

Immigration and the Ethics of Assimilation

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## Abstract

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Recent political disputes in liberal democratic states involve the concerns of immigrants and concerns about immigration. These developments include protests across Europe related to the depiction of the prophet Mohammed; the 2005 London underground bombing; debates in Europe about proposed laws banning Islamic headcoverings; and ongoing debates in the U.S. about the influx of Spanish speakers. These developments suggest that recent immigration has potentially caused social disunity in states that strive to be tolerant of diversity. Many native-born citizens are now troubled by cultural and social changes stemming from immigrants. These citizens fear that some immigrants engage in practices antithetical to liberal values. They also fear that increased immigration will cause the loss of valuable national traditions. In addition to the concerns of the native-born, there are also concerns on the part of many immigrants about their acceptance in their new state. Immigrants face a difficult transition of integration, and they often feel stigmatized and alienated from native-born citizens. They also confront potentially discriminatory social or legal pressures to relinquish aspects of their identity or existing cultural practices. In this project, I investigate the concerns of native-born citizens and of immigrants to arbitrate some of the political disputes. I develop a philosophical model of social unity appropriate for liberal states based on the concept of the nation. This model of the nation is developed by determining the sorts of relationships that must exist between citizens for the state to be legitimate. I claim that citizens can share a commitment to the state and to tolerate one another through the operation of civic trust, developed and sustained through a history of cooperative interactions. I employ this model to clarify the reasonable demands on immigrants to assimilate into the receiving state, and the reasonable demands on the receiving state and native-born population to accommodate certain values and traditions of immigrants. I argue that these demands are ‘bi-directional’ and involve reciprocal changes for both immigrants and the native-born. I apply this model to address some of the political debates described above, including the legitimacy of laws banning headscarves, the role of Islamic courts in liberal societies, and the value of a shared language within a state.

For Mom and Dad.

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# Chapter 1

## Introduction

### 1. Some Recent Developments in Liberal States

- (a) The publication of cartoons depicting the prophet Mohammed, originally in the Danish paper *Jyllands-Posten* and followed by other European newspapers, resulted in large-scale protests across Europe that left fifty dead. Defenders of publication argue that the newspapers acted within their legal and moral right for free speech, while protestors argue that the cartoons were unjustly provocative to Muslims. Some commentators claim that these protests indicate a divergence of values between immigrant and second-generation Muslims and longstanding secular European citizens.
- (b) French youths largely of North-African descent living in *les banlieus*--residential complexes in the outskirts of cities--rioted and burned over 300 cars in incidents from October 2005 to the summer of 2006. One explanation for the outbursts is that these citizens felt excluded from the French nation. Their feelings of exclusion is thought to be connected to France's adherence to *laïcité*, which is a civic and secular national ideal that has led France to adopt 'color blind' policies that preclude the state from collecting or publishing information on race or ethnic origin.
- (c) In 2004 in Amsterdam, the filmmaker Theo Van Gogh was killed by a Dutch citizen of Moroccan descent in response to his film "Submission," which the assailant claimed was heretical to Islam. The writer of the film, Ayaan Hirsi Ali, was forced to flee the Netherlands. The incident has provoked a conservative backlash against Muslim immigrants living in the Netherlands. One commentator claims that the murder was a watershed event indicating the "limits of tolerance," and many Dutch now argue that the Netherlands should restrict immigration and eschew its multicultural policies to preserve a traditional Dutch national identity.<sup>1</sup>
- (d) In London on July 7, 2005, British citizens of foreign descent bombed public buses and the underground. These 'homegrown bombers' intended to kill fellow British citizens and cause terror in their country of citizenship, indicating that they did not value their membership in the British community and did not see their future as convergent with their compatriots. Since the bombings, the British government has sought to prevent similar attacks by encouraging immigrants and Muslim citizens to integrate into British society.<sup>2</sup>

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<sup>1</sup> Ian Buruma, *Murder in Amsterdam: The Death of Theo Van Gogh and the Limits of Tolerance* (Penguin Press 2006).

<sup>2</sup> For instance, Tony Blair's call for a "duty to integrate." See "Blair Toughens Stance on Religious Tolerance and Cultural Assimilation." *The New York Times* (December 8, 2006).

- (e) Also in the UK, there is debate regarding the wearing of headscarves and *niqab*—a full-face covering—by Muslim women. While in office, former Prime Minister Tony Blair called the *niqab* a “mark of separation,” and Foreign Secretary Jack Straw said that he felt “uncomfortable” interacting with women in headscarves and suggested they should not wear them in constituent service offices. Muslim headcoverings have incited debate elsewhere in Europe. The French law of 2004 that bans the wearing of headscarves in public schools remains controversial. And the French Parliament has seriously considered a law that would ban the *burqa* in all public places. As French President Nicholas Sarkozy has stated: “the *burqa* is not welcome on the territory of the French Republic.”<sup>3</sup> Proponents of the law banning the *burqa* argue that the wearing of *burqa* is a prominent religious symbol that does not belong in the secular public sphere.
- (f) In the United States, immigration policy continues to be one of the most discussed and galvanizing issues among legislators and citizens, especially concerning immigrants from Mexico. Proponents of stricter immigration controls claim that the current wave of Mexican immigration is different from past immigration to the United States. They argue that the large number of Mexican immigrants and proximity of the Mexican border encourages Mexican immigrants to maintain aspects of Mexican culture like speaking Spanish, and discourages them from adopting American practices like learning English. One major focus of the debate has centered on the extent that an ‘American way of life’ is lost with such a large influx of immigrants, all from one country. In addition to debating controls on the future flow of immigrants, policy-makers continue to grapple with the 10 to 13 million “undocumented” or “illegal” immigrants living in the U.S.. Debate concerns, for instance, the extent to which these immigrants should have access to public services such as education and health care.

These developments are complicated; they have many explanations and raise a variety of issues for the respective states and citizens to address. However these developments share something important: they point to potential disunity in liberal democratic states that has arisen as a result of recent immigration. Liberal states are diverse, containing citizens from a variety of ethnicities, religions, and cultures. These states protect and support the rights of citizens to make decisions about how best to live their lives. The extensive immigration into liberal states over the past 50 years has affirmed and furthered this diversity. However, it is plausible that well-functioning states require some social unity between members of the political community. Social unity might be thought important for a variety of reasons. For instance, consider its importance for the possibility of democratic deliberation and large scale political cooperation, the development and maintenance of strong feelings of solidarity that support the just distribution of resources, or the effective mobilization of citizens during national challenges and crises.

The developments described above suggest some of the difficulties of achieving social unity in the face of diversity, especially diversity resulting from recent immigration. The developments raise the questions: What is the basis of social unity in a diverse liberal political

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<sup>3</sup> Quoted in “Burqa Furor Scrambles French Politics.” *The New York Times* (August 31, 2009).



community? And what can be reasonably demanded of recent immigrants and of native-born citizens to achieve social unity?

The developments also indicate that these questions are not merely of theoretical significance. There are polarizing political disputes regarding the policies liberal states can employ to foster social unity. Moreover, there is potential for instability, riots, and other forms of violence when there is not sufficient social unity between citizens.

Concerns about immigration are often economic in character. For instance, native-born citizens sometimes fear that immigrants are willing to work for lower wages and thus will push them out of their jobs, or they sometimes fear that with more immigration, there will be greater demand of public services, which will increase their taxes. However, one noteworthy feature of the developments described above is that the potential social disunity prompted by recent immigration is not primarily a matter of economics. The concerns of both recent immigrants and native-born citizens are not primarily concerns of economic imbalance or impoverishment. The concerns of recent immigrants involve a lack of non-economic goods such as political representation, shared community, and cultural accommodation. It is not an adequate response to many immigrants' concerns to offer them economic equality or greater economic opportunities. Likewise, the concerns of native-born citizens regarding recent immigrants are also not entirely economic in nature. These citizens claim that recent immigrants have divergent values, dress differently, or speak different languages. Their concerns are distinct from economic concerns recent immigration may trigger and they do not appear to be addressable through economic distributive means alone. This suggests that a response to these recent developments must not focus solely on the distribution of economic goods.

Political philosophers have not adequately addressed these developments. In an article published just over a decade ago entitled 'Social Unity in a Liberal State,' Will Kymlicka claims that

there is strikingly little evidence that voluntary immigrants pose any sort of threat to the unity or stability of a country. This fear was understandable 150 years ago, when the United States, Canada, and Australia began accepting waves of non English immigrants; but that was 150 years ago, and there is no longer any reason for such fears to persist.<sup>4</sup>

However, even if Kymlicka is right and the fears of social disunity prompted by recent immigration are unreasonable, evidently these fears do persist, and are possibly increasing. One might, of course, agree with Kymlicka that the concerns of native-born citizens regarding recent immigration are overblown, perhaps even discriminatory or xenophobic.<sup>5</sup> However, there is a plausible case that there are some reasonable concerns native-born citizens might have regarding the influx of immigrants. David Miller, for instance, argues that

if you regard a common national identity as essential to political stability, and also think that national identity involves an allegiance to customary institutions and

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<sup>4</sup> "Social Unity in a Liberal State," *Social Philosophy and Policy* vol. 13 no, 1 (1996) pp. 105-136 at p. 119.

<sup>5</sup> It is curious that Kymlicka thinks that xenophobic fears *were* understandable 150 years ago in the early days of immigration to the US and Canada, but does not think they are understandable today. As I discuss further below, large-scale immigration is a relatively recent phenomenon to Western Europe, so it appears that Europe now is in a similar position as the US and Canada were. So, if they were reasonable then for the US and Canada, why are they not reasonable now for Europe?

practices, you cannot help but regard an influx of people not imbued with a suitable reverence for these institutions and practices as destabilizing.<sup>6</sup>

Many citizens and theorists do regard a shared identity and shared practices as necessary for the state to be stable. They thus might understandably and reasonably fear that recent immigration might threaten that stability. Even if these fears are unreasonable, at the very least the recent developments in liberal states described above indicate that there needs to be greater philosophical attention to issues surrounding recent immigration. There is a role for political philosophy to grapple directly with ongoing political debates. It is important to take the concerns of native-born citizens regarding immigrants' integration seriously; likewise, it is important to take the concerns of recent immigrants regarding their acceptance by their new state seriously. Neither set of concerns should be dismissed by philosophers as unintelligible or unreasonable at the outset.

One might wonder, why focus special attention on immigrants? Immigration might be just one of many processes that affirm and further diversity and thereby pose potential threats to the social unity of the state. Similar forms of diversity might be the result of new generations of native-born citizens. Although this is true, recent immigration seems a sufficiently unique and complex phenomenon to warrant its own discussion. For one thing, there is the sheer scale and drastic increase of immigration to liberal states over the past 50 years. While the U.S. and Canada have always been countries with many immigrants, large-scale immigration is a relatively new phenomenon to Europe and thus has generated new concerns in those countries. Some of these concerns in Europe are prompted by the origin of recent immigrants. Many immigrants to Europe arrive from non-liberal states, and are often Muslims.<sup>7</sup> These immigrants result in forms of diversity, for instance the wearing of full-face coverings in public, different from the diversity typically 'homegrown.' Further, there are data that suggests that Muslim immigrants may be more likely to prioritize transnational religious identities over national identities, and this stimulates specific concerns amongst native-born citizens regarding the values and trustworthiness of immigrants.<sup>8</sup> In the U.S. as well, the origin of recent immigrants, who are largely from Mexico--a country with a vast contiguous border--is partly what motivates concerns regarding social unity. In addition to the origin and religious characteristics of recent immigrants is the globalized context of this new wave. The increase of immigrants to democratic states has come during a period of rapid global change that has fundamentally altered the character of the state. States today appear to have less control over their borders, and with increased global economic and political cooperation and the rise of non state and multinational actors, the boundaries and significance of states have become somewhat blurred. The fact that much recent immigration is through illegal or irregular channels indicates that states are not capable of controlling the influx of citizens. These characteristics of the contemporary world have heightened citizens' fears regarding social unity. A recent World Values Survey shows that

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<sup>6</sup> David Miller, *On Nationality* (Oxford: Oxford University Press 1995) p. 126.

<sup>7</sup> Muslims are the largest immigrant group in France, the U.K. and the Netherlands. See Robert Leiken's article "Europe's Angry Muslims" *Foreign Affairs* (July/August 2005).

<sup>8</sup> According to a recent Pew Research Survey, 81% of Muslim citizens of the UK consider themselves Muslims first and British second. For this data, see the study available at <http://pewresearch.org/assets/pdf/muslim-americans.pdf>

according to one measure, the trust between citizens of democratic states has decreased sharply during this period of recent immigration.<sup>9</sup>

Recent immigration has motivated many concerns regarding social unity, and I focus on immigrants because they have prompted intense debate. But it should be noted that I do not assume at the outset that there is anything special about immigrants that entails that they raise distinct moral issues separate from native-born citizens or from other minority groups.<sup>10</sup> I focus on immigrants simply because they have prompted debate, not because I assume there must be a unique normative approach to immigration.

This project seeks to understand the basis of social unity in liberal states and to explore the reasonable demands on immigrants to integrate into the political community to achieve social unity. I call the demands on immigrants to achieve social unity the demands of assimilation.<sup>11</sup> In this introductory chapter I begin to describe how I understand these demands, I introduce the approach to social unity that I explore in subsequent chapters, and I raise several challenges to this approach.

## 2. Preliminary Distinctions

### *(a) First- versus Second-Admissions*

Issues of first-admissions concern the reasonable restrictions on the initial admittance of immigrants to the state. Issues of second-admissions concern the reasonable demands of integration of those immigrants already residing in the state.

Issues of first- and second-admissions are normatively distinct, but there are also important conceptual connections between them. One's views concerning first-admissions might be motivated by one's views concerning second-admissions, and vice versa. For instance, consider those who hold the view of first-admissions that borders should be open and the state cannot justifiably restrict immigration.<sup>12</sup> If one holds that states should have open borders, then one might think that there are no reasonable demands on immigrants to integrate. It seems that there are demands of assimilation only if the political community of the state is of some normative significance, and that the state thereby has reason to preserve that community. If states cannot justifiably restrict immigration, then this suggests that states cannot place demands

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<sup>9</sup> The survey is available at <http://www.worldvaluessurvey.org/>

<sup>10</sup> Some do believe there is this distinction. For instance, Will Kymlicka distinguishes the normative issues associated with immigrants from those associated with native-born 'national minorities.' See his *Multicultural Citizenship* (New York: Oxford University Press 1996).

<sup>11</sup> I use the terms 'integration' and 'assimilation' interchangeably. These terms are sometimes distinguished. For instance, former British Home secretary Roy Jenkins says "I define integration, therefore, not as a flattening process of assimilation but as equal opportunity, coupled with cultural diversity, in an atmosphere of mutual tolerance." Quoted in Andrew Mason, *Community, Solidarity, and Belonging* (Cambridge: Cambridge University Press 2000) p. 121.

<sup>12</sup> Joseph Carens is one of the foremost proponents of this view. See his "Aliens and Citizens: The Case for Open Borders," *The Review of Politics* vol. 49 no. 2 (1987) pp. 251-273. One might also include Martha Nussbaum, and some of the cosmopolitans I discuss in Chapter 2.

of assimilation on immigrants. Here, issues of second-admissions are determined by a view regarding issues of first-admissions. Now consider those who hold that there are strong demands of assimilation. Proponents of this view presumably hold that a socially unified political community should be promoted and protected. This suggests that the state should place strong restrictions on who is initially admitted because open first-admission policies may not be conducive to promoting or protecting the political community. First-admission policies will be determined at least in part by one's views about the reasonable demands of second-admission. One writer, Cristina Rodriguez, explicitly makes this case. In discussing first-admission policy in the U.S., she writes that "proposed reforms [to first-admission policy] should be judged in part by whether they facilitate the incorporation of immigrants and their descendants into American social and civic life."<sup>13</sup> Although issues of first- and second-admissions are distinct, they might be conceptually related.

This project is motivated by developments concerning recent immigration, however the focus is not primarily on issues of first-admissions. The recent developments that motivate this project concern those already residing in the state. Thus, my focus in this project is the demands of assimilation and issues of second-admissions. I largely leave aside issues of first-admissions, except insofar as those touch on issues of second-admissions.

### *(b) Demands of Assimilation versus Public Policy*

The demands of assimilation are normative demands on immigrants to integrate. These demands constitute normative requirements; non-compliance with the demands entails a normative failing. The normative force of demands of assimilation, and the nature of the normative failing entailed by non-compliance, will vary based on the content of the specific demand.

In addition to normative requirements, the demands of assimilation might also ground legal requirements that encourage compliance with the demands. The state might have reason to design policy that administers legal consequences to motivate compliance--for example, legal punishment for violation and reward for compliance. However the state might not have reason to design policy this way. It does not follow generally from normative or moral requirements that there should be corresponding legal requirements. For instance, it does not follow from the immorality of breaking promises that there ought to be legal consequences for breaking promises. Likewise, there might not be sufficient grounding for legal policies that require immigrants to assimilate. In other words, it does not follow from a demand of assimilation that an immigrant do x that that there ought to be a law that requires the immigrant to do x. There are policies that seem reasonably grounded in demands of assimilation and I discuss these in some

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<sup>13</sup> Rodriguez "Guest Workers and Integration: Toward a Theory of what Immigrants and Americans Owe One Another," *University of Chicago Legal Forum* (2007). Also consider Scheffler's claim that some people conclude...that immigration must be severely limited. A country need not apologize for its desire to sustain its distinctive national culture and identity, so long as that culture is not intrinsically unjust or oppressive. And since large-scale immigration threatens a country's ability to sustain its national identity, a society may legitimately impose strict limits on the number of immigrants it will accept. (From "Immigration and the Significance of Culture," *Philosophy & Public Affairs* vol. 35 no. 2 (2007) pp. 93-125 at p. 94.)

detail in subsequent chapters. However, my focus are the demands of assimilation themselves rather than policy grounded in those demands.

*(c) Demands of Assimilation versus the Expectations of Citizens*

There is another distinction between the normative demands of assimilation and the expectations citizens might have regarding immigrants. Native-born citizens might have expectations that immigrants conform in cultural, economic, or other ways. They might hope that immigrants adapt to develop likes and dislikes that are indistinguishable from the native born. However, the fact that citizens expect immigrants to adapt in some way does not entail that there is a normative demand that immigrants assimilate that way. Citizens often have unreasonable expectations and hopes regarding immigrants. Liberal states protect individual rights and provide the conditions for diversity to flourish; immigrants cannot be required to make themselves indistinguishable from the native born, even if this is an expectation. Likewise, the existence of a demand of assimilation does not entail that citizens will form expectations that immigrants meet that demand. The demands of assimilation and the expectations of citizens might converge, but they might not.

*(d) Demands of Assimilation versus Demands of Accommodation*

The demands of assimilation are demands that require immigrants to integrate. The subjects of these demands are *immigrants* to the receiving state. Other actors might also have a role in assimilation. The state or the native-born population might have a role in adapting to accommodate immigrants. I will call demands on the state or on the native-born population demands of accommodation. Although my primary focus is the demands on immigrants, it will become clear that integration also involves demands on those in the receiving state. I discuss this issue in more detail in subsequent chapters.

*(e) Demands of Assimilation versus Pragmatic Reasons to Integrate*

There are many pragmatic reasons why immigrants might adjust their practices to fit into their new state. It might be easier for immigrants to feel at home socially or prosper economically when they conform to the native-born. Immigrants' lives might be more convenient if they develop new preferences that can be easily satisfied, and abandon those tastes that are costly or difficult. However, these pragmatic reasons are distinct from the demands of assimilation. The demands of assimilation are grounded in achieving social unity. These demands might coincide with the pragmatic reasons immigrants have to adapt. However they differ from pragmatic reasons in that they are grounded in an account of social unity, and not prudential convenience.

One way to further specify the demands of assimilation is to provide an account of the basis of social unity in liberal states. With an account of social unity in hand, one can explore the demands of assimilation suggested by that account and assess policies that seek compliance with those demands.

### 3. The Nation as the Basis of Social Unity

One account of social unity, prominent in both popular debate and political philosophy, is the nation. There is a widespread view that the nation is the fundamental basis of social unity in a well-ordered political community. I take this view as an assumption and explore its implications for the demands of assimilation. The project examines the nature and normative significance of the nation, with the goal of employing the nation as a theoretical framework to suggest demands of assimilation and to assess policies that seek compliance with them. This approach seems largely in line with many policy-makers who employ the concept of the nation in debates regarding policy that addresses immigration. It also seems in line with the views of many native-born citizens who are concerned that recent immigration poses a threat to their nation.<sup>14</sup>

Roughly, a nation is a grouping of individuals who share a distinctive set of relationships that may include shared practices, values, and beliefs. Some accounts hold that individuals compose a nation when they share historical ethnic ties, languages, or other social ways of life. Other accounts hold that individuals compose a nation when they share political institutions. I will not enter this dispute here and will pursue in this introduction with an intuitive account of the nation.

Although I will not here offer a precise account of the nation, it is important to note that, for the purposes of the project, the account of the nation must meet a *normative* standard. The project requires that the nation serve as a basis of social unity to suggest reasonable demands of assimilation. There are two conditions of adequacy for the account of a nation: the nation must serve as a basis of social unity for liberal states and the nation must suggest reasonable demands of assimilation for liberal states. These conditions of adequacy indicate that the account of the nation relevant for these purposes is not purely descriptive or historical, but will be uncovered and analyzed through normative argument. In addition, the project seeks to explore the demands of assimilation in *liberal* states. This indicates that the account of the nation must be based in liberal values. In other words, the project explores the demands of assimilation in liberal states, and so the approach to these demands must be supported by the values professed by liberal states. Again, this indicates that the account of the nation will be uncovered and analyzed through normative argument, as the nation relates to liberal values.

The project requires that the nation play a mediating role. The nation must mediate between the *diversity* of liberal states and the *social unity* required of well-functioning states. To play this mediating role, the relationships that characterize the nation must be adequately substantive to serve as a basis of social unity, but not so substantive that they undermine diversity. There is a constraint on the account of the nation that requires that the nation leave sufficient room for diversity while unifying members of the polity.

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<sup>14</sup> An early linking of assimilation to the nation comes from the 1930 Encyclopedia of Social Sciences. There, Robert Park defines “Social Assimilation” as “the name given to the process or processes by which people of diverse racial origins and different cultural heritages, occupying a common territory, achieve a cultural solidarity sufficient at least to sustain a national existence.” (Quoted in Alba, Richard and Nee, Victor *Remaking the American Mainstream: Assimilation and Contemporary Immigration* (Cambridge MA: Harvard University Press 2003) p. 9.

One might think that the nation cannot play this mediating role and thus cannot suggest reasonable demands of assimilation. The nation may face challenges on two sides. One might argue that the nation is too *thin* in a globalized world to serve as a basis of social unity. Or one might argue that the nation is too *thick* and that the demands of assimilation suggested by the nation undermine diversity. I now further discuss these two challenges.

#### 4. The Cosmopolitan Challenge

The first challenge, the cosmopolitan challenge, holds that the nation is not adequately substantive to serve as a basis of social unity and so it cannot suggest reasonable demands of assimilation. This challenge has two strands: a factual strand and a normative strand. The factual strand claims that in the 21<sup>st</sup> century “the world is flat.” The extent of economic, political, and cultural integration has made the nation extinct. Globalization forces have made nations less distinct from each other while also making them less internally homogenous. Nations are less distinct from each other because of the ease of travel and communication and the existence of mass media and wide-spread access to the internet. Persons move about between different nations, bringing their values and practices with them. There are now many cultural phenomena that are universal, such as Big Macs and the World Cup. These globalizing forces have resulted in fewer differences between nations. At the same time as the continued ease of travel, communication, and cultural exchange has led to global homogenization, these globalization forces have also resulted in greater diversity within nations. This is partly the result of increased immigration. But it is also because immigrants can more readily preserve connections to their former cultures by visiting or staying informed about their ‘home’ countries. Further, with larger immigrant communities, there is less pressure for immigrants to relinquish past practices, and they are more likely to self-identify as members of transnational groups. In addition, the extensive illegal or irregular migration of the recent period indicates that state boundaries are porous. Transnational labor markets further seem to undermine state control over borders. Indeed, these features of the world are partly what raise the difficulties of achieving social unity in contemporary conditions of recent immigration.

According to the factual strand of the cosmopolitan challenge, distinct and homogenous nations do not exist in a globalized world. As a result of globalization, nations cannot serve as a basis of social unity and cannot suggest reasonable demands of assimilation.

The cosmopolitan challenge also has a normative strand. The normative strand of the challenge holds that, even if one could factually differentiate nations, nations are not of normative significance. The normative strand may be motivated by different considerations. These cosmopolitan views share the claim that there are not specific norms of political morality

based in the nation. It follows from these views that the nation does not itself suggest normative demands of assimilation.<sup>15</sup>

An adequate response to the cosmopolitan challenge must include an account of the nation that provides a basis of social unity and can indicate differences between nations in a globalized world. The response also must show that there are *normatively* significant differences between nations.

## 5. The Multicultural Challenge

The second challenge to the project, the multicultural challenge, holds that the nation is too substantive to suggest reasonable demands of assimilation. One might press this challenge by noting the bloody history of the nation. Nations have a history of warfare between them; some have even resorted to ‘ethnic cleansing’ in the name of protecting the nation. The present is no better. Nations continue to oppress, even when they are embodied in liberal democratic states, by imposing a dominant set of practices and values on minorities. Multiculturalists hold that individuals must be free to engage in their traditional cultural practices and values, and this requires that individuals be free of demands that seek to alter them. The nation is “culturally thick”--it is composed of a particular set of cultural practices and values--and multiculturalists hold that demands or policies that seek to integrate immigrants into the nation impose the dominant national culture on them. This unjustly precludes them from engaging in their own cultural forms.

Multiculturalists may differ about the grounds for the claim that individuals must be free to engage in their culture. They may also differ about the characteristics of the nation that prevent immigrants from engaging in their traditional cultural practices. However multicultural views share the claim that the nation does not suggest reasonable demands of assimilation. The problem, according to multiculturalists, is suggested by the familiar analogy of the nation as a melting pot. In a melting pot, valuable cultural forms are lost. Demands of assimilation to the nation impose homogeneity at great loss and oppression.

An adequate response to the multicultural challenge must explain why the demands of assimilation suggested by the account of the nation are not unjustly oppressive and do not undermine the diversity of liberal states.

## 6. Advantages of the Approach

I hope to show that the account of the nation helps address some of the recent developments by suggesting reasonable demands of assimilation and suggesting policy that fosters compliance

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<sup>15</sup> There are complicated connections between the normative and factual strand, and different philosophers may link them in different ways. Some normative cosmopolitans pay little attention to the facts of globalization. Others take globalization processes as entailing the normative strand of cosmopolitanism. For instance, Charles Beitz moves from an empirical reality (namely that there is a network of world institutions he terms a “global basic structure”) to the normative claim that justice extends globally. Beitz, *Political Theory and International Relations* (Princeton: Princeton University Press 1979).



with the demands. Despite the challenges listed above, there are several advantages of appealing to the nation as a guide for the demands of assimilation and public policy.

First, even in a globalized world, the nation resonates through members' self-conception and evaluative outlook. This is evident in a variety of spheres of life. These include many members of a nation's willingness to fight for their nation, to support the national football or Olympic team, and to feel more at ease around fellow nationals than foreign nationals. It is at least *prima facie* important to determine what a nation is, and what developments threaten it and what policies protect it, because of its resonance for members.

Second, perhaps because of the nation's resonance for many members, policy debates often employ the rhetoric of the nation. For instance, disputants holding various positions regarding immigration policy in the U.S. appear committed to preserving an American national identity. From this shared standpoint, debate centers on the extent to which immigrants undermine the American national identity by failing to integrate. The nation is also frequently employed in policy debates in Europe. For instance, former Prime Minister Blair calls the veil "a mark of separation." In doing so he privileges a form of British community that excludes those that wear the veil. In France, the commitment to a French civic and secular national ideal motivates proponents of the law that prohibits the veil. There are many other examples. With an account of the nation in hand, these disputes will be easier to understand and assess.<sup>16</sup>

Third, the move from the nation to policy that seeks compliance with the demands of assimilation is attractive because it employs 'public reason' to decide public political questions. When one appeals to features of the nation to assess policy, policies are assessed in terms of beliefs and values that are shared by members of the nation. This satisfies Rawls "criterion of reciprocity," which holds that the reasonable disagreements of citizens are respected only when policy is decided on the basis of reasons all citizens can accept. Supposing that citizens are committed to the values and relationships that constitute the nation, it is appropriate to appeal to the nation to evaluate policy seeking assimilation.

Fourth, if we understand the nature and significance of a nation, this will help clarify what is expected of immigrants and minorities, furthering social unity and diminishing instability. As Tariq Modood writes,

the greatest psychological and political need for clarity about a common framework and national symbols comes from the minorities. For clarity about what makes us willingly bound into a single country relieves the pressure on minorities, especially new minorities whose presence within the country is not fully accepted, to have to conform in all areas of social life, or in arbitrarily chosen areas, in order to rebut the charge of disloyalty.<sup>17</sup>

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<sup>16</sup> Compare Cristina Rodriguez: "National citizenship remains a vital institution--an essential framework for grounding belonging and organizing political and social cooperation. Our vision of who qualifies as a citizen must take into account the social and market forces that produce migration, both legal and illegal. And the policies we implement to manage that migration at the entry stage must not lose sight of the need to produce an integrated body politic that mirrors the complexities of migration." From her "Guest Workers and Integration: Toward a Theory of What Immigrants and Americans Owe One Another," p. 7.

<sup>17</sup> Tariq Modood, "Establishment, Multiculturalism, and British Citizenship," *Political Quarterly* vol. 65 (1994) pp. 53-73.

An account of the nation is important not only for those who are members, but also for those who may be excluded. The account hopefully provides excluded groups some guidance for integration.

Fifth, in much recent academic writing the idea of the nation and the idea of assimilation are often saddled with negative associations. These negative associations may be reasonable because of the unsavory history of nations and the oppression that has resulted from assimilationist policies. However, this view of nations and assimilation neglects some of their positive underlying ideals. Nations developed after the religious wars of the 17<sup>th</sup> century resulted in new forms of religious diversity. They allowed large groups of people divided religiously to unify and cooperate politically. Further, nations served an important role conferring legitimacy on political institutions after traditional sources of legitimacy, such as religious sources, diminished in significance.<sup>18</sup> Likewise, one goal of assimilation to the nation is to foster equal political participation on the basis of national membership rather than on the basis of race, ethnicity, or culture. I do not here mean to suggest that the ideas are exclusively positive. However, I think it is noteworthy that the negative associations of the nation and assimilation have not driven those ideas from having significance within a commonsense view of political morality. One goal of this project is to explore this commonsense view in a non-revisionist and methodologically conservative way to place these ideas in their most positive light.

## 7. Outline of the Project

I begin the account of the nation by addressing the cosmopolitan challenge. My response to the cosmopolitan challenge comes in two steps. First, in Chapter 2, I explore the everyday commonsense view of political morality that holds that the division of states is normatively significant. As suggested above, it is difficult to find support for this commonsense view in a globalized world. I discuss and reject several explanations for the normative significance of states. I settle on an explanation that holds that the division of states is normatively significant because, even in a globalized world, there remain normatively significant distinctions in the juridical authority of states. I claim that the distinctions in the juridical authority of states imply that a shared state has some normative significance.

The first step in my response to the cosmopolitan challenge exclusively concerns the normative significance of *states*. In the second step, in Chapter 3, I connect the normative significance of states to the nation. I develop an account of the nation that understands the nature and normative significance of the nation as constituted by the relationships between citizens required for the state's juridical authority to be legitimate. I claim that citizens must share a commitment to liberal political principles and must be tolerant of each other. These relationships are achieved through the operation of civic trust, obtained and sustained through cooperative interactions under reasonably just circumstances. I defend this account against those who hold that nations must contain ethnic ties or a strong sense of solidarity or fellow-feeling. I also defend this account against the cosmopolitan challenge that holds that nations are not clearly

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<sup>18</sup> David Miller, *On Nationality*, p. 29-30.

differentiated in a globalized world by indicating the importance of contingent historical developments on the character of the nation.

In Chapters 4 and 5 I discuss the ethics of assimilation and I address the multicultural challenge. I divide the two chapters into a discussion of what practices the demands of assimilation require immigrants to abandon and what practices the demands of assimilation require immigrants to adopt. In Chapter 4, I reject two prominent models of assimilation, and support a third ‘bidirectional’ model that holds that assimilation should involve adaption by both immigrants and the receiving state. The demands of assimilation on immigrants correspond to demands on the state to accommodate immigrants. After supporting this bi-directional model, I discuss what the demands of assimilation require immigrants to abandon. I argue that the demands of assimilation require that unjust practices of immigrants be abandoned. I also discuss conditional demands that require that non-unjust practices be abandoned. In this context I address the debates regarding Islamic headscarves and argue that the state cannot reasonably prohibit that they be worn in public institutions. I then discuss three objections to my claims. The first holds that the demands of assimilation I have offered are unreasonable because they non-neutrally impose liberal values on minorities. The second holds that these demands are unreasonable because they are oppressive. The third holds that these demands are unreasonable because they prevent immigrants from preserving or protecting their culture.

In Chapter 5, I discuss what the demands of assimilation require immigrants to adopt. I focus in particular on the debate in the US regarding language use. I argue that there is a demand of linguistic assimilation that immigrants learn the national language of the receiving state. I respond to a prominent objection to this claim that holds that this demand unfairly burdens immigrants. I respond to this objection by offering a pragmatic account of linguistic assimilation that leaves the state responsible for offsetting the greater burdens on immigrants through state accommodations.

This project is motivated by actual political events, and it is my hope that my analysis and conclusions might help in assessing or arbitrating recent political disputes. I recognize, of course, that philosophical reflection might have limited practical applicability. But I contend that philosophy’s role in clarifying arguments and sharpening distinctions is an important step in fostering understanding, and ultimately contributing to greater social unity.

## Chapter 2

### Taking States as They Are

#### 1. Commonsense Nationalism

The world is divided into states. The division of states is the result of complicated historical accidents involving geographic factors and human action. As a result, states differ greatly from each other: economic disparities separate prosperous and undeveloped states, and political disparities separate states that respect human rights and states that oppress. These differences, the result of historical accidents, significantly impact people's lives.

Recent globalization forces seem to diminish the significance of state borders. Trade and treaties foster extensive political and economic cooperation between states. Sub and supra state organizations wield increasing economic and political power, altering the traditional sovereignty of states over their territory. Further, the ease of mobility and communication increases the internal diversity of states, yet makes the world more homogenous. Citizens of states now have fewer things in common while citizens of different states now have more things in common.

These are familiar facts. But given these facts, i.e., the economic and political disparity between states and globalization, some normative questions arise. What is the normative significance of states' borders? Is it reasonable for states to issue policies favoring their citizens? Do citizens have reasons to favor their compatriots?

According to a commonsense view of political morality the actual borders between states have some normative significance. This is evident in many spheres of life. States often implement policies, thought to be generally reasonable, that presume a distinction between citizens and foreign nationals and that give special privileges to their own citizens. For instance, citizens frequently receive greater access to social services such as education and health care, and citizens, and not foreign nationals, are entitled to vote. Policies that place restrictions on first-admission immigration also depend upon a distinction between citizens and non-citizens; here an aspect of freedom of movement is restricted for non-citizens but not for citizens. The reasonableness of each of these policies depends on the assumption that it is reasonable for the state to favor its citizens, yet these policies are generally believed by persons to be appropriate and even required. In addition, most citizens of a state think they have reasons to provide some social support for their fellow citizens through taxation and other means. Citizens often do not think they have reasons to provide as extensively for non-compatriots; they are less apt to think it permitted or required that their tax money be directed towards foreign nationals. Further, despite contemporary globalization forces, state membership is important for many citizens' self-conceptions and evaluative outlook. Citizens often identify themselves by the state of which they are members. They are often patriotic and they generally favor their state both in war and the World Cup. I take these examples to indicate that most citizens believe that it is reasonable for their state to favor them and that they have reason to favor their compatriots. As these examples suggest, the division of states is normatively significant even for citizens of liberal

states characterized by diversity and without a clear common ethnicity or identifiable shared way of life.

I will call the view that states have reason to issue policies that favor members and that citizens have reason to favor compatriots Commonsense Nationalism.<sup>19</sup> My goal in this chapter is to uncover a philosophical basis for Commonsense Nationalism. I seek to develop a philosophical explanation that would plausibly justify this widespread view. This chapter proceeds as follows. I first discuss Cosmopolitan challenges to Commonsense Nationalism. These Cosmopolitan challenges hold that in a globalized world it is not reasonable for states to favor their citizens and citizens do not have reason to favor compatriots. I then discuss two different forms of philosophical explanation that seek to ground Commonsense Nationalism. The first explanation justifies Nationalism because it promotes or instantiates other values. The second explanation justifies Nationalism in terms of valuable existing relationships between states and citizens. I will reject the first explanation and endorse a version of the second. I conclude with a methodological point relevant to the overall goal of this project. This methodological point holds that it is justifiable for political philosophers to be methodologically conservative, and in particular to begin from an assumption of the normative importance of the actual division of states, in order to seriously assess and reconcile disputes regarding issues of second-admissions regarding immigrants.

## 2. Cosmopolitanism

There are many arguments that hold that the division of states is not of normative significance; I call these Cosmopolitan arguments. I canvas two Cosmopolitan views here to indicate the sorts of challenges faced by an explanation of Commonsense Nationalism.

Some Cosmopolitans hold that persons across the world share a common humanity that grounds normative relationships. We owe equal respect and concern for each of our fellow human beings.<sup>20</sup> The fact that we share a state with others is morally arbitrary; comparable to other morally arbitrary relationships, such as shared left-handedness or shared race. These cosmopolitans argue that favoring our compatriots is comparable to favoring members of our race, which is generally thought to be unjustified partiality. They might add that Nationalism is particularly egregious when there are massive economic disparities between states, as is the case in the actual contemporary world. If those in affluent states favor their compatriots, they further exacerbate the unequal distribution of the world's resources. As a result of economic disparities, some cosmopolitans argue, Nationalists get the order of partiality reversed. Citizens of affluent states should favor those in impoverished states, rather than their already advantaged compatriots. A shared state is not the sort of relationship that grounds any reasons for favoritism.

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<sup>19</sup> I do not precisely specify the content or demandingness of the Commonsense view. The Commonsense view holds that borders are of normative importance, but there seems to be no widespread view about the extent of their normative importance.

<sup>20</sup> One example of this view is expressed in Martha Nussbaum's essay "Patriotism and Cosmopolitanism" from *For Love of Country?* (Boston MA: Beacon Press 2002) Also, consider the views of Peter Singer's "Famine, Affluence, and Morality," *Philosophy and Public Affairs* vol. 1, no. 1 (1972) pp. 229-243 and Peter Unger's *Living High and Letting Die: Our Illusion of Innocence* (New York: Oxford University Press 1996).

Other Cosmopolitans argue that there are certain institutional arrangements that ground reasons to favor others. They argue that when persons share schemes of social cooperation, they thereby generate reasons of reciprocity to favor one another. In the past, before the era of globalization, there might have been schemes of cooperation that corresponded to state boundaries and that gave states reasons to favor citizens. However, Cosmopolitans of this sort argue that now globalization processes entail that the schemes of cooperation encompass the entire globe. As a result, there are reasons to favor all within global cooperative schemes, which now do not coincide with the division of states. These Cosmopolitans argue that Nationalists neglect the extent to which global economic and political cooperation have altered the world, and fail to acknowledge that these new global connections entail that there are no longer reasons to favor compatriots.<sup>21</sup>

The details of these and other Cosmopolitan arguments are not important for now. Cosmopolitans all argue that sharing a state is not the sort of relationship that generates reasons of partiality. Surely, however, some relationships ground reasons of partiality, and I now turn to an example of this sort of relationship.

### 3. Commonsense Friendship

Consider a relationship with which we are all intimately familiar: friendship. The commonsense view of friendship holds that friends have reason to favor one other; I assume that even cosmopolitans would grant it. This view is quite broad and subject to many interpretations. For instance, the force of the reasons to favor may vary in different friendships, and there might not be universal agreement about the force of the reasons for any particular friendship. Reasons to favor friends might be thought in some cases to be outweighed or precluded by other reasons, or they might be thought to override other reasons and even ground moral obligation. Again, this will vary based on the nature of the friendship and one's normative outlook regarding friends. Leaving aside these complexities, it seems plausible to presume that most people believe that friendship is a relationship with at least some normative significance: there are some reasons to favor one's friends over non-friends.

How can one philosophically ground this commonsense view of friendship? There are two basic explanations. Consider an *instrumental* explanation. This approach grounds the view that there are reasons to favor friends in a value promoted by friendship. Friendship, on this explanation, is a means to achieve some other value. Friends have reason to favor one another because this is an essential feature of the friendships that are means to some value. One instance of this explanation is a utilitarian explanation of friendship. Utilitarians believe we should maximize utility. They might argue that there is greater utility overall in a world with friends than in one without friends. If this is true, then friendship is a means to achieve greater utility. There is reason to favor one's friends because this will result in utility-maximizing friendships.

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<sup>21</sup> Prominent examples of this view are found in the work of Charles Beitz in *Political Theory and International Relations* (Princeton: Princeton University Press 1979), Thomas Pogge in *World Poverty and Human Rights: Cosmopolitan Responsibilities and Reforms* (Cambridge: Polity Press, 2002), and Kok-Chor Tan in *Justice Without Borders* (Cambridge: Cambridge University Press, 2004).

Another example of this explanation is non-utilitarian consequentialist. These consequentialists might claim that the affective feelings coinciding with genuine friendship are of value. If this is true, then there is reason to favor one's friends as a means to valuable feelings.

There are many other examples of instrumental explanations. What these explanations have in common is that they begin with a view about what is valuable, and they seek to justify friendship as a means to that other value. These explanations might, of course, come to the conclusion that particular friendships are not normatively significant and thus do not give rise to reasons to favor friends. Whether a particular friendship is normatively significant depends on whether it is a means to the values deemed important. Perhaps some particular friendships are not utility-maximizing, or do not best promote some other value. If so, then these explanations would not justify partiality in those friendships.

Consider now a second kind of explanation that seeks to ground the commonsense view of friendship. This explanation is *associational*. An associational explanation begins from the assumption that actual friendships are of provisional value, and looks to features of friendships that ground reasons to favor friends. In other words, associational explanations take as fixed that existing friendships are at least of provisional normative significance, and tries to account for this significance in terms of actual features of those relationships. The assumption that friendships are of provisional value will be justified if there are features of existing friendships that explain the value; the assumption will not be justified if no such features can be found. There are a variety of features of friendships that proponents of this explanation might take to be salient. For instance, proponents of this explanation might point to the fact that actual friends share a history of interactions, and claim that a shared history of interaction grounds reasons to favor one other. Or they might claim that friends rely on one another and share expectations of each other that are normatively important. Other features of a friendship might also justify the assumption that friendships are of provisional value. Proponents of this explanation claim that if an existing friendship has normatively salient features, then there are reasons for favoritism in that relationship; these features justify the provisional assumption that they are significant. If the features are not present, then no such ground for favoritism will be found.

I have just described two distinct kinds of philosophical explanations that seek to justify reasons for favoritism in friendship. The associational explanation begins from the assumption that actual existing friendships are of provisional value; reasons to favor friends stem from features of those relationships. The instrumental explanation, on the other hand, begins from other values deemed important; reasons to favor friends stem from the values those friendships promote. The instrumental explanation, unlike the associational explanation, does not assume the value of friendships at the outset. In this way, it might seem to be a less conservative explanation, and one of greater explanatory value. The instrumental explanation is more explanatory because it could provide an argument that certain friendships should not exist. It, again unlike the associational explanation, could support an alternative arrangement of friendships that better serves important values. The associational explanation cannot provide these arguments because it begins from the actual existence of certain relationships and existing features of those relationships. In this way, the associational explanation is more conservative and thus might be seen as a more limited explanation.

I take no stand on which explanation of the normative significance of friendship is preferable. My reason for discussing these philosophical explanations of friendship is not to provide an argument about its normative significance. Rather my goal is to mark a distinction between forms of philosophical explanation for one kind of relationship. There are analogous forms of explanation for the normative significance of national relationships and I now turn to the relevance of this distinction to Commonsense Nationalism.

#### 4. Instrumental Explanations for Commonsense Nationalism

Commonsense Nationalism holds that there are reasons for the state to favor its citizens and for citizens to favor one another. I do not put a specification at the outset of the force of these reasons. Perhaps these reasons are mostly overridden by other considerations, for instance by the reasons to help destitute foreign nationals. Perhaps these reasons are strong and ground moral obligations. I do, however, assume that the Commonsense view holds that there are these reasons for favoritism across all citizens and within, at least, all liberal democratic states.<sup>22</sup> What philosophical explanation best justifies this view?

Consider an instrumental explanation of the normative significance of state borders. This explanation would justify the reasons to favor citizens by relating those reasons to some other important value. One simple version of this explanation is utilitarian. On this view, we all have reason to maximize utility, and one might argue that utility is maximized when the world is normatively divided into states. Persons have greater utility when their state and co-citizens favor them. This might be because states that favor citizens are more stable, and citizens that favor one another share utility-generating solidarity.<sup>23</sup>

This explanation quickly encounters a major difficulty. The difficulty with this explanation is that it simply is not true that the actual division of states best maximizes utility. Consider the vast economic disparity between affluent and undeveloped states. It appears that given this division, and assuming some plausible interpretation of the principle of diminishing marginal returns, there will be much greater utility overall if affluent states provide for undeveloped states.<sup>24</sup> Citizens of affluent states do not have reason, on grounds of maximizing utility, to favor their compatriots. Rather they seem to have reason to favor the destitute in impoverished states.<sup>25</sup> If this is true, then the utilitarian explanation does not explain why states, as they are, have reason to favor citizens, and actual co-citizens have reason to favor one another; it thus fails to provide a philosophical basis for Commonsense Nationalism.

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<sup>22</sup> Although I believe my defense of Commonsense Nationalism is generalizable to all states, I limit my discussion here to liberal democratic states since these are the states relevant to this project.

<sup>23</sup> Henry Sidgwick seems to hold this sort of view. See his *Methods of Ethics* (1874).

<sup>24</sup> The principle of diminishing marginal utility holds that the additional gains in utility from acquiring an additional resource declines the more of that resource one possesses.

<sup>25</sup> Consider Peter Singer's "Famine, Affluence, and Morality" and Peter Unger's *Living High and Letting Die: Our Illusion of Innocence*.



Consider now a second and more sophisticated instrumental explanation of Commonsense Nationalism suggested by the theorists Tamir, Kymlicka, Raz and Margalit. These theorists claim that personal autonomy is an important value, and that normatively significant states are a necessary means for personal autonomy. I will call this the autonomy-based explanation. This explanation is influential, and I will now try to explain the explanation in some detail.

The autonomy-based explanation appeals to a particular account of personal autonomy. According to this account of autonomy, a person is autonomous just in case the person freely chooses and endorses their life out of a sufficiently large set of valuable options. Several facets of this account require clarification. A person who freely chooses their life must have adequate mental competence for deliberation and choice. They must have an awareness of the available options and must be able to form the complex plans required to pursue the life they choose. Further, one's choice must be independent of coercion or manipulation. This precludes others imposing on a person a particular life. It also requires the person to scrutinize the surrounding customs and not uncritically conform to the masses.<sup>26</sup> In order to be autonomous, one must have several available options to choose from and there must be sufficient valuable options. One is not autonomous if one has a small number of options or if the available options are not good (the choice of "your money or your life" fails both conditions). According to this ideal, one is autonomous when and only when one is "author of one's own life," where one freely chooses and endorses one's pursuits.<sup>27</sup>

There is an important criticism of this account of autonomy often raised by so-called communitarians. This criticism holds that persons cannot be free and independent choosers of a way of life. In particular, a person cannot abstract from the cultural practices of which they are a part to pick and choose parts of that culture they endorse. There are several considerations that support this claim. First, cultural practices are constitutive elements of a person's identity; they constitute *who* that person is. Without these cultural practices, the person has no perspective from which to evaluate and choose a way of life. Cultural materials are thus required to serve as an evaluative standpoint for choice. Second, cultural practices are what provide persons with models of valuable ways of life. A culture provides these models through stories, heroes, and songs that have been passed down as cultural traditions. Without cultural traditions, an option would be neither feasible nor valuable for the chooser. Options would not be feasible because one would have no awareness of the available ways of life. Options would not be valuable because different ways of life are valuable only if they are sustained by certain cultural practices. Options have value only through a particular social context, for instance when they involve a social role others recognize as meaningful. To sum up, the communitarian criticism holds that

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<sup>26</sup> As Mill famously puts this condition: "Where not the person's own character, but the traditions and customs of other people are the rule of conduct, there is wanting one of the chief ingredients of human happiness, and quite the chief ingredient of individual and social progress.... He who lets the world, or his own portion of it, choose his plan of life for him, has no need of any other faculty than the ape-like one of imitation. He who chooses his plan for himself, employs all his faculties." *On Liberty*, Chapter 3.

<sup>27</sup> For more on this account, see Joseph Raz *The Morality of Freedom* (Oxford: Oxford University Press 1988) especially chapters 14 and 15.

the ideal of autonomy neglects the role culture must play to give a person a standpoint for choice and to make ways of life feasible and valuable.<sup>28</sup>

Proponents of the autonomy-based explanation for Commonsense Nationalism argue that the communitarian criticism can be accommodated. Tamir is one proponent of this explanation. She is committed to autonomy, but recognizes that in choosing or endorsing a way of life, a person must be “situated in a particular social and cultural environment that offers him evaluative criteria.” The communitarian is correct to observe that persons cannot abstract from all cultural practices. However, even though “reflection always begins from a defined social position,” Tamir argues that “embeddedness and choice are not necessarily antithetical.”<sup>29</sup> Tamir argues for the compatibility of autonomy and culture by showing the plausibility and frequency of cultural assimilation and “identity renewal.” She notes how often persons question their deep attachments and reject aspects of their former culture when they adapt to a new culture. A person’s scrutiny of an option relies on cultural materials, but each cultural practice can be endorsed or rejected. Insofar as one continues to question culture, one can achieve an autonomous life. So, Tamir claims, culture can be both an object of autonomous choice and a constitutive part of identity. Likewise, one can be autonomous even though cultural practices are necessary for certain options to be feasible and valuable.<sup>30</sup>

On Tamir’s view, in order for culture to be a precondition for autonomy, it must have four features. It must be wide-ranging, homogenous, pervasive, and politically self-determining. It will be helpful to briefly describe these four features. First, the culture must make options both feasible and valuable for persons, so the culture must include a variety of entrenched practices that sustain valuable ways of life. These practices must provide options across a wide-range of human activities.<sup>31</sup> Second, the cultural practices must provide a person a coherent set of options between which there can be sensible deliberation; thus the culture must present itself as having a degree of coherence or homogeneity. Third, the culture must provide a person with an evaluative standpoint for choice, so the person must be able to acquire the culture, identify with it, and take the culture to be a component of their good. The culture must potentially have a significant impact on persons raised within it, influencing their conception of the good and their moral outlook.<sup>32</sup> Not all cultures share these features. For instance, the culture of baseball is not sufficiently wide-ranging or pervasive, while the culture of left-handed people is not sufficiently homogenous to provide a coherent set of options.

A fourth feature of culture claimed to be required for autonomy is that the culture is politically self-determining. This means that the culture must be its own sovereign state. There

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<sup>28</sup> For this line of criticism, see Michael Sandel’s criticism of Rawls’ account of the original position in chapters 1 and 4 of Sandel’s *Liberalism and the Limits of Justice* (Cambridge, MA: Cambridge University Press 1998).

<sup>29</sup> Yael Tamir, *Liberal Nationalism* (Princeton: Princeton University Press 1995) p. 14.

<sup>30</sup> Will Kymlicka makes similar claims in *Multicultural Citizenship* (New York: Oxford University Press 1996) chapter 5.

<sup>31</sup> These different activities include “social, educational, religious, recreational, and economic life, encompassing both public and private spheres.” Kymlicka, *Multicultural Citizenship*, p. 76.

<sup>32</sup> See Tamir, *Liberal Nationalism*, chapter 2 for this claim.

are two reasons that support this claim. The first reason is that autonomy requires that one be able to express oneself in a public political domain. One is autonomous only if one can take part in political discussion and decision-making. In order for this to be possible, the public political domain must be based in one's culture. One's culture must provide the framework for political discussion and decision-making. Debate must occur in one's language and be pursued in ways sanctioned by one's culture. If not, then one might not have sufficient awareness or control of the political decisions that greatly impact one's life. Further, one's culture must determine public policy. The legislative outcome of political debate must be based in one's culture, and this suggests that the culture must be a state.<sup>33</sup> The second reason that the culture must be a state is that this is the only assurance that the culture can protect itself from destruction or becoming obsolete. The culture must thrive for its members to have autonomy: "if the culture is decaying, or if it persecuted or discriminated against, the options and opportunities open to its members will shrink, become less attractive, and their pursuit less likely to be successful."<sup>34</sup> To guard against potential decay, members of the culture must take actions to protect their culture. If the culture is embodied as a self-determining state, then members of the culture can foster international recognition and legislate in ways that protect it.

Proponents of the autonomy-based explanation hold that autonomy is of value and should be promoted. In particular, each person has reason to help provide the conditions for one's own autonomy. Since, on this view, one's culture is a precondition for autonomy, one has reason to support one's own culture. And since a culture must constitute a self-determining state, states are thereby normatively significant. Citizens of a state have reason to favor their co-citizens to protect their shared culture and provide the conditions for their autonomy. In this way, the autonomy-based explanation seeks to ground Commonsense Nationalism.

This explanation is instrumental in form: the normative significance of states is explained as a means of promoting the important value of personal autonomy. It claims that culture is necessary for personal autonomy, and thus states and citizens have reason to favor compatriots to preserve culture. This explanation is plausible insofar as states and cultures coincide. When states and cultures coincide, the explanation plausibly grounds reasons for favoritism within states. Members of a culture have reasons to promote and protect their own autonomy-providing culture which coincide with state borders.

However, the explanation fails because cultures and states do not coincide. This explanation might ground favoritism within cultures, but not within states, and thus it fails to explain Commonsense Nationalism. There are two ways states and cultures do not coincide. First, there are many states that are *multicultural*. Consider the US, India, Brazil, South Africa, and many others. Recent immigration has even led purported historically monocultural states to now be multicultural e.g. France and Germany. The autonomy-based explanation grounds

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<sup>33</sup> See Tamir's *Liberal Nationalism* for these claims: "If culture, in its widest sense, is what holds a nation together and preserves it as separate from others, then the existence of a nation as a distinct social unit is contingent on the presence of a public sphere where the national culture is expressed" (p. 73). And: "Individuals are entitled to establish institutions and manage their communal life in ways that reflect their communal values traditions, and history—in short, their culture." (p. 8) Joseph Raz and Avishai Margalit in "National Self-Determination," *Journal of Philosophy* vol. 87 no. 9 (1990) pp. 439-461 and Kymlicka in *Multicultural Citizenship* make similar claims.

<sup>34</sup> Raz and Margalit, "National Self-Determination," p. 119.

reasons for members within a culture to favor one another. But if a state contains many cultures, then this explanation does not ground reasons for citizens to favor all co-citizens. Thus, since there are many multicultural states, the autonomy-based explanation cannot ground Commonsense Nationalism. Second, there are cultures that do not have their own state. Members of the Kurdish, Hmong, and Basque population, for instance, live across several states. The autonomy-based explanation may explain why members of these cultures have reason to favor one another. But it does not explain why the states under which they live or their fellow-citizens have reason to favor them. Thus, again, it fails to explain Commonsense Nationalism.

Since cultures and states do not coincide, the autonomy-based explanation does not establish that the actual division of states is of normative significance. Rather, it establishes that an alternative ideal division of states, where cultures and states coincide, is of normative significance. This alternative might be an attractive ideal where persons enjoy much greater personal autonomy. We might all have strong reasons to promote this alternative division. But the autonomy-based view does not explain the Commonsense view regarding the normative significance of states. It thus fails for the purposes of this project. To repeat those purposes (discussed in Chapter 1), this project seeks to understand and arbitrate domestic disputes regarding issues of second-admissions. Those domestic debates assume that the actual division of states is normatively significant. Thus, for these purposes, an explanation of Nationalism must justify the normative significance of actual existing states. The autonomy-based explanation fails for these purposes.

One response to this objection is that I have misunderstood the nature of culture. The autonomy-based explanation appeals to a broader understanding of culture whereby actual states do embody a single culture. To support this understanding of culture, the proponent of the autonomy-based explanation may argue that cultures are dependent on the existence of political institutions such as states to create and maintain culture. That is to say, states create culture, and cultures only exist when they are maintained by a state. If culture is understood in this way, the objection I raise misses the mark. On this understanding of culture, the US is not multicultural, but is composed of one encompassing American culture. Further, since the Kurds and the Basque do not have their own state, they do not constitute a culture. With this move, the autonomy-based explanation seeks to explain the normative significance of actual state borders.<sup>35</sup>

At this point, I am unclear what the idea of culture appealed to in the explanation amounts to. It does not seem plausible to say that no state is multicultural, and that there can be no such thing as a culture without a state. But leaving that issue aside, this response still fails. It claims that states have reason to favor citizens and citizens have reason to favor one another because this best promotes personal autonomy. This is false: it seems likely that persons could develop greater autonomy in an alternative division of states. Given the claims about the relationships between culture and personal autonomy, a more equitable distribution of states, and perhaps states with greater homogeneity where states track more traditional cultural features, would better promote personal autonomy.

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<sup>35</sup> Kymlicka suggests a response such as this when he responds in *Multicultural Citizenship* to Jeremy Waldron's criticism of his view in Waldron's article "Multiculturalism and Melange" published in Robert Fullinwider (ed.), *Public Education in a Multicultural Society* (Cambridge: Cambridge University Press 1996).

Although I have not canvassed all instrumental explanations, I maintain that they are unlikely to plausibly explain Commonsense Nationalism. Each of these explanations will fail in ways similar to the above, in particular in that each will suggest the normative significance of an alternative division of states rather than the world's actual divisions. I now turn to a more promising form of explanation.

## 5. Associational Explanations for Commonsense Nationalism

An associational explanation begins from the assumption that the actual division of states is of provisional value. It looks at features of existing states and actual relationships between citizens to understand what about those states and relationships might be normatively significant, justifying the provisional assumption. I now discuss several examples of this explanation. I divide this discussion into those associational explanations that look primarily to relations between citizens and those that look primarily to relations between the state and citizens.

### *(a) Relations between Citizens*

Consider the relationships between citizens of a state. Some have argued that co-citizens share normatively significant *cooperative* relationships. These cooperative relationships call for reciprocity, and reciprocity takes the form of favoritism between citizens. Consider the ways in which citizens cooperate. Citizens cooperate economically through business and trade and they cooperate politically by sustaining a stable system of criminal and civil law and a property system. Citizens do this through support of political institutions--voting, paying taxes--but also simply by obeying the law. By cooperating with one another, citizens act in ways that enable their compatriots to live successful lives. This cooperation calls for reciprocity in the form of reasons for favoritism. Citizens contribute to their fellow-citizens' well-being, and thus citizens have reason to favor one another in turn. As Sangiovanni, a proponent of this explanation puts it, "we owe obligations of egalitarian reciprocity to fellow citizens and residents in the state, who provide us with the basic conditions and guarantees necessary to develop and act on a plan of life, but not to noncitizens, who do not."<sup>36</sup>

This is an associational explanation as it begins from assuming the provisional values of states and looks to ground reasons for favoritism in a feature--namely, citizens' cooperation--that purportedly holds between actual citizens. However, the problem with associational explanations that ground favoritism in cooperation between citizens is that cooperation does not occur between all co-citizens and frequently occurs between citizens of different states. Thus, this explanation does not plausibly ground Commonsense Nationalism. Consider now each of these objections.

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<sup>36</sup> See Andrea Sangiovanni, "Global Justice, Reciprocity, and the State," *Philosophy & Public Affairs* vol. 35 no. 1 (2007) pp. 3-39, where egalitarian reciprocity is Sangiovanni's specification of the content of the reasons to favor co-citizens.

First, states have citizens who are not and cannot be cooperating members. Sangiovanni himself suggests one group, namely the severely disabled.<sup>37</sup> Since some severely disabled citizens are unable to cooperate, Sangiovanni says that they “do not have any claims deriving from a conception of distributive equality,” which, on his account, is the content of the reasons to favor co-citizens. Sangiovanni claims that the severely disabled only “have claims which derive from their equal moral worth and dignity as human beings, which include claims to the alleviation of suffering and pain.”<sup>38</sup> This he takes to be a norm that is not state-based but extends globally. So, according to Sangiovanni, the severely disabled are not included in the reasons for favoritism that apply to compatriots. It would seem that Sangiovanni here gets the wrong result. The severely disabled are expected to obey state laws and are impacted in a variety of ways by the policy decisions of the state. These decisions will determine the form and extent of care, and whether or not they will be adequately accommodated, or left in some pariah status. In my view, even if the disabled cannot be cooperating members and thus cannot reciprocate, they are still equal citizens of the state, and should be included with other citizens as benefiting from reasons for favoritism by the state and by fellow-citizens. It appears that Commonsense Nationalism agrees, holding that the state and its citizens have just as much reason to favor severely disabled non-cooperating citizens as they do citizens who are full cooperating members. Commonsense Nationalism does not seem to make a distinction between fellow-citizens who are able-bodied and those who are disabled. Moreover, Commonsense Nationalism clearly *does* make a distinction between disabled co-citizens and those who are disabled but are foreign nationals. Disabled co-citizens are thought to justifiably benefit from policy that favors them over disabled foreign nationals. The distinction cannot be grounded in terms of levels of cooperation between disabled citizens and disabled foreign nationals as it was assumed that severely disabled citizens are not cooperating members of the state. This example shows that cooperation does not occur between all citizens who are included by Commonsense Nationalism, and it follows that cooperation is not the relevant feature of states and citizens that grounds the reasons to favor compatriots.

A second objection to this associational explanation holds that the cooperative relationships claimed to ground reasons for favoritism hold between citizens of different states. Globalization forces have increased the extent of interstate cooperation, and now persons worldwide cooperate economically and politically. This cooperation appears to sustain institutions that allow persons worldwide access to resources that enable them to lead good lives. As some Cosmopolitans rightly point out, in the era of globalization, the domestic setting does not appear to be significantly different from the global setting in the extent to which relationships are characterized by cooperation. Some citizens of the state, for example an executive at a multinational cooperation, might even cooperate to a greater extent with foreign nationals than with co-citizens. Due to these globalizing forces, cooperation cannot be the ground for the reasons to favor citizens only within one’s state, and it cannot ground Commonsense Nationalism.

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<sup>37</sup> I take this example directly from Sangiovanni. The example is not meant, of course, to deny the valuable contributions made by many disabled citizens.

<sup>38</sup> Sangiovanni, “Global Justice, Reciprocity, and the State.”

A response to this objection distinguishes domestic and global cooperation. Sangiovanni distinguishes domestic and global cooperation not by a difference in the extent of cooperation and interaction, but in the fact that this cooperation occurs in different institutional settings. As he puts it, the difference is based in “the presence of institutionalized reciprocity” in the domestic case.<sup>39</sup> Domestically, citizens cooperate within the context of a set of criminal and civil laws and a property system. Cooperation domestically involves establishing and maintaining these laws and institutions. Since there are no institutions that administer global criminal and civil law or that establish a global property system, then global cooperation is relevantly different. There are not the same norms of cooperation-based reciprocity in the global setting. As Sangiovanni puts it: “equality applies only in circumstances in which we share in the reproduction of a legal-political authority that is ultimately responsible for protecting us from physical attack and sustaining a stable system of property rights and entitlements.”<sup>40</sup> These circumstances do not hold in the global world, and thus the global world is normatively different.

Sangiovanni is correct that the global and domestic settings are institutionally different. However by focusing on these institutional features, the relevant norm generating relationship does not appear to be primarily a matter of the cooperative relationships between citizens, but rather seems to rely on a relationship between state institutions and citizens. The relevant feature of states is not the extent of cooperation that holds between citizens, but about the context in which citizens cooperate, and the role of the state in making decisions that impact them. In a discussion of a particular example that distinguishes what is unique about domestic cooperation, Sangiovanni writes:

what makes the inequality in compensation between the residents of Guojiatuo....more troubling than the inequality between a Chinese and a Dane is the fact that the residents of Guojiatuo depend on, contribute, and are subject to the same system of legal and political institutions that make up the Chinese state.<sup>41</sup>

Here it is evident that ultimately the important difference between the global and domestic setting is a matter of citizens sharing a state rather than a matter of citizens cooperating. Sangiovanni’s response to the objection indicates that an associational explanation of Commonsense Nationalism must focus on the role of the state in creating and sustaining relationships that ground reasons for favoritism. What exactly is special about a shared state that grounds reasons for favoritism? I now try to clarify in some detail this sort of associational explanation.

### *(b) Relations between State and Citizens*

An alternative associational explanation does not take the basic norm-generating relationship that justifies the normative significance of states to be between citizens themselves, but between citizens and the state. On this explanation, the relevant relationship is asymmetric as it holds

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<sup>39</sup> Sangiovanni, “Global Justice, Reciprocity, and the State.”

<sup>40</sup> Sangiovanni, “Global Justice, Reciprocity, and the State.”

<sup>41</sup> Sangiovanni, “Global Justice, Reciprocity, and the State.”

between a political entity and persons in a territory. This relationship, stated most sharply, is characterized by the state's exercise of powerful and pervasive juridical authority over citizens. The explanation for norms that hold within a state claims that the fact that states exercise authority over citizens entails that states and citizens are in a normatively significant relationship. In particular, this relationship is normatively significant because the state's juridical authority must be legitimated through the consent of those subject to the authority. On this account, the norms that hold between citizens--the reasons citizens have to favor compatriots--are understood in relation to the norms that hold between the state and citizens. In other words, they are mediated through the relationship of state authority. To explore this explanation further, we must clarify the nature of the relationship between the state and citizens. I have claimed that the relevant feature of this relationship is the authority the state exercises over citizens. But what sort of authority is it and why is this authority normatively significant? Do states have similar authority over foreign nationals? I now turn to these questions.

States are different from private persons and other institutions such as churches or schools and international institutions such as the World Trade Organization (WTO) in having *juridical authority* over citizens. States are composed of a variety of institutions that collaborate to govern citizens through laws. There are at least three ways state institutions govern citizens through laws. First, states are the ultimate *source* of laws. The criminal, civil, and contract laws that regulate citizens' interactions are the result of decisions made by states' legislatures. These laws establish property systems that enable citizens to engage in economic cooperation. They also confer powers on persons and institutions that enable local political units to make legal decisions. Second, states are the ultimate *interpreters* of the law. They are composed of a judiciary that adjudicates disputes about the law. Third, states control the *enforcement* of laws. States make decisions to use force and to punish illegal actions through the use of prisons, police, and the military. As Weber famously claims, the state "claims a monopoly of the legitimate use of physical force in order to impose its regulations."<sup>42</sup>

There are reasons why states have juridical authority. Effective social cooperation appears to *require* the existence of political institutions such as states to govern citizens through laws. There are facts about our world, what Hume calls the "circumstances of justice," that suggest that we need states to regulate our interactions by legislation, adjudication, and enforcement.<sup>43</sup> States are meant to employ their juridical authority to establish property systems, protect citizens' property, defend citizens from external attack, regulate transportation and

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<sup>42</sup> From "Economy and Society," published in W.G. Runciman (ed.) *Weber: Selections in Translation*, (Cambridge: Cambridge University Press 1978) p. 39. Rawls echoes this thought: "Political power is always a coercive power backed by the government's use of sanctions, for government alone has the authority to use force in upholding its laws." *Political Liberalism* (New York: Columbia University Press 1993) p. 136.

<sup>43</sup> Hume's "circumstances of human nature" are in the *Treatise* III.ii.2, and the *Enquiry Concerning the Principles of Morals*, Section III Part I. The reasons I have in mind here also include the much discussed collective action problems: prisoner's dilemmas, free-riding problems, and coordination problems. I would also include Rawls's claim that that there must be a set of institutions with law-making and law-enforcing powers to preserve "background justice." Without institutional regulation of persons' actions of this sort, seemingly free and fair individual transactions can lead to overall unjust outcomes. See, especially, section 4 of "The Basic Structure as Subject" in *Political Liberalism*.



communication, provide public services and public utilities, and confer other legal entitlements and responsibilities that enable citizens to pursue their lives. Consider how important state laws are for something as fundamental as private property. Property is a legally constituted concept created and defined by legal systems. Despite the talk of some theorists of ‘natural property,’ there cannot be secured private property outside of the state.<sup>44</sup>

Through the use of laws, the state has *de facto* juridical authority over citizens. I take this to be an empirically confirmed descriptive fact about the way states operate. Further, states will, in all likelihood, maintain juridical authority for some significant period in the future. There are other features of the state’s juridical authority that are important for the explanation of norms that hold within states and I return to some of these features below, but I now discuss the question as to why the state’s juridical authority is normatively significant.

The state’s juridical authority over citizens is pervasive and powerful. State decisions greatly determine the life prospects of citizens across a broad range of activities. The importance of the state’s authority is evident by the fact that states have often used their juridical authority to oppress. The risks of state oppression are great even in liberal democracies. The potential for abuse of authority is heightened by the fact that a person’s membership in a state is not a matter of voluntary choice. Citizens are born within a state and, for most persons, the state of which they are citizens was not something chosen; the state is something “we enter only by birth and exit only by death.”<sup>45</sup> States are unlike other associations such as church groups or book clubs. One can easily leave those associations, but emigration is not a viable option for most of the world’s population.<sup>46</sup>

The two descriptive claims above--the fact that state authority is powerful and pervasive and the fact that citizens are involuntarily subject to its authority--suggests that there is a relationship between states and citizens with normative import. Given that states have juridical authority that greatly affects citizens’ lives, their exercise of authority must satisfy certain norms. The normative significance of the relationship between the state and citizens is frequently discussed in terms of legitimacy: the state’s authority over citizens must be legitimate. There are many accounts of legitimacy, and the explanation of norms that hold within states must be filled out with a particular account. One familiar account of legitimacy holds that the state is legitimate only if it is the object of reasonable consent of all citizens. Call this the contractual account of legitimacy. This is not a commitment to the ideal that citizens must *actually consent*, but rather that citizens must be able to *reasonably consent*. Those that hold this view offer different analyses of reasonable consent and they disagree about the standpoint, motives, or

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<sup>44</sup> See Thomas Nagel and Liam Murphy’s arguments in *The Myth of Ownership* (New York: Oxford University Press 2002).

<sup>45</sup> Rawls, *Political Liberalism* p. 136. Note of course that Rawls exaggerates here as emigration is obviously a real phenomenon.

<sup>46</sup> Hume puts this point much more felicitously: “Can we seriously say that a poor peasant or partisan has a free choice to leave his country, when he knows no foreign language or manners, and lives from day to day, by the small wages which he acquires? We may as well assert, that a man, by remaining in a vessel, freely consents to the dominion of the master; though he was carried on board while asleep, and must leap into the ocean, and perish the moment he leaves her.” From Hume’s essay “Of the Original Contract,” reprinted in Alasdair MacIntyre (ed.), *Hume’s Ethical Writings* (University of Notre Dame Press 1979) p. 263.

beliefs from which citizens can reasonably consent.<sup>47</sup> On plausible accounts of reasonable consent, citizens can reasonably consent to the state only if the state protects their rights, treats them equally, and provides them public services and some share of the benefits of social cooperation. I will not discuss what in particular must be required of the state for citizens to reasonably consent, leaving this concept vague but intuitive.

Since states have juridical authority that must be legitimated through the reasonable consent of citizens, it follows that the relationship between states and citizens is of normative significance. The state and its subjects are in a special relationship--that of juridical authority--that does not hold between the state and others. This relationship generates specific norms; states must exercise their authority in a way appropriate to the relationship. This explanation grounds Commonsense Nationalism in the following way. To recall, the twin claims of Commonsense Nationalism are that states have reason to favor citizens and citizens have reason to favor each other. The first claim is explained by the fact that the state must seek the reasonable consent of those subject to its authority, namely its citizens. The state must protect and provide for citizens in a way that will generate their consent. It need not seek the same reasonable consent of those foreign nationals over whom it does not exercise juridical authority. The state thus has reason to favor its citizens in areas such as providing the conditions and opportunities for citizens to participate in democratic decision-making and providing public services that further citizens' interests. The state has reason to consider ways in which developments, such as a large influx of immigrants, might threaten citizens' interests. Since citizens' must reasonably consent to the states' juridical authority, the state has reason to favor its citizens.

The second claim of Commonsense Nationalism--that citizens have reason to favor one another--is explained by the fact that citizens share a state. They must reasonably consent to the same state, and thus must consider the interests of their fellow citizens. The interests of their fellow-citizens matter differently to them than the interests of foreign nationals insofar as co-citizens are jointly subject to and must consent to a shared state. The juridical authority of the state applies to all subjects, and thus, in considering the appropriate form of authority, citizens must consider how the legal system impacts their fellow citizens. This consideration citizens must have for one another provides them reason to favor compatriots insofar as their fellow-citizens' interests matter in a unique way. In addition, it is plausible to suppose that citizens owe their fellow citizens various sorts of social support, perhaps through redistributive taxation, to ensure that their compatriots' interests are sufficiently met. Citizens of a state will not be able to reasonably consent to their state if their fellow citizens do not help ensure they can participate in political deliberation or decision-making. Citizens have reason to favor their co-citizens because their co-citizens will not consent to a state where their fellow-citizens do not sufficiently provide

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<sup>47</sup> This is of course found in various forms in the work of Rousseau, Locke, Kant, and important contemporary liberals such as Rawls and Nagel. Note that the contractual account of legitimacy may not apply to every single law, but rather only to 'constitutional essentials'. Further, the contractual account of legitimacy is consistent with some policies decided by democratic majority rule. One might argue that all citizens can reasonably consent that some policies are determined by popular vote. Of course, not every policy should be determined by democratic procedures. Certain rights such as those described in the Bill of Rights may be inviolable such that they always trump majority decision. It all depends on the particular policy whether it is the policy-procedure or the policy-outcome to which there must be reasonable consent. I leave these and other issues open.

for them. This reason to favor co-citizens is based in citizens sharing a state and thus does not hold between citizens and foreign nationals.

This explanation grounds Commonsense Nationalism by taking existing states as they are and pointing to a normatively relevant feature of the relationships between states and citizens. Rather than focus on relationships between citizens, this explanation focuses on what is special about states' juridical authority, and grounds partiality in those special features. Insofar as existing states are characterized by these features, the assumption that states are of provisional normative significance is justified. This explanation, however, is limited. It does not specify the force of reasons to favor compatriots. Nor does it deny that there are norms that extend globally that might be just as strong, if not stronger, than the reasons to provide for compatriots. As a result the explanation leaves Commonsense Nationalism in possible agreement with forms of Cosmopolitanism described above. In this way, much remains open. Further, just as with the other explanations above, it might be met with objections. The most prominent objection is that the juridical authority that requires legitimacy through citizens' reasonable consent actually extends globally. If true, this means that the explanation does not show anything special about the relationship between states and citizens that grounds unique norms. There are at least two ways juridical authority might extend globally. First, there are global institutions with juridical authority that must be legitimated. Second, state decisions have juridical authority beyond its citizens. I now turn to these objections.

## 6. Global Juridical Authority?

### *(a) Do global institutions have juridical authority?*

There is an objection to the claim that states uniquely exercise juridical authority over citizens. It appears that, as a result of globalization forces, international political and economic organizations are now a locus of juridical authority. These include political organizations such as the UN and the EU and economic organizations such as the WTO. Consider an example concerning the WTO. The WTO makes decisions regarding international trade policy and can impose legal obligations on member states with a 3/4 majority vote, even if the state subject to the obligation dissents.<sup>48</sup> This suggests that the WTO has juridical authority over a state, and thus diminishes the juridical powers of the state over its citizens. If it is true that organizations such as the WTO have juridical authority, then these organizations are in the normatively relevant relationship with citizens discussed above. Since these organizations do not coincide with state borders, the explanation has not shown that there exist state-based norms.

However, there are important differences in the juridical authority of international organizations and states. Although international organizations appear to have juridical authority, the decision-making and enforcing mechanisms of these organizations are dependent on the

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<sup>48</sup> An example of this, described by Julian Ku and John Yoo, concerns the 'Sea Turtle' case where the WTO ruled that a US policy restricting sea-turtle importation favored some states over others and must be rescinded. Despite its disagreement with the WTO ruling, the U.S. was bound by the WTO decision. See Ku, Julian and Yoo, John "Globalization and American Sovereignty" published in *The Impact of Globalization on the United States*, Beverly Crawford, Michelle Bertho, and Edward A. Fogarty, (eds.) (Connecticut: Greenwood Publishing 2008).

actions of the states that compose them. The international institution theorist Robert Keohane writes:

there is no monopoly on the legitimate use of force in world politics--no world state, police, or army. Therefore, even if authority to render judgment is delegated to an independent international tribunal, implementation of these judgments depends on international or domestic action by the executives, legislatures, and/or judiciaries of states.<sup>49</sup>

For instance, the EU has a law-making capacity and the UN Security Council can deploy peace-keeping forces. But the exercise of those powers requires that member states act. These international organizations are not themselves composed of juridical institutions that make or enforce decisions independent of states. International organizations such as these are created to serve state purposes. Even though states have joined these organizations, states have maintained their ultimate authority to legislate, adjudicate, and enforce laws.<sup>50</sup> There may be a time when states delegate greater juridical authority to international organizations. For instance, international organizations may eventually develop the extensive institutions and bureaucracy required to establish and administer a global property system and set of criminal and civil laws. At that point, the account above may not serve as an explanation for Commonsense Nationalism. However, this is not how international organizations operate in our world where *de facto* juridical authority remains in state institutions.<sup>51</sup>

There is an additional point that supports a relevant difference between the juridical authority of states and that of international organizations. This is that states have voluntarily entered, and can voluntarily exit, the international organizations they have joined. Even though states appear to delegate juridical authority to international bodies, the decisions to conform to international regulations or treaties are made by state institutions. Consider the WTO example discussed above. The U.S. has chosen to bind itself to WTO decisions for self-interested reasons, and insofar as complying with the WTO serves US interests, the US will remain a part of the organization. But if the U.S. decides it no longer serves its interests to be bound by the 3/4 vote of WTO members, the U.S. can extricate itself from WTO decisions. There are no sanctions available to the WTO to punish the U.S. decision to withdraw.<sup>52</sup> The U.S. has not exited the

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<sup>49</sup> Keohane, *Power and Governance in a Partially Globalized World* (New York: Routledge 2002) p. 161.

<sup>50</sup> As Keohane puts it: "International institutions provide information, facilitate communication and furnish certain services that cannot be easily offered by national governments: they do not enforce rules." *Power and Governance in a Partially Globalized World*, p. 50 .

<sup>51</sup> It should be noted that many have deep doubts that a global juridical body could effectively serve human needs and be legitimate. This would require, for a start, that it have the substantial material and administrative resources to establish and manage a global property system. Further, for this body to be legitimate, it would have to be accountable to all humans. Given the cultural and other differences between humans, it may not be possible for all to reasonably consent to the same juridical body.

<sup>52</sup> In this regard, see Julian Ku and John Yoo's "Globalization and American Sovereignty": "The United States may always withdraw from the WTO Agreement if it opposes a WTO interpretation of panel decision. Moreover, under the terms of the WTO implementing legislation, none of the panel determinations are directly enforceable in U.S. courts."

WTO, but there are other notorious examples of the U.S. deciding to opt out of international treaties and conventions that it has joined without resulting in punitive sanctions (the Kyoto Accords, the Geneva Convention, the International Criminal Court etc).<sup>53</sup> By contrast, it is not as easy for a citizen of a state to voluntarily remove him or herself from subjection to the juridical authority of the state. As mentioned above, a citizen's membership in a state is not voluntary. If one attempts to opt out of state legislation, one risks severe state-administered consequences. The decisions of states to engage in international organizations, however, are voluntary.

It should be acknowledged that currently the world seems to be in a messy intermediate phase between a Westphalian state system of autonomous and independent states, and a world with fully authoritative global institutions. The world is now characterized by extensive global cooperation and an increase of the importance of international organizations and multinational corporations. The organizations and treaties that constitute the international regime make decisions that impact individuals' lives on a large scale. I do not mean to dismiss the significance of global institutions, and surely there are norms the global regime must satisfy to render its decisions reasonable. It might even be true that the significance of global institutions on individuals' lives requires that those institutions, like states, meet a standard of reasonable consent. In this way, it might appear that the explanation I offer for Commonsense Nationalism might generalize to apply just the same to this international regime. However, even if global institutions must be legitimated through reasonable consent, the differences in juridical authority between states and global institutions that I have described above suggest that each regime faces a different burden of justification. In our world as it stands, states maintain ultimate juridical control over citizens, not global institutions. This is a relevant difference in authority that entails that states must meet a burden of justification different from global institutions. Insofar as there is this relevant difference in authority, the explanation I offer accounts for unique reasons that hold between citizens and that do not hold between citizens and foreign nationals.

(b) *Do states have juridical authority over foreign nationals?*

The fact that states like the U.S. exercise such substantial authority may elicit a second objection. It appears that the decisions of powerful states are authoritative over non-citizens of those states. If this is true, then the state must seek reasonable consent from the foreign nationals subject to its decisions as well as the citizens subject to its decisions. If so, the explanation does not show that there is a special relationship between existing states and citizens. Julius, for instance, raises this objection:

If you try to enter the United States without the right papers, you will be seized and returned to where you lived before. If you plan to distribute anti-retroviral drugs to HIV carriers in your country, you will be deterred by liability in U.S. courts from using

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<sup>53</sup> Keohane makes a similar point about the European Union: "unlike in the United States, the constituent parts retain the right to veto amendments to the constitutional document... and there is little doubt that secession from the community would not be resisted by force." *Power and Governance*, p. 72. Consider in this respect France's and the Netherlands decision in the Summer of 2005 to reject the EU constitution. Or consider Great Britain's decision to not be subject to the decisions of the European Central Bank.

formulas patented by U.S. manufacturers. If you want to nationalize your country's foreign-owned productive assets, the long list of occasions on which the United States reversed such assertions of sovereignty by mining the harbors and arming the opponents of states that attempted them will dissuade you from risking similar disruptions now.<sup>54</sup>

I believe there is a response to this objection that does not deny the facts to which Julius points. Citizens are subject to the decisions of their state in a different way than non-citizens are subject to those decisions.<sup>55</sup> I take the following four considerations to be individually necessary and jointly sufficient to mark a difference between a state exercising juridical authority over a population who must reasonably consent to the state and a state influencing a population that does not meet the same burden of justification. These four considerations together indicate a difference in terms of the sorts of legitimacy required by a state.

First, the decisions of a state are authoritative over its citizens *automatically*. Citizens are subject to their state's decisions as a result of being born within the state, no matter what they do. In this way they are automatically subject to the legal system established, interpreted, and enforced by their state. A citizen cannot remove him or herself from subjection to those juridical decisions, except through the very bold step of emigration. The decisions of a state are not automatically authoritative over foreign nationals; foreign nationals are only subject to state decisions when they perform certain actions. For instance, a U.S. immigration law coerces non-citizens only when they attempt to enter the U.S. These laws do not apply automatically, independently of non-citizens' actions. It is only a citizen's domestic state laws that have this automatic feature. And, as I discussed above, this automatic feature is partly what characterizes juridical authority that requires citizens' reasonable consent.

Second, the decisions of a state are authoritative over citizens *as an entire system*. The institutions of one's state collaborate to regulate interactions as a systematic whole. The entire legal system of the U.S. applies to U.S. citizens. But the entire legal system of the U.S. does not apply to non-U.S. citizens. A state's laws are authoritative over non-citizens in piece-meal fashion, with different laws applying to different persons in discrete situations. This is evident by the fact that laws of the non-US citizens' state may conflict with laws of the US. In these cases of conflict, the ultimate adjudication and enforcement is controlled by one's own state, not the foreign state. Consider as well the following consideration. If a citizen of a different state violates a U.S. law, such as the patent law Julius described above, it is left to that citizen's own state to enforce the law and extradite the citizen to the U.S.. The U.S. cannot come in to this other state and arrest the citizen as this would be seen as a violation of state sovereignty.

Third, the decisions of a state have a *broad range* of authority over citizens. The laws established, interpreted, and enforced by one's state encompass a wide scope of life. These laws, even in minimal states, include the establishment and administration of the property system, the regulation of contracts and financial transactions, the provision of social services such as education and health care, the regulation of transportation, the regulation of communication and

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<sup>54</sup> AJ Julius, "Nagel's Atlas," *Philosophy and Public Affairs* vol. 34 no. 2 (2006) pp. 176-192.

<sup>55</sup> At this point, I am doing ideal theory so assume that there are not illegal immigrants, guest workers, tourists, and so forth in a state. Each of these groups might require additional discussion that must be left out of this project.

media, access to public utilities such as water and electricity and so on. State institutions both broadly constrain what citizens can do and broadly enable an array of actions. State laws only apply to a narrow range of the activities of foreign nationals, and will not include important domains of life such as property entitlements, access to social services, and access to public utilities. The laws of their own state will determine these broader provisions and obligations.

Fourth, the decisions of a state place *positive demands* on citizens. The state legally requires citizens to perform various actions that support the state. Citizens are legally required to pay taxes and to participate in civic affairs, for instance by serving on a jury, by voting, and military service. A state's decisions only place *negative demands* on foreign nationals. States legally prohibit foreign nationals from performing certain actions, but they do not place positive demands, such as taxation or other civic obligations, on them.

These four features of the juridical authority of a state suggest how broad and deep that authority is over its citizens, and requires that the state must meet a strong normative standard i.e. that of reasonable consent. Since state-decisions do not have the broad and deep authority over foreign nationals, the state need not consider their interests in the same way as its own citizens. The difference in *de facto* authority supports a normative difference in legitimation. It is true that the fact that the decisions of powerful states impact foreign nationals entails that powerful states have reason to consider the effects of their decisions on them. Although this may morally constrain state decisions, this is consistent with the Commonsense view that states have reason to favor their citizens. I have explained this as a result of the special sort of juridical authority actual states administer over their population.

## 7. Taking States as They Are

The explanation I have offered leaves much open. It does not specify how demanding the reasons for states to favor citizens and citizens to favor compatriots are, and it does not specify whether these reasons ground moral obligation. This explanation also does not specify the demandingness of the norms that hold across citizens of different states or answer the contested question of whether justice applies globally.<sup>56</sup> Although it leaves these issues open, the explanation points to a feature of existing states that plausibly grounds Commonsense Nationalism. This approach, in beginning from existing states, is methodologically conservative. It takes the existing division of states for granted, and thus does not consider the question, as an instrumental explanation might, of whether there might be a better alternative division of states or whether there should even be states with juridical authority. Some theorists argue that this methodological conservatism severely limits the account. They claim that an explanation that takes the division of the world for granted is a form of non-ideal theory that has no place in normative political philosophy. They argue that normative political philosophy should not accept the world as it is with its many imperfections. Rather, political philosophy should provide guidance for how the world ought to be. Charles Beitz, for instance, claims that “ideal theory

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<sup>56</sup> See, in particular, the recent debate surrounding Thomas Nagel's 'Global Justice,' *Philosophy and Public Affairs* vol. 33 no. 2 (2005) pp. 113-147, including responses by Joshua Cohen and Charles Sabel ("Extra Rempublicam Nulla Justitia" *Philosophy and Public Affairs* vol. 34 no. 2 (2006) pp. 147-175, and Julius ("Nagel's Atlas" *Philosophy and Public Affairs* vol. 34 no. 2 (2006) pp. 176-192.

prescribes standards that serve as goals of political change in the non-ideal world.”<sup>57</sup> Beitz may argue that the explanation for Common-Sense Nationalism does not prescribe ideal standards but merely seeks to justify the world’s non-ideal flaws. He claims elsewhere that a nationalist argument similar to the one described here “arbitrarily favors the status quo.”<sup>58</sup> Others make similar criticisms. Tan writes:

to say that sharing a social scheme justifies favoring fellow members is therefore question-begging in a context of global inequality, for the very act of sharing a social scheme with some and not with others...is already an act of favoritism that needs to be accounted for.<sup>59</sup>

Tan holds that an explanation for Commonsense Nationalism that starts from existing features of states assumes something--namely the actual division of states--that must itself be philosophically grounded. So these critics ask, what justifies the conservative, arbitrary, and biased starting point?

The first thing to say in answering this criticism is that the sort of explanation offered here for Commonsense Nationalism *is* a part of ideal theory. The explanation explores what must be true of existing states for their decision-making and enforcing authority to be legitimate. The questions of what must be true for actual states to be legitimate and what this implies for the norms within states are ideal-theoretic questions. Fully worked out answers to these questions *will* prescribe standards that serve as goals of political change. For instance, they will prescribe ideal standards for state policy such as first-admission and second-admission immigration policy. I have claimed that a plausible explanation for Commonsense Nationalism takes the existence of states as of provisional normative significance, and explains their significance in terms of actual state features. This assumption alone does not make the explanation a part of non-ideal theory. All ideal theory begins from some basic empirical assumptions. For instance, even ideal theory assumes empirical facts about human psychology and the scarcity of resources. There is thus a burden on the critic to show that the particular empirical assumption of state divisions is unreasonably arbitrary in a way that these others are not.

Regardless of whether the explanation is ideal-theoretic or not, there are important reasons to explain Commonsense Nationalism in a plausible way. The view that state borders have some normative significance is widespread, and is presumed by states’ policies and citizens’ evaluative outlook. In particular, domestic debates about issues of second-admissions regarding the integration of recent immigrants assume some version of Commonsense Nationalism. Cosmopolitans may reject those debates as relying on false nationalist assumptions. However, in this project I seek to understand the respective sides of debates about second-admissions and frame them in their best possible light. I hope to reconcile the sides in ways acceptable to the disputants. This means that the assumptions underlying those debates should, as far as possible, be seen to be justified. In my view, the best possible justification for Commonsense Nationalism begins from features of existing states. This is not an arbitrary

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<sup>57</sup> Beitz, *Political Theory and International Relations*, p 156.

<sup>58</sup> Beitz, “Cosmopolitan Ideals and National Sentiment,” *Journal of Philosophy* (1983) p. 595

<sup>59</sup> Kok-Chor Tan, *Justice Without Borders*, p. 175.



starting point, but one that best explains an important and prominent normative view. The starting point might be conservative, perhaps even biased, but there are good reasons to try to understand and reconcile domestic debates in their own terms. It is entirely possible that the project of understanding and reconciling debates about second-admissions is unachievable, but it cannot be said in advance that it has no place in normative political philosophy. Clarifying and assessing these sorts of debates seems clearly to be an important task for a political philosopher.

The chapter does not seek to answer the important questions: should we have states? where should their boundaries lie? should there be a global state? etc. But rather, given that we have states, taking their existence as a starting point, what is their normative significance? Here I have only laid groundwork to answer this question. In the next chapter I develop this approach by looking more closely at the contractual account of legitimacy. In particular, I discuss what relationships must hold between citizens for their shared state to be legitimate, and I discuss these relationships in terms of the concept of the nation. I claim that the relationships necessary for legitimacy serves as a basis of social unity appropriate for liberal states. It is this approach to social unity that will be employed to address issues of second admissions, and to shed light on debates regarding the integration of recent immigrants. The approach to Nationalism I sketch here might be conservative, but it is precisely this conservatism that allows it to be useful in application to contemporary political debates.

## Chapter 3

### Social Unity and The Nation

#### 1. Two Models of the Nation

The concept of the nation is employed in a variety of contexts, from academic literature to everyday discourse, and even in political uprisings. A bit of philosophical attention, however, indicates that the concept is often used in very different ways and for very different purposes. Here we can distinguish two major conceptualizations of the nation.

The first is an approach that understands nations as constructed by the modern political organization of states. On this model, nations developed with the emergence of the state system during the Enlightenment period, and their character is shaped by state institutions. For reasons that will be more clear below, I call this approach the Anglo model. Many influential theorists of the nation hold views that fit the Anglo model. For instance, Benedict Anderson famously claims that nations are “imagined communities” constituted by members imagining themselves as sharing a nation. Although, on his account, the nation is constituted by the subjective conceptions of members, Anderson stresses the importance of political and historical developments on members’ imagination. For instance, the development of the printing press and the production and distribution of printed material by states were integral to the development of members’ conceptions of national membership.<sup>60</sup> Another prominent theorist, Ernest Gellner, directly ties nations to states: he claims that nations are a product of the economic functions of the state. On this account, the state needs its citizens to constitute a nation in order for it to meet certain sorts of economic goals, and it employs state institutions such as state controlled education to mold the nation.<sup>61</sup>

A potential problem with this model is that by making nations dependent on state construction, the model does not appear to leave room for the existence of nations without states. It does not explain the intuitive idea that some states have formed to accommodate pre-existing nations’ rights to political self-determination. The second major approach to the nation, which I call the Germanic model, is sensitive to this issue. On the Germanic model, the nation is constituted by a cultural group that predates states. Members of a nation share a common ethnic identity and cultural similarities such as a shared language, which are relationships that hold independently of modern political institutions. Those that share the ethnic and cultural relationships are members of a nation regardless of whether they share a state, and so it is possible for there to exist nations that do not have a state. This approach was arguably developed in the 18th Century by Fichte, and was further theorized in the 19th century by Herder. Both of these German theorists thought of the German people as an ethnically and

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<sup>60</sup> Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London: Verso 1983).

<sup>61</sup> Ernest Gellner, *Nations and Nationalism* (Ithaca, NY: Cornell University Press 1983). Gellner says “the monopoly of legitimate education is now more important, more central than the monopoly of legitimate violence” (p. 34).

culturally unified group composing a nation, or *Volk*, which had a national spirit, or *Volkgeist*, that transcended political contexts. More recently other theorists have adopted this approach.

For instance, A.D. Smith claims that nations have an ethnic basis, and he argues that persons are members of the same nation only if they share an ethnic history, including sharing a language and a way of life. Again, an appeal of Smith's account is that it captures the thought that there are many nations that do not have their own state, and that nationalism is an ideology whereby a pre-existing national group, defined in terms of ethnicity, cultural history, and shared language, seeks to acquire political autonomy.<sup>62</sup>

It is interesting to observe that these two theoretical models parallel the historical development of British and German political institutions. In the Anglo case, a political body--the English monarch and Parliament--exercised authority over an ethnically diverse set of subjects. These subjects were shaped to share a common English nationality as a way of furthering the stability and economic development of the state. In the case of Germany, however, a linguistically and ethnically similar group was divided across separate political territories. Nationalism was a force that unified the fragmented Germanic people into a shared political body, the German state. Given these differing histories of the British and German nation, it is not surprising that they motivate different conceptualizations of the nation, the former motivating a model that stresses the role of the state, while the latter stresses state-independent ethnic relationships.

I mark this distinction between two major models of the nation in order to show that the concept has been theorized in different ways to be appropriate for different political contexts. In my view, disputes between these models cannot be arbitrated independently of the political context or particular purpose at hand. Theorists reach divergent accounts of the nation because of their divergent interests and uses for the concept. This suggests that the adequacy of an account of the nation depends on the purposes for which the concept of the nation is employed. Different purposes will suggest different conditions of adequacy for the account. One cannot decide the best account of the nation without first clarifying the purposes for which the concept is employed and the conditions of adequacy arising from those purposes.

This project seeks to understand the nation as a basis for social unity to address the ethics of assimilation for immigrants in liberal states. The account of the relationships between citizens that constitute a nation must thus be determined by the relationships between citizens that plausibly serve social unity in a way appropriate for liberal states. Accounts of the nation that do not meet these conditions will be rejected. For instance, if an account of the nation does not serve social unity, then it cannot help respond to the recent issues of second-admissions that motivate this project. It does not indicate what motivates some citizens' concerns regarding recent immigration and does not indicate how states should proceed to address the social disunity that seems to have arisen partially as a result of recent immigration. Further, if an account of the nation implies that the nation is constituted by illiberal features, then that account cannot provide plausible guidance for the demands of assimilation in liberal states. It likewise does not address the concerns or appropriate responses to developments stemming from recent immigration.

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<sup>62</sup> A.D. Smith, *National Identity* (Nevada: University of Nevada 1991).

At this point it is an open question as to which account of the nation meets the conditions described above. Determining acceptable accounts of the nation requires analysis of the basis of social unity implied by the values of liberal states. This is what I do in this chapter, focusing on a particular conception of liberalism and liberal values.

I adopt a conception of liberalism that makes a claim about the legitimacy of the state. It holds that the juridical authority of the state is legitimate only if it is the object of reasonable consent of its citizens. This account is vague and requires specification. However the intuition underlying the conception is familiar: the state's authority is based in the collective will of citizens, and state decisions must be responsive to citizens' fundamental interests.<sup>63</sup> I employ this conception of liberalism to suggest an account of the nation. On this account, the nation is constituted by the relationships between citizens required for the state to be legitimate. Or in other words, the nation is constituted by the set of relationships that must hold between citizens for them to reasonably consent to the state.

I examine this account of the nation in several stages. In section 2, I discuss the conception of legitimacy to which I appeal by looking at several features of Rawls' work, in particular his ideas of an overlapping consensus and stability. I then claim that two relationships must hold between citizens for the state to be legitimate. I describe these relationships and claim that they can serve as a basis of social unity and constitute a useful account of the nation. I conclude by discussing several objections to this account, including an objection that holds that the account is too minimal to provide a basis for social unity. I also respond to the cosmopolitan challenge by showing that the account of the nation does imply differentiating features of nations, and that they can be the object of strong loyalties and emotional attachments. Note that this chapter is more exploratory than argumentative; the argument for the account of the nation I explore consists in the overall use of this account to address the ethics of assimilation in liberal states developed over Chapters 3, 4, and 5.

## 2. Rawls' Conception of Legitimacy

I assume a conception of legitimacy that holds that the state is legitimate only if it is the object of the reasonable consent of its citizens. This conception of liberalism posits a necessary condition for state legitimacy, which I call the reasonable consent condition. This condition may also be sufficient for legitimacy, or there may be further conditions; I leave this open.

The reasonable consent condition requires that state institutions be regulated by specific principles of justice. Unless specifically noted, I remain agnostic about the content of these principles. I also leave aside other requirements of the state or its political institutions. My focus is understanding the relationships that are required *between citizens* for satisfying the reasonable consent condition rather than what is required *of institutions*. In other words, I seek

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<sup>63</sup> I introduce this conception of legitimacy in Chapter 2. It might appear that by basing the nation in a liberal conception of legitimacy, I am veering away immediately from the Germanic model. However I do not believe this to be true. Even the Germanic model of the nation has some connection to state legitimacy. For instance, it is often claimed on the Germanic model that members of a nation have at least *prima facie* claims for political sovereignty; the nation is a collective body calling for a sovereign legitimate state.

to address only one of the many possible requirements for the reasonable consent condition to be met; I focus on what must be true of the relationships between citizens for the state to be legitimate.<sup>64</sup>

Further, I do not directly address the economic relations between citizens. One noteworthy feature of the recent developments that motivate this project is that the disunity in liberal states is not primarily a matter of economic imbalance or impoverishment. The concerns of recent immigrants involve a lack of non-economic values such as political representation, shared community, and cultural accommodation. It is not an adequate response to many immigrants' concerns to offer them economic equality or greater economic opportunities. The concerns of native-born citizens regarding recent immigrants are likewise also not entirely economic in nature. These citizens claim that recent immigrants have divergent values, dress differently, or speak different languages. These concerns are distinct from economic concerns recent immigration may trigger and they do not appear to be addressable through economic distributive means alone.<sup>65</sup>

I now investigate Rawls' conception of legitimacy in more detail. This conception has a number of important components, but I explore only two here.

#### (a) *Overlapping Consensus*

According to Rawls' conception, the reasonable consent condition is satisfied only if there is an overlapping consensus on a set of political principles regulating the state.<sup>66</sup> An overlapping

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<sup>64</sup> This distinction is made by others as well. In 'Liberal Citizenship and The Search for an Overlapping Consensus: The Case of Muslim Minorities' *Philosophy and Public Affairs* 34(4) (2006) pp. 373-421, Andrew March distinguishes the requirements of justice and the requirements of citizenship. He claims that a state can meet a minimal content of justice, but that this leaves out certain kinds of "beliefs about the political community" held by members. He has in mind members' beliefs about belonging, loyalty, recognition and solidarity. He claims, "there is a wide range of questions that relate to membership and belonging that are not covered by justice." (389) It is these relationships that I have in mind. Also see Will Kymlicka and Wayne Norman, "Return of the Citizen: A Survey of Recent Work on Citizenship Theory," *Ethics* vol. 104 no. 2 (1994) pp. 352-381. They distinguish "the demands of justice" and "community membership." (352) They write, "the health and stability of a modern democracy depends, not only on the justice of its 'basic structure' but also on the qualities and attitudes of its citizens," including "their sense of identity...their ability to tolerate and work together with others..." and so on. (352-353) Again, it is these latter relationships that interest me here. I leave the exact distinction between these relationships open. As I discuss below, there are connections between these relationships, and in particular I claim that the justice of state institutions will help undergird the salient relationships between citizens.

<sup>65</sup> I motivate this claim further in Chapter 1.

<sup>66</sup> Or more precisely, principles regulating basic justice and the constitutional essentials of the state. For more about this, see his Rawls *Political Liberalism* (New York: Columbia University Press 1996) Lecture VI, pp. 227-230. Future references to this text will appear parenthetically in the body of this paper as *PL*. Rawls is not entirely clear about the subject of these principles. Elsewhere he says that the overlapping consensus also applies "to particular statutes and laws enacted in accordance with that [constitutional] structure." *The Law of Peoples: with 'The Idea of Public Reason Revisited'* (Cambridge, MA: Harvard University Press 2001). Future references to this text will appear parenthetically in the body of this paper as *IPRR*.

consensus is a convergence on a set of principles among citizens who reasonably disagree about their comprehensive views. In other words, although citizens have diverging comprehensive views, they share a commitment to a set of political principles regulating the state. The requirement of an overlapping consensus is met only if all citizens affirm the political principles from within their different comprehensive views. There is no conflict between their comprehensive views and the political principles, and indeed their comprehensive views enable them to develop a moral commitment to the political principles. Citizens with different comprehensive views may have different relationships to the political principles, and I give an example of this below.

Rawls requires an overlapping consensus because this is the only way for the state to properly respect reasonable pluralism. Reasonable pluralism is the idea that, in liberal states, different citizens will adhere to different reasonable comprehensive views. Rawls claims that this fact is neither to be neutralized nor deplored. It is the “natural outcome of the activities of human reason under enduring free institutions” (*PL* xxvi) and is a “permanent feature of the public culture of democracy” (*PL* 36). So the state must respect reasonable pluralism, and Rawls claims it does this by not being regulated by principles based only in a single comprehensive view. The political principles that regulate the state must find support in all citizens’ different reasonable comprehensive views. Now, if the state is regulated by political principles that are not the object of an overlapping consensus, then there are citizens who are unable to reasonably consent to the state. This is because the decisions of the state will be inconsistent with some citizens’ reasonable comprehensive views, and the state would be imposing a particular comprehensive view on those citizens. This means that the state is not appropriately respecting those citizens in a way required of a liberal regime. As Rawls puts this point:

If [the political principles] were not expressly designed to gain the reasoned support of citizens who affirm reasonable although conflicting comprehensive doctrines—the existence of such conflicting doctrines being a feature of the kind of public culture that liberal conception itself encourages—it would not be liberal. (*PL* 143)

Rawls goes so far as to claim that the fact of reasonable pluralism entails that if a state is regulated by a single comprehensive view not shareable by all reasonable citizens, then the state is “oppressive.”<sup>67</sup>

Rawls holds that one implication of the requirement of an overlapping consensus is that, when political decisions are at stake, citizens must arbitrate those decisions on the basis of the political principles that are the object of the overlapping consensus. These political principles specify values that apply to state institutions. In an overlapping consensus, all citizens recognize and affirm these values from their otherwise diverging reasonable comprehensive views. Rawls calls the values based in the principles within the overlapping consensus ‘political values’ and he calls the reasons grounded by those values ‘public reasons’. So, with Rawls’ terminology in place, all citizens can reasonably consent to the state only if the state’s decisions are justified by public reasons. Citizens themselves must appeal to public reasons when advocating political decisions. The political principles that are the object of an overlapping consensus provide a

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<sup>67</sup> He says, “A continuing shared understanding on one comprehensive religious, philosophical, or moral doctrine can be maintained only by the oppressive use of state power” (*PL* 37).

“public basis of justification generally acceptable to citizens on fundamental political questions.”<sup>68</sup>

When citizens do appeal to this public basis to decide political questions, citizens satisfy the ‘criterion of reciprocity.’ This criterion holds that “our exercise of political power is proper only when we sincerely believe that the reasons we offer for our political action may reasonably be accepted by other citizens as a justification of those actions” (*PL* xlv). This criterion is formulated with a specific role, which Rawls claims is “to specify the nature of the political relation in a constitutional democratic regime as one of civic friendship” (*PL* li, *IPRR* 137). So, according to Rawls’ view, there is a special civic relationship that must hold between citizens for the state to be legitimate. This civic relationship is achieved only if citizens share a commitment to certain political values, and a commitment to resolve political disagreements in terms of those shared political values, or in other words, in terms of public reason.

Rawls claims that the values that appear within the overlapping consensus include familiar liberal values such as “equal political and civil liberty; fair equality of opportunity; the values of economic reciprocity; the social bases of mutual respect between citizens” (*PL* 139). More concrete examples include the values “mentioned in the preamble to the United States Constitution: a more perfect union, justice, domestic tranquility, the common defense, the general welfare, and the blessings of liberty for ourselves and our posterity” (*PL* 144). An important feature of these values is that they are all found within the ‘public political culture’ of liberal societies. The state has a history of propagating and seeking to embody these values and state institutions aspire to operate in accordance with them. In this way the values are a part of the public political culture of liberal states. As part of the public political culture, liberal values are accessible to all citizens no matter their comprehensive views. Citizens from diverging comprehensive views are familiar with the values and their comprehensive views have frequently been shaped by them. Citizens are thereby able to affirm liberal values from within their comprehensive view. This, Rawls believes, suggests that an overlapping consensus is achievable.<sup>69</sup>

I now offer an example of an overlapping consensus. Consider the following two American citizens. One is an atheist who believes that the good life consists in the free pursuit of a path of one’s choosing, no matter what path one freely chooses. I have in mind here someone Rawls calls a “comprehensive liberal.” The other is a devoted Muslim who believes that the good life consists in devotion to God’s pronouncements. These citizens share in an overlapping consensus if and only if they both affirm the political principles regulating the U.S. and appeal to the values, such as equal liberty, contained in the U.S. constitution when deciding political questions. The comprehensive liberal might affirm those principles because he believes that principles that protect equal liberties capture a moral truth and that those liberties are constitutive of the good life. His comprehensive view thus entails a commitment to the political principles regulating the

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<sup>68</sup> Rawls emphasizes that this does not apply to “background culture,” but only to questions in the “public political forum.” (*IPRR* 133, 134).

<sup>69</sup> Rawls says, “history tells us of a plurality of not unreasonable comprehensive doctrines. This makes an overlapping consensus possible, thus reducing the conflict between political and other values” (*PL* 140).

state. The Muslim, on the other hand, does not believe that principles that protect equal liberties capture any fundamental moral truth. He does not believe that one can live a good life in the absence of devotion to God. However, despite this belief, he might still affirm the principles. He might, for instance, believe that submission to God is constitutive of the good life only if one freely chooses to submit to God. It is not genuinely valuable religious conviction if one follows God's edicts simply out of tradition, habit, or state coercion. The Muslim might thus believe that the U.S. ought to protect citizens' equal liberties not because those values capture any fundamental truths, but because they are instrumentally necessary for genuine religious conviction.<sup>70</sup> Like the comprehensive liberal, the Muslim's comprehensive view entails a commitment to liberal political principles. Although they have fundamentally disagreeing outlooks, both citizens see their comprehensive views as furthered by their affirmation and adherence to these principles.

I do not mean here to gloss over the substantial philosophical and practical difficulties that might arise with an overlapping consensus, and I discuss further below how over time citizens may come to converge in an overlapping consensus.

#### (b) *Stability*

A related important idea in Rawls's conception of legitimacy is that of stability. By stability, Rawls means that citizens of the state will recognize and affirm the state for moral reasons and that the state will foster its own support amongst citizens over time. This means that citizens will throughout their lives affirm the political principles that regulate the state and will be disposed to act in accordance with those principles.

Rawls's account of stability is connected to a commonsense notion of stability that involves the state enabling citizens to live their lives with minimal disruption or social disorder. The commonsense notion seems to hold that states are stable insofar as they establish and administer a legal system to minimize conflict and law breaking, and provide sufficient infrastructure for economic growth. On this notion, a stable state ensures the safety of citizens

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<sup>70</sup> There has been much recent discussion concerning the possibility of Muslim commitment to liberal values, much of it arguing in the negative. I return to the example of Muslim immigrants over the next two chapters. For an accounts of the Islamic position I describe in this paragraph, see the *Shia* cleric Imam Hassan Qazwini's recent work *American Crescent: A Muslim Cleric on the Power of His Faith, the Struggle Against Prejudice, and the Future of Islam in America* (New York: Random House 2007). There are, unsurprisingly, a variety of other approaches suggesting how a devout Muslim might affirm liberal political principles. Tariq Ramadan describes an approach in his *Western Muslims and the Future of Islam* (Oxford: Oxford University Press 2004) that works from within Muslim values of reciprocity. He writes, "their universal principles teach them that wherever the law respects their integrity and their freedom of conscience and worship, they are at home and must consider the attainments of these societies as their own and must involve themselves with their fellow-citizens, in making it good and better. No withdrawal, no obsession with identity--on the contrary, it is a question of entering into an authentic dialogue, as between equals, with all our fellow-citizens with respect for the identical universality of our respective values, willingly open to mutual enrichment and eventually to becoming true partners in action." p. 5 Also compare Bhikhu Parekh, *Europe, Liberalism, and the 'Muslim Question'* (Amsterdam: Amsterdam University Press 2008): "For most European Muslims democracy therefore remains a better form of government than any other, and they have a moral obligation to uphold it" (p. 183).



and provides suitable protection of citizens' property. Although these features are at least implicitly present in Rawls account of stability, his account varies from the commonsense notion by requiring more of a stable state than a mere lack of disruption or social disorder. Stability, on Rawls's account, is partly a normative notion, and is only achieved when the state is suitably grounded in citizens' moral outlooks. The specific normative features of Rawlsian stability is evident in the following three considerations.

First, stability for Rawls appears to be conceptually linked to the legitimacy of the state. Whether the state is legitimate depends on it being stable. It seems that citizens may not reasonably consent to a state regulated by political principles they or others would not be disposed to affirm and abide by over time. A state that fails to be stable appears to lack a basic feature of well-functioning states, and the lack of this feature seems sufficient for citizens to reasonably withhold their consent.

Second, in *A Theory of Justice*, Rawls suggests that free-riders undermine the stability of the state. There, he says, "just arrangements may not be in equilibrium then because acting fairly is not in general each man's best reply to the just conduct of his association" (TOJ 497). Rawls seems to think that a feature of a stable state is that citizens' dispositions to comply with the state's laws are not opposed to their perceived self-interest. In a stable state, citizens will not pursue opportunities to advance their narrow self-interest through non-compliance. Or in other words, a stable state does not have a significant free-rider problem. One way the state might try to prevent free-riding is for it to pinpoint and eradicate situations where free-riding is possible. The problem with this approach is that it may require the state to crack down paternalistically and significantly interfere in citizen's lives. Non-liberal states often try to achieve a kind of stability through strong state control over citizens. However, it appears that Rawls recognizes that liberal states cannot implement these institutional or punitive measures to eliminate all free-riding. Rather, Rawls thinks that free-riding is diminished in stable liberal states because of citizens' sense of justice. He says, "to insure stability men must have a sense of justice" (TOJ 497). The sense of justice is a feature of citizen's moral outlook by which citizens are motivated to comply with state laws as part of their comprehensive views. With a fully developed sense of justice, there will be no deep conflict between a citizen's compliance with laws and that citizen's good. The sense of justice required of citizens in a legitimate state is one that recognizes the overlapping consensus and the political values that appear within it. Citizen with an appropriate sense of justice recognize the state as supported by parts of their comprehensive views. They thus recognize that they have moral reasons to comply with its laws, and they are motivated by these reasons to comply.

Third, the normative feature of Rawlsian stability is evident in Rawls's distinction between a *modus vivendi* and a stable state. To understand this distinction, consider states that are characterized by extensive diversity. Why would citizens in a diverse state tolerate their compatriots with whom they have fundamental disagreements? In a *modus vivendi* the diverse citizenry tolerate one another as a matter of pragmatic compromise. Toleration is strictly a second-best for citizens, agreed to and practiced because of an inability to impose one's preferred political system or comprehensive view on others. A *modus vivendi* may provide social order and the conditions for economic growth. But Rawls claims that this sort of state lacks genuine stability because its social order is based purely on a possibly fleeting convergence of interests.

He says, “social unity is only apparent, as its stability is contingent on circumstances remaining such as not to upset the fortunate convergence of interests” (PL 147). There is no guarantee that the convergence of interests between the diverse groups will remain over time. For instance, if a group of citizens consolidates a large amount of power or increases in membership, then it may no longer be in their interests to compromise. If toleration were based in a *modus vivendi*, then these citizens would no longer seem to have reasons to tolerate other groups. This might lead them to exclude those groups from political decision-making, thereby increasing the potential for disorder and conflict. Although a *modus vivendi* could exist over time without infighting or intolerance, it cannot *ensure* that disorder and intolerance will not occur. Since the supposed state stability is based in the contingencies of the relative balance of social power, it lacks genuine stability. On the other hand, a genuinely stable state ensures minimal disruption and conflict in the face of extensive diversity because citizens recognize the permanence of diversity and they morally support tolerant public policies. Citizens acknowledge the fact of reasonable pluralism and the requirement that political decisions must be justified to all reasonable citizens, even if those citizens have divergent comprehensive views. In a state characterized by these features, citizens’ toleration of those with whom they disagree is not a second-best agreed to because of purely pragmatic considerations. Rather, the commitment to tolerate is a fixed point within citizens’ comprehensive views. Under these circumstances, even if the balance of forces changes or interests no longer converge, citizens will continue to affirm the state, obey its laws, and offer public reasons to fellow citizens regarding political matters.

I have discussed three considerations that suggest normative features of Rawls’ understanding of stability. There are three points to emphasize from this discussion. First, stability is not merely some nice supplemental feature of well-ordered states, but is a necessary condition for citizens to reasonably consent to the state. A state must be stable for it to be legitimate. Second, stability requires that citizens have an appropriate sense of justice to affirm and abide by the principles regulating the state. Citizens are disposed to adhere to the laws of the state and this disposition is grounded in their comprehensive views. There is no conflict between compliance and a citizens’ comprehensive outlook. Third, stability requires that diversity is recognized as an inherent feature of liberal states, and that citizens ought to tolerate others for reasons that are not exclusively pragmatic. In a stable state, citizens have a moral commitment to tolerate those with whom they disagree.

### (c) *Overlapping Consensus and Stability in Some Recent Political Developments*

There is more to be said regarding the ideas of an overlapping consensus and stability. What I want to indicate here is that these ideas are not philosophical ideals divorced from political reality. Rather, they are intimately related to a common sense notion of social unity that has considerable political currency. Rawls explicitly formulates the ideas of an overlapping consensus and stability to capture a part of a commonsense notion of social unity. His stated goal in *Political Liberalism* is to look “for the most reasonable basis of social unity available to citizens of a modern democratic society,” and he claims that there is a “basis of social unity” when the state is regulated by reasonable liberal principles upon which there is an overlapping consensus (PL xli).

However, Rawls's claim by itself does not guarantee that he is working with a notion of social unity familiar to commonsense political discourse. To support the point that his ideas are important for contemporary politics, consider how they might figure into the recent developments in liberal states that motivate this project. I said in Chapter 1 that these developments are similar in that each indicates a lack of social unity in liberal states. I claim here that one plausible explanation of the lack of social unity in these developments is that they each indicate a failure of liberal states to be regulated by an overlapping consensus or a failure of liberal states to be stable in Rawls's sense. That is, the perceived social disunity consists at least in part in a perceived failure of liberal states to achieve an overlapping consensus or be stable. The developments suggest that there is not adequate convergence of citizens on liberal political values or that the state does not adequately generate its own support amongst citizens. If this is right, then this serves as a strong indication that one way to address social disunity in liberal states is to seek policy that moves them towards an overlapping consensus and stability.

Consider the 'Muhammad cartoon' protests that occurred in several European states. These protests suggest that some citizens of European states have a significant divergence in values regarding a fundamental political question, namely a question concerning the significance and scope of independent and free media. Some of these protestors claimed that Islam prohibits pictorial depictions of the prophet Muhammad, and that this religious prohibition precludes the media from publishing pictorial depictions, including cartoon illustrations. The state should censor these newspapers by preventing them from publishing those depictions. This commitment diverges significantly from other citizens who do not hold that religious prohibitions constrain the media. There was thus significant disagreement on a fundamental political question. This disagreement is noteworthy in that it does not appear to be a disagreement of conflicting *interpretations* of the values spelled out in the principles regulating the state, but appears to involve divergent commitments to the values themselves. That is to say that citizens had fundamentally opposed political commitments, without a common basis of political values to adjudicate their dispute. This suggests that one explanation of the disunity arising in the Muhammad cartoon protests is that citizens did not converge in an overlapping consensus on principles regulating the state. Note that even with a shared overlapping consensus, there is substantial room for disagreement. For instance, it is perfectly appropriate and within the bounds of an overlapping consensus for Muslim citizens to feel that publishing the cartoons was a needless provocation and to organize protests or a boycott of the newspapers. These responses are consistent with these citizens sharing liberal political values and believing that the state should not censor newspapers because their religion prohibits specific pictorial depiction. It is only this latter belief, seemingly held by some protestors, that precludes an overlapping consensus on liberal political principles.

Consider the 7/7 London bombings committed by several British citizens. The bombers intended to create disorder in their state and kill their fellow citizens. These two goals suggest two ways in which the state was not stable in Rawls's sense. First, the bombers' goal to create disorder in the state suggests that they did not affirm the state for moral reasons. They lacked the appropriate moral commitment to the state that would motivate them to comply with state laws. Second, the bombers' goal to kill their compatriots suggests they were not tolerant of their fellow citizens. They seemed neither to accept the permanence of diversity, nor sought to justify their

actions to their compatriots. It appears that two features of Rawlsian stability were not met, leading to significant social disunity.

Consider the riots in the French *banlieues*. The rioters claimed that they were stigmatized politically and culturally through underrepresentation in governmental positions and other positions of power or prestige and that the state was not appropriately responding to their concerns. Their claim suggests that they did not believe that they were fully included within the overlapping consensus. They felt that other citizens were not appropriately tolerant of them, and that state decisions were not justified to them on the basis of reasons they could accept. Also, the rioters' feelings of alienation from the state and willingness to break the law suggest that they did not affirm the state for moral reasons. They lacked the sense of justice which would motivate them to comply with the law. The social disunity here seems to consist at least partially in a failure of stability.

This is a much simplified discussion of complicated developments. But I hope to have motivated an analysis of the lack of social unity in these developments that appeals to Rawls' ideas of an overlapping consensus and stability. If these explanations are correct, then one way to address the potential social disunity is to understand how recent immigration might threaten an overlapping consensus and stability, and to understand how to foster the relationships between citizens that move them towards achieving these relationships.

### 3. An Account of The Nation

In this section I begin to develop an account of the nation suggested by Rawls's conception of legitimacy, focusing on the ideas of an overlapping consensus and stability. I base the account of the nation in Rawls's conception of the relationships required of citizens for the reasonable consent condition to be met and for the state to be legitimate. On this account, the nation is constituted by the set of relationships that must hold between citizens for there to be an overlapping consensus and for the state to be stable.

First a preliminary note. The account of the nation I offer here is formulated as a *general framework* applicable for all liberal states. A fully worked out account would fill out the framework by specifying particular features of each of the world's nations. This specification requires attention to the nature of an overlapping consensus and stability, to the psychological and sociological attributes of citizens, and to the particular histories of different states. Although I only offer a general framework for the nation here, I point to how the framework may be filled-in given the particular political histories and other features of states. The nation is constituted by the set of relationships that must hold between citizens for an overlapping consensus and for the state to be stable. I claim that these criteria suggest two general relationships that must hold between individuals for them to constitute a nation. The first is that citizens converge on a set of political principles regulating their state. The second is that citizens have an appropriate attitude of toleration towards one another.

The first constitutive feature of the nation is that members have a shared commitment to the political principles that regulate the state. This requirement follows directly from the requirement, for state legitimacy, of an overlapping consensus. There is an overlapping consensus only if citizens converge on a set of political principles regulating the state. These

principles must be liberal in nature and specify liberal political values. This requirement entails that there be an element of convergence within citizens' different comprehensive views. The comprehensive views of citizens may differ drastically, but each must include within it a commitment to liberal values.<sup>71</sup>

Achieving a convergence on liberal political values may be difficult. One challenge often raised to the idea of an overlapping consensus is that many comprehensive views include comprehensive claims that may be in conflict with liberal political values. If an overlapping consensus is a necessary condition for membership in a nation, then citizens with comprehensive views that preclude them from the consensus are excluded.

There are a number of things to say in response to these worries. Much of my response comes in the next chapters where I discuss the ethics of assimilation and the policies the state can reasonably employ to address those who are excluded to foster integration.<sup>72</sup> Let it be said now that there are a variety of ways in which the convergence on liberal political principles required by an overlapping consensus might be achieved. On Rawls's account, the principles are worked out through ideas implicit in the public political culture. This means that citizens who have lived in the state and whose comprehensive views are shaped by the public culture of that state are often at least implicitly committed to the principles regulating state institutions. So, if Rawls is correct, in many liberal states many citizens share in an overlapping consensus and one condition of their mutual membership in a nation is met. One crucial thing to notice about Rawls's claim here is that it only seems to apply to those who have lived in liberal states and who have had their comprehensive views shaped significantly by the public political culture of the state. This shaping of comprehensive views may take substantial time to achieve. It is precisely that this takes time to achieve that suggests that recent immigrants may be excluded from the overlapping consensus. Recent immigrants do not have comprehensive views that have been shaped by the public political culture of the state, and it is thus more likely that their comprehensive views may preclude them from affirming the political principles. They may be excluded from the overlapping consensus, thereby being excluded from the nation and posing a threat to social unity. This implication seems to give the intuitively correct result: recent immigrants are not immediately part of the nation to which they have recently arrived and are thought to potentially undermine the social unity of the state, especially if they do not share liberal commitments. This implication does suggest the importance of developing reasonable policies that can further immigrants' integration into the state.

This first feature of a nation concerns the relationships between citizens' comprehensive views and the principles regulating the state. The relationship of convergence on an overlapping

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<sup>71</sup> Note that this feature entails that a shared conception of the good is not a necessary condition for co-membership in a nation. Indeed, insofar as a nation is defined for liberal states characterized by diversity, there will not be any shared ends. This account is thus in stark contrast with so-called communitarian accounts of social unity (e.g. the one offered by Michael Walzer in *Spheres of Justice: A Defense of Pluralism and Equality* (US: Basic Books 1984).

<sup>72</sup> The cases just described suggest that there are demands of assimilation on those who have comprehensive views that are in conflict with the liberal political values that regulate the state, and that the state may have a role to undertake policies that encourage citizens to converge on the same set of liberal values. In this regard, consider my response in Chapter 4 to the objection that the demands of assimilation are biased against illiberal immigrants.

consensus does not itself require citizens to have any specific attitudes towards their compatriots. The second feature of a nation concerns the attitude citizens have towards one another. Applying Rawls's conception of legitimacy to the account of the nation suggests that for citizens to be co-members of the nation, they must have an appropriate attitude of toleration towards one another. The requirement of the attitude of toleration follows from Rawls's views about what must hold between citizens for the state to have genuine stability. Recall that a genuinely stable state differs from a *modus vivendi* insofar as citizens have a moral commitment to tolerate one another. Rawls's account of toleration is spelled out by his 'criterion of reciprocity' and the idea of 'public reason.' These complementary ideas hold that citizens must justify their political decisions by appealing to reasons that other citizens can accept. There are two features of the attitude of toleration suggested by Rawls that I take to be most important.

First, citizens must recognize and accept the diversity within their state. They do this by acknowledging that diversity is often reasonable and is a permanent feature of their state. Citizens must recognize that their compatriots have comprehensive views that diverge from their own but that are nonetheless reasonable. They also must recognize that their compatriots will *never* fully share their comprehensive views. Citizens who view those with divergent comprehensive views as unreasonable or only accept them with the hope that they will eventually adopt their own comprehensive view do not meet this condition. Andrew March, for instance, claims that citizens who tolerate their compatriots in order to encourage them to eventually convert to their own comprehensive view do not adequately accept diversity. He says, "mutual recognition between citizens thus requires that this diversity be accepted, even as we try to win adherents to our way of life."<sup>73</sup> Citizens must recognize and accept diversity in such a way that they do not think it can be eradicated through state policy or personal proselytizing. Again, this involves recognizing that there will always be compatriots with reasonable diverging views.

Second, citizens must not only acknowledge the permanence of reasonable diversity in their state, they also must respond to diversity in a specific way. Citizens must engage with their compatriots in a way that appropriately respects their compatriots' reasonable comprehensive views. The appropriate response to diversity is to offer other citizens reasons for political decisions that they can accept. In offering other citizens reasons that they can accept, citizens thereby satisfy the criterion of reciprocity. This criterion is formulated by Rawls for a specific role. He says the criterion has the role "to specify the nature of the political relation in a constitutional democratic regime as one of civic friendship" (PL li). Without seeking to justify political decisions to others using reasons they can accept, citizens do not appropriately respect their compatriots' reasonable comprehensive views, and this precludes a sort of civic friendship and genuine stability.

So, according to Rawls's conception, the appropriate attitude of toleration that must hold between citizens is one that requires citizens to accept diversity and respond to it by offering public reasons for political decisions. Insofar as citizens satisfy the two conditions of the attitude of toleration, the second constitutive feature of the nation is met.

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<sup>73</sup> March, "Liberal Citizenship and the Search for Overlapping Consensus: The Case of Muslim Minorities" p. 413.

On the account of the nation I offer, there are two relationships necessary for the nation. These are that all members of the nation share in an overlapping consensus and that they have an attitude of toleration towards other members that requires them to respect diversity and to offer public reasons for political decisions. As should be clear, this account is abstract, and only provides a general framework for the nation. More specific relationships must be spelled out from this general framework in order to have an account of a particular nation, such as the American or French nation. Again, these more specific accounts will depend on historical, psychological, and sociological facts about the states and the citizenry. I point to how to arrive at these specific accounts below.

#### 4. Affective Accounts of Social Unity

Before showing how the general framework can be further specified, I want to contrast the two relationships I offer to some other prominent accounts that have been employed for similar purposes. These other accounts are designed for the purpose of providing a basis of social unity for liberal states. As such, these accounts are clear contrasting contenders to my account of the nation. What these competing accounts share is that they claim that an affective or emotional attitude must be shared between members of a nation.

David Miller offers an affective account of the nation. He holds that a nation is partially constituted by an attitude members share of ‘belonging together.’ He claims that a nation is constituted in part by “a sense that the people belong together by virtue of the characteristics that they share.”<sup>74</sup> And he claims that “a national identity depends upon a prereflective sense that one belongs within a certain historic group.”<sup>75</sup> Miller thinks that this sense of belonging together is a requirement for citizens in a socially unified well-functioning state.

In later work, Miller claims that members of a nation must have relationships of ‘solidarity’ with each other that they do not have with non-members. He likewise thinks that this relationship is a requirement for citizens in a socially unified well-functioning state. Miller’s argument that solidarity is a requirement for social unity focuses on the redistributive functions of liberal states. In just liberal states, there is some redistribution of resources to provide for those who are disadvantaged.<sup>76</sup> Miller believes that in order for citizens to support a state that may tax their earnings and redistribute those earnings to their compatriots, citizens must feel solidarity or sympathy towards their compatriots. He writes

it is potentially difficult to mobilize people to provide collective goods, it is difficult to get them to agree to practices of redistribution from which they are not likely to personally benefit... These problems can be avoided only where there exists large-scale solidarity, such that people feel themselves to be members of an overarching community,

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<sup>74</sup> Miller, David, *On Nationality* (Oxford: Oxford University Press 1995), p. 20.

<sup>75</sup> *ibid.* p. 184

<sup>76</sup> Miller is agnostic on the content of the just redistributive principle and on the reasons why redistribution is required (e.g. to achieve equality or to reach a threshold (on so-called sufficiency views) etc). I follow him in assuming that redistributive principles are required without specifying the content of these principles.

and to have social duties to act for the common good of that community, to help out other members when they are in need, etc.<sup>77</sup>

Without this sense of solidarity, the citizens would not be motivated to provide for disadvantaged compatriots, and the state would not be sufficiently socially unified to further an essential function of a just state.

Miller does not specify in detail the nature of the attitudes of belonging together or of solidarity, so I presume an intuitive understanding of these attitudes. The first thing to point out is that Miller does not adequately argue that these are the kinds of attitudes that must hold between citizens in a socially unified and well-functioning state. His argument for including these attitudes is that they are required for the redistributive functions of the state, but his conclusion does not follow from his premises; other relationships may mobilize citizens to support redistribution. For instance, if citizens share in an overlapping consensus on liberal principles, then citizens all affirm and are motivated to comply with liberal principles. Insofar as these are *just* liberal principles, they specify redistributive requirements to provide for the disadvantaged. Citizens' affirmation of these principles in an overlapping consensus itself seems sufficient for them to be mobilized to provide for their disadvantaged compatriots. They will support redistributive policies even when those policies are not to their narrow self-interest because of their sense of justice and moral commitment to the liberal principles. And moreover, they will also support these policies in the absence of feelings of belonging-together or of solidarity. Consider a situation where citizens lack feelings of belonging together or solidarity to fellow citizens because other citizens differ from them ethically, culturally or other ways common in diverse states. This situation seems consistent with citizens supporting redistributive policies when those citizens affirm liberal principles. Even if wealthy citizens do not feel a sense of belonging or solidarity towards disadvantaged citizens, so long as the wealthy affirm principles that hold that disadvantaged citizens ought to be provided for through redistributive taxation, then the wealthy will support redistributive taxation. The following thought of a wealthy citizen seems entirely plausible: "I don't feel like I belong with the people who share my state—I don't associate with them or even know who they are—but they are citizens of my state, subject to the same juridical authority as myself. I affirm principles which say that they ought to be provided for economically, and so I support the state when it taxes me to provide for them." As in an overlapping consensus, it might be religious conviction or some other comprehensive outlook that grounds a citizen's commitment to the redistributive principles. But this need not involve feeling a particular sort of solidarity or sense of belonging with them.

If this is right and the redistributive function of liberal states can operate effectively when citizens share in an overlapping consensus, then Miller has not sufficiently argued that there must be a relationship of belonging together or solidarity between citizens. Furthermore, besides being insufficiently motivated, the attitudes Miller suggests seem to be both too robust and too minimal to adequately characterize the complicated feelings citizens might have towards each other in a large and diffuse redistributive state. Miller's attitudes are too robust as a feeling of belonging together or a feeling of solidarity seems to be an implausibly strong demand for one to feel for every member of a vast anonymous and diverse group. It seems like a stretch

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<sup>77</sup> David Miller, *Citizenship and National Identity* (Polity 2000) p. 32.



psychologically to require every member of a nation to have this specific affective response to every other member that they do not have to non-members. Members of a nation may differ from each other radically in a variety of ways, and members are unlikely to have met or be aware of every other member. How and why would one feel that one belongs-together with those whom one differs from radically and with whom one has never met? Again, the attitudes Miller posits seem too strong to hold between all members of a nation.<sup>78</sup>

In addition, the attitudes Miller posits seem too minimal because they do not *ensure* that citizens will support redistributive policies. Contrast my account of the nation with Miller's. One advantage of my account over Miller's is that my account of a nation *guarantees* that members of a nation will support redistributive policies to provide for the disadvantaged, at least to the extent that these policies are based in liberal principles of justice.<sup>79</sup> There is a direct connection between being a member of a nation and supporting policies of this sort, as on my account, one is a member of a nation *only if* one supports those policies by affirming liberal political principles. Miller's alternative account posits an indirect relationship between national membership and redistributive policies. On his account, members of a nation feel a sense of belonging-together or solidarity for one another, and thus they are inclined to support redistributive policies. But this indirect connection is quite tenuous. One might feel that one belongs with others and feel deep solidarity towards them without supporting redistributive policies. For instance, one might sympathize greatly with the disadvantaged, yet think they ought to take personal responsibility to provide for themselves. There are a variety of ethnicities, cultural groups, and associations (a church, a labor union) that often instill in one feelings of belonging together or solidarity with other members, but these feelings are often insufficient to motivate one to support the sort of redistributive policies to fellow members required of a just liberal state. This all depends on one's particular political commitments. For instance, staunch anti-redistributive libertarians might feel solidarity for others too, and many illiberal states seem to have extensive solidarity, yet they do not practice appropriate redistribution (consider Egypt, Saudi Arabia, or China). This shows that the attitudes Miller posits are too minimal to serve the role of mobilizing citizens to support redistributive policies.

I conclude that Miller does not sufficiently motivate his account. And the account of the nation I offer is preferable to Miller's because it is psychologically less demanding and it guarantees that members of the nation support redistributive policies.<sup>80</sup>

Mill offers an account of the nation similar to the Miller's. Mill holds that "common sympathies" and "fellow-feelings" must be shared between members of a nation. He says,

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<sup>78</sup> This appears to be an empirical matter, but my claims here do seem empirically plausible.

<sup>79</sup> Again, I follow Miller here and assume that some redistribution will be required by liberal principles of justice. See note 17.

<sup>80</sup> This of course assumes that sharing an overlapping consensus and an attitude of toleration are not so psychologically demanding that they are not obtainable. I discuss this further below.

a portion of mankind may be said to constitute a Nationality if they are united among themselves by *common sympathies* which do not exist between them and any others which make them cooperate with each other more willingly than with other people.<sup>81</sup> Here Mill suggests both an attitude that must be shared for co-membership in a nation and a reason for requiring that attitude. He claims that the members of a nation must share common sympathies in order for them to cooperate with another. This suggests a necessary condition for co-membership in nation.<sup>82</sup>

Mill equates common sympathies with what he calls shared “fellow-feeling,” and suggests that shared fellow-feeling is required among citizens for the state to be characterized by social unity. He says, “free institutions are next to impossible in a country made up of different nationalities. Among a people without *fellow-feeling*... the united public opinion, necessary to the working of representative government, cannot exist.”<sup>83</sup> Here Mill suggests that citizens need to have this attitude of fellow-feeling in order to produce a unified viewpoint, without which state institutions cannot operate effectively.

In my view Mill’s account suffers from some of the same difficulties as Miller’s. First, Mill’s account is under-motivated. He claims that citizens must have common sympathies and fellow feelings for at least two reasons: to foster cooperation and to foster “united public opinion.” However, the first reason is inadequate. Cooperation occurs for a variety of reasons independent of common sympathies or fellow-feelings. Persons often cooperate when it is in their perceived self-interest to cooperate. In general, economic cooperation seems to be a matter of persons trading in response to their perceived self-interest. Common sympathies or fellow-feeling would seem to have a minor role, if any role at all, in standard economic cooperation. Perhaps Mill has a different kind of cooperation in mind, for instance the sort of political cooperation that sustains modern state institutions. This political cooperation might include citizens obeying the law, paying their taxes, and performing other kinds of civic duties such as voting and serving on a jury. But this sort of political cooperation often occurs as a response to threats of punishment, independent of common sympathies or fellow-feeling. Political cooperation also often occurs because of citizens’ moral commitment to cooperate. For instance, when citizens share an overlapping consensus, they will obey the law and cooperate with other citizens out of their sense of justice. It appears that with a shared overlapping consensus, common sympathies and fellow-feeling are not required to ensure cooperation.

Mill’s second reason for requiring these attitudes is the need for citizens to have “united public opinion” for “free institutions” and the “working of representative government.” Mill is

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<sup>81</sup> Mill, *Considerations on Representative Government* reprinted in (London: Everyman Library 1993) p. 391 (emphasis added)

<sup>82</sup> In the quoted formulation, Mill does seem to hold that ‘common sympathies’ is a *sufficient* condition for co-membership in a nation rather than a *necessary* condition. But as a sufficient condition the claim seems obviously false (all sorts of non-national groups can share common sympathies), and it seems to contradict other things Mill says. So I pursue with an interpretation that Mill holds that common sympathies are necessary but not sufficient for co-membership in a nation.

<sup>83</sup> *ibid*, p. 392 (emphasis added)

worried that if citizens do not have fellow-feelings, they will attempt to use state institutions to impose their views on others. In his words,

Even if all are aggrieved, none feel that they can rely on the others for fidelity in a joint resistance; the strength of none is sufficient to resist alone, and each may reasonably think that it consults its own advantage most by bidding for the favour of the government against the rest.<sup>84</sup>

However, if this is Mill's worry, then it seems that the united public opinion that Mill has in mind can be achieved with an overlapping consensus and an attitude of toleration, without common sympathies or fellow-feeling. When citizens share in an overlapping consensus, citizens are united on a set of political principles that can be used to adjudicate disputes in ways justifiable to other citizens. When citizens share an attitude of toleration, citizens are committed to appealing to those principles to justify their political decisions to others. There is a common basis for public policy and citizens only seek policy consistent with that common basis. Citizens will not attempt to use state institutions to impose their views in ways unacceptable to other citizens. In a state with a shared overlapping consensus and an attitude of toleration there seems to be sufficient united public opinion for free and effective state institutions, without common sympathies or fellow-feeling.

In addition to being under-motivated, Mill's account has a problem also had by the account of Miller, namely that the attitudes he requires seem both too robust to be psychologically plausible in large and anonymous states, and too minimal to *guarantee* social cooperation and united public opinion.

I have argued that these theorists do not offer adequate argument for the attitudes they suggest. I have also claimed that the attitudes they suggest appear to be the wrong sort of attitudes to serve as a basis for social unity in liberal states. Co-members of the nation need not share these attitudes for the purpose of social unity.

## 5. The Role of Civic Trust

Let me now address a slightly different line of argument that seeks to establish that strong feelings of belonging together, solidarity or fellow feeling are required between co-members of the nation. One might claim that although the attitudes offered by Miller and Mill are not necessary features of a nation, these attitudes play an important practical or instrumental role for social unity. I have assumed that citizens can share in an overlapping consensus and have an appropriate attitude of toleration without sharing an identity or having feelings of belonging together, solidarity, or fellow-feeling. However, one might claim that this is implausible. A shared identity or feelings of those sorts are required to undergird or provide the basis for an overlapping consensus and an attitude of toleration. Citizens would not share an overlapping consensus and an attitude of toleration unless they have shared fellow-feelings or solidarity. One might think of these feelings both as a *catalyst* for the origin of an overlapping consensus and an attitude of toleration, and as the *glue* required to maintain these relationships over time. Without these feelings, the social unity of the state is precarious, comparable perhaps to a *modus vivendi*.

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<sup>84</sup> *ibid*, p. 392.

Like a *modus vivendi*, a state with citizens who do not share these attitudes is overly dependent on social contingency, in particular a possibly fleeting convergence of comprehensive views. In this sort of state, there will not be the right emotional attachments to ensure that an overlapping consensus and an attitude of toleration are sustained over time. If this is true, then feelings of shared identity, belonging together, or common sympathies play a fundamental role for social unity, and their role should not be neglected in an account of the nation that seeks to provide a basis for social unity.

Rawls himself is unclear on whether or not he believes that a shared identity or feelings of solidarity or common sympathies are required to achieve or maintain an overlapping consensus. There are places where he seems to hold that these feelings are required. For instance, in *The Law of Peoples* Rawls approvingly cites Mill's remarks I quoted above on the fundamental importance of common sympathies for the nation. In that work, Rawls claims that "citizens united by what Mill called 'common sympathies'" is a fundamental feature of "liberal peoples," which Rawls takes to be the basic liberal actors in international relations. In making common sympathies a prerequisite for engaging in just international relations, Rawls appears to require shared common sympathies for a socially unified state.

Consider also some of Rawls' claims in *A Theory of Justice*. In Part Three of that book, Rawls claims that a "well-ordered society...is itself a form of social union" (462). A social union is an attachment of individuals that share specific features. According to Rawls, one feature members of a social union must share is feelings of "affection and friendship." He says, "unless [an] attachment is fused with elements of affection and friendship, it will not exhibit the characteristic features of social union." So if a well-ordered state is a social union, and a social union requires feelings of affection and friendship between members, then a well-ordered state requires affection and friendship between members.<sup>85</sup>

But on the other hand, Rawls also makes claims that conflict with this interpretation. In other places in *A Theory of Justice*, Rawls explicitly suggests that fellow-feelings and friendly attachments are not required for well-ordered states. He says,

the citizen body as a whole is not generally bound together by ties of fellow feeling between individuals, but by the acceptance of public principles of justice. While every citizen is a friend to some citizens, no citizen is a friend to all. But their common allegiance to justice provides a unified perspective from which they can adjudicate their differences (415).

There are also places in his later work that suggest that these feelings are not required for citizens to share in an overlapping consensus and to tolerate one another. For instance, he says that when citizens appeal to public reasons to decide political questions, this itself is sufficient "to specify the nature of the political relation in a constitutional democratic regime as one of civic friendship" (PL li). It appears that no further feelings are required to unify citizens of the polity.

I am unsure of the correct interpretation of Rawls. Leaving aside the interpretive issue, my view is that feelings of shared identity, belonging together and the rest are not required to

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<sup>85</sup> In later work, Rawls recasts and modifies substantial portions of Part Three of *A Theory of Justice* to better respond to the fact of reasonable pluralism. One thought about this passage is that Rawls here assumes a state can be based in a comprehensive conception of the good, an assumption he explicitly gives up in later work.

undergird or support an overlapping consensus and an attitude of toleration. This dispute though is partly empirical in nature, and it may be resolved differently in different states. Whether or not a certain set of feelings is required for citizens to share in an overlapping consensus and to tolerate one another depends on psychological and sociological attributes of the citizenry. Some states may be characterized by a citizenry that has strong feelings of solidarity, and these feelings might play a fundamental role in bringing them to share political principles and to tolerate one another. For instance, small homogenous states with little immigration may have a greater sense of solidarity than large diverse states with lots of immigration. Citizens of the small homogenous state might rely on feelings of solidarity when they form and sustain an overlapping consensus and an attitude of toleration. And those latter relationships might be threatened when citizens no longer share solidarity with other citizens, perhaps as a result of an influx of immigrants. However, these feelings might not have a fundamental role in larger or more diverse states. It appears that the importance of these feelings may vary in different states, and that it is an empirical matter what role they play in a particular state.

I have just said that I think the role feelings of solidarity or belonging together play in undergirding the nation is partly an empirical matter, depending on the particular characteristics of different states and citizenry. That said, I will try to motivate philosophically a case for an account that does not appeal to these feelings to undergird the nation. I do this by describing an alternative account and showing how it might result in an overlapping consensus and an attitude of toleration. The alternative account I offer appeals to a disposition of ‘civic trust’ between citizens. The description of this alternative suggests two empirical hypotheses about the development of national relationships. The first empirical hypothesis is that when citizens have civic trust and believe that they will be tolerated by their compatriots, then they will likely tolerate their compatriots in turn. The second empirical hypothesis is that citizens can develop civic trust and believe that they will be tolerated by their compatriots without sharing solidarity or common sympathies with their compatriots. I do not provide empirical support for these hypotheses, but submit them as plausible hypotheses subject to further empirical confirmation.

When citizens have civic trust they are disposed to believe that their compatriots affirm shared political principles and offer them public reasons for political decisions. Civic trust is a disposition to believe others appeal to the principles within the overlapping consensus and base their political decision on reasons they themselves can accept. When citizens share civic trust, this allows them to share and sustain an overlapping consensus and an attitude of toleration.

It is straightforward how civic trust helps originate and maintain an overlapping consensus and an attitude of toleration. If a citizen believes that other citizens appeal to shared political principles to justify political decisions, then that citizen is more likely to appeal to shared political principles as well. With civic trust, citizens believe that they will be tolerated by others and that their interests will be furthered by state policy. Citizens will not fear that their compatriots will use state institutions in ways unjustifiable to them. They will not be concerned that they will be oppressed by their fellow citizens. They are included and recognized as full members of the political body, and have no reason to seek to protect their interests through intolerance. This makes it likely that they will be tolerant and will only seek to employ state institutions in ways justifiable to their compatriots. The first empirical hypothesis holds that

when citizens have civic trust and believe they will be tolerated by their compatriots, they will tolerate them in turn.

The larger difficulty concerns the issue of developing citizens' civic trust. Developing this disposition might take significant time, and some political contexts may make it easier to achieve than others. I now discuss some ideas of Rawls that indicate how civic trust develops. Rawls claims that trust develops and strengthens when citizens successfully cooperate together in a just state. He says,

if other persons with evident intention strive to do their part in just or fair arrangements, citizens tend to develop trust and confidence in them...this trust and confidence becomes stronger and more complete as the success of cooperative arrangements is sustained over a longer time (PL 86).

Rawls's idea is that citizens develop trust in others by cooperating with them and seeing that they cooperate in return. These cooperative interactions might have to proceed through a variety of iterations over time for trust to develop and be sufficiently strong to undergird the nation. Rawls claims that

when citizens believe that political institutions and procedures are just,...they are ready to do their part in those arrangements when assured others will do theirs...if other persons with evident intention do their part, people tend to develop trust in them; and... this trust and confidence becomes stronger as success of the arrangements is sustained; and ...trust also increases as the basic institutions framed to secure our fundamental interests are more firmly and willingly recognized (PL 163).

Rawls here suggests that trust is the sort of disposition that takes a long history of trial and success to develop and he also emphasizes that state institutions have an important role. State institutions must provide the conditions under which cooperative interactions can occur to produce and sustain the context for citizens to develop trust in each other. This likely requires that the state provide and administer a strong and consistent legal system, and likely requires that the state respect citizens, and enable them to participate in democratic decision making. In the absence of these institutional contexts, citizens would be less likely to develop trust in their compatriots.<sup>86</sup>

Note that Rawls does *not* point to solidarity, common sympathies or like to produce trust between citizens.<sup>87</sup> I think he is correct not to emphasize these feelings as it seems plausible that citizens can develop civic trust without sharing them. Civic trust, after all, is a disposition to trust one's compatriots, many of whom are complete strangers. One's compatriots are not like family or friends to whom one frequently has an emotional attachment. One can develop trust in strangers, however, despite a lack of emotional attachment so long as there is sufficient

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<sup>86</sup> Rawls mentions two related points about the development of (what I am calling) civic trust. First, he says that a "citizen's allegiance to the democratic ideal of public reason is strengthened" when one sees that others affirm liberal political principles. He claims that "made aware of [other's] commitment, government officials and citizens are more willing to honor the duty of civility" (*IPRR* 153-154). Second, civic trust is encouraged when one demonstrates an affirmation of the liberal political principles. "In this way citizens who hold different doctrines are reassured, and this strengthens the ties of civic friendship" (*IPRR* 155).

<sup>87</sup> Note also that Rawls does not point to sharing an identity, ethnicity, or a shared end to establish trust.

motivation to trust them. The fact that one shares a history of successful cooperative interactions with them under a just institutional framework, perhaps even purely of an economic kind, seems to provide sufficient motivation.<sup>88</sup> Given this successful shared history, one would seem to have no motivating reasons to distrust them. Of course this is an empirical issue. I submit here a second empirical hypothesis that holds that citizens often can come to have civic trust and believe that they will be tolerated by their compatriots without sharing solidarity or fellow-feeling with their compatriots. I have not provided adequate empirical support for either of the two empirical hypotheses, but submit them as plausible hypotheses subject to further empirical confirmation.

Recent immigrants are likely to not have had sufficient cooperative interactions to have civic trust in their compatriots or for them to be trusted by their compatriots. Again, it seems that it may take substantial time and practice for civic trust to develop and to further their integration into the nation. I discuss in the next two chapters in more detail the steps states might take to develop civic trust in recent immigrants.

### *Mason on Belonging to A Polity*

Perhaps one might object to my account of the nation by claiming that the two relationships that I claim constitute the nation are more robust than the relationships required to provide a basis of social unity. I turn now to a theorist who offers a more minimal account of social unity than my account of the nation. Mason offers an account of social unity that appeals to citizens' "sense of belonging to the polity."<sup>89</sup> He reaches this account by arguing that this sense of belonging alone can play the role of generating support for redistributive policies and cooperation that Miller and Mill respectively think require a sense of belonging together and common sympathies. Although I am sympathetic with Mason's line of argument against Miller and Mill, in particular that their accounts are not sufficiently motivated, I think that his account is too minimal to ensure social unity.

Mason defines a sense of belonging to a polity as follows: "A person has a sense of belonging to a polity if and only if she identifies with most of its major institutions and some of

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<sup>88</sup> Consider other theorists who hold similar views. In *Citizenship and Community: Civic Republicanism and the Modern World* (New York: Routledge 1990), Adrian Oldfield writes: "political participation enlarges the minds of individuals, familiarizes them with interests which lie beyond the immediacy of personal circumstance and environment, and encourages them to acknowledge that public concerns are the proper ones to which they should pay attention" (p. 184). Daniel Weinstock makes a related point: "If the institutions we share with others make it easy for us to observe their behavior, and the way in which that behavior impacts upon us, we will, all other things equal, be less likely to distrust, as whatever the objective grounds we may have to distrust will not be compounded by concerns about what might lie behind lack of publicity and secrecy." ("Building Trust in Divided Societies" *The Journal of Political Philosophy* vol. 7 no. 3 (2002) pp. 287-307 at p.302)

<sup>89</sup> Andrew Mason, "Political Community, Liberal-Nationalism, and the Ethics of Assimilation" *Ethics* vol. 109 (1999) pp. 261-281. His view is discussed at more length in his *Community, Solidarity, and Belonging* (Cambridge: Cambridge University Press 2000).

its central practices and feels at home in them.”<sup>90</sup> He claims that these conditions require citizens to take society’s flourishing as contributing to their own personal flourishing, require citizens to see society as valuable, and require citizens to not feel excluded from the polity. Mason believes that citizens can have a sense of belonging to a polity without having a sense of belonging together with their compatriots and without sharing common sympathies with them.

Despite Mason’s attempt to offer an account of the basis of social unity without the affective attitudes required by Miller and Mill, Mason’s account is too minimal to ensure social unity. The problem is that Mason’s sense of belonging to a polity does not require that citizens share any particular attitude of toleration towards each other. Mason’s socially unified state thus might lack a feature of a genuinely stable state. It seems that citizens can feel that they belong to a polity without adequately tolerating other members of that polity. Citizens can feel that they belong to a polity while supporting state policies that are not justifiable, and are perhaps even deeply offensive, to their compatriots. They might identify with the state’s institutions while seeking to employ those institutions to coerce other citizens to share their own comprehensive view, or even to oppress them. A feeling that one belongs to a polity is consistent with one not respecting the diversity within one’s state and seeking to denigrate or segregate one’s compatriots. It appears that there might be lots of social disunity in Mason’s state, with all citizens feeling like they belong, yet fighting to employ state institutions to impose their own views on others.<sup>91</sup> One group might even succeed in establishing their comprehensive view as the basis for all political decision making. In this case, the fact of reasonable pluralism is not respected by the state, and the state is oppressive and illiberal. What is lacking in this state is an appropriate attitude of toleration shared between citizens.

It seems a clear advantage of my account that it posits two constitutive relationships to be members of the nation--a shared overlapping consensus and an attitude of toleration. Without this latter attitude, there might likely be social disunity in the state.

## 6. The Cosmopolitan Challenge Revisited

The cosmopolitan challenge holds that the account of the nation I offer cannot adequately distinguish different nations. Citizens from different states that intuitively should be members of different nations may share in an overlapping consensus and have the appropriate attitude of toleration towards one another. It might appear that my account entails that they are members of the same nation. This is a bad result because the nation would not provide a distinct basis of social unity in different states. Consider an example offered by Kymlicka concerning Sweden and Norway. The liberal principles regulating these states would seem very similar, and thus if Swedes affirm the principles regulating Sweden, they thereby also affirm the principles regulating Norway. Further, if Swedes tolerate their compatriots by appealing to these principles for political decisions, then they thereby also tolerate Norwegians. Thus, citizens of Sweden

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<sup>90</sup> “Political Community, Liberal Nationalism, and the Ethics of Assimilation” p. 272.

<sup>91</sup> “Without citizens allegiance to public reason and their honoring the duty of civility,” Rawls writes, “divisions and hostilities between doctrines are bound in time to assert themselves, should they not already exist” (IPRR 174).



meet both conditions of co-nationality with citizens of Norway and they might then seem to be considered members of the same nation. These states would have the same basis of social unity. One can make parallel arguments for citizens in all liberal states. The ultimate conclusion of these parallel arguments is that there is only one nation, and all citizens who affirm and appeal to liberal political principles are a member of this single nation. This is an intuitively wrong result. But moreover, it might show that my account fails for the purposes for which it is employed, namely the purpose of responding to developments in liberal states involving recent immigrants by providing a basis of social unity to suggest demands of assimilation. If this challenge is sound, then there would be a single basis of social unity for all liberal states, and the nation could not suggest distinct demands of assimilation for different states. Different liberal states face different issues with respect to immigration, and different policy might be needed for different states. The account of the nation I offer would not suggest or help one evaluate specific assimilation policy for different states.

The first thing to say in response to this challenge is simply that the two constitutive features of the nation I have offered are necessary conditions for co-nationality and might not also be sufficient. Thus there might be entirely different criteria which distinguish different nations, even if all meet the two necessary conditions I offer here. This response disarms the cosmopolitan challenge. But moreover, even if the conditions I offer are taken as sufficient conditions, the challenge can be met by indicating that the framework of the nation that I have described does suggest substantial variation between nations. The different juridical institutions, political history, and make-up of the citizenry of states will distinguish nations. I describe below some ways in which nations may differ. Briefly put, the cosmopolitan challenge can be answered by pointing out that there will be very different *institutional* and *social* manifestations of liberal political principles in different nations. Co-nationals do not simply affirm and comply with liberal political principles in the abstract, but affirm and respond to particular institutional and social manifestations within their state. This will alter both the nature of the overlapping consensus and the expression of the attitude of toleration between citizens.<sup>92</sup>

There are different institutional and social manifestations of liberal political principles in different states. By ‘the institutional manifestations of liberal principles,’ I mean the ways in which the state organizes its institutions to realize and conform to liberal principles. By ‘the social manifestations of liberal principles’ I mean the ways in which the citizens affirm and comply with the liberal principles, and express the attitude of toleration. Let me begin by describing the institutional manifestations of liberal principles. Most liberal states have a founding document or constitution that lays out the fundamental values of the state and establishes the state’s institutional structure. The fact that states have different founding documents or constitutions itself suggests important differences between nations. In order to be co-nationals, citizens must affirm the *same* founding document or constitution. For instance, if

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<sup>92</sup> I am motivated here by Jurgen Habermas’s claim in “Citizenship and National Identity: Some Reflections on the Future of Europe” *Praxis International* vol. 12 no. 1 (1992) pp. 1-19: “The universalist principles of constitutional democracy need to be somehow anchored in the political culture of each country. Constitutional principles can neither take shape in social practices nor become the driving force for the dynamic project of creating an association of free and equal persons until they are situated in the historical context of a nation of citizen” (p. 16).

U.S. citizens share in an overlapping consensus, then they affirm from within their respective comprehensive views the U.S. Constitution. They do not share an affirmation of the French Constitution. Insofar as this is true for citizens in different states, then there are already differences between nations.

Different founding documents and constitutions have different histories. They were written in different times, in response to different problems. For instance, the German constitution, the *Grundgesetz für die Bundesrepublik Deutschland*, was written in 1949, long after the US and French Constitutions. It was written in response to the failed prewar Weimar Constitution and it differs from the Weimar Constitution insofar as it does not include the sort of emergency measures used by Hitler to consolidate power, such as his suspension of citizens' basic rights and his dismissal of communists from the legislature. Members of the German nation must affirm their constitution, and this includes affirming the specific history of the document. Members of the German nation may affirm similar principles to those that regulate U.S. institutions, but these principles are embodied in different ways in the respective constitutions due to their different histories.

The founding document or constitution of different states arranges state its institutions in different ways. Most liberal states have a division among the executive branch, the legislative branch, and the judicial branch. However in different states different powers accrue to different branches. This is not determined solely by the arrangement originally established in the constitution. Rather, it is also determined by the history and challenges different states have faced. There might be a different arrangement--a stronger executive perhaps--if a state has faced severe crises. The differences in institutional arrangements that characterize states also often result in differences between nations.

The different institutional manifestations of different liberal principles are also evident in different states' laws. Since different states have different laws, citizens of different states affirm and comply with different laws, and there are corresponding differences between nations. The differences between laws can be quite significant, and include both negative or constraining and positive or enabling laws. For instance, legal differences include laws regarding traffic, drug use, how one gets married, civic duties, and so on. Note that there is an important role for majority rule and democratic procedure in the development of laws. Liberal values are vague in many ways, and this leaves extensive room for popular decision making to interpret and apply liberal values. The different histories of states and the sorts of comprehensive views represented in the state will lead to very different manifestations of liberal values because of the role of democratic procedure.

I now describe some of the social manifestations of liberal principles that correspond to different nations. The founding document or constitution of a state is written in a particular language, and this indicates a linguistic distinction between nations. The linguistic distinctions are manifested socially in other ways, for instance legislative and judicial processes occur in specific languages in different states. The expression of toleration through offering public reasons will also generally take place in a particular language of the state. *Contra* Kymlicka, linguistic divisions would clearly distinguish the Swedish nation from the Norwegian nation.

There are other important social differences between states that impact the nature of the nation. For instance, the different composition of the citizenry will result in the overlapping

consensus taking different shapes. Different issues will be on the legislative agenda and will be part of the public political discourse.

This discussion of the differences between nations should also help respond to a different objection often raised against accounts of the nation similar to the one I offer. This objection might go as follows. Accounts of the nation that make membership in a nation a matter of citizens' shared affirmation of liberal principles are too abstract and 'bloodless' to explain the deep attachments and loyalties members often feel for the nation. The nation is the source and subject of strong emotional reactions and patriotic sentiments, exemplified by member's willingness to die for their nation and notorious sayings such as "my country right or wrong." The account of the nation I have offered cannot explain emotional reactions such as these, and as such fails to properly tap into intuitive accounts of the nation, including the intuitive ideas employed in policy disputes regarding the assimilation of immigrants.

My response to this objection is to show that the account of the nation I offer can explain the strong emotional pull the nation has for many members.<sup>93</sup> The nation, on my account, is something to which one might very well feel a deep loyalty, and it might be the source of strong patriotic sentiments. When members of a nation affirm the institutional manifestations of liberal principles in their state, and appeal to those principles in political decision making, this might ground a sense of identification with their nation. The nation, on my account, is not just a group one happens to be born into, but is constituted by features one actively guides and is guided by. Members of the nation can recognize the active role they play in its formation. As a result, the nation, and in particular national accomplishments, are potentially a source of great pride for members. For instance, one's nation might have extended liberal values to those historically excluded or contributed to worldwide charitable efforts. One can recognize the good one's nation has done and feel proud of national accomplishments as one can recognize one's own responsibility for them.

The emotions one feels for one's nation may not be all positive in nature. One might feel ashamed or perhaps guilty regarding the failures of policy that conflicts with liberal values. There is a particular kind of shame associated with the past practices of one's nation, e.g. slavery in US or colonialism in the UK. One also might feel a sense of responsibility as it was one's own nation involved in those wrongs, and one's complicity might require one to bear costs of redeeming these wrongs. I cannot cover these issues in any detail here. But suffice it to say that the account of the nation I offer is consistent with strong feelings of patriotism, and has the flexibility to explain those feelings.

## 7. Conclusion

I began this chapter by contrasting two prominent models of the nation. Those models are distinguished in terms of the constitutive role they posit for ethnicity or political antecedents. I claimed that these accounts offered different constitutive criteria for the nation in part because of the different purposes to which the accounts are employed. The account I offer seeks to provide a basis of social unity for liberal states to suggest reasonable demands of assimilation. I began

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<sup>93</sup> This leaves aside the simple response that I only offer necessary and not sufficient conditions for co-nationality.

from a conception of legitimacy for liberal states, and explored an account of the nation whereby the nation is constituted by the relationships that must hold between citizens for the state to be legitimate. The account thus holds that nations are not ancient, but are a modern product of particular arrangements of political institutions and are constitutively connected to states. The nation, on this account, is not constituted by ethnic ties and cannot be understood as having an ethnic basis. That sort of account would be in clear conflict with liberal values that aspire to transcend ethnic differences. My account, rather, is more appropriately referred to as a civic account that understands the nation in terms of shared liberal political values. In virtue of this criterion, my account of the nation is perhaps far more exclusive than other prominent accounts that do not make commitment to liberal values a condition of membership in a nation. All members of the nation, on this account, have to have certain liberal beliefs and tolerate their compatriots. However, in other regards, my account of the nation is far more inclusive. It does not make characteristics of one's birth, such as one's race or ethnicity, determine one's nationality. This consequence of the account is entirely appropriate as the purpose of the account is to clarify the demands of assimilation for liberal states. In the next chapters, I further apply this account of the nation to issues of assimilation in the context of recent immigration.

## Chapter 4

### The Ethics of Assimilation: Abandoning Existing Practices

#### 1. Characteristics of Recent Immigration

Global migration has increased drastically over the last 50 years with the vast majority of migrants immigrating to liberal democracies. As of 2005, the foreign born composed 10% of the total population of the U.K., 12% of Sweden, 13% of the United States, 18% of Germany, and 18% of Canada. These numbers are or approach historic highs. The numbers are even higher when including children of immigrants. According to the 2000 U.S. Census, 20% of the U.S. population is an immigrant or child of an immigrant.<sup>94</sup>

The trend of increasing global migration will likely continue into the foreseeable future because global conditions will continue to provide reasons and opportunities for many to migrate. Relevant global conditions include the economic disparity between the developed and developing world, and the drastic population increases in developing countries that has exacerbated the spread of conflict, famine, and disease. These developments have occurred during a birth decrease in some developed states, and a change in their economic character that has greatly increased the demand for migrant labor.

Most immigrants to Western liberal democracies migrate from non-democratic developing states, often former colonies, and they are motivated to come for a variety of reasons. Some immigrate mainly in order to join their families, themselves previous immigrants. Some immigrate mainly for the economic opportunities available to them, perhaps because of their specialized skills, or perhaps because of a labor shortage in the receiving country. Others immigrate because of political necessity: they are refugees forced from their war-torn homes. For many immigrants, several of these reasons apply. Despite these different motivations, in most cases immigrants have chosen to leave their homes, in some sense of 'chosen,' simply because they seek a better life abroad. Their choice to leave is obviously not an easy one. As Michael Walzer writes,

human beings...move about a great deal, but not because they love to move. They are, most of them, inclined to stay where they are unless their life is very difficult there. They experience a tension between love of place and the discomforts of a particular place.<sup>95</sup>

Liberal states themselves bear some responsibility for the trend of increasing global migration. Their economies are often dependent on migrant labor, and the economic opportunities provided by employers serve as strong economic incentives for migration. Further, the foreign policy of liberal states and Western cultural dominance also provide additional encouragement for immigration.

Immigrants leave their homes and come to their new country in a variety of ways. Some immigrate through regular legal channels: they apply for asylum, or come on a path for official

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<sup>94</sup> I do not mean to neglect the huge number of migrants to oil-rich Gulf States and to Russia, or refugees migrating between Middle-Eastern and African states. My focus, however, is on immigration to liberal states.

<sup>95</sup> Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (US: Basic Books 1984) p. 38.

permanent residency or citizenship status. Other immigrants, however, do not come through regular legal channels: they intentionally overstay their visas, or they gain entry to the host country in some non-regulated way, perhaps through a potentially perilous boat ride or hike through the desert.

Once these recent immigrants have arrived, some aim to return to their ‘home’ countries after they have prospered economically, or after political conditions have stabilized. Others plan to remain in their new country, establishing a new home while sending remittances to the family and friends they have left behind and, in some cases, hoping eventually to bring family and friends to join them.

Recent immigration to liberal states is a disparate phenomenon, deeply personal for the immigrants themselves, and it might be dangerous to over-generalize this discussion. But no matter why or how these new immigrants come, or how affecting their loss of home, there are some general features of recent immigration that cannot be ignored. When recent immigrants arrive to their new country, they have a profound impact. They participate in the economic system by working, paying taxes, and accessing public services. Even when they seek to remain in the shadows, immigrants are conspicuous, often noticed by other citizens. This is partly because of their economic impact, but also partly because of the evident ways in which they are different.

These differences have clear manifestations in their new country, and they interact with their new country’s antecedently existing practices and culture in a way that may raise concerns amongst the native-born citizens and may be frustrating, demoralizing, or alienating for many immigrants. Recent immigrants likely speak a different native language, and they often do not speak the mainstream language of the receiving country. They might physically stand out because of visible indications that they are from a different ethnicity, race or culture. In addition, they are often of different religions, and have different moral or comprehensive views than settled citizens. In many cases they have not resided in a liberal society, and they were not taught to have liberal commitments. They may engage in practices that appear to conflict with liberal values. These recent immigrants thus bring with them practices that may seem cruel or grotesque to the settled population, or perhaps just plain strange.

Given that immigrants differ in these ways, citizens, policy makers, and theorists have asked some of the following questions. Do any of the differences of recent immigrants pose a threat to the social unity of the receiving state? If so, which differences? What are the demands of assimilation on immigrants and what policies can the state employ to further immigrant integration?

## 2. Some Preliminaries

To answer these questions, we should first begin with an account of social unity appropriate for liberal states. The account of social unity I employ is that of the nation, and in the previous chapter I offered a liberal account of the nation that holds that the nation is constituted by two relationships shared between members. The first is that members share in an overlapping consensus on liberal political principles and the second is that members tolerate one another. I showed that citizens of the state can come to share these relationships with the operation of civic

trust, a disposition to trust other citizens developed through cooperative interactions under reasonably just institutions. I also claimed that these shared relationships involve more than an abstract affirmation of liberal principles, but involve citizens' commitment and adherence to particular institutional and social manifestations of those principles. So although the account of the nation I offer holds that the nation is fundamentally constituted by citizens' shared commitment and adherence to liberal principles, this account suggests differences between nations because of differences in the manifestations of these principles in different states.

I argued in the last chapter that the two relationships that constitute the nation, those of a shared overlapping consensus and shared toleration, are of normative significance. This is explained partly because these relationships are necessary for and help realize valuable social unity in conditions of diversity, and because these relationships are necessary conditions for the legitimacy of the state according to a 'reasonable consent' conception of legitimacy. The normative significance of the nation entails that there are reasons to foster and sustain these relationships.

The demands of assimilation are normative demands on immigrants to integrate into the nation. Alternatively, and perhaps more intuitively, we might say that they are demands on immigrants to adopt the national identity of the receiving state. My question in this and the following chapter is: what is the content of these demands?

The demands of assimilation take different forms in different states. They will differ based on specific characteristics of the respective states and the citizenry--in particular, the specific institutional and social manifestations of liberal principles--and they will also differ for different immigrant populations. Despite these differences, there is much to discuss regarding the reasonableness of these demands in general outside of the context of particular nations and particular immigrants. Liberal values set constraints on what can be reasonably demanded of immigrants that apply across different states, and we can assess different models of assimilation without detailing the specific features of different nations. In addition, there are substantial objections to the demands even at this more general level, and there is much gained in responding to the objections.

This chapter proceeds as follows. First, I discuss and reject two prominent models of assimilation and I support an alternative 'bidirectional' model. I next turn to the demands of assimilation. I divide the demands of assimilation into demands that require immigrants to abandon existing practices and demands that require immigrants to adopt new practices. In this chapter I discuss the demands on immigrants to abandon some of their existing practices.<sup>96</sup> After I discuss these demands I consider several objections; my responses to these objections will lead to further specifications of the demands of assimilation.

I first, however, address one question that will likely be raised at the outset. I claim that the demands of assimilation are demands on immigrants to achieve social unity. But why are these only demands on immigrants? Non-immigrants, native-born citizens, might also threaten social unity by not appropriately adopting the national identity, so why are the demands of assimilation not demands on all citizens of the state?

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<sup>96</sup> In the next chapter I discuss the demands on immigrants to adopt new practices.

My answer is that the demands of assimilation are in fact demands on all citizens. There very likely are native-born citizens who give rise to social disunity because they do not share in an overlapping consensus or tolerate their compatriots, and they are thus subject to the same demands of assimilation as immigrants. I focus on immigrants because there are a number of developments in liberal states that suggest important disputes regarding the impact of recent immigration on social unity, and I seek to explore those disputes. Many native-born citizens are concerned that the recent influx of immigrants undermines social unity and the nation, and there is heated public debate about what can reasonably be demanded of these immigrants to integrate. Further, it is often recent immigrants who are undergoing a process of nationalization (or as it is also called, ‘naturalization’). It would be useful for those immigrants seeking to be full members of the political community for there to be clear statements of the demands of assimilation and the steps they should take to satisfy these demands. Despite the fact that I focus on immigrants, I believe that much of what I discuss about the demands on immigrants is applicable to native-born citizens as well.<sup>97</sup>

### 3. The Bidirectional Model

Assimilation is a concept studied and employed by academics and non-academics alike. Theorists, social scientists, and policy-makers employ contrasting models of assimilation and in this section I discuss three competing models. I take these three models as *normative* models of how assimilation *ought* to happen. The models differ regarding whether they place the burdens of assimilation on immigrants alone, do not place any burdens of assimilation on immigrants, or place burdens on both immigrants and the nation. I reject the first two models, which I call the ‘unidirectional’ model and the ‘nondirectional’ model respectively, and I defend the third or ‘bidirectional’ model.

The *unidirectional* model holds that assimilation ought to happen by immigrants adapting to conform to the nation, while the nation remains the same throughout the process of integration. On this model, the burden of assimilation falls only on immigrants to integrate into a nation constituted by unchanging core cultural traditions; there are no burdens on the nation to

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<sup>97</sup> In Chapter 1 I further clarify the unique issues that arise with immigration. My discussion of demands on immigrants is in tune with a trend in political philosophy and public policy that seeks to make full-membership in the political community a matter of actively undertaking certain responsibilities rather than a matter of passively being the recipient of rights or social welfare. For a description of this trend, see Will Kymlicka and Wayne Norman’s article ‘Return of the Citizen: A Survey of Recent Work on Citizenship Theory,’ *Ethics* vol. 104 no. 2 (1994) pp. 352-281 where they emphasize the renewed prevalence of the idea of “responsible citizenship” -- a normative ideal generally associated with a conception of citizenship often called ‘republican.’ Kymlicka and Norman note the renewed importance of republican citizenship during the conservative administrations of Thatcher and Reagan, but they also emphasize that even those on the contemporary left generally support the idea that citizens have certain obligations *qua* citizens. Although I take a liberal approach, this approach is one that recognizes the merits of some so-called republican ideals of citizenship.



accommodate immigrants.<sup>98</sup> The unidirectional approach is supported by the thought that the native-born are longstanding members of the nation and their lives are situated within particular mainstream core cultural traditions. Immigrants, by contrast, are recent arrivals seeking membership in a pre-existing nation. Since they seek membership in an antecedently existing political community, immigrants must bear the full burdens of adapting to the core culture. They must alter their practices or values so as to conform to the mainstream core cultural traditions. Assimilation, on the unidirectional model, is seen as the one-way process of immigrants adapting to resemble the native-born citizens of the nation.<sup>99</sup>

The prominence of the unidirectional model is one of the foremost reasons why the term ‘assimilation’ has come to have negative connotations amongst academics and activists on the left. One charge often raised against assimilation on this model is that it is overly conservative and serves to entrench those in power. The model depends on an unfounded assumption that certain core cultural traditional practices of the mainstream are essential to the nation, and it unreasonably seeks to preserve those practices no matter the burdens, and possible cultural betrayal, that falls on immigrants. What is worse is that the core cultural traditional practices thought to be essential are often those established and adhered to by the state’s elite. The elite employ unidirectional assimilation to impose their values and culture on immigrants and other minorities.<sup>100</sup>

This charge seems to be sound as far as it goes. But I want to highlight three different problems with the unidirectional model that the charge may confound. The first problem is that the unidirectional model assumes that a national culture can remain static while immigrants alter

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<sup>98</sup> The unidirectional model was most extensively developed by so-called Chicago school sociologists in the early 20th century. See ‘Assimilation Models, Old and New: Explaining a Long Term Process’ by Brown and Bean available at <http://www.migrationinformation.org/Feature/display.cfm?ID=442>. For more on this history, see Alba, Richard and Nee, Victor *Remaking the American Mainstream: Assimilation and Contemporary Immigration* (Cambridge MA: Harvard University Press 2003).

<sup>99</sup> Many theorists, sociologists, and policy makers have thought of assimilation on this model. For instance, this seems to be the model Samuel Huntington has in mind when he claims that “American identity is now defined in terms of culture and creed...[which is] the product of the distinct Anglo-Protestant culture of the founding settlers. Key elements include the English language; Christianity, religious commitment...” Huntington worries about the recent immigration of Latinos, and asks polemically, “Will the United States remain a country with a single national language and a core Anglo-Protestant culture?” He thinks that any changes to these core American traditions will amount to the termination of the American nation. See Huntington, Samuel ‘The Hispanic Challenge’ in *Foreign Policy*, (March/April 2004). Another prominent proponent is the sociologist Milton Gordon, who writes “If there is anything in American life which can be described as an overall American culture which serves as a reference point for immigrants and their children, it can be described...as the middle-class cultural patterns of, largely, white Protestant Anglo-Saxon origins.” (*Assimilation in American Life: The Role of Race, Religion and National Origin* (New York: Oxford University Press 1964)). This reference point directs the assimilation of immigrants. Sometimes the unidirectional model is called, for obvious reasons, the ‘Anglo-conformity’ model (e.g. Will Kymlicka *Multicultural Citizenship* (New York: Oxford University Press 1996) p. 14, and Rogers Brubaker, “The Return of Assimilation? Changing perspectives on immigration and its sequels in France, Germany, and the United States,” *Ethnic and Racial Studies* vol. 24 no. 4 (2001) pp.531-548. Note that this model is also prominent in popular discourse as articulated by the U.S. commentator Lou Dobbs.

<sup>100</sup> Some proponents of this objection include Iris Young in her *Justice and the Politics of Difference* (Princeton: Princeton University Press 1990), Anthony Laden in his *Reasonably Radical: Deliberative Liberalism and the Politics of Identity* (Ithaca NY: Cornell University Press 2001) and Bhikhu Parekh in his *Rethinking Multiculturalism* (Cambridge MA: Harvard University Press 2000) (especially Chapter 7). Susan Okin also describes this objection in ‘Is Multiculturalism Bad for Women?’ *Boston Review* (October/November 1997).

their practices to integrate. This assumption is false because of the inevitability of national cultural change over time. No cultural traditions can remain completely unaltered; a living social phenomenon such as a culture cannot be perfectly preserved as if it were a museum antiquity. There are at least two reasons why cultural change seems particularly likely for a large and diffuse group such as a nation. First, national change will occur as a result of the nation facing different kinds of challenges. These challenges include both external challenges such as confrontations with enemies or potential environmental disasters, and internal challenges such as members' dissent or the threat of economic collapse. Each of these challenges will require of the nation that it redefine itself against the particular challenge it faces. Indeed, it is in facing challenges that a nation acquires a specific character to begin with, a process of coalescing around a set of practices or values that serve to unify members and differentiate them from others. With new challenges, new practices or values become central while others are attenuated. Defining the important features of the nation is a matter of an ongoing historical process of facing and overcoming challenges. This, however, means that the national culture will continually alter in response to new challenges.<sup>101</sup>

The second reason why the national culture will inevitably change is because of the incorporation of new members into the nation. Immigrants bring with them foreign practices and the introduction of these foreign practices will have some impact on the core national culture. New combinations of practices will give rise to new forms of social and political life. *Contra* the unidirectional model, there is no way for the state to neutralize this impact. State or citizen actions that seek to insulate core cultural traditions against immigrant stimulated change would themselves seem to alter those traditions. These actions would redefine the nation in opposition to particular features of the immigrants' culture and practices. The inevitability of change is clear when recognizing that immigrants are not the only new members whose inclusion will alter the national culture. The children of native-born citizens are like immigrants insofar as they are new members. These new generations will provoke cultural change by questioning past traditions or simply by developing their own customs. Arresting cultural change against the influx of immigrants is only as plausible as arresting change against new generations of native-born citizens. Both sets of new members will inevitably alter the mainstream culture of the nation.<sup>102</sup>

This highlights two reasons why the nation will inevitably alter: the nation faces changing circumstances and incorporates new members. Scheffler eloquently sums up these points:

The 'national culture' will change. It will change because the introduction into society of a new set of people presents the old residents--the putative bearers of the national culture--with a new predicament. They must come to terms with the presence in their

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<sup>101</sup> Compare Kwame Anthony Appiah, *The Ethics of Identity* (Princeton: Princeton University Press 2005) Chapter 4, and Samuel Scheffler "Immigration and the Claims of Culture" *Philosophy and Public Affairs* vol. 35 no. 2 (2007) pp. 93-125. Appiah sums up the idea nicely in his *Cosmopolitanism: Ethics in a World of Strangers* (New York: W.W. Norton 2006): "Cultures are made of continuities *and* change, and the identity of a society can survive through these changes." p. 107.

<sup>102</sup> The analogy between immigrants and children of current members is suggested by Walzer in *Spheres of Justice* (Chapter 2) and Scheffler in "Immigration and the Claims of Culture."

midst of new neighbors, new customs... Even if they adopt a radically exclusionary a stance as they can muster, their way of life will now be shaped by the need to exclude *these* neighbors, ideas...It will change because changing is what cultures do when they confront new situations, and immigration, by definition, presents the host society with a new situation.<sup>103</sup>

The second problem with the unidirectional model is that the model rests on principles that exclude those with different ways of life from those that are part of the mainstream core culture, and this exclusion is in conflict with liberal values. Liberal values protect individual rights and thereby provide the conditions for diversity to flourish. The requirement that immigrants adopt mainstream core cultural traditions will likely preclude them from exercising their rights to engage in their own reasonable diverse practices. The extent that the unidirectional model is illiberal depends on the content of the core cultural traditions that the model holds must be preserved unaltered. Proponents of the unidirectional model often in fact have in mind core cultural characteristics of a supposedly original population of the state. They claim, for instance, that the American nation is essentially white Anglo-Protestant because the founders were of this race, ethnicity and religion.<sup>104</sup> Leaving aside the problem that the historic traditions are often not all that venerable--rather they often seem to be chosen because they suit the elite, independent of their actual historical bona-fides--it is illiberal to require of citizens that they adapt to these traditions. It should be clear that the exclusion of those who are not Protestant from full membership in the polity does not leave sufficient space for citizens to exercise their right to make their own decisions about religious practice. Needless to say, a similar charge of illiberality holds regarding the exclusion of those who are not white. In addition, the unidirectional model is illiberal because it disallows those with different views from the mainstream core culture to alter the nation. This is problematic because liberal values guarantee all members of the state the right to participate politically, culturally, and socially, even when this participation might alter various features of the nation. These rights must be extended to all members, even recent immigrants.<sup>105</sup>

The third problem with the unidirectional model is that the model has motivated some assimilation policies that seem intuitively simply egregious. Many policies that unjustly coerce immigrants and other non-immigrant minorities are grounded in the unidirectional model. For instance, consider the Australian policy until 1969 of forcibly removing Aboriginal children from their families and making them wards of the state that led to 100,000 members of a 'Stolen

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<sup>103</sup> Scheffler, 'Immigration and the Claims of Culture,' p. 103.

<sup>104</sup> See Huntington, amongst others for this view of America. Another example is that the German nation is exclusively available to those of German descent (a view Rogers Brubaker describes in *Citizenship and Nationhood in France and Germany* (Cambridge MA: Harvard University Press 1994)). The French politician Jean-Marie Le Pen is a famous proponent of the idea that there exist 'real' French who can justifiably preserve a particular French cultural identity from foreign cultures. This view also has political currency within the party *Front National*.

<sup>105</sup> Compare Joseph Carens: "The fact of becoming an immigrant cannot mean that one has given oneself up to the receiving society to be made over according to its will, at least not in a society that respects liberal democratic principles." (From his *Culture, Citizenship, and Community: A Contextual Exploration of Justice as Evenhandedness* (Oxford: Oxford University Press 2000) p. 171.)

Generation' of Aborigines. This policy was expressly designed to culturally assimilate Aborigines into 'White Australia,' and is grounded in the idea that the burden of integration falls fully on Aborigines to conform to the core cultural mainstream of White Australians. There are many other examples, including US prohibitions against Native American languages, Quebec's former restrictions on English-language signage, and Turkish prohibitions on speaking Kurdish. Each of these policies prohibits practices that are thought to be in conflict with the mainstream core culture. The unidirectional model motivates these policies since it seeks to insulate a particular set of core cultural traditions from change. This view grounds the idea that state policy should be designed to preserve the national culture and so should prohibit alternative practices that may alter the national culture. Policies grounded by this idea are frequently unjust.<sup>106</sup>

I have just described three problems with the unidirectional model that a more plausible model of assimilation must avoid. There is, however, a way of taking the problems with the unidirectional model too far, and I want now to caution against a contrasting model of assimilation that I call *nondirectional*.

I have claimed, against the unidirectional model, that the nation will inevitably alter with the incorporation of immigrants. One might take this to entail that there is no reasonable endpoint to direct assimilation and thus that there are not demands on immigrants to integrate. On the *nondirectional* model, assimilation should happen without there being any burdens falling on immigrants. The nation and immigrants should come to resemble one another, but without any demands on immigrants to integrate into a pre-existing nation. Some theorists seem to support this nondirectional model. For instance, Cristina Rodriguez, after forcefully criticizing the unidirectional model, goes on to claim that

defining the assimilated endpoint of a given immigration wave is largely a retrospective project for historians, not an aspirational project for policymakers.... Attempts by policymakers to identify the mainstream into which immigrants should be assimilating are likely to be beset by nostalgia, artificiality, or coercive attempts to capture a world that no longer exists.<sup>107</sup>

Here Rodriguez suggests that there is not a reasonable "endpoint" to direct assimilation. If all endpoints for assimilation are likely artificial and lead to coercion, then it seems one might argue that there are no demands specifically on immigrants to adapt or assimilate. This is the motivation for the unidirectional model.

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<sup>106</sup> The examples of policy I describe here are not all assimilation policies regarding immigrants. There are however clear similarities in motivation between assimilation policy regarding immigrants and assimilation policy regarding other minority groups. For more examples of unjust policies grounded in the unidirectional model of assimilation, see Will Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Oxford University Press 1995) chapter 4, especially his discussion of the European empires' policies towards their colonies.

<sup>107</sup> Cristina Rodriguez, "Guest Workers and Integration: Toward a Theory of What Immigrants and Americans Owe One Another" *University of Chicago Legal Forum* (2007) p. 13. Another example of a non-directional model is that offered by Brown and Bean: "Assimilation, sometimes known as integration or incorporation, is the process by which the characteristics of members of immigrant groups and host societies come to resemble one another." ('Assimilation Models, Old and New: Explaining a Long-Term Process' at <http://www.migrationinformation.org/Feature/display.cfm?ID=442>). There are not burdens placed specifically on immigrants in this process.

Although Rodriguez is surely right to caution many policy makers from deciding the endpoint of assimilation, I think she goes too far by suggesting that there is no reasonable endpoint. There is a reasonable endpoint of assimilation, namely liberal social unity. I have argued that a number of recent developments indicate that a lack of social unity is a genuine problem for the functioning of the state. This suggests that there is a set of relationships that must hold between citizens for the state to be stable. In the last chapter, I argued that two relationships between citizens are necessary for the legitimacy of the state on a prominent conception of legitimacy. I also argued that those two relationships serve as a basis for social unity and that some of the worst manifestations of social disunity are partly constituted by a failure of these relationships to obtain. The non-directional model fails to acknowledge the important role these relationships play for legitimacy and social unity.

These arguments about the importance of social unity support conservative proponents of the unidirectional model insofar as conservatives claim that there are certain valuable national relationships important for social unity. The relationships necessary for social unity serve as a normatively salient endpoint that guides the assimilation of immigrants, and they suggest demands that can be specifically placed on immigrants. These conservatives are wrong, however, when they suggest that the relationships that serve as the basis for social unity are the nations' mainstream core cultural traditions and that they should be preserved in an unaltered form. These relationships are constantly fluctuating as they adjust to changing circumstances and the incorporation of new members. They also must be appropriate for liberal states by leaving sufficient space for diversity to flourish. But despite the fact that the nation is not static, it can still serve as an endpoint for immigrant integration that is neither artificial nor coercive.

I propose that assimilation is best analyzed on a *bidirectional model* where immigrants and the settled citizens in the receiving state mutually adjust to achieve integration. Although assimilation is a process where compatriots come to share specific national relationships, this should not only occur in one direction. Reaching liberal social unity should involve *corresponding burdens* on both members of the receiving state and on immigrants. The bidirectional model must be further specified, and I turn to ways in which immigrants and states mutually adjust to achieve integration below. Here it is worth pointing out that the bidirectional model seems to successfully avoid many prominent objections to assimilation that generally have as their target the unidirectional model.<sup>108</sup> Further, the bidirectional model has recently been applied in important sociological studies, such as in the work of Alba and Nee, and it has gained philosophical support by Scheffler and Habermas among others.<sup>109</sup> It even seems to be gaining prominence amongst policy makers. For instance, the German National Integration Plan of July 2007 includes the following statement:

Integration cannot be decreed. It requires an effort from everyone, from government and society. Decisive is the immigrants' willingness to get involved with life in our society,

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<sup>108</sup> "Since the 1960s [assimilation] has been seen in a mostly negative light, as an ethnocentric and patronizing imposition on minority peoples struggling to retain their cultural and ethnic integrity." (Alba and Nee, *Remaking the American Mainstream*)

<sup>109</sup> Scheffler, "Immigration and the Claims of Culture," p. 108, 116. He argues that "accommodation is not a one-way street."

to unconditionally accept our Basic Law and our entire legal system and, in particular, to visibly demonstrate the belonging to Germany by learning the German language. On the side of the host society, acceptance, tolerance, civic commitment and willingness to honestly welcome people living lawfully among us, are essential.<sup>110</sup>

In my subsequent discussion of the demands of assimilation I employ a bidirectional model. This model requires immigrants to adapt to conform to the national relationships, but it also requires state institutions to adapt in response to the incorporation of new members. The bidirectional model holds that assimilation should involve a process a mutual adjustment of immigrants and settled citizens to achieve social unity. There are ways of characterizing the bidirectional model in which it might seem easy to work from both ends to determine reasonable demands of assimilation. However, one must recognize that on a bidirectional model there will be costs and perhaps substantial losses on both the part of immigrants and on native-born citizens. The statement of the German National Integration Plan stresses that there will be demands on the host society, but it does not explicitly confront the kind of difficult transitions that will challenge members of the host society with the influx of new populations. Native-born citizens' ways of life will alter significantly, and these citizens must willingly accept these changes. Of course, the ways of life of immigrants will also alter, and they must also willingly accept changes. I explore now what the demands of assimilation on the bidirectional model requires on both sides, and where the particular difficulties and costs on each side lie.

#### 4. The Demands of Assimilation: Abandoning Practices

I now discuss the demands of assimilation on immigrants to integrate into the nation. Again, these are requirements on immigrants to share the two national relationships described in the last chapter. The process of integration requires immigrants to adapt their practices in some specific ways. The ways in which immigrants must adapt their practices can be divided into two categories: the existing practices of immigrants that must be abandoned and new practices that immigrants must adopt. I discuss the issue of immigrants abandoning practices in this chapter and I discuss the issue of adopting practices in the next.<sup>111</sup>

A demand for immigrants to abandon practices would require of them that they cease to perform actions or behavior in which they have a history of engaging because those actions or behavior preclude them from integrating into the nation. I divide my discussion of the demands to abandon practices into practices that are unjust and practices that are not unjust.

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<sup>110</sup> See <http://www.bundesregierung.de/Content/DE/Publikation/IB/Anlagen/ib-flyer-nip-englisch-barrierefrei.property=publicationFile.pdf>

As the German Chancellor Angela Merkel has put it, "Through tolerance and open-mindedness, our society becomes richer and more humane. Integration concerns all of us--people from migrant families, as well as the citizens living here for a long time. Integration can only succeed in cooperation."

<sup>111</sup> There might be questions regarding assimilation that might seem to fall into either or both categories. I distinguish the demands this way as an expository device rather than because it captures a principled normative distinction. In other words, the distinction is a rhetorical device used for explanation than a philosophically motivated strict divide.

### a. Unjust Practices

An unjust practice is any practice that is prohibited by liberal political principles. There are many reasonable competing interpretations of liberal political principles, and thus there are reasonable disputes about what practices are unjust. The justice or injustice of a specific practice might depend on specific features of the institutional and social manifestations of liberal principles in the receiving state, including the specific composition of the population of the receiving state. Despite this openness to competing interpretations, liberal principles set general constraints about the justice of certain practices. For instance, any practice that denies other citizens certain fundamental rights and liberties is unjust. Now this fact by itself is generally thought sufficient for these practices to be reasonably prohibited. However, there are also grounds for prohibiting these practices within the liberal account of social unity I have offered, and this provides both immigrants and native-born citizens additional reasons to cease these practices.

The nation is constituted by citizens sharing in an overlapping consensus on liberal political principles and an attitude of toleration. If immigrants engage in unjust practices, then they act in ways that preclude them from sharing in an overlapping consensus and being tolerant. Sharing in an overlapping consensus on liberal principles requires that citizens do not engage in practices that deny other citizens fundamental rights and liberties. Citizens appropriately affirm and abide by liberal political values only if they do not engage in unjust practices. Thus it follows directly from the account of the nation that immigrants must abandon these practices in order to integrate as those practices directly preclude integration.

There might also be indirect reasons why immigrants must abandon their unjust practices to integrate. I claimed that citizens often come to share national relationships through the operation of civic trust. Civic trust occurs when one believes that one is tolerated by others, and one thereby likely tolerates others in return. Civic trust seems less likely to occur when citizens engage in unjust practices. If a citizen engages in an unjust practice, then his compatriots will be less likely to believe that he is tolerant, and he will be less likely to be tolerated. When civic trust does not obtain, citizens who are not trusted will likely be denied the full spectrum of advantages, permissions, and responsibilities that comes from membership in the political community. If citizens do not trust immigrants to be tolerant, they will seek to exclude them from political decision-making and will not include them as members of the nation. Integration thus might also indirectly require that immigrants cease their unjust practices.

I have just described a direct and indirect basis for a demand that immigrants abandon their unjust practices. There may be other more direct reasons of course why unjust practices should be abandoned, for instance, because they are cruel or because they infringe on others' fundamental rights, and so forth. I do not focus on these reasons because they are not demands of assimilation grounded in the sort of valuable social unity captured by the nation. Although it is true that the case against unjust practices appears to be overdetermined, this does not mean that there are not valuable insights from looking at unjust practices of immigrants and understanding the reasons based in social unity that require their prohibition. This might provide immigrants additional considerations that might help motivate them to cease these practices.

There seem to be cases where existing practices of immigrants are unjust because they are in clear violation of liberal principles. In these cases, the demands of assimilation require that immigrants cease these practices to integrate. Some examples of these unjust practices include female circumcision (clitoridectomy), violence against homosexuals, or forced marriages.<sup>112</sup> Each of these practices denies other citizens certain fundamental liberties guaranteed to them by liberal principles. They each deprive other citizens of their right to pursue certain kinds of reasonable ways of life, here including the reasonable options of a healthy and pleasurable sex life or a partner of one's choice. Those who engage in these unjust practices do not adequately affirm liberal values and act in ways intolerant of their compatriots. They might also preclude relationships of trust that undergird the overlapping consensus and attitude of toleration. Thus, it is reasonable to demand of immigrants who engage in these practices that they cease to engage in them.<sup>113</sup>

There might be a tendency for the state and its citizens to be overly hasty in identifying unjust practices of immigrants. Practices that might at first seem unjust may in fact simply be strange and foreign to the mainstream. The state and its citizens ought to exercise caution in singling out immigrant groups for engaging in unjust practices. Determining what practices are unjust is a difficult issue, perhaps determined by actual political discussion as much as by philosophy, and I do not seek to argue for a particular interpretation of the limits set by liberal principles.<sup>114</sup> My point is that there is an ideal of integration that requires that immigrants do not engage in unjust practices, despite the open question regarding which practices are in fact unjust. I return to some objections to this claim below.

I have just claimed that there is a demand on immigrants to abandon their unjust practices. I now want to emphasize that the bidirectional model of assimilation that I employ holds that integration is a two way process. There are burdens on both immigrants to adapt their practices, and on the receiving state and its settled citizens to adapt to incorporate new members. Just as immigrants must abandon their unjust practices, the receiving state and its settled citizens must abandon their unjust practices towards immigrants. There are many instances of unjust state policies that discriminate against immigrants, and many examples of intolerance by settled

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<sup>112</sup> These are all real issues in liberal states. A well-known example of female circumcision is the case of Khalid Adem, an Ethiopian immigrant to US, convicted in 2006 of circumcising his daughter. (For a critical take on the use of clitoridectomy as an example of an unjust practice, see Yael Tamir's Hands off Clitoridectomy in the *Boston Review* (Summer 1996), available at <http://www.bostonreview.net/BR21.3/Tamir.html>). The issue of forced marriages or violence against homosexuals is more prominent in European countries.

<sup>113</sup> In my discussion of unjust *practices*, I have in mind certain kinds of actions. Recent immigrants might have certain kinds of illiberal *values* that they do not act on. For instance, they might think homosexuality is wrong yet act tolerantly towards homosexuals. On my account, these immigrants would not necessarily pose any threat to the social unity of the state. One may be a member of the nation while still maintaining values that may be in conflict with liberal values. As I discussed in chapter 3, there are a number of ways that one can share in an overlapping consensus and be tolerant, and one need not think that liberalism is the only or even the best way to organize the state. Or in other words, one can affirm liberal political principles without oneself being a comprehensive liberal.

<sup>114</sup> Just to give an example of one of many questions regarding possibly unjust practices I cannot answer here: Is *halal* or *kosher* treatment of animals unjust?



citizens.<sup>115</sup> Liberal social unity requires that these intolerant policies and practices cease. If the state continues to engage in these practices, than the state and its settled citizens do not grant immigrants the full protections of liberal political principles. In this case, the state is not appropriately regulated by just liberal political principles, and not all citizens are tolerant of their compatriots. Immigrants are excluded from membership in the political community, and they, as a result, will be less likely to tolerate their compatriots in turn.<sup>116</sup>

As in the case of immigrants' unjust practices, it may not be easy to identify and abandon unjust state practices. It is frequently the case that intolerant practices are insidious, and they may not be evident until they are challenged by a particular immigrant group.<sup>117</sup> The state ought to take these challenges seriously, and if the practices are in fact discriminatory, they must stop. Ceasing these practices might not be simply a matter of changing public policy, but also might require of the state that it fight intolerance in informal social spheres by taking actions such as disseminating information about immigrants to combat negative stereotypes, or ensuring that immigrants receive a fair portrayal in the media or in school textbooks.<sup>118</sup> The state has to be willing to honestly assess its institutions, and acknowledge where it has failed in the past.<sup>119</sup> It might be difficult for the state to confront, acknowledge, and compensate for its unjust practices, but these changes are necessary for achieving social unity.<sup>120</sup>

#### (b) Unfamiliar Non-Unjust Practices

Non-unjust practices are practices that are not prohibited by liberal political principles. These practices do not deny others any fundamental rights or liberties. Many recent immigrants engage in non-unjust practices that are foreign or unfamiliar to the mainstream of the receiving state. Some examples of these practices include celebrating different holidays, eating different foods, and speaking different languages. Along with engaging in unfamiliar non-unjust practices, immigrants might also have unfamiliar cultural *identities*. They might identify with a religious group (for instance, the *ummah*, or the worldwide community of Muslims) or with transnational

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<sup>115</sup> To mention just one example out of a multitude of discriminatory practices towards immigrants, No Irish Need Apply discriminatory hiring prominent in the U.S. in the early 20th century.

<sup>116</sup> There are different ways a policy or national practice can be discriminatory and unjust. For instance, there are cases of discriminatory impact where policies that do not have a discriminatory intent result in disadvantages to immigrants. I discuss cases such as these in some detail in the next chapter where I discuss the issue of reasonable state accommodations for immigrants.

<sup>117</sup> A recent example is a case in Canada that involved discrimination against Iranian immigrants from joining the Royal Canadian Mounted Police. This discrimination only became clear following many years of complaints and litigation by Iranians against the RCMP. See 'Racial Taunts Costs Mounties \$500,000,' *The Globe and Mail* (April 17, 2008).

<sup>118</sup> For more on this, see Kymlicka, *Multicultural Citizenship*, p. 96

<sup>119</sup> This might even involve official state apologies, such as the Australian government's recent apology for the White-Australia policy.

<sup>120</sup> I discuss these issues further in the next chapter.

political groups (for instance, animal-rights activism). They might even continue to identify as a member of their former state, especially if they seek to return there in the future.

Although not intrinsically unjust, some of these unfamiliar practices might prompt concerns regarding assimilation. There are three kinds of concerns that are often raised by native-born citizens regarding foreign non-unjust practices.

First, native-born citizens might be concerned simply because immigrants' unfamiliar non-unjust practices differ from the mainstream traditions of the receiving state. As immigration increases, more immigrants might adhere to these practices. Some citizens accustomed to a position in the cultural majority may eventually end up as a cultural minority, making it more difficult for them to engage in their own practices. For instance, with more immigrants engaging in unfamiliar practices, native-born citizens might find that their favorite foods are less available or more expensive, or that their favorite pastime, say American football, has become less popular and thus more costly to access than soccer. As immigration increases, certain culturally homogenous communities will alter and diversify, and goods only available in homogenous communities--for instance, a particular kind of kinship, shared sensibility, or mutual affection--might be lost. There might be an array of genuinely valuable existing practices that will no longer persist as a result of immigrants' foreign practices. Longstanding citizens might (and often do) claim that these valuable practices should not be lost.<sup>121</sup>

This first concern is quite prominent, but it seems largely motivated by the unidirectional model of assimilation. I have rejected that model, and the arguments against that model also entail that the fact that immigrants alter mainstream core traditions by engaging in foreign practices does not ground a demand that they must cease. As I argued above, the mainstream core culture inevitably alters with the inclusion of new members, and new members, like all citizens of the state, must be allowed to pursue their own reasonable ways of life. Even alterations to the mainstream that make it more difficult for some citizens who are accustomed to being in the majority to pursue their traditional practices must be allowed. This sort of change might always occur within a nation due to new generations, even if the state were to effectively close its borders to all immigration. The political values of liberal states enable a divergence of comprehensive views and protect citizens' allegiance to their own reasonable comprehensive conceptions. State responses to changes to national traditions are likely to be illiberal as they would likely deny others the ability to pursue their own reasonable ways of life. All citizens of the state should be included as full-members, and as full members, the mere fact that they engage in foreign practices does not provide grounds for a demand that they be abandoned.<sup>122</sup>

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<sup>121</sup> Compare G.A. Cohen's defense of conservatism in his unpublished manuscript 'The Truth in Conservatism.' There, he defends the following conservative position: "The conservative impulse is to conserve what is valuable, that is, the particular things that are valuable." p. 14. Although still unpublished, the manuscript is widely available online.

<sup>122</sup> As Cohen writes regarding conservatism: "Wanting to conserve what has value implies no tenderness towards exploitation and injustice, since they lack value. Wanting to conserve what has value is consistent with wanting to destroy disvalue." ("The Truth in Conservatism" p. 33) Cohen's thought is that the reasonable impulse to protect valuable practices does not justify exploitation. The conservative impulse does not justify policies that exclude or oppress immigrants.

I do not want to dismiss the important fact that immigration will likely result in changes that alter and perhaps even undermine existing valuable practices. Immigration will likely pose burdens on some native born citizens. Although first-admission policies might be designed to help prevent some of these burdens, it will be imperfect. As I have said several times, it is inevitable that there will be some alterations to the mainstream practices of the state. Citizens may reasonably feel pained by these changes, but there is a duty on their part to willingly accept them. This duty on the part of native-born citizens to accept certain changes produced by immigration is analogous to the changes immigrants must accept when they immigrate. The loss of certain valuable practices runs on both sides, and both immigrants and native-born citizens must be willing to adjust their lives to thrive in their new situation. In the next chapter, I return to the issue of accommodation and the ways immigrants and native-born citizens ought to work to defray the costs of change and distribute them fairly. It is worth noting here that immigrants can share in an overlapping consensus and be tolerant of their compatriots despite their engagement in very different kinds of practices than those of the majority of the receiving population. Immigrants can adopt new practices while continuing to engage in their existing practices. For instance, they can learn the national language of the receiving state while continuing to speak their native language. Whether or not they ought to learn the national language will be addressed in the next chapter dealing with the demands on immigrants to adopt new practices. My point here is that even if there is a demand to adopt certain kinds of new practices, this does not entail that immigrants must abandon their existing non-unjust practices. This first concern regarding these non-unjust practices does not support a demand of assimilation on immigrants to abandon them.

A second concern sometimes raised regarding immigrants' foreign practices is that these foreign practices are incompatible with the provision of certain kinds of social goods important for all liberal states. Although these practices are not themselves unjust, they interfere with social goods that the state has a responsibility to provide. Consider several actual examples of this concern. There are concerns regarding the Sikh practice of carrying a *kirpan* (a short dagger) that it threatens public safety, especially when *kirpan* are carried in schools or on planes. There are concerns that the practices of some Muslim women of wearing *hijab*, *niqab*, or *burka* is in conflict with the public need to identify citizens in contexts such as in their driver's license photo. Others claim in addition that these practices, as a religious display, threaten the social good of state secularism and freedom from religion. There have also been concerns regarding the practice of Jewish men wearing a *kippa* that the practice interferes with the need in certain institutions for aesthetic uniformity such as in the Police or Army. This practice might also be thought to be a threat to valuable state secularism. There are other examples of practices like these that might be thought to conflict with the provision of certain kinds of social goods, such as public safety and secularism, important for all liberal states. Even if these practices are not intrinsically unjust, one might argue that they ought to be abandoned because they threaten these important social goods.

I agree that some of these practices might indeed threaten important social goods, but this does not entail that there is a *demand of assimilation* that they be abandoned. These practices are not intolerant and they do not interfere with others' pursuit of reasonable ways of life. Those who engage in these practices do not thereby fail to affirm or abide by liberal political principles.

Again those principles leave room for citizens to make their own decisions regarding how they will dress or what sort of accessories they will carry. If these citizens can affirm and abide by liberal political principles while continuing to engage in these practices, then there does not appear to be a general demand of assimilation that immigrants who engage in these practices cease to engage in them.

But what about the concern that these practices threaten important social goods? Although there is not a demand of assimilation that these practices be abandoned, the fact that some of them may be in conflict with certain social goods suggests that there may be other kinds of reasons that could ground a requirement that they cease. Consider the aforementioned examples. The Sikh practice of carrying a *kirpan* potentially poses a threat to public safety in contexts such as in schools. The practice of wearing a face-covering seems problematic in contexts where it is reasonable to require that citizens be identified. The practice of wearing a *kippa* seems potentially problematic for those holding certain kinds of official positions or where uniformity is necessary. Although these practices do threaten social goods, it is important to notice that they threaten them only in certain very specific and voluntary contexts. That is, they do not pose a threat to the social goods of safety or aesthetic uniformity *in general*, but rather only when the citizen voluntarily participates in certain kind of public institutions such as getting a driver's license or adopts specific public roles such as joining the police. This suggests not that these practices must be abandoned altogether, but that they should be *conditionally abandoned*--conditional on the citizen's voluntary involvement in the relevant specific contexts. Since these demands appear to be conditional on the citizen's involvement in specific contexts, they are not demands of assimilation as I understand them. The demands of assimilation are demands on immigrants for them to become integrated as full members of the political community. These conditional demands are not a requirement in order to be a full member of the nation but are conditional on pursuing other things that citizens need not necessarily pursue. Outside of these specific contexts, it appears that there is no demand that citizens abandon these practices.<sup>123</sup>

I claim that the demands that these practices cease are not general demands of assimilation but are conditional demands that only occur in contexts when the practice clearly threatens an important social good. These cases are often the most controversial. What I hope to have done here is to suggest a framework to assess the cases where there might be a basis for a conditional demand. The framework suggests that there might be a basis for a conditional demand for a citizen to abandon an unjust practice when that practice threatens a social good. This indicates that the basis of these demands is that there is an important social good at stake. To see if there is a basis for a conditional demand, one should clearly specify the social good at stake and the specific contexts in which it might be threatened.

I now apply this framework to one of the most controversial issues regarding recent Muslim immigrants in Europe: whether they should be allowed to wear headscarves in public schools. In France, for instance, students have been prohibited from wearing headscarves in

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<sup>123</sup> There might also be suitable alternatives to demands that these practices cease. Consider the decision by the Canadian Supreme Court ruling that public schools must allow Sikhs to wear *kirpan* when they are made adequately undangerous because they are blunt and wrapped. See the case *Multani v. Commission Scolaire Marguerite-Bourgeoys*. This is an alternative that allows Sikhs to carry *kirpans* without threatening the social good of public safety.

schools by French law since 2004. Other European countries have proposed similar bans. Is this a reasonable conditional demand to place on these citizens? Employing my framework of conditional demands developed above suggests that this depends on the nature and extent of the social good purportedly threatened by the practice. Let us now look at the social goods that may be under threat. It is clear that the practice of wearing headscarves in public schools does not threaten public safety. It is thus not like the case of the Sikh *kirpan*. Likewise, the practice does not threaten the ability of the state to identify citizens: the headscarf ban includes all outward displays of religion in schools, not just those that might make identification difficult. Further, the ban does not seem supported by a concern regarding communication as one can communicate with other French-speakers even while they wear a scarf. The social good that is frequently claimed threatened by headscarves concerns what the French call *laïcité* and what I will translate here as ‘secularism.’<sup>124</sup> The concern holds that the practice of wearing headscarves in public schools is in conflict with the state’s commitment to secularism. The wearing of headscarves by students in school is a religious display, and religious displays preclude public schools from being a public space completely free of all outward expressions of religion. Speaking in favor of the French headscarf ban, Former Prime Minister Laurent Fabius argued that “in the public space--thus first of all in the public school--demonstrative religious signs have no place.” He supported the ban as it would “express this rule that would be the strict application, according to the law, of the principle of *laïcité*.”<sup>125</sup> There are a variety of familiar reasons why schools and other public institutions should be free of religious expression and secularism might be a valuable ideal. There is a long history of unjust state actions motivated by its support of or adherence to a particular religion. A united state and church is in conflict with liberal values that allow citizens freedom of religion. In France, it is the left (as Fabius’ support suggests) as much as the right that supports the headscarf ban because of this concern for the separation between church and state.

Although Fabius may be right that the wearing of headscarves means that the schools are not completely free of all religious signs, this practice does not, in my view, threaten the social good of secularism. This is because secularism is genuinely a valuable social good only as embodied by the state, not as embodied by individual citizens. That is, it is a feature of a just liberal state that the state does not express a religious affiliation (consider the ‘establishment clause’ of the US Constitution). But it is not a feature of a just liberal state that *the citizens* of the state be secular. Citizens can be religious and express their religious views as they like, short of unjust practices. As I laid out in the last chapter, citizens can affirm the state and take part in an overlapping consensus from within their religious viewpoint. Indeed, religion provides one of the many bases for a citizen’s affirmation of the state. Thus, the practices of individual citizens of expressing their religion through clothing in public spaces does not entail that the *state* violates secularism. If anything, what appears to violate secularism is state policy that seeks to ban certain displays of religion, thereby denying citizens the right to express their religion as

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<sup>124</sup> For the history of *laïcité* and the difficulties of translating it into English, see John R. Bowen, *Why the French Don’t Like Headscarves* (Princeton: Princeton University Press 2007).

<sup>125</sup> Quoted in *Why the French Don’t Like Headscarves*, p. 107.

they see fit (consider the ‘free exercise’ clause of the US Constitution).<sup>126</sup> So, in my view, the practice of wearing headscarves in schools does not threaten the social good of state secularism, and there is not a basis for a conditional demand that the practice cease.<sup>127</sup> This concern has not shown that the practice threatens an important social good. Policy like the French ban is likely to exclude Muslims from the French nation by unreasonably denying them the right to freely express their religion.<sup>128</sup>

The third concern I address here involves immigrants’ adherence to alternative identities. Some native-born citizens worry that immigrants frequently maintain foreign identities when they immigrate. For instance, there is concern that some immigrants continue to identify as a member of their native country rather than their new country. If immigrants maintain existing identities and do not adopt their new national identity, then this diminishes their commitment to affirming the state and abiding by its laws; immigrants might prioritize their other identities over their new national identity. Consider in this regard statistics often cited by conservatives regarding the divided identities of many immigrants. These conservatives are concerned that an immigrant identifies, for instance, primarily as a Muslim and only secondarily as Dutch. This, they claim, precludes genuine integration into the nation.<sup>129</sup>

The charge that immigrants’ loyalties to non-national cultural or religious groups preclude them from adequately affirming the state is not sound. Many longstanding citizens of the state identify with non-national cultural or religious groups, and adhering to these other identities does not conflict with identifying as a member of the nation. One can continue to be a committed Christian, strongly biased towards other Christians perhaps, while also affirming the

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<sup>126</sup> Compare here claims from the Taylor-Bouchard Report commissioned by the Province of Quebec, by Charles Taylor and Gerard Bouchard: “The argument that “religion must remain in the private sphere” was often cited by the proponents of secularism. While at first sight it seems clear, this statement is not quite as clear as we may think. Indeed, “public” can be understood in at least two separate ways. According to the first meaning, what is public relates to the State and its common institutions, i.e. “public institutions.” According to the second meaning, what is public is open or accessible to everyone, i.e. “places of public use,” for example, a “garden open to the public.” The first meaning concurs with the secular principle of the neutrality of the State with respect to religion. According to this first meaning, it is therefore accurate to confirm that religion must be “private.” However, it does not go without saying that secularism demands of religion that it be absent from public space in the broad sense. In point of fact, religions already occupy this space and, pursuant to the charters, religious groups and the faithful have the freedom to publicly display their beliefs.” p. 44. The entire report is available at <http://www.accommodements.qc.ca/index-en.html>

<sup>127</sup> Note that I am assuming that the wearing of the veil expresses a private choice by citizens, and is not an unjust practice. Some take issue with this assumption and argue that the veil is a tool that men use to dominate women, thus is an expression of an unjust practice. Others argue that the wearing of the veil pressures other women to wear it, and thus constitutes an unjust imposition on them of a particular religion. Although there is some truth to these claims, I leave them aside and take as paradigmatic the wearing of the veil as a private decision about religious expression. There is support for understanding this practice as frequently expressing a private decision. See Bowen, *Why the French Don’t Like Headscarves*.

<sup>128</sup> An early ruling on the French headscarf issue by the State Council makes much the same point: “That students wear signs in order to display their affiliation to a religion is not in itself incompatible with the principle of laicity insofar as it constitutes the exercise of freedom of expression and of demonstrating religious beliefs.” Quoted in Bowen, *Why the French Don’t Like Headscarves*, p. 86.

<sup>129</sup> There is philosophical support for this complaint, in particular Brian Barry in his *Culture and Equality: An Egalitarian Critique of Multiculturalism* (Cambridge MA: Harvard University Press 2001).

state and tolerating compatriots. It would seem that many cultural identities or comprehensive views that we take to be crucial to our lives are quite fluid and are compatible with other identities. The national identity I have been employing seems well designed to be compatible with other identities. It requires that one acknowledge certain liberal values and tolerate diversity and in this way it might be thought of as a thin ‘civic’ identity. Because of the thin nature of this identity, sharing a national identity with the native-born citizens of the receiving state is consistent with immigrants maintaining other identities they do not share with them.<sup>130</sup> To be full members of the nation, immigrants have to affirm their state, but they might do this while prioritizing transnational or other cultural identities ahead of their national identity, or even by continuing to experience a connection with their ‘home’ countries.<sup>131</sup>

Although there are not demands of assimilation for immigrants to abandon their non-unjust practices or their cultural identities, there likely may be other reasons for immigrants to abandon them. Perhaps many of these practices or identities are imprudent or particularly costly for immigrants in the context of their new state. Or perhaps there is strong social pressure by other citizens to cease these practices in order for the immigrant to fit in socially or make friends. These reasons however are not grounded in the sort of valuable social unity captured by the nation, and are not properly thought of as demands of assimilation. As a matter of sociological fact, immigrants do abandon many of the practices prominent in their former country. This is surely true of immigrant children who, especially through attendance at public schools, quickly adopt mainstream practices and dismiss those of their past. One might object to the demands of assimilation on this front by claiming that these demands prevent immigrants from preserving their cultural practices or identities; I return to address this objection below.

This discussion suggests that although there is a demand of assimilation for immigrants to abandon their unjust practices, there is not a demand of assimilation for immigrants to abandon their non-unjust practices. However there are other reasons immigrants might have to abandon them. For instance, if non-unjust practices are in conflict with certain kinds of social

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<sup>130</sup> See Deborah Schildkraut’s empirical study of the multiple forms of identity consistent with maintaining an American identity in “Defining American identity in the 21st Century: How much “there” is there?” *Journal of Politics* no. 69 (2007) pp. 597-615.

<sup>131</sup> Olivier Roy offers some interesting analysis of Muslim immigrants to Europe maintaining an Islamic identity. He argues that they adopt this Islamic identity precisely because they are excluded from their new state. If they were tolerated by their new compatriots, these immigrants would be more likely not to prioritize their Islamic identity. As he argues: “Islam is cast as the ‘otherness’ of Europe and thus may be recast as an alternative identity for youngsters in search of a reactive identity.” See his *Globalized Islam* (New York: Columbia University Press 2004) p. 45. See also the Archbishop of Canterbury’s recent remarks where he states: “Both historically and in the contemporary context, Muslim states have acknowledged that membership of the *umma* is not coterminous with membership in a particular political society: in modern times, the clearest articulation of this was in the foundation of the Pakistani state under Jinnah; but other examples (Morocco, Jordan) could be cited of societies where there is a concept of *citizenship* that is not identical with belonging to the *umma*. Such societies, while not compromising or weakening the possibility of unqualified belief in the authority and universality of *sharia*, or even the privileged status of Islam in a nation, recognise that there can be no guarantee that the state is religiously homogeneous and that the relationships in which the individual stands and which define him or her are not exclusively with other Muslims. There has therefore to be some concept of common good that is not prescribed solely in terms of revealed Law, however provisional or imperfect such a situation is thought to be. And this implies in turn that the Muslim, even in a predominantly Muslim state, has something of a dual identity, as citizen and as believer within the community of the faithful.”

goods, in particular when immigrants pursue activities that are not necessary for full membership, then there might be a conditional demand to abandon them.

## 5. The Multicultural Challenge Revisited

The objections I discuss here are each related to the multicultural challenge I introduced in Chapter 1. The objections hold that the demands of assimilation are unreasonable because they (a) are non-neutral, (b) are oppressive, and (c) prevent immigrants from preserving their culture.

### (a) Non-Neutrality

I begin with an objection that holds that the demands are unreasonable because they are non-neutral. One way in which the demands might be charged with non-neutrality is that they privilege liberal values over other traditional cultural values. In requiring immigrants to abandon illiberal practices, the demands of assimilation non-neutrally favor a particular set of liberal values that excludes or discriminates against those who do not share them. Recent immigrants often arrive from illiberal states and they may not have been inculcated with liberal values such as toleration; they may traditionally engage in practices that appear illiberal. The demands of assimilation I have offered are likely to be biased against these immigrants. Canovan, one proponent of this objection, claims that “it may be precisely in [multi-ethnic and multicultural societies] that dissent from liberal democratic principles is likely to occur. Religious minorities are particularly liable to find themselves in disagreement with liberal orthodoxy.”<sup>132</sup> They thereby may be unjustly excluded from their new state. Asking these immigrants to abandon unjust practices in order to assimilate is non-neutrally biased and perhaps potentially destabilizing.<sup>133</sup>

Charles Taylor also raises this objection. He considers the view that liberalism “can offer a neutral ground on which people of all cultures can meet and coexist,” and argues that a controversy like that over Salman Rushdie’s *Satanic Verses* shows how wrong this view is. For mainstream Islam, there is no question of separating politics and religion the way we have come to expect in Western liberal society. Liberalism is not a possible meeting ground for all cultures, but is the political expression of one range of cultures, and quite incompatible with other ranges.<sup>134</sup>

Here Taylor claims that liberal values represent a substantive view at odds with, in particular, “mainstream Islam.” As a substantive view at odds with other comprehensive views, liberalism is non-neutral. Demands on immigrants that require that they abandon illiberal practices constitute an unjust imposition of this non-neutral view on them.

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<sup>132</sup> Barbara Canovan, ‘Patriotism is Not Enough,’ *British Journal of Political Science* vol. 30 (2000) pp. 413-432.

<sup>133</sup> Bhikhu Parekh also raises criticisms of this sort in his *Rethinking Multiculturalism*, chapter 3, where he discusses “absolutizing the liberal way of life” p. 110. He claims that “modern western society includes nonliberal groups...who cannot be excluded from its self-definition by an ideologically biased act of linguistic appropriation.”

<sup>134</sup> Charles Taylor, *Multiculturalism and The Politics of Recognition* (Princeton: Princeton University Press 1994) p. 62.



Some theorists claim that a just state must be neutral towards all ways of life. If so, then this may require that the demands of assimilation must be neutral towards all of the practices of recent immigrants. However, it is not clear that neutrality in this sense is a genuine liberal ideal. Rawls and other recent theorists have shied away from an ideal of neutrality, preferring instead that the state be tolerant towards different reasonable comprehensive views. The fact that a state is not neutral to all ways of life is not itself sufficient for it to be unjust, and likewise reasonable demands of assimilation need not be neutral to all immigrants' practices. I have claimed that a liberal state, and the demands of assimilation appropriate for a liberal state, must leave sufficient room for citizens to engage in diverse practices and adhere to a variety of identities. However, it is not a requirement of liberalism that a just state leave room for illiberal ways of life. In other words, insofar as a state must be neutral, liberal neutrality does not extend to neutrality regarding illiberal practices. This fact of liberal non-neutrality about liberal practices, and the demands of assimilation grounded in liberal values that require the abandonment of illiberal practices, very well may be inconsistent with some practices of recent immigrants; I offered some examples above. But this fact does not make those demands unjustly exclusionary or discriminatory. This can be supported by noticing that the charge that the demands are discriminatory or biased itself seems to presuppose specific *liberal* values such as toleration, inclusion and non-discrimination. If recent immigrants complain that they are *excluded from* or *discriminated against* by liberal states because they do not share liberal values, then those immigrants themselves appeal to liberal values in their very complaints. It is of course plausible that many recent immigrants are unjustly excluded, but this must be because their receiving state fails to *realize* liberal requirements of toleration or inclusiveness, and cannot be because the immigrants themselves do not share liberal values. The fact that the demands of assimilation are not neutral about liberal values does not entail that they are unreasonable.

It may be difficult to foster liberal practices amongst recent immigrants from illiberal states, and it may require a process of education and trust-generating cooperation. The state might have to proceed particularly carefully in this process to ensure that it does not stigmatize new and sensitive populations. But I believe that the assumption that certain cultures are inherently illiberal itself seems to stigmatize and exclude these populations. It is worth mentioning that no culture flat-out prevents its members from becoming more aligned with liberal values. As Kymlicka argues, "to assume that any culture is inherently illiberal, and incapable of reform, is ethnocentric and ahistorical."<sup>135</sup> That assumption smacks of a cultural essentialism that implausibly denies the possibility of cultural change. There is a charge often made, for instance by Taylor in the quote above, that "mainstream Islam" is inherently illiberal, and that Muslims cannot affirm a secular state. Interestingly, this is a charge frequently made both by those on the left like Taylor who claim that it is unreasonable to impose liberal values on Muslim immigrants and those on the right like Huntington or Le Pen who claim that Muslims should be denied citizenship because they cannot integrate into a liberal state. However, this charge appears to be greatly overstated by both sides. For one thing, it is opposed by an array of

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<sup>135</sup> *Multicultural Citizenship* p. 94.

prominent Islamic clerics.<sup>136</sup> But moreover, it is clearly in conflict with the tolerant practices of hundreds of millions of Muslims who live peacefully in secular states. It is worth remembering that *all* cultural traditions contain examples of illiberal and intolerant pasts. Many of these cultures become more tolerant as they have successfully been exposed to and cooperated with those who are different. The development of progressively more liberal institutions and liberal citizens has been a lengthy process with many missteps, and this process faces challenges by the extensive immigration to liberal states over the last 50 years. But the process only becomes more difficult by exaggerated assumptions regarding the impossibility of certain cultural changes or the incompatibility of certain cultures with liberal values. That assumption might be self-fulfilling, and itself excludes certain immigrants from integration into the national community. Despite the difficulties of integration, it is still reasonable to demand of both the receiving state and immigrant groups that they be tolerant.

### (b) Assimilation as Oppressive

A second objection builds off the first. It claims that it is not the general fact that the demands of assimilation are non-neutral that makes them unreasonable. Rather, it is the specific ways in which liberal states are non-neutral that problematizes the demands. The problem is that the demands of assimilation are not demands to conform to liberal values existing only in the abstract, but are demands to integrate into a pre-existing *ethno-culturally permeated* political system. I myself earlier claimed that there were specific institutional and social manifestations of liberal principles and that these manifestations are a result of the historical development of distinct states. So it is not that the demands of assimilation simply require that recent immigrants abandon illiberal practices and adopt new practices in the abstract. Rather they must meet these demands in a particular institutional and social context. This context, inevitably, is a product of historical contingency, and has been influenced by an array of developments guided by a dominant culture. Since the demands of assimilation always embody a dominant culture, they thereby foster state imposition of a dominant culture on an immigrant minority. This imposition of a dominant culture oppressively undermines immigrants' cultural identities.

One well-known proponent of this charge is Iris Young. She claims that “the assimilationist ideal assumes that equal social status for all persons requires treating everyone according to the same principles, rules, and standards,” and that this assimilationist ideal results in a kind of oppression she terms ‘cultural imperialism.’ She defines this form of oppression as follows: “To experience cultural imperialism means to experience how the dominant meanings of a society render the particular perspective of one’s own group invisible at the same time as

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<sup>136</sup> See Imam Hassan Qazwini’s *American Crescent: A Muslim Cleric on the Power of His Faith, the Struggle Against Prejudice, and the Future of Islam in America* (New York: Random House 2007) and Tariq Ramadan’s *Western Muslims and the Future of Islam* (Oxford: Oxford University Press 2003) for a variety of Islamic justifications of tolerance and integration into liberal states. Also see Parekh: “For most European Muslims democracy therefore remains a better form of government than any other and they have a moral obligation to uphold it” (p. 183).

they stereotype one's group and mark it out as the Other."<sup>137</sup> Cultural imperialism is a form of oppression that "involves the universalization of a dominant group's experience and culture, and its establishment as the norm" and necessitates that immigrants and minorities conform to this universalized norm. This undermines the immigrant's identity, requiring a kind of self-annihilation to achieve full-membership in the political community. In Young's words:

This norm of the homogenous public is oppressive. Not only does it put unassimilated persons and groups at a severe disadvantage in the competition for scarce positions and resources, but it requires that persons transform their sense of identity in order to assimilate. Self-annihilation is an unreasonable and unjust requirement of citizenship.<sup>138</sup>

The demands of assimilation I have offered might be part of this self-annihilation insofar as they might require immigrants to abandon specific features of their identity.<sup>139</sup>

I offer three responses to this objection. The first response is similar to the response discussed earlier regarding non-neutrality. The demands of assimilation cannot be oppressive simply by requiring conformity with liberal values. Non-oppression is, of course, a primary goal of liberal states, and insofar as state institutions are oppressive, they fail to sufficiently realize basic liberal values. Liberal states must leave room for a variety of identities. So the charge that assimilation to a liberal political system is oppressive itself presupposes a commitment to those liberal values. This is true even when the charge targets particular institutional and social manifestations of liberalism developed over the course of history. The institutional and social manifestations are not themselves oppressive so long as they are in conformity with liberal values. If the political and social system is in fact an oppressive product of the elite, then the system must alter to accommodate minorities. These oppressive features of the state are not essential for social unity, and can and should be altered.

The second response concerns the charge that the demands of assimilation require a kind of cultural annihilation, a destruction of immigrants' fundamental identities. I admit there is a sense in which immigrants' identities will alter drastically. Immigrants choose to leave their homes and now must adapt to a new environment. But this, of course, is completely inevitable. After all, they have left their home and immigrated to a foreign country. In fact, cultural change is in some sense the very point of immigration, precisely what many immigrants seek to do when they migrate. This kind of cultural change may pose substantial costs for immigrants, but immigration always poses substantial costs, and since cultural change is an inevitable outcome of immigration, it does not automatically seem to constitute oppression.

Lastly, I agree with Young that "the rejection and devaluation of one's culture and perspective should not be a condition of full participation in social life" and that "integration into the full life of the society should not have to imply assimilation to dominant norms and

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<sup>137</sup> This is one of five kinds of oppression highlighted by Young in her *Justice and the Politics of Difference*, Chapter 2.

<sup>138</sup> *Justice and the Politics of Difference*, p. 179.

<sup>139</sup> Taylor also seems to make this point. He says the manifestation of liberal principles "negates identity by forcing people into a homogenous mold that is untrue to them... the supposedly fair and difference-blind society is not only inhuman (because suppressing identities) but also, in a subtle and unconscious way, itself highly discriminatory." Taylor, *Multiculturalism and the Politics of Recognition*, p 43. Compare also Cohen, who supports "the legitimate desire of its members to preserve their particular corporate identity." "The Truth In Conservatism" p. 6.

abandonment of group affiliation and culture.”<sup>140</sup> It is inevitably true that immigrants will change in significant ways when they arrive in their new state--again that’s part of the point of immigration--but I agree that they cannot be required by the receiving state to reject their former identity and abandon former group affiliations. This is one of the reasons why I earlier rejected the unidirectional model of assimilation. I claimed that the unidirectional model unreasonably imposes a settled and established culture on a minority group while devaluing their culture and asking them to abandon their identities. I rejected that model and claimed that only immigrants’ unjust practices must be abandoned, and that they should be allowed to value and maintain many of their former practices and identities. The bidirectional model of assimilation I have adopted does not require them to abandon previous identities or non-unjust practices. For instance, immigrants can continue to speak their native language even while being required to learn a new language, and they can continue to hold their other cultural identities even while adopting a new national identity. Maintaining these identities and practices is consistent with ‘nationalization.’ In addition, on the bidirectional model of assimilation, the nation itself must adjust in response to new immigrant populations. So, according to this model, the demands of assimilation do not impose an unchanging settled and established culture on immigrants and ask them to conform. The cultures of the settled citizens and immigrants are both subject to adaptation to reach social unity, and there might be substantial burdens both sides must be willing to accept. In a reasonable process of bidirectional assimilation, there will be no oppressive cultural imperialism.

Now, insofar as the experience of immigrating to a foreign country is alienating or confusing for immigrants, as it likely will be, the receiving state and its settled citizens should carefully seek to diminish any resulting sense of inferiority. I believe that this is done through offering immigrants political and economic opportunities, and ensuring their inclusion in the host country. It also might require cultural accommodations and support to ensure the maintenance of immigrants’ former identities. Again, the particular kinds of accommodation and support will depend on the specific practices of the settled citizens and the burdens that accrue to immigrant groups. But importantly, assimilation need not only involve the state coercively imposing a dominant culture on immigrants.

### (c) Immigrants’ Duty to Preserve their Culture

The next objection holds that the demands of assimilation are unreasonable because they prevent immigrants from acting on their duty to preserve their culture. Before their migration, immigrants were a part of a culture that has conditioned their choices, values and relationships. Their culture partly constitutes their identity. As a result, members of a culture have a responsibility to preserve and support their culture. The demands of assimilation require immigrants to abandon unjust practices, and one might argue that meeting this demand requires immigrants to wrongly turn their back on their culture, thus precluding them from preserving their culture. Eamon Callan discusses an objection of this sort when he claims that “assimilation is sometimes taken to signify betrayal of the cultural community that one forsakes.”<sup>141</sup> Callan

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<sup>140</sup> *Justice and the Politics of Difference*, p. 168.

<sup>141</sup> Eamon Callan “The Ethics of Assimilation” *Ethics* 115 (2005) pp. 471-500, p. 476.

compares the duty to preserve a culture to the duty to remain loyal to one's parents. Just as being a good son or daughter might require that one remain loyal to one's parents, being a good immigrant requires that one remain loyal to one's culture. One is not loyal to one's culture if one abandons elements of it. According to Callan, one might claim that

assimilation is an abandonment of that social role or roles and whatever special moral responsibilities might go with them. Those who remain within the culture will sometimes view assimilation as a kind of personal betrayal, an abandonment of relational ties to the community that are properly central to the ethical identity of the one who assimilates.

There are other theorists who suggest a similar objection. Ronald Dworkin, for instance, claims that "we inherited a cultural structure, and we have some duty, out of simple justice, to leave that structure at least as rich as we found it."<sup>142</sup> Assimilation might prevent immigrants from enriching their "cultural structure."

I have general questions regarding the proposed duty to preserve one's culture. First, have immigrants already abandoned their culture simply by immigrating? If not, then why not? Immigration to a new state entails emigration from a former state, and this might already be seen as a betrayal of one's culture. But if emigration is a violation of the duty to preserve one's culture, then that duty implausibly precludes emigrating, a drastic infringement on one's right to move where one wants. This unacceptable implication suggests that there is not in fact a duty to preserve one's culture so strong that it prevents emigration. Likewise, I do not see how there could be a duty so strong that it prevents abandoning the unjust practices I have claimed must be abandoned for assimilation.

Further, given the inevitability of cultural fluctuation, how exactly would an immigrant discharge the duty to preserve their culture? To whom exactly is the duty owed? One way immigrants might discharge the would be to take advantage of the economic opportunities in their new state and send money to members of their former state. Many immigrants migrate for just this reason and offer substantial remittances to family members or friends in their former state. Many immigrants even eventually hope to return to their former state where they can use their savings to further enrich their culture. Note, however, that each of these ways of discharging the duty to preserve one's culture is consistent with assimilation. One can send remittances or otherwise continue to support members of one's culture even while integrating into a new culture and adopting a new identity. This suggests that even if there is a duty to preserve one's culture, assimilation is not a violation of the duty. Immigrants can employ globalization forces to stay connected to their native culture, and can continue to maintain transnational relationships and identities even while adopting the national identity of their new home.<sup>143</sup>

## 6. Conclusion

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<sup>142</sup> Ronald Dworkin, *A Matter of Principle* (New York: Oxford University Press 1986) p. 233.

<sup>143</sup> Callan also dismisses the objection, but on different grounds. In his view, "a duty of cultural fidelity that foreclosed assimilation would be degrading: it would make all one's choices subject to current norms about what comports with membership in a particular culture" (p. 481).

I have argued that assimilation ought to involve a process of reciprocal mutual adjustment. Both the receiving state and new immigrants should adapt to achieve social unity. Here I have only pointed to the sorts of adaptations that involve the abandonment of practices: the demands of assimilation require that both immigrants and the state abandon unjust practices.

Achieving this demand is difficult, and it is up to policy makers to determine good or bad policies regarding assimilation. I have claimed that some actual policies ask too much of immigrants and might be discriminatory or destabilizing, for instance, the French headscarf ban. I note here that what seems particularly important is that there are clear expectations on both the part of immigrants and native-born citizens. It should be made evident to immigrants that they must adopt liberal values and be tolerant of their new compatriots, and it should be made clear to the native-born that they will likewise be asked to build trust with and tolerate new immigrants. Some policies work effectively at establishing appropriate expectations. For instance, immigrants to the Netherlands much watch a video of what they can expect in the Netherlands. The video includes scenes of men holding hands and lovers kissing on the street. The hope is that this will help settle immigrants' expectations and make them more likely to be tolerant of the lifestyles of their new compatriots. Immigrants however are not the only ones confronting new lifestyles. Longstanding Dutch citizens might themselves become more tolerant if they are exposed to videos depicting the lifestyles of the new immigrant population. Social unity will more likely be achieved when expectations are settled on both sides.

In the next chapter I turn to the case of adopting new practices, and address the controversial case of immigrants learning a new language.

## Chapter 5

### The Ethics of Assimilation: Adopting Practices

#### 1. The Language Debate in the U.S.

The majority of recent immigrants to the U.S. are native Spanish speakers. According to the 2000 Census, the Spanish language is spoken in the home of 27 million US inhabitants. Spanish is now spoken throughout the U.S. and is no longer just a phenomenon of traditional gateway cities and border-states. It is common for *all* Americans to be exposed to Spanish when they access public services, turn on the TV, or call an operator and hear the automated phrase: “press one for English, *opríma dos por español*.”<sup>144</sup>

The increase of Spanish use and availability has motivated a contentious debate about the potential threat Spanish poses to English as the central language of American life. Many citizens argue that the U.S. must continue to be English speaking. They believe that speaking English is, more than baseball or apple pie, the central practice unifying all Americans. These Americans are concerned that the influx of Spanish-speaking immigrants undermines social unity and threatens to significantly burden non-Spanish speakers. Their concerns are not simply a matter of having to press ‘one’ to reach an English operator, but are a matter of not being able to communicate with their neighbors, a fear of linguistic social divisions, and a feeling that they will soon be excluded from their now unrecognizable and literally *unintelligible* native country.

Samuel Huntington offers an archetypal expression of these Americans’ views.<sup>145</sup> In response to the influx of Spanish-speakers, he asks: “Will the United States remain a country with a single national language and a core Anglo-Protestant culture?”<sup>146</sup> He answers that “by ignoring this question, Americans acquiesce to their eventual transformation into two peoples with two cultures (Anglo and Hispanic) and two languages (English and Spanish).” The transformation of the traditionally monolingual U.S. into a state characterized by linguistic divisions, Huntington claims, is deeply problematic, comparable to the racial divisions that have historically been the source of conflict in the U.S.. He worries that

despite the opposition of large majorities of Americans, Spanish is joining the language of Washington, Jefferson...as the language of the United States. If this trend

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<sup>144</sup> Consider one example, Prince William County, Virginia. Since 1996 the Hispanic population of Prince William increased from 2% to 19%, and the public school enrollment of children whose native-language is not English increased more than 200%. See the *New York Times* interactive map at <http://www.nytimes.com/interactive/2009/03/10/us/20090310-immigration-explorer.html?scp=1&sq=immigration%20map&st=cse>

<sup>145</sup> See Samuel Huntington, “The Hispanic Challenge” *Foreign Policy* March/April (2004) and his *Who Are We?: The Challenges To America’s National Identity* (New York: Simon and Schuster. 2004). The former CNN commentator Lou Dobbs and former House Representative Tom Tancredo are two other prominent proponents of these views.

<sup>146</sup> Samuel Huntington “The Hispanic Challenge.”

continues, the cultural division between Hispanics and Anglos could replace the racial division between blacks and whites as the most serious cleavage in U.S. society.<sup>147</sup> The increase of Spanish threatens to undermine a central American practice essential for U.S. social unity, and, moreover, the Spanish “encroachment” on English threatens to significantly burden native-born Americans. Huntington argues that with greater Spanish use in the U.S., Americans will have to learn Spanish to thrive socially and economically. But, he thinks, it is deplorable that native-born Americans will have to learn a new language simply because of an influx of immigrants who do not learn English. He claims,

a persuasive case can be made that, in a shrinking world, all Americans should know at least one important foreign language so as to understand a foreign culture... It is quite different to argue that Americans should know a non-English language in order to communicate with their fellow citizens.<sup>148</sup>

That would be an unreasonable demand to place on native English speakers in an English speaking state. Yet, Huntington argues, this is precisely what will soon be required of Americans if the trend of Latino migration continues.

These concerns regarding the use of Spanish in the U.S. motivate many Americans to support first-admission immigration policy that curtails immigration from Spanish speaking countries. It also motivates them to support second-admission policy that encourages or even coerces Spanish-speaking immigrants to learn and speak English.<sup>149</sup> Some of these policies include English-only policies in public services and workplaces, the prohibition of bilingual schools, and state and federal Constitutional amendments asserting that English is the official language of the U.S.. Consider, for instance, the narrowly defeated 2006 Congressional Bill which included the statement “English is the common and unifying language of the United States that helps provide unity for the people of the United States.”<sup>150</sup>

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<sup>147</sup> Huntington, *ibid.*

<sup>148</sup> Huntington, *ibid.*

<sup>149</sup> In Chapter 1 I discuss the distinction between first and second admissions. Briefly, first-admission policy concerns the legal restrictions and controls on the initial admittance of immigrants. Second-admission policy concerns the legal requirements on immigrants already residing in the state to assimilate or integrate.

<sup>150</sup> For more examples of English-Only bills, see Cristina Rodriguez’s article “Language and Participation” *California Law Review*, vol. 94, (2006) pp. 687-767. Note that although the large population of Spanish speaking immigrants has prompted these recent concerns among many Americans, the sentiment that English must be promoted as the sole language of the US is not new. Previous groups of immigrants have also led Americans to confront issues regarding the place of English. As Ben Franklin famously wrote, “Why should Pennsylvania, founded by the English, become a Colony of Aliens, who will shortly be so numerous as to Germanize us instead of our Anglifying them, and will never adopt our Language or Customs, any more than they can acquire our Complexion.” And in 1917, in response to the large waves of immigrants from Eastern and Southern Europe, President Theodore Roosevelt said: “We must have but one flag. We must also have but one language. That must be the language of the Declaration of Independence, of Washington’s Farewell address, of Lincoln’s Gettysburg speech.” Although the U.S. has not passed a federal law asserting that English is the official language, the founders discussed this possibility and a number of state constitutions have included it. See references in ‘Do you Speak American?’ by Denis Baron available at <http://www.pbs.org/speak/seatosea/officialamerican/englishonly/>



There are also those who argue in opposition to the ‘English Only’ movement exemplified by Huntington in support of Spanish-speakers. Some offer empirical data demonstrating that Spanish-speaking immigrants, like past waves of immigrants, actually do learn English. The data shows that in the vast majority of cases Spanish speaking ceases altogether by the third generation.<sup>151</sup> They use this data to argue that the purported threat of linguistic division is overblown and that English-speaking Americans will not be burdened by Spanish use. Even with large numbers of Spanish-speaking immigrants, English will continue to unify Americans.

Others argue that even if Spanish-speaking immigrants do not all learn and speak English, or even if they continue to speak Spanish, this does not itself indicate any problematic social disunity. Rather than requiring Spanish-speakers to learn English, there ought to be greater linguistic accommodations and cultural support for these citizens. For instance, Spanish-language schools should be funded to ensure that Spanish speakers are granted full educational opportunities. Some even claim that the U.S. should officially become bilingual with Spanish recognized alongside English as a central practice of Americans. After all, it is an arbitrary accident of history that led English to its dominant status. The American transformation to becoming a bilingual state would demonstrate proper respect for Spanish-speaking citizens by lessening the burdens they face when immigrating.<sup>152</sup>

There is thus an array of positions held in the US language debate with views falling across a spectrum from those, on one side, who believe all US citizens must speak only English and offer few accommodations to Spanish speakers, to those, on the other side, who believe that the U.S. should recognize and encourage Spanish-speakers by officially becoming bilingual.

The debate I have been describing takes place in an American context, but many of the world’s states face issues of linguistic diversity. After all, the world contains approximately 6700 languages but only 225 nation states; as a result, linguistic conflict is present in perhaps every state. Language has an important communicative and expressive function, essential to understand others and to be understood by them. Communication in one’s native-tongue provides, in Alba and Nee’s words, a “largely impenetrable social boundary which includes all who share the same ethnic origin and can speak its language and excludes everyone else.”<sup>153</sup>

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<sup>151</sup> This data is presented in Richard Alba and Victor Nee in their *Remaking the American Mainstream: Assimilation and Contemporary Immigration* (Cambridge MA: Harvard University Press 2003) p. 222-227 and in the Pew Hispanic Center ‘Assimilation and Language Survey Brief’ available at <http://pewhispanic.org/files/factsheets/11.pdf>. There is some dispute about this data. A recent study shows that around 2/3 of English language learners are born in the US as second or third generation immigrants. For references, see the *New York Times* article ‘Where Education and Assimilation Collide,’ March 15, 2009.

<sup>152</sup> See Patten, Allan “Liberal Neutrality and Language Policy,” *Philosophy & Public Affairs* vol. 31 no. 4 (2003) pp. 358-386 for a forceful articulation of this view. Patten writes regarding a linguistic minority, “they are proud of their language and the cultural achievements that have been expressed through it...and they think that their language and culture should be shown respect through public recognition and accommodation.... Public institutions should adopt rules and practices of language usage that give threatened communities the tools and resources they need to resist the tendency to uniformity” (p 363).

<sup>153</sup> *Remaking the American Mainstream*, p. 72

Language is not merely a vehicle for communication. Beyond its communicative role, language is a way of being part of a community, and is often considered a defining characteristic of one's ethnic group. Language has a role in framing and understanding one's life; in this way, it is thought to partially constitute one's cultural self-identity.<sup>154</sup> Given the significance of language, there appears to be substantial loss when one is in a situation where one's language is not widely spoken. Without the ability to communicate, one might lose a sense of community and one might thereby lack viable options for employment, education, and other pursuits that contribute to a good life. Some theorists also claim that the unavailability of one's native language is a significant blow to one's dignity.<sup>155</sup> These problems are more severe when one does not understand the language of one's *state*. One would be excluded not just from social community, but from the political decision-making that greatly affects one's life. Further, on an everyday concrete level, one would be unable to access public services and comprehend civic situations such as confrontations with the police.

It must be noted, of course, that language has this communicative role and relationship to self-identity for both immigrants and native born citizens. There is much at stake on each side as both immigrants and native-born citizens stand to lose if their language is not widely available in their state. I believe it is this potential loss on each side that motivates Americans concerned about the increase of Spanish use and Spanish-speaking immigrants concerned about the availability of linguistic accommodations in the U.S.

In addition to its importance on its own, this debate concerning language is part of the larger debate regarding the ethics of assimilation. In the U.S., the issues regarding language are perhaps the central conflict regarding the assimilation of immigrants. Language, in other words, is the flashpoint of concerns over immigration in the U.S., much like the wearing of the Islamic veil or minarets in Europe. The debate regarding language in the US motivates the question: Is it reasonable to require immigrants to learn the national language of the state? This question, however, is an aspect of a more general question: what practices can immigrants be required to adopt to integrate into the nation?

I address these questions and supplement the demands of assimilation I described in the last chapter by offering demands of assimilation regarding the adoption of new practices. In Section 2, I point to some practices that I claim the state can reasonably require immigrants to adopt. I also point to ways in which the state ought to alter to accommodate immigrants. In Section 3, I focus on the issue of language. I argue that the model of liberal social unity I have developed requires that all citizens of a state speak a common language and that there are grounds to demand of immigrants that they learn their state's national language. After I offer this argument, in Section 4, I address an objection that holds that the demand that immigrants adopt certain practices such as learning the national language is unfair because it places a greater burden on immigrants than on native-born citizens. I discuss and reject two popular responses to this argument, and support a third 'pragmatic' response. According to this response, the state

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<sup>154</sup> For the distinction between a language's role for communication and role for identity see Leslie Green, "Are Language Rights Fundamental?" *Osgoode Hall Law Journal* vol. 25 (1987) pp. 639-669.

<sup>155</sup> See recent work by Phillipe Van Parijs including "Europe's Linguistic Challenge" and "Linguistic Diversity as Curse and as By-Product" available from Van Parijs' personal webpage at <http://www.uclouvain.be/8609.html>

should take specific steps to lessen the burdens immigrants face when they learn the national language. Others might object to my argument on the grounds that states can be socially unified even when they are multilingual. In Section 5, I discuss multilingual states and point to some of the difficulties that arise for them. I conclude with a discussion of the implications of this account of the demands of assimilation for public policy.

## 2. The Adoption of New Practices

In the last chapter, I distinguished demands of assimilation that require immigrants to abandon practices from demands that require immigrants to adopt new practices. Here I focus on the demands for immigrants to adopt new practices. This demand requires immigrants to take on practices in which they were not previously engaged to achieve social unity. There are a variety of ways immigrants can take on practices. This might be a matter of developing new skills, capacities, or dispositions or it might be a matter of just performing a one-off action. The specific practices immigrants must adopt will vary in different states; different institutional manifestations of liberal principles will require of immigrants that they affirm different institutions and engage in different kinds of practices. However, the account of social unity that I have offered does suggest general practices immigrants must adopt to integrate, and it also suggests practices the state must adopt to accommodate immigrants. The following discussion employs the bidirectional model of assimilation which claims that integration should proceed through corresponding demands on both immigrants and the state.

### (a) Immigrants

First, immigrants are required to learn and obey the laws of their new state, including negative prohibitions and positive requirements. Now obviously there are additional reasons why all citizens should obey state laws that might not relate to social unity. However, it is worth emphasizing that ensuring unity across citizens does provide both immigrants and the native-born an additional reason to learn and obey the law. Repeated violations of state law suggest that immigrants lack a commitment to state institutions, and do not properly tolerate their compatriots. By abiding by the receiving state's laws, immigrants demonstrate to their compatriots that they affirm the state, and they are thereby more likely to earn their trust. As immigrants obey the law and perform civic duties, native-born citizens will see them less as immigrant newcomers and more as full cooperating members of the *polity*. This demand to learn and obey the laws of the state is not a demand exclusively on immigrants, but is a demand on all citizens. Immigrants' awareness of this fact and exposure to law-abiding native-born citizens will lead them to recognize everyone is subject to the same laws. The observation that they are

treated equally to the native-born in this regard should encourage them to develop trust in their compatriots and state institutions.<sup>156</sup>

Second, it is sometimes claimed that there is a demand that immigrants learn cultural and historical facts about their new state, including facts about the institutional make-up of the state, the composition of its population, state symbols, models and anthems. In the naturalization procedures of most democratic states, there is significant emphasis on immigrants' familiarity with and respect for national history and symbols.<sup>157</sup> This emphasis, in my view, is largely defensible as it is reasonable to require immigrants to learn historical facts and be aware of other national features. National history and symbols have an important role in a nation's current make-up. The institutional characteristics of the state arise out of a history that partially constitutes the nature of those institutions. Immigrants can only sufficiently understand and affirm the national characteristics of the state by having specific knowledge of its history.<sup>158</sup> This includes, if relevant, knowledge of the role of past waves of immigrants in creating and shaping that history. Again, it is not only immigrants who ought to be aware of national facts. Native-born citizens likewise only affirm their nation if they have sufficient awareness of its institutional features and history. Here there is a corresponding demand on both immigrants and native-born citizens to learn about historical and political features of their country.<sup>159</sup>

It is more controversial to demand that immigrants *demonstrate* respect for national symbols. There is an important sense in which anthems, flags, and the like are *just* symbols. A citizen in a liberal state ought to be able to be a fully integrated member of the nation without singing anthems or waving flags. How patriotic one wants to be is surely an individual's choice protected by the state. Many fully-integrated native-born citizens are unaware, no doubt, of all the words to the various mottos and anthems of their respective nations. Further, knowledge of these symbols is not sufficient for integration: one might sing the national anthem while engaging in highly destabilizing behavior. So, just as it is not a requirement of native-born

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<sup>156</sup> A number of writers make this point. Compare Kwame Anthony Appiah: "It is agreed on all--or, at least, almost all--sides that there is a core of political values, including adherence to the Constitution and its principles, that must be assented to by every naturalizing immigrant " and every citizen at large of course. This can be found in Appiah's essay "Citizenship in Theory and Practice" published in Noah Pickus (ed.) *Immigration and Citizenship in the 21st Century* (Rowman & Littlefield. 1998) p. 43.

<sup>157</sup> Knowledge of US civics and history has been part of US naturalization procedure since 1950. Before 1950, the naturalization process focused on demonstrating loyalty to the constitution. So according to the Naturalization Act of 1906 applicants must be "attached to the principles of the Constitution."

<sup>158</sup> Compare H. Van Gusteren "Admission to Citizenship" *Ethics* vol. 98 no. 4 (1998) pp. 731-741: "The prospective citizen must be capable and willing to be a member of this particular historical community, its past and future, its forms of life and institutions within which its members think and act. In a community that values autonomy and judgment, this is obviously not a requirement of pure conformity. But it is a requirement of knowledge of the language and the culture" (p. 735). I return to the issue of language below.

<sup>159</sup> The U.S. amongst other states seem to recognize the value in having all citizens learn about their state by mandating civic education in schools. However, this is one of the many demands that might be difficult to institutionalize, and there might not necessarily be legal ramifications if a citizen does not properly meet this demand.

citizens to take part in public displays, it is also not a demand of assimilation on immigrants to demonstrate respect for national symbols. That said, there do seem to be strong pragmatic reasons for immigrants to do so. Shared acknowledgment of national symbols has an important role in generating trust between compatriots who otherwise differ radically in religious or philosophical outlooks and cultural or ethnic heritage. National symbols are partly what distinguish states from one another, and thus an immigrant's affirmation of these symbols suggests they affirm the particular state to which they have immigrated. These symbols provide shared cultural touchstones that help unify members of the nation as members of that particular nation. Recognizing and respecting national symbols is part of the public affirmation of the state, and might be seen as an aspect of taking part in the overlapping consensus. It provides a chance for immigrants to demonstrate their affirmation of the political values of the state to their compatriots. Native born citizens might be justified in questioning new-citizens' affirmation of the state if those citizens do not publicly demonstrate their commitment in the recognized public fashion.

The role of these symbols will surely vary in different states. In the U.S., national symbols seem particularly important for the character of the nation. Consider in this regard the immigrants rights protests across the U.S. on May 1, 2006. Called 'The Great American Boycott' this protest generated criticism as many of the marchers carried flags of their native countries, especially Mexico, rather than of the U.S.. The founder of the Minuteman Project, an activist group against illegal immigration argued: "It's intimidation when a million people march down main streets in our major cities under the Mexican flag. This will backfire." Many native-born citizens seemed to agree with this claim, and were not moved by the immigrants' demands for legal recognition. They claimed that the display of Mexican flags indicated that the immigrants prioritized their attachment to another country and were not integrating. These concerns encouraged legislators to defeat comprehensive immigration reform. Following this backlash, the Mexican American Mayor of Los Angeles, Antonio Villaragosa, encouraged protestors to demonstrate that they were committed to the U.S. by carrying American flags, possibly alongside Mexican or other flags. Although the flag is a symbol, it has an important role in civic participation and affirmation, and the failure to recognize and respect that symbol are likely to further concerns of native-born citizens and setback immigrant inclusion. Thus, there are strong pragmatic reasons, although again not demands of political morality, for immigrants to express respect for national symbols.

It might be objected that it is unreasonable of native-born citizens to be mistrusting of immigrants unless immigrants take part in public displays of national symbols. Again, public displays of national symbols are not necessary to be fully integrated citizens. We might even ask, are the native-born as mistrustful of their native-born compatriots who neglect to take part in these public displays? However, if there are reasons for immigrants to take steps to encourage trust to develop between them and native-born citizens, then this suggests immigrants have reasons to demonstrate some respect for symbols and anthems in contexts such as the U.S.. The particular history of U.S. symbols further supports this idea. Demonstrating respect for the American flag and the Pledge of Allegiance were, in the early 20th century, widely supported by socialists in order to signal that being American was not about being WASP but about affirming

American ideals.<sup>160</sup> These symbols are intended to transcend ethnic, religions and cultural differences. It does not appear to be simply xenophobic or intolerant of the native-born to want some outward sign of an immigrant's commitment to the state, and the native-born should welcome immigrants' efforts in these regards. That said, given that public demonstrations cannot be a requirement for full citizenship in liberal states, this is not a genuine demand of assimilation on immigrants. Even if there are pragmatic reasons for immigrants to develop trust between them and their compatriots, there is not a demand for them to do whatever it takes to be trusted. An immigrant need not completely remake him or herself to follow the mold of native-born citizens, nor try to prove that he or she belongs by taking part in public displays. This will remain, like it is for the native-born, a protected choice for each citizen to come to on his or her own.

### (b) The State

I argued in Chapter 4 that assimilation should operate bi-directionally. Just as immigrants must adopt new practices to integrate into the nation, the state and its native born citizens must adopt new practices to ensure the inclusion of immigrants. There are a variety of ways states might seek to incorporate immigrants, including offering them special representation in decision-making bodies or offering them cultural and legal accommodations. The particular kinds of accommodations will depend upon specific features of the receiving state and the immigrant populations. I will point to some general approaches to these accommodations suggested by my analysis.

I claimed above that immigrants should learn facts about their receiving state, such as the legal code and facts about the institutional make up of the state. Likewise, the receiving state should learn facts about new immigrant groups. This information is necessary to ensure that immigrants are not victims of discriminatory policies and are being incorporated into the nation. Without data about immigrants, cases of discrimination might not be easily identified and addressed. France, for instance, refuses to collect information about ethnic origin and race. This refusal is motivated by the idea that all immigrants to France are equal French citizens and thus there is no need for special information about their particular ethnic or racial heritage.<sup>161</sup> However, according to unofficial studies, a number of minority groups in France are greatly underrepresented in the legislature, the courts, and in other positions of prestige and power.<sup>162</sup> Since France does not officially collect data on these groups, the underrepresentation is obscured, and France has done little to address this issue. France and other liberal states should collect information about newcomers to ensure they are adequately treated as equals.

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<sup>160</sup> See reference in Robert Putnam, '*E Pluribus Unum: Diversity and Community in the Twenty-first Century The 2006 Johan Skytte Prize Lecture*' *Scandinavian Political Studies* (2007), p 162.

<sup>161</sup> As the French Constitution, Article 1 states: To be French is to be a citizen of France "without distinction of origin, race, or religion." There has not been an official study of the ethnic or racial demographics since 1986.

<sup>162</sup> See studies by the *Institut national d'études démographiques* available at [http://www.ined.fr/fr/page\\_accueil\\_site\\_ined/](http://www.ined.fr/fr/page_accueil_site_ined/)

I also claimed above that immigrants have pragmatic reasons to be familiar with national symbols as familiarity and acknowledgment of these symbols earns them civic trust. Likewise, there are similar reasons for the state and native-born citizens to be familiar with the symbols associated with various immigrant groups. Just as immigrants should consider incorporating those symbols into their lives to foster civic trust, so must the state. So, for instance, the state might officially recognize holidays celebrated by immigrant groups. The US has already done this, consider St. Patrick's Day, Pakistan Independence day, or César Chávez Day.<sup>163</sup> This recognition might extend to offering citizens days off for some of these traditional holidays. At the very least, the state should recognize the importance of these holidays to its citizens and show respect for them. This will encourage immigrants to more readily integrate into the nation.

Another way the state might alter to incorporate immigrants is to offer them legal accommodations or exemptions. Legal accommodations are special legal provisions that ensure that some person or group is provided the full protection of the state's liberal values. Legal accommodations might be required of the state to ensure that liberal values such as equality, fairness, and liberty sufficiently extend to new immigrant groups. If immigrants are excluded from these liberal protections, they cannot take part in the overlapping consensus, and it will likely foment distrust between them and the state. Some of the accommodations that liberal states offer include cultural exemptions from laws governing animal slaughtering, drug-use, or dress codes.<sup>164</sup> Legal accommodations are some of the most heatedly debated cases, and there are an array of values and legal arguments to which supporters and opponents appeal that I cannot here address. The main ground for a legal accommodation is that a law has a discriminatory or disparate impact on some citizen or group. There are a variety of ways citizens can suffer discrimination and a variety of ways to demonstrate it. Immigrants, in particular, often find that they are victims of discrimination. Even when policies do not have discriminatory *intent* or are, on the surface, even-handed, they still might have discriminatory impact by disproportionately burdening certain groups. Policy makers have frequently not designed policy to address newcomers with different practices, and thus policies might interfere with immigrants' lives in unintended and unforeseen yet problematic ways. A request for legal

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<sup>163</sup> Compare Putnam on previous waves of immigration: "the cultures of the immigrant groups permeated the broader American cultural framework, with the Americanization of St Patrick's Day, pizza, and 'Jewish' humour. In some ways 'they' became like 'us', and in some ways our new 'us' incorporated 'them'." "*E Pluribus Unum: Diversity and Community in the Twenty-first Century* The 2006 Johan Skytte Prize Lecture" p. 162.

<sup>164</sup> These include exemptions for Halal slaughtering in the U.K., drug use exemptions for Rastafarians in Canada, and dress-code exemptions for Sikhs in the U.K.,.

accommodation is a request for the discriminated group or citizen to obtain some alternative legal solution or a legal exemption to the discriminatory law to mitigate discriminatory impact.<sup>165</sup>

Legal accommodations are responses to discriminatory impact. However, even in demonstrated cases of discrimination, there might not be sufficient ground for a legal accommodation. Legal accommodations are constrained by what is called ‘undue hardship.’ An ‘undue hardship’ is an unreasonable burden on the state or the accommodating body. These hardships can include substantial economic costs or other kinds of negative effects such as interference with public goods like safety or interference with the rights of other citizens.<sup>166</sup> Legal accommodations must work within the confines of undue hardship to address discriminatory impact.

I will now discuss a case of legal accommodation that illustrates the issue of discriminatory impact and the limits suggested by undue hardship. Some Muslim citizens in Canada and the U.K. have asked their respective states to recognize and support courts that decide various familial issues on the basis of their religious views. These special religious courts would administer *shari’a* or Islamic law. There has been much debate about the appropriateness of the state recognizing these Islamic courts and allowing them to resolve familial issues. These concerns include general issues regarding the place of religious courts in secular states, and specific concerns regarding Islamic courts, for instance, the extent that they treat women as equals.

Supporters of Islamic courts observe that a number of liberal states already do recognize a role for religious courts. For instance, in the U.K. there are Jewish *Beth Din* Courts that handle aspects of family law, including divorce, inheritance, and certain civil disputes such as business conflicts. Further, the Church of England has its own courts to handle similar familial and civil matters on religious grounds. Since the U.K. already accommodates Jews and Anglicans with

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<sup>165</sup> Consider the recent “Bouchard-Taylor Report” in Quebec, entitled *Consultation Commission on Accommodation Practices Related to Cultural Differences*. There, Bouchard and Taylor write: “The traditional conception of equality, based on the principle of uniform treatment, has given way to another conception that pays closer attention to differences. Little by little, the law has come to recognize that the rule of equality sometimes demands differential treatment. It is this conception that the legal provision called reasonable accommodation reflects. It is intended to counteract certain forms of discrimination that the courts have traditionally qualified as indirect, i.e., which, without directly or explicitly excluding a person or a group of people, nonetheless bring about discrimination in the wake of a prejudicial effect because of the rigid application of a norm.” (p. 26) The report is available online at <http://www.accommodements.qc.ca/index-en.html>. Note that in this discussion of accommodation, I am in disagreement with Brian Barry amongst others who claim that there always ought to be the same protections for all. See Barry’s *Culture and Equality: An Egalitarian Critique of Multiculturalism* (Cambridge MA: Harvard University Press 2002). I here uphold the idea that equality and other liberal values sometimes entail certain kinds of legal recognitions or exemptions.

<sup>166</sup> From the “Bouchard-Taylor Report:” “Accommodation or adjustment requests are thus limited by: a) the institution’s aims (provide care, educate, make a profit, and so on); b) the financial cost and functional constraints; c) other people’s rights” (p. 54). “Undue hardship” is also the standard employed in the Americans with Disabilities Act of 1990. This policy concerns reasonable accommodations for disabilities. The Enforcement Guidance for the Act states: “Title I of the ADA requires an employer to provide reasonable accommodation to qualified individuals with disabilities who are employees or applicants for employment, except when such accommodation would cause an *undue hardship*.” Available at: <http://www.eeoc.gov/policy/docs/accommodation.html> (emphasis added).



these religious courts, there appears to be a case of discrimination against members of other religious groups. In particular, the legal recognition of these religious courts indicates a discriminatory impact against Muslims. The Archbishop of Canterbury, Rowan Williams, recently suggested that Muslims face just this sort of discrimination in his remarks in February 2008.<sup>167</sup> Thus, due to this discriminatory impact, there is a basis for a legal accommodation and the state recognition of Islamic courts.

This argument in support of state recognition of Islamic courts appeals to a principle of fairness that requires the extension of the same sorts of accommodations to all religious groups. One way to meet this principle of fairness is to recognize Islamic courts. An alternative way to meet the principle, of course, would be to withdraw state recognition of other religious courts. The Province of Ontario, for instance, withdrew support for Jewish and Christian courts rather than also recognize Islamic courts. There are other cases where discriminatory impact is cashed out in terms of a violation of the principle of fairness. For instance, there are laws in certain regions of France that disallow the Muslim *muezzin* or call to prayer on the grounds that it is a loud display of religion in the public sphere and thus violates state secularism. However, opponents of these laws observe that church bells are not disallowed by the same law. It would appear that church bells also are a loud display of religion in the public sphere that thus violates state secularism. The principle of fairness indicates that the laws regarding the *muezzin* are discriminatory, thereby excluding these groups from taking part in the overlapping consensus and the nation, and this thus might ground a legal exemption from these laws.

However, even if there is a demonstrated case of discrimination, perhaps because a policy violates the principle of fairness, this does not necessarily entail that there ought to be legal accommodation. The burdens of accommodation might impose an undue hardship on the accommodating body or the state at large. Opponents of Islamic courts argue that recognition of Islamic courts impose an undue hardship. They argue that Islamic courts are frequently discriminatory to women. They claim that Muslim women are pressured to employ Islamic courts, but they do not receive equal treatment. The argument here is that Islamic court rulings are incompatible with liberal values and violate the rights of women. If true, then this is the sort of undue hardship that constrains state accommodation.<sup>168</sup>

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<sup>167</sup> His speech is available at <http://www.archbishopofcanterbury.org/1575> He was roundly criticized for seeming to be in favor of *shari'a* courts. Sarah Song also makes this point about fairness in her: 'Islamic Courts in the U.K.', *California Recorder* (March 7, 2008) and at more length in her 'The Subject of Multiculturalism: Culture, Religion, Language, Ethnicity, Nationality, and Race?' in de Bruin, Boudewijn and Zurn, Christopher F. (eds.) *New Waves in Political Philosophy* (U.K.: Palgrave MacMillan, 2009) where she calls this argument the 'argument from unfair treatment.' For general background on the issue of *shari'a* courts see "Britain Grapples with Role for Islamic Justice" *The New York Times* (November 19, 2008.)

<sup>168</sup> As justice minister Jack Straw said: "There is nothing whatever in English law that prevents people abiding by *shari'a* principles if they wish to, provided they do not come into conflict with English law." Quoted in "Britain Grapples with Role for Islamic Justice," *The New York Times* (November 19, 2008).

I cannot here defend Islamic courts against this charge of sexism.<sup>169</sup> One way to meet these concerns would be for the state to offer recognition to Islamic courts, but to monitor them closely. The state should consider whether women are pressured to employ the courts, and should observe court rulings to ensure women receive equal treatment. If Islamic courts violate women's rights, then the state can exercise authority over its rulings and even withdraw legal recognition. This proposal responds to demonstrated discrimination through legal accommodation while also recognizing and responding to the concerns of undue hardship.

There is much more to say regarding legal accommodations, much of it concerning the dual values of discrimination and undue hardship. Importantly, I want to make it clear that there is a place for these sorts of accommodations for immigrants, especially if there is a clear case of discrimination and there are not undue hardships. The state should take seriously concerns of discriminatory impact and must respond appropriately within the limits of undue hardship. Adopting legal accommodations are part of working within the bidirectional model to foster integration. I return to these issues when I talk about linguistic accommodation below.

### 3. Social Unity and a Common Language

I now discuss the issue of the national language of the receiving state. I argue that social unity requires a common language shared between citizens. I offer two main considerations; although neither consideration is innovative, each provides a strong reason to demand immigrants to adopt the national language. I call this a 'demand of linguistic assimilation.' The first consideration concerns the horizontal relationship between citizens: a shared language fosters civic trust between citizens that undergirds social unity. The second consideration concerns the vertical relationship between citizens and the state: citizens must speak and understand the national language to reasonably consent to the state.

#### (a) Language and Civic Trust

In Chapter 3 I argued that the national relationships important for social unity are based in civic trust shared between citizens. Civic trust is a disposition to believe that one will be tolerated by one's compatriots.<sup>170</sup> I claimed that the fact of reasonable diversity in liberal states--the fact that citizens differ in religion, ethnicity, and philosophical outlook--means that shared civic trust might be difficult to achieve. Nevertheless, I claimed that civic trust between citizens can be obtained and strengthened through repeated cooperative interactions under reasonably just

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<sup>169</sup> It should be noted that many Islamic clerics and scholars do defend Islam against the charge. See, for instance, Imam Hassan Qazwini *American Crescent: A Muslim Cleric on the Power of His Faith, the Struggle Against Prejudice, and the Future of Islam in America* (New York: Random House 2007), Abdullahi Ahmed An-Na'im *Islam and the Secular State* (Cambridge MA: Harvard University Press 2008), and Tariq Ramadan *Western Muslims and the Future of Islam* (Oxford: Oxford University Press 2004) and *In The Footsteps of the Prophet* (Oxford: Oxford University Press 2007).

<sup>170</sup> Where toleration is defined as appealing to public reasons for political decision-making; or in other words, toleration requires that one can justify political actions to compatriots through reasons they can accept.

institutions.<sup>171</sup> I now argue that sharing a language facilitates these cooperative interactions, and thus civic trust is more readily obtained and sustained when citizens can communicate in a shared language.

Consider the perspective of a native-born citizen. This citizen might interact with immigrants in a variety of contexts, for instance at the store, on the bus, when accessing public services, and so forth. Surely in these situations citizens can employ some universally understood gestures: smiles, frowns, or head nods perhaps. However, without a shared linguistic medium of communication, these interactions are drastically limited. Simple tasks might be achievable, but interactions will not extend to discussion about civic matters or moral outlook. Without these more substantive interactions, a native-born citizen will likely have doubts about the newcomers now present in her society. She will be unsure of an immigrant's affirmation of the liberal political values that guide the state. As a result, she will less likely trust them to tolerate her. This mistrust of an immigrant is not necessarily xenophobic, but rather could be a reasonable response to a newcomer with whom one cannot communicate. Without a shared language, native-born citizens will not likely have the cooperative interactions that ground reasons to trust newcomers. On the other hand, if native-born citizens are able to communicate with immigrants regarding civic matters, and immigrants explain their moral outlook and demonstrate their commitment to the state, these doubts should be alleviated. These more substantive interactions will give the native born reasons to trust immigrants. From the perspective of the native born, a shared language is important for the interactions that foster shared civic trust.<sup>172</sup>

Now consider the perspective of immigrants. They also will only likely develop trust in their new compatriots when they are able to communicate with them. Many immigrants have migrated because their native states are politically oppressive or war-torn. There might not have been relationships of toleration between them and their former compatriots. Without shared communication, they might be understandably wary of their new state. As a linguistic minority, they might seek to remain 'in the shadows,' linguistically segregated and alienated from the native born. Immigrants who do not speak the national language might reasonably fear how they will be perceived and received by their new state, maintaining an attitude of mistrust towards their compatriots.<sup>173</sup> However, if they can communicate with their compatriots, their fears of exclusion should decrease. Sharing a language will help immigrants understand how the state operates. It will encourage them to access public services and enjoy the state's protections. Given that they will be included in these ways, immigrants will be more likely interact with and

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<sup>171</sup> I also argued that civic trust does not depend on affective ties or 'fellow-feeling' between citizens.

<sup>172</sup> It should be noted that what will actually generate trust between citizens is an empirical matter. I point to some data below that provides support for the claims in this paragraph that shared language is important for the development of trust.

<sup>173</sup> Data suggests that immigrants' native countries leave a 'footprint' on immigrants' continuing levels of trust: "trust assessments by immigrants reflect to a striking degree the (current) average trust assessments in the countries from which they or their ancestors immigrated." Soroka, Helliwell, and Johnston, 'Measuring and Modeling Trust' printed in Kay, Fiona and Jonhston, Richard (eds) *Diversity, Social Capital and the Welfare State* (University of British Columbia Press. 2007).

trust their compatriots. These intuitive considerations suggest that sharing a language is important for immigrants to develop civic trust.

I have tried to make it seem obvious that shared language is important for civic trust on both the part of immigrants and the native born. There is also substantial supporting empirical evidence. A number of sociological studies show that trust is more likely to develop between citizens when they speak the same language. One recent study regarding trust in Switzerland concluded the following:

It is more important whether the courtyard is kept tidy and the rules of the building are followed than whether a family is black or white or of Swiss or foreign origin. Native Swiss can be counted as outsiders, and immigrants as established. Accordingly, the *degree of perceived assimilability* into the system of order seems to decide whether a specific group of immigrants belongs to ‘us’ or to the alien and disturbing ‘them.’<sup>174</sup>

The study shows that sharing a language is one of the practices that demonstrate a “perceived assimilability” and that generates trust. According to the study, shared language is a stronger factor in generating trust than other factors such as shared ethnicity or religion, and is even more important than whether citizens are immigrants or native born.

Other studies also demonstrate that interactions between citizens foster shared trust, even when citizens differ in ethnicity, race, or religion. Marschall and Stolle show that “the diversity of interaction settings, combined with high levels of social interaction, are key aspects for the development of generalized trust.”<sup>175</sup> Although this study does not explicitly take shared language as a variable, the study does seem to assume that these “high-levels of social interaction” occur in a shared language. It shows that without these interactions, trust will not likely develop between citizens of differing ethnicity, race, or religion. Further, Alesina and La Ferrara show that there is less trust between citizens in a racially segmented society, where linguistic segregation is part of racial segmentation, than in one that is more integrated.<sup>176</sup> A lack of a shared language results in greater segmentation, and thus in more mistrust, than a society with a shared language.

There is also evidence that supports the perspective of immigrants I described above. Immigrants do often fear their treatment in their new state and frequently face discrimination. Many of their fears are the result of not speaking the national language. The Pew Hispanic Survey of 2006 shows that “Latinos believe that inability to speak English well is the leading cause of discrimination against Hispanics.” When immigrants do not speak the national language, they are more likely to isolate themselves, and less likely to develop trust in their compatriots, perhaps as a response to perceived discrimination. However, when immigrants do share the national language, they tend to conform to other qualities of the native-born. The Pew

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<sup>174</sup> Andreas Wimmer, “Does Ethnicity Matter? Everyday Group Formation in Three Swiss Immigrant Neighbourhoods” *Ethnic and Racial Studies* vol. 26 (2004) p. 10 (my emphasis).

<sup>175</sup> Marschall and Stolle ‘Race and the City: Neighborhood Context and the Development of Generalized Trust’. *Political Behavior* 26 (2004) pp. 125-153 p. 127.

<sup>176</sup> Alesina and La Ferrara “Who Trusts Others?” *Journal of Public Economics* 85 (2002) pp. 207-234. Also see Soroka, Johnston, and Banting ‘Ethnicity, Ethnic Diversity, Networks and Trust.’

Hispanic Center and Kaiser Foundation ‘2002 National Survey of Latinos’ demonstrates that “Latino immigrants who know English well and use it often tend to have attitudes and opinions on social values, gender roles and faith in government that are closer to those of non-Latinos than do immigrants who use mainly Spanish.” Shared language is correlated with greater conformity to the native born.

The considerations I have been describing here hold that citizens should share a language to facilitate and sustain civic trust. If trust is necessary to undergird the relationships that ensure social unity, then this provides support for a demand of linguistic assimilation on immigrants

### (b) Language and Reasonable Consent

The second consideration that supports the need for a shared language concerns the vertical relationship between citizens and the state. I have been operating throughout this project with a reasonable consent conception of political legitimacy, which holds that the reasonable consent of all citizens is a necessary condition for the state to be legitimate. This reasonable consent condition applies to all citizens subject to the state’s juridical authority, including recent immigrants. I now claim that citizens must be able to speak the national language to reasonably consent to the state.<sup>177</sup>

Many political theorists claim that one can reasonably consent to the state only if one is able to participate in its democratic institutions. Participation can include voting, protesting, or taking part in other forms of public political deliberation. If one cannot participate in political decision-making, then one is unable to reasonably consent. If this is right, then it is necessary for citizens to speak the national language for them to reasonably consent. This is because political institutions are always embodied in a particular national language. Debate in the state’s legislature, court proceedings, public signage, and public discussion at large all *must* occur in a language. States cannot help but operate in a specific national language when they pass and administer laws and provide public services. Several theorists make this point. Barry claims that “political communities are bound to be linguistic communities, because politics is (in some sense) linguistically constructed.”<sup>178</sup> Ruth Rubio-Marin says succinctly, “law is a linguistic creature.”<sup>179</sup> These theorists employ the fact that political institutions are always embodied in a particular language to argue that all citizens must share that language to adequately take part in political institutions. They claim that in order to participate politically, citizens must be proficient in the national language in which political institutions are manifested. Carens, for instance, employs this point in support of Quebec’s requirement that immigrants learn French. He says,

The duty to learn French is intimately connected to the duty to contribute to and participate in society, which is connected, on this account, to fundamental democratic

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<sup>177</sup> I discuss the possibility of multilingual states below.

<sup>178</sup> Barry, *Culture And Equality* p. 227.

<sup>179</sup> Rubio-Marin, ‘Language Rights: Exploring the Competing Rationales’ in Kymlicka and Patten (eds.) *Language Rights and Political Theory* (Oxford: Oxford University Press 2003) p. 79.

principles. Learning French is, among other things, a necessary means to participation in society so that if one can defend the duty to participate, and I think one can, one can defend the duty to learn French.<sup>180</sup>

Appiah argues similarly: “Language here is the exception [of cultural practices] not because of the cultural inassimilability of those who speak languages other than English, but because it is a precondition of proper participation in the civic culture.”<sup>181</sup>

These theorists emphasize the relation between language and political participation--all citizens must speak the language to participate--but there is also an important point about political transparency. The reasonable consent condition of legitimacy requires that state decision-making be understandable by its subjects. All citizens must be able to understand the laws of their state, civil proceedings, arrest practices, and so forth. This ideal of transparency, or perhaps ‘understandability,’ is familiar from the work of Rawls; he calls this ideal the ‘publicity condition.’ Rawls’ publicity condition has a variety of levels, but part of his idea is that the state’s fundamental principles and mode of operation must be understandable and accessible by all citizens. The publicity condition applies both to federal state decision-making and to local public services.<sup>182</sup> Although Rawls does not explicitly connect transparency and shared language, others convincingly do. Rubio-Marín argues that “participating in its deliberation process and in its creation, complying with it, and being able to shape one’s expectations according to it requires the law and law-making process to be minimally transparent to the members of society.”<sup>183</sup> This minimal transparency includes understanding the language of the state.

I cannot fully defend here the idea that political participation and transparency are necessary for citizens’ reasonable consent. However there is an intuitive consideration that suggests both are important. This consideration appeals to individual rights. The possibility of political participation and the intelligibility of law-making processes and public services help ensure the protection of individual rights. If one does not have an active say in political decision-making or one cannot understand laws or public services, one will be vulnerable to having one’s rights violated. And if one’s state fails to protect one’s rights, then it would not be reasonable to consent to that state. Non-national language speaking immigrants are often in this vulnerable position, and their rights are often overlooked.<sup>184</sup> All citizens must be able to understand when their rights are potentially violated to object and seek adjustment to those

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<sup>180</sup> Joseph Carens, *Culture, Citizenship, and Community* (Oxford: Oxford University Press 2000) p. 174.

<sup>181</sup> From Appiah’s ‘Citizenship in Theory and Practice: A Response to Charles Kesler’ p. 45 in *Immigration and Citizenship in the Twenty-First Century*. Dominique Schnapper also makes a similar point: “language...is the prerequisite for civic practice. Language is also the tool of democracy.” See her “Linguistic Pluralism as a Serious Challenge to Democratic Life” in Van Parijs (ed.) *Cultural Diversity versus Economic Solidarity: Proceedings of the Seventh Francqui Colloquium* (De Boeck, 2004) p. 219, 220.

<sup>182</sup> See his *Political Liberalism* p. 67.

<sup>183</sup> Rubio-Marín. ‘Language Rights: Exploring the Competing Rationales’ p. 79.

<sup>184</sup> See the examples of unjust practices against immigrants I describe in Chapter 4.

discriminatory practices or policies.<sup>185</sup> This all requires speaking and understanding the language of one's state.

The two considerations that support a demand of linguistic assimilation include the role of shared language in fostering civic trust between citizens and the requirement that citizens speak the national language to reasonably consent to the state. If immigrants do not learn the national language, they will discourage trust between their fellow-citizens and themselves, and they will be unable to reasonably consent to the state. Each of these two reasons appeal to political values, and are reasons that all reasonable citizens can accept, no matter their comprehensive philosophical views or ethnic or cultural heritage.

#### 4. Unfair to Immigrants?

I have argued that the state needs a common language for securing the national relationships important for social unity, and that this grounds a demand of linguistic assimilation. It might be objected, however, that the need for a common language does not entail that there is this linguistic demand on immigrants. Learning a new language is a difficult and time-consuming process and there are substantial costs to the language-learner. These costs include the explicit costs of learning the language such as the cost of the language program, aggravating time-consuming homework, and so forth. They also include the opportunity costs associated with the other things immigrants could be doing with their time rather than learning the language such as working, spending time with their children, etc.<sup>186</sup> Immigrants are already likely stretched thin--securing a home, work, and social network--and so these opportunity costs are particularly severe. Further, even when one does spend significant time learning a new language, one often does not speak the language as fluently as a native-speaker. One might have an accent that makes it harder to be understood, or one's limited vocabulary may mean one frequently loses arguments. Thus, there are various costs associated with conforming to the demand of linguistic assimilation, and these costs are substantial. The fact that I claim that immigrants are subject to these demands and thus must bear these costs might seem unfair. They are likely already burdened and disadvantaged in a variety of ways, and this demand exacerbates the challenges they face.

This charge of unfairness has been raised in several different ways, and I will take a moment to distinguish different versions. Many of those who raise this criticism appeal to the comparison between the state establishment and support of a national language and state establishment and support of a national religion. The latter, the state establishment of religion, is

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<sup>185</sup> Van Parijs persuasively argues that not sharing a language makes it harder for groups that face discrimination to organize against their treatment: "If we want all sorts of workers', women's, young people's, old people's, sick people's, poor people's associations to organise on the ever higher scale required for effective action, we must equip them with the means of talking to one another without interpreting boxes and highly skilled and paid professionals in them." 'Europe's Linguistic Challenge' in *The Language Question in Europe and Diverse Societies*, Dario Castiglione & Chris Longman eds. (Oxford: Hart 2007) p. 219.

<sup>186</sup> Language education experts claim that it takes at least two years to learn conversational English ("Where Education and Assimilation Collide." *The New York Times* (March 15, 2009)).

generally noted to be antithetical to liberal values as it would favor some reasonable ways of life and discriminate against others. The former, the state establishment of a national language, might likewise favor some ways of life--the ways of native speakers--and discriminate against non-native speakers. In this way, it might likewise be antithetical to liberal values. Objectors do recognize the important disanalogies between the two kinds of state arrangements. Kymlicka, for instance, claims, "the state cannot help but give at least partial establishment to a culture when it decides which language is to be used in public schooling, or in the provision of state services."<sup>187</sup> Whereas the state *can* help but give at least partial establishment to a religion. As Kymlicka argues, "the state can (and should) replace religious oaths in courts with secular oaths, but it cannot replace the use of English in courts with no language."

But despite this difference between religion and language, there are still criticisms one might make regarding state establishment of a national language. Kymlicka argues that even if the state has no choice but to take a stand on the matter of language this is problematic as "some groups are unfairly disadvantaged in the cultural market-place."<sup>188</sup> Kymlicka's concerns here are the economic costs to non-native speakers of learning the national language. In particular, Kymlicka is concerned about the relative economic disadvantage to non-speakers as compared to national-language speaking citizens. On this version of the objection, the fact that immigrants face this relative disadvantages in terms of economic costs renders demands of linguistic assimilation unfair. Laitin and Reich also raise this objection:

If they [the immigrants] learn [the dominant language], they are paying a price to produce the joint good of a language community, from which members of the dominant language group benefit. From this point of view, it is unfair for members of the dominated language community to pay all the costs themselves for the production of this joint good.<sup>189</sup>

The charge of unfairness need not focus on the relative economic costs associated with placing demands of linguistic assimilation on immigrants. Patten, for instance, claims that the demands of linguistic assimilation entail non-economic *symbolic* unfairness. He claims that a systematic public preference for one language over others will, in some contexts, be experienced by speakers of the other languages as symbolically denigrating. For the proponent of liberal neutrality, it is unfair to impose these burdens on members of all

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<sup>187</sup> *Multicultural Citizenship* p.109.

<sup>188</sup> *Multicultural Citizenship* p. 109.

<sup>189</sup> Laitin and Reich "A Liberal Democratic Approach to Language Justice." There are still others. Here is de Vareennes: "By imposing a language requirement, the state shows a definite preference towards some individuals on the basis of language... In other words the imposition of a single language for use in state activities and services is by no means a neutral act, since: 1) The state's chosen language becomes a condition for the full access to a number of services, resources and privileges, such as education or public employment...2) Those for whom the chosen state speech is not the primary language are thus treated differently from those for whom it is: the latter have the advantage or benefit of receiving the state's largesse in their primary tongue, whereas the former do not and find themselves in a more or less disadvantaged position." Fernand de Vareennes, "Language, Minorities and Human Rights" *International Studies in Human Rights* Vol. 45 (1996) pp. 460-507 p. 486.



language communities just so that one language community may survive or become predominant.<sup>190</sup>

Here there is a strong parallel with the symbolic costs imposed on a religious minority from the state imposition of religion. The burden experienced by a religious minority in a religious state is not simply that there are higher costs to practice their religion, but that their religious-based identities and communities are denigrated; they are not fully recognized by the state and are relegated to second-class status. Language, like religion, is often a significant component of one's identity, and some theorists claim that there is a similar symbolic burden on linguistic minorities. As Schnapper writes in describing symbolic unfairness, "any demands for cultural homogeneity, especially of the linguistic variety, would now seem to be incompatible with democratic values and the symbolic recognition, which in the name of these values, each democratic individual has the right to obtain."<sup>191</sup>

So there are at least two different charges of unfairness--the charges of greater economic cost and symbolic burden--to which I must respond. Before offering my own response to these charges, I consider and reject two alternative responses. The first is a response offered by conservatives that point to the inherent normative significance of the standing national language. The second is a response offered by Kymlicka that points to the voluntary nature of immigration. After I reject these two responses, I offer a response that appeals to pragmatic grounds. I claim that given the need for a common language, there are substantial pragmatic reasons that justify a demand of linguistic assimilation on immigrants, and that many of the burdens on immigrants can be equalized.<sup>192</sup>

#### (a) The Conservative Response

One response that might be raised to the unfairness objection appeals to the inherent value of the national language. This kind of response is frequently made by those on the political right who argue that the valuable practices of the receiving state should be preserved from potential changes from new immigrant groups.<sup>193</sup> Consider the 'conservative impulse' explained and

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<sup>190</sup> Patten "Liberal Neutrality and Language Policy," p. 377.

<sup>191</sup> Dominique Schnapper "Linguistic Pluralism as a Serious Challenge to Democratic Life." Van Parijs also raises this sort of concern, arguing that the lack of political availability of one's language is a blow to one's dignity. See his 'Linguistic Diversity as Curse and as By-Product,' in *Respecting Linguistic Diversity in the European Union*, Xabier Arzoz (ed), (John Benjamins Publishing Company 2007) pp. 17-46.

<sup>192</sup> Note that it doesn't seem sufficient to the objection to point to further disanalogies with religion--namely that religion is exclusive (one cannot have more than one) whereas language is additive (one can keep learning new languages)--a distinction made by Song in her "The Subject of Multiculturalism: Culture, Religion, Language, Ethnicity, Nationality, and Race?" p. 182. These objections stand even though immigrants can keep their native language and speak them as they like in their homes, with their friends, etc.

<sup>193</sup> I first introduce this view in Chapter 4. This view is sometimes referred to as 'originalism.' I associate it with commentators such as Huntington, Daniel Pipes, and Lou Dobbs, and with politicians such as Le Pen and Tom Tancredo.

defended in Cohen's 'The Truth in Conservatism.' This conservative impulse holds that there are strong reasons to preserve the valuable practices of a community.<sup>194</sup> 'Conservatism' is colloquially summed up as the view that immigrants must conform because 'this is how things are done around here.' Some conservatives claim that the linguistic traditions of a nation are one of the valuable practices 'done around here' that ought to be preserved from alteration. This entails, these conservatives argue, that it is reasonable to ask of immigrants to face the greater economic or symbolic burdens of achieving a common language. Any resulting unfairness is simply less normatively important than the need to preserve the valuable linguistic traditions of the receiving state.

Interestingly, this argument is not just made by those on the political right, but is also occasionally offered by those on the political left. Consider in this regard the *survivance* model of language policy supported by Charles Taylor. Taylor claims that there are grounds for demands of linguistic assimilation to ensure the preservation of a valuable linguistic practice. In particular, Taylor defends Quebec's approach to immigration, which requires immigrants to learn French even if they already know or would rather learn the more widespread language in Canada, English.<sup>195</sup> In defending the policies that require immigrants to learn French, Taylor argues:

It is axiomatic for Quebec governments that the survival and flourishing of French culture in Quebec is a good. Political society is not neutral between those who value remaining true to the culture of our ancestors and those who might want to cut loose in the name of some individual goal of self-development.... It is not just a matter of having the French language available for those who might choose it. This might be seen to be the goal of some of the measures of federal bilingualism over the last twenty years. But it also involves making sure that there is a community of people here in the future that will want to avail itself of the opportunity to use the French language. Policies aimed at survival actively seek to *create* members of the community, for instance, in their assuring that future generations continue to identify as French-speakers.<sup>196</sup>

In this passage, Taylor justifies Quebec's assimilationist linguistic policies by suggesting they further the goal of cultural survival. This collective goal grounds policies that "create" members of the French-speaking community. The value of French cultural survival, the "culture of our ancestors," takes normative precedence over potential unfairness to immigrants, and justifies imposing a demand of linguistic assimilation on them.

It appears that both those on the right and on the left appeal to the idea of preserving linguistic traditions to justify demands of linguistic assimilation that place greater burdens on immigrants. However this conservative argument does not carry the weight it purports to as it does not offer much of an explanation that would justify linguistic assimilation as a matter of

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<sup>194</sup>As Cohen states it, "The conservative impulse is to conserve what is valuable, that is, the particular things that are valuable" "The Truth in Conservatism" (unpublished manuscript) p. 14.

<sup>195</sup> These policies are laid out in Quebec's 1977 "Charter of the French Language."

<sup>196</sup> From Taylor's "The Politics of Recognition" in Amy Gutmann (ed.) *Multiculturalism* (Princeton: Princeton University Press 1994) p. 58-59.

state policy. What is special about the standing national language that would justify the state in imposing unequal burdens on immigrants? Pointing to the fact that the language is a valuable practice, that this is what is ‘done around here,’ does not itself seem sufficient to justify linguistic demands on immigrants, especially when those demands involve substantial burdens on a disadvantaged group. This can be made clear by recognizing that immigrants themselves might raise the same arguments to resist those demands. That is, the same conservative considerations can be offered on behalf of immigrant groups and other linguistic minorities to support the view that *they* should be able to preserve their *own* language against threats from the mainstream national language. After all, immigrants are part of a valuable linguistic tradition of their own that they might have strong reasons to preserve. Some commentators have raised just this argument. Consider Patten’s discussion of what he calls the ‘language maintenance model.’ Patten writes, “for this approach, the main priority of language policy should be to preserve particular language communities that are vulnerable to decline or marginalization.”<sup>197</sup> The language communities to which he refers are those of immigrants and national minorities, likely under threat from the mainstream language of the nation. So the very same conservative argument might be offered on two competing sides: native born citizens might appeal to it to justify preserving the standing national language as the language of public life, whereas immigrants might appeal to it to justify preserving their own language against demands of linguistic assimilation. Immigrants and the native born are in a symmetrical situation with respect to language preservation. This symmetry might not be surprising as the idea that valuable linguistic practices ought to be preserved is an idea that matters to all of us. However, it appears that as a response to the charge of unfairness, the conservative approach leaves us with a stalemate. More must be offered to justify why the central conservative claim ‘this is how things are done around here’ carries the normative weight it purports to.

Given the symmetry between the native born and immigrants and the resulting argumentative stalemate, the conservative argument against unfairness is unsuccessful. A satisfactory defense of the demands of linguistic assimilation must point to a normatively salient difference between native born citizens and immigrants that would justify linguistic demands on immigrants.<sup>198</sup>

#### (b) The Voluntariness Response

One might point to an asymmetry between the native-born and immigrants in the *voluntariness* of immigration. Kymlicka’s response to the unfairness objection appeals to this consideration. This response is also familiar from American public discourse as it is frequently raised by native-born citizens who believe that there is nothing unfair about requiring newcomers to their nation

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<sup>197</sup> Patten, “Liberal Neutrality and Language Policy,” p. 365.

<sup>198</sup> Other criticisms of the conservative response include the criticisms of the unidirectional approach I offered in Chapter 4. These criticisms hold that immigrants cannot be required to alter in just any way so that they conform to mainstream cultural practices. Liberal states protect a diverse ways of life, and this sort of conservative argument would likely preclude them from making their own reasonable choices. In other words, *contra* Taylor, the state cannot ‘create’ any community it likes.

to learn the national language. Many immigrants voluntarily choose to migrate to achieve a better life for themselves and their children. They often immigrate with the expectation that achieving this better life will take substantial effort on their part and involve serious hardship. Some of their expectations concern the costs associated with their effective integration into their new state by learning the dominant language, and adopting new practices for political, social, and economic success.

Kymlicka argues that since immigrants have come voluntarily with the expectation that they will face burdens, it is not unfair to demand of them that they assimilate. He claims that “most immigrants (as distinct from refugees) choose to leave their own culture. They have uprooted themselves, and they know when they come that their success, and that of their children, depends on integrating into the institutions of English-speaking society.”<sup>199</sup> Here Kymlicka distinguishes voluntary immigrants from political refugees and from colonized “institutionally complete” minority groups. Kymlicka claims that those latter groups have not come voluntarily under the expectation of facing substantial burdens, so demanding of them to assimilate is unfair. But it is a different story for immigrants who do make a voluntary choice to take on additional burdens.<sup>200</sup> According to Kymlicka, it would be unfair to impose these burdens if they were not freely chosen, but since they are freely chosen by immigrants, the greater burdens are justified.<sup>201</sup>

Kymlicka’s contrast between voluntary immigrants on the one hand and involuntary political refugees and colonized minorities on the other is drawn too starkly, and his argument that the demands of assimilation are not unfair for immigrants because they came voluntarily is not sound. First, there is only a very minimal sense in which immigrants, as distinct from political refugees, have voluntarily chosen to immigrate. Immigrants often come from impoverished countries with few opportunities for economic advancement or political representation. They face economic and political pressure to migrate, and this pressure is often exacerbated by global institutions, the foreign policies of liberal states, and the economic opportunities dangled in front of them by potential employers. The extent to which someone migrates voluntarily is surely a matter of degree, depending on the specific features of that person’s situation, so Kymlicka’s claim that all immigrants come voluntarily is greatly overstated. In addition, many immigrants bring their children in tow, and there seems to be no sense at all in which immigrant children have migrated voluntarily. These children seem rather to be in a comparable position to a colonized minority group. It is not an effective response to an immigrant child that the high costs they face to integrate are not unfair since *their parents* came voluntarily. This is not a minor point. It is often children of immigrants and second-generation citizens--non-voluntary arrivals to the receiving state--that raise some of the strongest complaints

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<sup>199</sup> Kymlicka, *Multicultural Citizenship*, p. 95, 96.

<sup>200</sup> Kymlicka, *Multicultural Citizenship*, p. 94 and elsewhere.

<sup>201</sup> It is worth noting that Kymlicka seems to hold a so-called “luck-egalitarian” view of distributive justice, which holds that inequalities are not justified if they result from chance, but are justified if they result from persons’ choices.

about the burdens they face in assimilating into the mainstream culture. It is often these children who pose some of the most significant threats to the social unity of the state.<sup>202</sup>

So Kymlicka overstates the case that immigrants choose to come voluntarily. Moreover, his argument is not valid as even the fact of voluntary immigration would not pull the normative weight required by it. If assimilation is unfair because of higher relative burdens, then it is unclear why the fact that an immigrant expects higher costs and voluntarily takes them on is sufficient to entail that those higher costs are not unreasonable. Immigrants might voluntarily take on expected higher costs, yet the costs be so burdensome that it is still unfair to impose those costs. Insofar as expected costs are voluntary, immigrants take them on because they have strong motivating factors to accept them; the costs of integrating are likely significantly lower than the costs of remaining in their impoverished, war-torn, or oppressive home state. Immigrants are in a situation where they must voluntarily choose the least bad option for them and their families. Supposing that immigrants will voluntarily choose the least bad option, then according to Kymlicka's argument the costs of assimilation are fair so long as they are less costly than remaining in an impoverished or oppressive state. In other words, according to the argument, it would be fair for receiving states to design assimilation policy so that it will be just *slightly* less burdensome for immigrants than for them to remain poor, famished, or oppressed. This counterintuitive consequences of Kymlicka's argument strongly suggests that even expected higher costs of assimilation can be unfair if they are of significant magnitude.<sup>203</sup> Thus Kymlicka's response to the unfairness objection fails, and we must look beyond the voluntariness of immigration to justify the unequal burdens of linguistic assimilation.

### (c) The Pragmatic Response

One difference between the native-born population and immigrants is a difference in their sheer numbers. Even in this period of mass migration, there are many more native-born citizens than immigrants. As a result of this difference in numbers, there might be pragmatic reasons to impose demands of linguistic assimilation on immigrants. It is this sort of pragmatic argument that I now explore.

Suppose that a state needs a common language for social unity. Notice that states generally have a recognizable preexisting common language. Of course, in most states, citizens speak a variety of languages. But, at least for the liberal states under consideration, state

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<sup>202</sup> Consider the 7/7 London Bombers or protestors from the French *banlieus*--largely involving children of immigrants. It is surprising that Kymlicka fails to appropriately address immigrant children since in other places he acknowledges particular difficulties with them. For instance, he writes, "it is important that governments should strive to make the children of immigrants feel 'at home' in the mainstream culture, to feel that it is 'their' culture. Adult immigrants may be willing to accept a marginalized existence in their new country, neither integrated into the mainstream culture nor able to re-create their old culture. But this is not acceptable for children." *Multicultural Citizenship*, p. 216.

<sup>203</sup> Compare Carens: "Many would undoubtedly agree to much harsher terms, even perhaps indentured servitude. But no one today would defend that sort of contract. Consent alone cannot make any agreement whatsoever legitimate, regardless of circumstances." *Culture, Citizenship, and Community* p.167.

institutions have made decisions establishing an official language. In fact, as the objectors note above, there is no way for the state *not* to have established a language. The state establishment of a language is generally not just some political decision removed from everyday communication amongst the population. Rather, state decisions regarding language impact the practices of the general population; most citizens of the state are aware of this established language and speak it amongst themselves. Native-born citizens, including children of immigrants, learn it when they are young and speak it fluently. So states already have, for the most part, a standing common language. It is only some newcomers or some isolated linguistic minority groups that do not speak this language. As Stephen May, a critic of English-Only policies explains, English in the U.S. is “the accepted language in the public domain, the language of the state, the language of power, and the language of social mobility.”<sup>204</sup>

According to the objection I have been discussing, demands of linguistic assimilation are unfair because they place unequal economic and symbolic burdens on immigrant non-speakers of the national language. Supposing that all citizens of the state should speak a common language, and that this ought to be achieved fairly with the burdens distributed equally, then one might raise several proposals. One proposal might be the following. All citizens learn the language of other linguistic groups present in their state. Consider a simplified example. Suppose the state contains just three linguistic groups: English speakers, Spanish speakers, and Mandarin speakers. On this proposal, each linguistic group must learn two other languages. This might make burdens fair, but consider the plausibility of this proposal as state policy. If there are only three language communities, then citizens must only learn two other languages--already a huge burden. However the more likely scenario is one where there are many language communities. This would result in citizens having to learn all of these languages. The costs for the state to provide language training and the burdens on citizens to learn all the languages would be incredible. All citizens--the native born and immigrants alike--would be severely burdened by this proposal. It might even hit the upper-limit of human capacity to learn additional languages. It seems that this proposal must be constrained by the consideration of ‘undue hardship.’ Surely the costs of implementing this proposal constitute an ‘undue hardship’ on all citizens. It is therefore an unacceptable option to equalize burdens.

Consider now a second proposal. All citizens of the state learn some new language not spoken by others. This could be, perhaps, an artificial language. This proposal is likely less burdensome than the proposal above as citizens would only have to learn a single new language. However, great care would have to be used in determining what new language citizens should learn as it might be linguistically closer to some standing languages, and thus the burdens would again be distributed unequally. So the new language must be equally different (equidistant) from the standing national language and the languages of immigrants to equalize the burdens of learning it. Upon consideration, this proposal is also subject to a number of serious doubts. For starters, is it even possible to settle on an equidistant language between, say English, Spanish and Mandarin? Further, what happens when new immigrants from other linguistic communities arrive? Then that artificial language would have to be altered to remain equidistant. Moreover, what steps would the state have to take to encourage its entire population to learn a new

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<sup>204</sup> In “Misconceiving Minority Language Rights” in *Language Rights and Political Theory*, p. 129.

language? Would it have to prevent the dominant language from continued use since it might overtake the new language? This proposal might achieve a kind of fairness, but the doubts about it again show that fairness needs to be balanced with pragmatic considerations of implementation and undue hardship.

This suggests that achieving a common language should not consider the fair distribution of burdens without also considering the total amount of burdens overall and the constraint of undue hardship. Fairness ought to be balanced with minimizing the burdens on all citizens. The huge burdens of implementing the aforementioned proposals are the result of requiring large numbers of citizens to learn brand new languages--either languages of other linguistic groups or the artificial equidistant language. This indicates that the majority population should not be required to learn a new language as that would raise significant new burdens for all.

It should be clear that for most states the overall burdens of achieving a common language are minimized when immigrant populations learn the standing national language rather than the larger native-born population learning a new language. This assumes that the number of immigrants are far fewer than the number of native born citizens; even in this recent rapid period of migration, this is a plausible assumption supported by data. Given that the state needs a common language, immigrants can be reasonably required to learn it because this minimizes the total burdens of achieving it. Consider the example above of a state with three language groups. Suppose that English speakers are the majority while Spanish and Mandarin speakers are the minority. There are many fewer burdens overall if Spanish and Mandarin speakers learn English than in alternative proposals where English speakers learn another language.<sup>205</sup> And, as I will discuss below, many of these burdens can be spread equally throughout the population. Unlike the 'Conservative' response, this argument does not appeal to the special valuable status of the standing national language. It does not suggest that the standing national language is more valuable than the languages of immigrants. As a result, the argument might be acknowledged by immigrants, and they would be less likely to resent the duty to learn a new language. Unlike the 'Voluntariness' response, this argument does not appeal to a distinction between the voluntariness of immigration as opposed to non-voluntary native-born citizens. Rather, this argument is entirely pragmatic: it is simply less costly overall to get all to speak the standing preexisting language than to speak a new language. That said, this argument does capture the intuitions supporting those other responses and should appeal to the native-born population: First, it captures the central conservative intuition by explaining why 'this is how things are done around here' has normative salience. Second, it points to a plausible asymmetry between immigrants and the native-born--the sheer numbers of each group--that justifies demands of linguistic assimilation on immigrants.

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<sup>205</sup> Niko Kolodny has suggested to me a similarity between this pragmatic response and Rawls' Difference Principle. The Difference Principle permits inequalities of primary goods if only if they benefit the worst off members of society. Rawls' thought is that a just society might have some inequality because attempts to equalize primary goods will result in making all members of society, including the worst off, even more worse off. Similarly, according to the pragmatic response, it is appropriate to require immigrants to learn the national language because attempts to equalize the burdens of achieving a common language by having all citizens learn the languages of other linguistic groups in the state or an alternative language will make everyone, including immigrants, worse off.

The Pragmatic response holds that immigrants should learn the standing national language because this minimizes the overall burdens on the population. However, the burdens do fall more drastically on immigrant groups. What about the unequal economic costs and symbolic impact of this demand? Consider first the economic costs that immigrants face as a result of a demand of linguistic assimilation. These costs have a disparate impact on immigrant groups and thus there are good reasons to distribute them more evenly. With the arrangement I suggest, it would be easier to more evenly distribute the burdens, as compared to alternative proposals, by compensating immigrants for the higher costs they face. It is easier to compensate immigrants because of the much smaller number of immigrants relative to the native-born citizens who speak the national language. This means there will be fewer burdens overall to be compensated. There are several steps the state can undertake to spread the burdens more evenly. For example, the state can provide subsidized language programs for non-native speakers. Language learning programs should focus on helping immigrants learn the national language well enough for them to participate politically and feel comfortable among their new compatriots. Public schools should also provide bi-lingual education with the goal of helping children receive national language proficiency. Studies have shown that bilingual school programs help foreign language speakers become fluent in the national language. These language classes, as part of the public school curriculum, can be subsidized through taxation. All citizens can contribute to these programs, thereby spreading the economic burdens more evenly and easing the burdens on immigrants. The state might go further to compensate immigrants for their economic burdens by allowing immigrants paid leave from work to take language classes, and help offset other opportunity costs such as by subsidizing the costs of baby-sitters and so forth.

Consider now the symbolic burdens facing immigrants as a result of the demand of linguistic assimilation. It might not be easy to compensate immigrants for symbolic impact. The Pragmatic response I offer does not emphasize features of language connected to a person's cultural identity. It treats language as an arbitrary vehicle of communication, whereas many claim that language is constitutively tied to identity and sense of self worth. Although the Pragmatic response does not emphasize the role of language in defining identity, it does emphasize the idea that language is conventional. For the effective operation of a socially unified polity it is crucial that all speak the same language. It does not matter which language citizens all speak, so long as there is one language they all speak.<sup>206</sup> I argued in chapter 4 that one's cultural identity is quite flexible. New national identities can form without replacing former identities. A demand of linguistic assimilation is not a demand that immigrants cease speaking their native languages; they may continue to maintain their native-language-based identities and communities while learning the national language. Although the national language need not replace the native language of immigrants, the state should still consider the ways in which requiring them to learn a new language might be symbolically burdensome. To begin to address these burdens, the state should make it clear to immigrants that they are not being asked to relinquish their former identities or linguistic practices, and that they are full citizens despite

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<sup>206</sup> Consider in this regard David Lewis's influential analysis of language in *Convention* (Cambridge MA: Harvard University Press 1969).



these differences. The state should explain to immigrants why they are required to learn the national language by pointing to the reasons described above and showing that those reasons apply to all citizens, regardless of their ethnicity, heritage, or comprehensive view. In this way, the state should show that linguistic assimilation does not denigrate immigrants' culture or identity, as the imposition of a foreign religion would. The reasons for linguistic assimilation are reasons that immigrants can see are good reasons for all citizens, not personal attacks on particular groups. The state might also demonstrate why immigrants are more likely to thrive politically and economically when they speak the national language. In addition, the state should consider programs that provide cultural support to encourage or assist immigrants in maintaining their native languages and identities. These programs would go beyond bilingual schooling for transition purposes, and would seek to preserve immigrants' languages. There is an appealing justification for programs such as these: language maintenance programs help the children of immigrants remain connected to older generations who might not speak the national language.<sup>207</sup> Again, these programs can be subsidized by taxing the native-born citizens.

I have just claimed that the state should consider policies that help offset the disparate economic and symbolic burdens of national language acquisition, distributing the burdens of a shared language more evenly between immigrants and the native-born. The idea that longstanding citizens must help offset the costs of language acquisition might be met with substantial objections. Some might ask, why should settled citizens be burdened by these newcomers? Some English-Only proponents and writers such as Huntington claim that native-English speakers should not have to pay any of these costs. They might argue that compensating immigrants for their language training or state support to respond to symbolic costs constitutes an undue hardship on the native born population.

There are a variety of ways to address this concern.<sup>208</sup> The strongest response holds that it would be a case of free-riding if the native-born population does not compensate immigrants for the burdens immigrants face under a demand of linguistic assimilation. Native-born citizens should recognize that a shared language is a public good beneficial for all. Language has the familiar characteristics of public goods: it is non-excludable and non-rivalrous.<sup>209</sup> Since it is a public good, it runs the same risk of all public goods, namely free-riding. Free-riding occurs when some citizens gain the advantages of a public good without paying the costs. Free-riding is frequently recognized as unjust. As Rawls writes,

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<sup>207</sup> How should school districts determine which languages should be fostered and maintained? This will depend on the numbers and the importance of those languages to the community. This can be left up to local jurisdictions. Consider here the US Voting Rights Act of 1965 which specifies the percentage of foreign language speakers in a community that requires ballots to be printed in their languages.

<sup>208</sup> One response I do not discuss here is that this might be a matter of first admission policy. Nothing I say precludes the possibility that the state can restrict immigration to those who already speak the native language.

<sup>209</sup> There are various characterizations of public goods, but most include these two features. Non-excludability means that if the good is available to one, it is available to all. Non-rivalry means that some enjoying the good does not prevent others from enjoying the good. Examples of public goods include street lighting, parks, and public safety.

When a number of persons engage in a mutually advantageous cooperative venture according to rules, and thus restrict their liberty in ways necessary to yield advantages for all, those who have submitted to these restrictions have a right to a similar acquiescence on the part of those who have benefited from their submission. We do not gain from the cooperative labours of others without doing our fair share.<sup>210</sup>

If native-born citizens fail to compensate immigrants for the higher costs they face, they fail to do their fair share for a public good. They would be in a comparable position of other free-riders who use public resources such as public transportation, parks, or roads without paying any of the costs. In each of these cases all citizens are obligated to financial support the provision of public goods. Those who claim compensation is an unreasonable hardship neglect the advantages native-born citizens enjoy from immigrant populations, especially when all share a common language.<sup>211</sup>

## 5. Multilingual States

The view I describe above is partially aligned with Huntington and the English-Only movement in the US. With them, I claim that there is a need for a common language that grounds a demand of linguistic assimilation on immigrants. However there are other ways in which I depart from their view. Although there are reasons for immigrants to learn the national language, nothing I say precludes immigrants from speaking their native language within their linguistic communities. This counters proponents of English-Only policies who seek just what their name suggests; public space where only English is spoken. Policies that prevent citizens from speaking whatever language they choose constitutes an unjust interference with free speech. Spanish speaking in the US is not the sort of threat to English-speakers that can be prohibited. That is, it does not constitute hate speech or speech likely to endanger citizens, expressions that might be justly restricted. This means that many state policies that preclude or prevent language use are unjust.

My departure from the English-Only movement might prompt another objection. If different languages are permissibly spoken within liberal states, then perhaps these states should officially become multilingual. Several liberal states are officially multilingual such as Switzerland, Belgium, and Canada. One might argue that by being officially multilingual, these states demonstrate greater respect for linguistic minorities than unilingual states. They also more effectively encourage the democratic participation and transparency that I claimed was important. Rodriguez, a proponent of making the US an official multilingual state, argues that the view that “linguistic diversity means that we are in danger of being unable to communicate

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<sup>210</sup> Rawls *Theory of Justice* p. 112.

<sup>211</sup> Others have written on free-riding and doing one’s fair share to accommodate others. For instance, Seana Shiffrin argues that “to respect other’s autonomy and to create the conditions for its meaningful exercise, citizens should bear some costs... citizens should tolerate some level of burdensome other-regarding behavior. Even further, they should go beyond mere tolerance and they should subsidize some such behavior.” “Paternalism, Unconscionability Doctrine, & Accommodation,” *Philosophy and Public Affairs* vol. 29 no. 3 (2000) pp. 205-250, p. 239.

with one another... assumes that civic engagement involves one simultaneous national conversation—with knowledge of English as the prerequisite for joining.” But, she claims, “our public conversations are far more varied than this model admits. Public dialogue consists of innumerable conversations in multiple media and in any number of languages.” So, according to Rodriguez, the U.S. ought to make it easier for immigrants to engage politically by ensuring that all political decision-making and public services are accessible in the languages of immigrants. This would go beyond translating public services in specific spheres to move to a fully and official multilingual society.

I agree that a variety of public services and political proceedings should be made available in the language of immigrants through translation.<sup>212</sup> However, this does not mean that liberal states should not encourage a single common language. There are at least three reasons why multilingualism is not a good path for liberal states.

First, the examples of officially multilingual liberal states are not paradigms of stability. Each of the three states frequently cited--Switzerland, Belgium, and Canada--are or have been at risk of division along linguistic lines. Quebec has had several close votes regarding potential secession from Canada, and the tension in Belgium between Dutch-speaking Flanders and French-speaking Wallonia seem likely to lead to further political division. In addition, the different linguistic regions of these states operate autonomously in a variety of realms. Each Swiss Canton, for instance, has the sort of juridical authority normally associated with an autonomous federal government. Due to the tensions and juridical divisions, these states are not good examples of socially unified multilingual states.<sup>213</sup>

Second, each of the examples is a case where the state has officially recognized languages of national minority groups, not immigrants. Despite their concerns for linguistic minorities, none of these three states has expanded its language policies to officially recognize immigrants’ languages. Given the large variety of immigrants’ languages, the official recognition of them would pose substantial costs. If the U.S. should officially recognize Spanish, then it should also officially recognize Mandarin, Arabic, Hindi, and so forth. The translation costs would pose significant burdens on the state.

Third, when states are characterized by a plurality of languages and without a common language, this will run afoul of the horizontal reason for a common language I described above, namely, it will discourage civic trust. The consideration and empirical studies I described above show that shared language is important for developing civic trust between compatriots. Official multilingualism might result in linguistic segregation that significantly hampers the trust necessary for social unity. It might exacerbate ethnic tensions and otherwise fail to help unify all citizens as members of a nation.

These three considerations suggest difficulties with official multilingualism to which Rodriguez and others cannot adequately respond. Rodriguez’s concern for encouraging political participation and transparency is admirable. She says, “If we want immigrants to be part of American society, we need to embrace these non-English media outlets, not condemn them.”

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<sup>212</sup> The Voting Rights Act of 1965, for instance, offers translation in voting districts with high numbers of non-English speakers.

She is right: more attention should be paid to ensuring that immigrants are included in American society, and this will involve supporting Spanish public services and media outlets. However, supporting Spanish and embracing Spanish outlets is consistent with encouraging all citizens to learn the *lingua franca* of the U.S., English.

## 6. Conclusion

Some of the fears of native-born Americans regarding the influx of Hispanic immigrants are understandable. There are strong reasons for English to remain the common language of the US. These reasons include the connection between shared language and civic trust, and the fact that political institutions and public services are linguistically embodied. There is a reasonable demand on non-English speaking immigrants to learn English. However, other fears of the native-born--for instance the fears that Hispanic immigration precludes English from being the common language--are greatly overblown. Studies show that Hispanic immigrants follow the same pattern as past immigrant groups: most Hispanics learn English, with complete fluency by the third generation. 'English-Only' policies are an unreasonable response to Spanish speakers as the continued use of Spanish in the public domain does not threaten English as the common language of public life. Further, all Americans should recognize the burdens immigrants face from learning a new language and that a shared language is a public good, whose costs should be fairly shared by all. English language learning will be more successful with greater support for English training and less concern implementing English-Only policies.

It was a political process that led English to its role as the unifying language of the US. Its historical ascendancy in the US (and increasingly in the world at large) was a long divisive process. This history could have gone differently, with a different language asserting itself as the *lingua franca*. When Huntington amongst others claim that English has always been the only language spoken in the US they are simply mischaracterizing history.<sup>214</sup> Proponents of fewer linguistic accommodations ought to recognize the moral arbitrariness of English ascendancy, and recognize that they could have been in the position of immigrants, disadvantaged in just the same way. Surely they are right that we need a common language, but they should be more sympathetic in sharing the burdens needed to achieve it.

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<sup>214</sup> As Stephen May writes: "While English *is* clearly pre-eminent, it was not inevitably so, particularly in the early colonial period when a number of languages--notably German, French, and Spanish--competed with English in the public domain. The deliberate reluctance of the drafters of the Declaration of Independence and the Constitution to formalize English, or any language for that matter, as the official language of the United States suggests as much" ("Misconceiving Minority Language Rights: Implications for Liberal Political Theory," from *Language Rights and Political Theory*, p. 129).

## Chapter 6

### Conclusion

This project was motivated by political developments in liberal states in Europe and the US involving recent immigration. These developments were characterized by serious concerns of native-born citizens about new immigrants and of immigrants about their inclusion in their new state. My goal was to reflect on those concerns to help arbitrate some of the political disputes. Methodologically, I sought to take the various sides of the disputes seriously, without rejecting any concerns as unreasonable out of hand. I sought common ground within ideals shared across the democratic landscape. Ultimately, I hoped to appeal to these shared ideals to investigate the demands on immigrants to assimilate, and the corresponding demands on the receiving state to accommodate immigrants.

My reflections proceeded over several steps. In Chapter 2, I addressed an existing philosophical debate about the normative significance of states. There is an everyday common-sense view that state borders have some normative or perhaps moral importance. This view, which I called Common-Sense Nationalism, is often cashed out in the twin claims that states have special reasons to provide for their citizens, and citizens have special reasons to provide for their fellow-citizens, that they do not have for non-citizens. However, this common-sense view has come under forceful attacks from so-called cosmopolitan critics. If these critics are correct, then state borders would not have any normative significance. I worried that this conclusion might mean that the issue of potential social disunity within a state--the concerns that motivate this project--might not matter. If existing states have no normative importance, then this casts doubt on the idea that there is any importance to social unity within them. If borders do not matter, then this suggests that many ongoing disputes over immigration within liberal states are misguided. To guard against this line of thought, I tried to offer a philosophical explanation for the common-sense view that states matter. This explanation centered on the role of the juridical authority of states, which is an existing authority that must be legitimated. One prominent approach to legitimacy, that of reasonable consent, entails a special relationship between the state and its citizens and between citizens themselves that is of some normative significance. So we can explain Common-Sense Nationalism by the fact that existing states need to be legitimated through the consent of all and only those over whom they exercise juridical authority. I defended this approach on methodological grounds. I argued that the conservative aspect of the approach, namely the fact that it takes existing states for granted, is an advantage rather than a drawback. Conservatively starting with existing states, I claimed, allows us to move beyond potentially endless debates about cosmopolitanism and nationalism to actually address the ongoing domestic disputes that motivate the project.

The explanation for nationalism I developed in Chapter 2, which emphasizes the role of juridical powers of the state, paved the way for an account of social unity based in the nation. These juridical powers of the state must be legitimated. One prominent account of legitimacy holds that the state is legitimate only if citizens can reasonably consent to it. There are many accounts of reasonable consent, and I adopted the influential approach developed by Rawls. Rawls's account of reasonable consent includes an essential role for the idea of the stability of

the state. I argued that this idea of stability is importantly related to the recent political disputes that motivate the project, and helps to clarify what sorts of social disunity are suggested by those developments. Taking on Rawls's conception of legitimacy, I argued that two sorts of relationships between citizens are necessary for the state to be legitimate. These two relationships are that citizens share in an overlapping consensus, and that they are tolerant of one another. I claimed that these two sorts of relationships provide us a model to understand what must be true of citizens for them to constitute a socially unified nation. This approach to social unity, I claimed, is preferable to other accounts that demand the affective feelings of citizens towards each other. Throughout this chapter, I discussed social unity in terms of an account of the nation. The point of this was not to add additional jargon or multiply philosophical concepts, but rather to connect discussions of social unity with a venerable concept that has historically played a role in unifying members of the state. Talk of 'the nation' continues to be prominent amongst commentators and citizens in contemporary liberal states, and I hope that connecting the philosophical account of social unity I developed with this popular concept might help give philosophical reflection more of a foothold in everyday discussions regarding threats to the nation stemming from recent immigration.

Armed with an account of the nation, in Chapters 4 and 5 I turned directly to the demands of assimilation. I divided these chapters according to a distinction between what practices immigrants should abandon and what practices immigrants should adopt. This division is a rhetorical distinction made for exposition rather than a principled one, and it might be difficult to determine in which category to place certain demands. However, I marked this distinction because I believe it helps to clarify the reciprocal aspects of the demands of assimilation. As I argued in Chapter 4, assimilation is best seen as a bi-directional process with reciprocal demands on both immigrants and the state. There are demands on immigrants, but there are also corresponding demands on the state and the native-born population. So just as certain practices of immigrants must be abandoned, so too must certain practices of the state and the native-born. Likewise, with respect to adopting new practices, just as immigrants must take on new practices to assimilate, the state and the native-born must take on new practices to accommodate immigrants. There is reciprocity in each demand and this reciprocity is crucial to ensuring that the trust that undergirds social unity develops on each side.

I made several specific prescriptions for changes the state and immigrants should make to build social unity. First, both immigrants and the native-born should relinquish their unjust practices. Of course, this demand is overdetermined as there are many reasons unjust practices should be abandoned. However it is still worth pointing out that in addition to the other reasons why unjust practices should cease, there is an argument that they should cease that is based in achieving valuable social unity. This provides both native-born citizens and immigrants an additional reason to consider, and might provide them additional motivation to relinquish their unjust practices. However, in a diverse liberal state, non-unjust practices, including those practices that might be thought to be strange or alienating, cannot be required to cease. So immigrants need not take steps to ensure that their preferences, for instance in clothing or prayer-spaces, are more like the native-born. They can be full members of the nation, importantly including sharing a commitment to the overlapping consensus and tolerating their compatriots, even if they do many things quite differently. States' policies that try to prohibit or discourage

immigrants' non-unjust practices, such as the French law banning headscarves in schools and further proposed bans of the burka in all public places, are discriminatory towards those immigrants, and indeed foster mistrust and set back social unity.

In Chapter 5 I turned to practices immigrants should adopt, and I claimed they should be required to know and obey state laws and have some knowledge of its political history and make-up. The state should help immigrants gain this knowledge, and in addition should help the native-born familiarize themselves with the cultures of new immigrants. This mutual knowledge should help immigrants and the native-born set appropriate expectations and hopefully build understanding and trust between them. More controversially, I claimed there is another important practice which immigrants should adopt, namely they should learn the language of their receiving state. I argued this is true for two different reasons. First, this is true because of the role language plays in constituting the political culture of the state: The national language spells out the fundamental principles and values of the state, and is the language of the legislative and judicial decisions that all citizens must be able to access. Second, this is true because of the important role of language in allowing communication between citizens and fostering trust. A shared means of communication is crucial to generating trust and building social unity between a diverse citizenry. Although I argued that immigrants should learn the national language of their state, the fact that all citizens of the state speak the same language is a public good beneficial to everyone, and thus should be one subsidized by all members. So native-born citizens can rightfully be required to contribute to immigrants' efforts to learn the national language through taxation or other means.

I began this project with an interest in political developments in Europe and the US that indicated ongoing concerns and anxieties stemming from recent immigration. Although I was interested in these issues, I had no idea what to think about them, and I proceeded in the project in an exploratory fashion, not entirely sure of my conclusions before beginning serious reflection. I hope to have come to some plausible answers to these difficult political questions.

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