modern state with an established church is not obliged to give equal status to other faiths; it means that the state does not have to change the work week or decency standards or uniforms. If this causes some people to amend their private behaviour, this is best seen as the legitimate incentivisation of assimilation.

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\(^{139}\) Given that the state to a certain extent represents a national culture, the pursuit of these political ends may well also encourage cultural assimilation to the extent that cultural assimilation is bound up with the role of the state in the national identity. For example, a national language is necessary for the democratic process. But encoded in a language are cultural norms and ideas, and to get the fullest value from a language it has to be one’s first language. The insistence by the state on children having the national language as their first language for democratic purposes therefore also carries a cultural assimilationist effect. The justification for this, however, is the political aspect, not the cultural aspect, and this differentiates this kind of policy from others with only cultural purposes.
Consider again the four examples with which I opened the essay: the inability to speak the native language, demands for concessions from public institutions, clashes between ethnic groups, and violence directed at the native population.

The inability to speak the native language was identified as a political assimilation problem. It is justified therefore for the state to actively promote the native language. This means making it the language of public education and the official language of government. It also justifies mandating that private schools, universities and businesses use the native language exclusively.

Special concessions being made by public institutions for minorities may generate resentment on the part of the native population. This is actually a public manifestation of private cultural differences. It is case of what is official departing from what is popular. As such, it may be solved only by ignoring the difference. A quite common example in Australia is the request by Muslim women to have specially designated times where they get exclusive access to public swimming pools. The state cannot tell Muslim women to abandon their beliefs but it is not obliged to accommodate them at public pools. Their private practices come at a cost in the public sphere because of the established practices of the nation. However, the state cannot prevent minority groups from collectively lobbying for such concessions and cannot prevent private institutions (at least those that are non-established) from granting them. Furthermore, local governments with large minority populations in their area may see fit to depart from state policy and grant such concessions in institutions that they control, like swimming pools. Again, multiculturalism is not impermissible, just non-compulsory. The key idea is just that minorities cannot claim multicultural policies as a right; they may of course win them in democratic debate.  

Clashes between ethnic groups can likewise only be treated actively like other crimes. The issue of ethnic gangs is a vexed one. The state obviously has an interest in preventing lawlessness. But since crime cannot generally be said to stem from the minority culture itself, it is not clear that this is an issue of cultural assimilation. In any event, the element of the crime that springs from a lack of cultural assimilation – say, an historical animosity between two ethnic groups that is used by youths as an excuse for violence – does not justify any more than a reassertion by the state of the national identity as an alternative to ethnic identities. For

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140 And, naturally, some concessions are more expensive for the national culture than others. A few local councils making a concession like this one is not especially important, but a government creating, say, legal standards which differ depending on one’s cultural background would be much more costly.
example, the state may passively discourage ethnic affiliations by, for instance, not extending subsidies to soccer clubs with obvious ties to ethnic groups.

Crimes committed by immigrants that are motivated by hatred of the nation do not justify active cultural assimilation policies and yet it is the passive discrimination I have advocated that is often identified as a cause of alienation among immigrants and their children. The question that is posed by this is whether it is possible for someone to be politically assimilated without being culturally assimilated in a state where the institutions to which he is supposed to be loyal represent a culture to which he does not fully subscribe.\textsuperscript{141} I believe that it is. And I further believe that many people are loyal in just this way, despite not fully sharing in the established culture. There are many states that are undeniably polyethnic, and yet there are very few states which are officially multicultural in the way envisioned by Kymlicka and Miller. It stands to reason that there is an intersection between those states that are polyethnic and those that are not multicultural in policy terms. But there are no obvious examples of states in this intersection failing for lack of loyalty. What this means is that in those states there must be many people who do not fully share in the national culture but are nonetheless good solid citizens in the way imagined in my description of political assimilation.\textsuperscript{142}

The problem, of course, is that minority who are not loyal. So while many Muslim immigrants to Britain become loyal citizens – even though Britain retains, I would argue, an established national culture which to some extent excludes them – a small minority of Muslims see the British state as an enemy. And, it is argued, the reason they feel this way is that the state does not represent their culture. I would contend, however, that the fact that the passive assimilation that results from the association of the state with the national culture is legitimate, for the reasons provided in this essay, explains why these complaints of alienation are often met with derision. People who feel scorned often turn to violence but their violence should not be met with a retreat from principle.

In any event, the people who turn to violence more often than not make demands that simply cannot be met by any modern state. Theonsense of establishing a new global caliphate or seeing Sharia law instituted everywhere is just not something that a modern state can tolerate.

\textsuperscript{141} That is, above and beyond his acceptance of the state having cultural connections, whether or not he himself shares in those cultural practices. For instance, someone might accept that Christmas is a public holiday despite not being a Christian himself.

\textsuperscript{142} And, like I mentioned in fn 5 on p. 10, if one of the characteristics of a member is that he is a good citizen, then good citizens must be culturally assimilated to that extent.
So there really is no option but to ignore the demands of extremists. To this it might be replied that people are forced into extremism by the state’s failure to consider more moderate demands. This is not a serious reply for it amounts to saying that if you do not get your way you are entitled to act out violently. If the state ignores the lobbying of a minority group this does not justify violence. For this reason the fact of terrorism does not argue against the state’s right to pursue cultural assimilation passively.

One further question that arises from this discussion is, if it is true, as I say, that there are many people who are loyal citizens despite not sharing in the established national culture, and if the state can function based on this loyalty alone, why then should there be an established national culture at all? Andrew Mason makes this argument when he claims that liberal institutions require only a “sense of belonging to a polity” – which he defines as familiarity and identification with public institutions – rather than the stronger, nationalist “sense of belonging together”. He argues that even in states that have the latter connection, the former is more important. He argues that both the USA and Switzerland are examples of the former existing without the latter. It follows, he claims, that citizenship can rest simply on identifying with public institutions. This does not even require people to agree with the principles of those institutions. Loyalty in this case is generated by the institutions ensuring representation for different minorities and by giving cultural groups some measure of self-determination, including through differentiated laws. The idea is, then, a very strongly liberal multiculturalist one. I do not think that this follows from anything I have said.

This question about why we should have an established national culture, I have, I think, already addressed indirectly. It admits a number of replies. First, just because some states function with many people whose loyalty is only this strong, does not mean they would continue to function if everyone’s loyalty were attenuated in this way. It is possible that the traditional nation creates a critical mass of loyalty which grounds the authority of the state and makes it possible for some citizens to not be members. Second, as Kymlicka and Miller, to varying degrees admit, the state cannot be truly neutral between cultures, so there will always be at least some difference between membership of the nation and citizenship of the state. Third, the idea that people can develop loyalty to institutions alone ignores the question how those institutions are established in the first place. Fourth, the main argument against this kind of attenuated citizenship does not rest on any abstract speculation about what might

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143 Mason (1999) op. cit. p. 272
144 Ibid. pp. 282-5
happen should the link between state and nation be sundered. It rests only on the fact that this is how it is: that state is the product of the national history and therefore is partial to the nation. The nation has a prior claim to its civilisation embodied in the state¹⁴⁵ and there is no reason to force them to give it up. Furthermore, subjecting nationality to the rationality of political theory robs it of its meaning; there can be no meaningful nationality but traditional nationality and that is tied to institutions. Attenuated citizenship must rest on the premise that nations are not important, and therefore must explain both how the common sentiment that they are important is to be rationalised away and what other force may create the kind of solidarity that the modern state depends on.

Thus even if Mason were right that a state could survive in the absence of a national identity it would not necessarily follow that an existing national identity should be dismantled, particularly if we accept his idea that for some people, loyalty to the state will be no more than a sense of belonging to a polity. If the latter kind of identification is possible, and it seems it is, at least to a limited extent within a state, there is even less reason to worry about the existence of an exclusive national identity. Moreover, there is good reason to doubt that any state could function in the way Mason describes. Mason’s argument for attenuated citizenship (and the concept in general) has all the problems we have already identified as troubling the liberal view, chief among which was that the cooperation it relies on between individuals cannot be explained in the absence of a pre-existing group identity.

The approach I have taken to the culture clashes described above is, I think, fairly similar to the practices of most modern states. There are some that are more multicultural in practice, and others that are less. It is fitting, of course, that a conservative argument should recommend that states not change their practices. Scheffler is critical of states that “muddle along trying to have it both ways: paying lip service to the ideas of pluralism and multiculturalism without abandoning the privileged position of the dominant culture...”¹⁴⁶ I say we ought to replace the lip service with an honest commitment to the preservation of the traditional national culture while making a concerted effort to be welcoming to those who are assimilating. He describes the idea of the state refusing to grant equal recognition to immigrants cultures as a kind of “cultural apartheid”. This is woefully inaccurate: a black South African could not become white, and blacks and whites in South Africa did not have formal equality. By contrast, for example, an Italian family can become Australian, it

¹⁴⁵ Scruton (2002) op. cit. p. 62
¹⁴⁶ Scheffler (2007) op. cit. p. 94
happens all the time. And in the years between their arrival and their assimilation, that family is treated the same by the law as any other family. It is the opposite of apartheid because it is a policy that admits no difference between people at all.

As I have described them, then, citizenship of the state and membership of the nation are not necessarily coextensive. This raises the question of whether it is legitimate for a state to try and make the two coextensive by predating the granting of citizenship on proving one’s membership of the nation. In the final section of the essay, I will examine more closely the relationship between membership and citizenship that follows from the relationship of nation to state that I have proposed, and I will attempt to apply my theory to the real-world issues of citizenship tests and dual citizenship.

Membership and Citizenship

Given that the state represents a national identity, it is arguable that before granting citizenship – the formal relationship of a person to the state – the state should insist that the person in question is a member of the nation. In practice, this is very rarely done, if at all. I have argued that it is not especially problematic for the state to decouple citizenship from membership in this way. In this section I want to consider this decoupling as it relates to the concept of equal citizenship and then I want to address whether it is morally permissible for the state to re-couple, as it were, the two concepts.

Reasons for extending citizenship to non-members

In most modern states, citizenship extends beyond membership of the nation. That is, there are citizens of the state who are not members of the nation. There are a variety of reasons for this. States have an economic (and probably demographic) interest in admitting immigrants, none of whom are going to assimilate immediately upon entry (for that is impossible) and many of whom will not assimilate over time for their own reasons. States are also obliged, on many accounts, to let in some people from needy countries.

Michael Walzer argues that the state must have control of admission to the territory which it governs. Without this ability, states could not properly be call self-determining and they could not have “communities of character, historically stable, ongoing associations of men
and women with some special commitment to one another and some special way of life”. But this is not to say that the power of the state in this regard is unlimited. Because the state controls not just membership of a “national club” but also a territory within which people live it is subject to the burdens of mutual aid. It must also confront the likelihood that there will be residents who have a “right of place” and who do not belong to the membership of the nation. Anyone who is let in to the territory must have access to the state in the form of citizenship. The national club cannot rule over the residents who are non-members. “The citizens are free, of course to set up a club, make membership as exclusive as they like, write a constitution, and govern one another. But they can’t claim territorial jurisdiction and rule over the people with whom they share the territory. To do this is to at outside their sphere, beyond their rights. It is an act of tyranny”.

The choice is to divide the territory or admit more members.

So for Walzer the state is obliged to let people into its territory for reasons of justice and it is also obliged to give access to the state in the form of citizenship to all who reside within the territory controlled by the state. His argument is problematic. The territory controlled by the state is not the state’s territory, it is the national territory. It is a homeland and it is intimately bound up with nation identity. At another point he claims that Australia, with its great, mostly empty land mass, might be obliged to either accept a looser definition of it national identity and so be more accepting of needy outsiders or give up some of its territory. But there can be no doubt that possession of the entire Australian continent (and Tasmania besides) is part of the Australian identity. The Outback has a similar role in the Australian psyche as Canada’s great white north or Norway’s fjords. What this suggests is that the state’s control of territory is not a reason to extend citizenship beyond membership. At the very least, making citizenship coextensive with membership will not be problematic so long as the nation remains open to admitting immigrants into the national culture. To reiterate an earlier point, what is really important is that the nation does not have any deep-seated prejudices that make cultural assimilation impossible.

Carens argues that residents in a society should obtain citizenship automatically after passing a certain time threshold. Like Walzer, Carens argues that anyone present in a society should have the same formal rights as anyone else in that society. (Although Carens does not tie his

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147 Walzer (1983) Spheres of Justice p. 62
148 Ibid.
149 In Miller (2007) National Responsibility and Global Justice p. 218 the same point is made.
150 Walzer (1983) op. cit. pp. 46-8
argument to the state’s control of territory). But formal equality does not address, he argues, the issue of immigrant cultures and their interaction with the culture of the receiving society. Even modern states, which all guarantee in various ways the same basic package of individual liberties, differ from one another in their institutional and public cultures. Assimilation in a cultural sense will differ from country to country and from immigrant group to immigrant group.\textsuperscript{151}

What, asks Carens, is the standard by which we ought to measure the integration of immigrants? Assimilation as a standard for the granting of citizenship is wrong, he writes, for 2 reasons.

First, it clashes with liberal legal rights in that to be achieved it would require the state to interfere in the private lives of citizens:

\textit{In a liberal state, the government cannot tell people where to live or whom to marry or what people to have as friends or what jobs to take, or what to wear or how to live, so long as they are not harming others. Indeed... it is not morally permissible to use the informal sanctions of public opinion to determine these matters for individuals or to impose expectations based on the majority’s way of doing things.}\textsuperscript{152}

Second, it ignores the value individuals place on their cultural identities.

\textit{Here we can pay attention to the interests that people may have in associating with people with whom they share a particular cultural identity, in having that identity reflected in the public sphere and accommodated in public life, and in passing that identity on to their children.}\textsuperscript{153}

Therefore, it will not be morally permissible for the state to use an assimilationist standard to inform public policy. Membership, then, is not relevant to citizenship. Indeed, the public sphere should accommodate all citizens’ cultures.

Here is why Carens is wrong. First, it is possible for the state to use the assimilationist standard he describes an ideal and set up incentives for immigrants to assimilate without the state intruding into their private lives by forcing them to do so. There is a difference between, say, only teaching the national literature in state schools and banning book stores from selling

\begin{thebibliography}{9}
\bibitem{151} Carens (2005) \textit{op. cit.} pp. 41-2
\bibitem{152} \textit{Ibid.} p. 42
\bibitem{153} \textit{Ibid.} p. 42
\end{thebibliography}
books from other countries. There is a difference between having a dress code for the police and having a policy banning, say, turbans altogether. Second, the claim that public opinion cannot be allowed to pressure people into making cultural decisions is far too strong. A child’s father may want him to play soccer but the child may want to play Australian football because all of his friends at school play that game. The pressure, if it can be called that, that the child feels to be part of the group is natural and could only be prevented by banning children from playing and talking about sport at school. Of course, the father has the right to encourage his child to play one sport and not the other, but the idea that this right must be buttressed by sheltering the child from the more popular alternative sports is frankly absurd. Third, while group cultural identities may be valuable, this value has to measured against the value the native culture derives from being the established culture of the country. Part of the native identity may be bound up with the institutions themselves and so the reform of those institutions to accommodate other cultures might actually be a loss for the dominant culture. Consider, for instance, the Englishness of the common law. The laws of England reflect a long history and are inextricably bound to their national culture. The accommodation of continental attitudes or of Sharia law by the common law can only be described as a loss for the English nation. The value of the gain minority groups make from this reform is unlikely to outweigh the loss it causes the national culture.

I have not argued against extending citizenship beyond membership of the nation. I have only argued that this extension does not, or should not, affect the position of the nation in relation to the state. Thus, we can admit that states should let in more immigrants or refugees, and that it should extend citizenship to people present in its territory, without necessarily giving up the privileged position of the established national culture.

**Equal citizenship**

If the value of membership is that it provides structure and meaning to one’s life, and this structure and meaning is bound up with the establishment of nationality in the institutions of state and civil society, then the freedoms and rights that come with citizenship will not be as meaningful for citizens who are non-members. For instance, it might be said that your freedom of religion means less if public holidays are timed to coincide with another religion’s festivals and those festivals attract state subsidy or support in way that yours do not. Perhaps the place of Christmas in the post-Christian West is an apt example. Does this violate the principle of equal citizenship?
Miller argues that it does. Some opportunities in society are determined by the dominant culture. For instance, the work week is structured with this in mind. For this reason, some people have the formal opportunity to obtain a job but in reality cannot because doing so will violate their religious beliefs. Equality of opportunity should be conceived as “being able to achieve [a] goal without incurring excessive costs”. This means that the state should try and be as neutral as possible between cultures, which will involve a “give and take” between minority cultures and the receiving society.\textsuperscript{154}

To this we might reply that the state serves the purposes of the nation; it safeguards the traditional national identity. It cannot help but be partial to the national culture. If it tries to become culturally neutral, it will damage the national culture. As long as this connection persists, there can be no more than formal equality between citizen members and citizens non-members. The question is whether formal equality is enough to satisfy justice.

The answer lies in whether immigrants are entitled to more than formal equality of citizenship. As I argued in the previous section, this can be seen as turning on whether it is reasonable to assume that immigrants knew before they chose to come to their new country that the state’s institutions and practices were shaped by a national culture. I think that that is a reasonable assumption. Knowing that the state will be partial to the nation in this way means that it is unreasonable to expect that the state will adapt its practices to create more than formal equality between citizen members and citizen non-members.

What exactly is the difference between being a citizen member and a citizen non-member?

Both have the same citizenship rights, including the freedom to live as they wish in private, even without their way of life being reflected in the public sphere, and the freedom to lobby the government for greater recognition. The fact that you are not a member does not adversely affect the negative liberties you have against the government. You are missing out on something that is of value to others, but this is not a good that your citizenship entitles you to. It is true that, because of the way that the state and the nation are related, part of the good of membership is that it is related to citizenship. But if you are a citizen non-member, your citizenship is not devalued by not being a member. Every citizen subsidises some public goods the value of which he does not share in. Even if I do not use public transport, it cannot be said that government expenditure on it devalues my citizenship. Similarly, if Christmas is a public holiday and Ramadan is not, this cannot be said to devalue the citizenship of a

\textsuperscript{154} Miller (2007) op. cit. pp. 13-14
Muslim, but it might be thought of as making membership of the national culture, which supports Christmas, more valuable.\(^{155}\) So citizenship may be more valuable for the member than non-member but this does not adversely affect the position of the latter in his relationship to the government, which is what citizenship is really about.

**The value of citizenship**

None of the above should be taken as devaluing the tie of common citizenship that exists between all those who are loyal to a state, regardless of the extent of their affiliation with the established national culture. I do not want to imply that one can be a citizen of, say, Australia and yet be in some sense “not a real Australian”. I will concede that this would be problematic both politically and morally. I have tried to avoid this problem by saying that membership depends on how one identifies oneself and how one is identified by others, but that this latter “ratification” aspect should be generously applied and never based on deep-seated prejudices. I also said that everyone in society owes everyone else duties of basic decency and civility. And I emphasised that the state should treat everyone as if they are members.

Nonetheless, this still leaves some space for some citizens to think of other citizens as non-members, as not being really part of the national community. I have not defended this attitude. Let me be clear that my only intention was to argue against state intervention on such issues, in the name of maintaining the established national culture, which I have described as capable of changing by itself to accommodate new members. It is my expectation that the definition of membership will expand to include most or even all citizens over time, but this expansion must happen naturally in order that the continuity and therefore the transcendent quality of nationality is maintained.

I would like to state that citizenship is, in and of itself, a meaningful relation. I mentioned earlier the existence of “good solid citizens” who do not identify fully or perhaps at all with the established culture of the nation. I should emphasise the value of the citizenship relation and that loyal citizens ought to be conceived, on some level, by their fellow citizens as co-nationals also. There is a tie not just between citizens and the state but between citizens themselves. I would argue, however, that this “horizontal” tie is based on some sort of shared

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\(^{155}\) Consider Barry’s position, which I take to be quite similar: “[W]e cannot simply assume that conditions in which there are incentives for assimilation are necessarily unjust. Even if the institutional background satisfies the demands of justice, it may well still be that the culture (for example, the language) of a group puts it at a disadvantage in pursuing ends valued by its members.” Barry (2002) op. cit. p. 75
culture which finds itself manifest in the state. If people did not have something else in common, the citizenship tie would only be “vertical”, that is, between the state and citizens. At its weakest, the horizontal tie would at least be respect for others who have given their loyalty to something you yourself are loyal to. At its strongest, this tie will be based on a sharing of a thick culture and the fact that this culture is the reason both you and your fellow citizen give your loyalty to the state. I have tried to propose that in a modern state this tie is thicker than minimum for most people and that this is a reason for maintaining a connection between the state and the traditional national culture.

The distinction between citizenship and membership and between political assimilation and cultural assimilation is therefore not meant to strip the political tie of its meaning and value. It is only to say that this political tie should not be emphasised at the expense or exclusion of the cultural-historical tie, especially through self-conscious use of the state’s political power. This kind of public policy is detrimental to the very thing it claims to value – the national identity – because it robs nationality of its transcendent quality, from whence its meaning issues. It is meaningful to share political ties with another person; it is just that this value is not a reason to disregard the value one derives from sharing in a common culture and that part of the value of that cultural tie may be bound up with the political institutions themselves. From the state’s perspective all citizens are members. By and large, a modern state should admit no cultural differences between citizens, assuming instead that all identify with the culture represented by the state. Citizenship and membership are really only non-coextensive in so far as some citizens feel like the state does not represent some of their cultural ties which they feel are important.

Citizenship is black and white: one is either a citizen or one is not. Membership, on the other hand, is gradual: one can have more or less of the national characteristics than another person. But of course this is impossible to judge. That is why the state should, and usually does, try to ignore the differences between citizens. The problem, as we saw, is that this kind of neutrality is widely suspected of being impossible to realise. The paper began by accepting this critique as it is offered by Kymlicka. And I went on to claim that if nationality is to have the meaning for individuals claimed for it by nationalists it must be traditional in the sense that it can be accepted as something given rather than self-consciously created. I reject, then, that nationality as described by Miller is meaningful, and I have substituted for it a conservative description. The adoption of this view leads me to a strong scepticism about
using the state to transform the national identity through the recognition and accommodation of cultural differences.

Part of my objection to the use of the state in this way is based on how I answer the following question: What is worse, the state unconsciously favouring those of its citizens who share particular habits and customs, or the state self-consciously identifying those who differ and remaking itself to accommodate what it takes to be their needs? One of the virtues of the approach I have defended is that it avoids the maddening identity politics that follows from the state being avowedly multicultural. The position I have described the state taking vis-a-vis the national culture does not rest on a simplistic view of cultural unity or national stereotyping. In fact, states that set about recognising the cultural differences between individual citizens are states that fail to recognise the complexity of cultural attachments. It is basing the operation of the state on the assignment of individuals to various groups that simplistically ignores the fact that people vary in their immersion in a particular culture. The self-consciously multicultural state must carve up the population into cultural groups and in doing so will miss or inconvenience those whose cultural ties are variegated or loose.

It is for this reason that the only tie that the state formally acknowledges is the political one; membership only exists as a separate concept from citizenship to the extent that the state is partial to the nation at the exclusion of other cultures, and citizens will be more or less immersed in the national culture and those aspects of it that are reflected in public institutions. My belief that it is not morally problematic for the state to be partial to the nation in this way stems in part from my belief that membership is an imprecise, gradual notion and that the state should therefore not attempt to codify culture or what it means to belong to a culture.

Thus, all citizens share with one another a meaningful tie. But some members will more closely fit the norm of membership that is reflected by the state. It is the claim that the existence and operation of this norm, which is generated by tradition, is morally problematic that I reject.

Take, for instance, the timing of public holidays. In Australia, holidays are still timed to match Christian festivals. We have holidays for Easter and for Christmas. All non-Christians are in the same position in regards to this fact: they are not anticipated by the state’s policy or the norm on which it is based. To the extent that the timing of these holidays implies a definition of the normal Australian that includes the Christian religion, many Australians are
excluded, myself among them. At some point, basically everyone finds himself as different from the operating assumptions of the state to which he belongs. The state could try to accommodate all of us but in doing so it risks rigidly classifying us into types and undermining our unity. Imagine that instead of there being set public holidays everyone was entitled to a certain number of days off per year. They could then time their days off to coincide with whatever religious or cultural festivals they like. What would be lost in this change would be the public aspect of the holiday: the fact that everyone has the day off together. Not only does this mean that the day can be relied on and planned for as a non-working day, but it ensures that members of various groups do not simply associate with themselves at the expense of their engagement with the broader community. We can imagine a 25th of December on which, while everyone else goes about business as usual, the Christians in the community are celebrating, and, while doing so, interacting only with people of their own kind, emphasising their attachment to one another rather than the nation at large.

What I am trying to suggest here is that there is value in the state treating everyone the same, regardless of their personal or cultural preferences. I have argued in the paper that there is also value to the nation in seeing itself established in this way. The question is whether these values are enough to justify the state not undertaking the reforms advocated by multiculturalists. I have argued that they are.

Perhaps I could have used the expression “dominant culture” instead of “nation”. But this would have ignored that the national identity is overwhelmingly informed by the dominant culture, especially if we accept that the national identity must be rooted in history to meaningful. The national culture must be institutionalised to be meaningful, as Kymlicka concedes, and I have argued that it must be traditional. It stands to reason then that the cultural associations of the state will stem from the dominant culture and that this culture will be determinative to a large extent of the national identity.

But to what then does the national name refer – to citizenship or membership? That is, if I am a proud Australian, what am I proud of? And when I recognise a fellow Australian, do I recognise him as a member or as a citizen? It is at this point that the distinction I have set up becomes blurred. But the distinction is schematic; it is supposed to help us to understand the different kinds of relations in the modern state. I described the two concepts separately; I did not argue that the two things are separate, since for most people they are not. When I meet a person who answers the question, “Where are you from?” with “Australia”, I think of him as
Australian, and I do this without any reference to his cultural habits whatsoever. While on one hand this is problematic for the description of nationality and assimilation that I have given, on the other hand it counts also very strongly against the multiculturalist argument. This is because he is unlikely to say that he is from, say, Melbourne but is Greek, unless he really is not carrying an Australian passport, and furthermore I would never think to ask anyone, “So what kind of Australian are you?” In the ordinary scheme of things, in the colloquial sense, nationality is synonymous with citizenship status. Since fellow citizens are likely to identify each other as co-nationals, and since the modern state does not discriminate between citizens, the distinction I have set up does not affect the emotional tie between citizens. But the fact that this is the case despite states, by and large, not having implemented the sorts of reforms the multiculturalists argue for, counts in favour of the description of the nation that I have given and against the need for those reforms.

**Citizenship issues**

Membership and citizenship are unlikely to be coextensive in a modern state. Or, at least, it is possible that many citizens will share a tie no stronger than their common allegiance to a state whose cultural aspects are accepted, if not embraced. Thus members of the nation, sharing a stronger cultural tie with one another, are likely to get surplus value from their citizenship because of the state’s relationship to the national culture. To finish the essay, I would like to discuss what this image of citizenship implies for two citizenship questions that come up from time to time in the West.

**Citizenship tests**

One way of partly avoiding the problem caused by membership and citizenship not being coextensive is to implement a citizenship test. It is possible, in theory at least, to create a test that will judge whether or not one is a member of the national culture and base the granting of citizenship on the passing of the test. In principle, I think that there is nothing objectionable with such tests, although whether they would be effective in practice is debateable.

Consonant with his political assimilation-only position, Miller argues that citizenship tests should be restricted to questions about the national language, history and institutions. He writes, “Citizenship tests become objectionable... when they overstep the line that divides
private from public culture by requiring immigrants to engage in cultural matters that have no intrinsic connection with citizenship.”

For Carens, similarly, immigrants should not have to prove some sort of “adaptation” to the local culture as a condition of citizenship. The only morally permissible condition for citizenship, in Carens’ eyes, is “that immigrants live in the country long enough.” He gives two arguments for this position. First, the longer one is in the community the stronger an interest one has in staying part of it. Second, competent residents of a country should have the opportunity to participate in community politics. He concedes that it might be reasonable to expect (in the sense he defined earlier) that immigrants adapt to the local culture, but it is not permissible to make this a requirement of citizenship.

There are good reasons for extending citizenship to non-members. It is certainly not ideal for there to be a large number of permanent residents who have no, or less, formal access to the government. Not only are their interests likely to go ignored but they are unlikely to settle easily into society alongside those who have such rights. On the other hand, predicking citizenship on membership may incentivise cultural assimilation, assuming that people would get enough value from citizenship to make it worthwhile becoming a member first. Additionally, some measure of differentiated treatment of resident non-citizens is probably advisable because it creates an incentive to become a citizen. The state can in this way avoid having a population of permanent residents who have no interest in becoming citizens. For example, Australia has a large population of permanent residents who immigrated from Great Britain and New Zealand. Apart from the ability to vote, citizenship would not furnish these people with any additional benefits. It is also not ideal to have a population that is deliberately disengaged from the public sphere, or to have a population that, despite its participation in the welfare state, has no abiding, or at least express, commitment to the state. That a state ought to provide a path to citizenship is not to say that the state ought to treat non-citizens equally. And if the state can give a reason to permanent residents to become citizens, perhaps it is justifiable to put the additional hurdle of a citizenship test in front of them. The question will be whether the state has more of an interest in making permanent residents into citizens or in restricting citizenship to members only. And the state will also have to weigh the interests of those residents who need citizenship to secure their place in the

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156 Miller (2007) op. cit. p. 15  
157 Carens (2005) op. cit. p. 39  
158 Ibid. p. 39  
159 Ibid.
community (generally, people not from culturally-similar places like Britain and New Zealand).

There is also a practical question of how someone is supposed to prove that he is a member of the national culture. In Australia the debate centred on whether it was permissible to ask prospective citizens what Don Bradman’s batting average was (99.94) or who Sir Hubert Oppermann was (a famous cyclist turned parliamentarian). We might ask, is it these facts that are important or is it particularly Australian, in the eyes of the writers of the test, to have a capacity for remembering sports trivia? The test relies on people studying the material sincerely and remembering what they have studied after the test. It seems likely that some people’s knowledge of their new country will be improved by having to study for the test and that some other people will simply load their short-term memories with the facts they need, pass the test and carry on as always. I am not sure that these practical difficulties defeat the concept generally, but I do not have the space to try and draw up an ideal citizenship test, and it seems that these tests might be at best a limited tool for making members of people.

**Dual citizenship**

Finally, there is the issue of dual citizenship. If membership precedes citizenship, it is hard to see how someone could be a dual citizen because it is hard to conceive of being a member of two national cultures simultaneously. Perhaps if the two nations were very similar, like Australia and New Zealand or Sweden and Norway, this concept might make sense.

States, of course, may have an interest in allowing dual citizenship. If you make people choose between citizenships, there is the chance that they will not choose yours. Those people will be lost to your country. Australia has, out of a total population of 21 million, around 1 million expatriates, many of whom are dual citizens. If Australia were to insist that those people choose one citizenship or the other, given that they are making their lives in other countries it is likely that many of them would forego their Australian citizenship. While they retain their citizenships there is the chance that they will return to Australia.

The problem with dual citizenship, if there is one, is that it speaks to a kind of residual membership of another nation. Consider again those Australians in Europe and elsewhere; no matter what they are doing in their country of residence, they all maintain a link to Australia in case they should want to return. Presumably, they continue to think of themselves, at least in some way, as Australian. Obviously, this is a good thing for Australia, but it is not
necessarily a good thing for the countries in which they reside. Similarly, in Australia, many people are dual citizens. Almost half of the population of Perth are dual citizens, and there are significant numbers of people in all the major cities with New Zealand, British, Italian and Greek passports. To a certain extent, all of them must identify with those countries. The question is whether this identification comes at the expense of their immersion in the culture of Australia.

It is hard to generalise on this point. For first-generation immigrants, it is likely that they maintain an emotional connection to their old country and wish to keep the option of returning open should things not work out in their new country. They may continue to feel like this even after acquiring citizenship in their new country. For their children, if they are eligible for citizenship in their parents’ homelands, the second citizenship may simply be a convenience. Since the creation of the European Union, any kind of European passport is doubly valuable since it provides access to almost the entire continent.

The objection to dual citizenship would have to, I think, be based on the idea that being a dual citizen means not committing to the nation you live in. It is possible that a nation could only sustain a certain amount of dual citizens before its identity was lost, buried beneath the attachments of its supposed members to other countries. But of course this depends on how the dual citizens feel, and it is impossible to be precise about that.

Perhaps the argument can take another form. Miller argues that it would be unfair for a state to favour one ethnicity over another in the admissions process because by doing so, states “violate the equal citizenship” of citizens who belong to the disfavoured group: “By giving preference to those a particular ethnocultural background, the state unavoidably declares that the culture in question is superior, thereby undermining its attempts to treat all cultures even-handedly in its domestic policy.” If we accept that this is the case, we might think that a similar argument applies to dual citizenship. A dual citizen implies to his fellow citizens that he is not satisfied to just be part of one community. It is not enough for him to just be Australian, for instance. How should Australians who are not dual citizens respond to this?

I am not entirely persuaded by the idea that a dual citizen cannot be a member of a national culture. Nonetheless, I do think it would be permissible for a state to reject dual citizenship. Japan, for instance, does not allow dual citizenship. No-one has a right to more than one

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160 Miller (2007) op. cit. p. 19
citizenship. Carens argues that citizenship should be granted automatically to anyone who has been resident in a country for a certain amount of time because they can be presumed to have ties to their community, creating an interest for them in staying where they are.\textsuperscript{161} This is the most lenient standard for citizenship that I have encountered. Even it cannot sustain the idea that a person has a right to dual citizenship. We can accept Carens point that someone resident in a country should be granted citizenship without accepting that he should be able to retain his old citizenship. Given that Carens ties citizenship to one’s life in a community, and one can only live in one community at a time, it follows that one only needs one citizenship. If the most lenient standard for citizenship cannot ground a right to have more than one citizenship, it seems that such a right probably does not exist.

States will have many good reasons for allowing dual citizenship. But there is no reason for saying that it is obligatory for states to do so.

\textsuperscript{161} Carens (2005) \textit{op. cit.} p. 39
Chapter 8: Conclusion

The argument in this paper has proceeded on the basis that a liberal society is made possible by most of the individuals involved being joined together by a common identity. And this common identity, if it is to be meaningful, must be accepted as given by those who share it. Thus there are nations, and nations are made meaningful by their traditions. It follows that the bond between people will be sundered if too radical a departure is made from traditional practice. Since tradition is embodied in the institutions of the state, and since the state regulates the important institutions of civil society, there is good reason not to reform those institutions to accommodate members of other cultures.

The key assumption in all of this is that a liberal society will never achieve neutrality on cultural questions. Public institutions will always be partial to the culture from which they arose, even if this just takes the form of favouring one language over another, or one holiday over another. And this partiality is essential to the value of nationality.

I have argued that this is not problematic. It is no reason to go carving the people up into separate cultural groups and treating them differently based on this division. I have proposed one distinction: members of the nation and non-members. But I have argued that members ought to be receptive to non-members who want to join. And I have further argued that the state cannot actively coerce non-members into joining the nation. In effect, what I have argued is just that, even though the citizenry will not be coextensive with the membership of the nation which is favoured by the state, the state should not admit any difference between one citizen and another. The position of the state in the society I have defended is one that is blind both to the membership status of the citizenry and to its own prejudice in favour of members. Citizenship remains formally equal, the state remains oblivious to the surplus value its position gives to members, and if, by treating everyone as if they were members, the state encourages some non-members to become members then this is all well and good. Likewise, if some non-members choose to ignore the benefit of membership, or simply see it as no benefit at all, and choose to live their lives separate from the cultural life of the nation, then this is fine so long as they do what is required of them as citizens: vote, pay taxes, obey the law etc.

The position I have described is what I take to be, more or less, the actual practice of most modern states. It is a position that chooses to ignore the culture clashes I have described and
which acknowledges both the liberty of immigrants to live as they please and the nation’s expectation that they conform. It states that while such clashes are not ideal, they do not warrant the kinds of reform that multiculturalists call for.

It is therefore a liberal position but it is not the positively multicultural liberalism of the progressive political class. It is the liberalism we have. And it is based on a conservative nationality which there is no good reason to abandon, even if it could be abandoned. One might doubt the influence of the national identity on the actual practice of the modern state; one might say that it is very rarely apparent – so what if holidays fall when they do, so what if there is an official language? This only strengthens the argument that reforming the institutions of the modern state is pointless. But I would go further. It is fair enough for the modern state to reinforce the national identity through its control of public institutions, especially schools. It needs no justification for doing so other than its history of doing so and the fact that the people by and large get value and meaning from their membership of a nation that is embodied in a state. All it must do is continue to let the abstainers abstain and let them freely huff and puff on the fringes of society, waiting for them to tire themselves out.

Perhaps the most curious thing about multiculturalism is that immigrant groups in the main rarely seem particularly vocal in their demands for it. I believe that the great many immigrants are happy to let their new country continue on as always. And despite the uproar that might greet a cultural clash of some kind, I further believe that the people of most modern states are not aggressive in asserting their valuation of their traditional culture. Since culture tends to operate in the unconscious mind, it is not something that people tend to push like a product on immigrants. For this reason, most people are civil, indeed welcoming, towards immigrants and invite their participation in the community. The subtle assimilative pressure created by the establishment of the nation is accepted as a fact of life by basically all reasonable people in society.

We should reject the idea that aggressive public policy aimed at reforming society is necessary. Calls for such change invariably issue from the abstract dreaming of academics and the cynicism of career politicians. The idea that the state can redefine the national identity for its own purposes is offensive. Just because the nation is in a sense imaginary does not mean that it is artificial, something planned and then built. It is not something to be made and remade in the intellects of an elite, it is not a plaything for bureaucrats, it is not a few dot
points in a slideshow, it is not a political tool. Or rather, if it is these things then it is meaningless. Self-consciousness is the enemy of culture.

We should therefore hold fast. If society is to change, let it change from the bottom up and not from the top down. Let the change come from within and not from without. There is no reason to break with the past, discard continuity, hollow our institutions and trash what we value. The nation will invite all to be members and perhaps it will change because of this. But what is important to identity is not stillness itself, but the illusion of stillness. Any moment in time is perfectly still. Let the people believe that their moment is the national moment, where past and future collapse into the present, and they can pretend it was ever thus, and will be thus forever.
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