

## **Peoples, Political Liberalism and Religious Diversity**

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### **Abstract**

In this article I first develop a particular definition of misrecognition understood as a particular kind of political resistance to formally institutionalized rights of persons and peoples. It is exemplified in the refusal to move from moral rights to legal rights. I therefore provide an institutional and not a psychological account of misrecognition. In the second part of the paper, I present political liberalism and I show how it is able to accommodate the rights of persons and peoples. In the third and last part of the paper, I examine one particular argument that affects ethno-religious groups in particular. With the help of the theoretical resources of political liberalism, I am in a position to achieve a delicate balance between the recognition of the individual rights of persons and the collective rights of peoples.

Political liberalism is a particular version of a liberal political philosophy that departs from the more comprehensive versions of Kant and Mill. It is based on a political and not on a metaphysical conception of persons and peoples and it sees the two as equal sources of valid moral claims. Finally, it is also an account that treats toleration-as-respect as the most important political value.<sup>1</sup> This value is institutionally realized in the ‘constitutional essentials’ contained in the constitution of a country. Thus understood, toleration-as-respect is a reasonable political stance toward the irreducible pluralism of moral, religious, metaphysical and philosophical approaches. It is mostly a political form of respect, but is at the same time the culmination of a political culture that began with religious toleration.

Within the framework of political liberalism, misrecognition is a form of political stance toward persons and peoples. It may be demonstrated by the refusal to accept the already existing constitutional measures expressing the rights of persons and peoples, or by the refusal to entrench legal principles for these two moral agents. Since the justification for the basic rights and liberties of persons and peoples is, according to political liberalism, founded on a certain form of recognition (toleration-as-respect), the violation of basic individual and collective rights is a form of misrecognition. Recognition should thus be understood as a form of legal reciprocal acknowledgement between persons and peoples.<sup>2</sup> But this legal recognition should not merely be symbolic. It should lead not only to constitutional principles but also to institutional measures and policies that translate these principles into rules and regulations governing the institutions of society. In that sense, recognition must go hand in hand with policies that have practical consequences.<sup>3</sup> Through the works of Axel Honneth, we are accustomed to the idea that the recognition by others can play an important role for the development of our personal identity (self-confidence, self-respect and self-esteem). It is also not too controversial to agree that our

institutional identity of citizens is partly determined by the recognition of the state. But these ideas are less accepted when it comes to peoples. However, it could be argued that just as the international community can play an important role in the accession to sovereignty of a seceding people by recognizing it as a sovereign state, a similar situation can occur between a state and its constitutive peoples. The constitutional and institutional arrangements implemented by the state are a form of recognition of its stateless peoples. Just as the state can contribute to the consolidation of the autonomy of its citizens, it can also play an important role in fostering the internal self-determination of its stateless peoples.

### *Misunderstanding Misrecognition*

It is often thought that, in most of its forms, misrecognition is a psychological attitude that affects the psychology of other individuals. Or at the very least, it is thought that the origin of misrecognition takes place at the individual/psychological level.<sup>4</sup> Of course, according to this account, institutional consequences may follow from these initial facts. It is granted that various forms of misrecognition may become institutionalized and that, having reached that point, the issue of misrecognition becomes the subject of political scrutiny. Nevertheless, it is assumed that at its very root, the source of misrecognition is psychological. Similarly, even if recognition policies may imply institutional changes that are purported to remove the institutionalized consequences of misrecognition, it is understood that recognition itself must also be understood as a fundamentally psychological attitude.

I am adopting a very different perspective on this question. I am considering misrecognition as a political fact calling for political solutions. I am treating these political issues as involving the realm of rights, and I am treating the respect or violation of individual and collective rights of

persons and peoples as forms of recognition or misrecognition. I remain agnostic concerning the sources of misrecognition. I am thus ignoring the psychological facts that may or may not be the ultimate motivations for (mis)recognition. Whether psychological attitudes shape the political motivations or whether it's the other way around, it is sufficient to note that there are political motivations for not wanting to recognize a particular person or group. I am particularly concerned with the top-down misrecognition manifested by those peoples that are organized into states, and that affects stateless peoples, immigrant groups and individual citizens. It may very well be that the main motivation for failing to recognize stateless peoples, immigrant groups or individual citizens is intimately related to the state nationalism manifested by the majority, and this may have nothing much to do with a psychological motivation. There may also be political motivations explaining why an individual, an immigrant minority or a stateless people does not want to integrate and live in accordance with the rules and regulations adopted by the encompassing people. The failure of this bottom-up sort of recognition may sometimes be explained by the failure to adopt or preserve at the level of society as a whole, institutionalized measures favouring job opportunities, job training, language acquisition, political representation, self-government and internal self-determination, whether these measures apply to ordinary citizens, immigrant groups or stateless peoples. In other words, a top-down kind of misrecognition may sometimes be the cause that explains the existence of a bottom-up misrecognition toward the people as a whole.

There are also disintegrative forces operating within the confines of sovereign states that are created by increasingly individualistic behaviour, historical resentment or the mere attachment of an immigrant to his or her historical homeland. We must not here however only target immigrants, for many individual citizens that were born in the welcoming community can also be

practising a radical form of individualism. Some authors in the literature on multiculturalism have expressed a certain reluctance concerning collective rights, especially when these take the form of internal restrictions imposed by the encompassing people on its individual citizens, as opposed to external protections against majorities.<sup>5</sup> But this approach mistakenly assigns collective rights only to minorities. It is clear though that peoples, especially those that are organized into states, are not only confronted with external threats, but also with internal threats. The loss of cohesion, loyalty, shared rule, social solidarity and national identification are problems that also call for a solution, since the failure to comply with these goals may threaten the very viability of the encompassing people. Therefore, a correct understanding of misrecognition forces us to look at the political sphere and examine the situation of peoples themselves, in their relationship with individual citizens, immigrant groups and stateless peoples. In short, misrecognition is not an issue of concern only for persons. We must consider also peoples, their political relationships with other moral agents, and the entrenchment or maintenance of their rights.

The distinctive feature of the above definition of misrecognition is that it is not treated as a psychological notion, and that it focuses on the political status of peoples and not only persons. I also would like to argue that there should be some kind of reciprocal recognition occurring between encompassing peoples and 'their' minorities. According to the present approach, persons and peoples have rights and obligations toward each other. Peoples that are organized into states and individual citizens, immigrant groups and stateless peoples have rights and obligations toward each other.

I do not want to rehearse here the many arguments that have been made by Nancy Fraser (2000; 2001, Fraser & Honneth, 2003) against a psychological approach to issues of (mis)recognition, and I do not want to repeat the arguments in favour of an approach in which these issues are seen as involving matters of justice.<sup>6</sup> I shall be happy just to state bluntly that, according to political liberalism, issues of (mis)recognition are issues of justice. However, I do not share Fraser's reluctance concerning collective rights. I believe that the theory of recognition, as a theory of justice, must consider not only the rights of persons but also the rights of peoples. I also certainly do not want to follow Fraser in her attempt to reduce the issue of (mis)recognition to an issue regarding the *status* of individuals, as opposed to their *identity*. The reason is that I agree with those who claim that (mis)recognition affects the *identity* of agents. But I do want to concentrate my efforts on the *institutional* identity of agents rather than their *personal* identity. Misrecognition does of course affect personal identity, but it also affects the institutional identity of persons and peoples, and it is this latter problem that concerns me here.

### *Peoples Defined*

There are many different sorts of peoples corresponding to different forms of national consciousness. In particular, one can see oneself as belonging to an ethnic, cultural, civic, socio-political, diasporic, multi-societal or multi-territorial people.

Despite the very wide variety of peoples, there are shared features among them. They could all be described as forming 'societal cultures' (Kymlicka, 1995: 75-6). A societal culture is "a culture which provides its members with meaningful ways of life across the full range of human activities including social, educational, religious, recreational, and economic life, encompassing both public and private spheres." The notion of societal culture is what makes it possible to

introduce a general concept of the people understood in the institutional sense. Societal cultures are to peoples what citizens are to persons. Even if they may have many different ways of viewing themselves as persons, individuals are citizens in the public arena. Likewise, despite the very wide range of national consciousness, peoples have institutional identities and must be understood as societal cultures when they are in the public arena. The concept of societal culture, introduced by Will Kymlicka, closely resembles the conception of 'society' advanced by John Rawls (1999: 23), and it is one that flows from the work of John Stuart Mill. It also closely resembles the one described by Jürgen Habermas, which was inspired by the work of Julius Fröbel (Habermas, 2001: 17).

Peoples always have an institutional identity, but it does not necessarily mean that this institutional identity is a sovereign state. The institutional identity of a people can be extensive, as in civic and multi-societal peoples in which case, they do enjoy a sovereign state. But peoples can also have intermediary political structures, such as in some federated states (e.g., Quebec), semi-federated states (e.g., Catalonia), and legitimate non-sovereign governments to which a unitary state has devolved powers (e.g., Scotland). It should also be noted that some peoples have an institutional identity, but no political government at all. For example, the Acadian people has an institutional identity involving a language, cultural institutions and a historical heritage, but no government.

A 'societal culture' is a 'cultural structure' and also a particular 'cultural character.' In the simplest case, the structure of culture has three features: a shared public language, shared public institutions (those in which the shared public language is mainly spoken), and a shared public history (related to the shared public institutions). The shared public language, institutions and

historical heritage make up the cultural structure. As such, they offer a context of choice among many different meaningful ways of life across the full range of human activities including social, educational, religious, recreational, and economic life. A distinction has to be made however between a culture's structure and its character (Kymlicka, 1989: 166-68; 1995: 104-5). The culture's character is constituted by the beliefs, goals, values, projects, traditions, customs, lifestyles and habits shared by a critical mass of a population at a given time. If the structure of culture is like a context of choice offering a variety of options, the character of culture encapsulates the particular choices that a critical mass of the population has made at a given time. Now the culture's character can change even if the population keeps the same structure. Populations can change their lifestyles, customs, beliefs, values and life plans while remaining within the same cultural structure (language, institutions and historical heritage) and therefore as the same people in the institutional sense. It is as structures of cultures and not as characters of cultures that peoples may be subject to collective rights by the state. In this way, the liberal state can remain neutral and not be accused of promoting a particular view of the good life or of the common good.

### *Political Liberalism*

I shall now present a theoretical framework that, initially at least, seems fairly hospitable to the recognition of peoples understood in the institutional sense and favourable to the existence of collective rights in general. It is also an account that seems to reflect the correct balance between the individual rights of persons and the collective rights of peoples. The framework is one that presupposes institutional accounts of persons and peoples and a political account of (mis)recognition. Although peoples are not only structures of cultures but also characters, the political account of peoples considers only their structure. In this way, problems of



(mis)recognition can become problems even for a liberal state that seeks to be neutral. Let me just say a few words about this theoretical framework. It is one that can favourably welcome not only individual rights but also collective rights. I intend to take advantage of the theoretical resources of political liberalism, understood as a particular version of a liberal political philosophy. Political liberalism is a version of liberalism that contrasts with the traditional version of liberalism (Rawls, 1993; 1999). Classical liberalism entails that persons are 'prior to their ends,' that is, they are defined independently of particular beliefs, values and traditions. It also entails that individuals are the ultimate sources of valid moral claims. Finally, the most important value of classical liberalism is individual autonomy. By contrast, political liberalism is based on political conceptions of persons and peoples, whether these are to be defined in terms of beliefs, values and traditions or defined instead as prior to their ends. It treats persons and peoples as two equal sources of valid moral claims, and it is based on the political principle of toleration-as-respect. Let me dwell a little more on those three essential features.

This is precisely what Rawls does in his later philosophy. He adopts a political conception of persons and peoples. That is, he considers persons as citizens, without considering whether they are prior to their ends or defined by them, and peoples as societies, as opposed to mere associations of individuals and to political communities understood in a communitarian sense. Moreover, he wants to develop a version of liberalism that departs from a comprehensive approach that emphasizes the autonomy of persons, as in the accounts of Kant and Mill. He then considers moral persons as reasonable as long as they acknowledge the irreducible pluralism that affects our political life. Finally, he treats persons and peoples as moral agents having distinct sorts of rights.<sup>7</sup>

Political liberalism does not rely on metaphysical accounts of persons and peoples. It avoids the issues of personal identity and social ontology. It treats persons as citizens and peoples as societies or, if one prefers, as ‘societal cultures’; that is, it only considers the *institutional* identities of persons and peoples. It does not matter if, from an ontological point of view, peoples happen to be mere aggregates of individuals or, instead, ‘macro subjects’ or ‘social organisms’. The important point is that they have a distinct institutional identity in the political arena. They come equipped with institutional features such as, for instance, a sovereign state, a federated state or a quasi-federated state, or even sometimes with less than governmental institutions. As members of peoples, we do not adopt the same kind of rational justifications as those that we consider when we reflect upon our interests as persons. It is quite a different thing to think in terms of the benefits that certain policies have for the people as a whole and the benefits that they have for individuals. When we rationally try to answer whether a given policy is good for the people as a whole, we are not necessarily asking whether the policy is good for the individuals that compose the people. It might be a policy that serves the interest of the people in the long run, and this might entail sacrifices for actual individuals.

Why should we care about the institutional identity of peoples, in addition to the identity of persons? In accordance with political liberalism, it is important to respect all the social agents to be found in the political sphere. Now this sphere is often composed not only of persons but also of peoples. If peoples respect the other agents present in the public realm, they themselves become moral agents that must be respected. They become autonomous sources of valid moral claims just like individual citizens. We could even apply the Rawlsian method of the veil of ignorance to them, in addition to the veil of ignorance that applies to persons, and this is precisely what Rawls (1999: 24-38) himself did. Of course, for matters of simplicity, Rawls restricted the

application of the veil of ignorance to peoples that already owned a sovereign state, but he clearly also acknowledged the fact that this was a simplification and that, in addition to the eight principles applying to sovereign peoples, there could be principles for the self-determination and secession of stateless peoples, as well as principles for the federation of peoples.

When we proceed in accordance with a political and not a metaphysical conception of liberalism, we are also able to assess the moral debate between liberal individualists and communitarians in a very different way. That is, we do not need to take sides between those who believe that persons and peoples are 'prior to their ends', and those who believe that persons and peoples are to be defined by their beliefs, values, practices, customs and traditions. From the point of view of political liberalism, it is important to tolerate and respect different conceptions of peoples as illustrated in liberal and communitarian societies. In liberal societies, peoples first and foremost present themselves as structures of cultures and only secondarily, as characters of cultures. In communitarian societies, the two notions are up to a certain point conflated. The liberal distinction between structure and character can still be maintained, but it is in this case an analytical distinction that is not reflected in the institutions of the communitarian society as such.

Nevertheless, it is as structures of cultures that peoples may be entitled to collective rights. They do not have the right to impose upon their own citizens and minorities the religion, beliefs and values of the majority, but they do have the right to maintain a common public language, a common public set of institutions in which this language is spoken, and a common public historical heritage. This is legitimate moral claim made on behalf of the people as a whole as long as it is accompanied by a politics of cultural pluralism, including the recognition of minority languages spoken by minority groups within the population as a whole.

In communitarian societies, the principles of political liberalism can still be respected, but they are implemented very differently. In these societies, the structure of culture is not clearly distinguished from the culture's character. Their institutions can almost all be described as having a communitarian dimension. The state of Israel, for instance, can also be described as a Jewish state. A large part of the population within such a society shares the same set of beliefs, values, lifestyles and life-plans. In this case, the only way to restore a balance between the people as a whole and its minorities is for the state to implement positive policies aimed at the promotion of the cultural character of these minorities.

However, by suggesting that in addition to persons we should also recognize peoples, I am not as such endorsing a communitarian perspective. Even if I recognize peoples, I can still maintain the priority of rights over the views about the good life or views about the common good, because I am considering persons and peoples as having an institutional identity and not as having a moral identity. The politics of recognition may be targeted only at citizens and peoples understood as 'societies,' and societies may be understood only as structures of culture. It is the institutional identities of persons and peoples and not their moral identities or moral characters that are of utmost importance for political liberalism. But there are different ways of promoting and protecting structures of cultures. When the society is communitarian and the state is defined for instance in relation to a religious majority, neutrality can be achieved only if this state adopts strong measures of support for religious minorities. Within these two societies, liberal and communitarian, the principles of toleration as respect, or reciprocal recognition, must be instantiated quite differently: by secularism in the institutions of the liberal state accompanied by the recognition of rights for persons and minorities, or by a communitarian identity compensated

by particular policies aimed at the promotion of the particular moral identities of minorities. In both cases, however, we are within the framework of political liberalism, for we treat persons and peoples as two different moral agents and as two irreducible sources of legitimate moral claims.

### *Religious Diversity*

Let me now indicate what are the implications of political liberalism for the treatment of religious diversity. In doing so, we have to distinguish between individuals, religious groups and peoples. In a liberal or communitarian society, individual citizens should be free to express their religious beliefs, their atheism or their agnosticism. Religious groups should be free to promote their own particular views. So what shall we say about groups that entertain fairly homogenous beliefs? Political liberalism aims at protecting the institutional identity of persons and peoples. It is not in the business of protecting and promoting a particular view of the good life or of the common good. But as we saw this neutrality can be implemented in very different ways. In liberal societies, religious practices and institutions should not be supported by the state. In the name of liberal neutrality, the state must refrain from protecting and promoting a particular religion. There must be a strong separation between the state and its religious institutions. In such a system, the best way to allow citizens to practice their own religion is (i) to establish a system of individual rights and freedoms that favours freedom of conscience, thought, speech and association, and (ii) to entitle stateless peoples to distinct collective rights that would allow them to develop their own structures of culture and also establish their own religious institutions while respecting human rights. We also (iii) have to eliminate the remnants of communitarian laws that have historically been adopted in favour of the majority group and that have created obstacles to the practices of minority groups, unless we alternatively choose to implement measures that exempt these

religious minorities from the application of these remaining communitarian rules imposed by the state.<sup>8</sup>

The encompassing people that is organized into a liberal state has the duty to protect and promote the secular character of public institutions. There must not be religious symbols in the national deliberative assembly. There must not be prayers at the beginning of official meetings at all levels of public administration. Schoolteachers must not teach a particular religion. On the contrary, students must be exposed to the various religions, and various attitudes toward religion, including atheism and agnosticism. The state must at the same time also protect and promote individual rights of citizens belonging to religious associations, national minorities and stateless peoples. It must, for instance, accept that individual citizens, even those working as civil servants within the public institutions, are entitled to wear the cross, the veil (*hijab*) or the *kippa*, or any other religious symbols, for this relates to their freedom of expression. Wearing various religious pieces of clothing can be assimilated to wearing pins or earrings that show one's sexual orientation. We can coherently tolerate these and refuse pins or badges for civil servants that would show their political orientations because, as opposed to sexual and religious orientations, politics are a matter of public debate concerning the institutions of the state. Of course, if the wearing of a particular religious garb signals that the individual concerned favours the transformation of the secular state into a theocratic one, this amounts to the same as wearing a political badge and should also be refused. Wearing a pin or badge expressing our particular preference for a political movement, doctrine or party within the institutions of the state is an invitation to engage into a public debate concerning the organisation of the state. This would in most circumstances inappropriately disturb the interactions between civil servants and the general public. But it is not so for religious and sexual orientation, for in liberal societies these issues do

not have implications concerning the organisation of the state. Of course, a public debate could take place concerning religion or sexual orientation, but in a liberal society these are not issues that have a bearing on the institutions of the state. So civil servants who wear symbols indicating their religious or sexual orientation are not creating any interference in their relationship with the general public, as they would if they were to show an official allegiance to a political party. The reason is that religion and sexual orientation are private matters. Just as the state must not 'enter into the bedroom of citizens,' it must not enter into their religious conscience. A religious symbol is in this sense no more than the expression of what has been decided in the privacy of one's conscience, and in a liberal state it is not a matter of public debate having consequences for the organisation of the state. By contrast, showing one's political identification with a political party amounts to an engagement into a political debate. Even when an individual showing a fairly well known religious identification (cross, kippa, hijab) is in addition engaged into a political movement that seeks to change the neutral political institutions into religious political institutions, we must still distinguish his political positions from his religious signs. The meaning of these religious signs are determined by society and not by the intended meanings of individuals. Of course, the situation once again is quite different if the so called religious sign is a new one that reflects the beliefs of a political movement or party who seeks to change the institutions of society.

In a liberal society, in which the institutions of the state are secular, the presence of civil servants expressing a variety of religious affiliations is just an indication of the neutrality of the state. There are of course important limitations that cannot be escaped. Civil servants should not wear the *niqab* or the *burqa* at work for pragmatic reasons, namely efficient communication. Citizens themselves in certain social circumstances would legitimately be required to remove them when

they are asked to do so by authorities that are in a position to determine that matters of security, communication or identification are at stake. There must also be rules that prevent very high officials in the political institutions of the state from wearing religious symbols, for these individuals are in a certain way the incarnation of the state. As spokespersons for the state they embody its secular ideals.

As long as the state recognizes the expressions of religious belief of citizens, they must in turn comply with the secular character of the state and with all its other constitutional principles. Among them, the state is in a position to impose a common public language, a common set of public institutions, and a common public historical heritage to all its citizens. It can also impose secularism and a charter of rights and liberties asserting among other things the equality of men and women. If religious minorities would clearly accept these rules, there would be less difficulty in convincing the population as a whole about the reasonable character of various policies of cultural pluralism (multiculturalism, interculturalism) toward these very same minorities.

But the matter does not end here. As we shall see below, the liberal ideals of neutrality may be concretely realized very differently in a communitarian society. But before we consider how a communitarian society could exemplify the principles of political liberalism, we should take a look at another problem raised by religious diversity for the liberal state. What about the *practices* of particular religious groups? Here we are no longer merely talking about symbols related to the expression of religious belief, but about certain practices that appear in various religious codes. Must we, for instance, allow for prayer and for various religious celebrations and rituals to take place even within public institutions? We have seen that the state must refrain from imposing such practices. But must we also impose similar restrictions on religious minorities?



Should the liberal state allow for special hours reserved only to Muslim women in public swimming pools? Should we satisfy the request made by male citizens who, in order to obtain their driver's license, want to pass their driving tests with a male civil servant? Should we allow a Sikh student to wear the *kirpan* in public schools? These different examples no longer involve matters related only to freedom of expression. They exemplify instead a religious practice performed by members of a given religious group in accordance with a particular code of conduct. The question we must ask is whether the state can allow such practices to take place within public institutions. I believe that there are no straightforward answers to this question. There are no rules that can apply across the board in all these instances. These religious practices must be examined case by case. They are matters of reasonable accommodation and they can be rejected if the courts stipulate that they represent an excessive financial demand, or if they contravene with the individual rights of other citizens. The problem is that the liberal state has the obligation to protect and promote not only secularism but also toleration and pluralism. So we must find a way to establish a delicate balance between these different ideals. What measures should we then consider? In my opinion, there should perhaps be a governmental political body whose task would be to determine whether a particular religious practice contravenes with the equilibrium concerning principles like secularism, toleration and pluralism. Here I would take inspiration in the work of Avigail Eisenberg (2009; 2010), even if she is first and foremost concerned by the case of indigenous peoples and even if she applies her ideas to all sort of practices and not only to religious practices. Nevertheless, I believe that her ideas are very fruitful for the problem that we now face. Specifically, according to Eisenberg, the group should be able to show how it can meet a certain number of conditions in order to be entitled to engage in a certain practice in the context of public institutions. She imposes three such conditions: the claimants must show that something important to their community's distinctive cultural identity

would be jeopardized in the absence of an entitlement to a certain practice. The strength of an identity claim would depend in part on 'its historical meaning and importance for a group and on its effectiveness at sustaining that meaning and value within contemporary contexts' (Eisenberg, 2010: 210). Second, the group should also be able to meet a validation condition. This validation condition would be meant 'both to ensure that practices are not foisted on community members (or some members) and to bring into the assessment process internal disputes about what are considered controversial practices' (ibid. 211). Finally, the group should also be able to meet a safeguard condition that would 'measure the strength of a claim in terms of whether it harms practitioners or places anyone at risk of harm (ibid.)'. These conditions are meant to assess various identity claims of indigenous peoples, but they could also apply to the religious claims of other minorities. They could also apply to the religious practices of these minorities.

A governmental body should perhaps be put in place to that effect. Its task would be to publicly assess the identity claims made by various religious groups. When a disagreement takes place between the governmental body and the individuals or associations involved in the claims, the debate would perhaps have to be transferred to the level of the courts. But the important point is that the members of these groups should be able to pass various tests that determine the importance of the religious practice for the institutional identity of the group, the degree of consent for such a practice within the group, and the impact of the practice for the rest of society. The members of a particular religious group who request a right to maintain a certain practice within a public institution must be able to show the importance of the practice for their own institutional identity. They would have to show that there are no substitutes for the practice that would achieve the same results. They would also have to explain why the practice must take place in a public institution and nowhere else. They should be in a position to prove that their

members are all willing to adopt such a practice. They would have to show that the practice does not create excessive demands for the rest of society and be able to indicate that the practice is compatible with the basic rights and liberties of all citizens.

To illustrate how these ideas could be applied, the practice of polygamy would not be accepted within a liberal state because it involves the public subordination of women. And it would not be acceptable even if we were to admit a reversed form of polygamy, for we do not correct a certain form of subordination by introducing a reversed form of subordination. Polygamy could be seen as violating the principle of equality between men and women. Once again, for minority groups, there is an obligation to abide by the principles adopted by the people as a whole.

### *Religious Peoples*

I have until now considered mostly the relationship that the liberal state entertains with individual citizens and religious groups concerning matters related to the phenomenon of religious diversity. What about the case of peoples? How is political liberalism able to deal with peoples whose institutional identity involves a relationship with religious institutions? This problem has many dimensions. It concerns the attitude of political liberals toward a foreign country in which there would be no separation between religion and the state. It also concerns the relationship of the liberal state with some of its internal ethnic minorities whose institutional identity is to a large extent characterized by religion. It finally also concerns the encompassing liberal people itself. How far can it go in the direction of becoming a communitarian society? Can we accommodate communitarian societies within the framework of political liberalism?

We have seen that persons undoubtedly have rights such as freedom of conscience, belief, expression and association with respect to religion. They thus have rights concerning freedom of religion, but these are individual rights. Religious associations can probably also have distinct sorts of rights when they become corporations. However, those are rights that they have as legally constituted bodies, or 'moral persons'. Otherwise, the rights that they can claim are rights for their individual members. It can also be claimed that peoples have the right to adopt the religious institutions of their choice. The liberal state should not promote any specific religious faith, but it must not interfere and prevent groups from adopting the institutions of their choice. The state has to allow minorities to exercise this collective right. However, it is just a negative collective right. The state does not have any specific obligation to support particular religious institutions for its minorities. It must simply avoid interfering in the process by which these minorities create their own institutions.

Of course, not all stateless peoples can be defined in terms of beliefs, values, traditions and customs. As a matter of fact, within a liberal state, most of them are liberal and represent themselves as structures of cultures and not as having a particular homogeneous character. But what if the stateless people defines itself in communitarian terms? This question also concerns the encompassing people as such. How far can it go in the direction of the establishment of a communitarian identity without abandoning the fundamental principles of political liberalism? Indeed, even within our so-called 'democratic societies,' state holidays often reflect the traditional religious practices of the majority, which is unfair to members of minorities who practice a different religion. In such cases, we usually note that it is appropriate to afford special compensatory rights for these minorities that enable them to circumvent the official practices. This is a case of special rights that compensate for the residual presence of some of the majority

group's traditional religious practices. But it is less often remarked that it would also be compatible with political liberalism to generalize such a practice in a given society. It would be a very different way to implement the political ideals of political liberalism.

Allow me to push this argument a little further. Do we have to go so far as to tolerate 'non liberal' peoples that are organized into religious institutions, and must we recognize their collective rights? Can citizens belonging to morally homogenous societies really subscribe to the principles of political liberalism? This thorny question is important, and the works of Rajeev Bhargava (Unpublished, 1998, 2004), Avigail Eisenberg (2007), Tariq Modood (2007), Bhikhu Parekh (2000), Jeff Spinner-Halev (2000), Charles Taylor (2007) and Melissa Williams (2005) suggest various fruitful responses. For my part, I would like to introduce the concept of a 'democratic communitarian society' that could respect the ideals of political liberalism. The remarks that I wish to make may not solve all of the specific problems that could arise, but it sheds light on the type of society that liberal philosophers and political theorists have to respect even in ideal theory. In addition to recognizing (i) the negative collective rights of minority groups to develop the religious institutions of their choice, (ii) the legal rights for associations considered as corporations, (iii) the classical individual rights (freedom of conscience, belief, expression and association), and (iv) special compensatory rights for minorities belonging to societies in which the state still promotes residual religious practices within its institutions, we can also recognize the collective rights of peoples that take the form of democratic communitarian societies. These are societies in which the constitution and the central institutions of the state reveal a certain conception of the common good or of the good life, while also being democratic societies. That is, their citizens are entitled to exercise a certain minimal form of rational freedom. They are able to reflect upon their moral practices, and exercise 'strong

evaluations,' that is, get involved into second-order judgements on their first-order moral judgements. Rational freedom understood in this minimal sense also implies the ability to perform thought experiments and to imagine oneself as having a very different moral identity. This kind of minimal rational freedom is all at once compatible with a democratic system and a communitarian view of one's identity as a person or as a people. Indeed, a democratic society is one in which citizens are entitled to exercise their own rational freedom in the minimal sense indicated above. But at the same time, rational freedom in this minimal sense is also compatible with a process of self-discovery, for after having exercised this minimal rational freedom, a person may be led to discover her true authentic moral identity. In other words, this minimal rational freedom does not imply that the person is prior to her ends. It is therefore compatible with a communitarian identity. And since the exercise of rational freedom is all that is required of citizens if they are to be part of a democratic society, it is also compatible with a communitarian view of peoples. That is, the exercise of one's rational freedom in a democratic society is perfectly compatible with the fact that we are led to *discover* and rediscover constantly the moral identity that constitutes our identity as a people.

But how can we claim that in the case of a communitarian democracy, the state can still be liberal? How can a religious state be liberal? Is it not promoting a particular view of the common good and of the good life? Is it not therefore going against the liberal principle of neutrality? As I see it, the state will not be illiberal if (i) it forms a democratic society in the sense indicated above and therefore a society in which its citizens are able to exercise their rational freedom and can imagine themselves within a society having a very different character; (ii) if the state can also justify its political institutions by the use of public reason alone, and therefore makes use of a method of avoidance, which requires adopting arguments that do not rely on religious faith.

Specifically, even a fairly homogenous religious society must be able to rely on justifications that are based on public reason alone. It must create institutions that can deal with the specific type of religious diversity exhibited by the population as a whole; and (iii) most crucially, such a state will be liberal only if it is willing to protect and promote the particular religious practices of its minorities. In other words, the state cannot simply let these minorities develop their own institutions without intervening. It must go beyond respecting their negative collective rights, by protecting and promoting these different institutions, even if they are religious institutions. It is committed to doing so in order to create a balance between the communitarian institutions of the majority that it has chosen to promote, and the communitarian institutions of its minorities. The state must implement positive policies that serve to develop the particular institutions of all these minorities.

What we have described above as special rights for minorities when the liberal state contains remnants of institutionalized religious practices becomes the general rule in communitarian democratic societies. Instead of achieving neutrality by refraining to promote a particular cultural character, we get the same result by positively promoting all cultural characters: those of the majority but also those of the minorities. Democratic communitarian societies can under those circumstances also be described as liberal in the sense of political liberalism. Just as the classic liberal state must politically recognize the structure of culture of its minorities because it tends to be biased by the cultural structure of the majority, the communitarian state must politically recognize the cultural characters of its minorities because it is biased by the cultural character of the majority.

Imagine, for example, a society in which religious practices are present in a set of constitutional rules. Political parties in this society contain in their electoral platform ideas that are influenced by the same religious practices. Governmental authorities also act in accordance with a holiday calendar founded mainly on the faith of the religion practised by the majority. The state subsidizes the religious practice of the majority and citizens choose their representatives by reference to the particular religious ideas that they advocate. The education system of this country is mainly oriented in accordance with the religious beliefs of the majority and the same applies to its immigration policy. At first glance, a country like this is clearly not liberal, since it makes no separation between politics and religion. But suppose that citizens can legally waive these religious practices. That is, they are entitled to exit these institutions in favour of less restrictive ones. Assume also that the state agrees to fund minority religious groups and help them to practice their own religion. Let us then assume that citizens have not only a right of withdrawal, but they are also allowed to speak freely against the lack of separation between religion and political power. Imagine also that they can form associations openly opposed to the influence of religious faith in politics, and are even allowed to form political parties advocating such policies. One then imagines that there can also be an electoral system that allows political parties to advocate views of this kind and be able to take power. With the support of a majority of the population, political parties could in principle guide the state in a direction similar to that of contemporary liberal states. The education system of this country could also include the teaching of different religions and not just teaching the state religion. There would also be public funds that are allotted to the schools of religious minorities. Finally, although the state favours immigrants with a particular religion, imagine that it would also accept immigrants that share the religion of their minorities in a proportion that corresponds to the proportion of these minorities within society as a whole. Such a society would be very different from liberal societies in which a



relatively strong separation prevails between religion and politics, and in which we have an increasing diversity of views about religion, because by hypothesis in the society that we describe, the majority of the population favours political parties that promote specific religious ideas. But it is still a society in which citizens subscribe to the fundamental principles of justice and in many ways it resembles our own societies. What should we think of such a society? Is it really non-liberal? After all, even within a supposedly 'liberal' country such as the United States, the oath of allegiance involves explicitly religious faith. If we can understand how in our own societies liberal ideals can coexist with some specific moral guidelines commonly shared and politically defended, we should be able to imagine how societies characterized by greater moral and religious homogeneity could still subscribe to liberal precepts. A people may advocate a sharp separation between church and state, but we should tolerate and recognize a people that would understand the distinction between public and private spheres very differently while remaining within a liberal democracy. The kind of society I have been describing is not only one that can exist in foreign countries. It is one that can exist in minorities within our own society and, indeed, up to a certain point, that could exist within our state as a whole.

Political liberals are committed to recognize the rights of persons and peoples. They are committed to an account that preserves a balance between these two kinds of rights. They are also committed to recognize the rights of various minorities that advocate a particular view of the good life or of the common good, because they are committed to protect and promote their structures of cultures. But we must also be able to understand how even a communitarian society could be liberal enough, as long as it is democratic, it justifies its main institutions and constitutional principles by public reason, and it protects and promotes not only its own particular beliefs, values and traditions, but also those of its minorities.

## *Conclusion*

In this article, I have suggested that it is important to consider the role of peoples for a correct understanding of the concept of (mis)recognition. If recognition is to take place at all within our contemporary societies, it is in the form of a reciprocal acknowledgement of the merits of peoples as well as persons. I argued that one of the reasons why many states now reject policies of cultural pluralism is to be explained by our inability to bring back into the picture the legitimate claims of entire peoples. I described how peoples could be accounted for by political liberalism. The main feature of this new approach is a liberal political philosophy that no longer relies upon moral individualism. Political liberalism is an account that treats persons and peoples as two sources of legitimate moral claims. But my main concern was to show how political liberalism could enable one to deal with religious diversity, and it is here that the collective rights of peoples were seen as crucially important. Policies of cultural pluralism are instances of recognition on the part of an encompassing people toward minorities. This top-down form of recognition must be accompanied by a similar bottom-up kind of recognition of minorities toward the constitutional rules that are adopted by the encompassing people. I have also shown that reciprocal recognition could be instantiated quite differently within the framework of political liberalism, depending on whether the encompassing people was liberal or communitarian.

In a liberal state, liberal neutrality amounts to the obligation to impose secular institutions. The liberal state must refrain from defending one particular view about religion. Secularism in a liberal state implies neutrality toward religious belief, atheism and agnosticism. It therefore implies a strong separation between political institutions and the Church. This is compatible and as matter of fact perfectly harmonious with the preservation of the freedom of expression in

matters of faith and, under certain circumstances also, the religious practices of minorities. By the same token, minorities must accept the liberal principles of neutrality, the secular character of the state and the equality between men and women. Accepting these values for minorities amounts to accept the collective rights of the population as a whole.

The situation is however quite different when we consider a communitarian people. In such an encompassing people, the state will achieve an appropriate balance between individual and collective rights as long as it is democratic and as long as its main constitutional principles are supported by arguments resting on public reason. It will meet the requirements of political liberalism if it promotes all religious beliefs. It may protect and promote a particular account about the good life or about the common good as long as it also protects and promotes the religious characters of minorities themselves.

A distinctive feature of political liberalism is therefore that it can accommodate various institutionalized versions. It may allow for a wide variety of applications of the distinction between the private and public spheres, and many different interpretations of the principle of liberal neutrality. Religious faith need not be relegated to the private spheres in all societies that respect political liberalism. A communitarian society in which the institutions would be religious could also comply at the same time with political liberalism. The encompassing communitarian people must recognize the individual and collective rights of the stateless peoples, contiguous diasporas and immigrant groups that are to be found on its territory. In return, minorities must abide by the constitutional principles adopted by this encompassing communitarian people, and must accept that their society is characterized by a cultural character that they may not share.

It is important to maintain an open mind toward many different ways of institutionalising political liberalism. It is important because certain Eastern and Middle Eastern societies seem able to engage in the direction of liberalism and maintain at the same time a specific religious character (e.g. Turkey). It may be possible to develop international consensus on democratic principles with countries in which a certain cultural character is favoured. This flexibility of political liberalism is also important if we want to accommodate religious diversity within our own society while trying at the same time to facilitate integration, and thus be able to enforce social cohesion, stability and identification of minorities with the encompassing people.

### Endnotes

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<sup>1</sup> For an interpretation of toleration that incorporates a form of respect, see Galeotti (1993, 1997, 2002).

<sup>2</sup> These ideas of course go back to G.W.F. Hegel. For a development on the Hegelian theme of mutual recognition and the conception of recognition as the right to have rights, see Williams, R. (2000).

<sup>3</sup> On the relationship between recognition and its practical as opposed to merely symbolic effects, see Laitinen (2002) and (2007).

<sup>4</sup> This was at least the initial formulation of Axel Honneth's (1995) theory.

<sup>5</sup> I am of course alluding to Will Kymlicka's (1995: 35-7) distinction between (acceptable) external protections and (unacceptable) internal restrictions.

<sup>6</sup> See Simon Thompson (2006), chapter 2 for a critical analysis of Fraser's stance.

<sup>7</sup> For a critical assessment of liberalism as founded on the principle of toleration as opposed to the more traditional version based on autonomy, see Kymlicka (1995) chapter 8.

<sup>8</sup> For a discussion of Tarik Modood's argument for 'moderate' secularism, see Sune Laegaard's contribution to the present volume.

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