

BEYOND MULTICULTURALISM – BUT TO WHERE?
PUBLIC JUSTICE AND CULTURAL DIVERSITY¹

JONATHAN CHAPLIN

1. *Introduction: have we moved 'beyond multiculturalism'?*

This is how Jonathan Sacks, the most prominent British Jewish intellectual, opens his most recent book, *The Home We Build Together*:

Multiculturalism has run its course, and it is time to move on. It was a fine, even noble idea in its time. It was designed to make ethnic and religious minorities feel more at home in society.... It affirmed their culture. It gave dignity to difference. And in many ways it achieved its aims.... But there has been a price to pay, and it grows year by year. [It] has led not to integration but to segregation.... It was intended to promote tolerance. Instead, the result has been ... societies more abrasive, fractured and intolerant than they once were. (Sacks 2007, 3)

While in an earlier book, *The Dignity of Difference* (Sacks 2002), Sacks argued for the public recognition of cultural and religious difference, in *The Home We Build Together* he warns that the public realm is in danger of falling apart. Multiculturalism has created for us not a 'home' where we belong but a mere 'hotel' in which residents co-habit but share no common purposes.

The debate about multiculturalism in Britain parallels that occurring in the Netherlands and across much of Europe. Everywhere people are asking whether we need to move 'beyond multiculturalism' and reassert the importance of social cohesion, political integration, and shared values. Dutch readers will be familiar with their own debate but it may be useful for them and for others to review some developments in Britain since 2000.

In 2000, the Commission on the Future of Multi-Ethnic Britain, set up by a leading charitable foundation produced an influential report on ethnic diversity (Runnymede Trust 2000). It was chaired by Bikhū (Lord) Parekh, a prominent theorist and supporter of multiculturalism, and the report championed a multicultural vision. It described Britain as not only a 'community of individuals' but also a 'community of communities', and urged a rewriting of Britain's traditional 'national narrative' so as to include the formerly unheard voices of Britain's ethnic minorities. The report issued numerous policy recommendations, many of which were implemented. It concluded with a call to officially declare Britain a 'multicultural state', along the lines of Canada. That was not heeded, but the report can be seen as the high-point of multicultural enthusiasm in post-war Britain.

¹ Revised version of a lecture given at the annual conference of the Vereniging voor Reformatorische Wijsbegeerte, Ede, 12 January 2008. I am grateful to participants for helpful remarks after the lecture.

But anxieties around multiculturalism already existed. These were usually dismissed by liberal elites as motivated by racism or xenophobia; and sometimes they were. But such anxieties were seriously heightened by an outbreak of ethnically-related riots in Bradford, a northern English city, in summer 2001. These led to a major public report which warned that different ethnic and religious communities were living ‘parallel’ and ‘polarised’ lives (Cantle Report, 2001). Worries about multiculturalism had now become official. A few years later, and of course by then with 9/11 in the background, the chair of the public body responsible for racial equality (the Commission for Racial Equality), and himself a black Briton, shocked many by joining in the critique of multiculturalism. Multiculturalism had been useful once, he said, but was now out of date. It had played a key role in opposing racial and ethnic inequality, but now it was fetishising difference; we were, he said, in danger of ‘sleep-walking into segregation’ (Phillips 2004). The emphasis should now be on integrating minorities into British society.

Multicultural anxieties were then massively intensified by the events of 7/7 — the suicide bomb attacks in London in July 2005 which killed 50 people. What was especially shocking was that the bombers turned out to be, not foreign intruders, but British-born Islamists. The French writer Giles Kepel said that the July bombers were ‘children of Britain’s own multicultural society and that they smashed the social consensus around multiculturalism to smithereens’ (Kepel 2005).

That was, perhaps, a characteristic French intellectual’s exaggeration but it contained a kernel of truth. Indeed by 2007, there was another clear shift in official opinion, marked by the publication of the report ‘Our Shared Future’, produced by the government’s ‘Commission on Integration and Cohesion’ (Government of the UK 2007). This did not call for a return to a policy of assimilation, but it did call for a new, thicker kind of ‘integration’. It urged ‘an emphasis on articulating what binds communities together rather than what differences divide them’. A concrete example of the change was that the report specifically recommended only giving public funds to community groups (including religious groups) which were demonstrably contributing to social cohesion, an obligation not previously thought necessary to impose.

This shift had already been anticipated by leading politicians. In 2006 Gordon Brown made a major speech on ‘The Future of Britishness’, in which he argued that while we should continue to respect difference, the emphasis should now be on a Britishness ‘not so nebulous that it is simply defined as the toleration of difference and [so] leaves a hole where national identity should be’ (Brown 2006). In more populist vein, Tony Blair made a significant speech in the same year called ‘The Duty to Integrate: Shared British Values’. In it he said this: ‘Obedience to the rule of law, to democratic decision-making about who governs us, to freedom from violence and discrimination are not optional for British citizens. They are what being British is about. Being British carries rights. It also carries duties. *And those duties take clear precedence over any cultural or religious practice*’ (Blair 2006) (emphasis added).

But while critics of multiculturalism are growing in number and intensity, defenders remain very vocal. Lord Parekh, chair of the report just cited also published in 2000 a powerful and sophisticated defense: *Rethinking Multiculturalism: Cultural Diversity and Political Theory* (Parekh 2000), and he continues to defend his position forcefully in public debate. In the wake of 9/11 and 7/7, British sociologist Tariq Modood published *Multiculturalism: A Civic Idea* (Modood 2007), which offers a renewed argument for multiculturalism as the only appropriate stance for a society which respects *both* cultural diversity *and* equality among individuals. Indeed he goes so far as to say that multiculturalism ‘is the form of integration that best meets the normative implications of equal citizenship and under our post-9/11 and post 7/7 circumstances *stands the best chance of succeeding*’ (Modood 2007, 14) (emphasis added). Advocates like Modood believe that multiculturalism can be upheld alongside social cohesion, social justice, national identity, even patriotism; indeed that multiculturalism is a condition for these public objectives. (Dutch readers will recognize similar themes in the Dutch debate, although in the Netherlands the debate is more polarised. In the UK, for instance, there is no clear parallel to the aggressively anti-immigrationist and anti-Islamic liberal nationalism popularised by the likes of Pim Fortuyn.)

2. *Defining multiculturalism*

I will respond to this debate from the standpoint of a core principle of Christian political thought which will be familiar to many readers of this journal: the principle of public justice (Chaplin 2007). Yet although the principle is familiar, there has been little systematic reflection on how it might apply specifically to multiculturalism.

It is important first to define carefully what is meant by multiculturalism. Here are four senses in which the term has been used in current debates. First, when some speak of multiculturalism they may be referring simply to a *state of affairs*, the presence within a single society of a diversity of cultures. This is better referred to as ‘multiculturality’. It is something most western countries must deal with as it is a permanent feature of such societies. We may need a careful debate about appropriate levels of immigration into any particular country, but multiculturality is here to stay anyway.

Second, some use it to refer to a *set of public policy responses* to the fact of cultural diversity, as have been introduced in, for example, the Netherlands, Britain and Canada over the last thirty years. The objective of such policies is to move away from a model of cultural ‘assimilation’ (in which meaningful cultural differences are dissolved) towards societal ‘integration’ (in which cultural diversity is protected). A wide range of policies has been introduced under the term ‘multiculturalism’, including public funding for ethnic community centres, language provision for ethnic minorities, the marking of cultural and religious festivals in schools, granting representation on public bodies to leaders of ethnic or religious minorities; and so forth. I assess of some of these policies against the criterion of public justice in the second part of this paper.

Third, some use the term to refer to a *multi-faith society*, but this is misleading. To conflate multiculturalism with a multi-faith society is to risk collapsing religion into culture or culture into religion, and both reductions must be resisted. Clearly, in certain societies specific cultural communities may be the principal bearer of particular faiths: we can thus meaningfully speak of ‘ethno-religious’ communities such as the British Pakistani community which, like Pakistan, is overwhelmingly Muslim. But some British Pakistanis are not Muslims, and most British Muslims are not Pakistani, so the term ‘ethno-religious community’ should be used with caution.

Here are two examples of why this distinction is so important. First, it is often thought that female genital mutilation (cliteridectomy) is a religious injunction arising from within Islam or some other faith. This is not so: it is a cultural practice associated especially with certain traditional regional African and Asian communities. It may be practised by some Muslims but it is wrong to blame Islam for it. So to make this practice illegal in western societies may indeed be an infringement of cultural identity but it is not an infringement of freedom of religious expression, and that makes a significant difference to the kind of justification required. The second example: to claim, as many now do, that the emergence of radical Islamism in Britain is a problem arising from ‘multiculturalism’ is misleading. No doubt there are specific cultural factors at work which incline young British Muslims towards extremism, just as there are also socio-economic factors. But radical Islamism is a particular variant of Islamic religion, and if public policy is set as if radical Islamism were merely a reaction to racism, cultural disrespect or social deprivation it will fail to identify the deepest motivations behind Islamist violence. It will suppose that such violence can be countered by, for example, providing more public funding for ethnic minority community centres, or more employment opportunities for ethnic minority youth, whereas what is also crucially required is a combination of intensive grass-roots *religious* dialogue between different faith communities, and then between them and government agencies, as well as better intelligence on the part of security services to counter the remaining violent impulses that will not be dealt with by talk or money.

Sometimes conservative Christians complain about ‘multiculturalism’ when what they are really concerned with is religious plurality, and the consequent loss of Christian pre-eminence (see, for instance, Nazir-Ali 2008). Sometimes this kind of critique is allied to the further but actually quite distinct claim that ‘multi-faithism’ is a product of an imposed public secularism; or, perhaps that it promotes such secularism. Whatever is the relation of cause and effect, the point being made is that public secularism marginalises true religious faith and thereby trivialises religious difference. There is obviously truth in these claims but since this debate has been treated amply elsewhere I will not pursue it further here.

The fourth sense in which the term ‘multiculturalism’ is used today is to refer to a ‘*philosophy of multiculturalism*’, of which there are various powerful versions at work today (Taylor, 1992; Parekh 2000; van der Stoep 2005). Such philosophies provide theoretical justification for affirming cultural diversity,

thereby lending intellectual support to multicultural policies. But some of these philosophies (although not those just cited) also take a further step and claim that diverse cultures should be declared of equal moral worth, and therefore that no culture is entitled to make unfavourable moral judgements on any other. We might call this a claim to ‘cultural-moral equivalence’, and it typically implies some version of cultural or moral relativism. It is important to note, however, that a defense of multicultural policies does not imply this second step. I will propose later that the principle of public justice provides critical support for some multicultural policies but that principle does not imply and indeed is incompatible with the claim that all cultures are of equal moral worth.

It is important, however, to formulate this rejection of ‘cultural-moral equivalence’ carefully. Charles Taylor briefly alludes to the issues in his influential essay ‘The Politics of Recognition’ (Taylor 1992). On the one hand, Taylor rejects cultural relativism and insists that we may and must be prepared to render adverse judgements on aspects of other cultures. But at the same time he advocates a stance of the ‘presumption of equal worth’ of all cultures. He means by this that, when we approach a different culture, we should at least *presume* it is worthy of *respect* if it has proven meaningful to many people over long periods of time; if so, we should expect to find at least something humanly valuable in it. Bikhu Parekh offers a sophisticated version of a similar position (Parekh 2000).

Important critical questions are raised by both accounts, some of which are addressed in works by Mouw and Griffioen (1994) and Woldring (2006). But it is worth pausing by an interesting aside in Taylor’s account. Taylor makes a passing reference to a possible *theological* grounding for the presumption of equal worth, namely the providentialist view of history propounded by the eighteenth-century romantic philosopher J. G. Herder. According to Herder, each national culture, under divine providence, discloses some unique facet of the truth of what it is to be human. There is surely a kernel of truth in this idea. The Christian philosopher Herman Dooyeweerd himself rightly paid tribute to Herder’s discovery of the ‘principle of national individuality’, one instance, he thought, of the process of modern societal differentiation (Dooyeweerd 1953-8, III, 467). Roman Catholic natural law theory offers another account of the presence of true insights into human morality from cultures which have not been exposed to the Gospel.

Invocations of what theologians call ‘particular providence’ can be problematic. A recent work by the American writer Stephen Webb shows this. In *American Providence: a Nation with a Mission*, he revives and defends the idea, lodged deep in the history of American civil religion, that America has been and is being used providentially to achieve certain divine purposes in history, that it has a special divine mission (Webb, 2004). But this book only reveals how providentialist views go astray when they reach beyond a proper biblical confession of faith in an overarching divine sovereignty in history, and presume to be able to identify the particular fruits of such providential activity. We know that Abraham Kuyper, too, did not always resist this widespread nineteenth-

century temptation. Here I will briefly sketch some foundations of a more adequate Christian interpretation of cultural diversity (not a philosophy of culture per se) proceeding from three familiar biblically-rooted principles.

The first principle is the common habitation of all human cultures in a shared creation order. Cultures, we can say, are historically particularised collective human responses to the possibilities enclosed within creation. And since God sustains the goodness and flourishing of creation even in the face of human sin, we will always expect to find *something* of value in *any* culture. This is the kernel of truth in the Herderian idea: different cultures may be said to disclose complementary insights into created order, though this does not imply any general ‘moral equivalence’ among them. This is the deepest basis for a positive Christian affirmation of cultural diversity, and it summons us to receive such diversity as a gift and not as a regrettable dilution of the supposedly singular ethos of our own cultures — which are, in any case, always more or less ‘hybrid’ by virtue of being the outcome of a variety of cultural streams. Christians who claim membership of a global Body of Christ in which ‘there is neither Jew nor Greek’ (Gal. 3: 28) should be the first to affirm this possibility of mutual cultural enrichment.

The second principle is the common solidarity of all human cultures in sin. Since the effects of the fall penetrate into the depths of all cultures, we will expect to find many deep moral distortions, evils and idolatries in each, including those which have undergone a degree of Christianisation. Accordingly we must always be willing to take critical distance from any aspect of our own culture, discerning that within it which is a wholesome fruit of creational disclosure, and that which twists and distorts the created gifts of God.

The third principle is the possibility of a redemptive liberation from cultural parochialism and self-justification. Yale theologian Miroslav Volf’s book *Exclusion and Embrace*, borne of the agonies of the Balkan wars, is a particularly fine exploration of this idea (Volf 1996). Consider a contemporary British example of the problem of self-justification. Former Prime Minister Tony Blair in his resignation speech lapsed into a particular gauche instance: ‘This country is a blessed nation. The British are special. The world knows it. In our innermost thoughts, we know it. This is the greatest nation on earth’ (Blair 2006). In less grandiose but no less problematic language Gordon Brown on one occasion said (I paraphrase) that ‘there is nothing that is wrong with Britain that cannot be fixed by what is right with Britain’ — implying that British culture is morally self-sufficient, with nothing fundamental to learn from any other culture, suffering from no grievous distortions. The plain moral is straightforward: because it is always easier for us to see the speck in someone else’s cultural eye than the log in our own, we must always remain open to a searching critique of our own culture from other Christians (and others too), and this is especially the case for Europeans, given the legacy of our past cultural domination of others, and Americans, given their current hegemonic global standing. This does not imply a stance of cultural self-denigration but rather a posture of Christian fallibilism towards to our cultural identities. Only if we are truly open to honest cultural self-critique, can we then identify what is best in our own

culture, acknowledge it with confidence and defend it appropriately. Here lies the basis for the development of responsible, critical patriotisms based on national narratives suitably humbled by repentance and grace and always open to critique (which is why sitting governments should never have a hand in writing them).

I have identified four distinct phenomena to which the term multiculturalism is often applied: the fact of cultural diversity (multiculturalism); a set of policies for dealing with cultural diversity; religious diversity; and a philosophical theory of cultural diversity. In the light of these distinctions, we may ask: when it is suggested that we need to move 'beyond multiculturalism', what exactly is it suggested we move beyond? We cannot as a matter of fact move beyond multiculturalism, even with stricter immigration policies, and nor should we want to. Nor can we move beyond the fact of religious diversity, though whether we should 'celebrate' this is a more complex question. On the fourth meaning of the term multiculturalism, I have suggested that we need to develop (on the basis of something like the biblical orientations set out above) a Christian philosophy of cultural diversity capable of contributing constructively and critically to current debates (see van der Stoep 2005). I have also proposed, however that we should certainly move beyond a moral or cultural relativism that pre-empts a critical evaluation of cultural practices. But what about multicultural *policies*? In the second part of the paper I focus in more detail on these, suggesting how they might be assessed against the norm of public justice.

3. *Cultural diversity and public justice*

Christian political thought in the reformational tradition has devoted much attention to the way in which plural religious or 'directional' orientations should be accorded equitable treatment in law and public policy under the norm of 'public justice'. James Skillen, among others, has stated this variously as the political principle of 'confessional pluralism', or 'equitable public pluralism', or 'principled pluralism' (Skillen, 2004). This view is also quite widely shared in other Christian circles. I will not add anything further to it here (see Chaplin, 2006).

But there has been relatively little attention to the question of whether the norm of public justice can also be applied in a parallel way to cultural plurality, especially to the situation of cultural minorities within a dominant, politically protected culture (see Hiemstra 1994). Hans-Martien ten Napel gestures in this direction in a recent article in this journal (Ten Napel, 2006). He suggests that the notion of a religiously 'pluriform democracy' long associated with Christian political thought be complemented by that of a 'multicultural democracy', and identifies five broad objectives typically advanced by multicultural policies worldwide: political participation to secure power-sharing; access to justice, especially customary law; protection of minority languages; socio-economic policies to redress inter-cultural inequalities; and securing religious liberty. These essentially entail supplementing a principled equitable treatment of religious plurality with the same treatment of cultural plurality.

This is an important proposal. There is clearly much work to do to flesh out precisely how the norm of public justice might guide such a policy, but here are a few initial pointers. In what follows I touch on most of the items in Ten Napel's list though under a different classification, one intended to flow from an analysis of the concept of public justice itself.

As it has been developed in reformational thought, the central idea of public justice is that the task of the state is the *establishment of justice in the public relationships of a society*. This involves not the imposition of a blueprint, but rather the taking up of a dynamic, ongoing struggle to justly balance the many legitimate jural interests rising up within a complex society at any time. By 'jural interests' I mean (following Dooyeweerd) valid claims to just treatment in law, and this may be realised in a wide variety of ways. These interests can be grouped under three heads: those attaching to or benefiting individual persons; those possessed by associations or institutions; and those arising from the wider demands of the 'public good'. I illustrate each shortly.

The state is to pursue its highly complex jural balancing task by means of (substantively just) law. The state is essentially a legal institution, and this specification has several important implications. Let me mention three specifications thereby implied. First, while law necessarily reflects underlying moral commitments and is never morally neutral, it is not the task of the state to directly create moral virtue in its citizens (though just laws and policies will help to do so). Second, nor is it the state's task to protect (still less define) something as amorphous as 'national culture' (just laws and policies may sustain it, though they may also correct it). The state should protect 'the public good', but this is a more precise notion than that of national culture. Protection of particular components of national culture (language, or significant objects of historical patrimony, for example) may, however, be part of the public good. Third, nor is the state's task to maximise the 'freedom' of individuals, or to impose a regime of 'equality' on a diverse citizenry (though again, just laws will certainly allow extensive freedom and equality). This last point means that a Christian political standpoint proceeds from a very different foundation to the modern liberal commitment to maximising 'equal freedom'. Whereas liberalism derives justice from an originally unlimited notion of individual freedom, Christian political thought derives a delimited realm of individual freedom from the wider notion of justice.

The task of the state, then, is to establish relationships of societal justice by means of just frameworks of law and public policy. By so doing, the state establishes societal space and infrastructural conditions within which individuals, associations, institutions and other agents can freely and responsibly pursue their own distinctive callings and pursuits, and also restrains acts which violate or damage the capacity of such agents to do these things. Such is an outline summary of how 'public justice' has been understood in reformational thought. It must be acknowledged, however, that what 'justice' actually means will be fiercely contested in a plural society. Supporters of the principle will have their own distinctive view of it, and this view will have to be worked out in detail amidst the noisy and unpredictable processes of a deliberative demo-

cracy. Public justice is a mode of statecraft not a comprehensive policy programme.

Our question, then, is: what might *cultural* public justice look like? What types of claims to just treatment on the part of the state might properly arise from cultural membership or identity? We can put the question more precisely: who or what may be the bearer of cultural rights or duties, or the holder of cultural responsibilities? It goes without saying that no comprehensive answer can be given here. I address this question illustratively in relation to four specific areas of application: individual cultural rights; associational cultural rights; legal pluralism, and territorial devolution.

First, however, let me pre-empt a possible misunderstanding. It is not meaningful to speak of the legal rights or duties of entire cultural or sub-cultural communities, such as 'the Black community', or 'the British Asian community'. To exercise legal rights and duties it is necessary to possess legal agency, but cultures lack this: they are not entities but environments. In *Pluralisms and Horizons*, Mouw and Griffioen, for example, deny that what they call 'cultural contexts' exist as organised communities with the capacity to act. A culture is, they propose, rather a *unique configuration or patterning of associational and religious practices* (Mouw and Griffioen 1993, 153). In similar terms, Koyzis defines an ethnic nation as 'an aggregating or non-totalizing community that may or may not coincide with the political nation', and 'a non-purposive network of interrelated individuals, institutions and associations bound together by a common culture, however this may be defined' (Koyzis 2003, 117). Amorphous groups like 'the Polish community' — as opposed to a 'Polish Community Centre' — lack defined structure, clear purposes and centres of decision-making and so cannot be bearers or rights or duties. The so-called 'right of national self-determination', then, is a fundamentally misleading term when applied to culturally-defined communities.

These definitions of cultural communities reflect in part Dooyeweerd's social theory, notably his definition of the 'city' (and, by implication, of 'society' as a whole) as a complex network of 'enkaptic interlacements' existing between many independent social structures (Dooyeweerd, 1953-8, III, 582). Dooyeweerd's concern is to resist the dangerous proposal that societies are social structures just like families, churches, states, etc. Such a proposal would presuppose an erroneous 'whole-part' conception of society which carries 'totalitarian' tendencies (Dooyeweerd, 1953-8, III, 163, 167, 196). For Dooyeweerd, amorphous phenomena like cultures, ethnic nations or societies have no 'structural principle'. They therefore lack independent agency. Reformational thinkers, then, consistently hold that, like societies, cultural communities do not 'do' anything themselves; they are enabling and formative contexts in which things are done.

Let us now turn to the four areas of application of cultural public justice. The first area is *individual cultural rights*. This point is strongly emphasised within liberal multicultural theory. The leading Canadian multicultural theorist Will Kymlicka, for instance, proposes to add a selection of cultural rights to the standard list of individual civil and political rights currently established in

western liberal democracies; he terms them ‘polyethnic rights’ (Kymlicka 1995). Some individual cultural rights can indeed be seen as legitimate on the basis of the concept of public justice. On the one hand, no one can claim a right to be *given* a cultural identity by the state or to have it protected at any cost. But where cultural identity is already established and is an important marker of an individual citizen’s public standing, and where it may be at risk from corrosion or assault, then arguably the state faces a responsibility to act to protect it by granting some special individual cultural rights. For example, a right to speak one’s own language in certain official public *fora* such as courts (or to have access to a translator); a right to receive minority language instruction in public schools for one’s children; a right to have cultural festivals recognised in schools or other public settings; a right to adopt certain kinds of culturally normative dress in certain public contexts; and so on. Note that I am not referring here to individual *religious* rights, such as the right to freedom of religion, or to join or leave a religious association, or to change one’s religion. These should *also* be upheld, but I will not say more about them here.

As is the case with any putative rights-claim, the concrete implications of cultural rights need to be defined carefully with an eye on particular circumstances, and balanced against and limited by other rights; no legal rights are absolute. And not just any claim to a supposed cultural right can be allowed to stand. Claims by parents to a right to practise cliteridectomy on their daughters must be clearly resisted. Consider an even more extreme example. In some American court cases, perpetrators of serious crimes such as rape or even murder (so-called ‘honour killings’) have used ‘cultural defence’ arguments, which can be crudely summed up as ‘my culture made me do it’. Such claims must also be dismissed. The cases of polygamy or arranged marriages, by contrast, may involve more complex considerations. The principle of public justice often does not instruct us on where such lines should be drawn: as noted, it is not a blueprint but a dynamic assignment involving subtle and demanding judgements of many particulars.

Remaining within the category of individual cultural rights, we might also consider the legitimacy from a public justice perspective of ‘affirmative action’ in favour of recognised individual members of some minority cultural group (for instance, Black Americans). Affirmative action is intended to redress the situation of those whose current social and economic prospects have been substantially damaged by systemic historical injustice (for instance, slavery). Skillen, an American reformational thinker, has argued that, once true legal equality was achieved following the Civil Rights movement of the 1960s, affirmative action policies no longer had any justification (Skillen 1994, 103ff.; 2004, ch. 6). The advancement of Black Americans is now to be promoted instead through a range of other policies, especially those intended to strengthen the associational and institutional structures in which Black individuals, like others, will be empowered. To appeal to racial group identities as a basis for special treatment, in education or employment for example, is to risk trapping Black Americans in a victim mentality and to disempower them. Skillen’s critique of the policy of school ‘busing’ in the 1960s seems plausible on these grounds.

Yet Skillen does argue, however, that in the period between the Civil War and the Civil Rights movement Black disadvantage was so deep that it called for special legislative initiatives to redress the injustices of former slaves. These would be differential forms of treatment between different races in order to realise a measure of equality of status and opportunity. Tragically, he notes, such measures were not taken. But his observation reminds us that the justification of policies like affirmative action, which depart from the principle of equal (= identical) treatment of individuals, depends on prevailing empirical circumstances. If so, then it seems possible to argue that racially-based disadvantage among Black Americans might still be sufficiently deep to warrant further special measures pursuant to the norm of public justice. The same may then apply to disadvantaged minorities in other contexts. Arguably, then, the principle of public justice does not exclude affirmative action in principle but only in certain conditions.

So much, then, for the implications of public justice for individual cultural rights. I turn, secondly, to *associational cultural rights*. Here we can draw a technical distinction between cultural rights attaching to independent associations per se (for instance the right of a representative of a Wollonian trade union to speak French in public fora), and rights attaching to associations pursuing specifically cultural purposes (for instance, a Polish community association). In either case, it seems clear that associations can be bearers of cultural rights (and duties). But in this their position is legally akin to any other non-governmental association which may claim some public legal protection or benefit. Indeed the protection of generic associational rights serves as a significant contributor to inter-cultural justice. A strong civil society is an institutional precondition for a vibrant multicultural society.

The question then arises whether the state should go beyond the mere legal protection of associational autonomy of cultural groups and actively support the cultural purposes they pursue, for example by granting to them public funds or access to fora of public consultation and representation. It would seem that the same broad principles should apply here as apply to all non-governmental organisations. Public funds are often provided to a range of such organisations insofar as they are deemed to be making some significant contribution to the public good. This contribution does not have to be pursuant to the *state's* own purposes. If the state only supported groups that advanced its own political purposes, then civil society would be gradually 'politicised'; and there are already troubling tendencies in this direction. For the purposes of qualifying for public funds, or access to representation, it should be enough that groups make some tangible contribution to the welfare of some section of society. Such contributions need not be precisely measurable, nor need they be made to conform to current canons of political correctness.

As with individual cultural rights, there will need to be clear legal limits set to the scope of cultural associational activities. For example, public funds should not go to support a community centre or school, whether Islamic or otherwise, where there is credible evidence that it openly or tacitly harbours or supports

illegal activities, or engages in activities likely to create civil disorder or feed serious prejudice (for instance, the British Islamic school found to be using textbooks containing anti-semitic propaganda). Setting such limits today is both urgent and controversial and delicate prudential judgements will need to be made in specific cases.

Cultural associations will also need to work within the wider framework of public policy, whereby the state sets constraints or encourages actions pursuant to protecting the public good. Following a recent change in British law, if a cultural or religious community group wants to avail itself of charitable status, it will have to demonstrate that its activities meet a so-called ‘public benefit’ criterion. This may not be a bad development in itself, but everything depends on how the criterion of ‘public benefit’ comes to be defined, and the concern of some is that the criterion may be defined so narrowly as to compromise the cultural or religious integrity of such groups. The further requirement that such groups must now show how they are contributing to ‘social cohesion’ could also prove to be quite burdensome if this term is defined too narrowly. For example, must an Islamic community centre be able to demonstrate that it is engaged in inter-faith activities in order to qualify? Many Christian groups would object to such an imposition, even if they nevertheless wanted to engage in such dialogues.

The third example is whether the principle of public justice can find any room for what is often termed ‘*legal pluralism*’ in the literature of law and political science. This sense of the term must be distinguished from that more familiar in Christian political thought, which reformational thinkers have referred to as ‘legal sphere sovereignty’. This is the idea that there exist many distinct original sources of valid (positive) law, not only the state. Here I have in mind instead arrangements in which certain *religious* associations (or the tribunals or councils representing or governing them) are granted public legal standing and authority over their members in certain limited aspects of civil law, such as family or property law (Rosenblum 2001; Shachar 2001). Ten Napel refers to this as ‘access to customary law’ (Ten Napel, 2006). Now as it happens the rights and duties of such associations are not normally ‘cultural’ in nature but religious, but legal pluralism in this sense is usually cited as a key instance of multiculturalism so it is important to consider it. Such systems exist in a number of jurisdictions across the world, such as India, Israel and Indonesia. They often evoke strong opposition, since the rulings of such associations sometimes clearly conflict with the plain requirements of individual civil rights already established in the same legal system.

Such ‘legal pluralism’ can best be described as a system of ‘religious corporatism’, where ‘corporatism’ is understood as the conferral of public legal authority on a non-governmental body. Reformational thinkers have generally held a negative view of corporatism in the sphere of political economy, regarding it as an illegitimate blurring of the boundary between the public jurisdiction of the state and the private jurisdictions of non-state economic organisations. The same critique seems applicable in the area of family and property law. Dooyeweerd, for example, holds that the principles of civil-legal

equality and freedom are crucial to protecting a sphere of publicly-authorised equal individual legal rights for all citizens irrespective of their (private) kinship, cultural or religious associations (Dooyeweerd 1979,186). 'Legal pluralism' certainly seems to render the civil rights of some members of the recognised cultural or religious associations (especially women and children) vulnerable to unjustified restriction (Rosenblum, 2001; Shachar, 2001). This is so, for example, if such an association delivered differential and *publicly enforceable* rights to divorce between male and female members of the group.

I offer three remarks about legal pluralism. First, it has proven historically necessary, in India for instance, to allow such arrangements to exist, at least for a transitional period, in order to accommodate powerful or threatened minority groups and to enlist them in support of the state. I think the notion of public justice can, in principle, accommodate this possibility, especially in virtue of its commitment to a 'public good' which is wider than the sum of individual and associational rights and may, as it fulfils its balancing role, on occasion have to limit or even override them. In saying that public justice is not a blueprint, we also say that it involves achieving the most just arrangements compatible with current historical possibilities. We readily recognise this in, for example, the case of economic equity, so there seems no *a priori* reason why we may not recognise it in the case of certain civil or political rights which are also historical achievements.

Second, defenders of the system may ask whether the distinctive rights currently granted under 'legal pluralism' are, after all, simply contested cases of associational rights. Historically, it is clear that what has been seen to fall within the (private) sphere of associational rights has shifted substantially. Some of what were formerly clearly seen as matters of private jurisdiction have been subjected to considerable restriction by public law; this is so in the case of the right of parents to discipline their children according to their own best judgement. And in some cases, matters originally seen as private in nature came to be transferred entirely to the public sphere of the state, as in the public registration of marriage. Perhaps, then, there is at least a case for considering whether religious associations might reclaim certain specific and carefully circumscribed rights in matters which are now determined by public law. The issue raises in a new form the old question of where exactly the boundary lies between the sphere sovereignty of the state and that of the family or religious community. So although the sense of legal pluralism I have been discussing is distinct to that of 'legal sphere sovereignty', an assessment of the former really requires a clear sense of the latter.

The third remark on legal pluralism is to draw a distinction between what I have called 'religious corporatism' and private religious arbitration. In recent years, several 'Sharia Councils' have been set up in various towns in the UK. These councils do not have official public standing *per se* but they are not illegal. They make rulings between consenting individuals on the application of limited aspects of Sharia law to cases involving family and property matters, utilising provisions available to all citizens for the private settlement of disputes. They are a form of Alternative Dispute Resolution. Individual Muslims can

decide to have their differences arbitrated in such a way, instead of simply going to the civil courts, a route which is usually more expensive and time-consuming. The civil courts can enforce their decisions under contract law, although parties can appeal against a council's ruling if they think it is manifestly unjust. Now, the legal status of such councils is exactly similar to any private tribunal recognised under civil law of the kind used by all kinds of people for many purposes. The entitlement to avail oneself of such a private tribunal is a general right available to all UK citizens, and there are as yet no legal grounds for disallowing such councils to operate freely — so long as the parties using them genuinely consent to doing so. Some Muslim women's groups argue, however, that Muslim women in fact are subtly coerced into accepting them, and such claims need to be investigated carefully. Such coercion would amount to a clear violation of legally guaranteed individual freedom and the public protection of such material freedom would override the formal freedom to enter into such arbitrations. This was one of the fears unleashed by what turned out to be a highly controversial public lecture on the subject given the Archbishop of Canterbury in February 2008 (Williams 2008). The issue is set to be one of the most contested cases of 'religious accommodation' in the UK for years to come (Chaplin 2008).

Finally, a fourth possible realisation of cultural rights arises would be the *devolution of governmental power to territorially concentrated cultural or national communities*. Examples would include the aboriginal communities and the Francophone community in Canada, the Basque region of Spain, or Scotland, Wales and Northern Ireland in the United Kingdom. Such devolution is essentially a case of the creation of a new association, namely a political association, or at least a new tier of political associational authority, designed to protect a cultural or national minority.

This question has also received little attention in reformational thought, where the focus has almost entirely been on protecting the sphere sovereignty of associations or the religious rights of communities. Could the principle of public justice justify such a territorial devolution of political authority to a distinct cultural or 'national' community? It seems it could, where one or more of the following circumstances pertained:

1. where a community's historical entitlements to govern itself has been unjustly removed (as with aboriginal groups in Canada);
2. where there is a substantial and persisting popular desire for a measure of self-governance;
3. where there is an institutional and cultural capacity for self-governance;
4. where the health or future of the minority community is genuinely at risk without it;
5. where the rights of minority communities remaining *within* the new political authority would not be placed at risk.

Aboriginal communities in the USA, Canada, Australia, New Zealand, Mexico or Brazil, among other places, seem on the face of it to meet enough of these conditions. I emphasise that I do not base this conclusion on some supposed

original culturally-based right to ‘national self-determination’, which earlier I suggested is spurious.

Dooyeweerd seemed rather indifferent to the specific question of the proper distribution of political authority across different tiers of government. He regarded this as a matter for central government to be determined according to the needs of the larger political community, offering no particular judgement as to whether, in principle, it might be generally desirable to distribute authority downwards wherever this might be possible, as in federal systems. Here I think we can profitably appeal to the Catholic principle of ‘subsidiarity’, applying it in this case to the internal structure of the state.

These, then, are some of the possible implications of one Christian political orientation for weighing up various *multicultural policies*. I have suggested that at least some such policies can indeed be supported on grounds of the principle of public justice. If that is so, then in the area of public policy we should not seek to move ‘beyond multiculturalism’ insofar as policies really do advance cultural justice. Indeed claims to cultural injustice may be as urgent as any other type of justice-claim facing the state.

4. *Multiculturalism and Citizenship*

Finally, I must now address a question hinted at earlier but set aside until now, namely whether the *duties of citizenship* place additional limits around multicultural justice beyond those already mentioned. Let me allude here to an important distinction drawn by Woldring between ‘societal integration’ and ‘social cohesion’ (Woldring 2006), though I will express it in my own way. The notion of social cohesion refers to the need for internalised *affective or moral bonds* which will hold diverse citizens together in their social interactions in spite of all their other differences. Minimal norms such as trust, truthfulness and toleration are what make social intercourse possible at all, and every society needs to find ways to cultivate and sustain these basic norms of sociality. In my view the state should not and cannot *take the lead* in this process, but has to defer to, and support, other institutions far better equipped to do so: families, schools, neighbourhoods, the media and other institutions of civil society. By contrast, societal integration refers to *participation* in various social institutions and relationships: employment, education, neighbourhood, voluntary bodies, and so forth. Woldring quotes the definition of integration developed by the Dutch Commission for Research on Integration Policy: ‘A person is integrated into Dutch society when they enjoy equality under law, participate equally in socio-economic life, have knowledge of the Dutch language, and respect current values, norms and behaviour patterns’ (Woldring 2006, 75) (my translation). These are all desirable goals, but it is important to note that many institutions and persons share the responsibility to advance them. Realising equal legal status is uniquely a task of government, but the other three goals cannot simply be realised by government alone. Indeed I suggest that the primary duty to those three belong to persons and non-government institutions. The state’s role here is facilitative rather than directive. For example, in the case of ‘equal

participation in socio-economic life' a typical task of the state is to remove unjust barriers to participation. This may involve both legal action (for instance, anti-discrimination legislation), and structural action (for instance, policies aimed at relieving those trapped in poverty in segregated or deprived neighbourhoods), although some with years of experience of community development in disadvantaged urban areas suggests that the regeneration of poor neighbourhoods can never be left to government initiative alone, and may not always be best led by government initiative.

We should not have utopian expectation for societal integration. We may need to accept a considerable degree of social distance between certain communities where they choose to (rather than being forced to) live comparatively separate lives. No public blame should be attached to living apart from the mainstream where this does not harm a clearly identifiable feature of the public good (as distinct, for example, to merely evoking social disapproval). Many members of the Chinese community in Toronto (especially older ones), for instance, make few efforts to integrate closely with non-Chinese inhabitants living right next to them. This does not in itself create any social problems. We should avoid setting the threshold of social integration too high, although admittedly that threshold may need to be set at different levels depending on circumstances such as population density (an obvious issue for the Netherlands, for example), or the capacity of certain ethnic groups (including Caucasians) to accommodate challenging behavioural diversity in their midst. In some circumstances, absence of social conflict may often be all that can be realistically expected. There is a difference between protecting individuals and communities from public harm and frogmarching them into fraternity.

Let me turn now specifically to *political* integration, which is but one sectoral dimension of societal integration. The term political integration refers to the appropriate relationships between people in their capacity as citizens, and between them and the state. What duties may the state properly lay upon its citizens? I suggest the proper way to approach this question is to explore further what it means to define the central norm of the state as public justice. Citizenship is membership in the political community, a community existing to realise public justice. This task is not one pursued by the institutions of government alone but also by citizens. Citizens, we can say, are co-responsible for the discernment and realisation of public justice. This implies a positive calling to active political participation in many ways, as far as the capacities and opportunities of individual citizens allow. Such participation cannot, of course, be compelled (apart from compulsory voting), though the state may legitimately encourage other institutions to promote it by various means, for example, by giving incentives to schools to include civic education in their curricula. The state can certainly create proper channels for political participation but it cannot make participation into a legal duty.

But it may be helpful here to introduce a distinction between the 'mere citizen' and the 'virtuous citizen'. The *legal* duties of citizenship should, I suggest, be tailored to the mere citizen, while the state may seek to nurture virtuous citizenship only *indirectly* by supporting other institutions. What, then, might the

minimal legal duties of citizenship be? Obviously the answer to this question will differ from country to country, but we can propose at least three: law-abidingness; payment of taxes; willingness to engage in jury service or military service or comparable public duties depending on the jurisdiction concerned.

This may strike some as a disappointingly minimal list, but just consider what the first implies. The duty to abide by the law is actually very far-reaching. It is not simply adherence to the formal principle of legality, for law is impregnated with normative commitments. It embraces, for example, the acceptance of the outcomes of constitutional democratic government and a respect for the fundamental constitutional rights and freedoms for all citizens, including those we may vigorously disagree with politically. (This does not mean that it should be illegal to campaign for changes to such basic constitutional provisions, so long as the existing law is adhered to in the process. But it may, perhaps, be desirable to 'entrench' some parts of the constitution in order to prevent future ephemeral majorities dismantling them.) It also includes the acceptance of the state's discretion to determine the level and types of taxation, and the uses to which public spending is put, for example, on public welfare, education, health, housing and so on. A 'mere' citizen must abide by public policies in these areas, even though he/she may campaign against them politically. Tax evasion or welfare benefit fraud obviously violate the duties of the mere citizen.

Recently some countries (for instance, the Netherlands) have proposed adding to this list of the duties of a mere citizen a willingness to learn the host language and to pass a citizenship test including knowledge of history or even 'national values'. While learning the language is obviously crucially important to social integration, it may not be absolutely essential to the *political integration* of citizens. Ignorance of a host language will, of course, be a barrier to advancement in many contexts, including holding political office, and imposing this requirement, where it is necessary, as a condition for employment or election is certainly legitimate. Those who (voluntarily) decline opportunities to learn the language must accept the consequence that this will diminish their economic opportunities. On the other hand, there may be some citizens (vulnerable women in patriarchal communities, for instance) who are effectively prevented from learning the language through family constraints. That presents a difficult dilemma for government in deciding whether and if so how to intervene in such communities to promote 'equality of opportunity' for these citizens without breaching the integrity and autonomy of families. The state can certainly support other institutions, such as schools or community centres, in their distinctive task of teaching a host language. It might even make public funding for schools conditional on doing so. By contrast, a duty to learn or even profess 'national values' seems problematic. How would 'learning outcomes' be assessed? The idea that citizens should be compelled to be exposed to or even publicly profess something as essentially contestable as a set of 'national values', or some 'national narrative', seems at best ineffective and at worst potentially oppressive. The direct transmission of such values surely belongs to civil society institutions not to the state.

The role of the state in the first instance is to impose a relatively modest set of legal duties of ‘mere’ citizenship. But it can and must support many other institutions in their distinctive roles both of fostering an ethos of social cohesion, and of encouraging and empowering people to move beyond mere citizenship and towards ‘virtuous citizenship.’ In the first instance, this might well also involve a role in defining and advancing basic norms of public morality, that is, those norms which are vital to the sustainability of a society’s capacity to generate active citizens as well as healthy political institutions and practices. Such norms might include: adherence to the rule of law; tolerance of political disagreement; acceptance of established deliberative procedures; respect for fellow citizens in public space; commitment to essential policies of social solidarity; and so forth. These will not be best advanced by politicians posing as public preachers or moralists but rather by, for example, measured articulations, in contexts like parliamentary sessions, party policy debates, or media discussions, of core principles of public morality that the state presupposes if it is to fulfil its own calling. Such principles could even be formulated in official documents (preferably with sitting governments kept well away from the drafting process), so long as the content steers well clear of anything like a ‘civil religion’. Politicians are not general moral guardians but they do have a role in giving leadership in upholding and improving the necessary principles of *political* morality (which is not the whole of ‘public’ morality).

Let me turn finally to the responsibilities of ‘virtuous citizenship’ — often termed the practices of ‘civic virtue’. These will exceed the duties of mere citizenship, and the more citizens who aspire towards them the more robust a polity will be over the long term. Today there are powerful forces at work eroding a sense of such duties, such as consumerism, individualism and hedonism, but what government can do to combat these needs to be very carefully specified.

Essentially, virtuous citizenship involves active participation in political life: not mere periodic voting but regular and informed engagement in public discussion in civic fora and elsewhere, promoting political education, working in political organisations or parties, campaigning on public issues, and, for those so equipped, a readiness to stand for office at various levels. Sociologists point out that those so inclined will likely already be actively engaged in other spheres of public life, whether business, education, civil society associations, community development, and so on. The latter often serve as ‘schools of civic virtue’, as civil society theorists do not tire of reminding us (rightly so). But I would insist on a distinction between these forms of *societal* participation, and *political* participation. Involvement in non-state institutions should not be classified as a form of political activity or a mode of ‘citizenship’: that nomenclature risks politicising civil society. There are, of course, powerful reasons, in reformational thought as in many other Christian and secular traditions, for enthusiastically encouraging these forms of societal participation, but there is no need to do so by packaging them as examples of political participation.

Citizenship is enormously important, but it is only one of the many roles humans are called to fulfil in contributing to the flourishing of society.

Government has an indispensable but limited role in nurturing it, alongside many other social institutions. Good citizenship is not enough to produce a good society. For that, we must look well beyond politics to society, culture and religion.

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