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Centrum för tillämpad etik
Linköpings Universitet

Grounds for Group-Differentiated Citizenship Rights: The Case of Ethiopian Ethnic Federalism

By: Getahun Dana

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Linköpings Universitet
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Supervisor: Prof. Göran Collste

Abstract

The universal citizenship rights can not protect the interests of national minorities by systematically excluding them from social, economic and political life. It does this by denying national minorities access to their own societal cultures-a choice enabling background conditions. In order to enable meaningful choice, such cultures needs to be developing. The societal cultures of national minorities will, instead of being a living and developing ones, be condemned to an ever-increasing marginalization if the state follows a hands off approach to ethnicity. Thus the state must give a positive support to national minorities to help them develop their cultures in their own homeland. This can be done by drawing the boundary of the state in such a way that the ethnic minority can constitute a local majority to form a nation, and thus can be entitled to group-differentiated citizenship rights. This inevitably creates mutual-indifference among various nations, and seems to threaten the territorial integrity of the state. But as far as the multinational federation is the result of voluntary union of nations, though the social tie among these nations is weaker than the one found in a nation-state, it can nonetheless be enduring.

Key Words: *Citizenship Right, Societal Cultures, Multinational Federations, Ethnic Identity, Territorial Integrity,*

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Chapter One: Ethnic Federalism in Ethiopia

1.1 Introduction

Ethnic conflict is one of the major causes of violent clashes in most African countries¹. Some people argue that providing ethnicity an official recognition, putting in place federal state structure that runs along ethnic lines and granting group right to the formerly denigrated groups would solve the problem. Based on this conviction the government of the Federal Democratic Republic of Ethiopia (FDRE), in power since 1991, has given an official recognition to ethnic identities and enshrined it the federal constitution of December 1994. Article 39 of the constitution grants ‘nations, nationalities and peoples’ of the country an “unconditional right to self-determination, including the right to secession.”² This is the most controversial article that has caused an ongoing debate among political parties. The article also encourages the nations and nationalities to use their language in school as well as in local courts, and to promote their cultures and customs. And it vests sovereign power in nine regional states. Article 39(5) of the FDRE constitution defines a ‘nation, nationality or people’ as:

A group of people who have or share large measure of a common culture or similar customs, mutual intelligibility of language, belief in a common or related identities, a common psychological make-up, and who inhabit an identifiable, predominantly contiguous territory³.

The above mentioned definition for the term ‘nation’ is not clear. Before we explore the question about the importance of the right to self-determination, it is useful that we come up with a clear definition of ‘nation’? What is ‘national identity’? What do we mean when we say that someone has a ‘national identity’? Before we see various responses for these questions, let us see some background information about the ethnic composition and regional autonomy of Ethiopia.

¹ Abbink, Jon (1997), ‘Ethnicity and Constitutionalism In Contemporary Ethiopia’ in *Journal of African Law*, 41: 159-174, p.159.

² FDRE Constitution, Article 39.

³ Ibid

1.2. Background Information

1.2.1. Regional Autonomy

Ethiopia is a federal republic which is formed by nine regional states. According to article 47 of the constitution, the Ethiopian Peoples Revolutionary Democratic Front (EPRDF) government has nine regional states⁴. The regional states are (1) The state of Tigray (2) The state of Afar (3) The state of Amhara (4) The state of Oromia (5) The state of Somalia (6) The state of Benishangul/Gumuz (7) The state of Southern Nations, Nationalities and Peoples (henceforth SNNP) (8) The state of the Gambela Peoples and (9) The state of the Harari Peoples.

Each regional state of the country is formed on the basis of the dominant ethnic group⁵. This means that each ethnic minority that constitutes a local majority will constitute a nation. With the exception of the Southern regional state formed by 46 ethnic groups, and two federal units, Addis Ababa and Dire Dawa, and Gambela, all the other regional states are created in this way. Each sub-unit does not have a homogenous cultural, ethnic, and religious identity. There are minority ethnic groups living in each region. The two largest ethnic groups, the Oromo and the Amhara constitute majority both at the local and national level.

1.2.2. Ethnic Composition of the Country

Ethiopia is a multi-ethnic country hosting more than 80 ethnic groups⁶. It has roughly 74 million people. Out of these, 10 ethnic groups have a population of one million and above. The two largest ethnic groups (the Oromo and the Amhara) constitute more than 60 percent of the population. The third largest ethnic group, the Somali, accounts for 6.2 percent of the population. Tigray is the fourth largest ethnic group constituting 6.1 percent of the population. This has been the politically dominant ethnic group since 1991 after the

⁴ FDRE Constitution, Art.47.

⁵ Habtu, Alem(2003) Ethnic Federalism in Ethiopia: Background, Present Conditions and Future Prospects, p.19.

⁶ FDRE Central Statistical Authority, Summary and Statistical Report of the 2007 Population and Housing Census, Federal Democratic Republic of Ethiopia Population Census Commission, December 2008, Addis Ababa.

Tigray Peoples Liberation Front and various other opposition groups militarily defeated the socialist government. Sidama is the fifth largest ethnic group constituting 4 percent of the population. Five other ethnic groups, namely, Guragie, Wolaita, Hadiya, Afar, and Gamo have each more than one million population. Seventy other ethnic groups have each less than one million population. There are more or less as many languages as there are ethnic groups.

1.3. Why Ethnic-Based Federalism?

The proponents of Ethiopia's ethnic federalism argue that ethnic-based federalism is the only mechanism to respond to the 'national question'⁷ of ethno-nationalist groups. These are ethnic-based groups who had insisted that they are separate nations and thus their rights to self-determination, including and up to secession be respected by the government. Since the 'national question' has always been there, they argue, we must address the long standing demand of Ethiopia's diverse ethno-linguistic groups. Since we could no longer rely on forceful suppression of nationalist sentiment, the reasoning goes on, the state must attempt to accommodate their demand by according the right to self-determination to formerly denigrated and marginalized ethnic groups⁸. This rationale, they argue, has necessitated the need for ethnic based structure and for promoting mainly ethnic based civil society and organizations.

Another reason given in support of ethnic-based federalism is that it is useful for promoting political, economic and socio-cultural equality among various ethnic groups⁹. In addition to this, it is also thought to develop the language and culture of minority cultural communities as well as to create a sense of pride in ethnic identities. Ethnic federalism is also favoured for its better mechanism of settling conflict. The previous Ethiopian regimes attempted to control ethnic consciousness by forceful means. This measure has led to internal wars among various groups. Since we can not rely on forceful

⁷ Nikodimos, Abate (2004) Ethnic Federalism in Ethiopia: Challenges and Opportunities. Faculty Of Law: University of Lund (Masters Thesis), p.51-52.

⁸ Abate, p.50.

⁹ Ibid

suppression of such consciousness, we need to design a democratic way of settling conflict: ethnic federalism.

1.4. Ethnicity and Nations

Before we talk about the question whether the right to self-determination to the ‘nations, nationalities and peoples’ of the country can be justified on liberal grounds, it is important to make few points clear. First, there is no consensus among writers on the definition of ‘nation’. In order to get some idea about the meaning of nation, let us begin by noting what ‘nation’ is not. According to David Miller, nation is not something that exists out there objectively, independently of the beliefs people have about them¹⁰. He states that in addition to objective criteria such as the physical characteristics and behaviour of people, people’s own beliefs about their nationhood enter into the definition of nation. Put differently, in order to decide whether a particular group of people constitutes ‘nation’, it is important to know how they conceive of themselves. And this may be controversial inside the group as well as outside it.

Disagreements abound regarding whether a particular group of people form a ‘nation’ or not. This, according to Miller, has to do with the vagueness or complexity of the criteria¹¹. The main source of the disagreement concerns interpreting what people believe about themselves. It is difficult, if not impossible, to interpret what people believe about themselves. This is not to downplay the importance of enquiry in knowing people’s beliefs about their place in the world. We can know people’s sense of nationhood by simply asking them if they see themselves as belonging to a distinct nation. More over, we need other kinds of evidence in order to count a particular group of people as ‘nation’. We need what Miller calls ‘characteristics of the relevant kind’¹² which includes shared language, culture, religion and territorial concentration.

According to Miller, nation and ethnicity, despite the existence of some differences, are both “bodies of people bound together by common cultural characteristics and mutual

¹⁰ Miller, David (1995) *On Nationality*. Clarendon Press. Oxford, p. 18.

¹¹ *Ibid*

¹² *Ibid*

recognition”¹³. Thus we can not draw a sharp boundary between the two concepts. However, ethnic identity can become a possible source of national identities for various peoples in the world today. A nation in most cases emerges from an ethnic community that furnishes it with its distinct identity¹⁴. Ethnic consciousness may give rise to nationalist aspirations when an ethnic group finds its identity being threatened or its legitimate political aspirations being denied. When this happens, the ethnic group may start to think of itself as a nation and to express its aspirations in nationalist terms¹⁵. Accordingly, it is not illegitimate to take ethnic groups who express their demands in terms of nationalist claim, as a nation provided that they fulfil the objective criteria mentioned above.

However, we should guard against taking the two things as one and the same thing. Even though ethnic consciousness may sometimes lead to nationalist aspiration, they must not be equated with national identity. The reason is simply that nation can comprise various ethnic groups. Consider USA, with its different ethnicities. According to Miller, the American national identity was originally defined in terms of the dominant ethnically Anglo-Saxon group. But, it has now incorporated many different groups such as Irish Americans, Italian-Americans, African Americans and so forth. Thus the American national identity now is not defined by a single ethnic group, but encompasses a wide range of ethnic groups. Its national identity now is as strong as it was originally formed by the Anglo-Saxon majority. This example suggests that ethnic aspirations and nationalist goals are not necessarily contradictory goals. The question should not therefore be whether ethnicity and nationality can co-exist, but whether the ethnic group feels secure and comfortable with its national identity and the political institutions that correspond to it¹⁶.

Even though the term ‘nation’ is a source of deep contention among writers, let us for the moment accept ‘nations’ to mean what the Ethiopian constitutions meant by it, that is as a “group of people who have or share large measure of a common culture or similar customs, mutual intelligibility of language, belief in a common or related identities, a

¹³ Ibid

¹⁴ Ibid

¹⁵ Miller, p.20.

¹⁶ Miller, p.21.

common psychological make-up, and who inhabit an identifiable, predominantly contiguous territory.”¹⁷ This is not to downplay the existence of the complexity and vagueness of criteria regarding this definition. The problem here is that this definition also applies to what the constitution calls as ‘nationalities’ and ‘peoples’. Even though the three terms are not defined in the constitution, one point is immediately clear: they are referring to different kinds of people. However, it is unacceptable to apply the definition in question in relation to every ethnic group existing within the country’s boundary.

In order for a group be accorded an unconditional right to self-determination, including and up to secession, it must be a group that can realistically hope to form a nation-state of its own. This at least requires that all characteristics of the relevant kind such as shared language, shared culture, shared custom, and territorial concentration be met by the group in question in order to be able to form a meaningful form of self-government. The constitution, as mentioned above, gives an unconditional right to self-determination, including and up to secession for ‘nations, nationalities and peoples’. The underlying assumption behind such measure is that every ethnic group of the country can exercise a meaningful form of self-government. However, this is not the case.

A group, at least, needs to be concentrated in a defined territory in order to stand as a self-governing unit. Since many minority ethnic groups in Ethiopia are not found in a defined territory, they can not realistically form a nation of their own. If that is so, it is absolutely nonsense to give a right to secession for these groups. If they can not potentially form a nation-state of their own, they have to settle, as Miller insists, for something less than self-government. Since territorial concentration is one of the necessary conditions for getting the status of nationhood, and since there are many ethnic minorities in Ethiopia who are dispersed all over the country, we can imply from this that there are more ethnic groups in the country than there are nations. It is not known however that how many nations exist in the country. The constitution did not mention how many ethnic groups can rightly be called as ‘nations’. Suffice to say that there are more than two nations in Ethiopia, and thus Ethiopia is a multinational state.

1.6. Article 39 of FDRE Constitution

¹⁷ FDRE Constitution, article 39.

Article 39, as mentioned above, is the most controversial article that has initiated an ongoing debate among political parties in Ethiopia. There are two extreme arguments regarding this article. On the one hand, proponents of ethnic federalism argue that it is through the constitutional guarantee of group rights that the country can be held together. Accordingly, the ethno-nationalist's demand for self-determination including secession is constitutionally guaranteed. They argue that the federal state structure that the EPRDF government has put in place helps maintain the unity and the territorial integrity of the state providing at the same time full recognition to the principle of ethnic equality¹⁸. They maintain that providing full recognition to ethnic identity and the unity of the state are not mutually incompatible goals as the opponent ethnic-based federalism argue. One might say that it has established, as it were, a secure foundation upon which unity in diversity can be realized, and that this foundation is the principle of ethnic equality(In the context of this paper, the term 'state' is referring to the liberal democratic state, even though Ethiopia is a young and aspiring democracy).

They also argue that ethnic federalism protects the territorial integrity of the state by making the formation of political, economic and political community the result of voluntary agreement among different ethnic groups. The idea is that if the state is the result of a genuine and voluntary union of diverse people on the principle of equality and justice¹⁹, the demand for secession can be reduced. The secessionist groups will have no cause to secede. If this reasoning is right, it seems to follow that there is nothing wrong with the right for secession being enshrined in the constitution of a liberal democratic state. This however is a dubious assumption. Although the bonds of social unity based on voluntary agreement may be enduring, and conditional allegiance may be powerful, this does not necessarily justify providing a right to secession to groups on the basis of ethnicity. Although secession as a general response for ethnic discontent may sometimes be unproblematic, there are cases, I argue, where it should be thought within the limit of some pragmatic considerations. As we will see in chapter four there are some points we must take into account regarding the 'unconditional right' to self-determination. On the other extreme, there is an argument that ethnic federalism is divisive and can not maintain

¹⁸ Habiso, Tesfaye(2008) Article 39 of the FDRE Constitution and the Right of Secession: A Recipe for National Disaster or a Tool for Protecting the Territorial Integrity of a Multi-Nation State? December 02.

¹⁹ Ibid

the unity of the state²⁰. Individuals who hold such position argue that the unity of the country can only be maintained by the constitutional and legal guarantee of individual right. Group-specific demands, they insist, can be accommodated within the universal citizenship right²¹. They underline that the state must recognize each individual as a citizen and not just a member of an ethnic group. Accordingly, Ethiopia's ethnic federalism is misguided for institutionalizing ethnic groups as fundamental constituents of the state and establishing them as social categories sharply distinct from an overarching category of citizenship²². If the state sees individuals as members of a particular ethnic group, and not simply as citizen, this, according to its critics, will lead to disunity among different groups. Emphasis on differences rather than on historically shared commonalities undermines national unity²³.

Some ethno-nationalist groups doubt the government's commitment to self-determination. According to them, the problem is not with ethnic federalism per se, but that it has not been put in place. The reason is simply that the government has controlled all key powers and thus there is no real devolution of power²⁴. Assuming, for the sake of argument, that the government has real commitment to ethnic federalism, I shall argue that the right to self-determination, including secession (with certain obvious limitations) helps maintain the unity and territorial integrity of the country.

1.7. Analytical Questions

Should ethnic identity be placed at the private sphere so that any state intervention on the ethnic identity of individual can be considered as a departure from the liberal commitment to the private sphere? In other words, should it treat ethnicity with indifference as the traditional liberals suggest? Or should it take as ethnicity as its organizing principle as it is the case with Ethiopia?

²⁰ Abate, p.22.

²¹ Abbink, p.173.

²² Abate p.22.

²³ Habtu, p.9.

²⁴ Ibid

Is there not a liberal ground for justifying ‘group-differentiated citizenship right’ for various nations of the multination state?

What state structure ought there to be if the territorial integrity and the unity of the state are to be maintained? Particularly we shall examine this question: Given our belief on the liberal democratic view of individuals, what identity should matter to the state, citizenship or ethnic identity?

For ease of reference and the purpose of clarity, I have divided the thesis into four chapters. In the first chapter, I have already discussed some arguments for and against ethnic federalism in Ethiopia. We have also seen some background information about the regional divisions and ethnic compositions of the country. I have concluded this part by forwarding a research question that I will take up in the next chapters. In the second chapter, I will argue that the traditional liberal doctrine of human rights can not accommodate group-specific demands, and that we need a group-differentiated citizenship rights in order to promote equality among groups. I will discuss in this part various arguments for and against group rights. In chapter three, I will discuss the problems that multinational states face. I will highlight in this part liberals’ different responses for the problem of disunity and threat for territorial integrity facing a multinational state. In the last chapter, I will argue that group-differentiated citizenship rights should be accorded to the Ethiopian various nations. In this part, I will highlight some problems related to taking ethnicity as the main criterion for nationhood. I will conclude this chapter by arguing against the constitutional guarantee of the right to secession.

Chapter Two: State and Ethnicity

In this chapter, I will argue that the ‘group-differentiated citizenship rights’ for national minorities helps promote genuine equality between majority and minority national communities by enlarging individual’s freedom to choose. I shall assume that freedom is a fundamental liberal value. Taking that as a point of departure, I shall argue (following Kymlicka) that the individual freedom to choose is meaningful if and only if there are relatively a large range of options to choose from. And the availability of these options is determined by one’s access to ‘societal culture’-a choice enabling background conditions²⁵. As we will see later in this chapter, national majority and national minorities do not have the same kind of choice enabling background conditions. While the ‘societal cultures’ of national majority enables members of majority to make a meaningful choice, the ‘societal culture’ of national minority does not enable its members to make the same kind of choice unless it is provided positive support by the state. I want to argue that freedom(not toleration) is a fundamental liberal value, and thus the liberals’ commitment to the freedom of individuals is meaningful only under the circumstance where the national minorities have access to the same choice enabling background conditions as members of the national majority. This depends, in part, on the state’s positive support for the ‘societal cultures’ of members of national minorities.

I will divide this chapter into two parts: In the first part, I will discuss arguments for the primacy of individual right over group right. Here, I will discuss the arguments of Jürgen Habermas and Chandran Kukathas for the primacy of individual rights. I will argue against this position. I will defend my positions in the second part of this chapter and in the next two chapters. My aim on the first part is simply to present arguments for thinking in terms of the primacy of individual rights over group rights as argued by Kukathas and Habermas. The position that I want to defend is basically this: the doctrine of human right can not accommodate the legitimate demands of national minorities, and thus group-specific rights must be promoted in addition to the universal citizenship rights in order to promote genuine equality among different nations within a multinational state.

²⁵ Tan, Kok- Chor (1996) *Toleration, Diversity, and Global Justice*, USA: The Pennsylvania State University, p.73-74.

Part I: The Traditional Liberal Response to Ethnicity

2.1. How Should the State Treat Ethnicity?

Modern societies are differentiated along religious, ethnic, cultural and several other ways. The fact of diversity gives rise to important and potentially divisive questions. Minorities and majorities very often disagree over many matters such as language policy, educational policy, regional autonomy, political representation, national symbols, and the choice of national anthem or public holiday²⁶. The task of political philosopher is therefore lies in finding a morally defensible and politically viable answer to these questions.

Many liberals have argued that the guaranteeing of basic civil and political rights can answer all the questions that could possibly be raised within the state. These rights, they contend, can protect the interests of all groups, advantaged or disadvantaged alike. The idea is simply that the protection of the basic human rights such as the freedom of speech, association and conscience can protect the interests of the members of ethnic and national minorities²⁷. If they are right, then there is no need for designing group-specific rights for various disadvantaged groups. In the thesis, I will deal with only those problems that arise when two or more ethnic groups exist within a state, leaving aside other problems that are associated with other historically disadvantaged cultural groups. The question that I want to deal with here is this: how should a liberal state treat ethnicity? First, I will start with discussing the traditional liberal's response to ethnic differences within a polity.

There is a widespread agreement among traditional liberals that there should be a separation between church and state. They believed that it is through the constitutional and legal guarantee of the individual right to worship, and not through any group-specific rights, that the interest of religious minorities can be protected against the encroachment of the majority. They also thought that this separation between religion and state can provide a model for dealing with ethnocultural differences as well. They therefore insisted that ethnic identity, like religion, should be left to individuals to exercise them in their private life. Under this view, the state should neither oppose nor nurture people's

²⁶ Kymlicka, Will(1995) *Multicultural Citizenship: A Liberal Theory of Minority Rights*, Oxford: Clarendon Press, p.1.

²⁷ Kymlicka, p.2-3.

expression of their particular cultural attachment. It should simply respond with indifference, or with what is known as ‘benign neglect’²⁸. This separation of state and ethnicity denies any legal or governmental recognition of ethnic groups, or any use of ethnic criteria in the distribution of rights, resources and duties²⁹. Accordingly, if the state gives recognition to ethnicity, or takes it in any way as its organizing principle as it is the case with Ethiopia, that will be considered as a clear departure from the liberal’s commitment to the distinction between the private sphere and the public sphere.

This separation between state and religion should not be taken as a model for dealing with the problem of ethnicity. This is because it is difficult, if not impossible, for the state to be indifferent to ethnic differences. The state can be ‘neutral’ as far as religion is concerned, but it can not be ‘neutral’ with ethnic identity. It can not help, as will be argued for shortly, lending support to the ethnic and cultural identity of the majority group within the polity. If this is so, then justice demands that it should do the same to minority cultural groups in order to promote genuine equality among groups. It should do so not because culture has independent moral worth but because our cultural membership determine ‘the context of choice’ to make the individual freedom to choose meaningful.

But before looking at arguments for group-specific rights, let us see some arguments for the primacy of individual right as presented by Habermas and Kukathas. First, we will see Habermas’s argument for universal or undifferentiated citizenship right. Then, we will see Kukathas’s reasons for rejecting group-specific rights.

2.2 Habermas’s Argument for the Primacy of Individual Right

Habermas argues that protection of the elementary rights of individuals will necessarily lead to the protection of the rights of different ethnic groups³⁰. If the individual right of association is respected, then different forms of life can flourish within such a liberal culture. According to him, there are four things we need to guarantee the flourishing of various ways of life: a well-functioning public sphere, open communication structures and

²⁸ Ibid

²⁹ Ibid

³⁰ Habermas, Jürgen (1994) “Struggle for Recognition in the Democratic Constitutional State”, p.128-129.

a liberal culture and of course the protection of individual rights³¹. He argues that since the identity of the individual is inextricably connected with his/her collective identities, the guaranteeing of the former identity will necessarily lead to the protection of the latter³². There is thus no need for any special cultural rights for these sorts of rights are protected within the cultural market place ('cultural network').

Habermas also attempts to justify the primacy of individual right over group rights from another angle, namely, from the need to make a cultural exchange among different groups in order to live together within a larger political community. He states that the co-existence of different ways of life in multicultural societies is possible if there is a cultural interaction among different groups³³. Culture should not, he says, shy away from confronting other cultures for whatsoever reason. It can confront other culture to perpetuate in its conventional form or transform it. It can also turn away from its command with indifference. Habermas assumes that cultures can make a conscious break with the dominant tradition under the cultural market place of the liberal democratic countries³⁴. By emphasizing the importance of cultural market place in regulating cultural interaction, he is assuming that the question of which cultural forms of life wins and which loses out can be determined by the cultural marketplace of ideas. But, this as will be argued for later in this chapter, overlooks the equality of the cultural market place.

Habermas espouses toleration as a fundamental liberal value. He states that the liberal state should tolerate various forms of life. This is a more elaborate way of saying that the state should guard itself or the majority from trampling upon the views of the minority. It in other words must give a social space that minority cultural communities need in order to flourish as a distinct people. The survival of various forms of life can be ensured through a civilized debate conducted among various worldviews or convictions in which one party recognizes the other parties as "co-combatants in the search for authentic truths without sacrificing its own claims to validity"³⁵. Truth is not something that one particular way of life holds exclusively. It is rather a thing that different forms of life construct

³¹ Ibid

³² Habermas, p.130.

³³ Ibid

³⁴ Ibid

³⁵ Ibid

“intersubjectively”³⁶, by criticizing each other. In order for the search for truths be fruitful, each way of life that take part in the debate must recognize other way of life as acceptable. In other words, none of the participants should act in such a way as to threaten other ways of life. And the national constitution should not tolerate those forms of life articulated within the medium of non-fundamentalist (hegemonic) traditions, because coexistence with equal rights for these forms of life requires the mutual recognition of the different cultural memberships: “all persons must also be recognized as members of ethical communities integrated among different conceptions of the good”³⁷.

Habermas also makes a sharp distinction between the private sphere of toleration and the public sphere of toleration. He argues that various ways of life should not be given public expression because there can not be a substantive consensus on values. Habermas appears to contradict himself here. For, on the one hand, he makes a normative judgment that different ways of life should compete with each other in the cultural marketplace of ideas, and on the other hand, he makes another normative assertion that they should be denied public expression. For one may wonder if they are denied public expression, how are they going to interact or compete with each other in the cultural marketplace. According to Habermas, this confusion will not likely to arise because the debate among various groups takes place not at the public sphere, but at the level of what he call the “ethical” sphere³⁸. Hence he makes a distinction between the ethical integration of groups and subcultures with their own collective identities and the abstract political integration that includes all citizens equally. The political integration of citizens ensures loyalty to the common political culture³⁹, but the ethical integration of citizens does not require such loyalty. Since the liberal state should not promote a particular conception of the good, he says, the issue of which cultural forms of life wins and which loses should be determined by the cultural market place where different cultures compete with each other.

But this reasoning, as we will see in part two, is flawed because it is based on the dubious assumption that the state can be indifferent to different ways of life. By assuming so, it ignores the fact that the state can not in fact help lending support to some ways of life.

³⁶ Habermas, p.130.

³⁷ Habermas, p.133.

³⁸ Ibid

³⁹ Habermas, p.133-134

Habermas's reasoning is valid, but not sound because, as mentioned above, it is not in a power of a state to be indifferent to some ways of life. For now let us see Kukathas's argument for the primacy of individual rights.

2.3. Kukathas's Arguments for the Primacy of Individual Rights

According to Kukathas, liberalism with its emphasis on the rights of individual can protect the interest of minority cultural groups without according any group rights⁴⁰. He states that any moral or political reasoning should not reinterpret or modify the following three defining features of liberalism⁴¹. (1) Liberalism is individualist in the sense that it takes the moral primacy of individuals as given; (2), it is egalitarian because it confers upon all individuals "the same moral status and denies the relevance to legal or political order of differences in moral worth among human beings"; (3), it is universalist in the sense that it affirms the moral primacy of individuals over and above specific historic associations and cultural forms. Thus if one is a liberal then he/she should not either modify or reinterpret the above defining features of liberalism in order to do justice to the demands (legitimate or otherwise) of various historic and cultural associations.

Group rights, Kukathas argues, should not be a basis for making moral claims mainly because groups are not fixed and unchanging entities as implied by the proponents of group-specific rights.⁴² He holds various kinds of cultural groups (including ethnicity) as fluid and impermanent. And group claims should be based on something which is fixed and permanent. According to this line of argumentation, since ethnicity is as fluid and impermanent as every other association, it should not be accorded pre-eminence above all other association. Kukathas thus says: "There is no more reason to see particular interests as fixed than there is to see particular political arrangements as immutable."⁴³

Any moral and political theory, according to Kukathas, should take the plurality of interests as its point of departure. In order to do justice to various interest groups liberal theories, he insists, should look at fundamental political questions from the perspective of

⁴⁰ Kukathas, Chandran (1992) Are There Any Cultural Rights? Political Theory, Vol. 20, No.1, p.107.

⁴¹ Kukathas, p.108.

⁴² Kukatha, p.110

⁴³ Kukathas, p.111.

individual rather than groups. He says that groups do not have an independent moral worth; their moral worth is contingent upon the interests of individuals who value group membership. This does not however, he says, mean that individuals can be conceived in the abstract, being divorced from various associations (social or otherwise). He thus says, “Individuals do not exist in the abstract any more than interests do.”⁴⁴ He grants that various interest groups (including cultural communities) may have interests that can not be reduced to the interests of individuals. But those interests matter if and only if they affect the lives of both the present and future generations.

The underlying assumption behind Kukathas argument for the primacy of individual right over group rights is the assumption that the cultural rights of various groups can be protected within the universal rights of individuals such as the right to association, speech, and conscience⁴⁵. While these are universal rights they are exercised with other individuals. Therefore if these rights are firmly protected, it is not necessary to give group-specific rights. My argument against Kukathas which I will present in the next part is this: Even though cultures do not have an independent moral worth, we can still talk about cultural rights without contradicting ourselves. Now let us consider the liberals’ case for group-specific rights.

Part Two: Liberals Defense of Group Specific Rights

2.4 The Notion of “Benign Neglect” as Impossible

Liberals who argue for the primacy of individual right think, or at least give the impression to think that the state can respond to ethnicity with indifference, or with ‘benign neglect’⁴⁶. This however is not a true account of the relation between the state and its ethnically diverse citizens. The state can not help lending support to the dominant ethnic group. When the state decides to provide public schooling in the majority language, as Kymlicka says, “it guarantees the passing on of the language and its associated traditions and conventions to the next generation”⁴⁷. This is the most important form of

⁴⁴ Kukathas, p.112

⁴⁵ Kukathas, p.116

⁴⁶ Kymlicka, p.2-3.

⁴⁷ Kymlicka, p.111

support that ensures the flourishing of culture. When it refuses to provide public schooling in a minority language, by contrast, it is inevitable condemning that language to ever-increasing marginalization⁴⁸.

Even though the state attempts to be indifferent towards ethnicity, it can not just be so, for it can not withhold support from the majority ethnic group. If the state designs an allegedly difference-blind policy in order to promote equality of opportunity among various groups, it is inevitably disadvantaging the minority cultural community. This is mainly because the minority cultural communities can not fit into the requirement of the mainstream societies. The reason is the following. The modern world with its vibrant economy demands high level of literacy in work and fluency in the language of the dominant group within a particular state in order to function well⁴⁹. Since the language of communication in the work place is in most cases the language of the majority, members of the minority ethnic groups are in a relatively disadvantageous situation vis-à-vis members of majority ethnic groups.

The life chances of the members of the minority ethnic groups are therefore seriously constrained by the inequality of their ‘societal cultures’-a choice enabling background condition⁵⁰- with that of the ‘societal cultures’ of the majority. By ‘societal cultures’, I am referring to what Kymlicka meant by it, i.e., as “a culture which provides its members with meaningful ways of life across a full range of human activities, including social, educational, religious, recreational, and economic life, encompassing both public and private spheres.”⁵¹ These cultures, he says, are territorially concentrated, and based on a shared language. These cultures are called ‘societal’ to emphasize that they involve not just shared memories or values, but also common institutions and practices. In the modern world, for a culture to be embodied in social life it must be institutionally embodied in schools, media, economy, government, etc.⁵²

⁴⁸ Kymlicka, p.111.

⁴⁹ Kymlicka, p.76-77.

⁵⁰ Tan, p.73-74.

⁵¹ Kymlicka,p.76

⁵² Ibid

National minorities under the ethnic-blind policy can not develop as a living and flourishing culture. And since cultural membership, as argued above, is a precondition for making a meaningful choice, the state will infringe upon the freedom of individuals to choose if it does not equalize a background cultural condition for making a meaningful choice. The individual's freedom of choice would be seriously constrained if there are no group-specific rights for cultural minorities. That is, unless the minority cultural communities are accorded a positive support from the state (in the form of, say, extra funding), they will be condemned to an ever-increasing marginalization. They will, other things being equal, never compete as equals with the majority in the polity.

Kymlicka persuasively argues that the state should ensure the development of 'societal culture' for they provide a context for making a meaningful choice. And societal cultures are as mentioned above embodied in social institutions such as schools and courts. Since social institutions give value to our lives and determine our options, their development or underdevelopment matters from the moral point of view. Since the modern world, as mentioned above, needs a high level of literacy and language proficiency, it systematically marginalizes members of the minority cultural groups. This is because these members are not for one reason or another as well-educated and fluent in the official language as the members of majority. So, unless the state provides a positive support for them, say, by giving extra-funding for education in the mother tongue⁵³, they have no other option except conforming to the expectation of the mainstream society (for example, by learning the language of the majority). If the state however provides them a positive support and ensures the development of their societal culture, then they will have more options. They can either decide to stay in their societal culture, or they can choose to leave their culture and integrate into the mainstream society. Where there are no group-specific rights, their language will not survive as a living and developing language⁵⁴. This means that they will have lesser options than would have been otherwise possible. It follows from this that we must protect our societal cultures from disappearance. Cultures are valuable not in and of themselves, but because it through having access to a societal cultures that people have a range of meaningful options⁵⁵.

⁵³ Tan, 73-74

⁵⁴ Tan, p.74.

⁵⁵ Ibid

Kymlicka thus states that for a culture to survive and develop in the modern world, given the pressure towards the creation of a single common culture in each country, it must be a societal culture⁵⁶. Since social institutions give value to our lives, and determine our options, any culture which is not a societal culture will be reduced to an ever increasing marginalization. According to him, the capacity and motivation to form and maintain such a distinct culture is characteristic of ‘nations’ or ‘peoples’, where this refers to “a culturally distinct, geographically concentrated, and institutionally complete societies”⁵⁷. Thus societal cultures tend to be national cultures.

In order to provide a choice-enabling background conditions for national minorities, the state, as mentioned above, must provide a positive support for these groups in different forms. Thus group-specific rights are necessary in order to ensure the flourishing of the cultures of national minority. In other words, equal basic individual rights are insufficient to assure everyone the equal right to a secure culture because individuals, other things being equal, never compete as equals in the cultural marketplace of pluralistic society. Certain groups will inevitably be disadvantaged not because the basic rights of their members to associate or to express their ideas are violated, but because the basic social and political institutions of society inevitably support some groups, usually the majority groups. From the liberal point of view then, member of minority cultures are unfairly disadvantaged because they, through no fault of their own, do not enjoy the same choice enabling background conditions as members of mainstream cultures⁵⁸. What is required for engendering diversity, therefore, is not simply equal toleration by the state of all permissible groups, not just equal protection of the universal basic rights, but granting of special recognition and rights to the unfairly disadvantaged groups.

Many liberals such as Habermas who argue for the primacy of individual rights give ‘toleration’ a fundamental value. They hold that state should tolerate different ways of life, or give a social space they need in order to endure as a distinct culture⁵⁹. In other words, the state should guard itself or the majority from trampling upon the views of the minority. However, cultural groups want more than mere survival; they want also conditions and

⁵⁶ Kymlicka, p.80

⁵⁷ Ibid

⁵⁸ Tan, p.74.

⁵⁹ Habermas, p.128-129.

resources to be vibrant communities worthy of self respect and respect for others. They want that the state should take a positive measure in order to ensure their survival as a distinct people. For example, what the Quebecois want from the state is not just protection against the Anglophone majority. Instead they demand special treatment on language, education, media, etc., policies in order to guarantee their survival as distinct nation within the multinational state⁶⁰.

The question then is, whether such demand (group-specific claim) can be defended by the idea of fairness and justice. Can special considerations for group (by way of language rights, providing it with extra funding, etc) be consistent with the idea of fairness and equality? Tan persuasively argues that group-specific rights can be defended by the idea of fairness and equality on the ground that such sorts of rights compensate as much as possible the inequality of circumstance that exists between the majority and the minority⁶¹. Cultural membership, according to him, is not a matter of choice⁶²; we are born into a particular culture. And our cultural membership, as mentioned above, determines our options and life chances. If the state is indifferent to cultural membership, or leaves the question of which culture wins, and which loses out, to be determined by “cultural market place”⁶³ as Habermas suggests, then minority cultures are not likely to flourish as a living and developing culture. Since the state inevitably lends support to majority, and since the minority will be marginalized and can not flourish within a cultural marketplace, equality and fairness requires that the liberal state should support some communities over others in order to compensate for the overwhelming inequality of circumstances that exist among various groups. Cultural membership is a matter of circumstance. It is not choice itself but the precondition that makes choice possible and something into which we are born and socialized⁶⁴. That being the case, it will not be demanding too much from the state to say that the state must compensate the inequality of circumstances between the minority and majority groups. The state’s positive support for vulnerable ways of life can not legitimately be considered as subsidizing the luxurious taste of some ways of life. It has to

⁶⁰ Tan, p.73.

⁶¹ Tan, p.74.

⁶² Ibid

⁶³ Habermas, p.133-134.

⁶⁴ Tan, p.74.

be seen as an attempt to ensure the survival of the cultures of national minorities thereby enabling a meaningful choice.

2.5 Group-Differentiated Citizenship Rights

Fairness and equality therefore demand that the state should protect the choice enabling background conditions (the societal cultures) of national minorities. Kymlicka suggests three forms of group-specific rights. I do not intend to discuss all of them here. Since my focus is on multinational states, I will deal only with the sorts of rights that Kymlicka suggests for national minorities: self-government rights⁶⁵.

In order to provide a choice enabling background condition, the state must provide “group-differentiated citizenship right”⁶⁶ for national minorities in order to mitigate the influence of the majority over minority. These sorts of rights enable the national minorities to develop their own societal culture in their own homeland. The development of this culture enables them to make a meaningful choice among a range of options. The state thus must provide them the right to develop their language (by providing education in their mother tongue, for instance), to develop their culture and its associated traditions. In other words, the state must give a positive support for this societal culture in order to promote genuine equality between the majority and minority ethnic groups.

The problem with these sorts of rights, however, is that it is based on a dubious assumption that nations (‘groups’ for Kukathas) are “undifferentiated wholes”⁶⁷. However, that is not a true account of the nature of groups in general be it nations or otherwise. There might be minorities within a nation who for one reason or another do not identify themselves with the majority ethnic group that conceives itself as a nation. Kymlicka did not address this problem. He simply suggests that the boundary of the state should be drawn in such a way that the majority ethnic group within the sub-unit can constitute a nation. I will discuss this problem in detail in the next chapter.

⁶⁵ Kymlicka, p.182.

⁶⁶ Ibid

⁶⁷ Kukathas, p.114.

Kymlicka's argument for self-determination rights for national minorities is persuasive, but is not without limitations. One of the major limitations concerns his conception of the nature of national groups. He sees national groups, as pointed out above, as homogeneous entities. But that is not true. In reality, as Helder De Shutter says, the world is much more complicated cases. There are binational or bilingual cultural affiliation, gray zones and minorities within minorities⁶⁸. Shutter has observed that Kymlicka's multicultural theory starts with a critique of existing nation-states models for undermining cultural hybridity and with the assumption that the political community is co-terminous with one and only one cultural community. But it ends up with, he says, with the same nation-state-like-theory that defends a political, national, and territorial co-terminacy⁶⁹. We can see this from Kymlicka's idea of self-government rights to national minorities. As he puts:

Self-government rights... are the most complete case of differentiate citizenship, since they divide the people into separate 'peoples', each with its own historic rights, territories, and powers of self-government; and each, therefore with its own political community⁷⁰.

By seeing national groups as undifferentiated wholes, Kymlicka's theory of group rights seems to have explained away the minorities within minorities as insignificant details. One may be tempted to imply from this that mere allegiance to the traditional human right doctrine, or to borrow Habermas's expression, "constitutional patriotism"⁷¹, can do justice to all individuals. But this has already been rejected as misguided measures. How should we treat minorities within a nation then? We will see in chapter four that these groups should settle for something less than self-government. They should not simply be explained away as insignificant details.

In this chapter I have argued that the liberals' commitment to the freedom of individuals is meaningful if and only when national minorities are provided with the same choice-

⁶⁸ Shutter, Helder De (2005) 'Nations, Boundaries and Justice: On Will Kymlicka's Theory of Multiculturalism, Ethical Perspectives in JOURNAL OF THE EUROPEAN ETHICS NETWORK, Leuven: European Centre for Ethics, p.18.

⁶⁹ Shutter, p .25.

⁷⁰ Kymlicka, p. 182.

⁷¹ Habermas, Jürgen [1996] 2005. "The European Nations State: On the Past and Future of Sovereignty and Citizenship", in *The Inclusion of the Other: Studies in Political Theory*. ED. By Ciaran Cronin and Pablo de Greiff. Cambridge, UK: Polity Press, p.118.

enabling background conditions (developed societal cultures) as members of the majority. And this depends, in part, in the state's positive support for these groups in the form of extra-funding for education in their mother tongue, and different kinds of cultural activities that ensures its flourishing as a distinct society. I have also argued that such support should be carried out at a local level where minorities constitute a local majority. But this seems to explain away other minorities living within a nation that is formed within the state. This should not however be a reason for rejecting group-differentiated citizenship rights. Those minorities should settle for something less than self-government.

Chapter Three: Multinational Federation and Social Unity

3.1. The Basis of Solidarity in Multinational Federations

In the last chapter I have argued, following Kymlicka that the “common (undifferentiated) citizenship” right can not accommodate group differences by systematically discriminating against national minorities through its various difference-blind policies. Group-differentiated rights for national minorities include, among other things, the right to self-determination, which includes secession (at its extreme form). A self-government right for national minority devolves power to smaller political units, so that “the national minority can not be outvoted or outbid by the majority on decisions that are of particular importance to their culture, such as issues of education, immigration, resource development, language and family law.”⁷²

This devolution of power to smaller political units takes the form of what Kymlicka calls ‘multination federation’. ‘Multination federation’ refers to the creation of “a federal or quasi-federal subunit in which the minority group forms a local majority, and so can exercise a meaningful form of self-government”⁷³. Under the multinational arrangement, each group’s language is typically recognized as an official language at least within their federal subunit, and perhaps throughout the country as a whole. It attempts to accommodate sub-state nationalism through regional autonomy and official language rights⁷⁴; it does not try to suppress the force of nationalism by forceful means. Federalism therefore creates a condition wherein various nations can exercise a meaningful form of self-government. In so far as it checks the force of nationalism by according full self-government rights to nations, we can say that it is one of the best solutions to create social unity among groups on the basis of national equality.

But federalism has a failure as well. Its failure is that it creates what can be called the phenomenon of ‘parallel society’⁷⁵. This refers to a multinational society in which people

⁷² Kymlicka, p.343

⁷³ Kymlicka, Will (2002) *Multiculturalism and Minority Rights: West and East*, Journal on Ethnopolitics and Minority Issues in Europe, Canada: Queen’s University, p.4.

⁷⁴ Ibid

⁷⁵ Kymlicka, p.12.

are indifferent to each other's culture and ways of life. It in other words is referring to a loose form of federal arrangement where people attempt in as much as possible to avoid contact with other people within the same state. Consider the Quebecois in Canada for instance. Multination federalism has helped the Anglophone population to exercise a meaningful form of self-government under their own federal unit⁷⁶. Group-differentiated citizenship rights have enabled the Québécois to run their economic, political, and social institutions in French within their own federal sub-unit. Had this not been the case, then they would have been forced to participate in institutions run in English (the dominant language). The result of this is, as mentioned above, the phenomenon of parallel society where people interact very little with each other.

This mutual indifference among nations within a multinational state is not restricted to Canada. It also exists in other multinational states such as Belgium, Switzerland, Spain, India, Nigeria, and Russia⁷⁷. All these countries are deeply divided societies. Indeed, multinational states can be characterized by the fact that they will never exhibit the level of social and political unity characteristic of single nation countries. This is partly because "multinational states can generate only a relatively weak and conditional sense of loyalty among their national minorities"⁷⁸. National minorities tend to conceive themselves as distinct people who had existed before their incorporation (forceful or otherwise) into the country that they currently belong to. And as separate people, they see themselves as possessing inherent rights of self-government. National minorities within a multinational federation are inclined to think that they have not fully renounced their original rights of self-government. In multinational states where the federation is the result of voluntary union of different previously autonomous political units (nations), nations transfer only some aspects of their self-governing powers to the larger polity and hold onto other powers. The authority of the central government in such states is therefore seen as "derivative, limited to the powers that each constituent nation agreed to transfer to it"⁷⁹. The underlying assumption behind the voluntary union of various nations is the claim that there are more than one political community in the state, and thus the state can not be

⁷⁶ Ibid

⁷⁷ Kymlicka, p.13

⁷⁸ Kymlicka, Will(1998) Finding Our Way: Rethinking Ethnocultural Relations in Canada, Oxford: Oxford University Press, p.169.

⁷⁹ Ibid

assumed to have more power over the constituent national communities. Hence the sort of loyalty that multinational states can claim is much more conditional and mediated than a single nation state⁸⁰. This conditional loyalty to the central government tends to weaken the bond between the national minorities and larger political community. This weak bond between the smaller and larger political community can potentially risk the disintegration of the state by endangering our national identity. For one might ask: if there is little, or no interaction among various nations within the state, and if the authority of the state can not be assumed to take precedence over the smaller political units, what is the thing that keeps the state from disintegration? In other words, what is it that keeps the state as one? I will explore this question in the next section.

3.2. National Identity at Stake

If multinational federation indeed creates disunity by creating a mutually disinterested society, and if social unity has value, then what is the basis of social unity among different nations? Various writers have given different responses to these questions. Jürgen Habermas espoused what he calls ‘constitutional patriotism’ as a mechanism of keeping together a society that is differentiated by religion, ethnicity, and language, etc. David Miller supported a thick form of national identity as a way out of this problem. Kymlicka has rightly, I argue, attempted to strike a balance between these two positions. He has argued for a common identity that is thicker than ‘constitutional patriotism’ and thinner than the thick kind of national identity defended by Miller. National identity thus should be neither too thin (as in the sense defended by Habermas’s Constitutional Patriotism) and nor too thick (as in the sense defended by Miller). First, let us see the notion of ‘constitutional patriotism’. We will see in this part how ‘constitutional patriotism’ is a misguided option as a solution for holding the state together. Then, we will see the sense of nationalism defended by Miller. Here I will argue that Miller is right in thinking that solidarity requires something other than a mere allegiance to constitutional principles. But he is not right for including religion and ethnicity as the basis of such solidarity. Finally, I shall argue that Kymlicka’s attempt to strike a balance between these positions is a viable option for holding a multinational state together.

⁸⁰ Kymlicka, p.169-170.

3.3. Habermas's "Constitutional Patriotism"

According to Habermas, the modern world is populated by a culturally heterogeneous people, and that the nation-state model based on a culturally homogeneous population has become the thing of the past⁸¹. And citizens in the modern world are differentiated along several lines such as ethnic identity, religious identity, racial identity, sexual orientations and so forth. Since we can not wish the fact of plurality out of existence, we need to find a mechanism of accommodating multiple identities. According to Habermas, 'constitutional patriotism'-loyalty to constitutional principles- is the only way to reconcile multiculturalism and liberalism.⁸² He states that democratic process can play the role creating a favorable condition for the social integration of a society characterized by cultural and religious pluralism.

In order to understand "constitutional patriotism" it is important to contrast it with 'nationalism' in the strict sense of the term. Nationalism in its more familiar sense assumes that social unity can be formed by a common culture that represents all groups. Constitutional patriotism, on the contrary, assumes that there is no common national culture that represents all groups in question, and thus social union in a multicultural society can not be based on a single common culture⁸³. The assumption is that since there is no shared public culture among various nations within a state social unity can be created through the principles they all subscribe to.

Habermas is right for pointing out that a complex societies can not be held by a single common culture, religion, ethnic identity and so forth. They can not be assumed to exhibit cultural, religious, ethnic, etc., homogeneity that is the characteristics feature of nation-states. But his 'constitutional patriotism'-mere loyalty to the republican constitution-can not be the basis of social union in such societies either. Constitutional patriotism is too thin a bond to hold together complex societies. The main reason for rejecting mere loyalty to the constitution as the basis of social unity within a complex society is that it does not explain the existence of boundary among nations⁸⁴. The principle of 'constitutional

⁸¹ Habermas[1996] 2005, p.117.

⁸² Ibid

⁸³ Ibid

⁸⁴ Kymlicka (2002), p. 264.

patriotism' will be seriously flawed if we grant the existence of boundary among nations as morally unproblematic. Most liberals seem to grant that boundaries are morally unproblematic, and the existence of countries can be explained from a moral point of view⁸⁵. Thus there are two logical conclusions here: either boundaries are morally problematic, or, mere loyalty to the constitution can not form a social union that is required to create solidarity among citizens. I shall assume together with many liberals that boundaries (except in those cases where they are arbitrarily created by former colonial masters in former colonies) are by and large morally unproblematic, and each state (affluent or poor) has a legitimate power to decide who can enter into its border and who can not. Granted that, then mere loyalty to the constitution can not explain why the boundary of the state should fall here rather than there.

Mere loyalty to the republican constitution, I argue, can not be the basis of social unity if we are to accept the existing borders as they are. The reason is simply that two states may subscribe to the same republican constitution. If there is no other factor that can create social union among citizens of a particular state, then the dichotomy between us and them can not be explained. One may ask that if the thing that holds us together is nothing else that allegiance to the constitutional principle, why should not we include other 'citizens' who subscribe to the same principles? Should there be boundaries in the first place if the basis of social union and solidarity for two countries is constitutional patriotism? If the basis of political union in the case of both countries is an allegiance to the republican constitution, then the existing borders should not be taken for granted. Or else, there must be something other than mere loyalty to constitutional principle that to explain why the boundary of a state falls here rather than there. In other words, the political culture of a country must be thicker than the thin form of identity that "constitutional patriotism" implies.

Some writers such as David Miller have suggested a thick form of national identity, or if you like, political culture, in order to replace the position taken by "constitutional patriotism". In order to create a social union that can hold together complex society, there has to be some sort of national identity that distinctly belongs to a certain state, and shared with no other state. And mere loyalty to constitutional principle, as mentioned above, can

⁸⁵ Kymlicka, p. 255.

not be the basis for forming this kind of political culture we need to create a ‘community of obligation’. Before we see what I call a sensible form of national identity for multinational states, let us first see the kind of national identity defended by Miller.

3.4. The Problem with David Miller’s Defense of Nationalism

The claim that constitutional allegiances are valuable for national identity seems to be correct. But it is wrong to assume that mere loyalty to the constitution can constitute such identity. ‘Constitutional patriotism’ as defended by Habermas is not without merit. It is rightly concerned about divorcing the public political culture from the dominant group’s culture within a multicultural and multinational state. Since the public political culture of many countries is in most cases mixed with the culture of the dominant ethnic group, and since this culture does not include the identity of cultural minorities, we should separate the two. However, the principle of constitutional patriotism fails to address the question that arises in relation to the problem of making constitutional principle the basis of national identity. The issue, as mentioned before, concerns the problem of explaining the existing borders among countries of the world.

In this regard, nationalism in the sense defended by Miller (which we will see shortly), seems to be better than the principle of ‘constitutional patriotism’ in explaining the existing borders among different countries. This is because nationality, rightly, holds that national identity must be something thicker than the “social union” created by loyalty to the principle of the constitution. The trouble with nationalism however is that it involves in most cases the imposition of a fixed identity derived from the dominant group of a society on other groups, thereby undermining the cultural values of the latter. As a result, sub-national group identities (such as ethnic identities) conflicts with national identity. If we value national allegiances and want them to continue to serve as the basis for political association, what stance should we adopt towards sub-national group identities (such as ethnic identities) whose substance may be at odds with the national identity itself?

Nationalism that attempts to impose the dominant culture of a given state on various national minorities is, as mentioned above, problematic from the moral point of view. Should we then separate the public political culture from the culture of the dominant

group within the state in order to open room for sub-national group's identities? As we have already seen, this is the stance taken by Habermas. While Habermas is right for being concerned about divorcing the two cultures, his argument is not unproblematic. His argument is objectionable because a strong sense of national identity can in some cases be built without necessarily divorcing the public culture from the culture of the dominant group. America is the clearest example for this. The American national identity used to have a "narrower, ethnically loaded meanings (with its Anglo-Saxon conception) for much of the nineteenth century"⁸⁶. America, gradually, gathered a history and a culture which distinguished it from all other countries. To be an American now is not simply to subscribe to a set of constitutional principles, but includes the more concrete idea of common membership and shared history⁸⁷. At present the American national identity is much more inclusive than it used to be. This is the result of the working out of the relationship between ethnicity and nationality over a long period of time.

According to Miller, constitutional patriotism can not form a national identity simply because it does not "show the links that binds present-day politics to decisions made and actions performed in the past"⁸⁸. It does not also, as mentioned above, settle the issue of boundaries. In contrast, nationalism shows the effect of the political decisions and actions performed in the past on the present day political identity of a given people. A shared sense of nationality thus embraces much more than allegiance to a constitution. As Miller says, "Nationality can no longer remain a diffuse, taken-for-granted cultural matrix, something one acquires simply by living in a place, breathing the air, being exposed to particular ways of doing things."⁸⁹

He holds that political communities should as far as possible be organized in such a way that their members share a common national identity, which binds them together in the face of their many diverse private and group identities. The drawing of political boundaries, according to this line of thought, should be made in accordance with national differences. In other words, the national and the political boundaries must coincide. He thus says "if a state's existing borders house two communities whose national identities

⁸⁶ Miller, p.141.

⁸⁷ Miller, p.141-142.

⁸⁸ Ibid

⁸⁹ Miller, p.178

are clearly distinct”, the two communities could reasonably be allowed to separate, “as Norway and Sweden did in 1905”⁹⁰. But sometimes the state’s existing borders, Miller states, may house groups that for various reasons can not realistically hope to form a nation state of their own. Under such circumstance, national identity must be transformed in such a manner that they can be included⁹¹. The aim of this transformation, he states, is to make cultural minorities think themselves as belonging to the national identity that is shaped by the identity of the dominant group. He states that the inclusive national identity—identity that reflects the identity of cultural minority can be formed by adopting the inherited culture of the dominant group.⁹² As he notes:

If religion has played a large part in constituting national identity we do not turn our backs on it by enacting purely secular policies, but try to strike a balance between the claims of the community’s historic faith and the claims of dissenters...In matters of language policy, we do not opt for neutrality or laissez-fair, but instead decide which language or languages are going to be the national ones, and then ensure that every citizen learns these as first or second language—a policy that is compatible with protecting the languages spoken by ethnic minorities if the communities in question desire this⁹³

As far as language policy goes Miller is right for rejecting neutrality or laissez-fair. This is because the modern world with its vibrant economy requires one public language for communication⁹⁴. Indeed, the idea of one public language may form a thicker form of national identity than the too thin bond that constitutional patriotism builds. While it is right for being concerned about the strength of social unity, this gives us no reason for making religion, ethnicity and other divisive issues the basis for the formation of national identity. This is because such issues are so divisive and controversial that they can potentially cause conflict, civil war, ethnic based clashes and so forth. Take religion, for instance. After the Wars of Religions, fought between Protestants and Catholics, liberals have rightly insisted that the liberal state has to be indifferent to religion⁹⁵; it must not

⁹⁰ Miller, p.188

⁹¹ Ibid

⁹² Ibid

⁹³ Miller, p.189

⁹⁴ Kymlicka, p. 76-77.

⁹⁵ Kymlicka(1995), P.1.

promote the ideology of a particular religion. It has to be neutral regarding different conceptions of the good life. Thus religion can not be the basis for forming a national identity for a given state in order to distinguish it from another state. But the liberal state can not be indifferent towards ethnicity as mentioned in chapter two. We can not thus say that the state ought to be neutral with regard to ethnic identity because 'ought' implies can. Because it can not withhold its support to the dominant ethnic group, as argued in the last chapter, it ought also to support national minorities. However, the fact that the state can not help lending support to the dominant ethnic group does not imply that the state can legitimately include the ethnic identity of the dominant group in the national identity. This is because, as I have argued in the last chapter, the promotion of the identity of the dominant group will lead to the ever-increasing marginalization of national minorities, thereby denying the later their right to access their societal cultures. Nationality in the sense defended by Miller then does not stand the test of the idea of fairness and equality. The question then is this: can a strong form of national identity be formed, consistent with the principle of liberal neutrality, so that different nations within a larger political community can have a reasonable ground for staying together? Can not the bond of social union be weak (in the sense of not promoting a particular conception of the good) and nonetheless be strong in terms of keeping the territorial integrity of the state? I will address these questions in the next section.

3.5. A Sensible Image of National Identity

The promotion of a particular conception of the good by the state may possibly be justified in a nation-state where people by and large share the same view concerning the issue of what constitutes a good life⁹⁶. As long as the people share the same religion, it might not presumably be illegitimate for the state to endorse their religion as the national religion, and take it as constitutive of their national identity. However, it can not legitimately do the same in multinational and multicultural states where people are divided in their religious, ethical, ethnic, and sexual orientations. Such states will never exhibit the level of social unity characteristics of nation-states, and as such they should not be forced into accepting a particular religion or ethnicity as representing their national identity.

⁹⁶ Kymlicka, Will(2002) Contemporary Political Philosophy: An Introduction, Second Edition, Oxford: Oxford University Press, p.264.

Miller as mentioned above states that education policies should not be secular. If there is a religion that has played a large part in the formation of the national identity, then it should be included in the education policy⁹⁷. But this, according to him, has to be done in such a way that it can open room for the religious beliefs of cultural minorities. This line of reasoning, I argue, is seriously flawed. This is because emphasizing the importance of religion ignores the fact that the promotion of religious identity is closer to the communitarian politics of the common good than to the liberal principle of state neutrality⁹⁸. Ethnic descent, religious faith, or a particular conception of the good can not provide a social unity in a liberal state since none of them are shared in modern pluralistic states. The question then is, what makes citizens in a liberal state feel that they belong to the same nation?

The principle of ‘constitutional patriotism’ as mentioned above makes mere loyalty to the constitution the basis of social unity. This is in agreement with the notion of liberal neutrality since the state in this case does not promote any conception of the good life. It simply leaves the evaluation of competing conception of the good life to individual choice and revision in civil society⁹⁹. But the promotion of this sort of ‘thin’ national identity would diminish the possibility that citizens will fulfill their obligation of justice. The reason as mentioned above is that two countries may subscribe to the same principles. Because people are more likely to make sacrifices if they conceive of themselves as belonging to the same national identity,¹⁰⁰ and because ‘constitutional patriotism’ can not form a strong national identity needed to make such sacrifices, we need to strike a balance between these two positions.

One thing should however be stated clearly: religion, ethnicity, or any other divisive issued should not be made constitutive of one’s national identity. In this sense, the sort of national identity we aspire to have is weak. As mentioned above, the promotion of a particular conception of the good can be justifiable only in the context of nation-states where people more or less have a homogeneous world-view and belief. Social unity can be

⁹⁷ Miller, p.189.

⁹⁸ Ibid

⁹⁹ Kymlicka, p.266

¹⁰⁰ Kymlicka, p.266

formed just by emphasizing shared history and territory, a common language, and common public institutions. In this sense, citizens can share a national identity, and “yet share very little in terms of ethnicity, religion, or conception of the good.”¹⁰¹

In this chapter I have argued that multinational federations tend to create a weak form of social unity by creating a mutual indifference among different nations. I have argued that the weak and conditional allegiance that national minority have with the state can nonetheless be enduring. I have also emphasized that mere loyalty to the constitution can not form the social union that is required to make sacrifices to each other. And that national identity must be thicker than this in order to explain why national community are considered as the community of obligation—a community where citizens make sacrifices to co-citizens—and why the existence of boundaries is morally unproblematic. In order to explain these two issues, national identities can be formed in such a way that it can be thicker than ‘constitutional patriotism’ and thinner than the too thick form of national identity that promotes a particular religion or ethnicity as the expression such identity. This can be done by emphasizing the importance of common public language, common institutions, and common history.

¹⁰¹ Kymlicka, p.265

Chapter Four: Group-Differentiated Citizenship Rights in Ethiopia

In this chapter, I will explore the issue of whether we need group-differentiated citizenship rights to national minorities in Ethiopia. I will argue that the state should grant these rights if the group in question is a nation, and if it desires so. In other words, the state should not act paternalistically towards national minorities, and accord them group rights which they for one reason or another do not want to be given. However, I am not arguing that the state should treat ethnicity as private matter. As mentioned in the previous chapter, this is impossible. This however does not give us a cause to overemphasize or overstate the importance of ethnicity in the public life. Ethnicity, if emphasized and politicized, will lead no doubt to the disintegration of the state. The question then is this: how is it possible to promote equality between groups without risking the disintegration of the state?

This problem can be addressed by according group specific rights for national minorities, without however emphasizing the differences among groups. In other words, the state must act in such a way that groups can develop their distinct culture without losing the social bond they have with other groups. I am not however suggesting that the state should follow a difference blind approach by simply leaving the legitimate grievances of groups to be accommodated only under the universal citizenship rights, such as the right to association. Mere allegiance to these sorts of rights will, as mentioned in the previous chapters, systematically disadvantage national minorities. So, the state should promote both the universal citizenship rights and group-differentiated citizenship rights. Under the first kind of rights, the interest of all groups, groups that want to be accorded group-differentiated citizenship rights, and groups who simply want to be regarded as citizens, are protected. Under the second kind of right, the interest of those groups whose rights can not be accommodated within the universal citizenship rights can be protected.

4.1. Ethnic Identity as the Basis for Group-Rights

Ethiopian ethnic federalism institutionalized ethnic groups as the basic constituents of the state¹⁰². It established them as social category sharply distinct from the common citizenship rights. Hence, 'group-differentiated citizenship' in the Ethiopian case is based on the ethnic identity of individuals. This means that each members of the state is

¹⁰² Habtamu, p.22.

regarded not simply as citizen, but also as members of ethnic groups, and hence their rights depend in part on their ethnic membership. Some people worry that this ethnic-differentiated citizenship right is divisive and as such may bring about the demise of the state. This concern is right because ethnic groups as such do not have rights independently of the effect they have on individuals. Ethnic identity matters not because it has an inherent right but because an individual is a members of a particular ethnic group, and his life chances are, in some way, affected by his membership in this or that group.

Critics of ethnic-based citizenship rights argue that ethnicity is by nature fluid and changing¹⁰³, and that things that are not fixed can not be the basis for making group claims. Kukathas holds that group as such do not have moral and political rights mainly because they are not fixed and unchanging entities as implied by the proponents of group-specific rights.¹⁰⁴ Groups are constantly changing in response to political and institutional circumstances. Group formation, according to him, is the product of environmental influences, and among these environmental factors are political institutions. Cultures are fundamental in some sense, but he says it is not fundamental in the sense of being constitutive of the group's identity¹⁰⁵. Accordingly, the Ethiopian government is misguided in trying "to reify, to freeze something that is by nature fluid and shifting: ethnic identity"¹⁰⁶.

The claim that ethnic identity is fluid and shifting, while true in some sense, is overstated because although some members of ethnic groups may change their loyalty to their ethnic identity and start subscribing to some other ethnic identity, the great majority of people usually do not change their ethnic identity. They would want to identify themselves with more or less a fixed ethnic identity. In this sense, ethnic groups can be taken as a historical community. This is particularly true in view of the existence of historical memories of exploitation and forceful inclusion that had existed among many ethnic groups in Ethiopia¹⁰⁷. Ethnic groups, for this reason, may have (often do hand have) a legitimate grievances against the dominant group that had exploited them in various ways. But these

¹⁰³ Abbink, p.172.

¹⁰⁴ Kukathas, p.110

¹⁰⁵ Ibid

¹⁰⁶ Abbink, p.172.

¹⁰⁷ Abbink, p.173.

grievances, according to the critics of ethnic-based group rights, does not necessarily suggest the need for group-differentiated citizenship rights since those legitimate grievances can be addressed through universal citizenship rights¹⁰⁸.

But this is objectionable as we saw in chapter two. The legal and constitutional guarantee of the rights of individual, while necessary for the flourishing of ways of life, is not sufficient¹⁰⁹. We need group-specific rights in addition to the universal rights of individuals in order to promote equality among majority and minority ethnic groups. As I have mentioned in chapter two, the state can not help lending support to the dominant ethnic group. When, for example, it makes the language of the dominant group, the language of schooling at the national level, it is providing the most important kind of support needed in order to ensure the development of that language¹¹⁰. The problem with the state's indifference to ethnic identity is not that it is ensuring the development of the language of the dominant group per se, but that it is withholding the same kind of support for the national minorities. If the state does not provide the same support that it inevitably provides for the majority, it is contributing to the ever- marginalization of the language and culture of national minorities, and that this is problematic from the moral point of view, to say the least.

The idea of fairness and equality require that the state should accord positive support for ethnic groups in order to compensate as much as possible for inequality of circumstances¹¹¹. Since cultural membership is a matter of circumstance, not of choice, the state should provide a positive support for national minorities. If Cultural membership were a matter of choice, then there will be little justification for providing special treatment for these groups. Since it is not matter of choice but the precondition that makes choice possible and something into which we are born and socialized, it requires the intervention of the state in order to equalize the unchosen circumstances. If the state does not provide group-specific rights for national minorities in the form of extra-funding for education in mother tongue and in different other forms, it constrains the freedom of

¹⁰⁸ Ibid

¹⁰⁹ Tan, p.71

¹¹⁰ Kymlicka (1995), P.111.

¹¹¹ Tan, p.73-74.

individuals to determine their life chances. The state has to thus provide a choice-enabling background conditions for national minorities which the majority take for granted.

4.2 Does Culture Have Right?

To say that the state must provide a positive support to national minorities does not necessarily imply that culture has an independent moral worth. The strong justification that the proponent of the primacy of individual rights over group rights give for rejecting group rights is that culture does not have an independent moral worth. This challenge is right because, from the liberal point of view, individuals are the ultimate bearers of rights and thus culture matters only because the lives of individuals matter¹¹². In this sense, one can say that any talk of cultural rights is, at best, a metaphysical absurdity. Kukathas states that ethnic groups do not have any special moral command independent of the interests of the individual. They are “mutable historical formulations”¹¹³ and as such are also subject to ethical evaluation. Their ethical evaluation must hence consider how the members of the group and non-group are affected by the rights instead of just considering the interests of the group in the abstract.

I accept the point that culture has no independent moral weight, regardless of its effect on the lives of individual. This however does not imply that culture has to be rejected as a metaphysical absurdity. I have argued in chapter two that culture has a bearing on the lives of individuals; it provides a context of choice; it enlarges one’s options and thus makes choice meaningful. Such cultures can provide the required context of choice if and only if they are provided positive support by the government in order to ensure their flourishing. Since the cultures of the minority and majority ethnic group in Ethiopia can not, other things being equal, compete on equal footing on the cultural market place, the promotion of equality depends on the state’s positive support towards the former in order to mitigate the influence of inequality of circumstances. This as mentioned in chapter two can be done by drawing the boundary of the state in such a way that the minority ethnic group that constitutes a local majority will constitute a nation, and as such will be entitled to group-differentiated citizenship rights. The drawing of boundary is necessitated by the fact that national minorities and majorities will not likely to compete as equals under common

¹¹² Kukathas, p.105.

¹¹³ Ibid

citizenship rights. It is also necessitated by the fact that it is only within their political units that national minorities can develop their societal cultures—a choice enabling background conditions. Culture therefore matters because it determines the individuals' life chances.

Even though culture does not have right in and of itself, we can still talk about cultural rights. There are cultural rights because cultures significantly constrain one's life chances. Suppose two individuals (x and y), who are born into the majority and minority ethnic group. And suppose that these individuals belong to larger political community where the state follows a difference-blind policy in the sense that it does not take ethnicity as the basis for granting rights for individuals. Under such circumstances, the two individuals, other things being constant, can not compete equally for a particular job in the mainstream society. This is simply because X can easily fulfill one of the major criteria for getting job than Y does, namely, fluency in the national language. This is partly because X has adopted the language (his parents language) while Y has learnt it, and thus is not as fluent as X. Thus difference-blind criterion for application for a job systematically excludes Y. Under such circumstance, fairness demands that the state should accord a positive support for members of minority so that they can flourish as a distinct group in their own community. The state should design some mechanism in order to reduce and, if possible, eliminate the inequality of circumstances that exist between these two individuals. The question then is, how is the state going to equalize the inequality of circumstances between the two individuals?

In the multinational state the state must provide a positive support for different nations to help them flourish as distinct groups. The state must support ethnic minorities in such a way that they can form their own institutionally complete society at the local level. The redrawing of boundary is necessitated by the fact that under the difference-blind policy the national minorities will always face the risk of being assimilated involuntarily into the dominant cultures even if they enjoy the fundamental ethnic-blind non-discriminatory rights¹¹⁴. The national minorities, as argued in chapter two, will be condemned to an ever-increasing marginalization if they are not accorded group-differentiated rights.

¹¹⁴ Tan, p.69.

This kind of arrangement as mentioned in chapter three creates a mutual indifference among different nations within the same state¹¹⁵. This has to be accepted regrettably. One thing that needs to be said here however is this: multinational federations will never exhibit the level of unity characteristics of nation-states. The state should however try to reduce the undesirable effect of federal arrangement by emphasizing common features that do not threaten the culture and identity of minorities. These measures as mentioned in the last chapter may involve among other things the promotion of national language, and common history.

4.3 What is wrong with Ethnic-Based Group Rights?

One of the major reasons the proponents of individual rights give for rejecting ethnic-based group rights is the claim that ethnic consciousness can be created. The current discourse on ethnicity, they claim, by the EPRDF government is creating “realities” that did not exist before¹¹⁶. The idea is that people are becoming more ethnically conscious under the current ethnic-based federal system than, say, under the Derg regime. I would accept this criticism skeptically. We can not certainly say that people under the previous regimes were not as ethnically conscious as they are now. Part of the explanation is that minority cultural communities under the previous regimes were not given the social space they need to assert their identities. Accordingly, they were forced to assert their ethnic identities at the private sphere. Since their ethnic consciousness was confined to the private sphere, we can not certainly know if that consciousness was weaker than people’s ethnic consciousness under the current regime.

But even if that was the case, that is, even if people are more ethnically conscious now than any of the previous regimes, that should regrettably be accepted as the natural result of institutionalizing group-differentiated citizenship rights. If we grant the claim that group-differentiated citizenship rights are consistent with the idea of fairness and equality in a multinational state, then people’s being ethnically conscious will not be a big problem. One of the major characteristics features of multinational federation all over the world, as mentioned in the last chapter, is that they are filled with a deeply divided

¹¹⁵ Kymlicka (2002), p.12.

¹¹⁶ Abbink, p.172.

society¹¹⁷. There is little or no cultural interaction among different nations of such states. Indeed, they will never exhibit the level of social unity characteristics of nation-states. Thus mutual indifference seems to be the natural result of following group-differentiated citizenship right. People within such states may be inclined to be more ethnically conscious than people under a unitary state which promotes 'one language, one nation, and one religion' policy. The question thus should not be whether people are becoming more ethnically conscious than ever before. The question should rather be whether group-differentiated citizenship rights are necessary in the first place. These rights, as I have argued in chapter two, are not only necessary for the liberal state, but also are required by the idea of fairness and equality.

The other reason that the proponents of the primacy of group rights give for rejecting group-specific rights is the following. The reason why Ethno-nationalist groups invoke the right to secession, which is the inherent right of nations, is because of the authoritarian and anti-democratic move of the state¹¹⁸. Very often the demand for secession is caused by failed government policies and its anti-democratic move. Therefore, they would say, offering the right to secession as an option for the ethnic groups is misguided solution. The idea is the following. The Ethiopian government has offered political separation as an option for both the real ethno-nationalist and the future secessionist groups¹¹⁹. Part of the explanation is the assumption that we can no longer rely on force. Ethno-nationalist groups have, after all proved to be irresistible force in Sub-Saharan Africa¹²⁰. The other reason given for offering secession as an option is that there is a demand for secession made by secessionist groups. This solution, according to some individuals is not viable. This is because, they would argue, the demand for secession can be avoided by institutionalizing a fully democratic system. If the universal individual rights are respected and protected¹²¹, the reasoning goes on, such demand will not arise. Addis holds that the long term solution to the problem of exclusion and oppression is the rethinking of the nature of state authority and the notion of sovereignty¹²². It is thus important that we

¹¹⁷ Kymlicka(2002), p.12.

¹¹⁸ Abbink, p. 160.

¹¹⁹ See FDRE Constitution, Art.39.

¹²⁰ Habtu, p.8-9.

¹²¹ Ibid

¹²² Addis, Adeno(1997), "Human Diversity and the Limits of Toleration", in Ian Shapiro & Will Kymlicka(eds.), *Ethnicity and Group Rights*, New York: New York UP, PP.112-154(42P).

explore the feature of self-determination that can be attained internally, as the result of the transformation of the state's authority, rather than believing that "[I]e[ting] the people go who want to go"¹²³ will solve the problem in question.

But the assumption that the ethno-nationalist derive for secession will not likely to arise under a developed democratic system, while partly true, is questionable. The reason is that there are ethno-nationalist groups in some countries that demand secession even though they are living within a 'vibrant' democratic system. Consider Quebec for instance. The Quebecois are living within a good democratic system. In spite of that, some of the Quebecois population did not leave their demand for secession¹²⁴. Indeed, the derive for secession will endure for indefinite future. If the derive for secession is not dropped down in a liberal democratic country like Canada, then it seems to follow that it will be stronger in aspiring democracy as it is the case in relation with Ethiopia. If that is so, then there is less reason to be opposed to enshrining the right to secession in the constitution of a state for ethno-nationalist groups will not put down such demands any way. Vibrant democracy alone can not bring about a lasting solution to the problem of exclusion and oppression.

4.4 Ethnic Group and National Identity

For the pan-Ethiopian nationalist, Ethiopia is a multiethnic state; it is not a multinational country¹²⁵. They would argue that the Ethiopian national identity is similar to the American one. The American national identity was originally Anglo-Saxon, but later it has incorporated many other ethnic groups. So, America is a multiethnic country, and yet there is only one national identity. Similarly, the assimilation of various ethnic groups into the central Amhara/Tigray culture made the formation of the "Ethiopian national identity"¹²⁶ possible. So, the reasoning goes on, Ethiopia like America is a multiethnic but not a multinational country.

¹²³ Addis, p. 115.

¹²⁴ Kymlicka (1998), p.169.

¹²⁵ Habtu, p.8-9.

¹²⁶ Ibid

The whole point thus boils down to the question of what it means to have a national identity. Although it is possible to have a national identity incorporating various ethnic groups, it is equally possible that ethnic identities may lead to nationalist aspirations. This particularly happens when a particular ethnic group feels that it has been marginalized by the central government, or when it claims that its interests are affected by the dominant groups. Consider Oromo Liberation Front (OLF). This is an ethnonationalist group fighting for the independence of Oromo. This groups claims that Ethiopia (led by the dominant Amhara ethnic group) is a colonial empire that has subjugated and exploited many previously independent and self-governing ethnic groups including Oromo¹²⁷. So, the main task of the movement is to ‘decolonize’ its language and identity from that of the dominant group.

The claim that the Ethiopian state is the result of the assimilation of different ethnic groups into the core Amhara/Tigray cultures seems to be less contentious than the claim that Ethiopia is a nation-state par excellence. This is because this nation-state assumption overlooks the fact that many of the assimilated ethnic groups were institutionally complete and territorially concentrated autonomous unit before the time of their incorporation. In other words, many of them were (and still are) nations. Since they were nations in the sense mentioned above, Ethiopia is a multi-national state; it is a multinational state formed out of several nations.

One might doubt the claim that the ethnic groups were nations before the time of their incorporation. As mentioned in chapter one, there is no single universally agreed definition of ‘nation’. Without downplaying the fact that this is a contentious term, I would suggest that we should take into account subjective criterion in addition to objective factors. In order to count as nations, a group must meet some objective factors such as territorial concentration, common language, common tradition and culture¹²⁸. It must also meet a subjective factor, namely, that it must conceive itself as a distinct group separate from other groups, majority or minorities alike¹²⁹. The first criterion is relatively easy to understand; we can easily tell if a group has met those criteria just by mere inspection. But

¹²⁷ Abate, p.9.

¹²⁸ Miller(1995), p. 18-19.

¹²⁹ Ibid

the second factor is somewhat difficult to determine if it is met by a particular group. This is not to say however that we can not know how a certain group can conceive of itself. We can know the feeling of a people just by asking if they see themselves as belonging to a particular group. But people can sometimes be easily manipulated by elites. They may, for one reason or another, identify themselves with some other group. However, being manipulated by some individuals they may shift their group membership from one to the other. In any case, let us stipulate that if a certain group fulfills both of these criteria, it can be called 'nation'.

Given therefore that the Ethiopian state was formed by the forceful incorporation of the previously self-governing units (who are territorially concentrated, institutionally complete, having their own language and tradition), and who for one reason or another think themselves as a distinct society, then it is right to call those units as 'nations'. If they are nations, they have unconditional right for self-determination, including and up to secession. Even though nations have an inherent right to self-determination, there are cases where nations can not realistically hope to form a nation state of their own. This is particularly true in many African countries where boundaries were arbitrarily drawn¹³⁰. These boundaries in most cases have divided the same ethnic group into two or more groups.

Although ethnic identity is one of the main sources of nationhood¹³¹, not all such identities can legitimately be expressed in terms of nationalist aspirations. Part of the explanation for this is that not all ethnic groups are found in a defined territory. While some of them are dispersed throughout many regions, some are found in a more or less identifiable territory. The Ethiopian constitution did not mention how many ethnic groups are found in a defined boundary. The other reason why not all ethnic identities can lead to nationalist sentiment is that members of a certain ethnic group, may in some cases identify themselves with some other ethnic group (usually the dominant ethnic group). Under such circumstance, elevating their identities to the level of primordial characteristics that considers such identities as the most defining characteristics of individuals goes against the individual freedom to choose his/her own identity. Although individuals are born into

¹³⁰ Addis, p.114.

¹³¹ Miller (1995), p.20.

particular ethnic groups, and their rights in part depend on their group membership, this does not suggest that individuals be coerced into believing that they belong to a particular group. Individuals must be free to choose their identity, and that they have the right to exist¹³², to leave the group in case they think that it is no longer acceptable.

The concern that the state should leave individuals to choose their group identities by themselves is, in part, right. The reason is that individuals have the right to leave the group (not ‘association’) if they think that they no longer identify themselves with the group identity. If the liberal state takes ethnic identity as the most important defining characteristics of individuals, or coerces in any way individuals to identify themselves with a particular group, one might say that it is going against individuals who do not want to be treated in terms of ethnic identity. There are many people in Ethiopia with mixed ethnic identity (people born from parents with different ethnic origin). And these individuals do not in most cases want to be identified with a particular ethnic identity. Since the Ethiopian government deals with its citizens in terms of their ethnic identity (for example, for election registration people have to state their ethnic identity), we can say that the right of these individuals to choose their identity is violated. This is because ethnic identity as such does not have an independent moral worth. Ethnic identity matters because individuals matter, not the other way round. If individuals are forced to think themselves as belonging to a particular group for some reason whatsoever, then the right of those individuals not to be identified with a certain group would be violated.

According to Kukathas, the state has to take the plurality of interests as its point of departure in its moral and political considerations. Hence, he says, the state has to be seen as an “association of associations”¹³³. Ethnic group, according to him, is one of the diverse associations. Therefore, the state can not determine what form the ethnic group can take. We have an intuitive understanding that the liberal state can not determine what values its members should accept. The state can not promote a particular conception of the good life since that contradicts the principle of liberal neutrality. But can this be a reason to see ethnic groups as “associations” and banish it from the public life?

¹³² Kukathas, p.116.

¹³³ Kukathas, Chandran(1997), “Cultural Toleration”, in Ian Shapiro & Will Kymlicka(eds.), *Ethnicity and Group Rights*, New York, New York: New York UP, PP.69-105(36P), P.94.

Addis persuasively argues that ethnic and cultural identity should not be seen as voluntary associations¹³⁴. He holds that one's affiliation to ethnic and cultural groups affect one's entire set of choices and options. Even though one's membership in various voluntary organizations contributes to one's identity, one's membership in a cultural or ethnic group provides the primary factor. We are inclined to be concerned more about our cultural and ethnic group than to our voluntary organization.

Critics of the current discourse of ethnicity seem to claim that ethnicity has to be treated as a private matter. Ethnicity should not be given a public expression. It should be left for individuals to exercise them at the private state. It is not the state's responsibility to nurture peoples' ethnic consciousness. The underlying assumption behind such criticism is the belief that the state can respond to ethnicity with indifference. But this hands off approach to ethnicity, as mentioned in chapter two, reflects a shallow understanding between the relation between the liberal state and its ethnically diverse citizens. Since the state can not help supporting the dominant group in one way or other, the idea of fairness and equality demands that it should do the same to cultural minorities who can not compete in the cultural market place, under the difference blind policy.

Ethnicity should not be placed at the private sphere in the way religion is. Indeed, the separation of religion and state can not be a model to the relationship between the liberal state and its ethnically diverse individuals. The main reason as mentioned in chapter two is that the state can not just be indifferent to ethnic identity. The other reason is that even if it were possible for the state to respond to ethnicity with complete indifference (with "benign neglect")¹³⁵, it is very difficult, if not impossible, to banish ethnic nationalism from the public life. Indeed, ethnic nationalism has proved a potent political force throughout sub-Saharan Africa. This then suggest the need for putting in place an institutional expression of ethnicity in public life.

4.5. Do Nations Have Rights?

¹³⁴ Addis, p.125.

¹³⁵ Kymlicka (1995), p.3.

Most writers agree that nations have an inherent right to self-determination¹³⁶. This refers to the rights they possess by virtue of being nations. Since no body confers upon nations such rights, they can rightly be assumed to be an ‘unconditional’ one. If federations are the result of a voluntary union of different nations, then its constituent units can revoke their self-governing right any time they think that they are disadvantaged by the central government. This means that if a nation co-exists with other nations within a multinational state, it must be based on a conditional allegiance, and it must not be made otherwise.

The claim that nations have an unconditional right to self-determination (which includes secession) seems to be acceptable when we consider the fact that nations had existed as an independent political unit, before their incorporations into the larger political unit. If they had already possessed this right in the past, there are only two logical ways in which they cede this right: this can be given up either because they were forcefully occupied by the larger state, or because they have voluntarily given this right to the larger state. In either case, nations have an inherent right to self-determination. In the first case, since violent incorporation of nations is unjust albeit the existence of some positive consequences, nations should be given back the right they possessed before their integration: the self-governing right. In the second case, since they are most likely to abandon some aspects of their self-governing right to the larger political unit based on some conditionality (for instance, if its right can be realized within the state), it follows that their self-governing right is inherent and unconditional.

Granted that, the question should not be whether nations have an inherent and unconditional right to self-determination, but that whether they can rightly be called nations. As discussed in chapter one there is no universal agreement regarding the question of what constitutes a nation. Therefore, great caution is in order when we call a certain group of people as ‘nation’. Since the status of nationhood brings with it rights which have far ranging consequences, we must be careful in selecting criteria for such status.

The Ethiopian constitution as mentioned in chapter one has accorded for the different ‘nations’ of the state an unconditional rights to self-determination, including and up to

¹³⁶ Kymlicka(1998), p.169.

secession. There has been an argument going on about whether enshrining these sorts of rights in the constitution of the country was necessary at all. Now it is clear from the discussion we had so far that nations have an inherent rights to self-determination. If there are nations in the country, then they have universally recognized rights to self-determination. One might ask that if these rights are, after all, the inherent rights of nations, then what is wrong with guaranteeing them in the constitution of the country? Since nations had already self-governing rights, it will not be illegitimate to provide a constitutional guarantee of such rights.

The fact that a certain group of people can not legitimately be called nation does not immediately suggest that they should not be accorded any group-differentiated right. They can be accorded group-specific rights if they desire so, but this right does not include 'group-differentiated citizenship rights'. These kinds of rights apply only to nations. Not every kind of group can legitimately be given such rights. These rights underline the primacy of group's identity over that of 'undifferentiated citizenship' identity. If ethnic identity is taken as the most primary identity of individuals, there may not be any problem in providing 'group-differentiated citizenship right' based on ethnic criteria. However, ethnic identity should not be taken as the most defining attribute of individuals. This is because some individuals, for various reasons, may not simply want to be identified with any ethnic group. In such circumstance, it will be wrong for the state to require of individuals to identify themselves with a certain ethnic group in order to be a right bearing subject. Therefore, one may conclude that the Ethiopian government is not doing justice to these individuals when it made ethnicity the basis of registration for election. If the individuals in question do not want to be treated in terms of their ethnic identities, the government should not force them to identify themselves with a particular ethnic identity. In view of this problem, one may conclude that only the universal citizenship rights can guarantee the rights of every individual. But this, as argued in chapter two, depends on a dubious assumption that the state can be indifferent to ethnicity. Since such indifference is impossible and a difference-blind (ethnic-blind policy) will systematically disadvantage national (ethnic) minorities, the state should rather than treating ethnicity as a private matter should support its public expression through its positive support to (national) ethnic minorities. So, in addition to the universal citizenship rights, there has to be group-specific

rights such as group-differentiated citizenship rights for national minorities and special representation right for ethnic minorities who fall short of the status of nationhood.

4.6 The Problem with Kymlicka's Conception of "Societal Cultures"

Ethnic groups can be taken as societal cultures even though they may not be concentrated in a given territory. For Kymlicka, territorial concentration is one of the conditions that need to be met if a culture is to count as societal. This however, I argue, contradicts his project in *Multicultural Citizenship* where he espoused group-specific rights for various minority groups so that they may not be outvoted on important matters. This is because there are groups having most of the characteristics mentioned under societal culture, and yet are affected by the majority decision if there are no group-specific rights. There are groups who are not territorially concentrated but heavily affected by the majority. What I am getting at is this: societal culture as defined by Kymlicka should not be equated with the national culture, since the main motivation behind forming the concept of societal culture is to enlarge the options of cultural minorities to make choice meaningful. The underlying assumption behind this kind of reasoning is that the national culture is homogeneous, and it is by definition societal culture. But I argue that the national culture is not as homogeneous as Kymlicka thinks it to be, and societal culture is not necessarily a national culture. Consider the following case.

Every regional state in Ethiopia under the federal arrangement is multiethnic. Consider Tigray, for instance. Various minorities within this sub-unit such as Saho and Kunama, Amhara and other minorities live together with Tigray people¹³⁷. The existence of minorities within this region creates a difficulty in thinking Tigray as 'nation' which stands for a homogenous society. If we are to take Tigray as 'societal culture' and provide them the right to self-government, how are we going to account for the demands for these minorities? These minorities can not realistically hope to form a nation state of their own. Part of the explanation is that they are not territorially concentrated groups. Their claim should not simply be explained away as insignificant details. Since under the multinational federation that Ethiopia is following, the right bearing groups are the ones who constitute the majority within the sub-unit, such special privilege for some groups seems to

¹³⁷ Abbink, p.163

disadvantage other groups who are living within the larger group. This means that such arrangement is not able to do what it sets out to do, namely, protect the interest of the minority against the encroachment of the majority. Such arrangement makes some groups vulnerable to the decisions of the relatively larger group. This means that while multinational federation accords group-specific rights for the minority that constitutes a local majority, so that this group may not be affected by the dominant majority at the national level, it makes some other relatively small groups vulnerable to the decisions of majority at the sub-unit.

While Kymlicka was right in concerned about the rights of national minorities, he was wrong in identifying 'societal cultures' with national. This is because cultural minorities may have a societal culture, the choice enabling background condition, without necessarily being concentrated within a given territory. If such cultures are not protected through group-specific rights, it is unlikely to survive as a living and developing culture. This means that their members will be denied access to societal culture, and thus will not have the choice enabling background condition that the majority takes for granted.

4. 7. Conclusion

I have argued in this thesis that the liberal state can in most cases reasonably take ethnicity as the basis of its criterion in dealing with its citizens. Part of the explanation for this is the awareness that it is impossible to banish ethnicity from the public life. This as mentioned in chapter two is because the state can not help lending support to the dominant ethnic group. When it makes the language of the dominant group the language of schooling and common public language, it is inevitably ensuring the flourishing of the culture as a living and developing language. This gives to the majority group an opportunity to exercise a social, economic and political influence over minority. The other reason why the state is justified in taking ethnicity as the basis of its criterion for dealing with its citizens is the awareness that the universal human rights can not accommodate group-specific interests; it can not protect the interest of national minorities. This is because the common citizenship right supports an ethnic-blind policy, and this systematically discriminates against the national (and, or ethnic) minorities. The reason for this, as mentioned in

chapter two, is that members of national (or, and ethnic) minorities, other things being equal, can not compete with equal footing with members of national majority due to some limiting factors. One of the most obvious limiting factors is a language barrier. Members of the national minorities are not in most cases as fluent in the national language as members of the majority. It seems to follow from this that an ethnic-blind policy should not be promoted because it discriminates against many members of national minorities, and thus group-specific rights based on ethnic criteria should be promoted.

This is not however to suggest one's ethnic identity should count as a criterion for getting special treatment. I am not, for instance, suggesting that someone should be favoured over and above other individuals on the basis of his/her ethnic identity. Instead, I am underlining that since two individuals, X and Y, from majority and minority ethnic group respectively, can not, other things being equal, compete on equal footing, there has to be some other way, other than the common citizenship rights in order to promote genuine equality. One of the best ways of doing this is the drawing of the boundary of the state in such a way that the minority ethnic group can form a local majority. This minority ethnic group that constitutes a local majority can be taken as nation, albeit the existence of other minorities within it. This is not however to explain away those minorities as insignificant details. Since individuals are the ultimate unit of moral concern from the liberal point of view, the interest of those individuals can not be ignored. But since they can not form a nation state of their own (since they lack territorial concentration), they should settle for something less than self-government.

The question then is this: what is the right of nations for self-determination (which of course includes secession) is going to be implemented? The problem is that those minorities living within a nation (formed based on a majority ethnic group) and the majority ethnic group may have a conflicting interest. While the former may want to stay with the larger political unit, the latter may demand secession. Under such circumstance, secession should be allowed for that nation provided that it allows the same principle to be used by those minorities living within it, in the event that they want to secede. But these are groups who can not realistically form a nation-state of their own, and thus want to stay together. What ought a liberal state to do at this point?

It is very difficult to get a simple solution to this. One of the major measures that the state can take here is this: it should do everything in its power to make sure that the demand for secession will not arise. It can do this by strengthening its democratic system. Since one of the main reasons behind a demand for secession is a failed government policy, such demand will be lesser in democratic countries than in aspiring democracies like Ethiopia. But this does not mean that a fully democratic or, if you like, vibrant democratic system will do away with the demand for secession. We have already seen in chapter three that this is not the case. There we have seen that some Quebecois in spite of the fully developed democracy have not dropped down their demand for secession. This demand would, no doubt, have been stronger than it is now if Canada were aspiring democracy where the legal and constitutional guarantee of human rights is long overdue. But if the demand for secession arises under a fully developed democracy, it should regrettably be allowed provided that the secessionist group protects the individual and group rights of those minorities living with it.

The government should reduce the demand for secession by emphasizing commonalities among the people. Differences should not be suppressed in the name of pan-Ethiopianism. Nor should it be emphasized and exaggerated. This measure is necessary because unity based on genuine equality among individuals is better than disunity. The state should, in various ways, teach the public about the danger of secession. As mentioned in this chapter, secession, particularly in countries where ethnicity is the result of language divisions will give rise to the proliferation of many mini-states. This, obviously, is not economically viable. The government should therefore make sure that the secessionist groups are fully aware of this fact. There are also several other problems associated with the offer of secession for ethno-nationalist groups that makes us doubt if secession is at all the inherent rights of nations. There is no simple solution for this problem. Part of the solution should involve re-examining the rights of nations for self-determination. This issue goes beyond the scope of the present work.

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