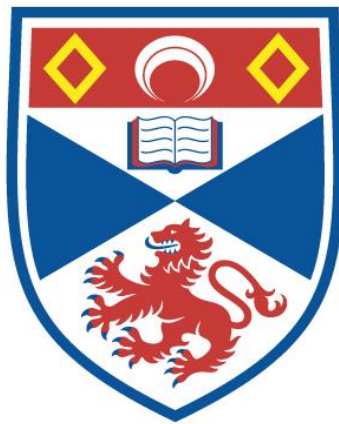


**LIBERALISM & INTERNALLY ILLIBERAL MINORITY
CULTURES: A PLEA FOR A SUBSTANTIVE EXIT RIGHTS
STRATEGY**

Bouke de Vries

**A Thesis Submitted for the Degree of MPhil
at the
University of St Andrews**



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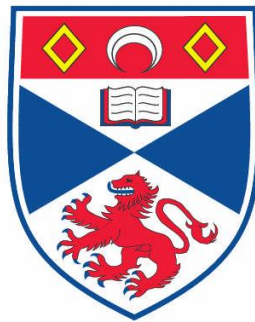
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Liberalism & Internally Illiberal Minority Cultures:

A Plea for a Substantive Exit Rights Strategy

Bouke de Vries



This thesis is submitted in partial fulfilment for the degree of MPhil

at the

University of St Andrews

22/01/2014

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Abstract

This dissertation seeks to answer the following question: does a commitment to liberalism require state remediation of illiberal practices of illiberal minority cultures that only affect their own members? Put differently, it asks: should the state deny illiberal minority cultures such as those of the Amish, Ultra-Orthodox Jews, Pueblo Indians, *et cetera* the freedom to be internally illiberal from a liberal viewpoint?

The answer proposed by this dissertation is a qualified ‘no’. Assuming that liberalism is fundamentally committed to the protection of individual freedom, I argue that states should allow illiberal minority cultures to be internally illiberal in order to respect the individual freedom of citizens with illiberal conceptions of the good. At the same time, I propose limits to this toleration in order to protect the individual freedom of (more) progressive-minded citizens, as well as to guard children from severely harmful cultural practices. Whether the state should tolerate illiberal practices of illiberal minority cultures that only affect their own members, I claim, should depend on whether the following conditions are met:

- (i) Their adult members are guaranteed substantive exit rights, i.e. rights to a realistic ability to change cultural affiliations.
- (ii) The cultural communities in question do not engage in illiberal practices that inflict severe harm on children.

To realise condition (i), which forms the core of this dissertation’s ‘substantive exit rights strategy’, I argue that the state should take five measures. These include making an autonomy-facilitating education compulsory for children, providing particular groups of defectors with financial assistance, and ensuring that the liberal majority culture is open to ex-members of illiberal minority cultures. By contrast, condition (ii) is not considered to be central to this dissertation’s substantive exit rights strategy, the reason being that it is dubious whether liberalism’s core commitment to the protection of individual freedom alone can justify a ban on cultural practices that severely harm children. Even so, it will become clear that adding this condition renders this approach more plausible.

My central claim is that this dissertation’s substantive exit rights strategy better protects the individual freedom of members of illiberal minority cultures than the main rival liberal strategies, as proposed by Will Kymlicka and Chandran Kukathas. Whereas Kymlicka gives

members of these groups too little liberty to engage in illiberal practices, I argue that Kukathas makes the opposite mistake of granting them too much liberty. In both cases, we will see that the individual freedom of some members of illiberal minority cultures is not appropriately protected. This holds true, I conclude, *regardless* of whether individual freedom is construed as personal autonomy or in a less demanding way, namely as ability to live (autonomously or non-autonomously) in accordance with one's conception of the good.

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1. Introduction

1.1 Aims, Scope, and Background

Though the ‘liberal West’ is often pitted against the ‘illiberal rest’, it is clear that states in the Occident do not always abide by liberalism’s core commitment: the protection of individual freedom. In Luxembourg, same-sex couples cannot marry; in Switzerland, asylum-seekers are prohibited from using public schools and sports facilities; and in the United States, citizens’ emails are stored without their consent. It seems that any liberal worthy of the name should be sceptical of these restrictions on people’s liberties, especially when they are distributed unequally amongst a population.

In this dissertation, I investigate whether a similar scepticism is called for when the state allows minority cultures such as those of the Amish, Ultra-Orthodox Jews, Pueblo Indians, *et cetera* to impose illiberal restrictions on their members’ liberties. More specifically, my aim is to answer the following question: does a commitment to liberalism require state remediation of illiberal practices of illiberal minority cultures that only affect their own members? ¹ Assuming liberalism to be a political ideology that is fundamentally committed to the protection of individual freedom, the answer proposed by this dissertation is a qualified ‘no’. I claim that, in order to respect the individual freedom of conservative members of illiberal minority cultures, these groups should have room to be internally illiberal; at the same time, I argue that this room should be limited in order to protect the individual freedom of their dissident members, as well as to guard children from severely harmful cultural practices.

Before looking at the conditions under which states should allow illiberal minority cultures to be internally illiberal, however, it is important to clarify this dissertation’s key concepts, as well as to account for its focal points.

1.1.1 Conceptual Clarification

Following Bikhu Parekh (2006, p.143), I understand a *cultural community* to be a group of people who share a “historically created system of [...] beliefs and practices” in terms of

¹ The reason why this dissertation asks how the *state* should deal with internally illiberal minority cultures rather than other political entities is that states are (still) the most powerful political actors in today’s world.

which they “understand, regulate, and structure their individual and collective lives” (Parekh, 2006, p.143). This definition allows for much diversity amongst cultural communities: they may differ in size, have their own territory or not, and be organised along different lines (ethnic, religious, ideological, linguistic, *et cetera*). Another dimension in which these groups differ is their economic and political power; whilst the majority culture is generally the economically and politically most powerful group, there are some notable exceptions.² However, we also find much diversity *within* cultural communities. Many, if not most of these communities harbour subgroups with different views on the community’s tenets and practices. For example, within the Amish community, there are factions who strictly refrain from using modern technology and remaining in contact with ex-members, but also factions who stay in touch with ex-members and use cell-phones, pagers, tractors, *et cetera*.

By *illiberal cultural practices*, I mean forms of institutionalised behaviour of cultural communities such as traditions, rituals, and customs that negate people’s free and/or equal status by e.g. hindering the exercise of their civil and political rights, impairing the development of their personal autonomy, and/or entrenching cultural hierarchies. Paradigmatic examples of illiberal cultural practices can be found in the custom of the Pueblo Indians to deny Protestant converts access to communal resources, the Orthodox Jewish marriage law that denies women the right to initiate divorce, and the practice of the Amish to withdraw their children from school before the legal age.

As noted above, the kinds of cultural communities with which this dissertation is concerned are those of *illiberal minority cultures* (unless specified otherwise, this restriction of scope will be presupposed when I talk about cultural communities). Illiberal minority cultures are construed here as cultural communities that have fewer members than the liberal majority culture, and that are *less* committed to liberal values than the latter. Typical examples include the communities of the Ultra-Orthodox Jews, Pueblo Indians, Amish, *et cetera*. By contrast, a *liberal majority culture* is understood to be the most sizable cultural community within a given society of which membership depends on a commitment to the liberal values of individual freedom and equality. Since this ideological commitment is also a sufficient condition for membership, liberal majority cultures are assumed to harbour many different (sometimes overlapping) subgroups. For example, within Western societies they

² One might think of South-Africa during the Apartheid or Assad’s Syria where the Alawites, a Shi’a minority, holds most of the economic and political power.

include progressive factions within Christianity, Islam, and Judaism, as well as national-minorities such as the Basques, Frisians, and Scots.

1.1.2 Focal Points

Having cut our way through this conceptual complexity, it is important to account for this dissertation's focal points.

Illiberal Minority Cultures

First, I want to explicate why this dissertation focuses on illiberal practices of illiberal minority cultures rather than liberal majority cultures. The reason, it should be noted, is not that liberal majority cultures do not engage in illiberal practices; as the continued subordination of their female members shows, this is not the case. Rather, the reason for concentrating on illiberal minority cultures is that their illiberal practices seem to pose a *greater challenge* from a liberal viewpoint. For one thing, many of these groups appear to engage in a greater number, as well as more extreme, illiberal practices. In addition to this, some illiberal minority cultures explicitly claim the freedom to be (internally) illiberal, which raises the question of whether a liberal state should defer to their demands. Again, this is something that does seem to carry over to liberal majority cultures; it looks as though most members of these groups would agree that the state should rectify their culture's illiberal elements, or at least many of them. Given these differences, I believe that it is important to discuss state responses to illiberal practices of illiberal minority cultures separately, which is why this dissertation focuses on illiberal practices of illiberal minority cultures.

Now, it is worthwhile to point out that this dissertation does not consider whether different kinds of illiberal minority cultures should be treated differently by the liberal state. *Contra* Okin (1999a; 2005), I do not assume that illiberal minority cultures that have suffered oppression at the hands of the state, or continue to do so, should have greater latitude to engage in illiberal practices than illiberal minority cultures who have not suffered state oppression (on Okin's account, the state may (temporarily) tolerate certain illiberal practices of (formerly) oppressed minority cultures, provided that there is broad popular support for the maintenance of these practices amongst their members; see Okin; 2005). Neither do I suppose, as Kymlicka (1995, pp.152-72) does, that cultural communities with legitimate

claims to collective self-government ought to be treated differently by the liberal state (as we will see in section 2.2, Kymlicka's view is that, unless these groups commit grave and systematic violations of basic rights and liberties, the state should only non-coercively try to liberalise them). Instead, my principles for dealing with illiberal cultural practices apply to *all* illiberal minority cultures.

This is not to suggest that a history of (continued) oppression or legitimate claims to collective self-government should not make a difference as to how the state deals with illiberal practices of illiberal minority cultures; whether these factors should play a role is something I leave open here. This omission is justified, I believe, because even if the answer to this question is in the affirmative, it is still important to clarify first how the state should deal with illiberal practices of illiberal minority cultures *regardless* of whether they have a history of (continued) oppression or legitimate claims to collective self-government. The reason is that before we can consider whether exemptions to the rules are to be made, we should know what the rules are.

Self-Regarding Illiberal Cultural Practices

Second, this dissertation concentrates on illiberal practices of illiberal minority cultures that affect their *own* members rather than outsiders. My motivation for focusing on these self-regarding cultural practices is that they are the most contentious from a liberal perspective. Whilst no liberal worthy of the name would hold that the Amish should be allowed to curtail the education of non-members,³ whether they should be permitted to withdraw their *own* children from school before the legal age is disputed within liberal circles. In a similar vein, virtually no liberal would hold that Salafist groups can legitimately require outsiders to abide by Sharia law, yet whether they can legitimately require their own members to do so is contested.

³ This is not to suggest that the Amish want this; given the little contact they seek with wider society, it seems unlikely that they would advocate restrictions on the education of outsiders.

Cultural Communities

Finally, it is worthwhile explaining why this dissertation focuses on illiberal practices of cultural communities rather than other kinds of groups such as moustache societies or states. The reason for doing so is twofold: (i) illiberal cultural practices are especially controversial from a liberal viewpoint as cultural communities, I will suggest below, cannot be unequivocally classified as voluntary or involuntary groups; and (ii) there is much at stake as the fact that cultural communities tend to have a profound and pervasive impact on many different aspects of their members' lives suggests that the state's stance towards illiberal cultural practices will have considerable consequences for many citizens.

Regarding reason (i), it is plain that cultural communities are not voluntary groups in any clear sense; the fact that most of us were born into our cultural communities, and consequently did not consent to become members, gives us reason to doubt their voluntariness.⁴ At the same time, an argument can be made that they are voluntary groups. According to this argument, people who remain with their cultural communities despite being able to leave, and knowing that they are able to leave, 'tacitly consent' to cultural membership; insofar as enough members meet these conditions, this is then thought to justify the classification of cultural communities as voluntary groups. (Though idea that individuals tacitly consent to membership in this particular context (or in all possible contexts) may seem far-fetched, I suspect that when people argue that the state should not interfere with cultural communities that treat their members badly if these members are free to leave the group, they often implicitly rely on the tacit-consent argument).

Now, it should be asked: why does it matter whether or not cultural communities are voluntary groups? The answer is that for many liberals, the voluntariness of people's memberships of groups can justify – at least from a political perspective - their exposure to (some of) these groups' illiberal practices, which is why they are generally willing to give voluntary groups more latitude to engage in illiberal practices than non-voluntary groups.⁵ What underlies this stance, as Leslie Green remarks, seems to be the belief that "if membership of voluntary groups subjects adherents to practices that would otherwise be

⁴ Though Buddhists who believe that people choose their parents before their birth might deny this.

⁵ This does not preclude the possibility that liberal theorists may want the state to interfere with a wide range of illiberal practices of (some) voluntary groups, even if they only affect their own members. In many cases, these practices will inflict severe harm and/or be highly discriminatory such as the policy of the *Boy Scouts of America* to expel members for being openly homosexual.

discriminatory, unjust, or foolish, then these disadvantages nonetheless flow from a free decision to belong, and any of them can be evaded by leaving the group” (Green, 1998, p.168).

If there is indeed a positive correlation between a group’s voluntariness and the willingness of liberals to tolerate its illiberal practices, then one reason suggests itself as to why state interference with illiberal practices of cultural communities tends to be more controversial than state interference with illiberal practices of moustache societies or states. The reason is that the (in)voluntary character of these latter groups is less in dispute; the fact that state membership is commonly considered to be less voluntary than cultural membership would explain why most liberals seem to agree that it is more problematic for states to engage in illiberal practices than for cultural communities. Similarly, the fact that membership of moustache societies is generally considered to be more voluntary than cultural membership would explain why most liberals seems to find it more problematic when cultural communities are internally illiberal than when moustache societies are.

The other feature of cultural communities that makes it worthwhile concentrating on their illiberal practices, is that people’s cultural membership tends to have a deep and pervasive impact on various aspects of their lives. For most people, being a member of a particular cultural community profoundly shapes their beliefs, feelings, and behaviour; moreover, their cultural membership tends to influences how other people relate to them. As a result, we see that whether one is born a member of e.g. the Amish community, the Pueblo Indian community, or the liberal majority culture normally makes a big difference as to how one’s life turns out (the same applies, of course, to the position that one occupies within the group; e.g. the life-prospects for a boy in the Ultra-Orthodox Jewish community are relevantly different to those for a girl). This is a pertinent point, as it suggests that whether the state does or does not remedy illiberal practices of illiberal minority cultures – and, if it does, in what way(s) - can be expected to have profound consequences for their members’ lives. This, I believe, provides us with a further reason to focus on illiberal practices of cultural communities.

1.1.3 Claims

Having clarified this dissertation's key concepts and accounted for its focal points, it is time to look at the conditions under which the state should tolerate internally illiberal minority cultures. In chapter 4, I will argue that an illiberal minority culture should be free to engage in illiberal practices that only affect their own members if and only if the following conditions are met:

- (i) Its adult members have substantive exit rights, that is, rights to a realistic ability to leave their cultural community for another cultural community.
- (ii) The cultural community in question does not engage in illiberal practices that inflict severe harm on children.

Regarding condition (i), this dissertation assumes that in order to leave her cultural community, a person has to meet two necessary and jointly sufficient conditions. First, she has to withdraw from the rights and obligations of cultural membership. Second, she has to renounce the authority that members of her cultural community may claim over her. Thus understood, exiting need not be a physical act – even if one's cultural community is geographically concentrated, it may be possible to exit one's culture without moving away from its members (cf. Vitikainen, 2012, pp.88-90).

Now, in order to have substantive exit rights, I deem it necessary that a person be able, and knows that she is able, to live a decent life in another cultural community within her society (what this means will be explicated in chapter 4). In the case of illiberal minority cultures, we will see at different places in this dissertation that it crucial from a liberal perspective that this other cultural community be the *liberal majority culture*. The reason for this is that the individual freedom of members of illiberal minority cultures is not appropriately protected (particularly that of dissident members) unless they have a meaningful opportunity to escape exposure to their culture's illiberal practices.

In order to secure substantive exit rights for members of illiberal minority cultures, this dissertation's 'substantive exit rights strategy' assigns five tasks to the state. First, it should make an autonomy-facilitating, multicultural education compulsory for children. Second it should provide citizens who are left destitute by exiting their cultural community with financial assistance. Third, it should offer citizens services that will help them integrate into

another cultural community (one might think of language training or funding of support groups for ex-members). Fourth, it should prevent cultural communities from forcing their members to remain with the group, as well as interfere with (cultural) practices that, whilst not forcing their members to stay put, are overly detrimental to their ability to exit (e.g. foot-binding or child marriages).⁶ Finally, the state should ensure that the admission and integration of members of illiberal minority cultures into the liberal majority culture is not hindered by discrimination, racism, xenophobia, *et cetera*.

Condition (ii) maintains that the state should not allow cultural communities to engage in (illiberal) cultural practices that inflict severe harm on children. What underlies this condition is the belief that a person's bodily and psychological integrity is of such importance that, except in rare cases (e.g. when adults are being punished for their wrongdoings), no human being should incur severe harm unless it is within his power to escape it. Since children will normally lack this power as they do not have a realistic ability to exercise their exit rights, this dissertation's substantive exit rights strategy prescribes that the state should remedy (illiberal) cultural practices that severely harm them.⁷

It should be noted that condition (ii) is not considered central to this strategy. To see why not, notice that, as a liberal strategy, its primary aim is to protect citizens' individual freedom. Yet, if the protection of individual freedom is what fundamentally matters, then it is not evident that it should require the state to interfere with cultural practices that harm children. The reason is that it is unclear whether children's exposure to harmful cultural practices constitutes a greater infringement on their liberty than exposure to harmless cultural practices such as going to church and celebrating Bar Mitzvahs that liberals – for good reasons - do not want to remedy (whilst children are often unable to escape their culture's harmful practices, the same holds true of these harmless practices). But if this is so, then it becomes dubious whether this strategy's commitment to the protection of individual freedom alone can justify condition (ii).

The reason why my favoured substantive exit rights strategy nonetheless proposes a ban on cultural practices that severely harm children is that it seems to render this approach more

⁶ 'Overly detrimental' here means that even if the other four measures of this dissertation's substantive exit rights strategy are successfully implemented, these cultural practices would still deny them a meaningful opportunity to change cultural affiliations. I will say more about these kinds of practices in section 4.2.2.

⁷ Why this does not extend to *all* cultural practices that harm children will be discussed in section 4.2.2.1.

plausible. Many liberals (as well as non-liberals) would agree, and quite rightly I want to suggest, that a person's bodily and psychological integrity is so important that nobody should be subjected to severely harmful cultural practices without there being a realistic possibility of avoiding these practices. However, if we accept this principle, then the inability of most children to exit their cultural community makes it incumbent on the state to protect them from severely harmful cultural practices.

1.2 Rationale

This leaves one question: why should liberals accept this dissertation's substantive exit rights strategy rather than one of the alternative liberal strategies for dealing with illiberal cultural practices?

The main reason is that it is the best guardian of what was identified as liberalism's core commitment: the protection of individual freedom. More specifically, I will argue that this dissertation's substantive exit rights strategy adjudicates the conflicts that exist between the wishes of conservative members of illiberal minority cultures to preserve the *status quo* and the wishes of their dissident members to liberalise the group in a *fairer* way than rival liberal strategies. 'Fairer' here means that this approach is more likely to give sufficient protection to the individual freedom of conservative and dissident members, whereby 'individual freedom' is understood as the ability to endorse, and act upon, one's conception of the good.⁸

Now, it should be noted that the above definition of individual freedom may take a more or less demanding meaning depending on whether one accepts that a free person should *independently or autonomously* endorse her conception of the good.

Freedom (1): The ability to endorse, and act on, one's conception of the good, regardless of whether this endorsement is independent.

Freedom (2): The ability to independently endorse one's conception of the good, and act on this conception.

Before asking which kind of individual freedom is better protected by this dissertation's substantive exit rights strategy than by rival liberal strategies, it is important to explicate the differences between these two kinds of individual freedom.

⁸ 'A conception of the good' is understood in this context as a more or less consistent set of beliefs that people believe should guide their lives.

According to freedom 1, a person is free inasmuch as she can live in accordance with whatever set of beliefs she thinks should guide her life. Here, it does not matter whether she endorses these beliefs independently; even if they are instilled in her through e.g. brainwashing, indoctrination, hypnosis, or other autonomy-inhibiting processes, she would still be considered free as long as she can live in accordance with them. There are at least two reasons why liberals may only want the state to protect this kind of individual freedom. One reason is that they believe that personal autonomy does not add anything to a person's individual freedom because, in their view, there are no relevant differences between influences that are commonly considered to impede personal autonomy (e.g. brainwashing, indoctrination, hypnosis) and those that do not (e.g. advice, certain forms of socialisation, inspiration). Another reason is that they believe that state measures that promote personal autonomy (e.g. a compulsory autonomy-facilitating education) infringe on the ability of certain people to act on their conception of the good (regardless of whether this is done autonomously), especially of those who are ill-disposed towards individual self-direction.

By contrast, freedom 2 supposes that a person's conception of the good only includes those beliefs about the good life that he independently endorses. What this means is that if he reflects on these beliefs (or were to do so), he would independently affirm them, or at the very least not feel alienated from them. 'Independently' means that his endorsement of the beliefs in question is untainted by autonomy-inhibiting influences such as brainwashing, indoctrination, hypnosis, *et cetera*. If this requirement is not met, then, according to the present conception of individual freedom, this person is not free, regardless of whether he can act on 'his' conception of the good. The assumption here is that, because he has been subjected to autonomy-inhibiting influences, his conception of the good cannot be appropriately ascribed to him. As a result, liberals who think that freedom (2) merits state protection will normally advocate state measures to protect citizens from brainwashing, indoctrination, hypnosis, *et cetera*.

Now, it should be asked: when I say that this dissertation's substantive exit rights strategy better protects the individual freedom of members of illiberal minority cultures than alternative liberal strategies, which kind of individual freedom is meant?

The answer is 'both kinds of individual freedom'. To show that this is so, I will assess two liberal strategies for dealing with internally illiberal minority cultures that are considered to

be the main rivals of this dissertation's substantive exit rights strategy, and that each aim to promote a different kind of individual freedom. As we will see, the strategy proposed by Will Kymlicka aims to protect a kind of individual freedom that is (broadly) similar to freedom 2, whereas the strategy proposed by Chandran Kukathas seeks to protect a kind of individual freedom that is (broadly) similar to freedom 1. In both cases, I argue that this dissertation's substantive exit rights strategy better serves the kind of individual freedom these alternative strategies aim to protect. This means, amongst other things, that *regardless* of whether liberals believe that the state should promote freedom 1 or 2, they will end up with this my favoured substantive exit rights strategy.

Omission of Rawls

Finally, I want to explain why this dissertation does not discuss the work of John Rawls. The omission of Rawls may come as a surprise as his work has a significant influence on discussions about how liberal states should respond to the ethical heterogeneity within their societies. The reason why I am not including his work, is that, even though Rawls' aim in *Political Liberalism* (2005, p.63) is to tailor his theory of justice to the fact of (reasonable) pluralism within constitutional democracies, he does not explicate as to how the liberal state should deal with domestic (illiberal) cultural diversity.⁹ This lack of clarity means that including his work would involve a lengthy discussion about his possible position, something for which there is insufficient space in this dissertation.

To be sure, Rawls' comments on the freedom of non-political groups (e.g. families, associations) to govern their internal affairs provide some clues how his state is likely to respond to illiberal practices of minority cultures (cf. Rawls, 2005, pp.10-1; p.15). As I argue elsewhere (De Vries, 2014), one may expect that, given that the aim of Rawls' political liberalism is to make his liberal conception of justice *Salonfähig* to societies that are marked by pluralism, cultural communities would probably have some freedom to be internally illiberal as they are an important part of this pluralism. If this were not the case, then it seems that Rawls could no longer credibly maintain that his theory of justice is not a (partially)

⁹ According to Kymlicka (1995, p.128), the reason why Rawls does not discuss how the state should deal with domestic cultural diversity is that he mistakenly "equates the political community with a single 'complete culture' and with a single 'people' who belong to the same society and culture".

comprehensive doctrine as his principles of justice would seem to apply to many, if not most domains of human life (Rawls, 2005, p.xvi). Relatedly, serious doubts would arise about whether his political conception of liberal justice can be “freely endorsed”, as Rawls intends, “by doctrines that are both “religious and nonreligious, liberal and non-liberal” (Rawls, 2005, p.xxxviii).

At the same time, there is reason to believe that Rawls may *not* want to tolerate illiberal practices of minority cultures. In order to see this, notice that according to his criteria, cultural communities seem to belong to what he terms the “basic structure of society” (Rawls,1999, p.6). On Rawls’ account, the social and political institutions that are part of this structure are those that “define men’s rights and duties and influence their life prospects, what they can expect to be, and how well they can hope to do” (Rawls, 1999, pp.6-7). Yet, if this is his criterion for deciding which institutions are to be regulated by liberal principles justice, then it seems that cultural communities, as well as families as Okin (1994) has argued, would also fall under the category of these institution. After all, there is no denying that cultural communities help define people’s rights and duties (even if not in a strictly legal sense), and that they have a great impact on their life prospects (see section 1.1.2).

Though I believe that that it is still more likely that Rawls, for the reasons mentioned above, would not consider cultural communities to be part of the basic structure, discussing whether this belief is warranted would occupy too much space here.

1.3 Limitations

Having clarified this dissertation’s aims and background, it is important to look at its main limitations.

The first limitation pertains to this dissertation’s focus on the core liberal value of individual freedom. In my assessment of the three liberal strategies for dealing with internally illiberal minority cultures, various social goals are left aside that many theorists will say should inform these kinds of strategies. One might think of the promotion of social cohesion, civic solidarity, economic prosperity, *et cetera*. Without denying the importance of these goals for public policy, this dissertation assumes that, from a liberal point of view, the protection of individual freedom is normally more important than their realisation (both individually as well as compounded).

This dissertation's second limitation is its agnosticism about whether liberals should support the conferral of positive group rights on illiberal minority cultures such as language support, subsidies for cultural community centres, guaranteed political representation, *et cetera*. It is true that my substantive exit rights strategy's (restricted) toleration of illiberal cultural practices goes well with the provision of these rights. This is because both this toleration and the provision of positive group rights will help illiberal minority cultures to retain their cultural distinctiveness. Yet, it should be clear that this strategy is not committed to this latter form of support, as liberals who advocate a (more) minimalist state can also accept its precepts. In those cases, they will advocate a state that tolerates illiberal practices of illiberal minority cultures under the conditions set out in section 1.1, but does so *without* giving these groups active support.

The upshot of this discussion is that inasmuch a full-blown normative theory of cultural diversity states whether (illiberal) minority cultures should be entitled to positive group rights, and if so, under what conditions, this dissertation's substantive exit rights strategy does not offer such a theory.

1.4 Structure

This dissertation has the following structure. In chapters 2 and 3, the main rival liberal strategies for dealing with illiberal cultural practices are discussed. I will start by looking at Kymlicka's perfectionist liberal strategy (chapter 2), followed by Kukathas' plain exit rights strategy (chapter 3). The aim of these chapters is to show that both approaches are defective; I will argue that Kymlicka's strategy, by attempting to turn cultural communities into proto-liberal states, pays insufficient heed to the individual freedom of conservative members of illiberal minority cultures, whereas Kukathas' strategy, by failing to secure substantive exit rights, does not appropriately protect the individual freedom of these groups' dissident members. In each case, it is concluded that this dissertation's substantive exit rights strategy offers a better alternative from a liberal viewpoint. The aim of chapter 4, then, is to look in greater detail at the aims and measures of this strategy. Finally, chapter 5 will answer an important critique of this strategy, namely that it fails to appropriately protect people from unfair treatment by members of their cultural community.

2. Kymlicka's Perfectionist Liberal Strategy

This chapter assesses Will Kymlicka's perfectionist liberal strategy for dealing with internally illiberal minority cultures. In a nutshell, this strategy tries to remedy the illiberal practices of these groups in order to create a "fully liberal society", that is a society in which all cultural communities are liberal (Kymlicka, 1989, pp. 170-1). By doing so, it means to protect what Kymlicka sees as the supreme liberal value: personal autonomy (Kymlicka, 1995, p.80; p.152).

This chapter argues that Kymlicka's strategy is unsatisfactory on two counts. First, it faces a substantial pragmatic challenge as its attempts to liberalise minority cultures threaten to spark a conservative backlash amongst illiberal minority cultures. The reason why these backlashes are problematic for Kymlicka, is that they undermine his task of creating a "fully liberal society". Second, it is claimed that Kymlicka's strategy does not appropriately protect the individual freedom of conservative members of illiberal minority cultures, which will be construed in this chapter as *personal autonomy* or what I earlier described as freedom 2 (see section 1.2). To rectify this, I maintain that a liberal state should tolerate illiberal practices of cultural communities that only affect their own members, provided that these practices do not inflict severe harm on children and/or deny their members substantive exit rights.¹⁰

The reason for using freedom 2 as a touchstone for Kymlicka's strategy rather than the more negative liberty described by 'freedom 1 (see section 1.1), is that this allows us to evaluate his approach on (more or less) its own terms. This is possible because freedom 2 seems to be similar enough to the type of freedom Kymlicka's strategy aims to promote to ensure that the conclusions reached about this strategy would barely differ if we were to assess it on the basis of its own conception of personal autonomy (I will say more about this below). To be able to see why it is important to assess Kymlicka's strategy on its own terms, remember that this dissertation's objective is to show that my favoured substantive exit rights strategy better protects citizens' individual freedom than the main rival strategies proposed by Kymlicka and Kukathas. However, this is can only be done if these strategies are evaluated

¹⁰ This chapter will be mostly concerned with the second condition; the first condition will be discussed at length in chapter 4.

on the basis of the kind of liberty they are actually trying to protect rather than on the basis of a kind they do not accept.

Regarding the similarities between the notions of personal autonomy held by Kymlicka and this author, notice that whereas freedom 2 was defined in this dissertation as the “the ability to independently endorse one’s conception of the good, and act on this conception”, Kymlicka argues in *Multicultural Citizenship* (1995, p.158) that a person is autonomous insofar as she is “free to assess and potentially revise existing ends”. As I understand it, the ‘freedom to assess existing ends’ on Kymlicka’s account is broadly similar to what I termed the ‘ability to independently endorse a conception of the good’. This becomes clear once it is noted that to independently endorse a conception of the good simply means that one endorses one’s conception of the good *free* from coercion and manipulation, and that this requires that one be able to *assess* the ends that comprise one’s conception of the good in order to ensure that one finds these ends worthy of one’s continued allegiance (though this need not involve Socratic scrutiny, some degree of critical evaluation will be necessary for this).

Let us suppose, then, that the conceptions of personal autonomy held by Kymlicka and I have enough in common to guarantee that the conclusions reached about his strategy would not be significantly different if we were to use his conception of personal autonomy to assess it.

2.1 A Liberal Defence of Minority Rights

It may be surprising to many that Kymlicka’s strategy seeks to remedy the illiberal practices of minority cultures, as he is widely seen as one of the foremost defenders of multiculturalism – a political and intellectual movement that is commonly associated with state toleration, and sometimes also accommodation of cultural differences. Yet, as it will become clear in this section, there is no contradiction; Kymlicka’s reasons for granting minority cultures what he terms “group-differentiated rights” (1995, p.7) are the same as his reasons for remedying their illiberal practices. In order to understand why Kymlicka is unwilling to tolerate illiberal cultural practices, as well as to see how this stance fits into his overall normative theory of cultural diversity, it is therefore important to look at his defence of minority rights first.

Kymlicka’s aim in *Liberalism, Community and Culture* (1989) and *Multicultural Citizenship* (1995) is to show that liberalism and multiculturalism are not antagonistically

related as it is widely held.¹¹ In his view, support of marginalised minority cultures is not just compatible with liberal-egalitarian justice, but actually demanded by it. More specifically, he argues that liberal states have a duty to compensate minority cultures that are disadvantaged by the tendency of state policies and institutions to favour the interests of majority culture (Kymlicka, 1995, pp.107-30; 2002). For him, the way to do this is to offer these disadvantaged cultures “group differentiated rights” that supplement their members’ civil and political rights (Kymlicka, 1995, pp.34-5).¹²

Now, the reason why Kymlicka wants the state to support marginalised minority cultures is that he believes that all citizens should have a right to a “stable cultural structure” within their cultural community (Kymlicka, 1995, pp.84-93). On his account, the availability of this structure is not important because cultural diversity is an intrinsic good, but rather because it allows people to exercise their personal autonomy. By providing us with what he terms a “meaningful context of choice”, a stable cultural structure is thought to be a prerequisite for a self-directed life (Kymlicka, 1995, pp.121-3). Kymlicka thus notes that

“It’s only through having a rich and secure cultural structure that people can become aware, in a vivid way, of the options available to them, and intelligently examine their value. Without such a cultural structure, children and adolescents lack adequate role-models which leads to despondency and escapism (Kymlicka, 1989, pp.165-6).

Notice that it is assumed here that we are not constituted by the ends of our cultural community as some communitarians have contended (cf. Sandel, 1998). If this were the case, then rather than making the exercise of our personal autonomy possible, our cultural membership would inhibit it as we would just do whatever we were encultured to do. Instead,

¹¹ A wide-spread assumption is that liberalism’s commitment to the protection of individual rights collides with the aim of multiculturalism to grant group rights to (marginalised) cultural communities, as many believe that these rights may be used to curtail the liberties of individuals.

¹² Kymlicka (1995) distinguishes three kinds of group rights, namely self-government rights”, i.e. rights to political self-determination within a federation or in the form of an independent state; ”poly-ethnic rights”, i.e. rights that are meant to promote the integration of minorities into the mainstream society such as exemptions from Sunday-hours for Jews and Muslims and funding of English language classes in Anglophone countries; and “special representation rights”, i.e. proportionate representation amongst political representatives of racial, ethnic, sex-and-gender-based, and ability-based groups. Not all minorities within the liberal state, however, can lay claim on all of these rights on Kymlicka’s account. Whilst indigenous peoples and national minorities such as the Quebecois and Flemish seem to be entitled to all of them, immigrant groups can only claim poly-ethnic and special representation rights, whereas social movements (e.g. feminists or gay movements) can only claim special representation rights.

Kymlicka believes that we can stand back from our communal ends to examine and possibly revise them – if not all simultaneously than by piecemeal (Kymlicka, 1995, p.81).

Now, it should be asked: why does Kymlicka ground his argument for minority rights on the value of personal autonomy? The short answer is that he sees personal autonomy as a prerequisite of the good life. To be able to live good or valuable lives, he writes, we should not only “lead our lives from the inside, in accordance with our beliefs about what gives value to life”, but also be “free to question those beliefs, to examine them” (Kymlicka, 1995, p.81). Indeed, the ability to live self-directed lives is so important according to Kymlicka that he refers to our access to a stable cultural structure as a “primary good” in the Rawlsian sense (Kymlicka, 1989: 177-8).

At this point, it should be noted that Kymlicka’s conclusion that marginalised minority cultures should receive group-differentiated rights does not automatically follow from the premises that (i) a “stable cultural structure” is a *conditio sine qua non* of personal autonomy, and (ii) that a liberal state has a pre-emptive commitment to protecting citizens’ personal autonomy. For one thing, it remains unclear why the state should protect marginalised minority cultures if their members can find a stable cultural structure within *other* cultural communities. Rather than ensuring that these individuals have access to a stable cultural structure within their own cultural community, one might thus argue that the state should ensure that they have access to *some* stable cultural structure by fighting the racism and discrimination that may hinder their assimilation into a (more) viable cultural community.

Kymlicka’s response, which provides us with one of the two missing premises in his argument for minority rights, is that (iii) individuals cannot justly be required to change cultural affiliations to attain access to a stable cultural structure. Whilst he admits that it is not impossible for people to leave their cultural community, he remarks that this is “best seen as renouncing something to which one is reasonably entitled” (Kymlicka, 1995, p.86).

The final premise that Kymlicka invokes in order to build his case for minority rights, is that (iv) these rights are the best means of securing a stable cultural structure for members of marginalised minority cultures. This is not self-evident. To see why not, notice that if the marginalisation of minority cultures arises because the state’s policies and institutions are biased towards the interests of the majority culture, then it might be held that, rather than compensating minority cultures for this bias, the state should ensure that its policies and

institutions are not culturally biased to begin with. This would then take away the need for minority rights as the cultural inequalities these rights are meant to redress would not arise.

In response to this suggested alternative to his compensation-based approach, Kymlicka notes that the state's policies and institutions can never be wholly culturally neutral, and that minority rights accordingly remain necessary. In his view, there are many areas of social and political life in which state policies and institutions cannot but favour some cultures over others (Kymlicka, 1995, p.113). For example, within societies that harbour cultural communities with different languages, he notes that states often have to choose particular languages to govern their affairs as there are practical limits to the number of languages that can be used in parliament, schools, the court, *et cetera* (Kymlicka, 2002, p.346). He goes on to note that the fact that that majority culture's language is usually singled out for these purposes gives their members a significant advantage over members of minority cultures with different languages. One important reason why this is so, is that much of the available work in society will require proficiency in the majority's language.

Other examples that Kymlicka gives of the unavoidability of the state's cultural bias pertain to its decisions over e.g. its "internal boundaries, public holidays, and [...] symbols". According to Kymlicka, even if states can remake these decisions in ways that are more sensitive to the prevailing cultural diversity within society, they will still involve "recognising, accommodating, and supporting the needs and identities of particular ethnic and national groups" (Kymlicka, 1995, p.115). From this, he concludes that minority rights are indispensable as a means of compensating cultural communities for the majority bias of state policies and institutions.

2.2 Internal Restrictions and External Protections

At this point, it should be noted that Kymlicka imposes an important restriction on the usage of minority rights. According to his strategy, minority rights should *not* be employed to curtail the individual freedom of members of cultural communities. Instead, these rights are only believed to be legitimate insofar as they lead to greater intercultural equality, that is, insofar as they provide what Kymlicka terms "external protections" from the majority bias of state policies and institutions (Kymlicka, 1995, p.7). "A liberal view", he thus notes, "requires *freedom within* the minority group, and *equality between* the minority and majority

groups” (Kymlicka, 1995, p.152; original emphases). This means, amongst other things, that whilst e.g. the Pueblo Indians in North America have the right to govern themselves according to Kymlicka’s theory, they are not allowed to use their self-government rights to refuse housing benefits to religious converts, or to discriminate against their members in other ways (Kymlicka, 1989, pp.195-6).

The reason why Kymlicka believes that it is illegitimate for minority cultures to use group-differentiated rights as a means of constraining their members’ individual freedom, i.e. to impose on them what he calls “internal restrictions” (1995, p.7), is that these restrictions impede their members’ personal autonomy – the principal value that minority rights ought to promote in his view. As Kymlicka puts it, the problem with internal restrictions is that they prevent a person from choosing “the life she thinks is best for her from a rich array of possibilities offered by the cultural structure” (Kymlicka, 1989, pp.170-1).¹³

But if Kymlicka holds that internal restrictions cannot be justified from a liberal viewpoint, then how should the state deal with illiberal practices of minority cultures that by their very nature impose these kinds of restrictions? Considering the fact that he sees personal autonomy a prerequisite of a good or valuable human life, one would expect him to advocate state interference with these practices. However, this is not the case – at least not in all cases. Whereas state interference is thought to be required if a culture’s practices lead to “gross and systematic violations of human rights, such as slavery or genocide or mass torture and expulsions” (1995, p.169), Kymlicka notes that less harmful cultural practices of particular kinds of cultural communities ought to be exempted from state interference. These exemptions apply to “national-minorities”, by which he means previously self-governing, territorially concentrated cultures such as those of the Quebecois, Puerto Ricans, and Native-American tribes. According to Kymlicka, the fact that national-minorities were once politically independent, and often became incorporated in the state against their will (e.g. through conquest) renders it illegitimate for the state to interfere with their illiberal practices

¹³ Kymlicka adds to this that tolerating internal restrictions goes against “the very reason we had for being concerned with cultural membership – that it allows for meaningful individual choice” (Kymlicka, 1989, pp.170-1) Elsewhere, he concedes that it will not always be easy to determine whether a given minority right is used as an internal restriction or external protection as “laws that are justified in terms of external protection can open the door to internal restrictions” (Kymlicka, 1995, p.43). An example of this he mentions are the calls for group-libel laws by some Muslim communities after the publication of Salman Rushdie’s *Satanic verses*. “As the example of Rushdie himself suggests”, Kymlicka writes, “there is reason to think that some Muslim leaders seek such laws primarily to control apostasy within the Muslim community, rather than to control the expression of non-Muslims” (Kymlicka, 1995, p.43).

as long as these do not give rise to “gross and systematic violations of human rights” (Kymlicka, 1995, p.169).¹⁴

By contrast, Kymlicka’s theory seems to allow for state interference with the illiberal practices of communities of recent immigrants or what he terms “ethnic groups” – *irrespective* of whether these practices give rise to “gross and systematic violations of human rights”. What justifies this difference in treatment, Kymlicka explains, is that members of ethnic groups have normally chosen to uproot themselves, and can therefore be justly required to adhere to the liberal norms of their host society (Kymlicka, 1995, pp.95-6).

At this point, it should be noted that the fact that Kymlicka does not allow the liberal state, except in extreme cases, to interfere with the internal affairs of national-minorities does *not* mean that it should not do anything against their illiberal cultural practices. In his view, liberal states have a duty to non-coercively stimulate liberal reform within these groups.¹⁵ To do this, he suggests that they should use the kinds of measures that are employed in the international arena to liberalise foreign states, including offering economic benefits in exchange for liberal reform, and supporting progressive factions within illiberal groups (Kymlicka, 1995, pp.168-9).¹⁶

To summarise, we have seen that Kymlicka’s strategy tries to remedy the illiberal practices of illiberal minority cultures in order to create a “fully liberal society”, but that the kinds of measures that he considers appropriate to do so vary depending on the nature of the community involved (i.e. on whether it is a national-minority or ethnic group). Whilst Kymlicka does not discuss how the state should remedy the illiberal practices of ethnic groups, the contrast he draws with the way the state should respond to illiberal practices of national-minorities, along with the fact that ethnic groups are required to adhere to the liberal norms of their host society on his account, suggests that relatively militant measures are legitimate in their case, and perhaps even required.

¹⁴ Related to this, Kymlicka (1995, p.165) notes that liberals should be as reluctant to intervene in foreign states as to intervene in national-minorities.

¹⁵ Kymlicka admits that the boundary between coercive and non-coercive measures can be blurry, but that a meaningful distinction can be drawn nonetheless (Kymlicka, 1995, p.169).

¹⁶ According to Kymlicka, an advantage of these non-coercive measures is that the liberal reform they may produce is likely to be more enduring than if more militant measures are used (Kymlicka, 1995, p.168).

2.3 Objections

This section raises a pragmatic and principled objection to Kymlicka's strategy for dealing with illiberal cultural practices. First, I will suggest that this strategy's attempts to liberalise minority cultures are likely to be ineffective in many cases, as they carry a high risk of sparking conservative backlashes amongst these groups. Next, I will focus on a deeper problem with this approach. As it shall be argued, Kymlicka's attempts to liberalise cultural communities do not give sufficient protection to the individual freedom (which is construed as personal autonomy or freedom² for reasons discussed earlier) of conservative members of illiberal minority cultures. My conclusion is that this dissertation's substantive exit rights strategy does better in this respect, thereby rendering it the preferred strategy from a liberal perspective.

2.3.1 Reactive Culturalism

The pragmatic problem that arises for Kymlicka's strategy is that its attempts to liberalise minority cultures threaten to be ineffective. The reason is that state attempts to change a cultural community's lifestyle often spark a conservative backlash amongst its members, a phenomenon that Shacher has termed "reactive culturalism" (Shachar, 2001. pp.35-6). Distinctive of this backlash is that the members of these groups start cultivating their culture's most orthodox elements. During this process, as Anne Phillips describes, they rediscover or simply invent cultural traditions, and restore "practices that have long been contested [...] to a central defining role" (Phillips, 2005, p.114). In the case of Kymlicka's strategy, this would mean that minority cultures will become more illiberal, or at the very least remain unaffected by the attempts of this approach to steer them into a progressive direction.

Whilst I will suggest later that Kymlicka's ambition to liberalise cultural communities is problematic from a liberal viewpoint *independent* of whether he succeeds in doing so, my aim here is to show that liberals who disagree still have reason to resist his approach on pragmatic grounds, or at least in certain cases. In order to do this, however, we first need a

better understanding of the phenomenon of reactive culturalism. With this aim in mind, let us consider an example of reactive culturalism and look at its main causes.

A good example of reactive culturalism can be found in the revalorisation of the Hindu practice of *Sati* within British India, a funeral ritual whereby a widow would immolate herself on her husband's funeral pyre. Whilst the practice of *Sati*, as Uma Narayan describes, had almost become extinct when the Britons arrived in India, it nevertheless gained the status of a "central component of Indian culture" amongst Hindu communities after the British colonists banned it (Narayan, 1998, p.93). Even Indian reformers who had initially opposed *Sati*, Narayan notes, began to champion it as a "lofty symbol ideal of Indian womanhood, indicating a feminine nobility and devotion to family deemed uncharacteristic of Western women" (Narayan, 1998, pp.93-4). Since the practice of *Sati* had virtually disappeared when the British colonised India, it seems plausible to assume that the cultivation of this practice was at least partly the product of a conservative backlash against the British colonisers. That is, it seems that an important reason why *Sati* achieved its emblematic status, is that it offered Hindu communities a medium through which to protest against the British interference with their affairs. If true, *Sati* constitutes an example of a practice that under the influence of reactive culturalism is rediscovered by members of a cultural community and restored to a central defining role.

Now, in order to see why Kymlicka's strategy seems particularly prone to reactive culturalism, it is important to highlight some of its main causes. We have already encountered one reason why a cultural community may resort to reactive culturalism, namely that it offers these groups a channel to express their frustration with the state's attempts to change their ways of living. It seems that this is particularly likely to happen when a cultural community has suffered, or continues to suffer, oppression at the hands of the state. The assumption here is that a history of (continued) oppression can be expected to provoke feelings of mistrust and resentment towards the state that render it more likely that members of a given cultural community will respond defiantly to state interference.

Another reason why members of cultural communities may resort to reactive culturalism, is that they fear that state attempts to change their lifestyle pose a threat to the group's survival. These fears may be justified or not. Sometimes there seems to be an objective threat. For example, minority cultures that are very low in numbers, and that do not receive group-

differentiated rights as compensation for the majority bias of the state's policies and institutions (see section 2.1), may be under substantial pressure to assimilate into the majority culture. However, fears of cultural extinction may also be inflated; it is certainly not uncommon for conservative members of cultural communities to exaggerate the danger to survival that is posed by state attempts to change their cultural lifestyle (indeed there may be no danger at all). Spreading these fears may be a tool to gain support for their orthodox interpretations of the group's beliefs and practices, as people who believe that their culture community is under an existential threat seem more likely to become conservative.

Having looked an example of reactive culturalism and highlighted some of its main causes, it should be asked why Kymlicka's strategy seems particularly prone to reactive culturalism. The short answer is that this approach, unlike the substantive exit rights strategy I will expound in chapter 4, does not allow for any conditions under which illiberal minority cultures would be free from state attempts to liberalise them. To be sure, the fact that Kymlicka only allows the state to use non-coercive measures to stimulate liberal reform amongst national-minorities seems to render (perceived) threat to their survival smaller than in the case of ethnic groups. Even so, there seems a real possibility that the former's members will resort to reactive culturalisms as well. By trying to purge national-minorities of their illiberal elements, many of their members may feel – and quite rightly it appears - that the state is trying to reduce their cultural community to a “matter of colourful dances and rituals”, even if it does not use militant means to meet this objective (Kukathas, 1992, p.122). If this is so, then these feelings can be reasonably expected to bolster conservative attitudes within these groups, especially if they have been oppressed by the state, or continue to be oppressed by it.

In conclusion, it should be conceded that my favoured substantive exit rights strategy comes with a risk of reactive culturalism as well. Indeed, it seems that any liberal strategy that advocates state interference with the (internal) affairs of cultural communities under certain conditions will do so. Important is to note that this risk is not always unacceptable from a liberal point of view. To see why not, notice that granting cultural communities a *carte blanche* to reign over their members as they see fit is incompatible with virtually all currents of liberalism. The reason is, of course, that such a *laissez-faire* approach will condemn many individuals to highly oppressive lives as cultural communities will be free to trample on their members' basic rights and liberties. If this is so, then it seems that the risk of

reactive culturalism is sometimes a price worth paying for liberals in order to protect people's individual freedom.

Though the substantive exit rights strategy proposed by this dissertation also carries a risk of reactive culturalism, then, I want to suggest that this risk is acceptable from a liberal point of view, whilst the risk of reactive culturalism to which Kymlicka's strategy is exposed is not. In order to vindicate this claim, I will argue in the next subsection that even if Kymlicka's strategy successfully remedies the illiberal practices of illiberal minority cultures, his approach still does not appropriately protect the individual freedom of some of their members. Since liberals ought to give equal concern to the liberty of all individuals (or at least all citizens), this is an unacceptable outcome from a liberal viewpoint. Or so I will claim.

2.3.2 Protecting Personal Autonomy: The Need for Substantive Exit Rights

This subsection claims that Kymlicka's attempts to liberalise illiberal minority cultures fail to appropriately protect the individual freedom of these groups' conservative members. For the reasons discussed at the outset of this chapter, individual freedom is construed here as personal autonomy (freedom 2). After showing how the personal autonomy of conservative members of illiberal minority cultures is neglected by Kymlicka's strategy, I will answer two possible rebuttals to this claim. My conclusion is that this dissertation's substantive exit rights strategy not only better protects the individual freedom of conservative members of illiberal minority cultures than Kymlicka's approach, but that it also takes a fairer position *vis-à-vis* their personal autonomy and that of dissident members, thus rendering it the preferred strategy from a liberal point of view.

2.3.2.1 Personal Autonomy of Conservative Members

Before looking at how Kymlicka's strategy infringes on the personal autonomy of conservative members of illiberal minority cultures, it is necessary to clarify the distinction between conservative and dissident members.

Conservative and Dissident Members

This dissertation defines conservative members of illiberal minority cultures as those members who endorse many, if not most of their culture's illiberal practices. 'Endorse' here means that they support these practices because they subscribe to their underlying illiberal norms and values rather than from mere custom. Since it will normally be an important goal in the lives of conservative members of illiberal minority cultures to act upon their culture's illiberal tenets, many of them can be said to uphold an illiberal conception of the good on this account.

In contrast, I will use the term 'dissident members' to refer to members of illiberal minority cultures who want their cultural community to liberalise in important respects. The reason why dissident members may want their cultural community to become more progressive varies. Some will maintain that their culture's illiberal practices are at odds with the group's true tenets, which, in their view, are (more) liberal. For example, some feminists within Muslim communities see gender inequality a deviation from rather than an expression of Islam. Alternatively, dissident members may consider their cultural community's illiberal practices simply as morally problematic aspects of their culture.

Two further points about my conservative/dissident members distinction are in place. Firstly, despite the fact that virtually all (illiberal) cultural communities harbour a conservative and dissident subgroup, the ratio of conservative/dissident members may vary across them. Though one might think that dissident members will generally, if not always, constitute a minority, this not guaranteed; it is at least conceivable that illiberal minority cultures exist in which a wide variety of illiberal practices are observed even though only a fraction of the members uphold an illiberal conception of the good. Inasmuch as this fraction is comprised of members of the cultural elite, this does not seem impossible. Secondly, both conservative and dissident subgroups within illiberal minority cultures may include individuals who are subordinated by their community's illiberal practices, as well as those who are not, or only marginally subordinated. Accordingly, dissident members of illiberal minority cultures need not always have their free and equal status negated by their culture's illiberal practices, and conservative members need not always be (largely) free from this kind of subordination.

How Kymlicka's Strategy Undermines the Personal Autonomy of Conservative Members

Having clarified my distinction between conservative and dissident members, we can now turn to the question of how Kymlicka's strategy undermines the personal autonomy of conservative members of illiberal minority cultures. The short answer is that by remedying the illiberal practices of these groups, this strategy makes it very difficult for their conservative members, if not practically impossible, to live in accordance with their illiberal conceptions of the good (this applies in particular to conservative members of ethnic groups as Kymlicka, we saw earlier, seems to go farthest to remedy the illiberal practices of these kinds of cultural communities; I will say more about this below). To see that their personal autonomy is hindered, recall that to live autonomously, one should be able to act upon one's conception of the good life (see section 1.1).

Let me illustrate this with an example. In section 2.2, we saw that Kymlicka is unwilling to tolerate the custom of the Pueblo Indian tribe to deny religious converts access to housing benefits. Whilst it is not clear what specific measures his strategy proposes to remedy this form of religious discrimination, it seems that whatever the measures are, they will render it more difficult for the tribe's conservative members to live in accordance with their illiberal conceptions of the good. Though this may sound excessive, notice that these individuals may be profoundly convinced that it is morally wrong to support converts; this may be because they see conversion as a sin, or because they believe that those who convert to another religion betray the community, or because of some other reason. If I am right about this, then it seems a real possibility that the attempts of Kymlicka's state to liberalise the Pueblo Indian tribe will pressure their conservative members to act against some of their most deeply held beliefs.

As already suggested, how difficult it will be for conservative members of illiberal minority cultures to act upon their illiberal beliefs will depend on the kind of cultural community of which they are part. For conservative members of national-minorities (e.g. various Native-American tribes), it seems that the difficulties will be relatively small as Kymlicka is only willing to take non-coercive measures to liberalise their cultural communities such as offering financial benefits in exchange for liberal reform and supporting their progressive factions, provided that they do not engage in gross and systematic violations of human right (see section 2.2). By contrast, for conservative members of ethnic groups, it could become very difficult to live illiberally and in some cases perhaps even practically

impossible as Kymlicka seems willing to use more militant measures to remedy their illiberal practices than the illiberal practices of national-minorities. Insofar as their members would lose social benefit, face prosecution, *et cetera* if they were to maintain their illiberal practices, this would undoubtedly make it very burdensome for conservative members of these groups to act on their illiberal beliefs, and thus to exercise their personal autonomy. However, I want to make a stronger claim, namely that even the non-coercive measures that Kymlicka's strategy advocates to remedy the illiberal practices of national minorities can be understood to undermine the personal autonomy of their conservative members. I realise that this is a controversial claim, so let me answer some possible objections.

First, those who subscribe to a strictly negative conception of individual freedom may contest my assumption that raising the costs of pursuing an option x should be construed as a restriction on a person's liberty to do x . Though this topic is beyond the scope of this dissertation, it is suffice to say that I suspect they would be wrong to do so. If, for example, a Nazi guard threatens to kill my family unless I do x , it seems wildly implausible to say that the costs of not doing x do not restrict my freedom to not do x .

Yet, even those who are willing to grant that the costs of x may affect my freedom to do x – and this brings me to the second objection - may still find it hyperbolic to say that using non-coercive measures to liberalise cultural communities *undermines* the personal autonomy of their conservative members. For them, merely revoking, say, the tax benefits of Catholic communities if they refuse to ordain women as priests does not undermine the ability of conservative Catholics to live autonomously, even if this measure makes it (somewhat) more difficult for them to act on their illiberal beliefs. The reason for this is that, despite the financial consequences of refusing to ordain women as priests, members of Catholic communities would still have enough freedom to maintain this illiberal practice.

I believe that this rebuttal is also unsatisfactory; the fact that state attempts to liberalise cultural and religious groups merely discourage their conservative members from living illiberally rather than prevent them from doing so does not mean that they do not undermine their personal autonomy. Indeed, given that these non-coercive measures make it more difficult for them to live in accordance with their conceptions of the good, it seems more plausible to maintain that they do undermine their ability to live autonomously.

Two Replies

Having suggested that the attempts by Kymlicka's strategy to liberalise illiberal minority cultures undermine the personal autonomy of their conservative members, it is important to discuss two possible replies. The first of these replies states that this strategy does not so much undermine the ability of conservative members to live self-directed lives as well as promote it. The second reply concedes that the personal autonomy of conservative members is undermined by Kymlicka's strategy, but maintains that this is a necessary evil from a liberal point of view.

Reply 1

First, a critic might argue that by liberalising illiberal minority cultures – regardless of how it is done - Kymlicka's strategy actually promotes the personal autonomy of their subordinated conservative members. The assumption here is that people who are autonomous, and thus free from coercion, brainwashing, indoctrination, *et cetera*, would never want their free and equal status to be denied by their cultural community. Accordingly, by remedying the illiberal practices of illiberal minority cultures, the state may actually be thought to promote the personal autonomy of subordinated conservative members of illiberal minority cultures by ensuring that they will live the kinds of lives, or at least come closer to living the kinds of lives, that they would want to live if they were untainted by the above autonomy-inhibiting influences.

There are two problems with this view. First it is anything but clear that people's personal autonomy is better served if the state ignores their actual preferences regarding the good. Even if conservative members of illiberal minority cultures would endorse the liberal values promoted by Kymlicka's state if they were autonomous, it does not follow from this that imposing these values on them is beneficial to their personal autonomy. The reason is, of course, that in order to live autonomously, one has to act on one's actual conception of the good rather than on the conception that an idealised self would endorse. If this does not occur, then there is not much *self*-direction or *self*-government taking place.

Second, it is implausible to suppose that people who are subordinated by their culture's illiberal practices will only want to maintain these practices if they are heteronomous. Insofar as value pluralism is true as many believe these days (cf. Berlin 2002, Galston 2002, Crowder 2007), that is, if there are multiple – in some cases incommensurable - values in human life,

then it seems absurd to suppose that autonomous people will always want to live a liberal life, even if they are subordinated within their cultural community. Furthermore, even if these subordinated individuals want their cultural community to become more liberal, it seems that they may reasonably trade-off the core liberal values of freedom and equality for other values such as a feeling of solidarity or common-spiritedness amongst the group's members when their demands clash.

Of course, the critic may argue that the only reason why people independently endorse cultural practices that subordinate them is that they have *adapted* their preferences to their subordinate status, and that this adaption prevents them from living autonomous lives. The problem with this response is that it is anything but clear that adapted preferences are incompatible with personal autonomy. Even the most independent, self-directing amongst us – those who live a Millian or Emersonian life in which they regularly put their beliefs and values to Socratic scrutiny, and act upon the outcome of this reflection - seem to adapt their preferences to the option that are available to them. Yet, we do not want to say that they are not autonomous.

At this point, the critic may rebut that only people who have adapted their preferences to a severely limited and thus non-meaningful set of options will independently endorse lives in which their free and equal status is denied. From this, she may conclude that subordinated members of illiberal minority cultures cannot really live autonomous lives.

I believe that this response is unsatisfactory as well. This is because it fails to explain why it is not uncommon for people who grew up in a (more or less) liberal *milieu* to join strongly illiberal cultural communities that they know will severely constrain their freedom once they become members. One might think of women in Western-European countries who leave mainstream society for a life in a Salafist community. The reason why these cases challenge the above response is that it is difficult to maintain that the women in question lack a meaningful set of options; in order to see this, notice they have at least two relevantly different options: remaining a member of the mainstream society, or joining a strongly illiberal minority culture.

Though a lot more is to be said about these issues, I think that the above considerations give us good reason to be sceptical of the idea that people who endorse their cultural community's illiberal practices are necessarily heteronomous, even if these practices negate their free and equal status.

Reply 2

The critic's second reply to the claim that Kymlicka's strategy undermines the personal autonomy of conservative members of illiberal minority cultures does not deny that this undermining occurs, but attempts to justify it. According to this reply, the restrictions that Kymlicka's strategy imposes on their individual freedom are necessary to protect the personal autonomy of the dissident members of illiberal minority cultures, in particular the personal autonomy of dissident members who are subordinated by their culture's illiberal practices. The worry here is that unless the state takes measures to liberalise illiberal minority cultures, many vulnerable individuals (often women, homosexuals, and apostates) will be condemned to oppressive lives.

Whilst this argument has some merit, it does not seem to have enough substance to justify state attempts to liberalise these groups, at least not to the extent Kymlicka intends. In the remainder of this chapter, I want to explain why this is so and show that this dissertation's substantive exit rights strategy strikes a fairer balance between the colliding liberties of conservative members and dissident members of illiberal minority cultures than Kymlicka's strategy.

2.3.2.2 The Need for Substantive Exit Rights

It is undoubtedly true that the personal autonomy of dissident members of illiberal minority cultures is best served by Kymlicka's strategy (supposing that its measures are effective), or at least better served than by strategies that do not try to create a "fully liberal society". By liberalising cultural communities, this strategy ensures that dissident members do not have to put up with the illiberal cultural practices that they reject, nor try to change them, or escape them through a cultural exit. Rather, they would be able, or at least be more likely to be able than on alternative liberal strategies, to live in accordance with their (more) progressive beliefs within their cultural community.

The problem with this approach, however, is that it imposes excessive constraints on the personal autonomy of the conservative members of illiberal minority cultures. As we saw earlier, the attempts of Kymlicka's state to liberalise cultural communities leave these individuals no freedom to partake in an illiberal cultural community without facing state

interference. This, it was noted, constitutes a substantial restriction on their ability to act upon their illiberal conceptions of the good, and thus to live self-directed lives.

Now, it seems that if the state's only options were to liberalise illiberal minority cultures as Kymlicka proposes, or not to interfere with their internal affairs at all, it would be unclear what it should do from a liberal viewpoint. Given that the individual freedom of a conservative and a dissident member matters equally for liberals (or should matter equally), both options seem unattractive. Whilst liberalising cultural communities seem to favour the liberty of dissident members over that of conservative members, imposing no constraints on their internal affairs at all (with the possible exception of requiring them to respect their members' exit rights; I will say more about this in the next chapter) would favour the liberty of conservative members over that of dissident members.

The Substantive Exit Rights Strategy

There is, however, another way of responding to the illiberal practices of illiberal minority cultures – one that is free from the above biases, or at least more likely to be free from them than Kymlicka's approach. This response is offered by this dissertation's substantive exit rights strategy. In a nutshell, what this strategy prescribes is that the state should not interfere with the illiberal practices of illiberal minority cultures that only affect their members unless this is necessary (i) to secure substantive exit rights for citizens, or (ii) to protect children from exposure to severely harmful cultural practices (section 4.1 looks at these conditions in detail).

The reason why this strategy strikes a fairer balance between the personal autonomy of conservative and dissident members than Kymlicka's strategy, is that each of these parties is given a realistic ability to live autonomous lives. By tolerating illiberal cultural practices under the conditions specified above, it gives their conservative members room to be illiberal within their cultural community, something which Kymlicka's approach does not give them. At the same time, this dissertation's substantive exit rights strategy makes it possible for dissident members to live in accordance with their (more) progressive conceptions of the good. It does this by guaranteeing these individuals substantive exit rights, i.e. rights to a realistic ability to change cultural affiliations. The rationale of these rights is to ensure that if dissident members are unable and/or unwilling to persuade their fellow members to abandon

or tone down (some of) the culture's illiberal practices, they still have a realistic opportunity to join the liberal majority culture in which they could act on their (more) progressive beliefs.

Important here is to note that just as the substantive exit rights strategy's restricted toleration of illiberal cultural practices renders it more difficult for dissident members to live autonomously than it would be if the strategy were to remedy these practices as Kymlicka's approach does, the measures it proposes to secure substantive exit rights render it more difficult for conservative members to exercise their personal autonomy. This is because the implementation of these measures restricts the range of permissible illiberal cultural practices. However, just as tolerating certain kinds of illiberal practices of illiberal minority cultures is necessary in order to protect the personal autonomy of conservative members, restricting the range of tolerable illiberal cultural practices is indispensable in order to protect the personal autonomy of dissident members. To see why this is so, notice that without substantive exit rights, dissident members of illiberal minority cultures will lack a meaningful opportunity to escape exposure to illiberal cultural practices that they cannot in good conscience endorse, and that may condemn them to oppressive lives (more will be said about this in section 3.3).

A Fair(er) Trade-off?

One may doubt, of course, whether this dissertation's substantive exit rights strategy makes the trade-off between the personal autonomy of conservative and dissident members of illiberal minority cultures in a fair way. Some critics are likely to argue that conservative members have to give in too much, whereas other critics are likely to maintain that the dissident members are unfairly disadvantaged by this approach. Whether these critiques are warranted will depend largely on how 'fairness' is defined, which is an issue I cannot go into here due to space constraints. Let me just note that from a liberal viewpoint, fairness cannot mean that the trade-off is supposed to serve the interests of the majority, or to lead to the greatest happiness or utility. Whilst these may be side-effects of the way in which liberals adjudicate the conflict between conservative members and dissident members, they can never be the aim of this adjudication. Instead, what is essential from a liberal perspective is that each individual has an opportunity to act on her conception of the good.

Admittedly, this response is still ambiguous. Most importantly, what remains unclear is whether citizens should merely have sufficient opportunity to act on their conception of the good, or whether they should also have (broadly) equal opportunity to do so – assuming that these goals are not mutually exclusive.

I do not wish to commit myself here to either the strictly sufficientarian option or the more inclusive egalitarian option. The reason is that that my argument does not depend upon it. To see why not, recall that I am claiming that this dissertation's substantive exit rights strategy strikes a *fairer* balance between the personal autonomy of conservative members and dissident members than Kymlicka's approach, not that it strikes a (perfectly) fair balance. In order to argue for the former, I merely have to show that this strategy is more likely to meet the minimum requirement of giving conservative members and dissident members sufficient opportunity to act on their conceptions of the good than Kymlicka's strategy. Since I have already shown that it is more likely to give conservative members of illiberal minority cultures sufficient opportunity to act on their conceptions of the good by allowing these groups room to be internally illiberal, what remains to be done is to show that this dissertation's substantive exit rights strategy does not restrict the individual freedom of dissident members as much as Kymlicka's strategy restricts the liberty of conservative members. For if this were the case, then given that the individual freedom of dissident members and conservative members matters equally from a liberal viewpoint, the former would not be an improvement.

Whilst (un)freedom is difficult to measure, it seems to me that that this dissertation's substantive exit rights strategy does not require a comparable sacrifice of the personal autonomy of dissident members. As we will see in section 4.2, this strategy advocates far-reaching measures to ensure that dissident members have a realistic ability to join the liberal majority culture in which they can live in accordance with their (more) liberal conceptions of the good. These include e.g. making an autonomy-facilitating education compulsory for children, providing particular groups of defectors with financial assistance, and ensuring that the liberal majority culture is open to ex-members of illiberal minority cultures. Taking this fact into account, it seems clear that this dissertation's substantive exit rights strategy gives dissident members more opportunity to live in accordance with their conceptions of the good than Kymlicka's strategy, which, it should be recalled, does not allow for any conditions

under which conservative members would be free from state pressure to abandon their illiberal cultural lifestyles.

If true, it can be concluded that this dissertation's substantive exit rights strategy strikes a fairer balance between the personal autonomy of conservative members and dissident members of illiberal minority cultures than Kymlicka's strategy. Given that the individual freedom of these subgroups matters equally from a liberal perspective, this seems to render this strategy the preferred liberal approach.

3. Kukathas' Plain Exit Rights Strategy

The aim of this chapter is to assess Chandran Kukathas' liberal strategy for dealing with illiberal practices of illiberal minority cultures. Unlike Kymlicka's approach, this strategy allows cultural communities considerable room to be internally illiberal – indeed, they can impose any restriction on their members' freedom as long as they refrain from doing one thing: forcefully preventing their members from leaving (Kukathas, 2003, p.76). This chapter claims that whilst Kukathas is right to resist Kymlicka's attempts to liberalise cultural communities, liberals should nonetheless reject his *laissez-faire* approach. The reason, as we will see, has to do with the fact that Kukathas' strategy fails to guarantee substantive exit rights to dissident members of illiberal minority cultures. This is problematic, because unless these members have a realistic exit option from their cultural community, their individual freedom is not appropriately protected. My conclusion is that, in order to give due protection to the individual freedom of both dissident members and conservative members of illiberal minority cultures, we require a strategy that secures substantive exit rights.

Before looking at Kukathas' strategy, it should be noted that I will not assess this strategy – as I did with Kymlicka's approach in the previous chapter – on its ability to protect citizens' personal autonomy or freedom 2. Instead, Kukathas' strategy will be assessed on its ability to protect the more negative kind of liberty described by freedom 1 (i.e. the ability to endorse, and act on, one's conception of the good'). To reiterate: the difference between these two kinds of individual freedom is that freedom 1, unlike freedom 2, does not require a person to endorse his conception of the good *independently*, that is, free from autonomy-inhibiting influences (see section 1.1).

My motivation for using freedom 1 as a touchstone for Kukathas' strategy, is that it allows us to assess this approach on its own terms (as I will suggest below, freedom 1 is broadly equivalent to the kind of liberty Kukathas intends to protect). This is important because the aim of this dissertation is to show that this dissertation's substantive exit rights strategy is the preferred strategy from a liberal viewpoint *regardless* of whether one thinks that the state should protect freedom 1 or 2. However, this will only be possible if I can persuasively argue that it better protects freedom 1 than the main rival strategy proposed by Kukathas.

In order to show that assessing Kukathas' strategy on its ability to protect freedom 1 indeed allows us to evaluate this approach on its own terms, let us compare freedom 1 and the kind of liberty Kukathas seeks to protect. For Kukathas, it is people's ability to live in "accordance with the demands of conscience" that merits state protection, whereby conscience is not just seen as what guides our conduct, but as "what we think *should* guide us" (Kukathas, 2003, p.48; 114; original emphasis). This ability, it should be noted, also forms the central element of freedom 1; as we saw in section 1.1, to be able to act on one's conception of the good, people need to be able to follow the set of beliefs they think should guide their lives. I suspect that this similarity guarantees that even if there are differences between freedom 1 and the type of liberty that Kukathas aims to protect, these will be small enough not to affect the conclusions reached about his approach (accordingly, I will use my notion of freedom 1 and Kukathas' notion of freedom of conscience interchangeably).

In addition to assessing Kukathas' strategy, there will be an intermezzo in this chapter. The aim of this intermezzo is to cast doubt on the generalisability of a side-effect that is commonly attributed to exit rights strategies. Many authors have suggested (cf. Raz 1995, p.180; Shachar, 2001; Barry 2002, p.224) that guaranteeing citizens an exit option from their cultural community will generally be enough to cause illiberal minority cultures to liberalise. In a nutshell, the idea is that if exit options are available, then leaders of cultural communities are likely to increase the liberty of subordinated members who are dissatisfied with their intra-group status in order to prevent them from leaving. If true, this would mean that adjustments may be necessary to exit rights strategies such as Kukathas' and the one proposed by this dissertation in order to protect the individual freedom of conservative members of illiberal minority cultures, the reason being that these strategies would effectively leave these groups less room to be internally illiberal than it initially appears. In order to show that there is no reason to assume that these adjustments are necessary, then, it is essential to cast doubt on the belief that exit options will generally induce liberal reform amongst illiberal minority cultures.

3.1 Freedom of Conscience and Plain Exit Rights

For Kukathas (2003, p.36), the kind of liberty that merits state protection is not personal autonomy but freedom of conscience. In his view, freedom of conscience is fundamental to our well-being. “If there are any basic human interests”, he writes,

“One of these is an interest in living in accordance with the demands of conscience. For among the worst fates that a person might have to endure is that he be unable to avoid acting against conscience –that he be unable to do what he thinks is right” (Kukathas, 2003, p.114).

By contrast, personal autonomy is not seen by Kukathas as an essential element of a good human life.¹⁷ “To think”, he notes, “that we have a *basic* interest in being able to assess our ends is a mistake; some of us have *an* interest in being able to do so in some circumstances – but no stronger claim can be made” (Kukathas, 2003, p.60; original emphases).

Having identified freedom of conscience as the kind of freedom that merits state protection, Kukathas goes on to explore how this duty is best discharged. His answer is that in order to protect citizens’ freedom of conscience, the state ought not to interfere with the internal affairs of cultural communities unless this is necessary to protect citizens’ “plain exit rights”, that is, their rights to a physically unobstructed departure from their cultural community (Kukathas, 2012, pp.36). According to Kukathas, these rights are inalienable, meaning that there is no (cultural) defence that can justify their violation. The reason why he considers them so important is that they play a crucial role in protecting people’s freedom of conscience. Without plain exit rights, Kukathas’ seems to believe, people will not be able to leave groups in which they cannot conscientiously remain, which means that their liberty of conscience is not appropriately protected (Kukathas, 1992, p.117; 2012, pp.38-9).

But not only does Kukathas’ strategy refuse cultural communities the right to forcefully prevent their members from leaving, it is also unwilling to grant these groups any form of state support to keep their members on board. A cultural community, Kukathas notes, “has [no] claim upon others to be given the resources to discourage their members from deserting its ranks” (Kukathas, 2012, p.39). In addition to this, his strategy opposes the conferral of

¹⁷ Notice the difference with Kymlicka who does regard personal autonomy as a prerequisite of a good human life (see section 2.1).

group-differentiated rights on (marginalised) minority cultures.¹⁸ Whilst a cultural community “may use its own resources to try to sustain its traditions or customs”, Kukathas writes, “it cannot demand that others should value this” (Kukathas, 2012, p.39).

As I interpret his theory, Kukathas’ unwillingness to provide cultural communities with resources to discourage or prevent their members from leaving is based on the same concern as his unwillingness to grant them group-differentiated rights: the concern that this kind of support infringes on the freedom of conscience of dissident members. By helping cultural communities to raise the costs of a cultural exit, his thought seems to be that the state infringes on the freedom of conscience of dissident members. This is because it will become more difficult for them to leave a cultural community in which they cannot in good conscience remain. In a similar vein, he seems to regard the conferral of group-differentiated rights on cultural communities as an infringement on the freedom of conscience of dissident members who conscientiously object to (aspects of) their community’s current lifestyle. The assumption here is that these rights will help the cultural community to preserve its current norms and practices.

At the same time, however, Kukathas maintains that dissident members of illiberal minority cultures should not receive any public resources that may help them to change their cultural community’s terms of association by e.g. liberalising them. The thinking seems to be that just as granting minority rights infringes on the freedom of conscience of dissident members, this type of support infringes on the freedom of conscience of conservative members. As he puts it, this latter group may “dispute the claims of disaffected minorities, and fear that their own ways of life might be held hostage to the desires of those members who want to change it” (Kukathas, 2012, p.52). To avoid this, Kukathas is willing to tolerate even the most harmful and oppressive practices of illiberal minority cultures, provided that they respect their members’ plain exit rights. These include forcing women into unequal marriages, having girls undergo clitorrectomy, and denying children an education (Kukathas, 1997, pp.70-1).

But not only is the state not allowed to liberalise cultural communities, Kukathas’ contention is that the state should also refrain from helping dissident members to leave their cultural community. Again, his belief seems to be that this kind of support infringes on the

¹⁸ Again, notice the difference with Kymlicka’s theory, which assigns a duty to the state to grant group-differentiated rights to economically and politically marginalised minority cultures (see section 2.1).

freedom of conscience of conservative members. “The more is done to make exit a ‘realistic’ possibility”, we are told, “the more the communities whose practices are the object of reform will rightly feel grieved that their way of life is being deliberately undermined” (Kukathas, 2012, p.52).

Kukathas describes the non-interventionist position that emerges from this view as a “stance of neutrality” (Kukathas, 2012, p.40). Though he does not specify how “neutrality” should be understood in this context, I suspect that he does not just mean that his strategy, to use Kymlicka’s terminology (1989, p.884), is “justificatory neutral” between the interests of conservative members and dissident members, but also “consequentially neutral”. That is, Kukathas does not seem to simply mean that his position is neutral because it does not appeal to the interests of either conservative members or dissident members in the justification of its non-interventionism. Rather, he also seems to suggest that his position asks for (more or less) equal sacrifices from conservative and dissident members – whilst conservative members cannot require dissident members to remain, dissident members cannot require conservative members to accept their terms of association.

The idea that Kukathas’ strategy aims to be consequently neutral is speculation, however, and I would not want to be pinned down on it. By contrast, what is clear is that Kukathas believes that his approach best protect citizens’ freedom of conscience. In section 3.3, I will contest this claim. For now, it is important to consider a side-effect that is commonly attributed to strategies for dealing with illiberal cultural practices that recognise the right of exit.

3.2 Do Exit Rights have a Liberalising Impact on Cultural Communities?

In section 2.3.1, I argued that the susceptibility of Kymlicka’s strategy to reactive culturalism gives liberals reason to reject this approach on pragmatic grounds, or at least when the risk of a conservative backlash is high. My aim here is to look at a side-effect that is commonly attributed to Kukathas’ strategy and other liberal strategies that recognise the right of exit (which, it was noted, seem to include them all). Yet, unlike reactive culturalism, this side-effect is thought to *strengthen* rather than weaken support for liberal values amongst illiberal minority cultures. As it was noted at the outset of this chapter, various authors have suggested

that providing citizens with the option of leaving their cultural community will generally cause illiberal minority cultures to liberalise. Simply put, their assumption is that when exit rights are available, leaders of illiberal minority cultures are likely to grant more freedom to subordinated members in order to prevent them from exiting.

This subsection argues, however, that even if this side-effect occurs in some cases, it is dubitable whether it occurs in all, or even most cases. It should be clear that Kukathas' strategy is not challenged by this conclusion; whilst strategies have been developed for which it is problematic as they are built on the assumption that this side-effect occurs generally (cf. Shachar, 2001), this does not apply to Kukathas' strategy. The reason, we saw in the previous subsection, is that it does not try to stimulate liberal reform within cultural communities (Kukathas, 2003, p.25). Rather, the reason why it is important to cast doubt on the idea that securing exit options for citizens will generally induce liberal reform is that if this were the case, then exit rights strategies such as Kukathas' and the one proposed by this dissertation would become susceptible to an objection that was raised to Kymlicka's strategy in section 2.3.2, namely that these strategies do not appropriately protect the ability of conservative members of illiberal minority cultures to act on their illiberal conceptions of the good.

3.2.1 Exit Options and Liberal Reform

Before considering why it is doubtful that the availability of exit rights will generally cause cultural communities to liberalise, it is important to clarify how this side-effect is believed to occur. The basic idea is that if subordinated members of a cultural community are free to leave the group, and know that they are free to do so, then some of them will use the threat of exit as a bargaining tool to demand equal liberty. For example, female members of a patriarchal community may threaten to leave the group if its misogynistic practices are not abandoned or at least toned down. On this view, cultural elites are assumed to be responsive to these demands in order to avert the disruptive impact that a "mass exodus through exit" would have on the cultural community, meaning that they will increase the voice of subordinated members calling for a greater share of liberty (Reitman, 2005, p.189). This is, in short, how exit rights are believed to generate liberal reform within illiberal minority cultures.

3.2.2 Why Exit Options may Fail to Stimulate Liberal Reform

My next aim is to cast doubt on the generalisability of this side-effect. In doing so, I am not claiming that this effect will never take place; rather, I want to argue that there is good reason to doubt that the availability exit rights will *generally* cause minority cultures to liberalise.

The first assumption that should be questioned here is whether subordinated members of illiberal minority cultures will always, or even in most cases, use the threat of exit to demand equal liberty. It is certainly not uncommon for people to deliberately forego a greater share of liberty because they believe that this will help preserve the cohesion and feeling of solidarity within the community. In addition to this, there seem to be many cases where brainwashing, indoctrination or other forms of manipulation cause people to acquiesce to, or even actively support, cultural practices that subordinate them.

But even if subordinated members of illiberal minority cultures use the threat of exit to mandate liberal reform, and this brings us to the second assumption I want to question, it is not clear that cultural elites will generally give in to these demands. As Oonagh Reitman (2005, p.199) points out, leaders of cultural communities may prefer dissidents to leave if they fear that, by accommodating their demands for equal liberty, the community may lose its cultural distinctiveness¹⁹ and/or be morally corrupted. In these cases, the group's size may not be their (main) concern. Especially in liberal multicultural societies, Reitman notes that cultural communities often "have little interest in bolstering numbers as such – preferring to soldier on with those whose commitment is beyond question (Reitman, 2005, p.199)."²⁰

Finally, even in cases where the group's size is the cultural elite's primary concern, liberal reform may be resisted simply because there are other ways of maintaining a sizable group rather than by increasing the individual freedom of subordinated dissidents. For example, a cultural community may urge its members to have more children, and create more stringent obstacles to exit so as to prevent younger generations from leaving the group as they grow up (one might think of limiting their education and shielding them from the outside world).

¹⁹ For example, Reitman notes that the illiberal features of the Ultra-Orthodox Jewish community demarcate them from other factions within Judaism (Reitman, 2005, p.199).

²⁰ Indeed, it seems that exit options may even offer a justification for cultural communities not to liberalise; once these options are available, the thought is that ruling elites can tell dissident members: 'love it or leave it' (cf. Green, 1998).

Insofar as exiting members are seen as e.g. traitors, blackmailers and/or cultural free-riders, it seems likely that these ways of looking after the group's size will often be preferred by cultural elites to increasing the voice of dissident members.

I have argued that there are good grounds to doubt that exit options will generally cause illiberal minority cultures to liberalise. If my argument is sound, then this means that there is no reason to assume that exit rights strategies such as Kukathas' and the one proposed by this dissertation fail to appropriately protect to the individual freedom of their conservative members by liberalising these groups through the backdoor.

3.3 Protecting Freedom of Conscience: The Need for Substantive Exit Rights

This subsection claims that Kukathas' strategy does not appropriately protect the freedom of conscience of dissident members of illiberal minority cultures from a liberal viewpoint.

Though this strategy ensures that these individuals are not forcefully prevented from leaving their cultural community, I will argue that, in many cases, this is not enough to guarantee them a meaningful right of exit. If I am right about this, then the following problem emerges for Kukathas' strategy: without a meaningful right of exit, we can expect that at least some dissident members of illiberal minority cultures will be practically condemned to living oppressive lives. This is because they will lack a realistic ability to leave their internally illiberal cultural community, and thus a realistic ability to escape exposure to (illiberal) practices of their cultural community that they conscientiously reject. If true, this suggests that their freedom of conscience is not appropriately protected by Kukathas' strategy.

To redress this problem, I will argue that we need a strategy that guarantees members of illiberal minority cultures a realistic ability to join the liberal majority culture, that is, a strategy that ensures that these members are able, and know that they are able, to live a decent life in mainstream society (see section 1.1). It will be concluded that this strategy can be found, or is at least more likely to be found, in the substantive exit rights strategy proposed by this dissertation.

Before looking at Kukathas' responses to the objection that his strategy does not appropriately protect the freedom of conscience of dissident members of illiberal minority cultures, it is important to look at the different kinds of obstacles to exit that deny at least

some of these individuals a meaningful right of exit. I divide these obstacles into five categories. In what follows, my aim is to discuss these categories by giving some examples. In doing so, I am not suggesting that the state should redress *all* examples of exit obstacles that I will mention – this may not even be practically feasible. Still, the next chapter shall argue that the state should take four measures to reduce the impact of the five main kinds of obstacles. These measures, we will see, are necessary in order to ensure that dissident members of illiberal minority cultures have a realistic ability to join the liberal majority culture.

3.3.1 Five Kinds of Obstacles to Exit

First, people may be denied a realistic ability to change cultural affiliations by what I term ‘financial obstacles to exit’. These obstacles are created by the loss of income that may result from a cultural exit. For example, in communities that do not recognise private ownership such as that of the Hutterites²¹, members lose all of their belongings if they decide to leave. As Justice Pidgeon noted in the case of *Hofer vs. Hofer*²², “Even the clothes they [the Hutterites] are wearing belong to the colony and are to be returned to it as its property by anyone who ceases to be a member of the church” (Janzen in Kymlicka, 1995, p.161). It seems that women in strongly patriarchal cultures are particularly likely to face financial obstacles to exit, as many of them depend financially on their community.

Second, there are what Oonagh Reitman (2005) terms “socio-psychological obstacles to exit”. These obstacles consist of the difficulties of having to end social relationships with members of one’s cultural community. Though not an inherent feature of a cultural exit, it seems that the termination of at least some of these relationships will normally be inevitable; there seem to be very few cases of cultural exits, if any, where *all* members of a cultural community are willing to maintain relationships with a defector.

It should be noted that the foreseen loss of these relationships need not always create (strong) socio-psychological obstacles to exit. Sometimes, the very reason a person leaves her cultural community is to cut social ties with the group’s members, or at least with some of them. However, there are other instances of cultural exits where the termination of these

²¹ An Anabaptist group that, like the Amish, fled to North-America in order to escape religious prosecution.

²² In this case, two expelled apostates sued the Hutterite community for being denied a share of the group’s communal resources.

relationships is an unwanted side-effect. It seems that this will often be the case when relationships with people in one's inner circle are affected. For example, within the Amish community, those who leave after their baptism are generally shunned by their family and friends.

Another example of a socio-psychological obstacle to exit is of a more abstract nature. This kind of obstacle is created by the loss of solidarity, sense of belonging, and common-spiritedness that many of us, to varying degrees, derive from our cultural membership. Though other affiliations may compensate for this loss (e.g. sport teams, book clubs, political parties, *et cetera*), it is not clear whether compensation is always possible, and if it is, whether full compensation can be achieved.

However, it is not just these 'self-regarding' consequences of cultural exits that may prevent or discourage people from leaving. They may also be reluctant to leave because they feel that they have a moral obligation towards (some) members to remain with the cultural community. For example, a person may feel that he would let his parents or friends down if he were to exit. In addition to this, some people stay put because they believe that they have a responsibility to try to change their cultural community's norms and practices from the inside. Though others may try to do this from outside the group (indeed, the very act of exiting may be an attempt to change the cultural community's norms and practices), these individuals may hold that this is not possible, or possible only with great difficulty.

Third, we can distinguish what I term 'cognitive-epistemic obstacles to exit'. These obstacles are created by deficits in people's cognitive skills and/or ignorance about alternative cultural lifestyles. To see how a lack of cognitive skills may deny a person a realistic ability to exit, it should be noted that these skills are necessary in order to deliberate about a cultural exit. The thought is that unless a person has certain basic reasoning skills, the capacity to absorb and store information, the ability to assess alternatives, *et cetera*, this kind of deliberation will be practically impossible. The same holds true of course, if a person is not appropriately informed about alternative cultural lifestyles; without knowledge of how other cultural communities live, it seems that a cultural exit may not even present itself to people as a conceivable option (I will say more about this in section 4.2.1.2). And even if it does, fears for a future in a (largely) unknown cultural environment may still stifle their capacity to exit.

Now, it seems that these cognitive-epistemic obstacles to exit will loom particularly large when people are not just ignorant of alternative cultural lifestyles, but also carry negative

misconceptions about them. So, if e.g. Rick Santorum (a former senator in the United States) genuinely believes that large sections of the Dutch population are involuntarily euthanised as he claimed during electoral debates,²³ and if he holds equally negative prejudices about other countries, then it seems that he has no realistic ability to exit the United States, even if he no longer wishes to live there. This is because he is unlikely to be aware of the fact that he can live a decent life outside the United States. Whilst this is an extreme example (as well as one that is complicated by the fact that it involves moving to another country), it illustrates that having negative misconceptions about other groups can undermine people's ability to exit from their own group.

Fourth, there are obstacles to exit that are created by the infliction of harm (which may or may not prevent people from leaving their cultural community) or threats thereof. An example of these harms can be found in the ancient Chinese tradition of foot-binding. Given that women with bound feet are effectively left house-bound, and therefore unable to function outside their home, it appears that leaving their community will normally not be a viable option for them. For examples of threats that undermine people's capacity to exit, one might think of the issuing of *Fatwas* or legal decrees by Islamic scholars to kill those who leave particular Muslim communities (both examples will be discussed more at length in section 4.2.2).

Finally, people may be denied a realistic ability to exit simply because no other community within society is willing to accept them as members – assuming that emigration is no viable option, as is often the case. Though some may think of this as an obstacle to *enter* into another cultural community rather than an obstacle to *exit* one's cultural community, I believe that the latter interpretation is valid as well. To see why this is so, notice that people will normally know that no other cultural community in society is willing to receive them and that they consequently would have to emigrate or live as a hermit if they were to leave their cultural community. Since the prospect of having to emigrate or live as a hermit is daunting to most of us, it seems that this knowledge can reasonably be understood to undermine

²³ During a speech at the American Heartland forum in Columbia (Missouri) on 3 February 2012, Santorum stated that “in the Netherlands, people wear different bracelets if they are elderly. And the bracelet is: ‘Do not euthanise me.’ Because they have voluntary euthanasia in the Netherlands but half of the people who are euthanised — ten percent of all deaths in the Netherlands — half of those people are euthanised involuntarily at hospitals because they are older and sick”. See http://www.washingtonpost.com/blogs/fact-checker/post/euthanasia-in-the-netherlands-rick-santorums-bogus-statistics/2012/02/21/gIQAJaRbSR_blog.html

people's capacity to exit. In what follows, I will therefore refer to obstacles created by the 'closedness' of other cultural communities in society as 'entrance obstacles to exit'.

Notice that entrance obstacles to exit may arise even in societies with liberal majority cultures. Though one might think that a liberal majority culture, being liberal, will admit citizens regardless of their cultural or religious background, my sense is that this is too sanguine; there seem to be many examples of liberal majority cultures that discourage citizens from certain cultural and religious backgrounds from integrating due to racism, xenophobia, or prejudices. In The Netherlands and Germany, for instance, Turkish immigrants and their descendants have long been discouraged (and sometimes continue to be discouraged) from becoming part of the liberal majority culture.

3.3.2 The Need for Substantive Exit Rights

At this point, it should be noted that Kukathas (2012, p.47) acknowledges that citizens should not merely be formally free to leave their cultural community, but also effectively free. He thus remarks that "the capacity to exit is necessary to enjoy the right of exit", and notes in an earlier paper that exit rights should have a "substantive bite" (Kukathas, 1992, p.129). On his account, exits right have a "substantive bite" as long as the wider society is open to people who leave their cultural community, that is, as long as other cultural communities in society are willing to accept them as members. This is not the case, he writes, in tribal societies where "the individual would have to choose between the conformity of the village and the lawlessness (and loneliness) of the heath" (Kukathas 1992, p.134).

It seems that Kukathas is right to argue that exit rights are only of use in an "open society". As social animals, most of us need to partake in a cultural community in order to satisfy a wide variety of social and psychological needs. If departure from our cultural community makes this impossible, then exit rights seem effectively useless for the large majority of us.²⁴ *Contra* Kukathas, however, I believe that an open society is not enough to guarantee many members of liberal societies a meaningful right of exit, which, if true, would mean that some of these individuals may be practically forced to remain with an (internally illiberal) cultural

²⁴ Whilst it is possible to live as a hermit, few of us desire, and are able to cope with the social isolation that this involves.

community of which they cannot in good conscience be part. Before looking at the problems this causes from a liberal perspective, it is important to adduce evidence for my claim that Kukathas' strategy does not secure meaningful exit rights for at least some (adult) citizens.

Earlier, I defined a person with a meaningful right of exit as one who "is able, and knows that she is able, to live a decent life in another cultural community" (see section 1.1). It seems that, if Kukathas' strategy were implemented, many citizens would not meet the first criterion, and by implication, would also fail to meet the second criterion given its dependency on the former (in order to know that one can live a decent life outside one's cultural community, one must actually be able to live such a life). What underlies this view is the assumption that the different kinds of obstacles to exit that were described in section 3.3.1 will deny at least some members of illiberal minority cultures the ability to live a decent life outside their cultural community. For example, a woman within the Amish community who only speaks Pennsylvania Dutch, has no income of her own, and has very little knowledge of life outside the community will not be able to live a decent life outside her group. Indeed, as I will suggest in section 4.2, it seems that each of these obstacles to exit may independently deny her a meaningful exit right.

But even if the Amish woman were free from these impairments, notice that what I termed 'entrance obstacles to exit' may still deny her a realistic ability to change cultural affiliations. Whilst Kukathas recognises the need that society be open to defectors, he does not propose any measures to ensure that cultural communities are willing to accept them as members (though one may think that the openness of society is not something the state can do anything about, I will suggest later that there are measures available). This leaves open the possibility, then, that the Amish woman may not be able to change cultural affiliations because there is simply no other cultural community willing to accept her as a member.

The upshot is that although the Amish woman is not coerced to remain with the Amish community, her right of exit nonetheless lacks a "substantive bite" on Kukathas' account. The same applies, I suspect, to many other members of illiberal minority cultures who can be expected to encounter at least some of the obstacles to exit described in section 3.3.1. Whilst again, not all of these obstacles need to be absent in order for people to enjoy a meaningful right of exit, we will see in section 4.1 that the impact of some obstacles ought to be reduced by the state.

Finally, it is important to note that one consequence of Kukathas' extreme tolerance of illiberal cultural practices is that some citizens may never reach the age at which they could have exercised their exit rights. Because his strategy allows cultural and religious groups to deny their members life-saving medical treatment, it is possible that e.g. a child of Jehova Witnesses who is in need of a blood-transfusion will have exited her life before she will have had the chance to exit her cultural or religious community.

3.3.2.1 Freedom of Conscience of Dissident Members

If I am right that Kukathas' strategy fails to secure a meaningful right of exit for at least some members of illiberal minority cultures, then the next question to ask is why this is problematic.

I believe that there are two problems from a liberal point of view. The first problem, which I will discuss at length in section 4.2, is that members of illiberal minority cultures who lack a meaningful right of exit are also likely to lack a meaningful opportunity to take advantage of their full range of basic rights and liberties due to cultural constraints. To have this opportunity, the thought is that these individuals need a realistic ability to join the liberal majority culture as this will allow them to escape the social restrictions that their cultural communities, being internally illiberal, impose on them. The assumption here is that even if every citizen of a liberal society has the same basic rights and liberties in a legal sense, social pressure to forego these rights and liberties may mean that some citizens will not be able to take advantage of them. For example, a woman within a Salafist community may face stark disincentives to study, work, marry a person of the same sex, convert to another religion, *et cetera*.

Now, some liberals will probably argue that it does not matter if people cannot exercise their full range of basic rights and liberties as long as they (autonomously) endorse their circumscribed lives. My sense is that they would be wrong to do so; it seems that a plausible liberal argument can be made that, in order to ensure that citizens are not merely formally free but also effectively free, it is important that even those who (autonomously) endorse their subordinate cultural status have a meaningful opportunity to exercise their full range of basic rights and liberties (I will say more about this in section 4.1).

The second and more serious problem with the inability of Kukathas' strategy to secure a meaningful right of exit for dissident members of illiberal minority cultures, is that the individual freedom (understood as Kukathas' liberty of conscience or freedom 1) of some of these individuals is not appropriately protected. This applies to dissidents who are practically forced to stay within an internally illiberal cultural community in which they cannot in good conscience remain. For example, we can imagine how the aforementioned Amish woman may come to have scruples against the subordination of women within the Amish community and accordingly develop a desire to exit. However, inasmuch as she lacks the economic wherewithal to maintain a life outside the Amish community, the qualifications and language skills to find a decent job, *et cetera* (as is not unlikely amongst Amish women), she will have no real choice but to put up with her group's subordinating practices. In this case, the conclusion seems warranted that the woman's freedom of conscience is not appropriately protected because she lacks a realistic opportunity to defect to a cultural environment in which she could live accordance with her (more) progressive conception of the good.

Of course, she could try to persuade other members of the Amish community to become more liberal. The problem with this approach is that especially for a woman in a patriarchal group, this is often extremely difficult. Lack of support from other members (in particular those with a high standing), as well as the absence of channels to make one's voice heard, may render it practically impossible for these vulnerable individuals to reform their cultural communities. And even if it is possible, it should be noted that the reform is likely to be slow and modest. In addition to this, there is the danger of reactive culturalism. Whilst I explained in section 2.3.1 that reactive culturalism is usually a response to *outside* interference with a group's affairs, notice that dissident members who want to liberalise their cultural community may be perceived by other members as influenced by the liberal majority culture (e.g. as puppets of the state or the liberal majority culture). It seems that this may already be enough to bolster conservative attitudes within the group. A final difficulty is that the use of "voice", to put it in Hirschmanian terms, may sometimes be even costlier than a cultural exit as the latter does not involve a confrontation with other members (cf. Bartolini, 2005).

Due to these difficulties, it seems that the freedom of conscience or freedom 1 of dissident members of illiberal minority cultures will not be appropriately protected *unless* they have a meaningful right of exit. More specifically, what people like the Amish women need is a

realistic ability to join the liberal majority culture in which they can live in accordance with their (more) progressive conceptions of the good. Since Kukathas rejects any measures to secure this ability for them, it thus seems that his approach does not appropriately protect the individual freedom of this group.

To resolve the two problems faced by Kukathas' strategy, section 4.2 will explain how the state can secure meaningful exit rights for members of illiberal minority cultures. Since the second problem seems to pose the biggest challenge to this strategy, I now want to look at Kukathas' rebuttals to the claim that his exit rights are too minimalist to protect the individual freedom of dissident members of illiberal minority cultures.

3.3.3 Kukathas' Rebuttals

Kukathas' rebuttals are twofold. First, he warns that we should not understate the ability of members of illiberal minority cultures to leave their community (Kukathas, 2012, p.47). Responding to Shachar's and Okin's critiques that the exit opportunities for women in patriarchal communities are particularly bleak, he writes that "even in the most difficult circumstances women often acquire the capacity to exit associations or arrangements they dislike or abhor" (Kukathas, 2012, p.47).

Second, he suggests that the two methods that are commonly proposed to make an exit from one's cultural community a "realistic possibility" are either ineffective or morally unacceptable (Kukathas, 2012, p.52). The first method is to increase people's "resources" (what these resources are remains unspecified). According to Kukathas, this method is ineffective because, in his view, there is a *trade-off* between a person's resources and motivation to exit. "The poorer or less favourable one's circumstances", he notes, "the harder it is to garner the resources necessary to leave them, but the greater the incentive to get what's needed and to get out" (Kukathas, 2012, p.47).²⁵

There are two important assumptions here. First, when Kukathas claims that increasing people's resources to exit will not bolster their ability to leave their cultural community due

²⁵ According to Kukathas, this trade-off explains why it is not uncommon for even the most vulnerable people to leave their cultural community – what these individuals lack in resources to exit, they make up for in motivation (Kukathas, 2012, p.47).

to the concomitant decrease in their motivation to exit, he seems to assume that there is a logical relationship between their motivation and ability to exit. This relationship is negative as a decrease in people's motivation to exit is believed to *undermine* their ability to exit. The second assumption to which Kukathas seems to commit himself is that an increase in people's resources to exit will decrease their motivation to exit *to such an extent* that their ability to leave their cultural community is not bolstered by their increased resources.

What follows from these assumptions is that a person's right of exit, as Kukathas puts it, "can only be made more realistic by changing her desires", that is, by increasing her motivation to leave her cultural community (Kukathas, 2012, p.51). However, he rejects this second method as well as, in his view, it is a morally problematic way of making people's exit rights more realistic (2012, p.48). In order to manipulate people's willingness to leave their cultural community, far-reaching state interference with their lives would be necessary that cannot be justified from a liberal point of view. Hence Kukathas' claim that "the liberal's task is to resist calls" on the state to "ensure that they [citizens] do not have the wrong kinds of preferences" (Kukathas, 2012, p.48).

In short, Kukathas' rebuttals to the objection that his strategy does not appropriately protect the individual freedom of dissident members of illiberal minority cultures by failing to provide them with meaningful exit rights are that (i) we should not understate the ability of even the most vulnerable individuals to leave their cultural community, and that, even if exiting is difficult, (ii) there is no effective way in which the state can bolster citizens' ability to exit that is acceptable from a liberal point of view.

3.3.4 Re-Rebuttals

My aim in this subsection is to answer Kukathas' rebuttals. After that, I will consider a comeback that proponents of his strategy can make.

3.3.4.1 *Re-Rebuttal 1*

Regarding Kukathas' first rebuttal, there certainly are cases of individuals who exit their communities in the most unfavourable circumstances. One might think of Protestants separating from the Catholic Church during the reformation, Afro-American slaves fleeing

the south of the United States during the antebellum, or Amish leaving their insulated religious group. To illustrate that exiting need not be impossible in these difficult situations, consider the story of a woman who left the Amish community in her early twenties.

“I packed my things and told my mom I was going to live someplace else, she recalls ‘It was one of the worst things I ever had to do in my life. You know if you join the church and then you leave, they’ll put a ban on you. The subsequent ‘shunning’ imposed by the Amish church extend even to her parents and five brothers and sisters. ‘Even with my own family, I was allowed only to enter their house, I could not eat with them, and they are not allowed to ride in my car [...] I was the first one in the family to leave. They wanted me back; the pressures on my family were great. It made it very hard on those who were left (*The Lewiston Daily*, 18 April, 1985, p.20).

This testimony suggests that even for a person who knows that her family will shun her if she leaves her cultural community, exiting need not be impossible. Given that cases like these are not uncommon, I believe that Kukathas is right to stress that we should not understate the ability of even the most vulnerable individuals to exit.

Another thing he is right about, is that people who exit illiberal minority cultures often do so to escape the social constraints these groups impose on them. In many cases, the prospect of a freer life in the liberal majority culture seems to offer these individuals a powerful incentive to defect. The ex-Amish woman accordingly remarks about her motivation to leave the Amish community that “it was simply too difficult [...] to conform unquestionably to rigid Amish customs and beliefs that cling to the manner of worship, styles of dress, and traditions of centuries past” (*The Lewiston Daily*, 18 April, 1985, p.20).

That said, I believe that Kukathas is still too cavalier regarding the capacity of vulnerable members of illiberal minority cultures to exit. The fact that people such as the above woman manage to leave their community may be nothing more than false positives. That is, for each of these individuals, there may be several individuals who are equally vulnerable and motivated to exit yet who are unable to take this step. If true, we cannot infer from the fact that some vulnerable individuals leave their illiberal minority culture that most other vulnerable individuals have the capacity to do so, even if they are not physically prevented from leaving. To do so would be like treating the fact that some women become CEOs as

evidence that sexism does not, or rarely prevent women who are as qualified and motivated as their male competitors from reaching top positions.

Indeed, it is not even clear that the fact that some vulnerable individuals leave their cultural communities should be taken as evidence that they had meaningful exit rights at their moment of departure. It seems that many of these individuals simply defy the odds by exiting. One can liken it to a cyclist who, despite having finished last in every previous tournament, wins at the Olympics because her opponents fall out of the race. Though the cyclist won Olympic gold, the conclusion seems warranted that she did not have a realistic ability to do so. Similarly, it appears that people who manage to leave their cultural community may do so without having a realistic ability to exit – perhaps because they lack the economic wherewithal to maintain themselves outside their cultural community, or because they have been shielded from the outside world for most of their life, and/or because there is no other cultural community within their society willing to accept them as members.

Now, some will probably claim that by definition, people who managed to leave their cultural community must have enjoyed a meaningful right of exit at their moment of departure otherwise they would not have been able to go (assuming that they were not expelled). Though I think this is not an analytical truth, let us suppose that they are right to do so. In that case, it would still be true that the cognitive-epistemic, socio-psychological, financial and other kinds of obstacles to exit that were distinguished in section 3.3.1 can be expected to deny some members of illiberal minority cultures the ability to live a tolerable life outside their cultural community, and, consequently, a meaningful right of exit (for my argument for this claim, see section 3.3.2). Given that the liberty of these individuals cannot be discounted from a liberal perspective, what follows from this is that the objection that Kukathas' strategy does not appropriately protect the individual freedom of dissident members of illiberal minority cultures still stands.

3.3.4.2 Re-Rebuttal 2

Let us turn to Kukathas' second rebuttal. We saw previously that Kukathas believes that increasing people's resources to exit will not bolster their ability to exit as, in his view, these additional resources will only weaken their motivation to leave their cultural community. From this, he concludes that the only way for the state to make people's exit rights more "realistic" is to inculcate people with a desire or preference to exit. But, as he goes on to note,

this is unacceptable from a liberal point of view as it would interfere profoundly with people's lives.

I believe that there are two problems with this rebuttal. First, Kukathas seems to assume that a reduction in people's motivation to exit necessarily undermines their ability to leave their cultural community. I think this mistaken; it seems that a person's motivation to do x can be reduced without affecting his ability to do x . For example, if I successfully persuade a friend to reduce his carbon footprint, this will make him more willing to e.g. drive a hybrid car, switch off the lights when he leaves the room, and eat local produce. Yet, it does not seem that by making my friend more environmentally conscious, I am reducing his ability to drive an SUV, leave the lights on when he is out of the room, and eat food from the other side of the world. Even if he is now less motivated to do these things, he seems as capable of doing them, *ceteris paribus*, as he was before I persuaded him to become more environmentally conscious.

Second, even if there was a logical relationship between people's motivation and their ability to exit, it still does not seem that an increase in people's resources to exit their cultural community will necessarily decrease their willingness to leave. Though this trade-off may occur, I want to argue that it need not. In order to do this, we should consider first how an increase in people's resources to exit (which I construe broadly to include any material or non-material goods that may help an agent to overcome the different kinds of obstacles to exit that were identified in section 3.3.1) may weaken their motivation to exit. Seeing how people's motivation to leave their cultural community is likely to be weakened if their resources to exit are increased in a particular way will allow us to understand later why the other way of increasing these resources is unlikely to reduce their motivation to exit.

Though Kukathas does not go into this, it seems that for there to be a trade-off between a person's resources and motivation to exit, the increase in the person's resources to exit must somehow *increase his freedom* within the cultural community. An example will best illustrate this. Suppose that the state decides to fund a series of lectures on the compatibility of gender equality and Islam in order to improve the position of women within conservative Muslim communities. Further suppose – somewhat optimistically – that these lectures have their intended effect, i.e. that they persuade the elites of these communities to grant more freedom to their female members. Finally suppose that these changes render it possible for at least

some women within these groups to take up a job or go to university without facing social disapproval. As I understand it, this is a situation in which these women's resources to exit are (indirectly) increased by the state's decision to subsidise the series of lectures. For one thing, the money they earn with their new jobs can be expected to make them financially less dependent on members of their cultural community. Moreover, those women who use their new freedoms to pursue higher education are likely to be better able to overcome the cognitive-epistemic obstacles to exit that were identified (see section 3.3.1), the reason being that there is a greater chance that they will acquire the critical thinking skills and knowledge of alternative ways of life that are necessary to have a realistic ability to change cultural affiliations.

Whilst increasing these women's resources to exit, it seems unlikely, however, that these new opportunities to work and study will also increase their motivation to leave their cultural community. Though this claim requires empirical corroboration, the fact that there are feminist movements within many Orthodox Muslim societies gives us reason to suspect that a fair proportion of these women would actually value these newly-gained freedoms. If I am right about this, then this suggests that these individuals would not become more inclined to exit their cultural community, but rather *less* inclined to do so. Furthermore, even if there are women in these groups who would not value these freedoms, it is difficult to see why they would oppose them, at least as long as their community is not forced to reform by outsiders. Inasmuch as this is true, it seems that that the state's funding of the lectures on the compatibility of Islam and feminism (indirectly) increases these women's resources to exit by making them better able to overcome financial and cognitive-epistemic obstacles to exit, yet *without* increasing their motivation to leave their cultural community.

Now, insofar as (i) state attempts to increase the resources to exit of members of illiberal minority cultures will only be effective if they (directly or indirectly) increase their freedom within the group, and if (ii) having more freedom within the group weakens people's motivation to exit, then we can conclude that, if Kukathas is right that (iii) weakening people's motivation to exit undermines their capacity to exit, then (iv) it is impossible for the state to make the exit rights of members of illiberal minority cultures more realistic unless, as Kukathas argued, it increases their motivation to leave their cultural community. However, as

it was previously noted, Kukathas seems right that this option is unacceptable from a liberal viewpoint as it would involve far-reaching interference with people's private lives.

I have already challenged premise (iii) when I suggested that there is no logical relationship between a person's motivation and capacity to exit. My aim here is to show that those who disagree may still reject conclusion (iv) because premise (i) is problematic as well. Contrary to what Kukathas suggests, there seem to be ways to increase people's resources to exit that do *not* weaken their motivation to leave their cultural community, at least not in any evident sense. Indeed, I suspect that most of the measures of this dissertation's substantive exit rights strategy fall into this category. In section 4.2, we shall be looking at these measures in detail; for now, I want to discuss two of them in order to illustrate how the state may increase people's resources to exit without reducing their motivation to leave their cultural community.

In order to secure substantive exit rights for the members of illiberal minority cultures, I will argue in section 4.2.1 that the state should ensure, amongst other things, that children receive an autonomy-facilitating education. The rationale behind this type of education is to enable people to deliberate about a cultural exit by inculcating them with the requisite critical thinking skills and knowledge of alternative cultural lifestyles. Important here is that whilst this type of education increases people's resources to exit by allowing them to overcome what I termed 'cognitive-epistemic obstacles to exit' (see section 3.3.1), it does not in any evident sense increase their freedom within their cultural community. For example, it is anything but clear that equipping female members of patriarchal communities with various cognitive skills and knowledge of their cultural options will weaken the gender hierarchies of these groups.

Of course, it may be countered that by making an autonomy-facilitating education compulsory, this dissertation's substantive exit rights strategy is likely to *indirectly* secure greater liberty for subordinated members of illiberal minority cultures. The thought is that the knowledge of alternative cultural lifestyles and critical thinking skills these subordinated individuals will acquire as part of this education makes it likely that they will (eventually) challenge their group's illiberal aspects.

Whilst we should not too hastily assume that subordinated members of illiberal minority cultures will use their capacity for personal autonomy to challenge their culture's illiberal norms and practices – as I will suggest below, it is not uncommon for people to autonomously endorse circumscribed lives - some can be expected to do so. Even so, it is unclear whether this challenging will secure greater intra-group freedom for them. For one thing, there is the risk that the strategy's autonomy-facilitating education will fuel reactive culturalism. This is most likely to occur when adult members of illiberal minority cultures fear that the cultural beliefs and values they are trying to transmit to younger generations are being subverted in schools; under these conditions, it seems a real possibility that cultural elites will not respond to internal calls for liberal reform by granting their subordinated members more liberty, but rather by restricting their freedom even more (see section 2.3.1).

Finally, we have no reason to assume either that the strategy's autonomy-facilitating education will (generally) increase the intra-group freedom of subordinated members by making their exit rights more substantial. The idea here is a familiar one, namely that subordinated people can be expected to use the threat of exit as leverage to demand greater freedom within their cultural community, and to do so successfully. The problem with this view, as section 3.2.2 showed, is that we have no reason to suppose that guaranteeing members of illiberal minority cultures realistic exit options will always have this side-effect, or even in most cases.

If I am right about this, then it is doubtful whether the intra-group liberty of female members of patriarchal communities – and that of subordinated members of illiberal minority cultures in general – will be promoted by the strategy's autonomy-facilitating education. Since it is unlikely that an increase in these women's intra-group liberty would have weakened their motivation to stay with their cultural community (see above), it seems to follow that we have no reason to assume that this type of education will weaken their motivation to exit. *Contra* Kukathas, this then suggests that it may well be possible to increase people's resources to exit *without* decreasing their motivation to leave their cultural community.

Idem ditto for the second measure of this dissertation's substantive exit rights strategy. According to this measure, which is discussed at length in section 4.2.3, the state should compensate citizens financially if they are left destitute by a cultural exit. The rationale of

this kind of assistance is not to make them rich, but rather to ensure that they have the economic wherewithal to sustain themselves if they change cultural affiliations. This way, citizens should be enabled to overcome the financial obstacles to exit that were identified in section 3.3.1.

As with the first measure, there seems to be no reason to assume that this measure will make members of illiberal minority cultures *less* motivated to exit. If people were unable to maintain themselves financially should they leave their cultural community, it certainly would be strange if their motivation to exit was weakened by the availability of this kind of support. If I am right about this, then we have another example of a measure that increases people's resources to exit *without* weakening their motivation to leave their cultural community.

I have argued that depending on whether a particular way of increasing people's resources to exit promotes their freedom within their cultural community, their motivation to exit is likely or unlikely to be weakened. If this is correct, then we can conclude the following: even if people's ability to exit is undermined if they become less motivated to exit (a claim on which I have already cast doubt), this dissertation's substantive exit right strategy would not be an incoherent strategy as it seems to make people's ability to exit more realistic *without* weakening their motivation of exit. Neither is it a morally objectionable strategy as it does not try to change people's preferences in ways that will make them more motivated to leave their cultural community. Given that Kukathas' objections to this approach are unpersuasive, then, it appears that liberals should prefer it to his strategy as it better protects the individual freedom of members of illiberal minority cultures (see section 3.3.2).

Before discussing a come-back that proponents of Kukathas's strategy could make, let me address an issue that may have caught the reader's attention in passing. I have suggested that there are *two ways* of making people's exit rights more realistic – one that is likely to reduce their motivation to exit by increasing her freedom within their cultural community, and one that is not. The question that arises here is this: which way should liberals prefer?

Which way of Increasing Citizens' Resources to Exit Should Liberals Prefer?

At first sight, it seems that measures that foster a person's ability to exit in a way that decreases her motivation to exit are preferable to those that foster this ability *without* reducing her motivation to leave her cultural community. The reason should be obvious: changing cultural affiliations is an unpleasant experience for most of us, even if it may be liberating for some.

But if this is the case, one is led to wonder: should we not spare people this fate whenever possible? More specifically, should this dissertation's substantive exit rights strategy not require states to increase the resources of subordinated members of illiberal minority cultures in a way that *decreases* their motivation to exit, namely by increasing their intra-group liberty?

I think not. The problem with requiring states to increase the intra-group liberty of subordinated members of illiberal minority cultures is that it would effectively have to try to *liberalise* these groups. As a consequence of this, my favoured substantive exit rights strategy would inherit the objections that were raised to Kymlicka's perfectionist liberal strategy; like the latter, it would (i) carry a high risk of reactive culturalism, and (ii) fail to give due protection to the individual freedom (understood in both the senses distinguished in this dissertation) of conservative members of illiberal minority cultures (see section 2.3). These objections would remain, it seems, even though the attempts to liberalise illiberal minority cultures would not be justified as a means of promoting their members' personal autonomy (as with Kymlicka's strategy), but rather as a means of securing meaningful exit rights for them. After all, the conservative members of these groups would still be hindered in their ability to live in accordance with their illiberal conceptions of the good.

3.3.5 A Final Come-Back

Let us return to the challenge that has been presented to Kukathas' plain exit rights strategy. It was argued in section 3.3.2 that this strategy does not appropriately protect the freedom of conscience (or freedom 1) of dissident members of illiberal minority cultures, and that this

dissertation's substantive exit rights strategy is superior in this respect. My aim in this last subsection is to consider a final comeback that its proponents can make.

I suspect that proponents of Kukathas' strategy will not so much deny that this dissertation's substantive exit rights strategy better accommodates the individual freedom of dissident members of illiberal minority cultures, but rather object that this is done at an unacceptable price. The price is that the range of illiberal cultural practices in which citizens can engage is substantially more restricted than on Kukathas' account (recall that the only constraint Kukathas is willing to impose on the internal conduct of cultural communities is that they cannot force their members to remain with the group). As we will see in section 4.2.2, my favoured substantive exit rights strategy imposes various restrictions on the internal conduct of illiberal minority cultures in order to secure meaningful exit rights for their members, as well as to protect their children from severe harm.

Now, proponents of Kukathas' strategy may argue that the range of permissible illiberal cultural practices is being so much restricted by this approach that it fails to appropriately protect the individual freedom of conservative members of illiberal minority cultures. This critique is likely to focus on its educational requirements, more specifically on its requirement that children should follow an autonomy-facilitating education. The reason is that this particular requirement denies conservative members of illiberal minority cultures a liberty that many of them eagerly seek: the liberty to shield their youngest members from the outside world and to prevent them from acquiring the cognitive skills and knowledge that would enable them to critically examine the group's tenets and practices. If this is correct, then the main objection to this dissertation's substantive exit rights strategy that proponents of Kukathas' strategy are likely to raise is that its compulsory autonomy-facilitating education infringes on the individual freedom of conservative members of illiberal minority cultures who oppose this type of education. These members may include the parents of children that are educated for personal autonomy, but also other members of the cultural community.

In my view, this criticism remains unpersuasive. To say that that a compulsory autonomy-facilitating education for children infringes on the individual freedom of (certain) parents or other members the cultural community presupposes that children are mere extensions of, or owned by, their parents and/or their cultural community. But this surely cannot be right; to

treat children as extensions/possessions of their parents or cultural community goes against the Kantian conception of people that lies at the heart of liberalism, namely that of separate moral agents who cannot merely be used as means for others' goals.

If I am right about this, then we can conclude the following: even if some parents and other members of illiberal minority cultures are constrained in their ability to act on their illiberal conceptions of the good if 'their' children have to follow an autonomy-facilitating education against their wishes, it would be an exaggeration to call this an 'infringement' on their individual freedom. Furthermore, it seems that the imposition of these constraints is justified from a liberal perspective in order to protect children from far greater constraints on their liberty that they may face if they do not receive this kind of education. For it is difficult to deny that having one's children educated for autonomy against one's wishes is normally a less serious restriction on one's individual freedom than being effectively condemned to remain with a cultural community of which one cannot in good conscience be part because one, lacking a minimum degree of personal autonomy, cannot overcome various cognitive-epistemic obstacles to exit (think of the Amish women discussed in section 3.3.2).

In order to provide suitable protection for dissident members of illiberal minority cultures, then, we need a strategy that guarantees them meaningful exit rights. This means, amongst other things, that the children of these groups should receive an autonomy-facilitating education (below, I will discuss four additional measures that are necessary). This is because children may become dissident members as they grow up, that is, they may come to reject fundamental values, beliefs, and practices of their cultural community. Since Kukathas' strategy does not propose any measures to make the exit rights of (future) dissident members of illiberal minority cultures more substantial, I conclude that liberals should favour this dissertation's substantive exit rights strategy to his approach.

4. The Substantive Exit Rights Strategy

The previous two chapters argued that Kymlicka's and Kukathas' strategies for dealing with illiberal cultural practices do not appropriately protect the individual freedom of particular groups of citizens. Whereas Kymlicka's attempts to create a "fully liberal" society were shown to give conservative members of illiberal minority cultures insufficient room to act on their conceptions of the good, it became clear that Kukathas' failure to provide dissident members of illiberal minority cultures with a realistic ability to exit means that their individual freedom is not appropriately protected. The purpose of this chapter is to outline a strategy for dealing with internally illiberal minority cultures that strikes a better (i.e. fairer) balance between the freedoms of conservative and dissident members of illiberal minority cultures: the substantive exit rights strategy. To do this, I will first specify the conditions under which this strategy tolerates illiberal practices of illiberal minority cultures. Next, I will discuss the measures of this strategy that ought to realise these conditions.

4.1 Conditions

As it may be recalled, this dissertation's substantive exit rights strategy prescribes that the state should tolerate illiberal practices of illiberal minority cultures that only affect their own members if and only if two conditions are met:

- (i) Their adult members are guaranteed substantive exit rights, i.e. rights to a realistic ability to change cultural affiliations.
- (ii) The cultural communities in question do not engage in illiberal practices that inflict severe harm on children.

Whilst these conditions have already briefly been discussed in section 1.1, it is necessary to look at them more closely in this chapter.

4.1.1 Condition I

Let us start with condition (i). A person has a substantive or meaningful right of exit on my account if and only if she can, and knows that she can, live a decent life in another cultural community within her society. In the case of illiberal minority cultures, this ‘other cultural community’ has to be the liberal majority culture for reasons I will discuss below.

To have a realistic ability to join the liberal majority culture in one’s society, it is considered to be both necessary and sufficient that one can overcome the five kinds of obstacles to exit that were distinguished in section 3.3.1. In my view, this is the case when six requirements are met. According to the first two requirements, a person (a) is not forcefully prevented from leaving her cultural community, and (b) the liberal majority culture is willing to accept her as a member. These requirements constitute the bare essentials of her right of exit. By contrast, the other four requirements render this right ‘substantive’ or ‘meaningful’.

The first of the remaining requirements is that the person in question (c) has the economic wherewithal to maintain herself outside her cultural community. The second is that she (d) has access to what Sigal Ben-Porath (2010) terms “entrance paths”, that is, to forms of assistance and services that will help her integrate into another cultural community (one might think of language classes and support groups of ex-members). The third requirement is that she (e) has a minimum degree of personal autonomy that enables her to deliberate about a cultural exit. The final requirement is that she (f) is free from exposure to (cultural) practices that make it extremely difficult, if not practically impossible, for her to enjoy a substantive or meaningful right of exit. ‘Extremely difficult’ here means that even if all the other requirements are met, these practices are still likely to deny her a realistic ability to change cultural affiliations.

The measures that should meet requirements *a* to *f* will be discussed in section 4.2. For now, it is important to ask why it is crucial from a liberal perspective for members of illiberal minority cultures to have a realistic ability to join the liberal majority culture.

The answer, it should be underscored, is not that this will make it more likely that they will join the liberal majority culture. Unlike Kymlicka’s strategy, the aim of this dissertation’s substantive exit rights strategy is not to create a “fully liberal society”, that is, a society in which citizens are liberal in both the political sphere and private sphere. Rather, the reason

this strategy aims to guarantee members of illiberal minority cultures a realistic ability to join the liberal majority culture is, first, to protect the individual freedom (understood in both the senses distinguished in this dissertation) of dissident subgroups. To be able to act on their (more) progressive beliefs about the good, we saw in section 3.3 that dissident members of illiberal minority cultures require access to a (broadly) liberal cultural community.

The second, and more controversial, reason why it is important that (dissident and non-dissident) members of illiberal minority cultures have a realistic ability to join the liberal majority culture is that they should be able to take advantage of their full range of basic rights and liberties. As it was noted in section 3.3.2.1, this is not possible in internally illiberal cultural communities as, by definition, these groups impose social constraints on the exercise of their members' fundamental freedoms. For example, within strongly patriarchal communities such as those of the Salafists and Ultra-Orthodox Jews, a woman is likely to face disapproval and retaliation if she claims the freedom to work, study, start a relationship with a person of the same sex, *et cetera*. Yet, even members with a higher standing (e.g. male members) may be substantially restricted in their ability to exercise basic rights and liberties.

I believe that having a realistic ability to join the liberal majority culture in which one can exercise one's basic rights and liberties is important from a liberal perspective *independently* of whether members of illiberal minority cultures value this ability, or want to make use of it. Many liberals would be troubled, and quite rightly I want to suggest, if citizens of a liberal society were unable to take advantage of their full range of basic rights and liberties due to cultural constraints; whenever this is the case, it seems that not enough is done to ensure that citizens are *effectively* free rather than merely formally free. Whilst this does not allow liberal states to shape illiberal minority cultures in their ideological image as this, I argued in section 2.3.2, would impose excessive constraints on the ability of conservative citizens to act on their illiberal conceptions of the good, it does require that they take measures to secure substantive exit rights for both conservative and dissident members of illiberal minority cultures.

4.1.2 Condition II

Condition (ii) maintains that the state should remedy illiberal practices of cultural communities that severely harm children (in a psychological and/or physical sense).²⁶ In my view, adding this condition to this dissertation's substantive exit rights strategy renders it more plausible. Unlike condition (i), however, it is not central to it. This means, *inter alia*, that liberals may accept this approach without accepting the claim that the state should protect children from severely harmful cultural practices.

In order to see why condition (ii) is not central to my favoured substantive exit rights strategy, recall that the rationale of this strategy is to meet liberalism's core requirement: the protection of individual freedom (see section 1.1). However, if the state's pre-emptive objective from a liberal perspective is to protect people's individual freedom, then it is unclear why it should remedy cultural practices that inflict severe harm on children. Whilst children may not be able to escape these practices as their dependency on adults denies them meaningful exit rights, the same applies to many non-harmful cultural practices that most liberals seem unwilling to remedy – one might think of bringing one's children to church, celebrating their Bar Mitzvahs, taking them to football matches, *et cetera*. This fact, I believe, renders it dubious whether freedom considerations alone can justify (ii), which is why this condition is not seen as central to this dissertation's substantive exit rights strategy.

Whilst not central to it, it seems that including condition (ii) makes this strategy more plausible. Many people (liberal and non-liberals) would agree, and quite rightly I want to suggest, that one's physical and psychological integrity is of such importance that no human being should be exposed to severely harmful cultural practices without having a realistic means of avoiding such exposure. Since children normally lack a realistic ability to exit their cultural community, and thus a realistic ability to escape its severely harmful practices, it seems important that the state protects them from these kinds of practices (why children should not be protected from modestly harmful cultural practices, and why adults should be free to engage in cultural practices that (severely) harm them will be discussed in section 4.2.2).

²⁶ The same applies to mentally challenged adults. Rather than discussing them as a separate category, what I will say about children in this subsection is supposed to hold true of them as well.

4.2 Measures

We saw that the central aim of this dissertation's substantive exit rights strategy is to secure substantive exit rights for (adult) members of illiberal minority cultures, and that these rights ought to guarantee them a realistic ability to join the liberal majority culture. In order to do this, I noted that six requirements have to be met. My next aim is to discuss five measures that should meet those requirements.

Before looking at the five measures, it is important to warn against two possible misunderstandings of their rationale. First, it should be noted that the measures of this dissertation's substantive exit rights strategy are not meant to *stimulate* members of illiberal minority cultures to leave their cultural community. Whilst more of their members can be expected to exit if they have a realistic ability to change cultural affiliations than if they did not, this is not something that this strategy aims for. In other words, changing cultural affiliations is not considered to be intrinsically valuable by its proponents, nor is it seen as desirable as such when citizens leave their illiberal cultural community for a (more) liberal cultural community. What matters instead is that members of illiberal minority cultures who wish to change cultural affiliations in order to escape illiberal cultural practices are not prevented from doing so because they lack a meaningful right of exit.

Second, it should be noted that the five measures of this dissertation's substantive exit rights strategy are not intended to make a cultural exit *easy*, and need not do so. By reducing the impact of the five kinds of obstacles to exit distinguished in section 3.3.1, these measures will make it easier for many members of illiberal minority cultures to change cultural affiliations – this is undoubtedly true. Still, this does not necessarily mean that it will become *easy* for these individuals to leave their cultural community. Even for those with substantive exit rights, exiting may be very difficult. According to this strategy, this is acceptable as long as members of illiberal minority cultures have a realistic ability to join the liberal majority culture.

Now, some may hold that as long as people experience these difficulties, they do not enjoy a substantive or meaningful right of exit. Inasmuch as my favoured substantive exit rights strategy fails to make it easy for people to change cultural affiliations, this would then suggest that it fails to realise its aim.

I think this view is problematic. It seems sensible to say that as long as people are able, and knows that they are able, to live a decent life outside their cultural community, they have a realistic ability to exit their cultural community – even if they find it difficult to do so. Just as having a realistic ability to do x , as we saw in section 3.3.2.2, does not seem to require that one be motivated to do x , it seems that having a realistic ability to do x does not require that one finds it easy to do x . For example, it may not be easy for a Dutchman to pay for my dinner, but if he has a decent salary and enough money in his wallet to pay the bill, he surely has a realistic ability to do so. The same applies, I believe, to a person who finds it difficult to leave her cultural community, yet who is able, and knows that she is able, to live a decent life outside the group.

Having warned against these possible misunderstandings regarding the rationale of the strategy's measures, let us now look at these measures in detail.

4.2.1 Autonomy-Facilitating Education

The first measure that the state should take in order to secure substantive exit rights for members of illiberal minority cultures is to ensure that its citizenry receives an autonomy-facilitating education. The reason why it is important to educate citizens for personal autonomy is that this will enable them to overcome the cognitive-epistemic obstacles to exit that were identified in section 3.3.1. Before looking at the requirements of this type of education, it should be noted that this dissertation's substantive exit rights strategy only demands that *children* be compulsorily educated for personal autonomy; though adult citizens are free to follow an autonomy-facilitating education if they wish, they should not be required to do so.

There are at least two reasons why an autonomy-facilitating education should not be made compulsory for adults. First, (re-)educating adults may often be ineffective or inefficient, as their ability and motivation to absorb new knowledge and develop new skills seems generally low. Second and more importantly, there are moral problems with forcing adults (back) into the classroom. It is commonly held, and I want to suggest quite rightly, that adults' status as moral and rational agents gives them an integrity that is violated if the state (re-)educates them without their consent. Notice that this does not apply to children, or at least not to the same extent; most children, especially when they are young, do not have the capacity for

rational and moral agency that adults generally possess, which is why it seems legitimate to act paternalistically towards them in various ways that would be unacceptable in the case of adults.

Since the autonomy-facilitating education of this dissertation's substantive exit rights strategy imposes the most far-reaching constraints on the power of cultural communities over their members, it is important to consider what its requirements are. This will be our next aim.

4.2.1.1 Cognitive Skills and Cultural Knowledge

To ensure that children acquire the capacity for a minimum degree of personal autonomy that is necessary for substantive exit rights, schools should equip them with various cognitive skills. These include an ability to absorb and retain information, a capacity for critical thought, certain basic logic and reasoning skills, *et cetera*. Without these skills, it is difficult to see how a person could deliberate about changing cultural affiliations, and thusly how she could gain a realistic ability to leave her cultural community.

Another requirement is that schools teach children about alternative cultural ways of living. There are two reasons why knowledge of how other cultural communities live is a prerequisite of substantive exit rights. First, having this kind of knowledge allows for the creation of reflective distance between oneself and one's cultural ends, which is necessary to render living in a different cultural environment a conceivable option (cf. Okin, 2002, p.222). The thought is that unless people are capable of seeing their cultural lifestyle from a more objective or detached point of view, exiting their cultural community will often be inconceivable to them as their sense of self is likely to be constituted by the ends of their cultural community. Needless to say, those in this situation will not have a realistic ability to exit.

The second reason why knowledge of alternative cultural lifestyles is a prerequisite of substantive exit rights is that people need to know what their cultural options are, i.e. they must be informed about the cultural communities they may wish to join should they decide to leave their current community. Without this knowledge, their ability to exit is likely to be impaired by fears of a future in an unknown cultural *milieu* and/or by negative misconceptions that they may hold about other cultural communities (see section 3.3.1).

4.2.1.2 Multicultural Curriculum

To acquire the capacity for personal autonomy that is necessary for substantive exit rights, I argued above that children should be taught about different cultural lifestyles. What has not yet been discussed is how we decide which cultural communities are to be included in the educational curriculum.

Given that this dissertation's substantive exit rights strategy aims to guarantee members of illiberal minority cultures a realistic ability to join the liberal majority culture (see section 4.1), it is clear that the liberal majority culture must be part of the curriculum. This means that children from illiberal cultural backgrounds ought to be taught how the values of individual freedom and equality are expressed in (some of) the norms and practices that govern this group.

At the same time, it is important that illiberal minority cultures be included in the curriculum as well. The reason for this is twofold. First, it helps to protect the individual freedom (in both the senses distinguished in this dissertation) of the members of the liberal majority culture. In order to see this, notice that these individuals may come to feel alienated from their culture's progressive lifestyle – possibly because they believe that it propagates a “licentious freedom” as Lester (2006, p.622) puts it – and develop a desire to join an illiberal minority culture. To do so, however, it is essential that they have a minimum amount of knowledge of these groups, which will only be possible if illiberal minority cultures are included in educational curricula.²⁷

This is not to say that all illiberal minority cultures merit inclusion; since one of the primary responsibilities of the state is to ensure that different cultural communities can co-exist peacefully, children should not be acquainted with the beliefs and practices of Taliban-like communities. Thus, the inclusion of illiberal minority cultures in the curriculum is always subject to the requirement that they are peaceful. Since this dissertation's substantive exit rights strategy is premised on a political liberal account of liberalism, we may even go

²⁷ Though children of the liberal majority culture may be taught about the lifestyles of illiberal minority cultures at home, these cases seem rare. In addition to this, the information they would receive within their homes is likely to be biased.

further and require that they also be “reasonable” in Rawls’ sense, that is, that they respect the free and equal status of citizens when fundamental political matters are decided (Rawls, 2005, p.12).

The second reason for including (reasonable) illiberal minority cultures in the curriculum is a matter of justice. Due to its political liberal commitments, this dissertation’s substantive exit rights strategy cannot allow the state to be biased towards any particular reasonable comprehensive doctrine in its policies. This requires, however, that children do not just learn about the lifestyles of the liberal majority culture, but also about those of (reasonable) illiberal minority cultures. If this requirement is not met, then members of illiberal minority cultures may rightly object that this type of education is trying to lure their members away.

This brings us to the content of the multicultural curriculum. According to the substantive exit rights strategy, it is imperative that schools provide children with *descriptive* information about various cultures. Whilst violent and/or unreasonable cultures may be portrayed as inferior or, alternatively, be left out of the curriculum altogether, schools should not teach children that some reasonable cultures are better than others. Neither should they, as strongly illiberal groups in particular may fear, ask them to evaluate reasonable cultural or religious beliefs and values from a scientific or normative point of view.

Finally, the time and place to teach citizens about different cultural lifestyles is during secondary school when children’s ability to learn about different cultures is at its height (Lester, 2006; MacMullen, 2007). Emile Lester has proposed that children be taught about different cultural and religious communities during their sophomore or junior year. To do this earlier, he warns, may lead to “a chaotic sense of self that cannot be reversed or a dramatic blow to the student’s self-esteem” (Lester, 2006, p.626). At the same time, he notes that it should not take place at a later as, by that time, “the community’s indoctrination of the student is so complete that they preclude any sense of distance” (Lester, 2006, p.627).

Whether Lester is right about this is something I leave open here. My aim here was not to discuss during what period of childhood citizens ought to be exposed to different cultural lifestyles – this is a task for pedagogical experts. Rather, the aim has been to explain why a multicultural curriculum is a necessary component of this dissertation’s substantive exit rights strategy, and to outline some requirements that this curriculum has to meet.

4.2.1.2 Is a Multicultural Curriculum Necessary?

In opposition to what has been argued above, not all theorists believe that securing substantive exit rights for members of illiberal minority cultures calls for the implementation of a multicultural curriculum. For example, Jeff Spinner-Halev contends that it is otiose for schools to teach children about different cultural lifestyles, even for children of close-knit communities such as those of the Hutterites, Amish, and Hasidic Jews (Spinner-Halev, 2000, p.49; 2005, p.163). In his view, the members of these groups are already sufficiently aware of the existence of alternative lifestyles to have a meaningful exit option. He thus notes that

“Most Hutterites, the Amish and Hasidic Jews all know that they are surrounded by a society with different ways of life. [...] Many Hasidic Jews live and work in New York City. How can one possibly argue that they do not see a wide range of options of how they might want to live their lives? The Hasidic children in Alaska may be given a narrow education, but they certainly are aware that there are different ways to live. Even Hasidic Jews in Jerusalem are aware that there are other ways of life” (Spinner-Halev, 2005, pp.49-50).

Spinner-Halev seems right to point out that most members of the Hutterite, Amish and Hasidic Jewish communities are aware of the existence of different ways of life within their society. Yet, even if this is so, it does not follow that a multicultural curriculum is not necessary to guarantee them meaningful exit rights. What Spinner-Halev is insufficiently attentive to is that there is a difference between knowing that there are cultural communities with different lifestyles in one’s society, and having enough knowledge of these lifestyles to possess a realistic ability to exit; it seems that simply knowing that there are cultures who do things differently will normally not be sufficient for having this ability, especially when people hold negative misconceptions about many of these cultures.

The claim that a multicultural curriculum is necessary in order to secure substantive exit rights for members of illiberal minority cultures is supported by Stevie Mazie’s (2005) study of the Amish practice of *Rumspringa*. During *Rumspringa* (literally: jumping around), Amish adolescents are allowed to experience life outside the Amish community and many of them also choose to live outside the group. After this period – which may last for years – they then decide whether or not they want to be baptised, and by doing so, become a member of the Amish church.

Despite this unique opportunity to explore the wider society (most strongly illiberal communities, it should be noted, try to shield their members from outside influences and certainly would not allow their members to submerge themselves into the mainstream culture), around 90 percent of the Amish joins the church (Mazie, 2005, p.752). According to Mazie, an important cause of these high return-rates is that whilst the Amish spend much time outside their community, they do not get an accurate impression of what life in wider society is really about. Most of them, he writes, spends their *Rumspringa* living a Bacchanal life whereby binge-drinking and the consumption of drugs are anything but uncommon (Mazie, 2005, pp.750-2). If this is correct, then the fact that the “lowest common denominator of crude American culture presents itself as *the* alternative to Amish life” as Mazie puts it leaves it no surprise that the far majority of Amish adolescents chooses for the simple, pious existence of the Amish community (Mazie, 2005, p.752).

The point of this example is that although the Amish know that they are “surrounded by different ways of life” and even live outside the Amish community during a period, this does not seem enough for many of them to overcome the cognitive-epistemic obstacles that were identified (see section 3.31). Not only do they not learn about the finer aspects of the mainstream culture such as art and literature, they also get a false – or at least not representative - impression of what life outside the Amish community is really about; after all, few members of the mainstream culture live as wildly as many Amish youngsters do during their *Rumspringa*.

If this is so, then *contra* Spinner-Halev, the mere knowledge that one is surrounded by cultures with different lifestyles does not seem enough information to have a realistic ability to change cultural affiliations. Instead, what people need is knowledge of *how* other cultural communities live. Since it is unlikely that members of illiberal minority cultures will acquire this knowledge within their cultural communities (as noted previously, many of these groups try to shield their members from outside influences), it seems necessary that schools teach children about different cultural lifestyles in order to secure substantive exit rights for them.

4.2.1.3 What should be the Minimum Level of Autonomy for which Citizens are Educated?

Having considered why this dissertation’s substantive exit rights strategy advocates a compulsory autonomy-facilitating education and what requirements this education ought to

meet, I want to ask what the minimal level of autonomy is for which people should be educated in order to acquire meaningful exit rights.

According to Ben Spieker, Doret de Ruyter and Jan Steutel (2006, p.320), they should at least be educated to stage four of Lawrence Kohlberg's scale of moral development (cf. Kohlberg, 1971). At this stage, people are thought to have the capacity for a minimum degree of personal autonomy, which means that they can follow rules because they deem them good or right rather than to simply meet social expectations as people in stage 3 do. Though Spieker, De Ruyter, and Steutel do not go into this, the assumption here seems that since the behaviour of people in stage 3 is predominantly aimed at pleasing others, it will be very difficult for them to leave their cultural community. This is because a voluntary exit involves a breach of social expectations that can be expected to spark disapproval from other members. If true, it seems that people in stage 3 are likely to lack the capacity for independent agency that is necessary to have a realistic ability to exit.

Despite being able to follow rules because they deem them valid, Spieker, De Ruyter and Steutel go on to note that people in stage 4 will not be able to rationally justify these rules (Spieker, De Ruyter and Steutel (2006, p.320). This capacity is believed to involve a higher level of theoretical and practical reasoning that is characteristic of stage 5 and above on Kolberg's scale.

Without wishing to commit myself to Kohlberg's theory of moral development, which has been subject to much criticism, I believe that Spieker, De Ruyter, and Steutel are right to suggest that the skills and competencies belonging to stage 4 of his scale are a prerequisite of substantive exit rights. Whilst it is unlikely that people should be able and willing to critically examine their ends on a regular basis in order to have a realistic ability to exit – which would be a feature of stage 5 and above - it seems essential that their conduct is not (predominantly) determined by a desire to meet social expectations.

Finally, I want to explain why the state should not require schools to educate children for stage 5 or above, even if this would make them better prepared to overcome the cognitive-epistemic obstacles to exit as identified in section 3.3.1. The reason is that such an education is likely to destabilise illiberal minority cultures that are ill-disposed towards individual self-direction, and by doing so, render it difficult for their members to reap various benefits of

their cultural membership. In order to see this, notice that a cultural community normally perpetuates itself by ensuring that the children of current members come to share its way of life; whilst it may attract members from outside the community, these individuals usually form a minority of all its new members (Archard, 2003, p.142). This is a pertinent fact as it suggests that by educating children of strongly illiberal minority cultures for a high degree of personal autonomy, the inter-generational transmission of these groups' values, beliefs, and practices is likely to be hindered. For example, children of certain religious groups may become too independent and critical to be able to show the "strong obedience to sacred texts and clerics' pronouncements" of older generations, and to inherit the latter's "deep, pervasive relationship to the [...] community" (Lester, 2006, p.620). If this is so, then requiring schools to teach children for a high degree of personal autonomy can reasonably be expected to have a destabilising impact on cultural communities that are hostile to individual self-direction.

As noted above, the problem with this is that it will become difficult for their members to reap various benefits of their cultural membership that (to varying degrees) depend on the group's stability. One might think of how cultural communities can provide their members with a feeling of solidarity, or with the safety of what Margalit and Raz call an "effortless belonging" (i.e. the reassuring idea that one's membership of the group does not depend on personal merits), or as Kymlicka argues, with a framework of meaningful choice in which people can exercise their personal autonomy (Margalit & Raz, 1990, pp.446-7; Kymlicka, 1995, pp.82-9). What this suggests, then, is that whilst the protection of the individual freedom of members of illiberal minority cultures (especially of dissident members) requires that they receive an autonomy-facilitating education (see section 3.3.2), the protection of these benefits demands that children not be compulsorily educated for a higher degree of personal autonomy than is necessary to guarantee them meaningful exit rights.

4.2.2 Restrictions on Cultural Practices

The second measure that the state should take in order to secure substantive exit rights for members of illiberal minority cultures is to remedy cultural practices that make it extremely difficult, if not practically impossible, for them to enjoy a realistic ability to leave their cultural community. 'Extremely difficult' here means that even if the other four measures for

securing substantive exit rights are taken²⁸, these practices are still likely to deny (some) adult members a meaningful exit option.

The most obvious examples can be found in cultural practices that forcefully prevent people from leaving their cultural community. This is what happened to David Thomas, a member of the Coast Salish community in British Columbia; despite the fact that Thomas did not want to be a member of this community and had always lived off the reservation, he was kidnapped by its members who did not recognise his right of exit. After being brought to a long-house, Thomas was beaten and later sued his captivators for battery and false imprisonment (see *Thomas vs. Norris* [1992]).

Needless to say, if the state is to guarantee substantive exit rights to members of illiberal minority cultures, then it cannot allow cultural communities to force their members to remain. Neither can it tolerate violent threats against defectors. As Jacob Levy (2005, p.182) points out, these threats are not uncommon; within orthodox Islamic circles, for instance, *fatwas* or legal decrees have been issued to kill defectors from particular Muslim communities.

Yet, even if cultural practices that are not intended to deny people a realistic ability to leave their cultural community, they may still require state interference according to this dissertation's substantive exit rights strategy. An example of such a practice can be found in the aforementioned ancient Chinese tradition of foot-binding. If this practice had persisted to date, then states would have to remedy it. The reason is that, although the binding of women's feet may not be intended to deny people a meaningful right of exit (e.g. its only purpose may be aesthetic), the fact that women with bound feet are effectively left housebound means that it is unlikely that they will be able to function outside their cultural community.

Notice that the custom of foot-binding can be restricted on another count, namely that it inflicts severe harm (physical as well as psychological) on children.²⁹ Whilst not central to this dissertation's substantive exit rights strategy, it was noted in section 4.1.2 that

²⁸ In addition to making an autonomy-facilitating education compulsory, these measures include: providing citizens who are left destitute by a cultural exit with financial assistance; offering defectors services to foster their integration into another cultural community; and making sure that the liberal majority culture is willing to admit members of all cultural and religious backgrounds. I will discuss the last three measures in sections 4.2.3-4.2.5.

²⁹ It is during childhood that women's toes are broken and bound in order to keep their feet small.

remediating cultural practices that severely harm children is an important goal of public policy, and that this dissertation therefore supports a ban on these practices.³⁰

4.2.2.1 Tolerable Harm

At this point, some liberals may hold that this dissertation's substantive exit right strategy is still too tolerant of harmful cultural practices. More specifically, they may argue that the state should not just interfere with cultural practices that severely harm children, but also with those that severely harm adults and/or inflict modest harm on children, *regardless* of whether they make it difficult for the state to secure substantive exit rights. In what follows, my aim is to contest this view by explaining why it is important from a liberal perspective that the latter two kinds of practices be tolerated.

Adults and Severely Harmful Cultural Practices

Let us start by looking at cultural practices that severely harm adults. The reason why this dissertation's substantive exit rights strategy is willing – within the previously specified limits - to tolerate these practices is not so much that their remediation would make adults worse-off. Whilst this may often be the case (for changes in an adult's life to contribute to her well-being, it is commonly held that she should endorse these changes, which is unlikely if she is forced or pressured into them; cf. Brighouse, 2002, pp.38-9), there is a more fundamental reason: to remedy cultural practices that severely harm adults imposes excessive constraints on the individual freedom (understood in both the senses distinguished in this dissertation) of those adults who support them. The assumption here is that if liberalism is truly committed to ensuring that people can live self-directed lives, then its adherents should accept that people may use this liberty in ways that will harm them, for example by undergoing FGM or conducting ritual scarring of their bodies. As long as they do not engage in practices that (i) are overly detrimental to their own or other's capacity to exit and/or in

³⁰ In my view, the appropriate kind of remediation should depend on two criteria: the severity of the harm and the efficiency of the available measures. The more severe the harm is, the more reason there is for direct, coercive interference in order to end the harmful cultural practice as quickly as possible. However, insofar as there are *indirect* measures that remedy the harm more efficiently on the long-term such as persuasion and/or the provision of financial incentives then, *ceteris paribus*, these may have priority over more militant measures (how trade-offs between these two criteria ought to be made, I believe, should depend on the context).

practices that (ii) severely harm children (see above), this dissertation's substantive exit rights strategy accordingly tolerates cultural practices that are severely harmful to adults.³¹

In response, a critic may note that many adults who are exposed to severely harmful practices do not endorse these practices. Rather, they put up with them because they deem an exit from their cultural community too costly, or because they have adapted their preferences. (Another reason why they may put up with cultural practices that severely harm them is that they have been brainwashed or indoctrinated; however, this scenario seems less relevant in this context as the autonomy-facilitating education of my favoured substantive exit rights strategy offers an important safeguard against these forms of manipulation). To protect the individual freedom of these individuals, she may thus argue that the state should remedy practices of cultural communities that severely harm their adult members.

The problem with this view is that the remediation of these practices may impose heavy constraints on the individual freedom (in both senses distinguished in this dissertation) of those adults who do endorse them. This holds especially true when their observance constitutes a core component of their conception of the good; for example, Parekh notes that for some adult women, undergoing FGM may be a way of “reminding themselves that they are from now onward primarily mothers rather than wives” or a “religious sacrifice of what they greatly value for the sake of their children and family” (Parekh, 1999, p.71). In order to respect the individual freedom of these individuals, it seems essential that the state tolerates cultural practices that severely harm adults, provided that their substantive exit rights are secured so that those adults who oppose these practices have a realistic opportunity to avoid them. Indeed, I suspect that the failure to do so would favour the interests of the opponents of these practices over those of their proponents, which is problematic if the state is to give equal consideration to citizens' interests as liberalism demands.

Children and Modestly Harmful Cultural Practices

This brings me to the second category of harmful cultural practices that are tolerated by this dissertation's substantive exit rights strategy: those that inflict modest harm on children.

What makes these practices controversial is that children are generally unable to avoid

³¹ Notice that this does not necessarily mean that society should be required to bear the burden of these practices; for example, if I cut off my leg as part of some religious ritual, then it may be unjust to force other citizens to pay for my hospitalisation. Whether or not this is the case is something I leave open here.

exposure to them as they lack the ability to exit their cultural community, thereby rendering them considerably more vulnerable than most adults.

Despite this vulnerability, I believe that there are three jointly sufficient reasons why the state should tolerate cultural practices that are modestly harmful to children, provided that this is not overly detrimental to their future capacity to change cultural affiliations. First, many cultural practices that cause them (modest) harm also bring them benefits that cannot, or only with great difficulty, be achieved in their absence. For the state to interfere with these practices would consequently mean that children will not enjoy the benefits in question, or that they are unlikely to do so. For example, by not giving their children time off from their studies and piano rehearsal, Asian ‘tiger parents’ may deny them the goods of social activity and physical exercise. At the same time, it is plain that the solitary, Spartan regime to which these children are subjected has a beneficial impact on their academic accomplishments and musical skills, as well as that these benefits are unlikely to be gained without this harmful practice (‘no pain no gain’).

In response, it may be argued that the state should not remedy *all* cultural practices that are harmful in some respect, but only those that harm children overall. This is the case when the possible good that cultural practices do is outweighed by the harms they cause minus the possible harm that is caused by the state’s interference with them.

The problem with this view, and this brings me to the second reason why the state should tolerate cultural practices that modestly harm children if this is not overly detrimental to their future ability to exit, is that it is often difficult to determine whether cultural practices harm people overall, or even whether they harm them in some specific respect. Regarding the former, it remains unclear how we (or rather: the state) are going to weigh the benefits and harms of a given cultural practice against each other – indeed, one might even wonder whether there is a common unit of measurement to do so. Yet, difficulty would already be encountered at an earlier stage, namely that of determining of whether a given cultural practice harms a person in a specific respect. Inasmuch as (some) harms are culturally relative, or relative to the person exposed to them, it seems that this will often be unclear; for example, one might wonder whether the wearing of the *burqa* may be harmful in some cultural settings, but not in others and/or harmful to some women but not to others. To shed light on these questions, one would have to investigate whether practices that appear harmful to us really are harmful within the cultural community in which they occur and/or to the

particular person that is exposed to them. There is good reason to doubt whether states (or any other agents for that matter) are up to this task.

Of course, it might be held that the state should interfere with practices whenever it is unclear whether children are being harmed. This view, however, does not seem attractive either. The reason, and this brings me to the third and final reason why the state should tolerate cultural practices that are modestly harmful to children as long as their future exit rights are secure, is that such interference is likely to have a destabilising impact on cultural communities. The problem with this is that it is likely to render it difficult for their members to reap the benefits of cultural membership that depend on the stability of these groups (see section 4.2.1.3).

4.2.3 Financial Assistance

The third measure the state should take in order to secure substantive exit rights for members of illiberal minority cultures is to offer financial assistance to those citizens who are left destitute by their cultural exit (one might think of the Hutterites who even have to return their clothes to the community upon departure; see section 3.3.2.2). The rationale of this measure is to ensure that these individuals have the economic wherewithal to maintain themselves outside their cultural community. In what follows, I want to explain why the state should restrict this form of support to citizens who are left destitute by their cultural exit, and why it should only pay for their subsistence.

Restrictions on the Financial Assistance

It seems fairly uncontroversial (or at least I assume it to be) that if the state is to secure substantive exit rights for citizens, it should offer them financial assistance if an exit from their cultural community leaves them destitute. What is not so evident, by contrast, is why this dissertation's substantive exit rights strategy maintains that the state should *restrict* this support to citizens who are left destitute by a cultural exit, and why these individuals should not receive more than people need in average to sustain themselves financially. It is therefore important to consider the rationale behind these restrictions.

In my view, the problem with widening the scope of defectors who are eligible for financial assistance and/or with giving them more money than they need to cover their subsistence is that it may render it difficult for members of economically marginalised

minority cultures to reap various benefits of their cultural membership. This is because more generous packages of support risk destabilising their cultural communities. The assumption here is that the better the financial prospects are for members of these groups, the more likely it is that they will leave. Whilst this assumption obviously stands in need of empirical corroboration, the fact that it is not uncommon for members of economically deprived cultural communities to join the majority culture in order to improve their financial situation (climbing the socio-economic ladder, it should be noted, may often be easier if they assimilate into the majority culture) suggests that it holds true in many cases.

Inasmuch as this is correct, it seems that even if providing more defectors with financial assistance and/or providing them with more generous packages of financial assistance does not generate a mass exodus from economically marginalised minority cultures, the fact that their members may become more motivated to change cultural affiliations may already have a destabilising impact on (some of) these cultural communities. If true, this would mean that it will become (more) difficult for their members to reap various benefits of their cultural membership that depend on the stability of these groups (e.g. a feeling of solidarity, common-spiritedness, the availability of a meaningful framework of choice; see section 4.2.1.3). For example, it does not seem salutary for the feeling of solidarity and common-spiritedness within a cultural community if the prospect of financial gain brings their members (closer) to the brink of exiting.

To avoid gratuitously destabilising cultural communities, then, this dissertation's substantive exit rights strategy prescribes that the state should not offer financial assistance to defectors unless this is necessary to pay for their subsistence.

At this point, some may argue that proponents of this strategy are committed to the provision of more generous packages of financial assistance to defectors and/or to expand the scope of recipients. According to these critics, if its aim is really to secure substantive exit rights for members of illiberal minority cultures, then it should extend financial assistance to defectors who have lost large proportions of their income as a result of a cultural exit and/or give defectors more than average people need to maintain themselves. Not to do so, they may say, will deny meaningful exit options to those who lose a significant percentage of their income if they were to leave their cultural community, *regardless* of whether they would become destitute.

To modify an example used by Brian Barry (2002, pp.153), the idea is that if e.g. a shop-owner would lose 90 percent of his income if he were to exit his cultural community because the group's members would boycott his store, he does not have a substantive right of exit – even if he would retain enough money to pay for his subsistence. The reason is that changing cultural affiliations would simply be too burdensome for this person. To guarantee him a realistic ability to exit, then, critics may contend that the state should grant him financial assistance in case he leaves his cultural community. Indeed, they may even go as far as claiming that this shop-owner should be given more money than is necessary to pay for his subsistence, as, in their view, this amount would cover too small a proportion of the income he loses.

Though this position may look plausible, I believe that the shop-owner can be ascribed a meaningful exit option as long as he can pay for his subsistence, whereas a person who only loses 30 percent of her income if she leaves her cultural community, yet who is left destitute, cannot. Whilst exiting is undoubtedly very difficult for the shop-owner, there is a relevant difference between him and the other person: the shop-owner will retain the ability to live a decent life outside his cultural community, as he would still be able to pay the rent and afford basic goods such as food, clothing, medicines, *et cetera*. Equally important, it seems that he will normally be aware of this (recall that to have a realistic ability to exit, it is necessary that one is able, and *knows* that one is able, to live a decent life outside one's cultural community; see section 4.1.1). The assumption here is that to deny in these situations that one can live a decent life outside one's cultural community goes against the degree of agency we ordinarily attribute to ourselves. After all, most of us regard money as something of which we can have more or less of as long as we have enough to cover our subsistence (cf. Phillips, 2007, p.144).

If I am right about this, then there is good reason to believe that the shop-owner has a substantive right of exit, whereas the person who only loses 30 percent of his income, but is left destitute by a cultural exit, does not. This leads us to the following conclusion: to avoid gratuitously destabilising minority cultures, which we saw may render it difficult for their members to reap various benefits of their cultural membership, it is necessary that the

financial assistance for defectors be restricted to those who are left destitute by a cultural exit, and that they be given no more than is necessary to pay for their subsistence.³²

4.2.4 ‘Opening’ the Liberal Majority Culture

The fourth measure that the state should take to secure substantive exit rights for members of illiberal minority cultures is to ensure that the liberal majority culture is open to citizens who wish to join it. In order to do so, it should redress the possible racism, xenophobia, and prejudices within the liberal majority culture that could obstruct the admission and integration of these individuals (recall the discrimination of Turks in the Netherlands and Germany as discussed in section 3.3.1). It seems that the strategy’s multicultural curriculum will help to realise this goal, as having knowledge of different cultural lifestyles can be expected to mitigate these exclusionary sentiments (assuming that ignorance is an important cause of racism and xenophobia). Even so, further measures may be required to ensure that members of the liberal majority culture become willing to accept new-comers from different cultural and religious backgrounds, including advertising campaigns and various educational policies.

Now, some may worry whether state attempts to make members of the liberal majority culture more welcoming of new-comers do not unduly restrict their individual freedom (understood in both the senses distinguished in this dissertation). Should these individuals not be free to be close-minded; that is, be free to discourage or prevent members of (illiberal) minority cultures from becoming part of the liberal majority culture *without* facing state pressure to accept them?

I am not sure whether such pressure can plausibly be thought of as restricting the individual freedom of members of the liberal majority culture. Even if it can, however, it seems that the relatively modest restrictions that are placed upon their liberty are an evil that

³² According to Jeff Spinner-Halev, it is incumbent on cultural communities themselves to provide their members with financial resources to exit. For example, he notes that the Hutterites should set-up an exit fund that guarantees any member who leaves the community a “few thousand dollars” (Spinner-Halev, 2000. p.77). The reason why I think this proposal is unsatisfactory is that it seems to place disproportional restrictions on the freedom of (some of) the group’s remaining members. As we saw in section 3.2.2., these individuals may believe that the motivations defectors have for leaving are morally wrong. In addition to being unjust, it seems that requiring the group’s remaining members to pay the full costs also makes it easy for dissident members to blackmail other members. As a result, I believe that it is preferable if society as a whole funds the financial assistance for defectors, the reason being that this seems to reduce both problems to a substantial degree.

is necessary from a liberal perspective to protect the individual freedom of members of (illiberal) minority cultures. By ensuring the latter's access to the liberal majority culture, these individuals will be protected from an unfreedom that is far more serious: the unfreedom of not having a realistic ability to leave an illiberal cultural community that one does not wish to be a member of (see section 3.3.2).

This stance may seem to conflict with a claim I made in section 2.3.2, namely that attempts to liberalise illiberal minority cultures (even if non-coercive measures are employed) should be construed as an infringement on the individual freedom of their conservative members. If this already counts as an infringement, then one is led to wonder: does it not also infringe on the liberty of members of the liberal majority culture if the state pressures them to welcome new-comers of different cultural backgrounds?

I think not. Whether the state tries to alter the attitudes of members of the liberal majority culture or the attitudes of members of (illiberal) minority cultures makes a normative difference. For one thing, state interference with the liberal majority culture is less intrusive as the state will normally be dominated by members of this group; that is, within liberal-democracies, the state's institutions and policies tend to *mirror* the values and belief systems of the liberal majority culture. This is pertinent, as it suggests that state attempts to change the attitudes of its members will be less of an outside intervention than in the case of (illiberal) minority cultures.

In addition to this, state attempts make the liberal majority culture more open to new-comers does not seem to impose an alien conception of the good on its members. In order to see this, notice that the reluctance of members of the liberal majority culture to accept people from particular cultural backgrounds collides with their *own* commitment to liberalism. It certainly is not very liberal to discourage or prevent people from joining one's cultural community, especially if this effectively condemns many of them to remain with a cultural community in which they are subordinated. Hence, by encouraging members of the liberal majority culture to welcome new-comers of all cultural backgrounds, the state would not so much be trying to alter their conception of the good, but rather to sensitise them to a commitment they have as (self-proclaimed) liberals, namely not to exclude people on the basis of a morally arbitrary feature as their cultural or religious background.

4.2.5 Entrance Paths

The final measure that the state should take in order to secure substantive exit rights for members of illiberal minority cultures is to offer citizens what Sigal Ben-Porath (2010) terms "entrance paths" into other cultural communities. These paths consist of services to ease the transition from one cultural environment to the other. One might think of the provision of language support for defectors who do not speak, or are less able to express themselves in the language of their new cultural community, or assistance in navigating the housing market and financial institutions for those with traditional cultural backgrounds (Ben-Porath, 2010, p.1026). Yet another example of an entrance path is the funding of support-groups for defectors. Within these groups, people may find socio-psychological and educational support provided by those with comparable experiences, which may render it easier for them to build up a life into their new cultural environment as they can help one another to meet various challenges. Indeed, it seems that subsidising these kinds of organisations is the state's most effective (legitimate) means of mitigating the socio-psychological obstacles to exit that were described in section 3.3.1. For example, in Israel, the organisation *Hilel* was set up for former Ultra-Orthodox Jews to ease their transition to a life in the mainstream society (Reitman, 2005, p.204).³³

Why are entrance paths necessary in order to guarantee members of illiberal minority cultures a substantive or meaningful right of exit? The answer, Ben-Porath notes, is that "moving from one group to the next" does not make a person "a regular member of the group they have entered" (Ben-Porath, 2010, p.1026). Influences of our culture of origin stay with us many aspects of our lives— socially, religiously, linguistically, psychologically, *et cetera*. This suggests that even for people who wish to leave their cultural community and can pay for their subsistence in case of an exit, becoming a member of another cultural community can be a daunting step. Accordingly, to ensure that members of illiberal minority cultures can live a decent life outside their cultural community, and that they are aware that they can do so, it is necessary that the state makes entrance paths available to them, and keeps them informed of the availability of these paths.

³³ These services may remind one of the services that are offered to immigrants to help them integrate into their host country. This is no surprise; in many cases, leaving a cultural community is much like leaving a country – even if the former does not involve a change of geographical location.

5. Objections

This final chapter aims to answer one of the main objections to the substantive exit rights strategy, and exit rights strategies in general. The objection, which has been put forth by Susan Okin (2002, p.207), is that the strategy overburdens people by expecting them to leave their cultural community if they want to be treated fairly by its members.³⁴ Rather than having to go through the difficult process of a cultural exit, this objection states that people deserve the right to be treated fairly within their cultural community.

It should be noted that there are further objections. Perhaps the most important of these is that this dissertation's substantive exit rights strategy, whilst granting more freedom to illiberal minority cultures than Kymlicka's approach, still advocates too much interference with the internal affairs of these groups. Whilst I address this objection elsewhere (De Vries, 2014), space constraints do not make it possible to address it in this dissertation.

The reason for singling out the objection that my favoured substantive exit rights strategy overburdens members of illiberal minority cultures by expecting them to choose between their cultural membership and fair treatment has to do with its relevance for contemporary Western debates over multiculturalism. Within both academic and political circles in the Occident, the argument that minority cultures should not be tolerated and/or receive state support as long as they fail to treat their member fairly is frequently invoked (in Western-Europe, the focus tends to be on groups of conservative Muslims who are said to subject their female and homosexual members to unfair treatment). Given the currency of this argument, I believe that it is worthwhile considering here why it is problematic for the state to require cultural communities to treat their members fairly.

5.1 'Citizens Deserve to be Treated Fairly within Their Culture'

For Okin, the problem with exit rights strategies is that they are too stern. In her view, people should not have to leave their cultural community in order to escape unfair treatment by its members, but instead "deserve the right to be treated fairly within it" (Okin, 2002, p.207). Even the availability of substantive or "realistic exit rights", she writes, will "by no means

³⁴ Admittedly, those who seek fair treatment could try to change the practices of their cultural community. Yet, we saw in section 3.3.2.1 that these attempts are in many cases ineffective, meaning that a cultural exit may often be the only way to escape intra-cultural injustice.

always” offer an appropriate substitute for fair treatment (Okin, 2002, p.23). Though this suggests that there are situations in which the availability of meaningful exit options justifies toleration of unfair cultural practices, it does not seem that Okin believes that these situations will often, if ever, arise. Not only does she not mention any examples, the thought that the availability of “realistic exit rights” can legitimate tolerating intra-cultural injustice also sits in uncomfortably with her claim that people have a right to be treated fairly by members of their cultural community.

Let us therefore assume that, for Okin, substantive exit rights do not normally offer a legitimate substitute for fair treatment within cultural communities. The next thing we need to do is ask: what does fair treatment involve on Okin’s account?

Whilst not offering a definition, the answer suggested in her later work (cf. Okin, 1998; 1999a, p.11; 2002; pp.229-30) is that members of a given cultural community should respect each other’s free and equal status in the conduct of the group’s affairs, that is, that they should abide by the basic requirements of liberal justice. Importantly, Okin believes that people have a right to fair treatment in the above sense, and that the state ought to protect this right “preferably by education, but where necessary by punishment (Okin, 1998, p.676). For example, she note elsewhere about the subordination of women that

“The liberal state [...] should not only not give special rights or exemptions to cultural and religious groups that discriminate against or oppress women. It should also enforce individual rights against such groups when the opportunity arises and encourage all groups within its borders to cease such practices. Not to do so, from the point of view of a liberal who takes women’s, children’s, and other potentially vulnerable persons’ rights seriously, is to let toleration for diversity run amok” (Okin, 2002, pp.229-30).

In what follows, my aim is to contest Okin’s claim that the state should require cultural communities to treat their members as free and equal, as well as punish those communities that refuse to do so.

5.2 Problems with Okin's Claim

5.2.1 Reactive Culturalism and Parochialism

First, there is a pragmatic problem for Okin's claim. As I explained in section 2.3.1, state attempts to liberalise illiberal minority cultures are often ineffective as they tend to fuel reactive culturalism amongst their members. In some cases, we saw that this may even cause these groups to become more conservative orthodox than they previously were. Since I already discussed the reasons why state attempts to induce liberal reform in cultural communities frequently fail in section 2.3.1, I will not go over these again.

Another problem that arises for Okin is that her understanding of what constitutes fair treatment seems to presuppose the existence of universally valid principles of justice. When she claims that people have a right to be treated fairly within their cultural community *simpliciter*, she seems to assume that there is a single set of principles of fairness or justice (I use these terms interchangeably) that applies to *all* cultural communities, or at least to all cultural communities within liberal societies.

This does not deductively follow, of course. To say that cultural communities should treat their members fairly may simply mean that each cultural community should treat its members fairly according to its own (i.e. culturally-specific) criteria. I suspect, however, that this is not what Okin means; the view that it is legitimate for illiberal cultural communities to treat their members in accordance with their own conceptions of justice would be difficult to square with her contention that these groups ought to respect their members' free and equal status. Rather, one gets the impression that she believes that there is a universally valid conception of justice that should structure the conduct of *all* cultural communities, or at least all cultural communities within liberal societies. Though such a conception may allow for cross-cultural differences with regard to the principles of justice that govern each group, the room for these differences seems substantially restricted by Okin's requirement that these principles be recognisably liberal, i.e. that they respect their members' free and equal status.

My aim here is not to deny or affirm that there are universal principles of justice, and, if there are, that these principles are liberal in nature. The point I am making is that the possibility that there exists a plurality of equally valid or incommensurable conceptions of justice is potentially problematic for Okin. For if this is the case (and it is certainly not evidently false), then it seems parochial or narrow-minded to require illiberal minority

cultures to abide by a sectarian liberal conception of justice in the conduct of their internal affairs; the reason being that these groups may uphold an equally valid or incommensurable non-liberal conception of justice.

Though space constraints do not make it possible to discuss whether liberal principles of justice are universally valid (which would also take us well beyond the scope of this dissertation), it suffices to say that, given the wide variety of conceptions of justice that exist across cultures, it would be quite surprising if the only valid conceptions turned out to be liberal.

Let us suppose, however, that there are principles of justice that are cross-culturally valid, and that these principles demand that cultural communities treat their members as free and equal. Even then, there remains a more serious problem with requiring illiberal minority cultures to abide by a liberal conception of justice in their internal affairs.

5.2.2 Intra-Cultural Justice and Individual Freedom

The remaining problem is that the attempts by Okin's state to secure fair treatment for citizens within their cultural communities conflict with what was identified as the core liberal commitment: the protection of individual freedom (understood in both the senses distinguished in this dissertation). By requiring cultural communities to treat their members as free and equal, citizens are not only denied the liberty to live in accordance with non-liberal principles of justice within their cultural community, but also precluded from prioritising other values such as social harmony, solidarity, a sense of common-spiritedness, *et cetera* when their demands come into conflict with the precepts of (liberal) justice (cf. Parekh, 2006, p.237). The result of this is that conservative members of illiberal minority cultures are left little room to act on their illiberal conceptions of the good; for example, it appears that within Okin's society, the Pueblo Indians would not be free to expel religious converts from their community, Ultra-Orthodox Jews would not be allowed to refuse women the right to initiate divorce, Catholics would not be at liberty to prevent women from joining the ranks of priesthood, *et cetera*.

In order to protect the individual freedom of these individuals, then, it seems necessary that the state allows citizens to engage in cultural practices that are unjust from a liberal perspective. This does not mean that *all* unjust practices are to be tolerated. As I argued in

section 4.1, liberal states have a duty to ensure that citizens are protected from cultural practices that are overly detrimental to their ability to change cultural affiliations and/or that inflict severe harm on children; insofar as tolerating unjust cultural practices makes it impossible for these states to realise one (or both) of these objectives, interference is necessary. Rather, the claim I making here is that imposing *further* restrictions on unjust cultural practices would unduly constrain the individual freedom of conservative members of illiberal minority cultures.

In response, Okin could argue that only the imposition of such further restrictions will allow the state to appropriately protect the individual freedom of their dissident members, i.e. of those members who do not wish to be exposed to (many of) their culture's unjust practices.

Whilst this argument has some merit, I believe that it lacks enough substance to warrant the abandonment of this dissertation's substantive exit rights strategy. This is because the attempts of Okin's state to make cultural communities abide by a liberal conception of justice – that is to liberalise them - give too much consideration to the individual freedom of their dissident members, whilst giving too little consideration to the individual freedom of their conservative members.³⁵ Since my argument for this claim is identical to the argument I offered in section 2.3.2.2 when I argued that the attempts of Kymlicka's state to create a “wholly liberal society” unjustly favour the interests of dissident members of illiberal minority cultures over those of their conservative members, I will not repeat this argument.

³⁵ It should be reiterated that these conservative members may include people who – from a liberal perspective - are treated unfairly by their cultural or religious community such as Catholic women who support the church's ban on female priesthood (see section 2.3.1.2).

6. Conclusion

This dissertation has argued that in dealing with internally illiberal minority cultures, the liberal state should avoid trying to liberalise these groups as Kymlicka's strategy prescribes, as well as pursuing a *laissez-faire* approach whereby the only restriction on their internal conduct is that they cannot forcefully prevent their members from leaving as Kukathas' strategy proposes. In both cases, we saw that the core liberal commitment to the protection of individual freedom is not met; whereas Kymlicka's strategy fails to appropriately protect the individual freedom of conservative members of illiberal minority cultures, Kukathas' strategy does not give due protection to the individual freedom of their dissident members. The substantive exit rights strategy I subsequently proposed was shown to make the trade-off between the colliding liberties of these subgroups in a fairer way than each of these strategies. Whilst allowing conservative members room to act on their illiberal conceptions of the good, this strategy safeguards the ability of dissident members to act on their (more) progressive conceptions of the good by guaranteeing them substantive exit rights. In addition to this, we saw that it protects children by requiring the state to remedy illiberal cultural practices that severely harm them. This is important, because children's lack of a meaningful exit option means that they have no realistic ability of avoiding such practices.

I want to conclude by noting that in an ideal world, there may be no need to secure substantive exit rights for members of illiberal minority cultures, at least if one rejects my argument that it is important from a liberal perspective to guarantee them a realistic ability to join the liberal majority culture *regardless* of whether they wish to join it.³⁶ The reason for this is that none of these members are, or will become, dissatisfied with their cultural membership.³⁷

However, this is not our world; within our sublunary realm, there are members of illiberal minority cultures who are, or will become, dissatisfied with their cultural membership, and

³⁶ I argued in section 4.1.1 that liberals should find it troubling if people lack a meaningful opportunity to join a cultural group in which they can exercise their full range of basic rights and liberties, irrespective of whether they wish to do so.

³⁷ Though it is true that some liberals, depending on whether they want the state to promote freedom 1 or freedom 2 (see section 1.1), may still advocate a compulsory autonomy-facilitating education for children of illiberal minority cultures.

who may wish to join the liberal majority culture as a result. The fact that this is unlikely to change in the foreseeable future suggests that this dissertation's substantive exit rights strategy is likely to remain the best liberal strategy for dealing with internally illiberal minority cultures.

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