

Ian Shapiro and Will Kymlicka (eds.) Ethnicity and Group Rights. New York: New York University Press, 1997.

Liberalism, rather than rising to the fore as the dominant global ideology in the aftermath of the Cold War, has come under severe challenge from the forces of ethnicity and sub-nationalism within the former sphere of Soviet influence as well as in established liberal western democracies. Old conflicts, which during the Cold War were subsumed within the hegemonic struggle between the East and West, have increasingly found expression in the political realm. The result has been the significant rise of new conflicts among and between ethnic and racial minorities, "indigenous" groups and immigrant populations. These groups have begun to make new demands on the state that range from calls for greater autonomy, self-determination, and secession. The emergence of such "collective" struggles, organized along ethnic, racial and religious lines, has forced policy makers, analysts and scholars to ponder the effectiveness of liberalism, with its emphasis on the individual, as a political philosophy to contain the societal conflict engendered by these struggles.

The contributors to *Ethnicity and Group Rights* examine such issues such as the right to use ones language in courts and administrative functions, the right to exercise religious freedom in the conduct of public and private life as specific claims promoted by groups that challenge existing polity's ability to accommodate such claims. The primary point of departure for the analysis is the tension created within liberal polities between the demands for rights based on collective criteria and the tendency to apply individually conceived prescriptions to satisfy those demands. From this analytical position, the twenty contributing political philosophers, and legal scholars explore, develop and critique the normative, philosophical and practical issues that have arisen over the efficacy of liberally constituted state systems to adequately accommodate diversity in the public realm. In this regard, priority is given to the assessment of the following two questions:

The important question is whether the familiar system of common citizenship rights within the liberal democracies

the standard set of civil, political, and social rights which define citizenship in most democratic countries is sufficient to accommodate the legal interests which people have in virtue of their ethnic identity. Are there ethnically derived interests which are not adequately recognized or protected by the familiar set of liberal-democratic civil and political rights as reflected, say, in the American Bill of Rights, or the French Declaration of the Rights of Man? (4)

The contributors to this collection answer these questions both in the negative and the affirmative, and in the process address the more substantive moral and institutional questions that attach themselves to the issue. In the introductory section, *Meanings of Ethnicity and Group Rights*, the editors along with Jacob T. Levy assert the problematical foundation for the debate by way of identifying, defining, and disaggregating cultural and religious rights claims. The saliency of such claims renders them at times distinct, in certain situations overlapping and at other times in conflict with the rights of others. Therefore, a systematic means of classification is thought to be necessary in order to evaluate the validity of such claims as a first step toward developing the appropriate institutional responses to satisfy such claims. The difficulty inheres on the side of balancing such claims with the normative rights and obligations of citizenship in such a way that granting of a particular right, or set of rights, to one group rights does not conflict with the rights of other groups or subgroups in a given society.

Inter-group conflict in a liberal polity can arise, for instance, from the seeming incompatibility of the notions of equality among autonomous individuals, and the attempt to accommodate rights claims being promoted on the basis of collective identity. One example of such conflict is the implementation of *Affirmative Action* policies in response to rights claims by a historically disadvantaged group. Giving certain educational, employment, land allocation or contractual preferences to a group for the purpose of overcoming past discrimination assigns the transaction costs of that policy to nonmembers, or other groups. Such policies have the potential to generate conflict where the costs associated with this policy becomes unbearable to the excluded members of society. Hence, the issue turns from the need to redress the historical occurrences of discrimination of an aggregation of individuals on the basis of some

collectively held traits, to that of denying full (guaranteed) citizenship rights to the excluded population. The philosophical challenge created by this particular issue gives rise to a second challenge, namely, determining which "group claims" are analytically similar or dissimilar for the purpose of constructing and applying legal frameworks for remedy on the basis of precedent established by other group claims. In the attempt to create an appropriate basis to undertake the analysis of these and other related questions, Levy creates a typology of cultural rights-claims that can be conceived as morally and philosophically distinct, for the purpose of "providing a common language in which the cultural rights debate may be conducted"(53). Subsequent sections engage in the debate set forth by the aforementioned questions, and the concomitant conflict between the normative presuppositions embedded in liberalism and the expressed needs of liberal polities to accommodate groups' claims by giving enhanced theoretical as well as substantive attention to various underlying aspects of this issue.

The essays in the section *The Idea of Toleration* explore the inherent limits of a liberally based ideology to reconcile the notions of cultural equality and political neutrality. In this theoretical context, certain minority cultural practices are perceived by society by the larger society to be *intolerable*. Chandran Kukathas' essay, "Cultural Toleration," frames this issue in both domestic and international contexts in terms of the following question: "how do we deal with practices which do not directly harm the wider society but which nonetheless seem intolerable" (71). Such *intolerable* practices are defined as "group or community customs which restrict the opportunity of women . . . restrict the opportunities of the child to prepare for life outside of the community . . . practices which reject conventional medical treatments . . . practices which mandate operations which are physically harmful: clitoridectomy and ritual scaring . . . practices which involve the use or treatment of animals - in sport, science or food - in ways which could be regarded as cruel or distasteful" and are therefore in conflict with the fundamental principles of justice and morality of which a particular social order is based" (70). Kukathas sees conflicts between the cultural practices of an "illiberal" population and the liberal order as "disputes in the realm of public reason" and asserts that the remedy to such disputes must be the result of rational discursive interaction in the public realm undertaken without the underlying presuppositions of any particular

moral order (81). In this way, "rational" solutions to such disputes can be achieved through reasoning and compromise, in which both sides' views are expressed, tolerated without coercion to settle the dispute. One apparent limitation to Kukathas' argument lies in his emphasis on the presupposition of neutrality with respect to the moral order in which such issues are to be debated. In this sense, the fact of challenging a cultural or religious practice itself presupposes the existence of a particular moral order and, therefore, any debate convened with the intention to create a compromise on the issue is undertaken without regard to either neutrality or tolerance.

In specific contrast to Kukathas, Adeno Addis' essay, "On Human Diversity and the Limits of Toleration," argues that toleration "as the bridge that links liberalism to pluralism" has too many hidden psychic and social costs that are unevenly distributed between majority and minority populations (117). The psychic costs derived through a process of toleration set forth by Kukathas are the sole burdens of the minority population and stem from the apparent lack of respect of a minority culture's values and practices that is implied by allowing select cultural practices to take place, and others to be negotiated, without the subsequent attempt to understand or acknowledge the validity of such practices. Thus, the minority members of society are forced to live with an "irreconcilable two-ness" in which their public lives are in conflict with their private lives. The social costs stem directly from the psychic costs in that the acknowledged, yet unreconciled, "two-ness" that exists in a plural society is not allowed to become a constitutive force in the process of forming public institutions, values and the process of nation-building. Addis' prescription to overcoming the limits of toleration is largely affirmative action and focuses on the promotion of minority presence in the mass communications field. Through such action, minority identity can be transmitted to the majority culture in their own words and contain content that is informed by and important to them, thus facilitating the more important process of understanding.

In the section on *The Normative Status of Ethnicity*, the focus is more squarely placed on reified constitutional orders, and thus the problem is how to accommodate difference within existing institutional frameworks. To this end, Thomas Pogge argues that most liberal political orders are in their very nature capable of accommodating diverse interests, and as a result require only a small degree of ideological reorientation to accomplish those ends. Accordingly,

Pogge asserts that the liberal principles of free association, full political participation, and equal protection under the law are sufficient means to accommodate most legitimate interests. Justification for his prescription is grounded in the idea that, above all, groups are but an aggregation of individuals and given the guarantee of their afore mentioned rights in a liberal polity, every individual is equipped to exercise their citizenship rights and pursue redress for harm caused to them. Therefore, no other rights are deemed necessary. However, in an apparent attempt to acknowledge that some *aggregations* of individuals do have certain historically based claims that they may only be addressed in collective terms, Pogge establishes a normative basis for equalizing treatment by introducing a notion of the "generalized Golden Rule". This modified version of the biblical precept posits that the establishment of group specific rights be contingent upon the claimants willingness to extend those same rights to any other group seeking to secure similar relief whether they are ethnic, religious, or lifestyle groups. Lack of efficient transferability from one group to the next would thus be grounds to invalidate a particular claim. By equalizing the status of groups, Pogge is attempting to transcend classificatory problems confronted previously by Levy, while allowing for differential forms of legal treatment for similar groups, but "not differential treatment of groups of different types" (p.188).

The apparent logic of this particular argument is somewhat convoluted, and S. James Anaya, in his "Comments on Pogge," specifically questions Pogge's trivialization of claims based on ethnicity, which gives them no more recognition or intrinsic value than those of a bowling league. For Anaya, culture is inherently valuable, and in a plural society the "effective realization of equality requires differential treatment of ethnic groups in ways not necessary for other groups"(222). In addition, the remedying of historical and / or continuing discrimination based on group characteristics cannot always be uniformly addressed through individual means, and therefore group specific rights become at times necessary, and not subject to justification by different types of groups.

The usefulness of this collection of essays to the understanding of political transitions proves to be quite mixed based on the particular questions being addressed by the contributors. Of the essays addressed in this particular critique all were useful either in their explicit content or through the criticism presented to counter

specific arguments. In terms of political philosophy, the ability of the contributors to incorporate the discourse on difference into the process of nation-building can significantly contribute to the promotion of locally appropriate political arrangements in contrast to the imposition of western forms which have proven to be ineffective. Outfitted with such insights, students of political transitions will be better able to search beyond the existing parameters of thought concerning ethnicity and difference in analyzing processes of political change. An empirical example of this point is exemplified in the chapter *Tribes, Regions, and Nationalism in Democratic Malawi* where Deborah Kaspin explores the emergence of Chewa as the national identity in that state and demonstrates how administrative subdistricts created by colonial authorities, which remained latent during the thirty year rule of President Banda, reemerged during the national election to produce inter-ethnic voting blocs to counter Chewa hegemony. Kaspin's account runs contrary to the common perception that the 1994 election results reflected an ethnically based regionalism that the evidence clearly disputes. By disaggregating the elements of difference in Malawi, Kaspin's work at once deflates the mythology of divisive ethnic politics, while providing a firm basis for exploring lines of commonality along which the process of creating a national culture in a multiethnic state can proceed.

The primary limitations of the text involve the imbalance between the attention given to theoretical postulations as compared to that of empirical application. Heavily weighted in favor of theory, the text misses the opportunity to incorporate issues of difference currently prevalent in politics throughout the world. The politics of identity are manifest daily in both developed and developing societies, providing the opportunity to explore both the strengths and the weaknesses of current political arrangements and innovations designed in response to the emergence of disparate voices. Of the eighteen essays presented in the text, only four are empirical case studies leaving the reader yearning for more. A second limitation involves the failure of several contributors to adhere closely to the central issues set forth by the editors. While this is understandable given the number of contributions, the diversity of thought presented could have been packaged into two separate and more coherent texts.