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# CHAPETR ONE

## Dealing with Diversity.

### Towards a *Political* Theory of Toleration.

#### 1. Introduction

It is nothing more than a matter of fact that our social world is crowded by moral, political, ethnical, religious, sexual, and social diversities<sup>1</sup>. An intriguing problem arises when one discusses how political institutions and political theory try to accommodate and deal with these diversities that could threaten the traditional notions of civic unity, stability, freedom, equality, and individualism with which Western liberal democracy as well as liberal theory are commonly associated. These considerations are particularly urgent in the debates about the regulation of the internal life of traditional (either religious or secular) communities that reject any simple assimilation to the practices and the lifestyles of mainstream society.

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<sup>1</sup> That is not a completely new condition for liberalism. In fact, as K. A. Appiah writes, “the matter of diversity, far from being marginal to the origin of modern political philosophy, was central to it” (*The Ethics of Identity*, Princeton University Press, 2005, p. xv). If liberalism’s origins are to be traced back to the search for a peaceful coexistence after the XVI and XVII Centuries’ Wars of Religion, one cannot deny that liberalism had to do with diversity of religious, moral, and cultural beliefs since its beginning. What is new is the increased consciousness of that diversity. The reason for this circumstance should be searched out in the globalization, in migration, and in the claims for inclusion advanced by excluded minorities. For some accounts of historical origins of liberalism according to which Wars of Religion are at the starting point of liberalism, see J. Rawls, *Political Liberalism*, Expanded Edition, Columbia University Press, 2005, and C. Larmore, *The Morals of Modernity*, Cambridge University Press, 1996.

In this paper I discuss and criticize some liberal answers to the fact of diversity. The paper offers both a critical presentation of the contemporary liberal debate and a defence of a *political* liberalism that, assuming toleration as its basic virtue, brings to completion the ‘political turn’ inaugurated by John Rawls.

In the next section I present two distinctions one can find in liberalism. Considering the way in which a theory is justified, I draw a distinction between *comprehensive* and *political* liberalisms. Then, looking at the value each theory assumes as fundamental, I distinguish between *pro-autonomy* and *pro-toleration* liberalisms. Combining these two distinctions, I obtain four kinds of liberal theories: comprehensive pro-autonomy, comprehensive pro-toleration, political pro-autonomy, and political pro-toleration. In the third section comprehensive liberalism is rejected both in pro-autonomy and pro-toleration versions. In the fourth section political pro-autonomy liberalism is analyzed and objected on the basis of its only partial acceptance of the *politicization* of liberal theory. In the last section I give a sketch of what a pro-toleration political liberalism would look like.

## **2. Liberal distinctions: political and comprehensive, pro-autonomy and pro-toleration.**

In this section I will give an account of two distinctions one can draw in liberalism. The first concerns the way in which a theory is justified, whereas the other pertains to which principle each theory assumes as fundamental.

If one considers justification, one can have *political* or *comprehensive* liberalism. Liberalisms understood as comprehensive doctrines<sup>2</sup> are defended by John Locke, Immanuel Kant, and John Stuart Mill. In spite of the differences between their theories all share the following feature: “they relate liberal commitments in political philosophy to some vision or conception of

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<sup>2</sup> A comprehensive doctrine “includes what is of value in life and gives life its meaning. Metaphysical doctrines regarding the nature of reality, and epistemological doctrines regarding the possibility and conditions of human knowledge are also comprehensive doctrines, as are all religions”. See S. Freeman, *Rawls*, Routledge, 2007, p. 332.

what matters in life and of the human person and its place in the world”<sup>3</sup>. These liberalisms do not hide the fact that their liberal commitments are grounded in comprehensive accounts of human flourishing, or in worked out theories about moral value, metaphysics, and religion. Comprehensive liberals maintain that political theory cannot eschew references to substantive moral or metaphysical normative considerations, and that the defence of traditional liberal concerns such as the respect of individual rights, neutrality, and toleration is dependent on their comprehensive commitments. For instance, as Charles Larmore writes, “Kant and Mill sought to justify the principle of neutrality by appealing to the ideals of autonomy and individuality”<sup>4</sup>, and Will Kymlicka, which is a contemporary comprehensive liberal, defends toleration resting on the value of individual autonomy<sup>5</sup>.

Political liberalism is a more recent presence in the liberal landscape. It is the view mainly elaborated by the late John Rawls in a series of articles published in the ‘80s and systematized in *Political Liberalism*<sup>6</sup>. In this book Rawls tries to work out a liberal theory understood as a *political* conception. It has three essential features: it only applies to the basic structure of society, it is independent of disputable comprehensive doctrines, and it is elaborated from ideas implicit in the culture of a liberal democratic society<sup>7</sup>. But, apart from the complex details of Rawlsian position, I will assume that “political liberalism is not merely the name of a book by John Rawls. It is a distinctive approach to the problem of political power”<sup>8</sup> whose core idea is that, given the persistence of disagreement about the way in which one should live, liberal order should not be founded on the validity of a specific comprehensive doctrine. It should be pointed out that the distinction between comprehensive and political liberalism is not a difference between a moral and

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<sup>3</sup> J. Waldron, *Liberalism, Political and Comprehensive*, in G. F. Gaus, and C. Kukathas, Eds., *Handbook of Political Theory*, Sage, 2004, p. 91.

<sup>4</sup> C. Larmore, *Political Liberalism*, in *Political Theory*, 1990, p. 342. Here *neutrality* should be understood as the rejection of paternalistic restrictions for enforcing a specific conception of the good.

<sup>5</sup> W. Kymlicka, *Multicultural Citizenship. A Liberal Theory of Minority Rights*, Oxford University Press, 1995, Ch. 8.

<sup>6</sup> J. Rawls, *Political Liberalism*, cit. Other political liberals include, among the others, C. Larmore, D. Moon, M. Nussbaum, S. Macedo, and J. Shklar.

<sup>7</sup> J. Rawls, *Political Liberalism*, cit., pp. 11-15.

<sup>8</sup> B. Ackerman, *Political Liberalisms*, in S. P. Young, Edited by, *Political Liberalism. Variations on a Theme*, State University of New York Press, 2004, p. 79.

a non-moral political theory. A normative theory needs some moral content, and political liberalism, being a normative theory, has its own moral content. What distinguishes it from comprehensive liberalism is that “it tries to establish liberalism as a minimal moral conception”<sup>9</sup>. In plural and diverse societies, traditional liberal ideas of autonomy and individuality are too controversial to work as the basis of a liberal democratic society. Think about traditional or religious communities who place a particular emphasis on the value of group membership. As Larmore maintains, autonomy and individuality “have themselves become simply another part of the problem”<sup>10</sup>. Thus political power should be exercised according to reasons that everyone can accept independently of the comprehensive doctrine she endorses in her life. Underlying political liberalism there is the confidence that a liberal society can be just and stable even if individuals do not share comprehensive commitment.

The second distinction we are dealing with concerns the core principles of liberal theory. Autonomy and toleration are the values a liberal theory can assume as fundamental. In his *Liberal Pluralism* William Galston talks about “two quite different variants of liberal thought based on two distinct principles”<sup>11</sup>. Thus *pro-autonomy* (or *Enlightenment*) and *pro-toleration* (or *pro-diversity*, or *Reformation*) are the liberalisms one obtains if one thinks about the main liberal value. In general, pro-autonomy liberals tend to value autonomy in the sense of “individual self-direction in at least one of the many senses explored by John Locke, Immanuel Kant, John Stuart Mill, and American writing in an Emersonian vein”<sup>12</sup>. They stress the importance of rational self-reflection, individual choice, and revisibility of conceptions of the good. Instead, pro-toleration liberals are more *diversity-friendly*, and in general praise diversity understood as “legitimate difference among individuals and groups over such matters as the nature of good life, source of moral authority,

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<sup>9</sup> C. Kukathas, *The Liberal Archipelago. A Theory of Diversity and Freedom*, Oxford University Press, 2003, p. 17.

<sup>10</sup> C. Larmore, *Political Liberalism*, cit., p. 345.

<sup>11</sup> W. A. Galston, *Liberal Pluralism. The Implications of Value Pluralism for Political Theory and Practice*, Cambridge University Press, 2002, p. 20.

<sup>12</sup> *Ibidem*, p. 21.

reason versus faith and the like”<sup>13</sup>. Pro-toleration liberalism’s advocates defend the view according to which liberalism is not a theory necessarily committed to the (although not coercive) promotion of autonomous life styles and that human life can flourish also in not autonomous ways. Further, pro-toleration liberals think that the main purpose of a liberal theory is the peaceful and just coexistence of different individual and collective lifestyles. From their standpoint, liberalism is a theory whose purpose is the settlement of disagreement and differences about how individuals and groups should live together.

Jacob T. Levy has persuasively argued and with plenty of historical examples that “the autonomy/toleration dispute is not a new one, but one as old as liberalism itself”<sup>14</sup>. The distinction is rephrased as one between *rationalist* and *pluralist* liberalism. Rationalist liberals (Kant, Mill, Voltaire) are committed to “intellectual progress, universalism, and equality before a unified law, opposed to arbitrary and irrational distinctions and inequalities, and determined to disrupt local tyrannies”. Pluralist liberals (Acton, Montesquieu, Tocqueville) are “hostile to the central state and friendly toward local, customary, voluntary, or intermediate bodies, communities, and associations”<sup>15</sup>. Both rationalists and pluralists share a common commitment to the recognition of the value of political freedoms, but they have different attitudes towards the relation between individuals and communities: rationalist liberals are generally more suspicious about the dangers represented by intra-group oppression. However, belonging to one of the two liberal traditions does not forbid to a certain extent sharing concern coming from the other tradition. For instance, a rationalist liberal will admit limits to the promotion of autonomy, whereas a pluralistic liberal will recognize that group authority comes to an end in case of gross violation of human rights.

Combining the two distinctions I have been discussing in this section, I obtain four kinds of liberal theories: comprehensive pro-autonomy (CA), comprehensive pro-toleration (CT), political pro-autonomy (PA), and political pro-toleration (PT). In this way, we reach a sufficiently complete

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<sup>13</sup> *Ivi*.

<sup>14</sup> J. T. Levy, *Liberalism’s Divide, After Socialism and Before*, in *Social Philosophy and Policy*, 2003, p. 281.

<sup>15</sup> *Ivi*, p. 279.

overview of possible liberalisms in general that is also helpful in understanding and accounting for the contemporary debate about liberalism and diversity. The framework offered in this paper offers a rather complete overview of the available theoretical options in the contemporary debate. In addition, it is sensibly more complex than the one assumed in much recent political philosophy. For example, discussing whether autonomy or toleration are the fundamental liberal principles, Kymlicka writes: “this contrast is described in different ways – e.g. a contrast between ‘comprehensive’ and ‘political’ liberalism, or between ‘Enlightenment’ or ‘Reformation’ liberalism”<sup>16</sup>. Kymlicka conflates a distinction about justificatory procedures (‘political’ or ‘comprehensive’) with one about liberalism’s fundamental value (‘autonomy’ or ‘toleration’). In his framework any comprehensive liberalism is *ipso facto* pro-autonomy, whereas any political liberalism is pro-diversity. The next sections will show that a comprehensive liberalism can assume as fundamental principle either autonomy or toleration. Similarly, a political liberalism can be either pro-autonomy or pro-toleration.

### **3. Rejecting comprehensive liberalisms.**

In this section I will discuss and criticize comprehensive liberalisms’ attempt to accommodate diversity. Will Kymlicka’s theory will be assumed as an instance of CA, whereas William Galston’s will be examined as a CT liberalism.

Kymlicka works out a systematic liberal theory of multiculturalism. The liberalism he defends is overtly comprehensive and pro-autonomy and alleges to be adequate in addressing cultural diversity represented by national and ethnic minorities (or migrants). Kymlicka maintains that one needs an appeal to the “general value of individual autonomy”<sup>17</sup> for protecting and enforcing the whole range of liberal rights and freedoms as well as the rights liberalism is requested to grant to minorities. Kymlicka understands autonomy as rational revisibility of ends. In his argument choice has value in so far as it allows us to assert what has value. In this sense,

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<sup>16</sup> W. Kymlicka, *Contemporary Political Philosophy. An Introduction*, Oxford University Press, 2002<sup>2</sup>, p. 229.

<sup>17</sup> W. Kymlicka, *Multicultural Citizenship*, cit., p. 163.

Kymlicka's notion of choice and autonomy is less substantive than the Kantian (according to which choice is intrinsically valuable as it reflects human rational nature) and Millian (which appeals to the intrinsic value of individuality) views<sup>18</sup>.

According to Kymlicka, the recognition of rights for minority groups, far from being a departure from liberal tenets, descends from liberalism itself. Or better, from liberalism as he himself conceives of it. Kymlicka's liberal political morality foundation can be expressed in the following proposition: "our essential interest is in leading a good life"<sup>19</sup>. The fulfilment of a good life demands that "we lead our life from inside" and that we are "free to question those beliefs, to examine them in the light of whatever information and examples and arguments our culture can provide"<sup>20</sup>. These are the two preconditions for living a good life. Thus, individuals need both civil and personal liberties for living in accordance with what they deem valuable, and "the cultural conditions conducive to acquiring an awareness of different views about good life, and to acquiring an ability to intelligently examine and re-examine these views"<sup>21</sup>.

Cultural membership is particularly significant in Kymlicka's theory. *Culture* is both the context in which individuals exercise their choices, and source of individual identity. Thus, state interest for the thriving of a culture is not misplaced as far as it addresses the conditions for individual flourishing. Rather, it could be demanded by those liberal egalitarian principles which are upheld by Kymlicka. According to Rawlsian liberal egalitarianism, a just distribution should not depend from "the arbitrariness of natural contingency and social fortune"<sup>22</sup>. Similarly, Ronald Dworkin has proposed an *ambition sensitive* and *endowment insensitive*<sup>23</sup> theory of distributive justice according to which individuals should not be subjected to misfortunes that are beyond their control. If all this holds, given that the disadvantage people suffer for the decay of their culture is beyond individual direct control, it is a problem liberalism should care about. Cultural disadvantage

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<sup>18</sup> *Ibidem*, p. 212.

<sup>19</sup> W. Kymlicka, *Liberalism, Community, and Culture*, Clarendon Press, 1989, p. 10.

<sup>20</sup> *Ibidem*, p. 13.

<sup>21</sup> *Ivi*.

<sup>22</sup> J. Rawls, *A Theory of Justice (Revised Edition)*, Harvard University Press, 1999, p. 82.

<sup>23</sup> R.Dworkin, *What is Equality? Part 2: Equality of Resources*, in *Philosophy and Public Affairs*, 1981, p. 311.

becomes particularly relevant when one considers minority groups' condition: majority rules and shapes social space according to its values, ideals, and beliefs. Kymlicka claims that "it must be recognized that the members of minority cultures can face inequalities which are the product of their circumstances or endowment, not their choices and ambitions"<sup>24</sup>. Thus the recognition of some rights to them turns out to be fully consistent with liberal theory. Kymlicka explains that minority rights advocated by his theory are to be understood as 'external protections' rather than 'internal restrictions'<sup>25</sup>, that is as policies aimed at limiting the impact of majority decisions on minorities rather than as restriction to individual conduct. So, in Kymlicka's theory, minority rights cannot authorize the violation of basic civil and political liberties.

Some problems for Kymlicka's approach emerge if one considers that it aims to *liberalize*<sup>26</sup> minorities. Although Kymlicka, distinguishing between the identification of the most adequate liberal theory and the imposition of liberal principles to non-liberal minorities<sup>27</sup>, rules out that the process of liberalization goes through coercive measures, I argue that nonetheless his commitment to autonomy and related ideas creates serious tensions in accommodating diversity. Firstly, the idea of 'leading life from inside' is not universally accepted: it is "essentially Protestant, and played only a limited role in classical Athens and Rome, medieval Europe, Catholic Christianity and non-western civilizations"<sup>28</sup>. Moreover, the way in which Kymlicka envisages the relation between each individual and her culture is not beyond dispute. In fact, as Monique Deveaux has observed, "rather than citing 'meaningful individual choice' as the most important benefit of cultural membership, members of cultural minority groups might stress the ways in which membership provides a sense of place and belonging"<sup>29</sup>. In addition, if a culture "is valuable in so far as it contributes to the exercise of autonomy, rights to the protection of culture are justified only in the cases of those

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<sup>24</sup> W. Kymlicka, *Liberalism, Community, and Culture*, cit., p. 190.

<sup>25</sup> W. Kymlicka, *Multicultural Citizenship*, cit., p. 36.

<sup>26</sup> *Ibidem*, p. 94.

<sup>27</sup> *Ibidem*, pp. 164-165.

<sup>28</sup> B. Parekh, *Rethinking Multiculturalism. Cultural Diversity and Political Theory*, Palgrave, 2006<sup>2</sup>, p. 106.

<sup>29</sup> M. Deveaux, *Cultural Pluralism and the Dilemmas of Justice*, Cornell University Press, 2000, p. 132.

groups, or those cultures, that value autonomy”<sup>30</sup>: an autonomy based liberalism could discount the rights claims advanced by those groups who do not recognize autonomy’s primacy but who could equally be in a situation of undeserved disadvantage. Thus if we ground minorities’ accommodation in controversial values, we run the risk of marginalizing all those groups who do not confer any particular value to autonomous lifestyles and individualistic ways of flourishing.

The *liberalization* could actually transform minorities “into something they are not”<sup>31</sup>. There is no particular trouble about cultures’ transformation: unless one conceives of cultures as isolated and unchangeable entities, one needs to recognize that historical circumstances and reciprocal relations continuously work in favour of cultures’ evolution. The problem is that transformations mainly concern minority groups, and that this process is carried out according to values that they do not endorse.

In partial response to an objection like that, Kymlicka has argued that minorities’ integration (especially for what concerns migrants) is a “two-way street”<sup>32</sup>, in the sense that it involves transformations both in majority and minority. More recently Kymlicka has written also that “the liberal view of multiculturalism is inevitably, intentionally, and unapologetically transformational of people’s cultural traditions”<sup>33</sup>. Dominant and subordinate groups should interact on the basis of fair terms. The former are asked to “renounce fantasies of racial superiority, to relinquish claims to exclusive ownership of the state, and to abandon attempts to fashion public institutions solely in its national image”<sup>34</sup>, whereas minorities should abandon practices contrary to liberal democratic principles. The problem again is that the dominant group is requested transformations according to principles it endorses (but that it disrespects for various and contingent reasons), whereas the minority is asked to transform according to values it does not approve of.

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<sup>30</sup> M. Moore, *The Ethics of Nationalism*, Oxford University Press, 2001, p. 55.

<sup>31</sup> B. Parekh, *Rethinking Multiculturalism*, cit., p. 108.

<sup>32</sup> W. Kymlicka, *The Politics in the Vernacular. Nationalism, Multiculturalism, Citizenship*, Oxford University Press, 2001, p. 171.

<sup>33</sup> W. Kymlicka, *Multicultural Odysseys. Navigating the New International Politics of Diversity*, Oxford University Press, 2007, p. 99.

<sup>34</sup> *Ibidem*, p. 99-100.

William Galston's *diversity liberalism* promises to be more accommodating of diversity than Kymlicka's approach. Galston's objection to any version of autonomy liberalism on the basis of the idea that "autonomy is one possible mode of existence in liberal societies – one among others"<sup>35</sup> points toward an extended acceptance of diversity, at least in *practical* terms. Galston states that if public institutions assume autonomy's primacy, individuals and groups who deny that autonomy is always required for human thriving could experience liberal public space as an alien place. Thus, if liberalism privileges autonomy, the rather common idea according to which this theory could be no more than a sectarian doctrine notwithstanding its traditional aspirations to impartiality, neutrality, and universality, could dangerously be true. Galston maintains that "autonomy based-arguments are bound to marginalize those individuals and groups who cannot conscientiously embrace the Enlightenment impulse"<sup>36</sup>. For in our societies there are many individuals and groups whose ideal of human flourishing is in no way associated with autonomous choice, critical self-reflection, and all those attitudes generally related with a liberal-rationalistic idea of individual. Thus, according to Galston, "properly understood liberalism is about the protection of diversity, not the valorization of choice"<sup>37</sup>. Assuming the protection of diversity as the core value of a political theory allows Galston's theory to pursue "a policy of *maximum feasible accommodation*"<sup>38</sup> whose constraints are the requisites of civic unity and individual security. Moreover, it enables political institutions to take diversity seriously without imposing liberal values in the internal life of those groups that live in contemporary liberal societies.

Galston's *diversity liberalism* relies on three resources: expressive liberty, political pluralism, and value pluralism. Expressive liberty is "the normatively privileged and institutionally defended ability of *individuals* and *groups* to lead their lives as they see fit"<sup>39</sup>. In a liberal state

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<sup>35</sup> W. A. Galston, *Liberal Pluralism*, cit., p. 24.

<sup>36</sup> *Ibidem*, pp. 25-26.

<sup>37</sup> W. A. Galston, *Liberal Purposes. Goods, Virtues, and Diversity in the Liberal State*, Cambridge University Press, 1991, p. 329.

<sup>38</sup> W. A. Galston, *Liberal Pluralism*, cit., p. 20.

<sup>39</sup> W. A. Galston, *The Practice of Liberal Pluralism*, Cambridge University Press, 2005, p. 45, my emphasis. Expressive liberty has limits. For example, it would object to human sacrifice for religious or conscientious reasons, but it would

individuals should live according to values and beliefs they endorse, even if that runs contrarily to the principles upheld by the majority. They can join even non-liberal associations provided that they enjoy “meaningful”<sup>40</sup> exit rights. Political pluralism is the view that refuses the idea of the state as plenipotentiary power toward the plurality of associations and groups one can find in liberal democratic societies: state is just one among many legitimate authorities, and it is not the one that should always prevail. Finally, value pluralism is “an account of the actual structure of the normative universe”<sup>41</sup> according to which there are many and heterogeneous goods irreducible to a single value. Value pluralism, although it rejects relativistic conclusions, rules out the possibility of fully rank-ordering the distinct and conflicting values that we encounter in our moral life. From the point of view of value pluralism there is also no value or good (no *summum bonum*) always having priority when there is a conflict with other values and goods. This form of moral realism<sup>42</sup> is fundamental in Galston’s theory. In fact, it is value pluralism, together with his persistent objection to the view that liberalism has to “decouple political theory from other domains of enquiry”<sup>43</sup>, that signals the *comprehensivity* of Galston’s liberalism. For value pluralism is a complex and controversial theory about the nature of moral values, and, as will be clearer in the next section, *political* liberalism does not need any commitment about such issues: what does matter from its standpoint is that there is a plurality of conceptions of the good (the so called ‘fact of pluralism’) and that people, even ‘reasonable’ people, tend to disagree about the best way of living<sup>44</sup>.

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approve of some practices of conservative groups (for instance gender separation or male circumcision) that an *autonomy liberal* would condemn as unsuited to liberal societies.

<sup>40</sup> Exit rights are *meaningful* when individuals: are aware of other lifestyles, are able to assess the life in other communities, are free from psychological coercion, and have the capacity for living in a different group from the one they want to leave. See W. A. Galston, *Liberal Pluralism*, cit., p. 123. As one can see, the conditions required for meaningful exit rights are rather demanding. In some cases they could ask for a level of state intervention in tension with political pluralism’s idea of the functions of the state. See D. M. Weinstock, *Liberalism, Multiculturalism, and Internal Minorities*, in A. S. Laden, and D. Owen, Edited by, *Multiculturalism and Political Theory*, Cambridge University Press, 2007.

<sup>41</sup> W. A. Galston, *Liberal Pluralism*, cit., p. 30.

<sup>42</sup> For Galston value pluralism is a form of moral realism because it presupposes “the existence of moral realm that is in some sense ‘there’, apart from our emotional projections and cultural constructions”. See W. A. Galston, *The Practice of Liberal Pluralism*, cit., p. 12.

<sup>43</sup> W. A. Galston, *Liberal Pluralism*, cit., p. 8.

<sup>44</sup> The incompatibility between value pluralism and political liberalism has been forcefully argued by Charles Larmore in *The Morals of Modernity*, Cambridge University Press, 1996, Chapter 3.

The political implications of value pluralism are not immediately clear. Among the theorists accepting value pluralism the compatibility between this account of moral world and liberalism is a matter of dispute. Theorists like I. Berlin, B. Williams, and G. Crowder, claim that pluralism is attuned with liberalism, whereas others like J. Gray believe that the acceptance of value pluralism and the consequent refusal of autonomy (and even negative liberty) as the trump value leads to conceiving of liberalism as a theory of only local authority<sup>45</sup>. Galston follows Berlin's route in trying to elaborate a liberal theory that assumes value pluralism and negative liberty as fundamental ideas. For Galston and Berlin, negative liberty should be understood as "the capacity of individuals unimpeded by external coercion or constraints, to choose for themselves among competing conceptions of good or valuable lives"<sup>46</sup>. A minimal conception of liberty<sup>47</sup> such as this can have a privileged status in value pluralism and can function as the starting point for the elaboration of a liberalism that, as I said, seems very sympathetic towards diversity. And yet, at a closer sight, it has its own difficulties.

Firstly, for what concerns diversity liberalism I argue that is not clear if it conceives of diversity as "its point of departure"<sup>48</sup> or as the value that should be protected or pursued through public policies. In this last case, one would have a position in conflict with the pluralist view according to which there is no ultimate value that public policy should always pursue. In addition, diversity, from a liberal perspective, is a fact of social life having as such no particular value. It is simply a sociological fact that our societies are diverse for what concerns morality, religion, and politics. Diversity as such is not a value and we can have circumstances in which homogeneity could be preferable to diversity. Think for instance about the degree of convergence required by the good functioning of some religious or political associations. As Chandran Kukathas has written,

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<sup>45</sup> For a recent and well informed survey of the different positions see G. Crowder, *Value Pluralism and Liberalism. Berlin and Beyond*, in G. Crowder, and H. Hardy, Edited by, *The One and the Many. Reading Isaiah Berlin, Reading Isaiah Berlin*, Prometheus Books, 2007.

<sup>46</sup> W. A. Galston, *Liberal Pluralism*, cit., p. 48. See also, I. Berlin, *Four Essays on Liberty*, Oxford University Press, 1969, Chapter 3.

<sup>47</sup> According to Galston, assuming this idea of negative liberty does not commit to some controversial philosophical or psychological systems. What does matter is only the absence of coercion when one wants to leave a community that risks becoming a prison.

<sup>48</sup> W. A. Galston, *Liberal Pluralism*, cit., p. 26.

“diversity is not the value liberalism pursues but the source of the problem to which it offers a solution”<sup>49</sup>. Liberalism is required to give an answer to the problem of elaborating agreeable principles for making possible the peaceful coexistence in a society extensively pervaded by the conflict about how one should live. Posing from the starting point that diversity is the value that liberalism should protect could mean puzzling the priorities and the finalities of liberal inquiry.

Others problems of Galston’s approach concern the way in which value pluralism is employed. It is a philosophical view about plurality and incommensurability of conflicting goods, not cultures, so it should emphasize a state of affairs in which many values compete without always having a valid rule of priority. Galston himself recognize this feature of value pluralism when he refers to it as a resource to ground a liberal theory. For he claims that “while liberal pluralists celebrate legitimate diversity among cultures, they suspect that diversity will exist within culture as well and that a culture’s smoothly homogeneous public face reflects the covert operation of power”<sup>50</sup>. This statement results in patent tension with Galston’s acceptance of the *Wisconsin v. Yoder*<sup>51</sup> decision, in which the parents of three Amish families claimed that an excess of their children’s exposure to diversity would have been obnoxious to the preservation of their lifestyle. They requested and obtained two years of exemption of their children from a Wisconsin law prescribing school attendance until the age of sixteen. The homogeneity and the social immobility of Amish society could be a signal of an unjustified and oppressing power exercised from the strongest against the weakest members of the group. At this point, I agree with George Crowder’s when he notices that “Galston does not go as far as Gray in identifying the incommensurability of values with the incommensurability of political regimes, but he tends similarly to equate diversity of goods with diversity of cultures”<sup>52</sup>. If the identification of the incommensurability of values with the incommensurability of political regimes easily translates into a relativistic view according to which there is no prospect for criticizing political institutions from outside, even the more moderate

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<sup>49</sup> C. Kukathas, *Liberal Archipelago*, cit., p. 29.

<sup>50</sup> W. A. Galston, *Liberal Pluralism*, cit., p. 64.

<sup>51</sup> *Wisconsin v. Yoder*, 406 US 205 (1972).

<sup>52</sup> G. Crowder, *Isaiah Berlin*, Princeton University Press, 1996, p. 163.

equation of diversity of goods with diversity of cultures is a dangerous move toward a relativistic position that is potentially illiberal and unavailable to Galston given his often stated idea that “pluralism is not the same as relativism”<sup>53</sup>. In fact, the emphasis on the diversity of cultures might hide the presence of oppression and coerced homogeneity within the groups themselves. In all likelihood there will be conflicts between diversity *among* cultures and *within* cultures, and Galston’s theory does not give us clear advises to deal with them.

#### **4. Political liberalism and diversity: *political* transformations.**

Stephen Macedo’s work is a clear expression of political liberalism’s principles. In a 1995 article he objected to comprehensive liberalism on the basis that their ideals are “deeply partisan and not easily defended”, and that they “claim too much”<sup>54</sup>. Political authority should not be premised on the validity of divisive and controversial comprehensive doctrines such as the view that critical thinking is a necessary feature of a good life, or that religious truths are to be achieved in some specific ways. Closely following Rawls’ approach in *Political Liberalism*, Macedo proposes “to put aside such matters such as religious truth and the ultimate ideals of human perfection” and stress “to justify at least the most basic matters of justice on ground widely acceptable to reasonable people – and not only to those who share our particular view of the whole truth”<sup>55</sup>: political liberalism asks to ‘bracket’ our deepest convictions and to focus upon what reasonable people can share.

The theory Macedo is advancing is not sceptical. It is not led by the idea that human reason is unfit to know moral, religious, or other metaphysical truths. Political liberalism “ask us not to renounce what we believe to be true, but to acknowledge the difficulty of publicly establishing any

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<sup>53</sup> W. A. Galston, *Liberal Pluralism*, cit., p. 30.

<sup>54</sup> S. Macedo, *Liberal Civic Education and Religious Fundamentalism: The Case of God v. John Rawls*, in *Ethics*, Vol. 105, 1995, p. 473.

<sup>55</sup> *Ivi*. In the Rawlsian jargon, reasonable people are those who “are prepared to offer one another fair terms of social cooperation” and “agree to act on those terms, even at the cost of their own interests in particular situations, provided that others also accept those terms”. See J. Rawls, *Political Liberalism*, cit., p. xlii.

single account of truth for the whole of life”<sup>56</sup>. If common political institutions reflected a contestable account of moral, religious, or philosophical truth, one would have an evident form of disrespect for those who are committed to other comprehensive doctrines. In this sense, political liberalism’s core motive is “the desire to respect reasonable people”<sup>57</sup>. Individuals express this respect when they discuss essential political subjects offering each other reasons they can share despite their deep differences, and exercise political power in accordance with principles on which individuals can converge from their different comprehensive doctrines. For disagreements about conceptions of the good do not impede that people can agree on some public aims such as the value of equal freedoms, democratic institutions, and social security.

The *politicization* of liberalism can be understood as a tool for amending comprehensive liberalism’s philosophical shortcomings in understanding and accommodating the problem of diversity. In fact, as Macedo maintains in a 1998 article, political liberalism is to be preferred to its opponent because the former, almost as a definitional matter, “accommodates a greater philosophical diversity at the foundational level than comprehensive versions of liberalism”<sup>58</sup>. If political liberalism does not rely on the validity of one among many conflicting conceptions of the good, it can more fairly accommodate and acknowledge the so called ‘*fact of reasonable pluralism*’, that is the persistent disagreement among reasonable individuals about the ultimate matters of ethics, religion, and philosophy<sup>59</sup>. Whereas one could say that comprehensive liberalism “does not show very much respect for the choices citizens may make to live nonautonomously, as members of hierarchical societies or corporate bodies”<sup>60</sup>, political liberalism does not take a position about ultimate matters that are not directly relevant in the political domain. So it does not privilege those

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<sup>56</sup> S. Macedo, *Diversity and Distrust. Civic Education in a Multicultural Democracy*, Harvard University Press, 2000, p. 170.

<sup>57</sup> *Ivi.*

<sup>58</sup> S. Macedo, *Transformative Constitutionalism and the Case of Religion. Defending the Moderate Hegemony of Liberalism*, in *Political Theory*, 1998, p. 79.

<sup>59</sup> As John Rawls argues, “political liberalism assumes that a plurality of reasonable yet incompatible comprehensive doctrines is the normal result of the exercise of human reason within the framework of the free institutions of a constitutional democratic regime”. See J. Rawls, *Political Liberalism*, cit., p. xvi.

<sup>60</sup> M. Nussbaum, *A Plea for Difficulty*, in S. M. Okin, *Is Multiculturalism Bad for Women?*, Princeton University Press, 1999, p. 110.

who are committed to an autonomy inspired conception of the good life, but at the same time it does not marginalize for instance those who conceive of their flourishing within conservative religious communities. And yet, political liberalism does not stand neither for an undifferentiated acceptance of diversity nor for an unconstrained neutrality among different conceptions of the good.

In fact, far from any attitude of celebration for plurality and difference as such, Macedo thinks that “diversity needs to be kept in its place: diversity is not always a value and it should not be accepted uncritically”<sup>61</sup>. Even for political liberalism there are ‘healthy’ and ‘unhealthy’ forms of diversity, and the principles of a sound political theory are to distinguish among which should be accommodated and which should be rejected or constrained.

Macedo’s liberalism is pretty demanding. According to him, liberal societies do not rest on diversity, but on “shared political commitments”. Keeping alive a thriving liberal society requires “a shared public morality”<sup>62</sup> and specific citizens’ virtues that do not naturally produce themselves, but call for public intervention, primarily through the public schools. Macedo’s political liberalism is a kind of *civic* liberalism that goes beyond Rawlsian “concern with basic constitutional principles” and emphasizes “the importance of the wider civic life of liberal democracy in practice, as well as liberalism’s educative ambitions”<sup>63</sup>. The civic society envisaged by *civic* liberalism is a shared moral space in which citizens respect one another as equal participants in the collective enterprise of self-government.

As I mentioned, Macedo’s liberalism’s notion of neutrality is very restricted. He argues that “political liberal principles are neutral only in being justified *independently* of religious and other comprehensive claims”<sup>64</sup>. Political justification does not rule out the possibility that people supporting different conceptions of the good will differently be affected by the liberal order. Promoting those virtues needed for the realization of a flourishing liberal society will be differently judged by progressive and conservative people. Political liberalism “will probably have the effect of

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<sup>61</sup> S. Macedo, *Diversity and Distrust*, cit. p. 3.

<sup>62</sup> *Ibidem*, p. 146.

<sup>63</sup> *Ibidem*, p. 169.

<sup>64</sup> *Ibidem*, p. 169.

encouraging critical thinking in general”<sup>65</sup> and will be more hospitable to the supporters of Kantian and Millian liberalisms than, for instance, to orthodox religious individuals<sup>66</sup>.

It would seem that political liberalism in general, and Macedo’s in particular, is nothing more than a disguised comprehensive liberalism committed to the value of autonomy<sup>67</sup>. So, why do I consider his theory as a PA liberalism rather than an instance of CA liberalism? The main reason resides in the justification Macedo offers for his theory: it is a *political* justification which, being independent of comprehensive claims and focusing on what people share beyond their ultimate disagreements, aims to be more *philosophically* receptive towards diversity. The notion of autonomy fostered by political liberalism is not a comprehensive one as far as it is not supposed to count in all the domains of life. Political liberalism entails that individuals are to be *politically* autonomous<sup>68</sup>, that is autonomous as free and equal citizens in a liberal democratic regime. The fact that political autonomy spills over in extra-political domains is a further matter that political liberalism should attend to<sup>69</sup> but that does not remove the justificatory difference between political and comprehensive liberalism.

This difference is manifest also in the way in which Macedo’s political liberalism deals with diversity. As I said, his theory is very demanding and distinguishes between healthy and unhealthy forms of diversity. Macedo rejects ‘negative liberal legalism’, the view according to which the law is “a framework of impartial [and purposeless] rules within which individuals and groups may pursue their own divergent ends”<sup>70</sup>. This outlook grasps liberal attempts to limit state power but does not allow seeing liberal constitutionalism’s more positive ambitions. Liberal societies’ flourishing is not a natural fact but depends on certain citizens’ attitudes that are not spontaneous insofar as they need a significant state intervention through the public education and other less

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<sup>65</sup> *Ibidem*, p. 179.

<sup>66</sup> See J. Rawls, *Political Liberalism*, cit., p. 200.

<sup>67</sup> This objection to Macedo has been moved by Christopher Wolfe in *Natural Law Liberalism*, Cambridge University Press, 2006, p. 116, and Troy Dostert in *Beyond Political Liberalism. Toward a Post-Secular Ethics of Public Life*, University of Notre Dame Press, 2006, p. 46.

<sup>68</sup> For the notion of political autonomy in Rawls, see S. Freeman, *Rawls*, cit., pp. 361-363.

<sup>69</sup> Political liberalism’s *spill over effects* are addressed in John Tomasi’s *Liberalism Beyond Justice. Citizens, Society, and the Boundaries of Political Theory*, Princeton University Press, 2001.

<sup>70</sup> S. Macedo, *Diversity and Distrust*, cit., p. 14.

direct means. Liberal state needs to *transform* individuals' and groups' commitments so that they can actively support liberal order<sup>71</sup>. In this sense, healthy forms of diversity are those "supportive of basic principles of justice"<sup>72</sup>. Thus, for Macedo, liberal state has to constitute normative diversity for its own ends. Collective and individual identities need to be transformed in ways that render them able to support a liberal democratic society. Once they have been transformed in this direction, they can organize and develop according to their comprehensive principles and beliefs. The process through which in the 1960's American Catholic Church was liberalized and, after a long period of distrust and suspicion, became an active supporter of democracy around the world is assumed as an illustration of the "transformative potential of civic liberalism". Macedo remarks that this transformation "did not occur accidentally"<sup>73</sup>, but was the deliberate outcome of, among other political acts, the principle of separation between political and religious power.

Macedo's liberalism is unapologetically transformative up to the point that it does not even despise assimilation, provided that it operated in nonoppressive ways, and is directed toward justifiable values, that is values that can be defended without an appeal to comprehensive doctrines. In fact, as Macedo argues, "the point of the transformative mechanisms is political. They are deployed in liberal politics, and their effects are welcomed insofar as they secure a system of political liberty and other basic political goods"<sup>74</sup>. Liberal transformations stress the need to enhance our civil interests, the common interests of citizens who decide to peacefully live together in a free and diverse society, not to advance a religion over another religion or atheism over religious faith in general. In this sense, Macedo's view is less demanding and more open to diversity than, for instance, John Dewey's *civic totalism* with his idea that democratic public morality should be concerned with what is ultimately true. Political liberalism neither has a negative

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<sup>71</sup> Macedo points out that the interest for individuals' and communities' support for political order is not alien to liberalism. It is a rather old liberal concern. For instance, a classical liberal such as Adam Smith was aware that "local communities and other intermediate associations are important indirect instruments of civic education which may, nevertheless, need to be shaped and managed to some degree by public policies designed to encourage them to take forms that are supportive of liberal democracy". See S. Macedo, *Community, Diversity, and Civic Education. Toward a Liberal Science of Group Life*, in *Social Philosophy and Policy*, 1996, p. 252.

<sup>72</sup> S. Macedo, *Diversity and Distrust*, cit., p. 134.

<sup>73</sup> *Ibidem*, p. 134-135.

<sup>74</sup> *Ibidem*, p. 137.

attitude towards religion and other particular loyalties nor does want, in a Deweyan spirit, “to dissolve traditional religions in order to transfer religious energies to the common political project of progressive reform and the advancement of science and culture”<sup>75</sup>. It only asks that religious and other groups transform in a civic direction to support liberal order.

Up to now, the reconstruction of Macedo’s thought has been eloquent in showing that the *politicization* of liberalism represents an interesting theoretical move for accommodating diversity. Political liberalism scores high for what concerns the accommodation of “philosophical diversity at the foundational level”. Eschewing any appeal to ultimate truths and focusing on the political domain (although it is not seen as isolated from other extra-political concerns), political liberalism can claim the allegiance of many who do not feel comfortable in a society ruled by a comprehensive liberalism. For example, if we think about religion, political liberalism, with its focus on the need to avoid questions connected with the ultimate truth of a set of religious beliefs, tends to be less sectarian than “deeply secular” and “truth seeking” comprehensive liberalism even for scholars concerned with the compatibility of Islam with liberal democratic values<sup>76</sup>. In addition, Macedo’s approach, with its emphasis on the civic dimension of political liberalism, enables us to grasp the fundamental dimension of individual and collective identities’ transformations involved in the accommodation process. Nonetheless, in the remaining part of the present section, I contend that Macedo’s understanding of the transformative dimension of liberalism is incomplete.

In a passage addressing the problem of which groups are worthy of being accommodated, Macedo writes that “the important point is that *we* must decide which communities are to be accommodated, and that there is nothing wrong with deciding on the basis of the best reasons that are available, and with due confidence in the worth of preserving liberal institutions”<sup>77</sup>. Remarking that *we* have the duty to decide whom and according to which principles is to be included in *our*

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<sup>75</sup> *Ibidem*, pp. 139-140.

<sup>76</sup> H. H. Haidar, *Liberalism and Islam. Practical Reconciliation between the Liberal State and Shiite Muslims*, Palgrave, 2008, p. 104. Haidar considers Rawls and J. S. Mill as examples of (respectively) political and comprehensive liberalism. In this case, the reflections on Rawls hold for Macedo too, given his explicit reliance on Rawlsian ideas.

<sup>77</sup> S. Macedo, *Transformative Constitutionalism and the Case of Religion*, cit., p. 73 (emphasis in the text).

liberal society does not allow to see some relevant issues involved in a fair integration of individuals and groups understood as free and equal participants in a liberal framework.

Firstly, given the complexity and the diversification of every liberal society it is difficult to identify the *we* in which the ultimate authority resides. Unless one assumes a monolithic image of liberal society, there will be more than one *we* competing for having the last word.

Secondly, it is difficult to imagine an accommodation that does not involve changes in the majority that receives new, and presumably different, groups such as migrants. Macedo's approach is well equipped to see only one side of the coin, that is the transformations demanded to minorities, whereas it is easily predictable that, at least descriptively, the inclusion of new minorities in a liberal state will alter its character. For instance, David Miller has argued that migrants' contribution to the reshaping of the culture of the nation to which they move is "a process that happens in any case"<sup>78</sup>. The relevant normative considerations arise when one considers which the more adequate way of accounting for this process is. Such an account has to recognize the value of migrants' contribution in a non-residual way: once they have lawfully been admitted, their status as less than equal citizen is unjustifiable in a liberal perspective. Imagine that a liberal society in which Catholicism is the most common religion receives a significant number of Muslim migrants<sup>79</sup>. Even though the society temporarily rejects full political integration for newcomers, it will be affected by many changes. Let us assume that Muslim children go to public schools with Catholic children. It is easy to foresee that, even without multicultural provisions aimed at accommodating newcomers, classrooms will become at least *de facto* multicultural. Later, if the Muslim presence is recognized and accommodated, the changes will be more extended: there will be new study programs, particular provisions for holidays, etc. In a subsequent stage, if migrants are fully included in the democratic process and obtain citizenship, one can imagine that "the acceptance of difference in the public sphere easily leads to a number of changes [...] so as to accommodate the newly included

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<sup>78</sup> D. Miller, *Immigrants, Nations, and Citizenship*, in *The Journal of Political Philosophy*, forthcoming, p. 17.

<sup>79</sup> In this paper I do not take a stand on the debate between those who argue in favour of open borders and those who support restrictions to migration. For the sake of the example, suppose that the migrants have been admitted in the new country without serious dangers for its economics, stability, and social peace.

groups”<sup>80</sup>. The public space of the receiving society will lodge new individuals with their previously excluded different religions, beliefs, moralities, histories. The earlier Catholic and homogeneous society is going to not exist anymore. It will have been replaced by a new society in which both old residents and newcomers went through a process of reciprocal transformations. Once a liberal society decides, for loyalty to its own principles of freedom and equality, to accommodate new groups, even the *we* that in Macedo’s model must rule on matters of inclusion becomes subject to changes. In other words, “*We cannot integrate them so long as we remain we*”<sup>81</sup>. Thus, a theory such as Macedo’s, undervaluing majority’s transformations, does not grasp a fundamental dimension involved in the accommodation of diversity.

To conclude, in this same section I observed that for Macedo “the point of the transformative mechanisms is political”<sup>82</sup>. Communities are accepted in the liberal state provided that they *politically* transform. Differently stated, individual should become autonomous and, although the notion of autonomy involved is a *political* one, it could be troubling if one considers that an exclusive focus on autonomy-enhancing transformations involves an undervaluation of the status of the minorities and a misconception of their role when they are fully admitted in a liberal public sphere.

## **5. Toward a *political* theory of toleration.**

In the previous sections I have been discussing three liberal approaches to the problem of diversity. Comprehensive liberalism was rejected both in Kymlicka’s pro-autonomy and Galston’s pro-toleration version. Kymlicka’s liberal multiculturalism appears to be unable to accommodate diversity. The emphasis on the value of autonomy excessively constrains the accommodation of diversity: the *liberalization* of minorities, considering that they could reject the primacy of autonomy without being dangerous for the maintenance of a liberal order, does not take seriously

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<sup>80</sup> A. E. Galeotti, *Toleration as Recognition*, Cambridge University Press, 2002, p. 200.

<sup>81</sup> B. Parekh, *Rethinking Multiculturalism*, cit., p. 204.

<sup>82</sup> S. Macedo, *Diversity and Distrust*, cit., p. 137.

their difference. Galston's theory, discarding the view that autonomy is the liberal *sommmum bonum*, appears to go one step further. The recognition that in a liberal society there are many legitimate authorities and that liberalism demands respect for "expressive liberty" would seem adequate tools for dealing with diversity, at least in *practical* terms. And yet, value pluralism is not a safe ground: it is a view according to which there are many goods, but Galston seems to translate it in the view that there are many cultures. A similar shift could, contrarily to Galston's premises, condone illiberal outcomes.

The *political turn* represents a remarkable theoretical opening to the problem of diversity. Liberalism becomes independent of comprehensive accounts of good, truth, religion. Political liberalism, relying on what individuals can share despite their comprehensive loyalties, is more *philosophically* generous than comprehensive liberalism insofar as he accepts more diversity at foundational level. In the fourth section I discussed Macedo's theory as an example of what I labelled 'political pro-autonomy liberalism'. Macedo's view is rather demanding. He subordinates the acceptance of diversity to the *political* transformation of the minorities looking for accommodation. The notion of *political* transformation has been found highly problematic: it prevents us from seeing that the integration of minorities involves reciprocal transformations both in majority and in minorities.

I argue that the most adequate liberal theory for dealing with diversity has to be *political* and *pro-toleration*. The political turn must be brought to completion: political liberalism has to leave behind its commitment to autonomy, even to a political notion of autonomy. Demanding that individuals become politically autonomous could be too demanding and, as I observed examining Macedo's theory, could hide important dimensions one has to consider about the integration of the minorities. Political liberalism is accomplished and does not betray its philosophical premises when it is coupled with a commitment to toleration. Only in this way one can have a theory that combines political liberalism's *philosophical* openness towards diversity with the *practical* receptivity of pro-toleration views.

The liberal outlook one obtains does not “describes a set of standards and principles by which a community or society should live”. A society will not be considered liberal inasmuch as it respects “the values which make it liberal”<sup>83</sup>, because these same values are matter of disagreement, but when the conditions for a peaceful coexistence of different individuals and groups have been realized.

The liberal theory I am sketching is suspicious of those approaches based on recognition or dialogue as the best tools for addressing diversity. The empirical starting point is the realization that “minorities disagree with one another and, in some cases are riven by internal conflicts which reveal an absence of agreement even within some of the smallest communities”<sup>84</sup>. Presuming that the accommodation of diversity is always connected to political recognition of minorities’ difference could involve a misrepresentation of minorities. Apart from numerically isolated religious groups like the Amish, minorities are not natural, homogeneous, and unchangeable structures. They are subject to continual reshaping and internal dissent. Political recognition is not the right answers insofar as it could be associated with the idea that minorities are always civic spirited and express themselves through rights claims. Dialogical approaches are as well objectionable because they are extremely demanding for those groups and individuals whose rationality does not dialogically articulate. The argumentative resolution of conflicts could consolidate the dominion of those group who are more dialogically oriented, that is the majority.

Liberalism has to be ready to recognize that individuals can live successful lives even in non-liberal groups. Central power should not rule the internal life of private associations and communities, provided that they do not violate human rights and leave individuals free to flourish according to their own conceptions of the good. Anyway, state intervention has to be minimally invasive and not led by controversial ideas about the fulfilment of a good life.

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<sup>83</sup> C. Kukathas, *Two Concepts of Liberalism*, in J. C. Espada, M. F. Plattner, A. Wolfson, Eds., *The Liberal Tradition in Focus*, Lexington Books, 2000, p. 98.

<sup>84</sup> C. Kukathas, *The Liberal Archipelago*, cit., p. 33.

From this brief account one can infer that in a pro-toleration political liberalism the role of the state is sensibly constrained. Does the significant reduction of state intervention inevitably commit to the anarchical view that the state is “the most powerful instrument of oppression and domination we have know”<sup>85</sup> and to Kukathas’ understanding of liberal society as an “archipelago”<sup>86</sup>, with the related undervaluation of the value of state unity?

For reasons of brevity, I cannot extensively engage with Kukathas’ extremely challenging views, but I think that he overstates the weight of historical recordings in normative theory: from the fact that the state has (supposedly) been an extraordinary oppressive force does not immediately descend that it cannot be reformed. It could be possible and desirable that, if the state is led by the right liberal principles, its oppressiveness disappears as much as possible.

The “archipelago view of society”<sup>87</sup> has been criticized in a recent article by Daniel Weinstock. He argues that this view of society (defended among the others by Kukathas, Raz, Gray, and Spinner-Halev<sup>88</sup>) relies on two objectionable premises: the ‘independence assumption’ and the ‘completeness assumption’. The first claims that “people’s cultural identities are formed independently of the broader social and political structures of which they are a part”, whereas the second asserts that “membership in a group account completely for members identity”<sup>89</sup>. The ‘independence assumption’ mistakenly assumes that groups are generally insular and isolated, whereas it is a matter of fact that groups and their cultures (with the exception of few conservative religious groups) interact and dialectically evolve. The ‘completeness assumption’ is equally

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<sup>85</sup> *Ibidem*, p. 159. In a passage of the same book, Kukathas admits that his “sympathies with (some form of) anarchism are quite evident” (p. 8).

<sup>86</sup> In *The Liberal Archipelago* (cit.), Kukathas argues that “the good society is best understood as an archipelago of societies; and because the principles which best describe such a form of human community are the principles of liberalism, the good society is properly described as a *liberal* archipelago. The liberal archipelago is a society of societies which is neither the creation nor the object of control of any single authority. It is a society in which authorities function under laws which are themselves beyond the reach of any singular power”, (p. 22).

<sup>87</sup> D. M. Weinstock, *Liberalism, Multiculturalism, and the Problem of Internal Minorities*, cit., p. 257.

<sup>88</sup> See J. Raz, *Multiculturalism*, in Idem, *Ethics in the Public Domain*, Oxford University Press, 1994; J. Gray, *Two Faces of Liberalism*, New Press, 2000, J. Spinner-Halev, *Feminism, Multiculturalism, Oppression and the State*, in *Ethics*, Vol. 112, 2001.

<sup>89</sup> D. M. Weinstock, *Liberalism, Multiculturalism, and the Problem of Internal Minorities*, cit., p. 258.

flawed: it does not recognize that “typically, individuals belong to a plurality of groups”<sup>90</sup> (such as churches, political parties, professional or recreational associations) none of which can completely account for the character of a person.

To say the truth, Kukathas does maintain none of these arguments. In fact, he argues that “groups are themselves not in any way natural or fixed entities but mutable social formations which change shape, size, and character as society and circumstances vary”<sup>91</sup>. But, while Kukathas uses the mutability and the interactions of groups as an argument against their political recognition and in favour of the establishment of liberalism as the ‘politics of indifference’<sup>92</sup> towards personal attachments, Weinstock draws from the same premises the conclusion that “they must also be thought of as having obligations towards the state and the broader society”<sup>93</sup>. The idea is that people live in common spaces in which they have relations with people from other groups, and that these relations create obligations towards other citizens and the state. As Weinstock argues, “to revert to the archipelago image, since citizens of modern societies actually spend quite a bit of time in the waters separating groups from one another, they all have a responsibility to make sure that they are suitable to the needs of all”<sup>94</sup>. Thus, it is difficult, even for the individuals who live in relatively autonomous groups, to be completely free from reciprocal obligations.

To conclude, I think that the existence of these obligations could be consistent with the liberalism I am trying to defend. After all, Kukathas himself admits the existence of a state whose “role is to serve as an umpire”<sup>95</sup> who has to settle disagreement among groups or individual for the sake of a peaceful common coexistence. Thus, the crucial issue is not the existence or the disappearing of the state (at the end of the day it exists) but the reasons that regulate its conduct.

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<sup>90</sup> *Ibidem.*

<sup>91</sup> C. Kukathas, *The Liberal Archipelago*, cit., p. 251.

<sup>92</sup> See also C. Kukathas, *Liberalism and Multiculturalism. The Politics of Indifference*, in *Political Theory*, 1998, p. 691.

<sup>93</sup> D. M. Weinstock, *Liberalism, Multiculturalism, and the Problem of Internal Minorities*, cit., p. 261.

<sup>94</sup> *Ibidem.*

<sup>95</sup> C. Kukathas, *The Liberal Archipelago*, cit., p. 212.

## CHAPTER II

### Liberalism and Minority Rights: Liberalizing Minorities

#### 1. Introduzione

Il diffondersi sia in filosofia politica che nel dibattito pubblico di termini quali ‘multiculturalismo’, ‘politica della differenza’, ‘politica dell’identità’ e ‘politica del riconoscimento’ indica la crisi del modello di cittadinanza basato sul possesso di diritti comuni e universali<sup>96</sup>. Questo modello, che è stato prevalente nei Paesi liberal-democratici occidentali a partire dal secondo dopoguerra, accordava il riconoscimento dello status di cittadino a tutti gli individui di uno Stato mediante la concessione di diritti politici e sociali. Tuttavia, il possesso dei diritti di cittadinanza non ha impedito che alcuni gruppi (per esempio i neri, i gay e le lesbiche, le donne, le minoranze religiose, gli immigrati, i popoli indigeni) si sentissero marginalizzati, oppressi o esclusi. Come ha scritto Will Kymlicka, è diventato via via sempre più chiaro che «molti gruppi si

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<sup>96</sup> Il testo di riferimento per questo modello di cittadinanza è MARSHALL, Thomas H., *Class, Citizenship and Social Development*, New York, Anchor, 1965.

sentono marginalizzati e stigmatizzati nonostante il possesso dei comuni diritti di cittadinanza. Molti membri di questi gruppi si sentono marginalizzati, non (o non solo) a causa del proprio status socio-economico, ma anche a causa della propria identità socio-culturale – la loro ‘differenza’<sup>97</sup>.

La nozione di cittadinanza differenziata in base all’identità socio-culturale degli individui è sembrato un mezzo necessario per arginare il fenomeno dell’esclusione delle minoranze e per far sì che la profonda diversità e il pluralismo culturale che caratterizzano le moderne società occidentali venissero accettati, riconosciuti e accomodati, piuttosto che oscurati mediante un’idea di cittadinanza uniforme che assume come accettabile universalmente un modello di individuo (solitamente maschio, bianco, eterosessuale) che in realtà non è affatto universale. Le richieste di accettazione, riconoscimento e accomodamento sono state spesso portate avanti da soggetti considerati non come individui isolati, ma come membri di gruppi esclusi o oppressi. Perciò, il processo di elaborazione di un’idea di cittadinanza maggiormente sensibile alla diversità rappresentata dalle minoranze ha portato alla comparsa di nozioni controverse come ‘diritti collettivi’ o ‘diritti di gruppo’.

Il liberalismo, essendo per tradizione una teoria politica individualista, è sembrato incapace di articolare una efficace difesa dei diritti delle minoranze. Infatti, almeno fino alla fine degli anni ’80 del secolo scorso, il discorso sui diritti delle minoranze è stato percepito come una reazione generale all’astrattezza individualistica e all’atomismo del liberalismo contemporaneo<sup>98</sup>. L’enfasi liberale sull’autonomia individuale e sull’individualismo morale è stata assunta dagli autori comunitaristi<sup>99</sup> come la prova che il liberalismo è una teoria inadeguata a rendere conto della natura sociale dell’individuo e, di conseguenza, dei diritti delle minoranze.

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<sup>97</sup> KYMLICKA, Will, *Contemporary Political Philosophy. An Introduction*, New York, Oxford University Press, 2002<sup>2</sup>, p. 329

<sup>98</sup> KYMLICKA, Will, *The Politics in the Vernacular. Nationalism, Multiculturalism, Citizenship*, Oxford, Oxford University Press, 2001, p. 18.

<sup>99</sup> Come esempio di comunitaristi si considerino almeno SANDEL, Michael, *Il liberalismo e i limiti della giustizia*, Milano, Feltrinelli, 1994; MacINTYRE, Alasdair, *After Virtue*, London, Duckworth, 1981. Per il dibattito tra liberalismo e comunitarismo si veda FERRARA, Alessandro (a cura di), *Liberalismo e comunitarismo*, Roma, Editori Riuniti, 1992.

Fin dal suo primo libro<sup>100</sup>, il filosofo politico canadese Will Kymlicka ha cercato di dimostrare non solo che il liberalismo può elaborare una coerente teoria dei diritti delle minoranze<sup>101</sup>, ma che sono le premesse stesse della teoria liberale a esigerlo. In questo articolo presenteremo la concezione liberale di Kymlicka e il modo in cui egli difende una teoria liberale dei diritti delle minoranze. Infine criticheremo la centralità della nozione di autonomia nella teoria di Kymlicka e la sua ristrettezza nel cogliere la reale portata della diversità culturale rappresentata dagli immigrati.

## 2. Liberalismo e appartenenza culturale.

Kymlicka concepisce il liberalismo come una teoria politica normativa, vale a dire come «un insieme di argomenti morali sulla giustificazione dell'agire politico e delle istituzioni»<sup>102</sup>. Il liberalismo si distingue per il riconoscimento di libertà fondamentali agli individui, e per consentire a ciascuno di scegliere e rielaborare liberamente la propria concezione del bene.

Kymlicka assume come punto di partenza per l'esposizione della moralità politica del liberalismo la seguente proposizione: «il nostro interesse essenziale consiste nel condurre una vita buona, nell'avere quelle cose che una vita buona contiene»<sup>103</sup>. Questa asserzione non va intesa nel senso relativistico o scettico per cui ogni vita, quali che siano i valori sottoscritti o le esperienze vissute, ha valore. Kymlicka infatti sostiene che «condurre una vita buona è diverso da condurre una vita che *al momento noi crediamo* essere buona»<sup>104</sup>. Gli esseri umani sono fallibili, e possono elaborare credenze errate sul valore di ciò che stanno perseguendo. Il processo deliberativo per

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<sup>100</sup> KYMLICKA, Will, *Liberalism, Community, and Culture*, Oxford, Clarendon Press, 1989.

<sup>101</sup> Bisogna precisare che le riflessioni di Kymlicka sono limitate alle sole minoranze culturali. Il significato di 'cultura' nella particolare accezione di Kymlicka sarà chiarito in seguito.

<sup>102</sup> KYMLICKA, Will, *Liberalism, Community, and Culture*, cit., p. 9.

<sup>103</sup> Ivi, p. 10. Lo statuto filosofico di questa e delle altre due proposizioni che, come vedremo, costituiscono la moralità politica del liberalismo, non è chiaro. Come ha scritto Bhikhu Parekh, Kymlicka «talvolta sostiene che [le tre proposizioni] rappresentano fondamentali credenze liberali; altre volte le considera come verità generali sulla vita umana e sostiene o implica che, basandosi su di esse, il liberalismo è più vero o razionalmente difendibile di altre dottrine politiche». Nel primo caso, le proposizioni avrebbero cogenza solo per gli individui liberali di una società. Nel secondo caso invece, bisognerebbe dimostrare che le proposizioni sono convincenti ma, come vedremo, è possibile sollevare dubbi sulla loro accettabilità. PAREKH, Bhikhu, *Rethinking Multiculturalism. Cultural Diversity and Political Theory*, Basingstoke-Londra, Palgrave MacMillan, 2006<sup>2</sup>, p. 105.

<sup>104</sup> KYMLICKA, Will, *Liberalism, Community, and Culture*, cit., p. 10.

identificare quale vita sia buona e quali fini debbano essere perseguiti non avviene nel vuoto, ma in un contesto di interdipendenza. Dunque, le obiezioni secondo le quali il liberalismo si baserebbe sull'idea di un soggetto avulso dalle relazioni sociali, i cui interessi e preferenze sono dati indipendentemente dal condizionamento sociale, è malposta. Sia John Stuart Mill che John Rawls, che insieme a Ronald Dworkin, sono gli autori liberali che esercitano maggiore influenza sul lavoro teorico di Kymlicka, non hanno assunto a fondamento del loro liberalismo un'idea di un soggetto morale atomisticamente concepito, ma hanno insistito sia sul fatto che i fini individuali si formano all'interno della società sia che il carattere è plasmato e modificato in diversi modi dall'interazione sociale<sup>105</sup>.

L'esposizione della moralità politica del liberalismo di Kymlicka si completa con altre due proposizioni che rappresentano le pre-condizioni della realizzazione della vita buona: «una è che dobbiamo condurre la nostra vita dall'interno, in accordo con le nostre credenze su ciò che conferisce valore alla vita; l'altra è che dobbiamo essere liberi di mettere in dubbio queste credenze, di esaminarle alla luce di qualunque informazione, esempi e argomenti che la nostra cultura possa fornirci»<sup>106</sup>. Perché qualcosa abbia valore per l'individuo, questi deve sottoscriverla: una credenza religiosa, per esempio, non conferisce valore alla vita umana se viene imposta coercitivamente e non è il frutto di una deliberazione libera. Da qui derivano, secondo Kymlicka, le libertà civili e personali tradizionalmente associate al liberalismo, nonché l'avversione per il paternalismo ingiustificato e l'interesse liberale per la tutela della privacy. Inoltre, in conseguenza della fallibilità umana, ciascuno deve poter vivere in un contesto che gli permetta di conoscere differenti concezioni del bene e di disporre di quelle informazioni necessarie a esaminare il proprio piano di vita e a rivederlo qualora ce ne fosse bisogno. Da queste ulteriori considerazioni si può riconoscere

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<sup>105</sup> Per avvalorare le proprie tesi Kymlicka cita RAWLS, John, *Reply to Alexander and Musgrave*. In Idem (a cura di Samuel Freeman), *Collected Papers*, Cambridge, MA-Londra, Harvard University Press, 1999, p. 240, e MILL, John Stuart, a cura di F. Leavis, *Mill on Bentham and Coleridge*, Londra, Chatto and Windus, 1962, p. 71. Cfr. KYMLICKA, Will, *Liberalism, Community, and Culture*, cit., pp. 14-16.

<sup>106</sup> KYMLICKA, Will, *Liberalism, Community, and Culture*, cit., p. 13.

la centralità dell'interesse statale per l'educazione dei cittadini e l'importanza di altre libertà individuali care al liberalismo come quella di espressione, di associazione, di stampa.

Un liberalismo come quello di Kymlicka, che abbiamo visto essere tutt'altro che astrattamente individualistico, riconosce un valore fondamentale alla cultura e all'appartenenza culturale. Infatti, pur sostenendo che in una società liberale la decisione su come vivere spetti in ultima istanza all'individuo, Kymlicka riconosce che «questa decisione comporta sempre una selezione di ciò che noi crediamo abbia più valore tra diverse opzioni disponibili, una selezione da un contesto di scelta che ci fornisce differenti modi di vita»<sup>107</sup>. La scelta avviene tra le opzioni che la *cultura* ci mette a disposizione. Dunque, per Kymlicka la cultura si configura innanzitutto come il contesto all'interno del quale gli individui scelgono per dare un significato alla propria vita<sup>108</sup>. Per questa ragione il valore che il liberalismo può attribuire a una cultura non è un valore in sé, ma un valore derivante dal fatto di essere il contesto all'interno del quale le scelte individuali si compiono e acquistano significato.

Inoltre, la cultura è fondamentale per gli individui anche in un secondo senso: essa conferisce loro identità. I membri di una cultura tendono a identificarsi con essa, fino al punto che perfino il rispetto di sé di ciascuno è influenzato dal modo in cui la propria cultura è percepita dagli altri. In altri termini, «se una cultura non è generalmente rispettata, allora anche ne soffriranno anche la dignità e l'autostima dei suoi membri»<sup>109</sup>. Kymlicka sostiene che il valore dell'appartenenza culturale non riguarda solo le società tradizionali, ma anche quelle liberali, in cui le libertà e i diritti individuali sono tutelati e non esiste una concezione del bene condivisa da tutti i cittadini. In questo senso, l'approccio liberale all'appartenenza culturale si distingue da quello comunitarista, il quale invece presuppone che la comunità culturale nei confronti della quale l'individuo avverte un legame costitutivo sia una comunità che condivide una specifica concezione del bene.

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<sup>107</sup> Ivi, p. 164.

<sup>108</sup> KYMLICKA, Will, *La cittadinanza multiculturale*, Bologna, Il Mulino, 1999, pp. 145-148.

<sup>109</sup> Ivi, p. 157.

Arrivati a questo punto è opportuno precisare che quando Kymlicka parla di *cultura* si riferisce a *culture sociali* ('societal cultures') in quanto vuole sottolineare che esse implicano «la condivisione non solo di ricordi e valori, ma anche di istituzioni e pratiche»<sup>110</sup>. Più precisamente, secondo Kymlicka una cultura sociale «è una cultura territorialmente concentrata, basata su un linguaggio condiviso che è usato in molte istituzioni sociali, sia nella vita pubblica che privata (scuole, mezzi di comunicazione, diritto, economia, governo)». Essa «implica un linguaggio e delle istituzioni comuni, piuttosto che credenze religiose comuni, abitudini familiari, stili di vita personali»<sup>111</sup>. Dunque, una cultura sociale può essere, e in genere è, pluralista. La creazione delle culture sociali è un fenomeno eminentemente connesso al processo di modernizzazione. Kymlicka sostiene infatti che «la modernizzazione consiste nella diffusione, nell'ambito di una società intera, di una cultura comune, compresa una lingua standardizzata, che si esprime in istituzioni economiche, politiche e formative comuni»<sup>112</sup>. L'esistenza di culture sociali così come Kymlicka le intende è stato funzionale al bisogno dell'economia moderna di avere una forza lavoro adatta alle sue esigenze di sviluppo, e ha reso possibile la diffusione dell'elevato livello di solidarietà necessario al sostegno dei meccanismi del *welfare state*. Inoltre, l'esistenza di un sistema educativo pubblico ha consentito l'affermarsi quell'eguaglianza di opportunità che costituisce uno dei fondamenti del sistema democratico.

### **3. Pluralismo culturale e diritti delle minoranze.**

Ne *La cittadinanza multiculturale* Kymlicka distingue tra due tipi di diversità culturale ai quali corrispondono due tipi di Stati. Nel primo caso la diversità culturale «trae origine dall'assorbimento in uno stato più ampio di culture territorialmente concentrate che in precedenza si governavano da sole»<sup>113</sup>, sia che si tratti di popoli indigeni che di gruppi che si percepiscono come

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<sup>110</sup> Ivi, p. 135.

<sup>111</sup> KYMLICKA, Will, *The Politics in the Vernacular*, cit., p. 25.

<sup>112</sup> KYMLICKA, Will, *La cittadinanza multiculturale*, cit., p. 135.

<sup>113</sup> Ivi, p. 21.

vere e proprie nazioni all'interno di uno Stato più grande<sup>114</sup> dopo aver subito una colonizzazione o una conquista. Le culture che vengono incorporate vengono definite 'minoranze nazionali', e lo Stato al cui interno sono presenti minoranze nazionali viene definito 'multinazionale'. In uno Stato multinazionale, dunque, sono presenti due o più culture sociali distinte, e le culture minoritarie non aspirano all'assimilazione, ma a forme di autonomia o di auto-governo che consentano loro di preservare la propria specificità culturale. Gli USA e il Canada sono considerati chiari esempi di Stati multinazionali. Negli USA le minoranze nazionali sono rappresentate dai Portoricani, dalle tribù Indiane, dagli aborigeni Hawaiani e da tutti quei gruppi che sono stati involontariamente annessi agli USA in seguito a colonizzazione o conquista. Le minoranze nazionali canadesi sono invece rappresentate dagli aborigeni e dagli abitanti del Quebec.

L'immigrazione costituisce la seconda forma di diversità culturale. I gruppi di immigrati vengono definiti 'gruppi etnici', e uno Stato in cui sono presenti nutrite comunità di immigrati è definito 'polietnico'. Gli immigrati non posseggono una cultura sociale distinta da quella maggioritaria: infatti, Kymlicka ritiene che gli immigrati, essendosi trasferiti volontariamente in un altro Stato, siano disposti ad integrarsi nella nuova cultura sociale senza la pretesa (ma, come si vedrà in seguito, anche senza le possibilità) di ricostituire la propria cultura sociale nel Paese che li ospita. Uno Stato può essere sia multinazionale che polietnico, come dimostrano gli USA e il Canada, dove esistono sia minoranze nazionali che comunità di immigrati.

Kymlicka osserva (e giudica positivamente) che negli ultimi anni c'è stata una generale accettazione del multiculturalismo, e dunque di politiche in favore delle minoranze culturali, in tutte le democrazie occidentali. Nel suo ultimo libro Kymlicka identifica tre principi sottesi alla diffusione del multiculturalismo: in primo luogo, si osserva l'abbandono dell'idea che lo Stato sia proprietà esclusiva del gruppo culturale dominante in favore dell'idea che «lo Stato deve essere

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<sup>114</sup> Questi gruppi sono definiti come «substate 'national groups'» in KYMLICKA, Will, *Multicultural Odysseys. Navigating the New International Politics of Diversity*, Oxford, Oxford University Press, 2007, p. 68.

considerato appartenente a tutti i cittadini in eguale misura»<sup>115</sup>; in secondo luogo, si è andata gradualmente affermando l'idea che le minoranze non devono essere coercitivamente assimilate o escluse, ma che possono partecipare da eguali nella sfera pubblica affermando la propria identità etnica; infine si è ottenuto il riconoscimento dei torti commessi dalle maggioranze nei confronti delle minoranze, e si è accettata la legittimità di politiche compensative.

Ne *La cittadinanza multiculturale*<sup>116</sup> si trova la distinzione tra diritti di auto-governo, diritti polietnici e diritti di rappresentanza speciale. Si tratta di un modo di categorizzare le misure adottate dagli Stati polietnici o multinazionali per accomodare la diversità culturale. In particolare, i diritti di auto-governo riguardano l'autonomia politica o la giurisdizione territoriale concessa alle minoranze nazionali; i diritti polietnici invece sono quei diritti concessi agli immigrati e alle minoranze religiose per esprimere la loro particolarità culturale (per esempio, finanziamenti di attività culturali minoritarie, esenzioni nei confronti di leggi che svantaggiano particolarmente alcuni gruppi, ecc); infine i diritti di rappresentanza speciale sono quei diritti richiesti per sopperire a un deficit di rappresentatività delle istituzioni nei confronti delle aspettative e degli interessi delle minoranze.

Questi tipi di diritti costituiscono «forme di cittadinanza differenziata secondo l'appartenenza di gruppo»<sup>117</sup> perchè vengono attribuiti non all'individuo in quanto tale, ma all'individuo in quanto facente parte di un gruppo culturale. Spesso in questi casi si è parlato di

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<sup>115</sup> KYMLICKA, Will, *Multicultural Odysseys*, cit., p. 65. Si veda anche KYMLICKA, Will, *The Global Diffusion of Multiculturalism: Trends, Causes, Consequences*. In TIERNEY, Stephen (a cura di), *Accommodating Cultural Diversity*, Aldershot – Burlington, Ashgate, 2007, pp. 18-19.

<sup>116</sup> KYMLICKA, Will, *La cittadinanza multiculturale*, cit., p. 50. Nell'ultimo libro di Kymlicka si trova un elenco dettagliato delle politiche che gli Stati multiculturali hanno adottato nel tentativo di accomodare le minoranze culturali. Kymlicka distingue tra le politiche adottate in favore dei popoli indigeni, delle minoranze nazionali e degli immigrati. Le politiche riguardanti i popoli indigeni consistono nel riconoscimento di alcuni diritti (al possesso di terreni, all'autogoverno, culturali) e dello status di popoli indigeni, nel rispetto del diritto consuetudinario e dei trattati stipulati in passato, nel ricorso a misure di *affirmative action*, nella garanzia di rappresentanza o consultazione negli organi statali centrali, nel sostegno a organismi internazionali per la tutela dei diritti umani dei popoli indigeni. Per quanto riguarda le minoranze nazionali, le politiche multiculturali sono rappresentate dalla concessione dell'autonomia territoriale all'interno di un ordinamento federale o quasi federale, nell'affermazione del 'multinazionalismo', nel riconoscimento di diritti linguistici, della rappresentanza politica nel governo centrale e del diritto di partecipare in piena autonomia nelle organizzazioni internazionali, nel finanziamento pubblico dell'istruzione nella lingua delle minoranze. Infine, le politiche in favore delle minoranze etniche costituite dagli immigrati consistono nell'affermazione del multiculturalismo a livello centrale o locale, nell'esenzione dal rispetto di alcune norme di validità generale, nell'adozione di programmi educativi che rispettano la diversità culturale, nel finanziamento di attività culturali, nel riconoscimento della possibilità di avere doppia cittadinanza, nel ricorso all'*affirmative action* per gli immigrati appartenenti a gruppi particolarmente svantaggiati. Cfr. KYMLICKA, Will, *Multicultural Odysseys*, cit., pp. 66-77.

<sup>117</sup> KYMLICKA, Will, *La cittadinanza multiculturale*, cit., p. 81.

*diritti collettivi*, suggerendo «una falsa dicotomia»<sup>118</sup> con i diritti individuali, come se tutti i diritti relativi alla cittadinanza differenziata fossero esercitati collettivamente. Invece, come Kymlicka fa notare, esistono diritti conferiti ai gruppi che sono esercitati dagli individui, come per esempio il diritto all'uso della lingua del gruppo culturale minoritario. Ad ogni modo, ciò che conta per Kymlicka non è se ad esercitare i diritti siano gli individui o le collettività, ma le ragioni per cui «i membri di determinati gruppi hanno diritti relativi al territorio, alla lingua, alla rappresentanza e così via, che i membri di altri gruppi invece non hanno»<sup>119</sup>. Nel prossimo paragrafo si vedrà che le ragioni del conferimento di questi diritti sono, secondo Kymlicka, coerenti con i principi del liberalismo. Anzi, è una corretta comprensione e applicazione di tali principi che conduce al riconoscimento della legittimità di queste misure, che non sono estranee alla tradizione liberale<sup>120</sup>, ma sono state sottostimate dai liberali contemporanei come John Rawls e Ronald Dworkin. Questi ultimi infatti hanno posto il pluralismo delle società contemporanee al centro della loro riflessione, ma hanno misconosciuto la reale natura della diversità culturale perchè hanno considerato il suddetto pluralismo come un fenomeno interno a un'unica cultura sociale.

#### **4. Diritti delle minoranze e liberalismo.**

In *Multicultural Citizenship* Kymlicka sostiene che «i principi basilari del liberalismo sono quelli della libertà individuale», e che dunque i diritti delle minoranze possono essere accettati da un punto di vista liberale solo quando «sono conformi al rispetto della libertà e dell'autonomia degli individui»<sup>121</sup>. I diritti delle minoranze si presentano come misure per tutelare una cultura<sup>122</sup> e quindi, se si vuole sostenere che questi diritti sono coerenti con i principi del liberalismo, bisognerà

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<sup>118</sup> Ivi, p. 82.

<sup>119</sup> Ivi, p. 85.

<sup>120</sup> KYMLICKA, Will, *La cittadinanza multiculturale*, cit., Cap. IV, e KYMLICKA, Will, *Liberalism, Community, and Culture*, cit., Cap. X

<sup>121</sup> KYMLICKA, Will, *La cittadinanza multiculturale*, cit., p. 133.

<sup>122</sup> Quando Kymlicka parla di difesa di una cultura, egli non intende la protezione del *carattere* di una cultura, cioè le norme, i valori e le istituzioni di una comunità in un determinato momento, ma della *struttura* culturale. In questo senso, «la comunità culturale continua a esistere anche quando i suoi membri sono liberi di modificare il carattere della cultura, qualora essi non ritengano più di valore i suoi stili di vita tradizionali». KYMLICKA, Will, *Liberalism, Community, and Culture*, cit., pp. 166-167.

mostrare come la difesa della propria cultura possa essere una fonte legittima di pretese da parte degli individui.

Kymlicka utilizza due argomenti a sostegno della tesi della compatibilità tra diritti delle minoranze e liberalismo: il primo fa riferimento alla cultura come contesto all'interno del quale l'autonomia individuale si esercita e acquisisce significato, il secondo invece si basa sulle premesse egualitarie della teoria liberale.

Del primo argomento si è detto qualcosa già nel secondo paragrafo<sup>123</sup>. Gli individui compiono le proprie scelte a partire dalle opzioni messe a disposizione dal contesto culturale in cui vivono. Da un punto di vista liberale, gli individui scelgono e diventano autonomi all'interno della cultura a cui appartengono. Quindi, se i diritti delle minoranze vengono intesi come misure atte ad assicurare che ciascuno abbia le condizioni necessarie alla fioritura della propria vita autonoma, secondo Kymlicka non si vede perché il liberalismo debba negare il riconoscimento di queste politiche in favore delle minoranze culturali. Ad esempio, la concessione di diritti all'auto-governo per le minoranze nazionali deve essere vista come un modo per assicurare che ciascun individuo possa continuare a vivere nella cultura sociale nella quale è stato educato e nella quale trova la possibilità di scegliere ciò che ha valore.

A questo punto, una possibile obiezione potrebbe essere sollevata da coloro che fanno notare il pericolo derivante dalla concessione di diritti del genere di quelli che qui stiamo discutendo alle minoranze illiberali. In questo caso, i diritti delle minoranze favorirebbero l'oppressione degli individui all'interno del gruppo illiberale. Kymlicka risponde formulando una distinzione tra due tipi di pretese che una minoranza culturale può avanzare: restrizioni interne (*internal restrictions*) e tutele esterne (*external protections*). Le prime consistono in quelle misure che un gruppo può avanzare per ridurre, attraverso la restrizione delle libertà fondamentali individuali, l'impatto del dissenso interno. Questo tipo di limitazioni delle libertà sono incompatibili con il liberalismo.

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<sup>123</sup> Per ulteriori considerazioni, e per come Kymlicka rintracci questo argomento nelle riflessioni di Ronald Dworkin si veda KYMLICKA, Will, *Dworkin on Freedom and Culture*. In BURLEY, Justine (a cura di), *Dworkin and His Critics*, Malden, Blackwell, 2004.

Invece, le tutele esterne sono quelle misure che un gruppo etnico o nazionale potrebbe richiedere per «proteggere la sua esistenza e identità mediante l'attenuazione degli effetti delle decisioni della società dominante»<sup>124</sup>. I diritti delle minoranze sono accettabili quando si presentano sotto forma di tutele esterne: in questo caso, non sono presenti violazioni dei diritti individuali, e la richiesta di particolari forme di tutela giuridica risponde al bisogno di difendere i gruppi culturali minoritari dall'impatto di quelle decisioni della maggioranza che potrebbero influire negativamente sulla conservazione delle culture minoritarie.

L'accettabilità delle tutele esterne risulta più chiara alla luce del secondo argomento di Kymlicka a favore della compatibilità tra diritti delle minoranze e liberalismo, quello basato sul carattere egualitario della teoria liberale. Sia John Rawls che Ronald Dworkin hanno difeso teorie della giustizia distributiva secondo le quali bisogna compensare o rimuovere gli svantaggi derivanti da caratteristiche moralmente arbitrarie<sup>125</sup> che influiscono pervasivamente sulla vita degli individui. In particolare, Ronald Dworkin ha elaborato una teoria della giustizia secondo la quale la distribuzione delle risorse deve essere «sensibile alle ambizioni» ma non «sensibile alle doti»<sup>126</sup>. Secondo i principi di questa teoria, la condizione di ciascuno dovrebbe essere il risultato delle proprie scelte responsabili piuttosto che di quelle circostanze sociali o naturali di cui non è responsabile.

Kymlicka ritiene che i diritti delle minoranze culturali possano legittimamente trovare posto all'interno di una teoria come questa. Egli sostiene che «i membri delle culture minoritarie possono subire disuguaglianze che sono il risultato delle loro circostanze o dotazioni, non delle loro scelte e

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<sup>124</sup> KYMLICKA, Will, *La cittadinanza multiculturale*, cit., p. 66. In realtà, la distinzione tra restrizioni interne e tutele esterne non è sempre netta. Come ha scritto Weinstock, «molti provvedimenti che i gruppi promulgheranno per difendersi hanno sia una dimensione esterna che una interna». Per esempio, la decisione di un gruppo culturale minoritario di preservare la propria lingua utilizzandola nell'istruzione dei giovani può essere interpretata sia come una tutela esterna (come una difesa della lingua minoritaria dall'impatto di quella maggioritaria) che come una restrizione interna (le scelte educative sono ridotte). Cfr. WEINSTOCK, Daniel M., *Liberalism, Multiculturalism, and Internal Minorities*. In LADEN, Anthony S., e OWEN, David (a cura di), *Multiculturalism and Political Theory*, Cambridge, UK - New York, Cambridge University Press, 2007, p. 247.

<sup>125</sup> RAWLS, John, *Una teoria della giustizia*, Milano, Feltrinelli, 1997, pp. 97-103.

<sup>126</sup> DWORKIN, Ronald, *Virtù sovrana*, Milano, Feltrinelli, 2002, pp. 88-89.

ambizioni»<sup>127</sup>, e che i diritti delle minoranze possono essere visti come gli strumenti adeguati per contrastare tali disuguaglianze. La cultura è un bene fondamentale per ciascuno perchè, come abbiamo visto, essa rappresenta il contesto all'interno del quale le scelte individuali si esercitano e acquisiscono significato. Quindi, lo svantaggio che un individuo subisce quando la sua cultura è in pericolo è particolarmente importante e soprattutto non dipende dalle proprie decisioni: il fatto di essere parte di una cultura particolarmente svantaggiata è una questione che ha a che fare con la sorte piuttosto che con una decisione. In questo senso allora, il riconoscimento di un diritto può «compensare questo svantaggio, in quanto attenua la vulnerabilità delle culture minoritarie rispetto alle decisioni della maggioranza» e assicurare «che i membri della minoranza abbiano, rispetto ai membri della maggioranza, le stesse opportunità di vivere e lavorare nella loro cultura»<sup>128</sup>.

Nel caso delle minoranze nazionali l'uguaglianza liberale consente la concessione di diritti all'auto-governo grazie ai quali una minoranza può mantenere in vita la propria cultura: «in questo modo si garantisce che il bene dell'appartenenza culturale venga egualmente salvaguardato per i membri di tutti i gruppi nazionali»<sup>129</sup>.

Il discorso da fare a proposito delle minoranze etniche, vale a dire gli immigrati, è diverso. Gli immigrati, come si è detto, non costituiscono delle culture sociali distinte all'interno della cultura maggioritaria. Essi, inoltre, sono privi delle condizioni necessarie a mantenere una cultura sociale distinta all'interno dello Stato nel quale si trasferiscono. Affinchè nel mondo moderno una cultura sociale possa mantenersi e prosperare è necessario che, in un determinato territorio, un gruppo culturale possa quotidianamente usare la propria lingua, controllare il sistema educativo, il

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<sup>127</sup> KYMLICKA, Will, *Liberalism, Community, and Culture*, cit., p. 190.

<sup>128</sup> KYMLICKA, Will, *Multicultural Citizenship*, cit., p. 190. Bisogna osservare come lo svantaggio subito dalle minoranze culturali dimostra l'impossibilità della neutralità dello Stato rispetto alle culture. Ogni decisione ha degli effetti sensibilmente diversi sui gruppi culturali. Per esempio, la decisione di utilizzare una determinata lingua come lingua ufficiale nelle scuole pubbliche sarà inevitabilmente vantaggiosa per un gruppo culturale, quello maggioritario, e svantaggiosa per un altro, che si vedrà privato di uno dei mezzi necessari alla sussistenza e alla trasmissione della propria cultura sociale. Dunque, l'idea della benigna noncuranza (*benign neglect*), per cui lo Stato non dovrebbe interferire nelle condizioni delle culture, non può essere accettata.

<sup>129</sup> Ivi, p. 199.

pubblico impiego (amministrazione ed esercito in primo luogo) e le politiche migratorie<sup>130</sup>. Nel caso degli immigrati, queste condizioni non si verificano. Anzi, secondo Kymlicka, essi vogliono integrarsi e non rappresentano una minaccia per l'unità statale<sup>131</sup>. Le loro richieste di diritti non vanno interpretare come pericolosi segnali di separatismo, ma come la ricerca di «termini equi di integrazione»<sup>132</sup>. In altri termini, quelli che prima abbiamo definito diritti polietnici hanno lo scopo di rinegoziare i termini dell'integrazione degli immigrati in modo da consentire loro di integrarsi nella cultura dello Stato in cui si trasferiscono nel rispetto della propria specificità (si pensi alla richiesta di poter indossare il velo islamico avanzata dalle minoranze islamiche in Europa).

## 5. Liberalismo, diritti delle minoranze e autonomia.

Come abbiamo visto, per Kymlicka, i diritti delle minoranze possono essere accettati da una teoria liberale quando essi rispettano l'autonomia individuale. Il ruolo dell'autonomia per Kymlicka è talmente rilevante che egli la assume come valore fondante della propria teoria liberale<sup>133</sup>. Kymlicka intende l'autonomia come revisibilità razionale (*rational revisibility*) dei propri fini. Dal punto di vista di Kymlicka la scelta ha valore perchè ci consente di stabilire e valutare ciò che ha valore. In questo senso, la nozione di scelta e di autonomia che Kymlicka adotta è meno sostantiva di quella kantiana, secondo la quale scegliere ha valore intrinseco perchè riflette la natura razionale degli esseri umani, o milliana, la quale invece fa ricorso al valore intrinseco dell'individualità<sup>134</sup>. Eppure, anche in questa accezione che Kymlicka ritiene largamente accettata sia dalle minoranze nazionali che dagli immigrati presenti nelle liberaldemocrazie occidentali, l'idea di autonomia si mostra particolarmente problematica.

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<sup>130</sup> In un volume dedicato alle politiche etno-culturali in Canada, Kymlicka scrive: «l'esperienza storica del Quebec suggerisce che una minoranza può mantenere la propria cultura sociale solo se possiede poteri sostanziali a proposito di linguaggio, educazione, pubblico impiego e immigrazione». KYMLICKA, Will, *Finding Our Way. Rethinking Ethnocultural Relations in Canada*, Toronto-Oxford-New York, Oxford University Press, 1998, p. 33.

<sup>131</sup> Cfr. KYMLICKA, Will, *Social Unity in a Liberal State*, in *Social Philosophy & Policy*, 1996, p. 119.

<sup>132</sup> KYMLICKA, Will, *The Politics in the Vernacular*, cit., p. 162.

<sup>133</sup> In un articolo del 1996 Kymlicka sostiene che «la più difendibile teoria liberale si basa sul valore dell'autonomia». Cfr. KYMLICKA, Will, *Two Models of Pluralism and Tolerance*. In HEYD, David (a cura di), *Tolerance: An Elusive Virtue*, Princeton, Princeton University Press, 1996, p. 61.

<sup>134</sup> Cfr. KYMLICKA, Will, *La cittadinanza multiculturale*, cit., p. 143.

In primo luogo, la tesi per cui una vita buona deve essere una vita autonoma nell'accezione di Kymlicka non è auto-evidente, nè universalmente condivisa. Nel secondo paragrafo abbiamo esposto quelle che Kymlicka ritiene le due condizioni per la realizzazione di una vita buona, vale a dire che la vita deve essere vissuta *dall'interno* e che si deve avere la possibilità di rivedere i propri fini. Non si tratta di proposizioni che godono di unanime accettazione nelle moderne società liberali. Come ha scritto Parekh, «l'idea di vivere dall'interno è essenzialmente Protestante, e ha giocato solo un ruolo limitato nell'Atene e nella Roma classica, nell'Europa medievale, nella cristianità Cattolica, e nelle civiltà non-occidentali»<sup>135</sup>. Nemmeno la revisibilità dei propri fini sembra indiscutibile come condizione per la realizzazione della vita buona: si pensi a coloro che accettano come condizione per la riuscita della propria vita l'impegno rispetto a un determinato fine che assumono come indiscutibile, e poi valutano il proprio successo rispetto al conseguimento di questo fine. In altri termini, come ha scritto William Galston, «l'autonomia è solo uno dei modi possibili di esistenza nelle società liberali – uno tra gli altri»<sup>136</sup>. Per questa ragione, una teoria secondo la quale una vita non può dirsi riuscita sotto il punto di vista etico qualora non si diano le due condizioni di cui parla Kymlicka ci sembra incapace di cogliere e rispettare la profonda diversità che caratterizza il mondo contemporaneo.

Ugualmente discutibile ci sembra anche il modo in cui Kymlicka concepisce il valore dell'appartenenza culturale e il modo in cui il soggetto morale concepisce il rapporto con la propria cultura. Dal punto di vista di Kymlicka, come si è detto, l'individuo attribuisce valore al fatto di appartenere a una determinata cultura sia perchè essa costituisce il contesto in cui si danno opzioni di scelta autonome, sia perchè conferisce identità ai propri membri. Per gli appartenenti a gruppi minoritari tradizionali queste due condizioni potrebbero entrare in un conflitto difficilmente risolvibile. Essi potrebbero attribuire un ruolo centrale al fatto che, nel conferire identità ai suoi membri, una cultura limita le possibilità di scelta individuali e quindi la possibilità che essi si

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<sup>135</sup> PAREKH, Bhikhu, *Rethinking Multiculturalism*, cit., p. 106.

<sup>136</sup> GALSTON, William A., *Liberal Pluralism. The Implications of Value Pluralism for Political Theory and Practice*, Cambridge – New York, Cambridge University Press, 2002, p. 24.

sviluppano come individui autonomi. Come ha scritto Monique Deveaux, «piuttosto che citare la “scelta individuale dotata di significato” come il beneficio più importante derivante dal fatto di far parte di una cultura, i membri dei gruppi culturali minoritari potrebbero sottolineare i modi in cui l’essere membro conferisce un senso di appartenenza – un contesto sicuro e stabile che fornisce stabilità emotiva e psicologica limitando in parte il caotico e disorientante insieme di scelte di vita possibili nel mondo moderno»<sup>137</sup>. In casi come questi, l’enfasi posta da Kymlicka sull’autonomia potrebbe rappresentare una mancanza di rispetto e comprensione per la specificità di alcune minoranze.

Dunque, nelle moderne società liberaldemocratiche esistono diversi gruppi culturali, non necessariamente di natura religiosa, che attribuiscono grande valore al rispetto delle tradizioni e che concepiscono la realizzazione della propria vita buona all’interno del quadro delineato dalla propria appartenenza culturale. Un’accentuata enfasi sull’autonomia potrebbe condurre alla marginalizzazione di tali gruppi. Per esempio, Margaert Moore ha scritto che, poichè Kymlicka sostiene che «una cultura ha valore solo in quanto contribuisce all’esercizio dell’autonomia, i diritti alla protezione di una cultura sono giustificati solo nel caso di quei gruppi, o di quelle culture, che attribuiscono valore all’autonomia»<sup>138</sup>: dal punto di vista di un liberalismo basato sul valore dell’autonomia, le richieste per il riconoscimento di diritti per quelle minoranze culturali che invece non ne riconoscono il primato, ma che potrebbero ugualmente trovarsi in una situazione di svantaggio immeritato, non avrebbero alcuna legittimità. Questo però è in tensione con quell’argomento di Kymlicka che attribuisce diritti alle minoranze culturali basandosi sulle premesse ugualitarie della teoria liberale.

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<sup>137</sup> DEVEAUX, Monique, *Cultural Pluralism and the Dilemmas of Justice*, Ithaca and London, Cornell University Press, 2000, p. 132.

<sup>138</sup> MOORE, Margaret, *The Ethics of Nationalism*, Oxford, Oxford University Press, 2001, p. 55. A ciò bisogna aggiungere che, il far dipendere il riconoscimento dei diritti delle minoranze dalla promozione delle condizioni per l’esercizio dell’autonomia non consente a Kymlicka di distinguere «tra quei gruppi chiaramente illiberali che restringono la libertà dei loro membri in modi coercitivi e quelle comunità semplicemente *non-liberali* con stili di vita più eteronomi». I primi sono intollerabili in un regime liberaldemocratico, mentre gli altri, a determinate condizioni, potrebbero trovarvi spazio. Cfr. DEVEAUX, Monique, *Cultural Pluralism and the Dilemmas of Justice*, cit., p. 133, (corsivo mio).

Il liberalismo di Kymlicka aspira esplicitamente a *liberalizzare*<sup>139</sup> le minoranze nazionali non-liberali. Tale processo di trasformazione non deve però avvenire in maniera coercitiva. Infatti, Kymlicka distingue tra il processo di identificazione della teoria liberale più difendibile, ossia quella basata sull'autonomia, e il problema di chi possa esercitare l'autorità di imporla alle minoranze che non riconoscono il primato dei valori liberali<sup>140</sup>. Il divieto di imporre i principi della teoria liberale che, almeno in principio, vige nelle relazioni tra Stati nazione indipendenti, deve essere esteso anche ai rapporti tra i gruppi nazionali presenti all'interno del medesimo Stato multinazionale. Tranne che nel caso di gravi violazioni dei diritti umani degli individui coinvolti, un intervento coercitivo diretto non è ammissibile. Ciò che gli Stati liberali possono fare si limita all'azione indiretta e al fornire incentivi alla liberalizzazione.

In un recente volume che per molti versi rappresenta un'alternativa *libertaria* al modo in cui Kymlicka affronta il problema delle minoranze culturali, Chandran Kukathas ha criticato la distinzione tra identificazione della teoria liberale più adeguata e imposizione della stessa a coloro che non ne condividono i valori. Nel distinguere tra la validità di una teoria e la sua imposizione, Kymlicka concederebbe alle minoranze nazionali di attuare molte di quelle *restrizioni interne* che, come abbiamo visto, non sono ammissibili da parte della sua teoria. In questo senso, la teoria di Kymlicka sarebbe incoerente: «egli propone di abbracciare un liberalismo 'comprensivo', e il suo impegno nei confronti dell'autonomia, ma *non* di imporre questo liberalismo»<sup>141</sup>. A nostro avviso, il rifiuto dell'imposizione del liberalismo basato sull'autonomia non è una dimostrazione di incoerenza da parte della teoria di Kymlicka. Si tratta piuttosto di un modo per tener fede alle premesse per la realizzazione della vita buona. Infatti, come si è visto nel secondo paragrafo, tra le condizioni per vivere bene c'è che la vita stessa sia condotta *dall'interno*, in base a valori che l'individuo stesso sottoscrive. Dunque, se uno stile di vita autonoma fosse imposto coercitivamente,

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<sup>139</sup> KYMLICKA, Will, *La cittadinanza multiculturale*, cit., p. 165.

<sup>140</sup> Ivi, p. 287.

<sup>141</sup> KUKATHAS, Chandran, *The Liberal Archipelago. A Theory of Diversity and Freedom*, Oxford, Oxford University Press, 2003, p. 187.

i soggetti che subirebbero l'imposizione sarebbero costretti a vivere secondo valori che essi non approvano.

Tuttavia, nonostante la presenza di queste considerazioni che mostrano la cautela di Kymlicka nel negare la legittimità dell'imposizione del liberalismo, crediamo che il suo approccio, nel porsi l'obiettivo della liberalizzazione delle culture non-liberali, si dimostri incapace di rispettare le minoranze nella loro specificità. La liberalizzazione delle minoranze, come ha opportunamente osservato Bhikuh Parekh, potrebbe «trasformarle in qualcosa che esse non sono»<sup>142</sup>. Sul fatto che le culture si trasformano non ci sarebbe niente da obiettare. Infatti, a meno che non si condivida l'implausibile tesi secondo la quale le culture sono entità immutabili, isolate e al di fuori del divenire storico, si deve ammettere che le circostanze storiche e le relazioni reciproche operano incessantemente a favore della loro evoluzione. I problemi per una teoria che intende tener fede ai principi del liberalismo egualitario sorgono se si considera che a trasformarsi è sempre la cultura minoritaria, e che tale trasformazione avviene secondo i criteri sottoscritti dalla cultura maggioritaria. Dunque, i rapporti di forza tra i gruppi culturali non vengono messi in discussione. Ciò entra in evidente tensione sia con uno dei principi che Kymlicka considera connessi con la diffusione del multiculturalismo liberale, vale a dire l'idea che lo Stato non appartiene al gruppo culturale maggioritario ma è proprietà di tutti i cittadini indipendentemente dal gruppo culturale di appartenenza, sia dell'ugualitarismo che in generale caratterizza l'approccio liberale di Kymlicka.

In parziale risposta a un'obiezione di questo tipo, nel suo ultimo libro Kymlicka afferma che «la concezione liberale del multiculturalismo inevitabilmente, intenzionalmente e impenitentemente trasforma le tradizioni culturali dei popoli»<sup>143</sup>. Esso richiede che sia il gruppo dominante che quello subordinato entrino in relazioni e siano coinvolti in pratiche che esigono trasformazioni per entrambe le parti coinvolte. In questo senso, al gruppo maggioritario si richiede di «rinunciare alle fantasie di superiorità razziale, di abbandonare le pretese di esclusiva proprietà dello Stato, e di

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<sup>142</sup> PAREKH, Bhikhu, *Rethinking Multiculturalism*, cit., p. 108.

<sup>143</sup> KYMLICKA, Will, *Multicultural Odysseys*, cit, p. 99.

desistere dal tentativo di plasmare le istituzioni pubbliche esclusivamente secondo la propria immagine nazionale»<sup>144</sup>, mentre da parte delle minoranze si esige il rifiuto delle pratiche contrarie ai principi liberaldemocratici<sup>145</sup>. Non si può negare che queste considerazioni (per altro in linea con la considerazione dell'integrazione degli immigrati come una strada a doppio senso (*two-way street*) di cui parleremo più estesamente nel prossimo paragrafo) rappresentino un significativo passo in avanti rispetto a un approccio semplicemente assimilazionistico secondo il quale le minoranze devono adeguarsi ai principi e agli stili di vita della maggioranza. Tuttavia, al gruppo dominante viene richiesto di trasformarsi secondo principi che sono propri ma che, per accidente storico o negligenza, non vengono rispettati, mentre alle minoranze si richiede di conformarsi a principi che, in varia misura, sono loro estranei.

## **6. La diversità degli immigrati tra assimilazione e integrazione.**

Come si è visto nel terzo paragrafo, Kymlicka intende l'immigrazione come la seconda fonte della diversità culturale. L'immigrazione è vista come un fenomeno largamente volontario<sup>146</sup> e i migranti sono considerati come generalmente disponibili a integrarsi nella società che li accoglie. Essi non cercano, nè hanno la possibilità di ricreare, la *cultura sociale* del Paese di provenienza, ma, attraverso la richiesta di provvedimenti politici specifici, cercano di ottenere un'integrazione che sia il più equa possibile. Dunque, sia gli immigrati sia le politiche dello Stato liberale nei loro confronti non si propongono, tranne che nel caso di sparute minoranze conservatrici come gli Amish, il fine della segregazione o dell'auto-segregazione. Kymlicka sostiene che gli immigrati «vogliono che le istituzioni maggioritarie della loro società siano

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<sup>144</sup> Ibid., pp. 99-100.

<sup>145</sup> Kymlicka cita pregiudizio razziale o etnico, anti-semitismo, trionfalismo religioso, esclusione basata sul genere o sull'appartenenza di classe, autoritarismo politico. Cfr. KYMLICKA, Will, *Multicultural Odysseys*, cit, p. 100.

<sup>146</sup> L'idea che i fenomeni migratori siano di natura volontaria è stata spesso obiettata a Kymlicka dai suoi critici. Si veda per esempio: KUKATHAS, Chandran, *Multiculturalism as Fairness: Will Kymlicka's Multicultural Citizenship*, «The Journal of Political Philosophy», 1997, pp. 412-416. In un recente volume, anche Tariq Modood ha sostenuto che «la dicotomia tra migranti volontari e popoli incorporati è troppo rigida». Egli si riferisce in particolare alla difficoltà di concepire come volontari i flussi migratori a partire dalla seconda metà del Novecento dalle ex-colonie verso la Gran Bretagna e le altre ex-potenze coloniali. Più che di migrazioni volontarie si tratterebbe di movimenti connessi all'eredità coloniale. Cfr. MODOOD, Tariq, *Multiculturalism. A Civic Idea*, Cambridge – Malden (MA), Polity, 2007, p. 33.

riformate in modo da accomodare le loro differenze culturali e da riconoscere il valore della loro eredità culturale»<sup>147</sup>. Gli immigrati cercano l'inclusione nella vita istituzionale e politica e ne sottoscrivono i valori fondamentali senza rappresentare minacce per la stabilità e per la pace sociale.

In *The Politics in the Vernacular* Kymlicka osserva con favore che, a partire dagli Anni '60 del secolo scorso, nei tre Paesi a maggiore immigrazione (USA, Canada e Australia) ci sia stato il passaggio da un modello assimilazionista detto 'Anglo-conformity'<sup>148</sup>, secondo il quale gli immigrati devono adeguarsi sotto ogni aspetto alle pratiche culturali e all'identità del Paese in cui si trasferiscono fino a diventare indistinguibili dai nativi, ad un modello più tollerante secondo il quale l'integrazione degli immigrati esige che la loro inclusione consenta la conservazione della propria specificità culturale. Gli immigrati chiedono di partecipare alla vita del Paese in cui si trasferiscono in qualità di cittadini degni di eguale considerazione e rispetto. Essi hanno il diritto, ma perfino il dovere<sup>149</sup> di diventare membri a pieno titolo della loro nuova comunità politica. Tuttavia, l'integrazione, lungi dall'essere un processo che richiede sacrifici esclusivamente da parte degli immigrati è una 'strada a doppio senso'<sup>150</sup>, in quanto la presenza di immigrati modifica anche la società che li accoglie. In particolare, la politica di uno Stato liberale nei confronti degli immigrati è una politica di *integrazione pluralistica*<sup>151</sup>: l'inclusione delle minoranze etniche pluralizza la cultura sociale maggioritaria in quanto vi immette gruppi diversi che sono portatori di identità culturali specifiche ma, allo stesso tempo, anche le abitudini e le pratiche degli immigrati si modificano in senso liberale a contatto con quelle della società in cui si trasferiscono.

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<sup>147</sup> KYMLICKA, Will, *Social Unity in a Liberal State*, cit., p. 119.

<sup>148</sup> KYMLICKA, Will, *The Politics in the Vernacular*, cit., p. 153.

<sup>149</sup> In un saggio dedicato alla discussione del problema dell'estensione della giustizia in un'ottica liberal-egualitaria, Kymlicka scrive: «le democrazie liberali non solo permettono agli immigrati di integrarsi, ma esercitano anche pressione affinché ciò accada. Gli immigrati hanno non solo il diritto di diventare pienamente membri della nazione, ma anche il dovere di far parte della comunità nazionale». Cfr. KYMLICKA, Will, *Territorial Boundaries: A Liberal Egalitarian Perspective*. In MILLER, David, e HASHMI, Sohail H. (a cura di), *Boundaries and Justice. Diverse Ethical Perspectives*, Princeton, Princeton University Press, 2001, p. 263.

<sup>150</sup> KYMLICKA, Will, *The Politics in the Vernacular*, cit., p. 171.

<sup>151</sup> Ivi, p. 168. Kymlicka riprende questa espressione da SPINNER, Jeff, *The Boundaries of Citizenship: Race, Ethnicity, and Nationality in the Liberal State*, Baltimore, Johns Hopkins University Press, 1994, Cap. IV.

Il successo della teoria di Kymlicka è però reso difficile ancora una volta dal suo fondarsi sul valore dell'autonomia. A nostro avviso, contro questo pur generoso tentativo di discutere la reciprocità di trasformazioni implicate dai processi di inclusione delle minoranze di immigrati, valgono le medesime considerazioni fatte nel paragrafo precedente in relazione alla liberalizzazione delle minoranze nazionali. In ciò che segue discuteremo invece l'incapacità della teoria di Kymlicka nel trattare adeguatamente la diversità culturale rappresentata dagli immigrati.

Le difficoltà complessive cui va incontro il modello teorico di Kymlicka quando affronta il problema delle minoranze etniche si spiegano in parte con quello che Tariq Modood ha recentemente definito *multinational bias*<sup>152</sup>. Pur essendo, come abbiamo visto a proposito dell'idea di *integrazione pluralistica*, «pragmaticamente generoso nell'affrontare i bisogni politici e culturali e le insicurezze dei migranti», l'approccio di Kymlicka si presenta però come «teoricamente ingeneroso»<sup>153</sup> nei confronti degli stessi componenti delle minoranze etniche. Infatti, l'argomento principale di Kymlicka in favore dei diritti per le minoranze culturali si basa, come abbiamo visto, sull'appartenenza degli individui a una *cultura sociale*. Gli immigrati ne sono privi e dunque, non esiste un argomento specifico che giustifichi i diritti polietnici con la stessa coerenza dei diritti concessi alle minoranze nazionali. Una ragione del *multinational bias* è, secondo Modood, l'origine canadese di Kymlicka e il suo interesse ricorrente per le questioni delle minoranze nazionali in Canada e negli Stati Uniti. Da ciò risulta, sempre secondo Modood, una scarsa applicabilità del modello di Kymlicka per l'analisi del fenomeno della diversità culturale in Gran Bretagna e nell'Europa occidentale, dove l'immigrazione rappresenta un problema di gran lunga più percepibile e urgente di quello delle minoranze nazionali.

A nostro avviso i limiti dell'approccio di Kymlicka nell'affrontare le minoranze etniche vanno ricondotti più in generale al fatto che la diversità culturale rappresentata dagli immigrati è ampiamente sottostimata rispetto alla diversità delle minoranze nazionali. Ad esempio, in un recente articolo in cui risponde alle preoccupazioni a proposito di un generale arretramento delle politiche

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<sup>152</sup> MODOOD, Tariq, *Multiculturalism. A Civic Ideal*, cit., p. 34.

<sup>153</sup> Ibid.

multiculturali nelle liberaldemocrazie occidentali, Kymlicka sostiene che «le rivendicazioni dei gruppi nazionali e dei popoli indigeni comportano generalmente una più sostanziale immissione di diversità etnoculturale nella sfera pubblica e un più sostanziale livello di cittadinanza differenziata di quello che è richiesto dai gruppi di immigrati»<sup>154</sup>. Dal momento che le minoranze nazionali e i popoli indigeni sono concentrati in un territorio differente rispetto a quello della maggioranza, e, vista l'indipendenza culturale che lo stesso modello di Kymlicka attribuisce sia alle une che agli altri, ci risulta difficile comprendere come la diversità che essi rappresentano sia presente all'interno della sfera pubblica di un Paese liberaldemocratico, se non in una forma molto indiretta e attenuata. Gli immigrati, al contrario, non sono territorialmente concentrati in un'area e, almeno tendenzialmente, non assumono un atteggiamento isolazionista. Dunque, la diversità che essi introducono nelle società in cui si trasferiscono è ben più percepibile, se non altro perchè le loro pratiche e i loro valori convivono, talvolta pacificamente ma spesso anche in modo conflittuale, con le pratiche e i valori del gruppo maggioritario. È questo tipo di diversità che una società liberaldemocratica deve assumere come prioritaria, ed è sulla necessità di accomodarla secondo equità che i classici principi liberali di libertà, eguaglianza e inclusione devono esercitarsi.

Infatti, l'*integrazione pluralista* di cui parla Kymlicka non è stata ancora ottenuta; anzi, per sua stessa ammissione, negli ultimi anni si è diffuso un clima di sfiducia nei confronti delle politiche multiculturali, in particolare di quelle rivolte agli immigrati<sup>155</sup>. Se le riflessioni fatte nelle pagine che precedono hanno una qualche plausibilità, un modello teorico come quello di Kymlicka, basato sull'idea che l'autonomia è il valore fondamentale del liberalismo e sulla tesi per cui nel discorso sui diritti delle minoranze bisogna assumere come prioritaria la diversità delle minoranze nazionali, non è lo strumento più adeguato.

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<sup>154</sup> KYMLICKA, Will, *The New Debate on Minority Rights (and Postscript)*. In LADEN, Anthony S., e OWEN, David (a cura di), *Multiculturalism and Political Theory*, cit., p. 51.

<sup>155</sup> Kymlicka ritiene che il crescente numero di immigrati clandestini, l'idea che gli immigrati (soprattutto quelli di religione islamica) siano portatori di culture illiberali e la percezione che la presenza di immigrati indebolisca il welfare state, sono le tre principali cause del calo di sostegno pubblico alle politiche plietniche. Si tratterebbe di problemi contingenti, una volta superati i quali, l'accettazione del multiculturalismo sarebbe restaurata. In altri termini, a detta di Kymlicka, «nei Paesi in cui gli immigrati sono visti come regolari, rispettosi delle norme liberali e contributori del sistema economico, l'adozione di politiche multiculturali non è considerata molto rischiosa e incontra minori ostacoli». Cfr. KYMLICKA, Will, *The New Debate on Minority Rights (and Postscript)*, cit., p. 56.

## CHAPTER III

### Liberal Pluralism and Diversity.

#### 1. Accommodating diversity.

Stephen Macedo's *Diversity and Distrust* starts with the following statement: "Diversity is the great issue of our time: nationalism, religious sectarianism; a heightened consciousness of gender, race, and ethnicity; a greater assertiveness with respect to sexual orientation; and a reassertion of the religious voice in the public square are but a few of the forms of particularity that stubbornly refuse to yield to individualism and cosmopolitanism"<sup>156</sup>. As a matter of fact, our social world is crowded by moral, political, ethnical, religious, sexual, and social diversities<sup>157</sup>. An

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<sup>156</sup> S. Macedo, *Diversity and Distrust. Civic Education in a Multicultural Democracy*, Harvard University Press, 2000, p.1. Here and in the rest of the paper *diversity* is more or less synonym of *pluralism*. I prefer the use of the word 'diversity' rather than 'pluralism' because I would like to make a distinction between value pluralism and pluralism as a fact (diversity). As we will see, value pluralism is one of the foundations of Galston's *diversity liberalism*.

<sup>157</sup> That is not a completely new condition for liberalism. In fact, as K. A. Appiah writes, "the matter of diversity, far from being marginal to the origin of modern political philosophy, was central to it" (*The Ethics of Identity*, Princeton University Press, 2005, p. xv). If liberalism's origins are to be traced back to the search for a peaceful coexistence after the XVI and XVII Centuries' Wars of Religion, one cannot deny that liberalism had to do with diversity of religious, moral, and cultural beliefs since its beginning. What is new is the increased consciousness of that diversity. The reason for this circumstance should be searched out in the globalization, in migration, and in the claims for inclusion advanced by excluded minorities. For some accounts of historical origins of liberalism according to which Wars of Religion are at the starting point of liberalism, see J. Rawls, *Political Liberalism*, Columbia University Press, 1994, and C. Larmore, *The Morals of Modernity*, Cambridge University Press, 1996.

intriguing problem arises when one discusses how political institutions and political theory try to accommodate and deal with these diversities that could threaten the traditional notions of civic unity, stability, freedom, equality, and individualism with which Western liberal democracy is commonly associated. These considerations are particularly urgent in the debates about the regulation of the internal life of traditional (either religious or secular) communities that reject any simple assimilation to the practices and the lifestyles of mainstream society.

Theorists praising diversity experience liberal democratic political institutions and liberal theories as unfairly sectarian and as blind to differences. Multiculturalists, feminists, post-modernists, anti-liberal thinkers in general maintain that liberalism, with its classical aspirations to freedom and equality, is unduly homogenizing towards the variety of cultures, conceptions of the good, and forms of life spread in Western societies.

In fact there is something that, following the observations of William A. Galston, we could label the *paradox of diversity*: “If we insist that each civil association mirror the principles of the overarching political community, then meaningful differences among associations all but disappear; constitutional uniformity crushes social pluralism”<sup>158</sup>. The tricky point is that since its origins, liberalism stands up for individual liberty and freedom of association, but if it insists that liberal principles are to rule the internal life of not properly liberal groups, the eventual outcome will be a coercive decrease of social complexity. Indeed, liberal aspiration to the coexistence of diverse moral, religious, and cultural options will be thwarted if groups and associations are required to comply with liberal norms.

Liberalism is a complex and multiform tradition of political thought and it is in no way committed to the unrestricted inculcation of liberal norms in all the domains of social life. Individual rights, freedoms of association, public-private distinction, and toleration are resources at

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<sup>158</sup> W. A. Galston, *Liberal Pluralism. The Implications of Value Pluralism for Political Theory and Practice*, Cambridge University Press, 2002, p. 20. Similar worries are expressed by Jeff Spinner-Halev in the following passage: “If all private groups are remade in the image of the liberal state, then everyone’s choices are reduced”. See J. Spinner-Halev, ‘Autonomy, Association, and Pluralism’, in A. Eisenberg, and J. Spinner-Halev, Edited by, *Minorities within Minorities. Equality, Rights and Diversity*, Cambridge University Press, 2005, p. 165.

liberalism's disposal to counteract any immediate conformation of individual and collective life to the liberal general norms. Even Brian Barry, whose *Culture and Equality* is generally considered among the most strenuous challenger of accommodation claims, admits that (at least in principle) "it is no part of liberalism [...] to insist that every group must conform to liberal principles in its internal structure"<sup>159</sup>.

Liberalism is a political theory<sup>160</sup> that is not required to rule all the dimensions of individual and collective life, but it is not easy to understand how wide should be the diversity that a liberal society can accommodate, if and in which ways liberalism should promote individualistic lifestyles, which are the constraints that bind the acceptability of claims for accommodation.

William A. Galston's recent work about liberalism is a noteworthy attempt to deal with all these matters. His *diversity liberalism* is one of the most stimulating although objectionable answers to the problem of accommodating diversity. In the next section I will present Galston's theoretical proposal opposing it to *autonomy liberalism*. Then I will explore its theoretical foundations and its implications about educational policies. At the end I will formulate some critical remarks against it.

## 1. Liberalism between autonomy and diversity.

In a recent article Galston defines liberalism as a theory concerned with limits to public power: "From a philosophical and conceptual point of view, liberalism is a doctrine not of the structure of governmental decision making or of the substance of governmental decisions, but rather of the scope of governmental power"<sup>161</sup>. Every liberal theory is characterized by an account of the ways in which public power's extension should be limited. For example, John Stuart Mill can be included among liberal thinkers not because of his ideas about human flourishing, but thanks to his

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<sup>159</sup> B. Barry, *Culture and Equality. An Egalitarian Critique of Multiculturalism*, Polity, 2001, p. 147

<sup>160</sup> The fact that liberalism is a political theory and that it asks for a sort of *division of moral labour* between public and private does not exclude reciprocal influences between them. For the pervasivity of public values and the ways in which political principles shape also extra-political life see S. Macedo, *Liberal Virtues. Citizenship, Virtue, and Community in Liberal Constitutionalism*, Clarendon Press, 1990, Chapter 2, and W. A. Galston, *Liberal Purposes. Goods, Virtues, and Diversity in the Liberal State*, Cambridge University Press, 1991, Chapter 13.

<sup>161</sup> W. A. Galston, *Why the New Liberalism isn't All That New, and Why the Old Liberalism isn't What We Thought It Was*, in *Social Philosophy and Policy*, 2007, Vol. 1, p. 290.

harm principle. Similarly, Rawls is a liberal for his account of individual rights, not for his theory of distributive justice and his difference principle<sup>162</sup>.

For Galston, liberalism is not a monolithic political and theoretical tradition. There are at least two concepts of liberalism, that is “two quite different strands of liberal thought based on two distinct principles”<sup>163</sup> that can be summarized as autonomy and diversity<sup>164</sup>.

*Autonomy liberalism*, can also be called *Enlightenment liberalism*. Galston argues that the historical and conceptual origins of that kind of liberal theory should be found in the Enlightenment’s faith in reason as the primary source of authority and as the necessary means for liberating individuals from arbitrary powers. According to this kind of liberal theory the state should promote and defend individual autonomy understood as the autonomy of rational, self-examining, and self-directing individuals. Promoting autonomy could be obtained through educational policies that exhibit partiality towards autonomous, individualistic, and rationalistic theories of human flourishing. Defense of autonomy understood according to the guidelines of *Enlightenment Liberalism* is an aim that could be pursued through anti-accommodationist policies toward those groups that do not value autonomy as a fundamental condition for human thriving.

The most representative spokesmen of *Enlightenment liberalism*, as Galston observes, are “John Locke, Immanuel Kant, John Stuart Mill, and the Americans writing in an Emersonian vein”<sup>165</sup>. Among the contemporary *autonomy liberals* we find, according to Galston, Will Kymlicka who establishes a link between the promotion of individual autonomy and the protection of

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<sup>162</sup> *Ibid.*

<sup>163</sup> W. A. Galston, *Two Concepts of Liberalism*, *Ethics*, Vol. 105, No. 3. (Apr. 1995), p. 521.

<sup>164</sup> This distinction can be also used to interpret the whole liberal history. For example, J. T. Levy writes that the autonomy/toleration (or diversity) controversy is “not a new one, but one as old as liberalism itself. That is to say, the debate over autonomy and toleration is the latest episode in a very old argument”. The history of liberalism has been persistently characterized by a difference of judgement about the role of “intermediate institutions, associations and communities”. There is one strand (pro-toleration liberalism represented by Montesquieu, Burke, Tocqueville) that considers them as friends of liberal freedoms and as places where the individuals can live their lives free from the risks of state tyranny. The other strand (pro-autonomy liberalism represented by Voltaire, Kant, Mill) instead looks with suspicion at intermediate institutions because of the eventual risks of local tyrannies that should be under state central control. See J. T. Levy, *Liberalism’s Divide, After Socialism and Before*, in *Social Philosophy and Policy*, 2003, p. 281.

<sup>165</sup> W. A. Galston, *Liberal Pluralism*, cit., p. 21.

minority cultures, understood as the environment required for individual meaningful choices<sup>166</sup>. Other examples could be John Rawls who in *A Theory of Justice*<sup>167</sup> relies upon a Kantian notion of moral subject, and Stephen Macedo who in *Liberal Virtues*<sup>168</sup> works out a theory of liberal citizenship in which autonomy is highly emphasized as the distinctive feature of liberal persons' character.

Galston does not think of *autonomy liberalism* as an adequate conception. He objects to it on the basis of the idea that “autonomy is one possible mode of existence in liberal societies – one among others”<sup>169</sup>. If public institutions assume autonomy's primacy, individuals and groups who deny that autonomy is always required for human thriving could feel to be jeopardised by and marginalized from a political power that does not adequately respect human diversity. These considerations support the rather common idea according to which liberalism could be no more than a sectarian doctrine notwithstanding its widespread and misconceived aspirations to impartiality, neutrality, and universality. Galston maintains that “autonomy based-arguments are bound to marginalize those individuals and groups who cannot conscientiously embrace the Enlightenment impulse”<sup>170</sup>: in our societies there are many individuals and groups whose ideal of human flourishing is in no way associated with autonomous choice, critical self-reflection, and all those attitudes generally related with a liberal-rationalistic idea of individual.

It is actually since a long time that Galston criticizes *autonomy liberalism*. Already in *Liberal Purposes* he was arguing against those theorists according to which civic education should be aimed at the promotion of those rational attitudes needed for critically evaluating and choosing among different moral options. In that book he wrote that “liberalism is about the protection of

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<sup>166</sup> See W. Kymlicka, *Liberalism, Community, and Culture*, Oxford University Press, 1989; Idem, *Multicultural Citizenship: A Liberal Theory of Minority Rights*, Oxford University Press, 1995.

<sup>167</sup> J. Rawls, *A Theory of Justice*, Harvard University Press, 1971.

<sup>168</sup> In *Two Concepts of Liberalism* (cit., p. 523) Galston quotes the following passage from a book by Stephen Macedo as a typical example of *autonomy liberalism*: “liberal persons are distinguished by the possession of self-governing reflective capacities. Further developing these reflective capacities leads one toward the ideal of autonomy”. See S. Macedo, *Liberal Virtues*, cit., p. 269.

<sup>169</sup> W. A. Galston, *Liberal Pluralism*, p. 24.

<sup>170</sup> Ivi, pp. 25-26.

diversity, not the valorization of choice”<sup>171</sup>. Indeed, the liberal model Galston prefers is *diversity liberalism*. He calls it also *Reformation liberalism* because its roots can be traced back to the post-Reformation idea of toleration. It is the liberalism that “takes as its central value the toleration of religious and cultural diversity”<sup>172</sup>. Such liberalism understands ‘diversity’ as “legitimate differences among individuals and groups over such matters as the nature of good life, sources of moral authority, reason versus faith, and the like”<sup>173</sup>.

The assumption of the protection of diversity as the core value of a political theory allows *diversity liberalism* to pursue what Galston labels “a policy of *maximum feasible accommodation*”<sup>174</sup> whose constraints are the requisites of civic unity and individual security. Moreover, it enables political institutions to take diversity seriously without imposing liberal values in the internal life of those groups that live in contemporary liberal societies and refusing to accept the idea that autonomy and individual choice understood along liberal lines are necessary conditions for humans to flourish.

Given what I already said, it should be clear that Galston’s acceptance of diversity is not without limits. The constraints imposed on legitimate diversity are, in his view, rather demanding. Galston, far from any commitment to the idea of liberal neutrality<sup>175</sup>, sees liberal state as a political community that pursues public purposes such as the protection of human life, the advancement of basic human capabilities, the development of the abilities necessary for taking part to the public life, etc. These public purposes render the unity of a liberal society possible, give a shape to its institutions, arouse policies, settle public virtues. Thus, a community that adopted a practice denying some of these public purposes would be beyond the domain of the admissible diversity in a liberal state.

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<sup>171</sup> W. A. Galston, *Liberal Purposes*, cit., pag. 329. The main object of Galston’s critical remarks is A. Gutmann, *Democratic Education*, Princeton University Press, 1999<sup>2</sup>.

<sup>172</sup> G. Crowder, *Two Concepts of Liberal Pluralism*, in *Political Theory*, Vol. 35, N. 2, April 2007, p. 123.

<sup>173</sup> W. A. Galston, *Liberal Pluralism*, p. 21.

<sup>174</sup> Ivi, p. 20.

<sup>175</sup> For Galston’s objection to liberal neutrality see W. A. Galston, *Liberal Purposes*, cit., Part 2.

It should be pointed out that Galston's preference for *diversity liberalism* is not so strong as "to deny a place for a more modest conception of autonomy as freedom of choice, secured by internal as well as external constraints"<sup>176</sup>. Galston's intention, consistently with his pluralist account of value that will be discussed later, is to balance the two dimensions of liberalism he distinguishes. Notwithstanding this, as our further considerations will demonstrate and as a recent commentator argues, "Galston's emphasis has always been on the toleration side"<sup>177</sup> rather than on autonomy.

### 3. The three sources of liberal theory and Galston's liberal pluralism.

Galston's *diversity liberalism* relies on three resources: expressive liberty, political pluralism, and value pluralism. Expressive liberty is "the normatively privileged and institutionally defended ability of individuals and groups to lead their lives as they see fit"<sup>178</sup>. Individuals<sup>179</sup> want to live a life in which there is correspondence between inner beliefs and outer practices, that is to say they want to live according to their conceptions of what is valuable and meaningful. Then, they think that there is the loss of a fundamental human good when they are coercively deprived of the opportunity to lead their life consistently with their considered judgements. Obviously, Galston admits that expressive liberty has limits and that it does not consent everything is the outcome of a sincere belief. For example, it would object to human sacrifice for religious or conscientious reasons, but it would approve of some practices of conservative groups (such as "the male

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<sup>176</sup> W. A. Galston, *The Practice of Liberal Pluralism*, Cambridge University Press, 2005, p. 182.

<sup>177</sup> G. Crowder, *Two Concepts of Liberal Pluralism*, cit., p. 124.

<sup>178</sup> W. A. Galston, *The Practice of Liberal Pluralism*, cit., p. 45. From this quotation it is clear that expressive liberty concerns individuals as well as groups. In *Liberal Pluralism* Galston defines expressive liberty as "the absence of constraints, imposed by some individuals on others, that make it impossible (or significantly more difficult) for the affected individuals to live their lives in ways that express their deepest beliefs about what gives meaning or value to life" (p. 28). It would seem that in this definition, expressive liberty is more a property of individuals than of groups, but in the following page Galston's usual emphasis on groups reappears: "Expressive liberty protects the ability of individuals and groups to live in ways that others would regard as unfree" (*Liberal Pluralism*, p. 29)

<sup>179</sup> If expressive liberty, as Galston thinks, is an individual as well as a group liberty here one should say that also groups want that their joint lives should be led consistently with the principles they value. From a liberal point of view arguing that groups have a collective life and follow some sort of principles is always problematic: which these principles are? Are they requested to rule only political life or they extend their domain in private life? How should such principles be identified? Galston never clearly addresses these questions and, as we will see later, his commitment both to individual and to group expressive liberty can create tensions that raise doubts on the overall liberal character of his theory.

circumcision and gender separation commanded by Orthodox Judaism”<sup>180</sup>) that an *autonomy liberal* would condemn as unsuited to a liberal society in which autonomy is considered the fundamental value.

Political pluralism is the second resource of Galston’s liberalism. It is the political theory worked out by J. N. Figgis, G. D. H. Cole, and H. Laski<sup>181</sup> in the first decades of the twentieth Century. Political pluralism refuses the conception for which state power is plenipotentiary toward the plurality of associations and groups one can find in contemporary liberal democratic societies. State is just one among many legitimate authorities, and it is not the one that should always prevail. According to Galston, political pluralism is an effective tool for alerting us to the risks deriving from the totalistic temptations traceable in the thought of Aristotle, Hobbes, and Rousseau. The first maintained that all other activities and institutions should be subordinated to politics, as it is aiming at the highest and more comprehensive human good. The second argued in favour of an undivided sovereignty as the only guarantee for peace. Rousseau considered an unreserved devotion to common good as a necessary condition for civic health. The same totalistic temptation is still present in many contemporary theorists working within the liberal tradition, such as Stephen Macedo<sup>182</sup>, the *transformative liberalism* of which requires, according to Galston, correspondence between public political principles and the internal structure of associations, faith communities, and even families.

Political pluralists’ core idea is that “our social life comprises multiple sources of authority and sovereignty – individuals, parents, associations, churches, and state institutions, among others –

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<sup>180</sup> W. A. Galston, *Liberal Pluralism*, cit., p. 29.

<sup>181</sup> See P. Q. Hirst, edited by, *The Pluralist Theory of the State: Selected Writings of G. D. H. Cole, J. N. Figgis, and H. J. Laski*, Routledge, 1989.

<sup>182</sup> Galston refers to Macedo’s ideas about the pervasiveness of political principles in a well functioning liberal democracy. Liberal principles extensively shape the life of communities, associations, and even churches, transforming them in liberal sense. See S. Macedo, *Diversity and Distrust*, cit., and S. Macedo, *Transformative Constitutionalism and the Case of Religion. Defending the Moderate Hegemony of Liberalism*, in *Political Theory*, Vol. 26, No. 1, Feb. 1998. Other contemporary examples of liberal democratic theorists giving up to the totalistic temptation are, according to Galston, J. Habermas, J. Dewey, J. Rawls, A. Gutmann, I. Shapiro, D. Thompson. See W. A. Galston, *The Practice of Liberal Pluralism*, cit., pp. 26-40.

no one of which is dominant for all purposes and on all occasions”<sup>183</sup>. In a liberal society there are a lot of nonstate authorities whose existence is independent from state power, so a centralized state authority is not the only lawful authority exercising power. In *The Practice of Liberal Pluralism* Galston writes that “pluralist politics is a politics of recognition rather than of construction”<sup>184</sup>. Different spheres of human activity exist and are to be recognized and respected from the state even though they are not created by it. For example, even if one admits that public rules shape the families’ internal life, it does not mean that they are purposively constituted by the state.

From the perspective of the political pluralism, the function of the state is quite constrained but it is not totally nullified. For Galston asserts that the state, the only authority that monopolizes the legitimate use of force, should coordinate the activities of the different communities, adjudicate when there are conflicts, and prevent likely group tyrannies. The prospect of group tyrannies is especially relevant for any liberal theory that accords some value to the right of association, and Galston deals with it quite optimistically claiming that “enforcement of basic rights of citizenship and of exit rights, suitably understood, will usually suffice”<sup>185</sup> to avoid some groups becoming prisons for the individuals that are born and have been educated there, or even for those that join the group when they have already grown up.

The third resource of Galston’s liberalism is value pluralism, that is a form of moral realism<sup>186</sup> deriving from Isaiah Berlin<sup>187</sup>. It is different from emotivism, noncognitivism, or “Humean arguments against the rational status of moral propositions”<sup>188</sup>. Furthermore, value pluralism should not be confused with relativism because it does not deny the difference between good and evil and the objectivity of values. Value pluralists can claim that saving a human life is

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<sup>183</sup> W. A. Galston, *Liberal Pluralism*, cit., p. 36.

<sup>184</sup> W. A. Galston, *The Practice of Liberal Pluralism*, cit., p. 41.

<sup>185</sup> Ibid.

<sup>186</sup> For Galston both value pluralism and value monism are forms of moral realism because “both presuppose the existence of moral realm that is in some sense ‘there’, apart from our emotional projections and cultural constructions”. See W. A. Galston, *The Practice of Liberal Pluralism*, cit., p. 12.

<sup>187</sup> For Berlin’s political thought and the ways in which his value pluralism is linked to liberalism see at least G. Crowder, *Isaiah Berlin. Liberty and Pluralism*, Polity, 2004, and G. Crowder, and H. Hardy, Edited by, *The One and the Many. Reading Isaiah Berlin*, Prometheus Books, 2007

<sup>188</sup> W. A. Galston, *Liberal Pluralism*, cit., p. 30.

different from killing innocent people and that this difference is “part of the objective structure of the valuational universe”<sup>189</sup>. There is a domain of values that set what constitutes a decent life for individuals and societies<sup>190</sup>. Galston, following Stuart Hampshire, argues that the limits are fixed “by common human needs”<sup>191</sup> and that in many historical circumstances these limits have been overcome. Anyway, what is characteristic of value pluralism (and that seems more relevant for political theory) is the idea that there are many and heterogeneous goods irreducible to a single value. Value pluralism rules out the possibility of fully rank-ordering the distinct and conflicting values that we encounter in our moral life. From the point of view of value pluralism there is also no value or good (no *summum bonum*) always having priority when there is a conflict with other values and goods.

The philosophical challenger of value pluralism is moral monism. It claims that all moral values can be reduced to a single measure and that all moral decisions have, at least in principle, a clear and well identifiable solution. Utilitarianism is the classical expression of monism. Whereas Rawls and other theorists of the rights have objected to utilitarianism on the basis that it does not respect adequately the separateness of persons, value pluralists’ objection concerns the fact that “utilitarianism fails to take seriously the heterogeneity of values”<sup>192</sup>. According to Galston it is utilitarianism (and all other variants of monist theories) that should demonstrate how the heterogeneity of goods is reducible to homogeneity without improperly reducing the complexity of our ordinary moral world. In fact, Galston never justifies value pluralism. He presents it as “an account of the actual structure of the normative universe”<sup>193</sup>, advances descriptive claims in its favour, and declares that “it is concrete experience that provides the most compelling reasons for

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<sup>189</sup> Ibid.

<sup>190</sup> Here Galston is explicitly influenced by Hart’s minimum content of natural law (See H. L. A. Hart, *The Concept of Law*, Clarendon, 1961, p. 189-195). As he states in a recent interview, “there are certain goods that no human being would willingly do without, and political authority behaves wrongly when it disregards or contradicts this fact, which is [...] at the heart of international human rights standards”. Galston does not want to introduce natural law elements in his theory. Rather his aim is pointing out that there are some ‘great evils’ of human condition with which politics should be concerned. See *À propos de ‘The Practice of Liberal Pluralism’ de William Galston. Un Dialogue avec l’Auteur*, in *Les Ateliers de l’Éthique*, 2006, p. 9.

<sup>191</sup> S. Hampshire, *Morality and Conflict*, Harvard University Press, 1983, p. 155.

<sup>192</sup> W. A. Galston, *Liberal Pluralism*, cit., p. 33.

<sup>193</sup> Ivi, p. 30.

accepting some form of value pluralism”<sup>194</sup>. What Galston gives us is no more than a description and a defence<sup>195</sup> of value pluralism in response to some objections raised by critics, but never a proper philosophical justification.

The political implications of value pluralism are not immediately clear. Among the theorists accepting value pluralism the compatibility between this account of moral world and liberalism is a matter of dispute. Theorists like I. Berlin, B. Williams, and G. Crowder, claim that pluralism is attuned with liberalism, whereas others like J. Gray believe that the acceptance of value pluralism and the consequent refusal of autonomy (and even negative liberty) as the trump value leads to conceiving of liberalism as a theory of only local authority<sup>196</sup>. Galston explicitly follows Berlin’s route in trying to elaborate a liberal theory that assumes value pluralism and negative liberty as fundamental ideas. For Galston and Berlin negative liberty should be understood as “the capacity of individuals unimpeded by external coercion or constraints, to choose for themselves among competing conceptions of good or valuable lives”<sup>197</sup>. A minimal conception of liberty such as this can have a privileged status in value pluralism and can function as the starting point for the elaboration of a liberalism compatible with the acceptance of value pluralism.

Assuming this idea of negative liberty does not commit to some controversial philosophical or psychological systems. What does matter is only “the absence of force”<sup>198</sup> when one wants to leave a community that risks becoming a prison. Galston claims that “the rejection of human imprisonment is the core of what Berlin means by negative liberty, and it is a principle with moral

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<sup>194</sup> Ivi, p. 33.

<sup>195</sup> See W. A. Galston, *The Practice of Liberal Pluralism*, cit., Chap. 2.

<sup>196</sup> I. Berlin, *Four Essays on Liberty*, Oxford University Press, 1969; B. Williams, Introduction to H. Hardy, ed., *Concepts and Categories. Philosophical Essays by Isaiah Berlin*, Penguin Books, 1981; J. Gray, ‘Where Pluralists and Liberals Part Company’, in M. Baghramian and A. Ingram, eds., *Pluralism: the Philosophy and Politics of Diversity*, Routledge, 2000; J. Gray, *Isaiah Berlin*, Princeton University Press, 1996. Another position is represented by J. Kekes, according to which value pluralism leads to a refusal of liberalism in politics. See J. Kekes, *The Morality of Pluralism*, Princeton University Press, 1996. For a recent and well informed survey of the different positions see G. Crowder, *Value Pluralism and Liberalism. Berlin and Beyond*, in G. Crowder, and H. Hardy, Edited by, *The One and the Many. Reading Isaiah Berlin*, cit.

<sup>197</sup> W. A. Galston, *Liberal Pluralism*, cit., p. 48. See also, I. Berlin, *Four Essays on Liberty*, Oxford University Press, 1969, Chapter 3.

<sup>198</sup> W. A. Galston, *Liberal Pluralism*, cit., p. 51.

force across political boundaries”<sup>199</sup>. Pluralism can accept traditional practices such as arranged marriage but it cannot accept that communities could impose the same practices on individuals that refuse to identify in them and that would leave the community. That is the main meaning of the negative liberty that Galston strives to defend.

It is quite commonly agreed that value pluralism can object to those theories arguing that autonomous life is the necessary condition for human flourishing on the basis that there are many goods other than autonomy itself and that one can lead a good life without being autonomous. Galston argues that this objection does not represent a threat for the centrality of negative liberty in his (and Berlin’s) account of value pluralism. Rather it is “the fact of value pluralism itself that gives special status to individual liberty”<sup>200</sup>. It is value pluralism’s emphasis on the plurality of valuable and ultimate ends that confers particular importance to negative liberty and to the freedom to choose among many options. Galston, consistently with the acceptance of value pluralism, concedes that there are good human lives that do not ascribe to choice any particular value, but at the same time he recognizes that value pluralism itself suggests that “there is a range of indeterminacy within which various choice are rationally defensible”, and that “because there is no single uniquely rational ordering or combination of such values”<sup>201</sup>, any imposition of an ordering of value would be unjustified.

Then the centrality of negative liberty in Galston’s (and Berlin’s) value pluralism is rooted not in the belief that rational and conscious choice is a feature that in any case distinguishes the good lives, but in the idea that coercion, not being a natural fact, should be always justified because of the “pervasive human desire to go our own way in accordance with our own desire and beliefs”<sup>202</sup>. This desire should not be interpreted as an equivalent to the idea of liberal autonomy and as an endorsement of the view that autonomy is always the trumping value. In fact, this move is unavailable to value pluralists given their commitment to the view that there is no such value.

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<sup>199</sup> Ivi, p. 56.

<sup>200</sup> Ivi, p. 51.

<sup>201</sup> Ivi, p. 57.

<sup>202</sup> Ivi, p. 58.

Galston insists that the desire to live in accordance with her own conception of life is not a desire of an autonomous life: “a life lived with the requisite symmetry between the inner and the outer is a life of integrity”<sup>203</sup>, and, when this symmetry occurs unimpeded by external force, also not-autonomous lives can have a significant level of integrity.

Galston’s argument about negative liberty has been criticised by Robert Talisse because it seems to rely without enough reasons on the idea that negative liberty should be considered as the “default position”<sup>204</sup> and that any deviation from it should be justified. Galston attempts to reply to this critique by pointing out that his account of negative liberty should not be read as the identification of an arbitrary default position, but should be related to the problem of justification for authority. Western political theory starts with a question about who can legitimately exercise power, and different theories have furnished divergent answers: “If value pluralism is the philosophically preferred account of the structure of the moral universe”<sup>205</sup> then it rules out many answers to the question of what is a legitimate exercise of power. For example, it forbids that illiberal associations impose on their members some practice that they overtly refuse.

To give a more complete presentation of Galston’s liberal pluralism I conclude this section with some remarks about the *comprehensive* character of Galston’s theory in comparison with Rawlsian *political* liberalism<sup>206</sup>. The comprehensive<sup>207</sup> character of Galston’s liberal pluralisms descends in quite obvious ways from its reliance on value pluralism. As Charles Larmore writes, political liberalism’s ambition is to “find principles of political associations expressing certain

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<sup>203</sup> W. A. Galston, *The Practice of Liberal Pluralism*, cit., p. 192.

<sup>204</sup> R. B. Talisse, *Can Value Pluralists be Comprehensive Liberals? Galston’s Liberal Pluralism*, in *Contemporary Political Theory*, 2004, p. 133. A rather similar objection has been raised by E. Ceva. She asserts that Galston’s discussion of negative liberty “presupposes a liberal understanding of human beings as self defining individuals, which is not as uncontroversial as Galston seems to suggest” and that “even if negative liberty may seem to be a thinner value than autonomy, it remains none the less a controversial value, which is hard to justify once liberal assumptions are questioned”. See E. Ceva, *Liberal Pluralism and Pluralist Liberalism*, in *Res Publica*, 2005, p. 209-210.

<sup>205</sup> W. A. Galston, *Liberal Pluralism: A Reply to Talisse*, *Contemporary Political Theory*, 2004, p. 140.

<sup>206</sup> See J. Rawls, *Political Liberalism*, Columbia University Press, 1993.

<sup>207</sup> In the Rawlsian parlance one would say that a comprehensive doctrine is a doctrine that “includes what is of value in life and gives life its meaning. Metaphysical doctrines regarding the nature of reality, and epistemological doctrines regarding the possibility and conditions of human knowledge are also comprehensive doctrines, as are all religions. Natural, social, and mathematical sciences, however are not comprehensive doctrines for Rawls, at least not in so far as they incorporate generalities, laws, theorems, hypotheses, and theories that are generally accepted by experts in the field”. See S. Freeman, *Rawls*, Routledge, 2007, p. 332.

fundamental moral values that, to as great an extent as possible, reasonable people may accept despite the different views about the good and about religious truth that divide them”<sup>208</sup>. Value pluralism is a complex view about the nature of value in plain opposition to those metaphysical and religious doctrines according to which there is only a single source of value. From the political liberalism’s standpoint it appears to be such a controversial doctrine that its claims can reasonably be rejected.

Galston’s divergence from *political* liberalism seems to be clear and explicit. Rawls elaborated a liberal theory whose scope is limited to the basic structure of the society, is independent (or *freestanding*) of comprehensive doctrines, and is worked out from values, ideas, and principles implicit in the culture of a liberal democratic society. *Political* Rawlsian liberalism demands that the public justification of fundamental institutions and policies must avoid any appeal to contested and controversial comprehensive doctrines. Instead Galston claims that it is impossible to submit political discourse to the extremely demanding constraints required from Rawlsian public reason<sup>209</sup>. Public discussion about policies and constitutional matters cannot avoid references to contested notions deriving from comprehensive doctrines<sup>210</sup>. The alternative “is stubborn silence, a kind of democratic dogmatism that ill serves both theory and practice”<sup>211</sup>.

#### **4. Educating for diversity.**

A short discussion about educational policies will be valuable to illustrate how Galston’s diversity liberalism actually works in practical cases. In fact, education is a field in which the significance of accommodating the demands of individuals and groups who do not perceive their flourishing in autonomy terms appears particularly troubling. For instance, think about traditional

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<sup>208</sup> C. Larmore, *The Morals of Modernity*, Cambridge University Press, 1996, p. 154.

<sup>209</sup> To say the truth, Galston’s is a too rigid and schematic rendering of Rawlsian *political* liberalism and of his idea of public reason which, in more recent reformulations, admits some substantial waivers from the strictness criticised by Galston. See J. Rawls, *The Idea of Public Reason Revisited*, in *University of Chicago Law Review*, 1997.

<sup>210</sup> According to Galston, abortion is the typical example of moral and political controversies in which every collective decision implies references to some controversial doctrines. Both *pro-life* and *pro-choice* decision exhibit a commitment “to specific views of human personality and right conduct”. See W. A. Galston, *Defending Liberalism*, in *The American Political Science Review*, Vol. 76, No. 3., Sep. 1982, p. 627.

<sup>211</sup> W. A. Galston, *Liberal Pluralism*, cit., p. 44.

communities that refuse to assimilate in liberal democracy for religious reasons and try to shield themselves from scientific progress and the ideals of civic participation, self-criticism, and individuality that mark modernity. Such communities represent a thorny challenge for liberal aspirations to inclusiveness and fairness.

The Amish are the classic (and most debated) example in a similar discussion because they are involved in one of the most well known judicial US cases concerning education, *Wisconsin v. Yoder*<sup>212</sup>. The Amish constitute small and conservative religious communities living in North America, mainly in Pennsylvania, the Midwest, and Ontario. They completely reject modern world and try to live according to their religious norms that command isolation from secular world, rejection of technology, and a severe educational system that is designed to prepare young Amish to perpetuate their community without questioning either its structure or criticizing its practices. As Shapiro and Arneson observe, the Amish are “particularly opposed to high school education, which they see as threatening to their entire way of life”<sup>213</sup>. In *Wisconsin v. Yoder* three Amish parents requested and obtained two years of exemption of their children from a Wisconsin law prescribing school attendance until the age of sixteen. Amish parents claimed that an excess of their children’s exposure to diversity would have been obnoxious to the preservation of their lifestyle. They also alleged that particularly in the last two years of compulsory education Amish children would have been likely to develop critical attitudes that facilitate their leaving the community. Moreover, Amish parents maintained that compulsory high school, being contrary to their religious beliefs, would have been an unjust curtailment of their religious freedom.

Galston claims that “Yoder was correctly decided”<sup>214</sup>. Taking this stance, Galston differentiates himself both from those conservatives fearing that admitting exemptions for religious

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<sup>212</sup> *Wisconsin v. Yoder*, 406 US 205 (1972). For a more detailed account of the Amish communities and *Wisconsin v. Yoder*, see R. Arneson and I. Shapiro, ‘Democratic Autonomy and Religious Freedom: A Critique of *Wisconsin v. Yoder*’, in I. Shapiro, *Democracy’s Place*, Cornell University Press, 1996; A. Gutmann, *Children, Paternalism, and Education: A Liberal Argument*, in *Philosophy and Public Affairs*, Vol. 9, No. 4 (Summer, 1980); J. Spinner-Halev, *The Boundaries of Citizenship. Race, Ethnicity, and Nationality in Liberal State*, The Johns Hopkins University Press, 1994, Chapter 5.

<sup>213</sup> R. Arneson and I. Shapiro, *Democratic Autonomy and Religious Freedom: A Critique of Wisconsin v. Yoder*, cit., p. 141.

<sup>214</sup> W. A. Galston, *Two Concepts of Liberalism*, cit., p. 516.

groups from general laws could weaken state central power, and from those liberals arguing that exemption like those allowed by Yoder could translate into hindrances for children's autonomy development. Galston's endorsement of Yoder can be understood in the light of a consideration of expressive liberty, political pluralism, and value pluralism that, as we observed in the previous pages, are the three sources of his liberal pluralism.

The expressive liberty we are dealing with when we are discussing children's education is parent's expressive liberty<sup>215</sup>. Galston argues that "the ability of parents to raise their children in a manner consistent with their deepest commitments is an essential element of expressive liberty"<sup>216</sup>. Galston partially accepts the *fiduciary model*<sup>217</sup> according to which parents should promote the future interests of their children. He maintains that children's "vulnerability, dependency, and developmental needs"<sup>218</sup> are the main reason in favour of this model. Still Galston thinks that the parental role in raising children cannot be reduced to that of a mere care-taker, teacher, or state delegate for instructing children about how to become a good citizen. Relying on some of Eamonn Callan's reflections on children-parents relation, Galston writes that "parenting is typically undertaken as one of the central meaning-giving tasks of our lives"<sup>219</sup>. In fact, being a good parent is a fundamental part of what constitutes a good life for people deciding to have children, and parenthood generally implies that everyone shapes one's daughters' and sons' values in agreement with what she deems valuable. Galston maintains that "the child is in part (though only in part) an extension of ourselves" and that any attempt to hinder parents' educational efforts in raising their children represents a hateful form of disrespect for parents' expressive liberty. Liberal states,

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<sup>215</sup> Parents' is the only expressive liberty explicitly acknowledged by Galston in the case we are discussing, but as we observed in the footnotes 24 and 25, Galston admits that even groups are the kinds of subjects to which expressive liberty relates. It would seem that Amish group expressive liberty too (i. e. their "normatively privileged and institutionally defended ability [...] to lead their lives as they see fit") is involved in Yoder. In fact, the Amish lament that secular education, through an excess of children's exposure to diversity, jeopardises the perpetuation of their traditional, conservative, and agrarian lifestyle. Some of the liberalism's difficulties involved in the ascription of a collective expressive liberty have been mentioned in the footnote 25.

<sup>216</sup> W. A. Galston, *Liberal Pluralism*, cit., p. 102.

<sup>217</sup> A version of this fiduciary model is extensively defended in R. Arneson and I. Shapiro, *Democratic Autonomy and Religious Freedom: A Critique of Wisconsin v. Yoder*, cit.

<sup>218</sup> W. A. Galston, *Liberal Pluralism*, cit., p. 103.

<sup>219</sup> Ivi, p. 102. See also E. Callan, *Creating Citizens: Political education and Liberal Democracy*, Clarendon Press, 1997.

differently from illiberal regimes that subordinate parental role in education to the fulfilment of a unitary and undifferentiated culture, should respect (obviously without certain limits<sup>220</sup>) expressive liberty and then should agree with the Yoder decision.

If we consider political pluralism we could have additional reasons in favour of the exemption from the last two years of high school education granted to Amish children by the Yoder decision. As we saw in the previous section, political pluralism guarantees that there are more than one legitimate authority in liberal democracies and that state power should not be considered as the supreme power that subordinates all the others. Yoder, with its recognition that parental authority could be granted qualified autonomy against state's educational general aspirations, could be considered as a substantial acceptance of political pluralism. As Ian MacMuellen writes, "Galston's distinctive claim is that civic goals are not to be privileged over other competing values"<sup>221</sup>.

In a recent essay Amy Gutmann interprets Galston's theory as a form of *civic minimalism* which "accepts a minimal set of common educational standards but no more. Its aim is to maximize parental authority consistently with keeping a democratic society unified"<sup>222</sup>. The Yoder decision seems acceptable because Amish people, thanks to their peaceful nature and their isolated and agrarian existence, do not constitute a serious threat against civic peace. In addition, Amish can leave their community, so they enjoy substantive exit rights. According to Galston, "the Amish community is not a prison. For young adults must explicitly choose to become full members", and "there is no evidence that many former members find themselves unable to cope with the demands

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<sup>220</sup> Parent's expressive liberty is an important value but, as Galston suggests, "it is not the only good" (*Liberal Pluralism*, cit., p. 102). For example it cannot neither legitimize ritual sacrifices nor exempt parents from responsibilities towards other people and towards institutions. Moreover parents' expressive liberty should be balanced with children's expressive liberty that, as they develop, must be given more weight.

<sup>221</sup> I. MacMuellen, *Faith in Schools? Autonomy, Citizenship, and Religious Education in the Liberal State*, Princeton University Press, 2007, p. 45.

<sup>222</sup> A. Gutmann, *Unity and Diversity in Democratic Multicultural Education*, in J. A. Banks, *Diversity and Citizenship Education*, Jossey Bass, 2004, p. 88. A clear statement of Galston's *civic minimalism* is: "liberal pluralism requires a parsimonious but vigorous system of civic education that teaches tolerance [...] and helps equip individuals with the virtues and competences they will need to perform as members of a liberal pluralist economy, society, and polity". What is required by liberal pluralist system of civic education should not go beyond what is strictly necessary for ensuring "that the convictions, competences, and virtues required for liberal citizenship are widely shared". W. A. Galston, *Liberal Pluralism*, cit., pp. 126-127). Some difficulties encountered by civic minimalism in establishing what is actually required for a working system of civic education have been pointed out by Amy Gutmann both in *Unity and Diversity in Democratic Multicultural Education* and in the *Epilogue* to the Second Edition of *Democratic Education*, Princeton University Press, 1999<sup>2</sup>, pp. 292-302.

of a modern economy and society”<sup>223</sup>. All these considerations should work in favour of the acceptance of the legitimacy of (a qualified) parental authority in Yoder.

Galston’s agreement with the Yoder decision seems to be resistant also to a partial receipt of those liberal objections asserting that Amish people are not good liberal citizens because their “society is patriarchal – women are regarded as unequal helpers of men – and Amish children are not prepared for being critically receptive citizens”<sup>224</sup>. Liberalism, and it is here that value pluralism comes in, cannot ask for a never questioned primacy of those political virtues associated with autonomy, rationality, and self-examination. Amish can score very high in respect to other virtues such as law abidingness, responsibility, tolerance of diversity, that are nonetheless fundamental for a well functioning liberal democratic society<sup>225</sup>. It is just the acceptance of value pluralism as the most adequate theoretical tool for describing our moral world that leads us to the claim that a compulsory education aimed at instructing children for living an autonomous and self-examining life would take for granted that individual autonomy is the *sommmum bonum* to which everything should be subordinated. If value pluralism holds we can question the Socratic thought (assumed more or less tacitly by the dominant part of the liberal democratic tradition) according to which “the unexamined life is an unworthy life, that individual freedom is incompatible with ways of life guided by unquestioned authority or unswerving faith”<sup>226</sup>. For Galston there is still moral goodness outside the narrow domain of autonomy, and Yoder adequately recognizes that.

## 5. Questioning Galston’s liberalism.

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<sup>223</sup> W. A. Galston, *Liberal Pluralism*, cit., p. 106. It should be said that Galston has a quite broad conception of exit rights. To have *meaningful* exit rights one should be aware of the existence of other ways of life, should be able to assess the value of those opportunities and to participate in different communities’ lives, and should be free from all the psychological forms of coercion that could hinder her normal development. See W. A. Galston, *Liberal Pluralism*, cit., p. 123.

<sup>224</sup> S. Macedo, *Liberal Civic Education and Religious Fundamentalism: The Case of God v. John Rawls?*, in *Ethics*, Vol. 105, 1995, p. 488.

<sup>225</sup> For an extensive discussion of Galston’s view about liberal virtues see W. A. Galston, *Liberal virtues*, in *The American Political Science Review*, Vol. 82, Dec. 1988, and W. A. Galston, *Liberal Purposes*, cit., Ch. 10.

<sup>226</sup> W. A. Galston, *Civic Education in the Liberal State*, in N. Rosenblum, Edited by, *Liberalism and Moral Life*, Harvard University Press, 1989, p. 99.

After having presented Galston's liberal theory in many of its relevant aspects we can proceed to a critical evaluation of his proposal. Firstly, we will argue that Galston misrepresents both conceptually and historically the theories he dubs *autonomy liberalism* and *diversity liberalism*. Then we will proceed to a critical evaluation of Galston's *diversity liberalism*. Our critical remarks will focus on the assumption that the protection of diversity is enquiry's starting point for *diversity liberalism*; the possibility that value pluralism (that is a view about goods) could glide into a view about plurality of cultures; the lack of conceptual clarity of a theory that aspires both to comprehensiveness (with its relying on value pluralism) and to minimal commitments (with its emphasis on the minimal character of negative liberty). Galston's liberalism will be submitted to a series of objections raising doubts on its theoretical consistency and on its aspiration to be an adequate tool for dealing with diversity.

Firstly, Galston's presentation of *autonomy* (or *Enlightenment*) liberalism as a theory committed to promoting autonomy understood as an individual capacity for rational self-direction is far from accurate both theoretically and historically. In Emily Gill's *Becoming Free*, one can read that "for Galston a liberal society or government that values and tries to inculcate the capacity for autonomy in all citizens does not promote diversity but undermines it"<sup>227</sup>. What does promoting "Socratic or Millian ideals as valid for all citizens"<sup>228</sup> mean? Is it true that the advocates of this form of liberalism want to actively encourage the value of autonomy? How is it possible to uphold autonomy without betraying other fundamental liberal premises? Take for example J. S. Mill, considered by Galston as one of the most pre-eminent autonomy liberals. Mill, notwithstanding the perfectionist character of his utilitarian liberalism<sup>229</sup> and his thought that "it was good for people to reflect on their beliefs and to exercise some kind of self-conscious choices about their way of

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<sup>227</sup> E. Gill, *Becoming Free. Autonomy and Diversity in the Liberal Polity*, University Press of Kansas, 2001, p. 223.

<sup>228</sup> W. A. Galston, *Liberal Pluralism*, cit., p. 62.

<sup>229</sup> See P. Donatelli, 'Bringing Truth Home: Mill, Wittgenstein, Cavell and Moral Perfectionism', in A. Norris (Edited by), *The Claim to Community. Stanley Cavell and Political Philosophy*, Stanford University Press, 2006; Idem, *Mill's Perfectionism*, in *Prolegomena*, 2006.

life”<sup>230</sup>, never argued in favour of public coercive measures for shaping individual characters. It is evident in his claim that the state should not be directly concerned with the education of children. As Brian Barry observed, the role of institutions in Mill (and also in other *autonomy liberals*) is to “provide the conditions under which autonomy can flourish but they do not do anything directly to bring about the *ideal of autonomy*”<sup>231</sup>. Even Will Kymlicka, which explicitly endorses autonomy liberalism, distinguish between the identification of the more adequate liberal theory and the imposition of the theory itself to illiberal and non-liberal minorities: accepting a liberal theory for which autonomy is the main value does not directly commit to the imposition of autonomous lifestyles to traditional communities and their individuals<sup>232</sup>.

No liberal society can require that everyone should be engaged in Socratic self-examination, for this imposition would result in hateful violations of fundamental and traditional liberal guarantees such as the respect for privacy and individuality. Liberal institutional commitments stop at the point in which everyone disposes of the required means for thriving both in an autonomous and in a non-autonomous way.

Moreover, and with these remarks we point out the historical inaccuracy we mentioned before, Galston gives us a too narrow characterization of *Enlightenment liberalism*. It is equated with only one Enlightenment strand, that is the Rationalist, according to which “individual autonomy is identified with the individual exercise of reason, so principles of justice must be constructed which are acceptable to all on the basis of reason alone”<sup>233</sup>. There is another (although not dominant in contemporary liberal debate) tradition in Enlightenment that is not considered by Galston: it is the Sentimentalism represented principally by David Hume and Adam Smith, which gave a complex and sophisticated account of ethics and politics in which political principles must be endorsed not in terms of reason alone but also in terms of sentiments and emotions.

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<sup>230</sup> B. Barry, *Culture and Equality. An Egalitarian Critique of Multiculturalism*, cit., p. 119.

<sup>231</sup> Ivi, p. 121.

<sup>232</sup> See W. Kymlicka, *Multicultural Citizenship*, cit., p. 164.

<sup>233</sup> M. L. Frazer, *John Rawls. Between Two Enlightenments*, Political Theory, Vol. 35, No. 6, Dec. 2007, p. 758. In this article Frazer tries to show the presence of both Rationalist Enlightenment and Sentimentalist Enlightenment in the thought of John Rawls.

Then Galston's representation of *autonomy liberalism* is both conceptually and historically flawed. If we pass to consider *diversity liberalism* we will find other weaknesses from the historical point of view. First of all there is some difficulty in asserting that the sources of a liberalism founded on toleration and on acceptance of diversity must be founded in the Protestant Reformation. As Brian Barry outlines, it was already John Stuart Mill that in *On Liberty* warned against any uncritical enthusiasm about the Reformation legacy for liberal theory. Mill wrote that "those who first broke the yoke of what called itself the Universal Church, were in general as little willing to permit differences of religious opinion as that church itself"<sup>234</sup>. The break-up of the Universal Church was seen with regret by all the involved parts, and the Peace of Augsburg (1555) was perceived at maximum as the realization of a *modus vivendi* coexistence alterable according to evolving power relations.

For what concerns diversity liberalism we would like to argue that is not clear if it conceives of diversity as "its point of departure"<sup>235</sup> or as the value that should be protected or pursued through public policies (as has been shown through the example of the Amish). Diversity, from a liberal point of view, is a fact of social life having as such no particular value. It is simply a sociological fact that our societies are diverse for what concerns morality, religion, and politics. Diversity as such is not a value and we can have circumstances in which homogeneity could be preferable to diversity. Think for instance of the degree of convergence required by the good functioning of some religious or political associations. As Chandran Kukathas clearly writes, "diversity is not the value liberalism pursues but the source of the problem to which it offers a solution"<sup>236</sup>. Liberalism is required to give an answer to the problem of elaborating agreeable principles for making possible the peaceful coexistence in a society extensively pervaded by the conflict about how one should live. Posing from the starting point that diversity is the value that liberalism should protect could mean puzzling the priorities and the finalities of liberal inquiry.

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<sup>234</sup> J. S. Mill, *On Liberty*, in S. Collini, Ed., *On Liberty and Other Writings*, Cambridge University Press, 1989, p. 11. See B. Barry, *Culture and Equality*, cit., p. 126.

<sup>235</sup> W. A. Galston, *Liberal Pluralism*, cit., p. 26.

<sup>236</sup> C. Kukathas, *Liberal Archipelago. A Theory of Diversity and Freedom*, Oxford University Press, 2003, p. 29.

Another objection that can be formulated against Galston's theory relates to the ways in which he employs value pluralism. It is a view about plurality and incommensurability of conflicting goods, not cultures, so it should emphasize a state of affairs in which many values compete without an always valid rule of priority. Galston himself recognizes this feature of value pluralism when he refers to it as a resource to ground a liberal theory. For he claims that "while liberal pluralists celebrate legitimate diversity among cultures, they suspect that diversity will exist within culture as well and that a culture's smoothly homogeneous public face reflects the covert operation of power"<sup>237</sup>. This statement results in patent tension with the acceptance of Amish's restrictions on children education, because the homogeneity and the social immobility of Amish society could be a signal of an unjustified and oppressing power exercised from the strongest against the weakest members of the group.

At this point we agree with George Crowder's when he notices that "Galston does not go as far as Gray in identifying the incommensurability of values with the incommensurability of political regimes, but he tends similarly to equate diversity of goods with diversity of cultures"<sup>238</sup>. If the identification of the incommensurability of values with the incommensurability of political regimes easily translates into a relativistic view according to which there is no prospect for criticizing political institutions from outside, even the more moderate equation of diversity of goods with diversity of cultures is a dangerous move toward a relativistic position that is both unavailable to Galston given his often stated idea that "pluralism is not the same as relativism"<sup>239</sup> and potentially illiberal. In fact, the emphasis on the diversity of cultures might hide the presence of oppression and coerced homogeneity within the groups themselves. In all likelihood there will be conflicts between diversity *among* cultures and *within* cultures, and Galston's theory does not give us clear advises to deal with them.

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<sup>237</sup> W. A. Galston, *Liberal Pluralism*, cit., p. 64.

<sup>238</sup> G. Crowder, *Isaiah Berlin*, cit., p. 163.

<sup>239</sup> W. A. Galston, *Liberal Pluralism*, cit., p. 30.

Our last critical remark concerns the comprehensive character of Galston's *diversity* liberalism. At the end of the third section we observed that Galston wants to point out his distance from *political* liberalism. His commitment to value pluralism and his objections to the constraints imposed by the norms of public reason on public life and discussion would seem enough to firmly place Galston into the comprehensive camp. But the issue is not as simple as it could appear at the first sight. For some commentators like Will Kymlicka and Robert Talisse consider Galston as a *political* liberal. In a book published in 1995, so before the publication of Galston's works we are mainly considering here, Kymlicka includes Galston among *political* (or *pro-toleration*, or *pro-diversity*) liberals such as John Rawls, Charles Larmore, and Donald Moon<sup>240</sup>: their theories share a common opposition to the commitment to autonomy as the fundamental liberal value<sup>241</sup> for accommodating the claims of not properly liberal groups and individuals. An account of Galston as a *political* liberal is profoundly misconceived because Kymlicka, as it is more extensively argued in the first chapter, conflates the *political/comprehensive distinction*, which is about the justification of a liberal theory, with the *pro-autonomy/pro-diversity toleration*, which instead is about the value a liberal theory might assume as fundamental.

Talisse instead challenges the view that *diversity liberalism* is a comprehensive theory<sup>242</sup>. Galston's appeal to the relevance of the presumption against coercion and in favour of negative liberty would render Galston's liberal pluralism dangerously<sup>243</sup> akin to the Rawlsian *political* liberalism. Given that the presumption against coercion and the primacy of negative liberty understood along value pluralist's lines are widespread view in a liberal society, it would seem that Galston agrees with one of the three features we ascribed to *political* liberalism (political principles are to be worked out starting from what John Rawls names "implicitly recognized basic ideas and

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<sup>240</sup> J. Rawls, *Political Liberalism*, cit.; C. Larmore, *Patterns of Moral Complexity*, Cambridge University Press, 1987; D. Moon, *Constructing Community. Moral Pluralism and Tragic Conflicts*, Princeton University Press, 1993.

<sup>241</sup> W. Kymlicka, *Multicultural Citizenship*, cit., p. 158. Kymlicka continues to consider Galston as a *political* liberal also in his most recent *Contemporary Political Philosophy. An introduction*, Oxford University Press, 2002<sup>2</sup>.

<sup>242</sup> R. B. Talisse, *Can Value Pluralists be Comprehensive Liberals? Galston's Liberal Pluralism*, cit., p. 136.

<sup>243</sup> We say *dangerously* because that proximity is against the Author's declared purposes.

principles”<sup>244</sup> of a liberal democratic society). We already discussed this objection and we saw that Galston’s reliance on negative liberty and on the idea that coercion should be always justified is not an arbitrary assumption of a default position but rather a consequence of the acceptance of value pluralism as the most adequate view about ethics. There is still another consideration that would fade the distinction between Galston’s theory and political liberalism, that is Galston’s understanding of negative liberty as a very minimal notion that is independent from disputable philosophical and metaphysical assumptions. It would work as the basis of a liberal theory thought as a *minimal moral conception*<sup>245</sup> undistinguishable from political liberalism with its search for a consensus on some shared basic values as a guarantee of a just and stable political society.

It would seem that Galston’s search of a minimally committed notion of negative liberty *politicizes* his diversity liberalism. And yet Galston’s reliance on value pluralism is too fundamental to be disregarded as the main factor that renders his theory a comprehensive liberalism. It is so relevant that Galston himself does not disrespect it even when it leads to endorsing conclusion in some respects not compatible with some central tenets of liberal political morality. For instance, in the discussion of Yoder we observed that the employment of value pluralism as one of the resources of diversity liberalism works not as a device for defining “a more modest conception of autonomy as freedom of choice”<sup>246</sup> and for balancing autonomy and diversity liberalism, but as an instrument for giving priority to diversity and undermining what Galston himself considered (and still considers) as necessary virtues for every liberal citizen, that is the “capacity to evaluate the talents, character, and performance of public officials” and “critical reflection needed to understand, to accept, and to apply liberal principles of justice”<sup>247</sup>. Differently from what Galston maintains, we think that arguing for a not-principled concession of exemption for Amish due to their peaceful nature, scarce numerical relevance, and relative isolation from the rest of society, would have been

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<sup>244</sup> J. Rawls, *Political Liberalism*, cit., p. 8.

<sup>245</sup> That is political liberalism in Charles Larmore’s understanding. See C. Larmore, *The Morals of Modernity*, cit., p. 133.

<sup>246</sup> W. A. Galston, *The Practice of Liberal Pluralism*, cit., p. 182.

<sup>247</sup> W. A. Galston, *Liberal Purposes*, cit., p. 246, 294.

more consistent with Galston's general approach and in general with any theory aspiring to generosity toward diversity but not willing to give up when core liberal values are at stake<sup>248</sup>.

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<sup>248</sup> See S. Macedo, *Liberal Civic Education and Religious Fundamentalism*, cit., and J. Spinner, *The Boundaries of Citizenship. Race, Ethnicity, and Nationality in the Liberal State*, The Johns Hopkins University Press, 1994, Ch. 5.

# CHAPTER IV

## Political Liberalism and Diversity: Political Transformations.

### 1. Introduction.

In this chapter I will discuss the way in which what I labelled in the first Chapter of the Dissertation ‘political pro-autonomy liberalism’ deals with diversity. Stephen Macedo’s approach will be assumed as an example of this kind of theory. In Macedo’s view the politicization of liberalism coexists with a commitment to the value of autonomy, although the autonomy that political liberalism refers to is, as it will be more clear in the following pages, a political notion.

In the next section I will give an account of Macedo’s politicization of liberal theory as a progress beyond the weakness of comprehensive liberalisms’ attempts to accommodate diversity that have already been analyzed in Chapter II and Chapter III. Political liberalism is mainly a Rawlsian idea, and Macedo’s position is overtly relying on Rawlsian thoughts<sup>249</sup>. Nevertheless, his theory has some noteworthy peculiarities that make it independent from the original inspiration. Above all, Macedo is more candid than Rawls about liberal partisanship and about the impossibility

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<sup>249</sup> See especially J. Rawls, *Political Liberalism*, Expanded Edition, Columbia University Press, 2005. When suitable, in this chapter I will use also Rawlsian texts and thoughts.

of achieving a completely neutral justification for a liberal theory. To be more precise, he is less reticent than the Author of *Political Liberalism* in “spelling out the controversial implications of liberalism” and “the deep and broad implications of liberal politics”<sup>250</sup>. However, it should be pointed out that Macedo does not completely reject neutrality but, as the fourth section will show, he argues for a very constrained notion of liberal neutrality that is consistent with the ambitions and the structure of political liberalism.

Macedo’s theory is also characterized by a pronounced civic dimension. The idea is that, in order to flourish, liberal societies need a civic life of a certain kind. Citizens must be educated so that they can give their contribution to the thriving of liberal order. In the third section I will stress to explain that this means, among other things, that a liberalism such as Macedo’s cannot accept diversity in itself, as something having value as such. It will distinguish between healthy and unhealthy forms of diversity and will argue in favour of transforming collective and individual identities so that they can actively support the liberal society in which they live.

It is this view of transformation that will be found problematic. As I have argued in the Second Chapter of the Dissertation, the concept of transformation of groups’ identities is not tricky as such. In that Chapter, Will Kimlicka’s view has been objected on the basis of the narrowness of the notion of comprehensive autonomy according to which the transformations are conducted. In the case of Macedo the notion of autonomy that is assumed as relevant is less substantive and divisive yet still problematic: in fact, it is the emphasis on the political notion of autonomy that does not allow to see that when a liberal society decides to include new and presumably different minorities the transformations concern both majorities and minorities.

## **2. The *politicization* of liberalism.**

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<sup>250</sup> S. Macedo, *The Politics of Justification*, in *Political Theory*, Vol. 18, No 2, May 1990, p. 281.

Stephen Macedo's work is a clear expression of political liberalism's principles. In a 1995 article in which he discusses the problems posed to liberal civic education by moral and religious pluralism, he objected to comprehensive liberalism on the basis that their ideals are "deeply partisan and not easily defended", and that they "claim too much"<sup>251</sup>. Given the persistence of disagreement among reasonable individuals about the ultimate matters of ethics, religion, and philosophy, that is the 'fact of reasonable pluralism'<sup>252</sup>, and given that homogeneity about these controversial matters is either unfeasible or achievable only through an intolerably intrusive use of state coercion that inevitably would restrict individual freedoms and rights, political authority should not be premised on the validity of divisive comprehensive doctrines such as the view that critical thinking is a necessary feature of a good life, or that religious truths are to be achieved in some specific ways.

Macedo's *politicization* of liberalism closely follows Rawls' approach in *Political Liberalism*<sup>253</sup>. For Macedo proposes "to put aside such matters such as religious truth and the ultimate ideals of human perfection" and stress "to justify at least the most basic matters of justice on ground widely acceptable to reasonable people – and not only to those who share our particular view of the whole truth"<sup>254</sup>. In the Rawlsian jargon, reasonable people are those who "are prepared to offer one another fair terms of social cooperation" and "agree to act on those terms, even at the cost of their own interests in particular situations, provided that others also accept those terms"<sup>255</sup>. The notion of reasonableness is so central in Macedo's work that he maintains that political liberalism's core motive is "the desire to respect reasonable people"<sup>256</sup>.

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<sup>251</sup> S. Macedo, *Liberal Civic Education and Religious Fundamentalism: The Case of God v. John Rawls*, in *Ethics*, Vol. 105, 1995, p. 473.

<sup>252</sup> As John Rawls argues, "political liberalism assumes that a plurality of reasonable yet incompatible comprehensive doctrines is the normal result of the exercise of human reason within the framework of the free institutions of a constitutional democratic regime". See J. Rawls, *Political Liberalism*, cit., p. xvi.

<sup>253</sup> J. Rawls, *Political Liberalism*, cit.

<sup>254</sup> S. Macedo, *Liberal Civic Education and Religious Fundamentalism*, cit., p. 473.

<sup>255</sup> J. Rawls, *Political Liberalism*, cit., p. xlii.

<sup>256</sup> S. Macedo, *Diversity and Distrust. Civic Education in a Multicultural Democracy*, Harvard University Press, 2000, p. 170.

According to Macedo, and also to Rawls, political liberalism asks to ‘bracket’ our deepest convictions and to focus upon what reasonable people can share notwithstanding their deep disagreements. One could say that, contrarily to comprehensive liberals pursuing what could be called “a strategy of engagement” (in the sense that “they would invite our deepest disagreements on to the political stage to be grappled with directly”<sup>257</sup>), political liberals practice a more modest “strategy of avoidance” aimed at getting a fair agreement. The underlying idea is that “citizens who disagree about their highest ideals and their conceptions of the whole truth can nevertheless agree on public aims such as securing the equal enjoyment of a broad array of freedoms, establishing democratic institutions, and providing a basic social safety net”<sup>258</sup>. This agreement, political liberals contend, is reachable without sharing a specific comprehensive account of ethics, religion, and metaphysics.

At this point it should be pointed out that the theory Macedo is advancing is not sceptical. It is not led by the idea that human reason is unfit to know moral, religious, or other metaphysical truths. Macedo is extremely clear in maintaining that even if “political liberalism does not assert a particular view of the truth”, that does not mean “that there is no truth about these larger matters”<sup>259</sup>. What is relevant from a political liberal perspective is “to acknowledge the difficulty of publicly establishing any single account of truth for the whole of life”<sup>260</sup>.

Political liberalism does not demand that, even in their private lives, individuals have to be indifferent toward their religions or whatever be their ultimate ethical commitments: it assumes that each individual has her own comprehensive doctrine and that she can relate it to the political domain, which is defined by what reasonable people can share, according to her own lights<sup>261</sup>. As it

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<sup>257</sup> S. Macedo, *Liberal Civic Education and Religious Fundamentalism: The Case of God v. John Rawls*, cit., p. 491.

<sup>258</sup> S. Macedo, *Diversity and Distrust. Civic Education in a Multicultural Democracy*, cit., p. 170.

<sup>259</sup> *Ibidem*, p. 197.

<sup>260</sup> *Ibidem*, cit., p. 170. In *Liberal Civic Education and Its Limits* (Canadian Journal of education, 20:3, 1995) Macedo writes: “Political liberalism does not stand for scepticism about ultimate questions of moral and religious truth. Scepticism is a particular account of the nature of such claim: namely, that none of them is true. Political liberalism does not deny that there is a true view, it insists only that a democratic policy should try to respect the many reasonable views about the good life that citizens espouse” (p. 307).

<sup>261</sup> In *Diversity and Distrust* Macedo writes: “comprehensive religious and moral conceptions are regarded as inappropriate grounds for determining the shape of basic political institutions (because these conceptions are sources of

will be better understood in the following discussion of the idea of public reason, the primacy of the political domain only holds when matters of particular relevance are at stake. In fact, political liberals argue that the appeal to comprehensive doctrines is suspicious only when a society is fashioning “basic principles of justice”<sup>262</sup>, that is those fundamental rights and political principles that direct the coercive powers of the state. In other less significant circumstances, every individual can lead her life according to what her comprehensive doctrine demands.

The *politicization* of liberalism can be understood as a tool for amending comprehensive liberalism’s narrowness in accommodating and accounting for the problem of diversity. In fact, as Macedo maintains in a 1998 article, political liberalism is to be preferred to its opponent because the former, almost as a definitional matter, “accommodates a greater *philosophical diversity* at the foundational level than comprehensive versions of liberalism”<sup>263</sup>. If political liberalism’s justification of the political order does not rely on the validity of one among many conflicting conceptions of the good, it can more fairly accommodate and acknowledge the so called ‘fact of reasonable pluralism’. Whereas one could say that a comprehensive liberalism assuming autonomy as its core value “does not show very much respect for the choices citizens may make to live nonautonomously, as members of hierarchical societies or corporate bodies”<sup>264</sup>, political liberalism does not take a position about ultimate matters that are not directly relevant in the political domain. So it does not privilege those who, for instance, are committed to an autonomy inspired conception of the good life, but at the same time it does not marginalize those who conceive of their flourishing within conservative religious communities.

It has to be remarked that political liberalism’s openness towards diversity operates at the philosophical level. As the quotation from Macedo’s 1998 article shows, political liberalism, given

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reasonable disagreements). But that does not mean that what has been put aside is valueless or irrelevant to individual citizens. Quite the contrary, much of value is outside of the shared grounds of a liberal public morality” (p. 190).

<sup>262</sup> S. Macedo, *Diversity and Distrust. Civic Education in a Multicultural Democracy*, cit., p. 177.

<sup>263</sup> S. Macedo, *Transformative Constitutionalism and the Case of Religion. Defending the Moderate Hegemony of Liberalism*, in *Political Theory*, 1998, p. 79, my emphasis.

<sup>264</sup> M. Nussbaum, *A Plea for Difficulty*, in S. M. Okin, *Is Multiculturalism Bad for Women?*, Princeton University Press, 1999, p. 110.

its *freestandingness*, scores higher than comprehensive liberalism in accommodating a more elevated degree of (reasonable) *philosophical* diversity. The diversity that is *actually* accommodated is a further matter, and Macedo's political liberalism is quite far from a simple *laissez faire* approach toward diversity. In fact, as the following sections will show, his theory does not stand neither for an unconstrained neutrality among different conceptions of the good nor for an undifferentiated acceptance of diversity.

### **3. The civic and transformative dimensions of political liberalism.**

Stephen Macedo's political liberalism disagrees with any attitude of celebration for plurality and difference as such. He is critical of those theorists who *romantically*<sup>265</sup> celebrate diversity as such and think that a more diverse society is always good in itself or a suitable end for public policies. Macedo thinks that "diversity needs to be kept in its place: diversity is not always a value and it should not be accepted uncritically"<sup>266</sup>. Even for political liberalism there are 'healthy' and 'unhealthy' forms of diversity and the principles of a sound political theory are to distinguish among which should be accommodated and which should be rejected or restrained.

Macedo's liberalism is pretty demanding. According to him, liberal societies do not rest on diversity, but on "shared political commitments". Keeping alive a thriving liberal society requires "a shared public morality"<sup>267</sup> and specific citizens' virtues that do not naturally produce themselves, but call for public intervention, primarily through the public educational system but also through other less direct means. Very simply, given that a liberal society is possible only if its individuals become good citizens and given that "there is no reason to think that the dispositions that characterize good

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<sup>265</sup> S. Macedo, *Liberal Civic Education and Religious Fundamentalism: The Case of God v. John Rawls*, cit., p. 189. Here Macedo mainly refers to William Galston's discussion of educational policies for children from conservative religious minorities such as the Amish. See W. A. Galston, *Two Concepts of Liberalism*, in *Ethics*, Vol. 105, 1995.

<sup>266</sup> S. Macedo, *Diversity and Distrust Civic Education in a Multicultural Democracy*, cit. p. 3.

<sup>267</sup> *Ibidem*, p. 146.

liberal citizens come about naturally”<sup>268</sup>, the state is in charge of creating the conditions of its own perpetuation.

These short remarks are enough to indicate that Macedo objects to what he labels ‘liberal legalism’<sup>269</sup>, the view according to which law is simply a system of impartial rules constituting the framework within which individuals and groups pursue their ends. In this rather simple picture law is purposeless and the main function of the government consists in enforcing law and regulating the eventual conflicts of interests arising among individual and groups. ‘Liberal legalism’ is valuable insofar as it helps to account for the fact that law assures ordered liberty and allows individual and groups to pursue in peaceful ways their aims but, according to Macedo, it should be rejected given that it misses “some of the deepest ambitions of a liberal constitutional order”<sup>270</sup>.

Liberalism has a *transformative* dimension that one cannot grasp if one stops at ‘liberal legalism’ tenets. As I mentioned, liberal societies’ flourishing is not a natural fact but depends on certain citizens’ attitudes that are neither spontaneous nor self-sustaining. Liberal state needs to *transform* individuals’ and groups’ commitments so that they can actively support liberal order. Active support is more than mere acquiescence to the coercive power of liberal institutions. Already in a book published in 1990 Macedo distinguished two ways of living in a liberal regime. Firstly, there is what we can label the situation of *liberal coexistence*. In this case we have an outward conformity to liberal institutions that can be compatible also with reciprocal indifference or hostility joined with common fear of punishment for the violations of liberal rules. Liberal coexistence is the primitive way of affirming liberalism and of living according to liberal norms and institutions. It is characteristic of the period in which liberal tolerance emerged as a pragmatic tool for accommodating religious pluralism after religious wars in 17<sup>th</sup> Century. However, liberal coexistence is not the only and “the best way of affirming liberal justice”<sup>271</sup>. Liberalism can be

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<sup>268</sup> *Ibidem*, p. 16.

<sup>269</sup> S. Macedo, *Transformative Constitutionalism and the Case of Religion*, cit. p. 57.

<sup>270</sup> *Ivi*.

<sup>271</sup> See S. Macedo, *Liberal Virtues. Citizenship, Virtue, and Community in Liberal Constitutionalism*, Clarendon Press, 1990, p. 254-255.

more than a *modus vivendi* and citizens can actively support liberal justice for moral reasons. This second way of living according to the principles of liberalism is possible when individuals affirm liberal justice critically and reflectively.

Macedo points out that the interest for individuals' and communities' support for political order is not alien to liberalism and to liberalism understood as a tradition of political thought. Rather it is an old concern, *pace* those who think that liberalism is an atomistic theory concerned only with the respect of individual rights<sup>272</sup>. For instance, a classical liberal such as Adam Smith was aware that "local communities and other intermediate associations are important indirect instruments of civic education"<sup>273</sup> which the state can shape and manage through public policies so that they can become supportive of liberal democracy.

Thus, from the perspective of Macedo's political liberalism healthy forms of diversity are those "supportive of basic principles of justice"<sup>274</sup>. To flourish in suitable ways, liberal state has to constitute normative diversity for its own ends. Collective and individual identities need to be transformed in ways that render them able to support a liberal democratic society. The process through which in the 1960's American Catholic Church was liberalized and, after a long period of distrust and suspicion, became an active supporter of democracy around the world is assumed as an illustration of the "transformative potential" liberalism. Macedo remarks that this transformation "did not occur accidentally"<sup>275</sup>, but was the deliberate outcome of, among other political acts, the principle of separation between political and religious power.

Macedo's liberalism, with its accent on the state role in shaping normative diversity and on the fact that the civil society it envisages is a shared moral space in which citizens respect one another as equal participants in the collective enterprise of self-government, seems to go well beyond political liberalism concerns with fundamental constitutional principles. According to what

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<sup>272</sup> These objections to liberal theory have been formulated for instance by Charles Taylor in *Atomism*, in Idem, *Philosophy and the Human Sciences: Philosophical Papers*, Vol. 2, Cambridge University Press, 1985, pp. 187-210.

<sup>273</sup> S. Macedo, *Community, Diversity, and Civic Education. Toward a Liberal Science of Group Life*, in *Social Philosophy and Policy*, 1996, p. 252.

<sup>274</sup> S. Macedo, *Diversity and Distrust*, cit., p. 134.

<sup>275</sup> *Ibidem*, p. 134-135.

Macedo himself asserts, his theory is a kind of *civic* liberalism that emphasizes “the importance of the wider civic life of liberal democracy in practice, as well as liberalism’s educative ambitions”<sup>276</sup>. In another paper Macedo writes that “liberalism has an important civic dimension: it proposes not simply a set of negative mechanisms for limiting and controlling political power, but also includes positive means for fostering a politics worthy of esteem”<sup>277</sup>. So, one could ask, what is the difference between this sort of political liberalism and other comprehensive liberalisms stressing the relevance of civic virtues or other more explicitly republican approaches? Is Macedo’s political liberalism nothing more than a disguised form of comprehensive liberalism as some of his critics claim?<sup>278</sup>

What distinguishes political from comprehensive liberalism is the fact that in the first case the justification of the constraints imposed to the acceptable diversity does not go beyond what is shared by different comprehensive positions. For instance, political liberals cannot claim that a community that does not promote or in some ways favours the autonomy (understood as a comprehensive ideal) of its members is, just for this reason, beyond the realm of what can be tolerated. The main difference between the two versions of liberal theory resides in the way in which any of them defends the constraints to the admissible diversity: “political liberalism stands for a measure of restraint that would be unnatural for one committed to a vision of the good life as a whole informed by autonomy or individuality”<sup>279</sup>.

Macedo’s liberalism is unapologetically transformative up to the point that it does not even despise assimilation, provided that it operated in nonoppressive ways, and is directed toward justifiable values, which are those that can be defended without an appeal to comprehensive doctrines. In fact, as Macedo argues, “the point of the transformative mechanisms is political. They

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<sup>276</sup> *Ibidem*, p. 169.

<sup>277</sup> S. Macedo, *In Defense of Liberal Public Reason: Are Slavery and Abortion Hard Cases?*, in R. P. George, and C. Wolfe, Eds., *Natural Law and Public Reason*, Georgetown University Press, 2000, p. 14.

<sup>278</sup> This objection to Macedo has been moved by Christopher Wolfe in *Natural Law Liberalism*, Cambridge University Press, 2006, p. 116, and Troy Dostert in *Beyond Political Liberalism. Toward a Post-Secular Ethics of Public Life*, University of Notre Dame Press, 2006, p. 46.

<sup>279</sup> S. Macedo, *Diversity and Distrust*, cit., p. 175.

are deployed in liberal politics, and their effects are welcomed insofar as they secure a system of political liberty and other basic political goods”<sup>280</sup>. Liberal transformations stress the need to enhance our civil interests, the common interests of citizens who decide to peacefully live together in a free and diverse society, not to advance a religion over another religion or atheism over religious faith in general. In this sense, Macedo’s view is less demanding and more open to diversity than, for instance, John Dewey’s *civic totalism* with his idea that civic engagement is overwhelmingly relevant and that democratic public morality should be concerned with what is ultimately true. Moreover political liberalism is not grounded in a pro-science comprehensive view opposed to religious beliefs as such. Thus it neither does have a negative attitude towards religious beliefs as such (or towards other different particular loyalties) nor does want, in a Deweyan spirit, “to dissolve traditional religions in order to transfer religious energies to the common political project of progressive reform and the advancement of science and culture”<sup>281</sup>. It only asks that religious and other groups transform in a civic direction to support liberal order.

#### **4. Political liberalism, neutrality, and public reason: promoting *political* autonomy.**

Considering what I have written up to now, it seems that neutrality does not have a relevant place in Macedo’s political liberalism. If, as Will Kymlicka has argued in an article published almost twenty years ago, neutrality is the view that “the state should not reward or penalize particular conceptions of the good life but, rather, should provide a neutral framework within which different and potentially conflicting conceptions of the good can be pursued”<sup>282</sup>, one could say that arguing in favour of transforming individual and collective identities so that they can support liberal order is far from neutral. In fact some conceptions of the good, those suffering more changes, will be penalized and and other will not be at ease in a social environment like that envisaged by

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<sup>280</sup> *Ibidem*, p. 137.

<sup>281</sup> S. Macedo, *Diversity and Distrust*, cit., pp. 139-140.

<sup>282</sup> W. Kymlicka, *Liberal Individualism and Liberal Neutrality*, in *Ethics*, Vol. 99, July 1989, p. 883. Neutral liberalism in this sense is defended, among the others, by R. Dworkin, *Liberalism*, in S. Hampshire, Edited by, *Public and Private Morality*, Cambridge University Press, 1978, and B. Ackerman, *Social Justice in the Liberal State*, Yale University Press, 1980.

political liberal principles. These considerations are not particularly relevant for Macedo's views and for political liberalism in general. They would be crucial if the neutrality Macedo's theory is looking for were consequential neutrality<sup>283</sup>, which is neutrality related to the outcomes of public policies. However, Macedo's political liberalism does not demand that laws, institutions, and collective decisions must have the same consequences for all the conceptions of the good present in a liberal democratic society. It is unavoidable that different conceptions will be differently affected by the framework constituted by liberal rights and freedoms<sup>284</sup>. For instance, in a society in which rights are universally enforced and protected, those groups who do not recognize women rights will suffer much more limitations to their conduct than those ones for which equality between sexes is a condition that cannot be renounced.

Political liberalism aims at *justificatory* neutrality. Macedo is extremely candid about liberal partisanship and on the fact that political liberalism is not an exception to the observation that any justification is controversial. He claims that neutrality has to be understood only in the limited sense that "liberal political values (at least those that undergird the constitutional essentials and matters of basic justice) should not depend upon particular religious and (what John Rawls called) comprehensive philosophical worldviews"<sup>285</sup>. That is for sure a very constrained notion of neutrality whose operation one can better understand if one considers the idea of public reason.

According to Macedo liberalism is not only a theory focused on individual rights, guarantees, and liberties but on public justification. In fact he approvingly quotes Jeremy Waldron's view that "liberals demand that the social order should in principle be capable of explaining itself at the tribunal of each person's understanding"<sup>286</sup>. The essential premise of Macedo's Rawlsian justificatory strategy is that "public power belongs to us all as fellow citizens, and we should

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<sup>283</sup> W. Kymlicka, *Liberal Individualism and Liberal Neutrality*, p. 884.

<sup>284</sup> For Rawls' rejection of consequential neutrality see his *Political Liberalism*, cit., pp. 193 and 195-200.

<sup>285</sup> S. Macedo, *Public Reason, Democracy, and Political Community: The Critics Revisited*, paper presented at "LUISS Colloquium on Ethics, Politics, and Society", Rome, June 24<sup>th</sup>, 2008.

<sup>286</sup> J. Waldron, *Theoretical Foundations of Liberalism*, in *Philosophical Quarterly*, 37, 1987, p. 149.

exercise it together based in reasons and arguments we can share in spite of our differences”<sup>287</sup>. The process through which persons give and receive reasons is fundamental for legitimizing the coercive power exercised from the state on all citizens. Given the deep disagreements about different but still reasonable worldviews these reasons have to be *public*, in the sense of being independent from what each person thinks true according to her comprehensive doctrine. It is publicity that guarantees that no particular comprehensive view subordinates those persons who, notwithstanding their reasonableness, are committed to other comprehensive views. It is still publicity that assures the possibility of achieving the “core aspiration of civic or political liberalism”, that is “a political community of principle in which citizens share not only a common effective authority, but also public moral principles and a mutually acceptable and convincing rationale for those principles”<sup>288</sup>.

The constraints imposed by public reason have been largely objected from non-liberal as well as from other liberal thinkers. Critics have focused on many arguments: some of them claim that, at the end of the day, public reason silences some groups, especially religious ones, or that it hides biases towards conservative moral arguments; others raise doubts on the difficulty of clearly detaching public from non-public reasons; some others observe that public reason conceived according political liberalism’s tenets can result in the weakening of the vitality of a healthy public sphere and in the incapacity of publicly pursuing truth.

In a recent paper Macedo has attempted to reply to such objections<sup>289</sup>. He has stressed that the main criticisms are misplaced or exaggerated, in so far as even conservative and religious fundamentalists today try to fashion their arguments in terms of public reasons: it would be quite weird if in a political debate someone used God revelation to strengthen her arguments. Moreover the acceptance of the Rawlsian *wide view* of public reason, according to which “reasonable comprehensive doctrines, religious or nonreligious, may be introduced in public political discussion

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<sup>287</sup> S. Macedo, *In Defence of Liberal Public Reason: Are Slavery and Abortion Hard Cases?*, cit., p. 25. This passage explicitly draws on Rawls’ *liberal principle of legitimacy*. See J. Rawls, *Political Liberalism*, cit., p. 137.

<sup>288</sup> S. Macedo, *Diversity and Distrust*, cit., p. 178.

<sup>289</sup> S. Macedo, *Public Reason, Democracy, and Political Community: The Critics Revisited*, cit.

at any time, provided that in due course proper political reasons are presented”<sup>290</sup> appears to be enough inclusive even for those fearing the exclusionary effects due to public reason: it does not put particular restrictions on public discussion as such, but only ask that “there should be a common, public rationale for laws that will be binding on all (and this is especially urgent where fundamental considerations of justice are at stake)”<sup>291</sup>. However in this chapter I will not deal with these complex matters in so far as my analysis will briefly focus on the so called *spillover effects* of this form of liberalism of public reason. I will consider public educational policies as a domain in which these *spillover effects* are particularly noticeable and in which normative diversity is more perceptibly transformed for civic purposes.

In the previous pages I showed both that Macedo’s political liberalism does not defend neutrality of effects and that it needs to transform individual and collective identities so that they can support liberal order. The transformative potential of political liberalism is particularly relevant for public education: in fact it deals with children and for this reason it is concerned with less than full citizens who can be shaped according to the plans of the educational system. Civic spirited public school would promote the rationality and autonomy of their students: they could be shaped to acquire the capabilities to be fully able to critically choose their lifestyles, independently from what their families auspicate. Moreover, public schools (contrarily to what happens in the case of private religious or secular schools) in general expose their pupils to an extended diversity of religious, political, and moral beliefs that is not easily consistent with the homogeneity required by some conservative groups as a necessary condition for individual and collective thriving.

Macedo claims that “all children should have an education that provides them with the ability to make informed and independent decisions about how they want to lead their lives in our modern world. Liberal freedoms to choose is the birthright of every child”<sup>292</sup>. In other words,

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<sup>290</sup> J. Rawls, *Political Liberalism*, cit., p. 462. This idea is presented for the first time in J. Rawls, *The Idea of Public Reason Revisited*, in *University of Chicago Law Review*, 1997, pp. 765-807. This article has been included in the *Political Liberalism*’s expanded edition, from which I am quoting.

<sup>291</sup> S. Macedo, *Public Reason, Democracy, and Political Community: The Critics Revisited*, cit.

<sup>292</sup> S. Macedo, *Diversity and Distrust*, cit., p. 207.

children have to receive an education that makes easy their becoming good liberal citizens who are able to support liberal order. However Macedo admits that if the state promotes through public school some liberal virtues such as critical attitude toward competing political or religious claims or the respect for moral and religious pluralism it will encourage critical thinking in general. In sum, considering that it is difficult to insulate what one learns in the classroom with how one behaves in her extra-school life, it is easily foreseeable that “liberal civic virtues and attitudes will spill over into other sphere of life”<sup>293</sup>.

At this point the intriguing theoretical problem for Macedo, who as I have said defends a political liberalism that has also a thick civic dimension, is how to combine the rejection of founding liberal theory in comprehensive worldviews with the its civic orientation. It would seem that the more one looks at the way in which public schools shape children’s character so that they become good liberal citizens (in the sense of self-directing and critical individuals) the more the state betrays its commitment to a comprehensive idea of human flourishing<sup>294</sup>. In this case the comprehensive ideal could be a Millian theory of individuality or a Kantian view of autonomy, in any case, some comprehensive account that could possibly rejected by traditional groups.

Some considerations on Macedo’s position about *Wisconsin Vs. Yoder*, which I have more extensively discussed in Chapter III, can help in better understanding the way in which his political/civic liberalism deals with diversity in educational matters. The starting point of Macedo’s treatment of Amish is that, notwithstanding they are good working and peaceful people, in other respects they are very far from being good liberal citizens<sup>295</sup>. Their society is patriarchal and can hardly be considered a place in which the equality between sexes is in force. Moreover Amish tradition does not permit that their children be educated for being ‘critically reflective citizens’ so,

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<sup>293</sup> *Ibidem*, p. 179. The spillover problem of political liberalism has been broadly discussed in J. Tomasi, *Liberalism Beyond Justice. Citizens, Society, and the Boundaries of Political Theory*, Princeton University Press, 2001.

<sup>294</sup> For similar considerations see C. Wolfe, *Natural Law Liberalism*, cit., p. 116.

<sup>295</sup> S. Macedo, *Diversity and Distrust*, cit., p. 207. This opinion draws on what J. Spinner writes in *The Boundaries of Citizenship. Race, Ethnicity, and Nationality in the Liberal State*, Johns Hopkins University Press, 1994, pp. 87-108.

allowing that Amish parents directly care for the education of their children is not the best way to enhancing their capacities to score high as liberal citizens.

According to Macedo, “that the children are prepared for the life in the Amish community is not enough: it is for the children to say whether that is what they wish”<sup>296</sup>. Thus Amish children, like other pupils from whatever group, must be free to choose if they want to remain in their native communities or if they want leave for joining other groups. That is possible only when the education they receive makes them able to do so. Thus, granting an exemption from public schools like the one demanded from Amish parents in *Wisconsin Vs. Yoder* could mean a severe impairment in children’s capabilities to have an open future and, for this reason, in principle should not be granted. Macedo hopes that “*Yoder* remains a ‘dead end’ in American constitutional law”, and claims that it “should at some point be overruled”<sup>297</sup>.

Now one can again wonder whether education shows that the distinction between Macedo’s political liberalism and comprehensive liberalism disappears. Even Rawls admits that, although there is a great difference in scope and generality between the two forms of liberal theory, “certainly there is some resemblance between the values of political liberalism and the values of the comprehensive liberalisms of Kant and Mill”<sup>298</sup>. Macedo however specifies that his aim “is not to promote a comprehensive philosophical doctrine of autonomy or individuality, but to make sure that no authority imposes an intellectual tyranny on children”<sup>299</sup>. In other words, the notion of autonomy employed by his approach is limited to the political domain, although it easily spills over in other spheres of life. It is as if Macedo’s theory demanded that all individuals become *politically* autonomous, and this transformation is going to end up in their becoming also *morally* autonomous. *Political* autonomy is, as Rawls has pointed out, “the legal independence and assured political integrity of citizens and their sharing with other citizens equally in the exercise of political

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<sup>296</sup> S. Macedo, *Diversity and Distrust*, cit., p. 208.

<sup>297</sup> *Ibidem*, p. 208. This considerations do not rule out that even justified laws and policies can admit exemptions. When these measures impose ‘special burdens’ on particular groups and individuals, some exceptions can be granted for reasons of fairness. See S. Macedo, *Public Reason, Democracy, and Political Community*, cit.

<sup>298</sup> J. Rawls, *Political Liberalism*, cit., p. 200.

<sup>299</sup> S. Macedo, *Diversity and Distrust*, cit., p. 238.

power”<sup>300</sup>, whereas *moral* autonomy expresses itself in a life of reflection and critical examination of commitments, ideas, attitudes, and values.

At this point one could object that both political and comprehensive liberalism, notwithstanding their philosophical differences, aim at the promotion of the same value of individual autonomy. In the next pages however I will not criticize Macedo’s theory on the basis of the fact that political liberalism is nothing more than a masked comprehensive liberalism given that their effects are not distinguishable. After all, the difference between a theory that justifies social order starting from substantive ethical commitments and a theory that starts instead from what different and yet reasonable comprehensive worldviews share remains. It remains also if one considers that they have quite similar effects<sup>301</sup>. After having said that, one can still object to the ‘practical implications’<sup>302</sup> of political liberalism, that is for example to the kind of society it fosters or to the virtues it promotes in direct or indirect ways.

In the last section of this chapter however I will focus on the general idea of Macedo’s transformative liberalism. I will argue that although he grasps a fundamental aspect of liberalism (individual and collective identities must be shaped in specific ways to be supportive of liberal order) that is often neglected in contemporary literature, the aim of transformative mechanisms (a society in which individuals become *politically* autonomous) is excessively narrow and does not adequately address the diversity asking for accommodation in our liberal democratic societies.

## **5. The narrowness of *political* transformations.**

Up to now, the reconstruction of Macedo’s thought has been eloquent in showing that the *politicization* of liberalism represents an interesting theoretical move for accommodating diversity. I

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<sup>300</sup> J. Rawls, *Political Liberalism*, cit., p. xlii.

<sup>301</sup> One could say that, analogously, the difference between utilitarianism and right-based theories still holds even if both can, starting from their own philosophical premises, justify a right to, say, active euthanasia.

<sup>302</sup> J. Tomasi, *Liberalism Beyond Justice. Citizens, Society, and the Boundaries of Political Theory*, cit., p. 9. In this book Tomasi argues that political liberalism can be objected for its ‘sociological effects’ even if “the form of justification sought by political liberals *succeeds*” (p. 10). Tomasi’s leading idea is that a theory can be correctly justified and yet its effects can be objectionable. In the case of political liberalism, the reasons for objections concern the fact that in a society ruled by its principles not all the conceptions of the good will be equally affected.

remarked in a previous page that political liberalism scores higher than comprehensive liberalism for what concerns the accommodation of “*philosophical diversity* at the foundational level”. Eschewing any appeal to ultimate truths and focusing on the political domain (although it is not seen as isolated from other extra-political concerns), political liberalism can claim the allegiance of many who do not feel comfortable in a society ruled by a comprehensive liberalism.

Will Kymlicka has aimed at denying both that there is any substantive difference between the two ways in which liberalism can be justified and that political liberalism can be more successful than comprehensive liberalism in accommodating diversity. The Author of *Multicultural Citizenship* in fact maintains that the strategy of “endorsing autonomy only in political contexts, rather than as a general value, does not succeed. Accepting the value of autonomy for political purposes enables its exercise in private life, an implication that will only be favoured by those who endorse autonomy as a general value”<sup>303</sup>. Thus for Kymlicka the politicization of the value of autonomy cannot accommodate the claims of those individuals who reject an autonomous private lifestyle.

However I think that it is possible to answer to such considerations. For example, as it has been showed in recent works by some scholars concerned with the compatibility of Islam with liberal democratic values, political liberalism, with its focus on the need to avoid questions connected with the ultimate truth of a set of religious beliefs, tends to be less sectarian than “deeply secular” and “truth seeking”<sup>304</sup> comprehensive liberalism. In a recent article Andrew F. March has showed that in the case of Muslim minorities, political liberalism can vindicate its aspiration “to win the support of otherwise nonliberal social groups”<sup>305</sup>. In fact, Islam would prefer a situation in

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<sup>303</sup> W. Kymlicka, *Multicultural Citizenship. A Liberal Theory of Minority Rights*, Oxford University Press, 1995, p. 162. Kymlicka formulates his objection against Rawls’ *Political Liberalism* but, in so far as Macedo employs a similar notion of political autonomy, they could be moved to him as well.

<sup>304</sup> H. H. Haidar, *Liberalism and Islam. Practical Reconciliation between the Liberal State and Shiite Muslims*, Palgrave, 2008, p. 104. Haidar considers Rawls and J. S. Mill as examples of (respectively) political and comprehensive liberalism. In this case, the reflections on Rawls hold for Macedo too, given his explicit reliance on Rawlsian ideas.

<sup>305</sup> A. F. March, *Islamic Foundations for a Social Contract in non-Muslim Liberal Democracies*, in *American Political Science Review*, Vol. 101, No. 2, May 2007, p. 250. See also A. F. March, *Liberal Citizenship and the Search for an Overlapping Consensus: The Case of Muslim Minorities*, in *Philosophy and Public Affairs*, Vol. 34, No. 4, 2006, pp. 373-421.

which its religious and metaphysical beliefs are politically expressed but, given that in the public arena the political power is shared with non-Muslims, it is desirable to ground political power in what different comprehensive doctrines share, as it is recommended by political liberalism's tenets. In fact, "were non-Muslim states to make wider claims to metaphysical truth, then it might be more difficult for Muslim to affirm citizenship within them"<sup>306</sup>.

In addition, Macedo's approach, with its emphasis on the civic dimension of political liberalism, enables us to grasp the fundamental dimension of individual and collective identities' transformations involved in the accommodation process. Nonetheless, as I contend in the remaining part of the present section Macedo's understanding of the transformative dimension of liberalism is incomplete.

In a passage addressing the problem of which groups are worthy of being accommodated, Macedo writes that "the important point is that *we* must decide which communities are to be accommodated, and that there is nothing wrong with deciding on the basis of the best reasons that are available, and with due confidence in the worth of preserving liberal institutions"<sup>307</sup>. Remarking that *we* have the duty to decide whom and according to which principles is to be included in *our* liberal society does not allow to see some relevant issues involved in a fair integration of individuals and groups understood as free and equal participants in a framework constituted by liberal rights and freedom.

Firstly, given the complexity and the diversification of every liberal society it is difficult to identify the *we* in which the ultimate authority resides when it has to be decided if a group has to be accommodated and, after it has been accommodated, which are to be the most fair terms of inclusion. Unless one assumes an unrealistic monolithic image of liberal society, there will be more than one *we* competing for having the last word about such complex issues. Moreover, one has to have in mind that all these opposite *we* will have different interpretations of core liberal principles, and so, different and conflicting views about the best answer to diversity. Should the majority

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<sup>306</sup> A. F. March, *Islamic Foundations for a Social Contract in non-Muslim Liberal Democracies*, cit., p. 250.

<sup>307</sup> S. Macedo, *Transformative Constitutionalism and the Case of Religion*, cit., p. 73 (emphasis in the text).

principle be applied? Sure, it could be applied, but if it is applied without further considerations, there is the risk that the accommodation becomes more a matter of power than of justifiable principles. In other words, if the majority decides on the basis of its own principles which groups claims are to be accommodated in liberal society and which are the ways in which minority groups should transform to be included, it seems that the hegemony liberalism is assumed to exercise is more than *moderate*<sup>308</sup>, notwithstanding Macedo's intentions. In this case, one would have a majority imposing its values on majority asking for accommodation through fair and equitable terms of integration.

Secondly, it is difficult to imagine an accommodation that does not involve changes in the majority that receives new and presumably different groups. I argue that Macedo's approach is well equipped to see only one side of the coin, that is the transformations demanded to minorities, whereas it is easily predictable that, at least descriptively, the inclusion of new minorities in a liberal state will alter its character. Imagine a homogeneous society that includes minorities having different religious, moral, or political beliefs: even leaving aside for the moment considerations about the fairest forms of inclusion, one can claim that the presence of these new minorities will have the effect of creating, in certain senses, a new society.

The process of integration of immigrants shows clearly that the inclusion of new groups involves transformations both in majority and in minorities. In this case I will not take a stand in the complex debate between those who argue in favour of open borders and those who support restriction to migration<sup>309</sup>. For the sake of the example, suppose that the migrants have been lawfully admitted in the new country without serious dangers for its economics, stability, and social

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<sup>308</sup> The hegemony of liberalism is, according to Macedo, *moderate*. See the title of the article cited in the footnote 13.

<sup>309</sup> Joseph Carens and Chandran Kukathas can be considered among the best known supporters of the open border approach to migration, whereas Michael Walzer, David Miller, and Macedo himself are among the theorists arguing for state control of borders. See J. Carens, *Aliens and Citizens: The Case for Open Borders*, in *Review of Politics*, 49/2, 1987; C. Kukathas, *The Case for Open Borders*, in A. I. Cohen, and C. H. Wellman, Edited by, *Contemporary Debates in Applied Ethics*, Blackwell, 2005, pp. 207-220; M. Walzer, *Spheres of Justice*, Basic Books, 1983, Chapter 2; D. Miller, *Immigration: The Case for Limits*, in A. I. Cohen, and C. H. Wellman, Edited by, *Contemporary Debates in Applied Ethics*, cit., pp. 193-206; S. Macedo, *The Moral Dilemma of US Immigration Policy: Open Borders vs. Social Justice?*, in Carol Swain, Edited by, *Debating Immigration*, Cambridge University Press, 2007. For a recent and well informed review essay, see J. Seglow, *The Ethics of Immigration*, in *Political Studies Review*, 2005, pp. 317-334.

peace. In this chapter I will follow Joseph Carens' description of the process of integration of immigrants as a three stages process<sup>310</sup>. In the first, one has the recognition of formal legal equality of immigrants through the grant of legal rights. A liberal state should grant these rights (except from political rights) even to individuals who are not yet citizens but reside within its territory. In fact, "liberal democratic principles may be interpreted in various ways but, however interpreted, they entail a deep commitment to treat those subject to the state authority fairly and equally"<sup>311</sup>. Liberal state must justify differential treatment for citizens and non-citizens, and it seems that there are no moral reason for not granting some fundamental legal rights to people who are under state authority although they are not included as full members of the democratic community, in the sense that they are not citizens.

The second stage of the process of integration of immigrants is the acquisition of citizenship for long established residents and for their children. It is only with citizenship that immigrants achieve that "status that establishes one's position as a full member of a political community (even though many of the rights of membership cannot be exercised until the children mature)"<sup>312</sup> and can fully participate in the democratic process of self-determination. At this point one can wonder if there could be something beyond legal rights and citizenship, considering that they can coexist with gross inequalities among individual and groups.

According to Carens there could be a further stage beyond the first two I briefly have exposed. It is difficult to specify what it would look like in an a-contextual way, but one could reasonably expect that there will be "some sort of mutual adaptation between immigrants and those in the receiving society"<sup>313</sup>. In the chapter about Will Kymlicka's<sup>314</sup> liberal multiculturalism the notion of integration of immigrants as a "two-way street" has been mentioned to mean a process of integration in which both immigrants and receiving society are reciprocally involved in

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<sup>310</sup> See J. Carens, *The Integration of Immigrants*, in *Journal of Moral Philosophy*, Vol. 2/1, 2005, pp. 29-46.

<sup>311</sup> *Ibidem*, pp. 32-33.

<sup>312</sup> *Ibidem*, p. 36.

<sup>313</sup> *Ibidem*, p. 43.

<sup>314</sup> See Chapter II of the present Dissertation.

transformative processes. In that chapter the comprehensive idea of autonomy used by Kymlicka has been found defective for accounting for what, following Kymlicka himself and Jeff Spinner, has been called “pluralistic integration”. Now one could ask if Macedo’s theory works better. I already have observed that his *politicization* of liberalism represents a move toward a more stressed philosophical generosity towards diversity. And yet, as the following example will show, his emphasis on the transformative dimension of liberalism is too unilateral, in so far as it allows to grasp only the transformations demanded to minorities.

Imagine that a liberal society in which Catholicism is the most common religion receives a significant number of Muslim migrants. Even though the society temporarily rejects full political integration for newcomers, it will be affected by many changes. Let us assume that Muslim children go to public schools with Catholic children. It is easy to foresee that, even without multicultural provisions aimed at accommodating newcomers, classrooms will become at least *de facto* multicultural.

As David Miller has argued, migrants’ contribution to the reshaping of the culture of the nation to which they move is “a process that happens in any case”<sup>315</sup>, even only as a direct consequence of the factual presence of the newcomers. However, the relevant normative considerations arise when one considers which the more adequate way of accounting for this process is. Such an account has to recognize the value of migrants’ contribution in a non-residual way in so far as, once they have lawfully been admitted, their status as less than equal citizen is unjustifiable in a liberal perspective.

In fact later, when the Muslim presence is recognized and accommodated, the changes will be more extended: there will be new study programs, particular provisions for holidays, etc. In a subsequent stage, if migrants are fully included in the democratic process and obtain citizenship, one can imagine that “the acceptance of difference in the public sphere easily leads to a number of

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<sup>315</sup> D. Miller, *Immigrants, Nations, and Citizenship*, in *The Journal of Political Philosophy*, forthcoming, p. 17.

changes [...] so as to accommodate the newly included groups”<sup>316</sup>. The public space of the receiving society will lodge new individuals with their previously excluded different religions, beliefs, moralities, histories. The earlier Catholic and homogeneous society is going to not exist anymore. It will have been replaced by a new society in which both old residents and newcomers went through a process of reciprocal transformations.

Once a liberal society decides, for loyalty to its own principles of freedom and equality, to accommodate new groups, even the *we* that in Macedo’s model must rule on matters of inclusion becomes subject to changes. In other words, as Bhikhu Parekh has argued, “*We* cannot integrate *them* so long as *we* remain *we*”<sup>317</sup>. Thus, a theory such as Macedo’s undervalues majority’s transformations and in this way cannot grasp this other fundamental dimension involved in the accommodation of diversity.

At this point, one can state that Macedo’s understanding of liberalism’s transformative practices is incomplete. The stress on the *political* nature of the transformations in which newcomers groups are involved ends up to be misleading and too demanding: misleading because, as I tried to show, it blocks us from seeing that majorities too transform, and too demanding because asking minorities to become politically autonomous could be too much.

To be more precise, one could say that Macedo’s approach is misleading because it is too demanding. Here I could, *mutatis mutandis*, restate the objection I moved in Chapter II of this Dissertation against Kymlicka’s attempt to liberalize non-liberal minorities (or the critiques William Galston<sup>318</sup> raises against what he calls *Enlightenment Liberalism*). In the case of the author of *Multicultural Citizenship* there is a comprehensive idea of individual autonomy that is ruling the process of accommodation for new groups and individuals. That idea was found highly tricky, but, even if in a more nuanced form, the same problems appear when the idea of political autonomy is assumed as fundamental. Transforming all individuals in politically autonomous subjects can be

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<sup>316</sup> A. E. Galeotti, *Tolerance as Recognition*, Cambridge University Press, 2002, p. 200.

<sup>317</sup> B. Parekh, *Rethinking Multiculturalism. Cultural Diversity and Political Theory*, Palgrave, 2006<sup>2</sup>, p. 204.

<sup>318</sup> See Chapter III of the present Dissertation.

tantamount to transforming them in something different from what they are. In addition, this process becomes still more problematic if one adds that are majorities who fix the terms of inclusion according to their own principles and traditions.

The justificatory difference between comprehensive and political autonomy is not removed. However, even in its political form, autonomy is still too controversial to be the leading value of a liberal theory, especially if, as the previous pages have illustrated, it does not allow a complete understanding of the transformative process of individual and groups identities involved in accommodating diversity.

Thus autonomy as the main liberal value must be rejected both in its comprehensive and political form. In the next chapter I will try to sketch a political form of liberalism that, eschewing any reliance on whatever form of autonomy, aims to be the most adequate theory for dealing with diversity. As it will be showed, it is the rejection of autonomy that allows to bring to a completion the Rawlsian political turn that, in conjunction with the reliance on the value of autonomy, is unable to give diversity its due.

## CHAPTER V

### Towards a *Political* Theory of Toleration.

#### 1. Introduction.

In the previous chapters I have been discussing three liberal approaches to the problem of diversity. Comprehensive forms of liberalism were rejected both in Kymlicka's pro-autonomy and Galston's pro-toleration version. Kymlicka's liberal multiculturalism appears to be unable to accommodate diversity. The emphasis on the value of autonomy excessively constraints the accommodation of diversity: the *liberalization* of minorities, considering that they could reject the primacy of autonomy without being dangerous for the maintenance of a liberal order, does not take seriously their difference. Galston's theory, discarding the view that autonomy is the liberal *somnum bonum*, appears to go one step further. The recognition that in a liberal society there are many legitimate authorities and that liberalism demands respect for "expressive liberty" would seem a much more adequate tool for dealing with diversity, at least in *practical* terms. And yet, the

notion of value pluralism on which Galston's liberalism relies is not a safe ground: it is a view according to which there are many goods, but Galston seems to translate it in the view that there are many cultures. A similar shift could, contrarily to Galston's premises, condone illiberal outcomes and oppression.

The *political turn* represents a remarkable theoretical opening to the problem of diversity. After the process of politicization, liberalism becomes independent of comprehensive accounts of good, truth, religion. Political liberalism, relying on what individuals can share despite their comprehensive loyalties, is more *philosophically* generous than comprehensive liberalism insofar as he accepts more diversity at foundational level. In the fourth Chapter I discussed Macedo's theory as an example of what I labelled 'political pro-autonomy liberalism'. The analysis of Macedo's view has showed that his approach is rather demanding. He subordinates the acceptance of diversity to the *political* transformation of the minorities looking for accommodation. The notion of *political* transformation has been found highly problematic: it prevents us from seeing that the integration of minorities involves reciprocal transformations both in majority and in minorities.

I argue that the most adequate liberal theory for dealing with diversity has to be *political* and *pro-toleration*. The political turn must be brought to completion: political liberalism has to leave behind its commitment to autonomy, even to a political notion of autonomy. Demanding that individuals become politically autonomous could be too demanding and, as I observed examining Macedo's theory, could hide important dimensions one has to consider about the integration of the minorities. Political liberalism is accomplished and does not betray its philosophical premises when it is coupled with a commitment to toleration. Only in this way one can have a theory that combines political liberalism's virtue (its *philosophical* openness towards diversity) with the merits of pro-toleration views (their *practical* receptivity).

If one considers recent liberal literature one can find that Chandran Kukathas' *Liberal Archipelago*<sup>319</sup> represents (in the sense in which I will specify in the next pages) a form of political liberalism according to which toleration, and not autonomy, is the core value. In this chapter I will analyze in some details Kukathas' position using it as a significant illustration of the theory I want to argue for. Next section will explain the sense in which Kukathas' liberalism has to be understood as both political and pro-toleration. In the third section I will deal with the way in which Kukathas faces the problem of minority rights<sup>320</sup> and their relation with the mainstream society. It will be clear that the kind of society Kukathas envisages and recommends is "an archipelago of different communities operating in a sea of mutual toleration"<sup>321</sup>. These communities enjoy an extended degree of autonomy and independence in so far as they can be governed by different and not necessarily liberal principles. In other words, Kukathas' *liberal archipelago* does not recognize the relevance that has been traditionally ascribed both by liberalism and communitarianism<sup>322</sup> to the unity of the state. For Kukathas admits that his "sympathies with (some form of anarchism) are quite evident"<sup>323</sup>, and it is just on this point that I will move my more substantial objections against the Author of *Liberal Archipelago* because the absence of a unitary state could condone those same illiberal outcomes that Kukathas himself aims to avoid. I will rely on the theory of political obligations as associative obligations<sup>324</sup> to show that the value of the unity of the state should be safeguarded even in a liberal theory that refuses comprehensive commitments and assumes toleration as its main commitment.

## **2. A different *political liberalism*.**

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<sup>319</sup> C. Kukathas, *Liberal Archipelago. A Theory of Diversity and Freedom*, Oxford University Press, 2003.

<sup>320</sup> C. Kukathas, *Are there Any Cultural Rights?*, in W. Kymlicka, Edited by, *The Rights of Minority Cultures*, Oxford University Press, 1995, is the paper in which Kukathas presents for the first time his views about these matters.

<sup>321</sup> C. Kukathas, *Liberal Archipelago. A Theory of Diversity and Freedom*, cit., p. 8.

<sup>322</sup> See C. Kukathas, *Liberalism, Communitarianism, and Political Community*, in *Social Philosophy & Policy*, 13 (1), 1996, pp. 80-105, and Idem, *Liberal Archipelago. A Theory of Diversity and Freedom*, cit., Chapter 5.

<sup>323</sup> C. Kukathas, *Liberal Archipelago. A Theory of Diversity and Freedom*, cit., p. 8, footnote 12.

<sup>324</sup> A. J. Simmons, *Associative Political Obligations*, in *Ethics*, 106, 2, Jan. 1996, especially 247-252.

In *Two Concepts of Liberalism* Kukathas maintains that “liberalism is a response to the fact of human diversity, and to the problems it generates”<sup>325</sup>, and that there are two possible answers one can give to these question. The first considers liberalism as a theory that “describes a set of standards or principles by which a community or a society should live”. From this perspective “a community is a liberal society if its institutions uphold or honour the values which make it liberal”<sup>326</sup>. According to the first conception Kukathas lists, the value liberalism fosters are autonomy (in Kantian sense) or individuality (in Millian sense). Further, this version of liberalism assumes that, beyond deep disagreements in many domains, individuals can reach an agreement on some fundamental principles of justice that must rule collective life. An instance of this liberalism is represented by Rawls’ *A Theory of Justice*<sup>327</sup>: in this work, Rawls “offers a comprehensive justification for a liberal social order, explaining that those who share a recognition of the fundamental importance of certain values would, in a suitably constrained setting, agree to a set of controlling moral principles (justice as fairness), and attendant institutional arrangements (constitutional democracy)”<sup>328</sup>.

Kukathas finds highly problematic this variant of liberalism understood as an answer to the problem of diversity and disagreement. He argues that “people may disagree not only about, say, religious matters but also about principles of justice. [...] If this is the case, the problem with a solution which recommends agreement to abide by a particular set of rules or principles of justice is that it risks begging the question”<sup>329</sup>. Aiming at a convergence on a theory of justice is too demanding if one adequately considers the disagreements that characterize modern societies. Liberalism, according to Kukathas, should not be primarily concerned with principles of justice or

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<sup>325</sup> C Kukathas, *Two Concepts of Liberalism*, in J. C. Espada, M. A. Plattner, and A. Wolfson, Edited by, *The Liberal Tradition in Focus. Problems and New Perspectives*, Lexington Books, 2000, p. 100. In *Liberal Archipelago* (cit.) Kukathas writes: “the human world is marked by diversities – of language, custom, and religion or, more generally, culture. The issue is, how are we to respond to this fact of diversity. What bearing does it have on question of how (and under what institutions) we should live?” (p. 41).

<sup>326</sup> *Ibidem*, p. 98.

<sup>327</sup> J. Rawls, *A Theory of Justice* (Revised Edition), Harvard University Press, 1999.

<sup>328</sup> C. Kukathas, *Two Concepts of Liberalism*, in J. C. Espada, M. A. Plattner, and A. Wolfson, Edited by, *The Liberal Tradition in Focus. Problems and New Perspectives*, cit., p. 101.

<sup>329</sup> *Ivi*.

with which principles individuals should assume as relevant in their private conducts, but with setting umpires who peacefully resolve disagreements. This way of conceiving of liberalism is, among other things, consistent with liberalism's historical origins. In fact, as Kukathas writes, "liberalism's original concerns were not with justice, or social unity, but with securing a regime of mutual toleration"<sup>330</sup>. It is important to observe that for Kukathas there is more than one umpire, that is more than one legitimate authority. Whereas theorists such as Macedo and Galston "defend liberalism by insisting on the compatibility of respect for diversity and the unity of liberal state"<sup>331</sup>, Kukathas does not recognize particular value to the unity of the state as such and does not think that liberal enquiry has to start from the assumption of a close society.

These considerations will be relevant in the following pages, when the metaphor of the *liberal archipelago* will be more extensively discussed. For the moment it is enough to signal the *politicity* of Kukathas' liberalism. He wants to establish liberalism as a "*minimal moral conception*"<sup>332</sup>. His liberal theory, like any political theory that wants to be normative in some sense is not devoid of moral content and, for this reason, is a moral conception like any comprehensive liberalism. But whereas comprehensive liberalisms are characterized by substantive commitments, political liberalism looks for the minimal conditions necessary to ensure a peaceful coexistence of different moral positions.

Kukathas is quite explicit in claiming that toleration is the main value of liberalism. Further he also writes that "a society or community is a liberal one if, or to the extent that, it is tolerant". In Kukathas view, toleration is not a demanding virtue according to which what is to be tolerated should be respected or admired. In *Liberal Archipelago*, "toleration requires little more than indifference to those who are, or that which is, tolerated"<sup>333</sup>. This account of toleration is deeply

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<sup>330</sup> C. Kukathas, *Liberal Archipelago*, cit., p. 39. Kukathas cites John Locke's *Letter Concerning Toleration* and Pierre Bayle's *Philosophical Commentaries* as 'critical works' in the liberal tradition emerging after European Religious Wars XVII Century as a theoretical and political attempt to assert the value of liberty of conscience.

<sup>331</sup> *Ibidem*, p. 20.

<sup>332</sup> *Ibidem*, p. 17. Kukathas admits that his understanding of political liberalism is influenced by Charles Larmore, *Political Liberalism*, in Idem, *The Morals of Modernity*, Cambridge University Press, 1996, Chapter 6.

<sup>333</sup> *Ibidem*, p. 23.

different from other popular accounts that are present in liberal recent literature. Liberal theorists such as John Rawls, Will Kymlicka, and Deborah Fitzmaurice<sup>334</sup>, notwithstanding momentous differences among their views, defend the value of toleration in indirect way: they share a commitment to autonomy, and it is just this commitment that defines the boundaries of what must be tolerated. In other words, all these approaches “presuppose the existence of a liberal order: that is, an order in which the value of autonomy, embodied in principles of justice, is authoritatively upheld in public sphere”<sup>335</sup>. Thus, there is a common moral standpoint that establishes what practices must be tolerated. If one thinks for a moment to minority practices from this perspective, toleration can be extended only to those practices that respect the core value of the mainstream society, that is autonomy, otherwise minorities are transformed so that their structure and values mirrors the structure and the values of the majority<sup>336</sup>. Underlying this conception of the toleration there is the idea that “when groups cease to respect the freedom or autonomy of individuals in their midst, toleration is no longer warranted”<sup>337</sup>. Kukathas rejects this view for two main reasons: firstly, because it assumes, without good enough justification, that in a liberal society there is an already established moral order that can set what has to be tolerated and what has to be considered intolerable. Secondly, such an approach is too concerned with the perpetuation of liberal order than with the respect for dissenters, and, as Kukathas argues, there is the “risk of intolerance and moral dogmatism”<sup>338</sup>.

Kukathas proposes an alternative conception. In particular, he wants to defend a view according to which toleration has independent value. From this perspective toleration does count, in

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<sup>334</sup> See J. Rawls, *A Theory of Justice*, cit.: J. Rawls, *Political Liberalism*, Extended Edition, Columbia University Press, 2005; D. Fitzmaurice, *Autonomy as a Good: Liberalism, Autonomy, and Toleration*, in *The Journal of Philosophy*, 1 (1), 1993.

<sup>335</sup> C. Kukathas, *Liberal Archipelago*, cit., p. 125.

<sup>336</sup> *Ivi*. The process of liberalization of minorities recommended by Kymlicka (see Chapter II of this Dissertation) can be considered an instance of what Kukathas means by restructuration of minorities practices. According to Kukathas, the liberalization of minorities assumes an excessively narrow concept of toleration. In fact,

<sup>337</sup> C. Kukathas, *Rights of Culture, Rights of Conscience*, in R. Tinnevelt, and G. Verschraegen, Edited by, *Between Cosmopolitanism and State Sovereignty*, Palgrave, 2006, p. 110.

<sup>338</sup> C. Kukathas, *Liberal Archipelago*, cit., p. 126.

part, “because it checks or counters moral certitude”<sup>339</sup>: people are fallible and so, tolerating different and dissenting beliefs can be an answer to the awareness of the limits of human ability to know. These considerations do not seem to go beyond an instrumental defence of toleration: it would seem that toleration is valuable because it allows the prevalence of true beliefs over false ones. To go beyond instrumental arguments for toleration Kukathas adds that it “is also valuable because it is the condition which gives judgments worth”<sup>340</sup>. Here Kukathas is relying on the Kantian argument according to which reason depends upon a public realm of freedom. A full exposition of the argument is beyond the scope of this Chapter, but it is enough to say that reason becomes authoritative only in a public arena in which it is continuously subject to criticism and scrutiny. So, to avoid that reason authority is compromised, “toleration is vitally important”<sup>341</sup>.

At this point one can wonder whether there is a relation between this reflections on reason and beliefs and the relevance of toleration in a liberal theory focused on the accommodation of diversity (for instance in the relations between majorities and minorities). Kukathas’ answers arguing that “relations among communities, including relations with non-liberal minorities, involve disputes in the realm of public reason”<sup>342</sup>: it is as if different communities represented different options in a dispute taking place in the public sphere of a liberal society in which disagreements cannot be denied. It is important to observe that this dialogue does not involve actual dialogical practices. In fact, Kukathas claims that there is a dispute among majority and minorities even when one thinks to those some small conservative groups (such as the Hutterites) who do not aims at participating in modern society but want to withdraw from it. Awareness of the existence of other possibility of life is enough to state that different positions are present and dispute in the public sphere.

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<sup>339</sup> *Ivi.*

<sup>340</sup> *Ivi.*

<sup>341</sup> *Ibidem*, p. 127. To explain Kant’s position about the public use of reason, Kukathas quotes I. Kant, *The Critique of Pure Reason*, St. Martin’s, 1970, and O. O’Neill, *Constructions of Reason. Explorations in Kant’s Practical Philosophy*, Cambridge University Press, 1989.

<sup>342</sup> *Ibidem*, p. 128.

In this section I have showed in which sense Kukathas' liberalism has to be understood as both political (for what concerns the justification) and pro-toleration (for what concerns the core value). Thus, according to the taxonomy I have elaborated in the first Chapter of the Dissertation, Kukathas' theory is an illustration of PT liberalism. In the next section I will discuss the model of society recommended by Kukathas and the way he thinks diversity should be dealt with.

### **3. The *archipelago society* and the *politics of indifference* towards diversity.**

In *The Liberal Archipelago* Kukathas writes that “the free society described by liberalism is not a stable social unity created or upheld by a shared doctrine. It is, rather, a collection of communities associated under laws which recognizes the freedom of individuals to associate as, and with whom, they wish”<sup>343</sup>. Thus, the *archipelago society* is composed by many communities which, like islands composing an archipelago, float in a sea of reciprocal toleration. Individuals are free to join groups of whatever character, even illiberal ones. It is important to observe that membership in a group is not exclusive, in the sense that an individual can join different groups and these groups can contribute to the shaping of their lives in different ways. Here there is a deep disagreement between Kukathas and communitarians and many liberals. In particular, Kukathas maintains that communitarians<sup>344</sup> must be criticized because, with their emphasis on social unity, can suppress social diversity and undervalue the fundamental attachments every individual has towards her own partial community. Moreover, communitarians, with their accent on the centrality of political community, tend to “neglect the character of community as something changeable and fluid”<sup>345</sup>. Liberals, even though they start from opposed philosophical premises, also tend to assume that

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<sup>343</sup> *Ibidem*, p. 19.

<sup>344</sup> See, among the many works one could consider, M. Sandel, *Liberalism and the Limits of Justice*, Cambridge University Press, 1982.

<sup>345</sup> C. Kukathas, *Liberalism, Communitarianism, and Political Community*, cit., p. 92.

political community is the preeminent community and that “its interests or values take priority whenever there is a conflict over differing values”<sup>346</sup>.

Shortly, Kukathas argues that both communitarianism and contemporary liberal because they overstate the significance of political community. The latter is, according to Kukathas, “*an association of individuals who share an understanding of what is public and what is private within that polity*”<sup>347</sup>. In a liberal order, the political community should be only one among many communities to which individuals are freely committed. Kukathas contends further that in case of conflicts among different communities, there is no fix law establishing the priority of political community. In *The Liberal Archipelago* there is a list of some reasons for conferring less value to political community. Firstly, there is the risk that, if political community enjoys the role of dominant community, it could be oppressive: “this form of oppression has not been difficult to find in modern states, which have – to various degrees – established national standards for all kind of practices, ranging from education to medicine to law”<sup>348</sup>. Another reason for undervaluing political community concerns the observation that, when political community is understood as a nation, there could be an extremely strong concentration of power in a central state apparatus. The main problem is that the existence of a strong central state represents a menace to individual liberty in so far as the conformity required from the existence of a centralized state can imply significant suppressions of individual and groups diversity. Moreover, history is rich of examples of the fact that the state has been “the most powerful instrument of oppression and domination we have known”<sup>349</sup>.

Having in mind these considerations, one can understand that in Kukathas’ model the role of the state is sensibly less extended than the one recognized by other liberal writers. For instance, Will Kymlicka, who is considered by Kukathas as the main adversary of his *Liberal Archipelago*,

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<sup>346</sup> *Ibidem*, p. 94. The liberal theorists to which Kukathas polemically refers are mainly John Rawls, Ronald Dworkin, and Will Kymlicka.

<sup>347</sup> C. Kukathas, *Liberal Archipelago*, cit., p. 172, emphasis in the text. It should be pointed out that, for Kukathas, *political community* is not equivalent to *state*: the latter is mainly characterized in an institutional sense, in so far as it is composed by those institutional mechanisms concerned with policing, lawmaking, warmaking, and so on (See *Liberal Archipelago*, cit., p. 209).

<sup>348</sup> *Ibidem*, p. 192.

<sup>349</sup> *Ibidem*, p. 159.

claims that the role of the state is “to uphold and promote justice; and since the conception of justice in question is a liberal conception of justice, its task is to liberalize society”<sup>350</sup>. According to Kukathas, neither the liberalization of the society nor the liberalization of groups should be among the legitimate aims of state: it should not be concerned with the promotion of whatever conception of justice, but should only care about the preservation of order in a context in which different groups can be in conflict. Thus the state should work as an umpire with no specific aims apart from the peaceful and free coexistence of potentially conflictual individuals and groups who should safely pursue their own ends. However Kukathas specifies that the state “is only *an* umpire – not *the* umpire”<sup>351</sup>, but it is still an important umpire in reason of its power.

After having explained the *liberal archipelago* metaphor and after having sketched the function acknowledged for the state in Kukathas theory, I can proceed in analyzing how the problem of diversity is faced in this pro-toleration political liberalism. The starting point for the analysis of this matter is a passage from the first chapter of *Liberal Archipelago* in which Kukathas, in polemics with William Galston and other pro-diversity liberals, writes: “diversity is not the value liberalism pursues but the source of the problem to which it offers a solution”<sup>352</sup>. It is simply a fact of social life that there is a plurality of cultures, religions, languages, and liberalism goes in the wrong direction if it aims at protecting or celebrating this diversity. Kukathas argues that diversity has no intrinsic value, in the sense that it is no valuable as such. Rather, it is easy to observe that “in some contexts, uniformity is preferable”<sup>353</sup>: think for example to the degree of homogeneity required in a church or in some kind of political associations.

At this point one could ask: what is the right liberal attitude toward diversity? Should liberal state recognize in some ways the diversity of groups, communities, and associations<sup>354</sup>? What is the

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<sup>350</sup> *Ibidem*, p. 212.

<sup>351</sup> *Ibidem*, p. 213.

<sup>352</sup> *Ibidem*, p. 29.

<sup>353</sup> *Ibidem*, p. 32.

<sup>354</sup> Liberal theorists have often been criticized for their being inhospitable to difference. In particular, liberals have been objected because their aspirations to universality reflect the standards of the dominant cultures and disrespect the identities of minorities asking for some form of recognition. See C. Taylor, *The Politics of Recognition*, in A. Gutmann,

right course of action for a liberalism that wants to face the demands of recognition advanced by groups? Kukathas' answer is very simple in so far as he claims that "liberalism is indifferent to the groups of which individuals may be members, it recognizes the freedom of individuals to join or form groups or to continue to belong to groups into which they may have been born – but it takes no interest in the interests or attachments which people might have"<sup>355</sup>. Thus, given that the only interest of the liberal state resides in the preservation of an ordered peace in which individuals and groups must be free to pursue their ends, any move pointing toward whatever form of recognition for groups has to be considered illegitimate. This holds whether when the recognition remains within liberalism (consider for instance Kymlicka's liberal multiculturalism) and when the recognition goes beyond liberalism and it is more an acknowledgement of liberalism incapacity in accommodating diversity than an integration of liberal theory with other considerations (consider for instance Charles Taylor's multiculturalism<sup>356</sup>).

The reasons for denying the desirability of the politics of recognition (through differentiated rights and policies) are related to the fear of conflicts. As it has been observed in a previous page, groups are far from being natural entities. They are "mutable social formations that change size, shape, and character as society and circumstances vary"<sup>357</sup>, so the definition itself of groups could generate conflicts or actualize latent conflicts. Even when the nature and the composition of groups is relatively stable "recognition is troubling because it signals an elevation of the conflict between groups over material gains into conflicts over the identity of the society"<sup>358</sup>. Moreover, not all groups want the same thing: if one considers some religious conservative communities such as the Amish or the Hutterites who want in some senses be left alone, one can see that recognition is not an universal aim in liberal societies.

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Edited by, *Multiculturalism. Examining the Politics of Recognition*, Princeton University Press, 1994. Kukathas dealt with these objections in his *Liberalism and Multiculturalism. The Politics of Indifference*, in *Political Theory*, 1998.

<sup>355</sup> C. Kukathas, *Liberalism, Multiculturalism, Oppression*, in A. Vincent, Edited by, *Political Theory. Tradition and Diversity*, Cambridge University Press, 1997, p. 135. For similar considerations see C. Kukathas, *Liberalism and Multiculturalism*, cit., p. 691.

<sup>356</sup> See C. Taylor, *The Politics of Recognition*, cit.

<sup>357</sup> C. Kukathas, *Liberalism and Multiculturalism. The Politics of Indifference*, cit., p. 693.

<sup>358</sup> *Ivi*.

In Kukathas' liberalism freedom of association is extremely relevant. Individuals are free to join whatever groups or community if they like so. Their freedom to associate is so extended that they can join even illiberal communities. In fact, according to Kukathas, a liberal society is not necessarily composed of liberal communities<sup>359</sup>. As it has been previously observed, for Kukathas liberalism is not a theory of justice, but a theory aiming at the peaceful coexistence of different (and potentially conflicting) communities. Thus, an illiberal society can be tolerated if it does not represent a risk for the security of the whole society and if does not impose its authority on people who want to leave. In fact, freedom of association is not without limits. In Kukathas' theory individuals are free to associate, but they must also enjoy "a substantive freedom to exit"<sup>360</sup> in the sense that they should be free to leave their community and that there should be a wider society open to them. In Kukathas' perspective, the right of exit can be understood as nothing more than a right to the repudiation of authority. A community can exercise authority over its members only when they acquiesce<sup>361</sup>.

Freedom of exit is not an ultimate value in so far as it is grounded in liberty of conscience. As Kukathas has written in a paper on human rights, freedom of conscience "is the basis for a very important freedom: to dissociate from people or communities or traditions or standards one cannot abide"<sup>362</sup>. Freedom of conscience is understandable as 'inner freedom', but in a minimal sense. It captures three important ideas: firstly it accounts for the importance of the fact that individuals act rightly and that they should not be coerced to act in ways they consider wrong. Secondly, "freedom of conscience recognizes that people's ideas of right and wrong differ"<sup>363</sup>. Finally, the idea of freedom of conscience accommodates the old liberal conviction that authentic beliefs should not be imposed. From these remarks one can realize that, for Kukathas, freedom of conscience is neither

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<sup>359</sup> See C. Kukathas, *Are There Any Cultural Rights?*, cit., p. 249.

<sup>360</sup> *Ibidem*, p. 252.

<sup>361</sup> Kukathas maintains that "the basis of any association's or community's authority is not any right of the group to perpetuation, or even existence, but the acquiescence of its members". See C. Kukathas, *Liberal Archipelago*, cit., p. 96.

<sup>362</sup> C. . Kukathas, *Rights of Culture, Rights of Conscience*, cit., p. 115.

<sup>363</sup> *Ibidem*, p. 115.

autonomy nor self-direction: in fact, even non-autonomous persons can have free conscience provided that they are not required to conform to what they don't endorse.

#### 4. The *archipelago* view of society and its limits.

The *archipelago* view of society defended by Kukathas has been at length criticized. Many theorists have objected to it both on the basis of the fact that it misrepresents the character of liberal societies and on the basis of its normative outcomes. In other words, critics pointed their attention both on its descriptive aspects (does liberal society is actually as Kukathas represents it?) and on its normative dimension (does the supremacy of toleration recommended by Kukathas' model is an adequate theoretical tool for dealing with diversity?). In this section I will account for some of these objections and I will expose my own critical remarks aiming at weakening the anarchical character of Kukathas' liberalism.

In *Liberalism, Multiculturalism, and the Problem of Internal Minorities*<sup>364</sup> Daniel Weinstock claims that the *archipelago* view of society is a sociological assumption shared by many theorists who discuss the problem of minority rights. In fact, although Kukathas is the most extreme philosopher who defends such a view, there are some other contemporary writers such as Joseph Raz, Jeff Spinner-Halev, and John Gray who assume a similar view of the society<sup>365</sup>: “political society is thought of as formed by discrete, insular communities that happen to share space, and that willy-nilly must come to an understanding of how to govern the commons”<sup>366</sup>.

Weinstock aims at contesting the two assumptions on which the *archipelago* view relies: the *independence* assumption and the *completeness* assumption. According to the first, individuals form their identities independently from the political environment in which they are embedded. The *completeness* assumption claims that each group completely accounts for the identity of its

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<sup>364</sup> D. M. Weinstock, *Liberalism, Multiculturalism, and Internal Minorities*, in A. S. Laden, and D. Owen, Edited by, *Multiculturalism and Political Theory*, Cambridge University Press, 2007.

<sup>365</sup> See J. Raz, *Multiculturalism*, in Idem, *Ethics in the Public Domain*, Oxford University Press, 1994; J. Gray, *Two Faces of Liberalism*, New Press, 2000; J. Spinner-Halev, *Feminism, Multiculturalism, Oppression and the State*, in *Ethics*, Vol. 112, 2001.

<sup>366</sup> D. M. Weinstock, *Liberalism, Multiculturalism, and Internal Minorities*, cit., p. 257.

members. Weinstock argues that “both of these assumptions are entailed by the archipelago view. People are thought of as relating to the public sphere and to other communities exclusively as members of a particular community (the completeness assumption), and as forming their identities within those communities (the independence assumption)”<sup>367</sup>. The problem for the *archipelago* view is that both these assumption are implausible.

The *independence* assumption mistakenly takes for granted that groups are generally insular and isolated, whereas it is a matter of fact that groups and their cultures interact and dialectically evolve. With the exception of few conservative religious groups such as the Amish and the Hutterites, the groups spread in liberal society cannot be depicted in the way required by the *independence* assumption. In fact, “orthodoxy and insularity are not the natural states of cultures”<sup>368</sup>. The *completeness* assumption is flawed as well: it does not recognize that “typically, individuals belong to a plurality of groups”<sup>369</sup> (such as churches, political parties, professional or recreational associations) none of which can completely account for the character of a person. Both the independence and the completeness assumption take exceptional and extreme cases as paradigmatic of the social life in contemporary liberal societies. The insularity required by the *archipelago* view can be only the outcome of a decision, and any decision asks for a context that offers different options among which the choice can be exercised.

These considerations point to state that the *archipelago* view is descriptively inadequate. The problem is that it misrepresents the real nature of liberal society and the actual relations between mainstream society and minorities. Weinstock’s further observations concern the normative inadequacy of the *archipelago* view. The two inadequacies are connected. In fact, even the groups one can think more insular have relations with the mainstream society and receive many benefits from it: “their proximity and participation in society means that they are not to be thought of solely as formulating claims against the state and the broader society within which they live.

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<sup>367</sup> *Ibidem*, p. 258.

<sup>368</sup> *Ibidem*, p. 262.

<sup>369</sup> *Ivi.*.

They must also be thought of as having obligations toward the state and the broader society”<sup>370</sup>. Differently stated, all the groups receive some benefits from the organization of the mainstream society, and are just those benefits that ground the obligations of particular groups toward the rest of the society. To be consistent with the archipelago image, Weinstock writes: “since citizens of modern societies actually spend quite a bit of time in the waters separating groups from one another, they all have a responsibility to make sure that they are suitable to the needs of all”<sup>371</sup>. Thus, apart from quite rare cases of complete isolation, even the members of conservative communities must be considered citizens of the mainstream society independently of their likes.

To be fair to Kukathas, I would say that the objections according to which the *archipelago* view is descriptively inadequate are exaggerated. In fact, in *Liberal Archipelago* Kukathas argues that “groups are themselves not in any way natural or fixed entities but mutable social formations which change shape, size, and character as society and circumstances vary”<sup>372</sup>. So, it is difficult to find a statement according to which the insularity of some small conservative groups is the normal condition of groups. Even in *Are There any Cultural Rights?* one can find a full acknowledgment of the fact that cultural communities are not isolated from the rest of the society and so that, although each group should have the right to rule its collective existence according to its principles, “no community within a wider society can remain entirely untouched by the political institutions and the legal and moral norms of the whole”<sup>373</sup>. It is enough to consider for a moment the way in which the existence of the exit rights, that are fundamental in the overall economy of Kukathas’ approach, transforms the nature of particular communities. When an individual is free to leave, her community is inevitably transformed, “particularly if the formal right comes with substantive opportunities”<sup>374</sup>.

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<sup>370</sup> *Ibidem*, p. 261.

<sup>371</sup> *Ivi*.

<sup>372</sup> C. Kukathas, *The Liberal Archipelago*, cit., p. 251.

<sup>373</sup> C. Kukathas, *Are There Any Cultural Rights?*, cit., 249.

<sup>374</sup> *Ivi*.

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