Building Common Ground: Going Beyond the Liberal Conundrum

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Liberalism as a political ideology and a philosophical doctrine has championed individual autonomy, social and political equality, and democratic and inclusive political institutions. Consequently, liberalism is known for its commitment to tolerance and value pluralism. Yet liberalism has been critiqued for being insensitive to claims of culture.[1] Indeed, an attitude of benign neglect toward diversity was once quite common among liberals, as was a general lack of interest in global concerns. Worse yet, according to some critics the liberal tradition—in spite of its purported liberating mission of autonomy and self-determination (quintessential democratic values)—has provided the rationale for imperialism rooted in the liberal assumptions about reason and historical progress.[2] Though these ironies are a clear source of embarrassment for today's liberals, liberalism still displays an uneasy commitment to pluralism. Liberals today are more challenged than ever to look at the dynamics of diversity both at home and abroad.

Central to liberalism's predicament concerning claims of culture is the dilemma of remaining steadfast to its "thick" liberal principles (and thereby alienating various groups and cultures) or compromising its substance to make itself available to a wide range of diverse communities. To stay viable as a political ideology, liberalism needs to show that it can remain true to its universal norms while being responsive to cultural complexities and differences—both within a pluralistic liberal democracy and in the globalized world. In this essay I claim that liberalism can indeed be both substantive and negotiable as it faces the increasingly vocal challenges of diversity. I

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will show that the task for liberalism in bridging the liberalism/illiberalism divide lies in locating a false conundrum within liberalism itself.

The core liberal value is the autonomy and dignity of the individual, which prompts liberalism to promote human rights. The just path toward human rights demands equality, neutrality, and fairness, which form the core of liberal justice. But on both fronts—rights and justice—liberalism faces roadblocks because both these ideas are highly contested in a diverse world. With reference to human rights, liberalism needs to navigate beyond the two extremes of "timeless universalism" and "die-hard relativism" so that rights talk does not end up being either empty rhetoric or hopelessly arbitrary. On the justice front, liberalism needs to respond to the concern of multicultural and democratic theorists that the liberal commitment to justice creates its own exclusions and injustices. These theorists have pointed out that despite the seeming commitment to equality and impartiality, liberalism's idea of what counts as reasonable has a liberal tilt at the outset of the debate. For them, liberalism needs to recognize illiberal groups' reasons on their own terms; otherwise, they contend, the liberal concept of public reason between reasonable parties is a hollow idea.[3]

Liberal theorists construe the idea of democratic legitimacy in terms of egalitarian justice, yet the democratic ideal of autonomy and self-rule need not yield to such justice.[4] Tensions between group rights and individual rights often pose a dilemma of conflicting equalities for liberalism. Because both rights are in a continual state of flux and readjustment due to the shifting forces of globalization, it has become increasingly difficult for liberalism to work out an appropriate balance between them. Liberal theorists have argued that an impartial liberal theory need not be incompatible with distinct principles of affirmative equality with regard to illiberal groups—within reason, of course.[5] They point out, for instance, that granting schoolgirls the right to wear the hijab would fall within this threshold of reason. For them, the French ban on symbols of difference, such as wearing the hijab in public schools, is a misguided attempt toward liberal neutrality.[6]

What would fall below this threshold? Consider the following case. In a controversial decision in 2007, a German judge cited the Koran in turning down a German Muslim woman's request for a speedy divorce on the ground that her husband routinely beat her. In a ruling that highlighted the tension between Muslim customs and secular European laws, the judge, Christa Datz-Winter, argued that the couple emigrated from a Moroccan Muslim culture where it was not uncommon for husbands to beat their wives and that there were passages

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in the Koran that supported this behavior. A higher court in Frankfurt promptly removed Judge Datz-Winter from the case, saying it could not support her ruling.[7]

Deciding on these two cases—one relatively unproblematic and the other quite extreme—may seem easy, but sorting out where to draw the line is complicated. The liberal idea of affirmative equality of certain illiberal cultural practices implies that a liberal society can build a common ground based on shared recognition of the importance of group and cultural identities. If a group's policies and practices do not violate the very core of fundamental human rights, then those arrangements should be tolerated out of respect for cultural and group autonomy, though these practices can be targeted in critical public discourse (which may eventually bring changes to those customs). Some theorists have stipulated a variety of cultural, social, historical, and other considerations that may often be unique to the groups concerned to serve as the backdrop for deciding the extent to which any of these rights may be considered fundamental. In other words, they have tried to work out a balanced account of what may legitimately be construed as a violation of core rights, consistent with a broad latitude accorded to the groups in question.[8]

Religious fundamentalists, theocrats, and other critics of mainstream liberalism would not find this attempt to negotiate a middle path satisfactory. They would say that there is no middle ground for individuals or groups whose identity is shaped by deep religious or cultural convictions—for them, the liberal attempt at moderation is an infringement on their identity. Some would also say that illiberal groups may legitimately wonder who gets to delineate the dividing line between the core group of rights and the dispensable ones. Finally, nonliberal critics may remind liberals that the project of privileging justice is also the goal of illiberal communities. For the latter group, however, justice is understood on *their* terms, not on those of the liberals. For instance, a benevolent theocracy would be an example of a just society for certain religious fundamentalists. So, on all these counts, critics would contend that from a neutral point of view the liberal and illiberal groups stand on an equal footing of political legitimacy. Thus, they would argue, in spite of its professed pluralism, liberalism grants only superficial concessions to the claims of religion and culture, such as the right to wear the hijab in the classroom.[9]

Liberal theorists have long been grappling with these challenges without much success. But in today's world the global and the local interweave, and this has offered liberalism a new set of opportunities on both fronts. The gradual redefinition of national sovereignty due to the forces of an aggressive global economy and

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the emergence of a global human-rights culture is increasingly calling into question the moral relevance of a rigidly construed national and cultural autonomy. This is a promising trend for liberalism, because a globalized world with fewer cultural barriers provides more traction for universal liberal norms. Increased exposure and interaction between cultures is making it difficult for groups to remain insular and unaffected by evolving mandates of human rights. Thus, though globalization has been a mixed blessing for human rights, it offers an opportunity for the world to come closer together through various cross-border constellations of contact, communication, and participation. If the viability of human rights depends to a large extent on whether they can withstand unobstructed public scrutiny, then the worldwide reach of public deliberation in the era of globalization should be a mitigating force against the random suppression of rights. Any undue restriction of rights in the name of local culture or religion would be difficult to sustain in a globally vigilant and interconnected world.

Today's human rights theorists emphasize and appreciate the vitality of cross-cultural discourse concerning these rights. In fact, recent studies suggest that the claim that there are incommensurable differences across cultures and groups on issues of rights is overblown.[10] In addition, leading liberal theorists do not take illiberal communities to be uniformly insular and homogeneous. They note the heterogeneity of religious and cultural communities that are mistakenly treated as unvaryingly committed to restrictive views. Accordingly, they are hopeful that the universal mandate of human rights will trump the claims of culture or religion where oppressive practices are concerned. Indeed, given the fluidity and contestability of culture and identity, liberal theorists emphasize the need for multicultural dialogue at the grassroots level in mediating the conflicts of cultural claims.

For instance, many Muslims were themselves offended by the ruling of the aforementioned German judge because they did not want to be viewed as the "other." Yet, taking pride in their culture and identity, they were just as offended by what they characterized as the judge's misinterpretation of a much-debated passage in the Koran, because her ruling depended on an interpretation of that passage embraced by fundamentalists but long rejected by mainstream Muslims.[11] Here we see a concrete validation of the deliberative democratic process—a case where a group rejected the use of their culture (or religion) as a wedge in their common quest for justice and human dignity.

This emerging trend of dialogue and deliberation as a means of negotiating claims of culture both within and among groups has led to a broad view of

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democracy and democratic legitimacy. It has heightened the role of deliberative democracy in addressing the issue of egalitarian representation in a pluralistic society. Deliberative democracy puts great faith in a well-informed and motivated citizenry, highlighting the need for access to information and education, as well as the ability to participate meaningfully in the political process—including in the liberalization of political institutions and in the creation of a supportive public space for political debate. The important role of deliberative democracy in the evolving global human rights culture is obvious. In fact, one noted proponent of deliberative democracy, Seyla Benhabib, has suggested that transcultural conversations and activism across borders are forms of the global political practice of human rights.[12] So, on all these accounts, globalization has opened up a new promise for liberalism in bridging the cultural divide.

The negative aspect of globalization, namely the problems in the formation of a global public due mainly to the steady increase in the gap between the rich and the poor, is addressed in the liberal theory of global justice—a new and promising dimension of liberalism as it encounters the challenges of globalization. Within the liberal front, there has been a divide between the liberal nationalists and the globalists on the question of human rights and justice. In justifying disparate standards of distributive justice for insiders and outsiders, liberal nationalists have been hard pressed to respond to the demands of human rights and global impartiality. On the other hand, liberal nationalists critique the global egalitarians for being utopian in their quest for liberal justice in a world that lacks plausible institutional mechanisms for international enforcement. They also point out the barriers of cultural autonomy and state sovereignty in promoting the liberal agenda.

Recent developments in the justice literature, however, have opened up new dimensions for liberalism by reframing the debate and bridging the divide between liberal nationalists and globalists. Amartya Sen's work on global justice is a case in point.[13] The idea of a shared humanity is central to Sen's concept of justice. For Sen, today's global interconnectedness needs an adequately expanded theory of global justice. Sen questions the Rawlsian contractarian account of justice, wherein negotiating parties are imagined to be equal, free, and independent. For Sen, the situation of people in the real world is very different. Accordingly, in contrast to a Rawlsian "international justice" that relies on partitioning the global population into distinct "peoples," Sen champions the idea of "global justice," which for him means attending primarily to the needs of individuals and not peoples (viewed as a political or cultural unit). Indeed, Sen has been instrumental in drawing attention to the multiple identities of

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human beings, and he sees no reason why national, group, or cultural divisions should have any automatic, and hence undue, priority over other categorizations.

In contrast to the Rawlsian paradigm of perfect justice in an ideal liberal society, Sen's idea of comparative justice in a diverse world underscores the futility of pursuing a perfectly just outcome; from an impartial perspective, it may be difficult to identify one priority as more reasonable than another, due to the competing demands of justice. For Sen, even if this pluralistic procedure cannot resolve all competing claims at times, it makes public reasoning all the more important, and therefore something to be celebrated rather than shunned.[14]

Sen's approach helps us understand that the narrow conundrum of statism versus globalism in the justice literature need not be an irreconcilable dilemma within liberalism. If a pluralistic theory of justice for Sen has several dimensions, then claims of groups and culture may indeed play their part in deciding on justice, but they need not by themselves be decisive. Indeed, attention to claims of political or cultural communities would be no different from taking note of other relevant claims in responding to the comparative merits of available alternatives. Accordingly, cultural or political divides should not be viewed as conflicting loyalties, but rather as nested multiple loyalties. Claims of culture or allegiance to specific political communities may sometimes compete with wider objects of loyalty, such as human rights or globalism, but multiple loyalties, like our plurality of identities, is a challenge that we negotiate all the time.

For Sen, procedural equity is an important consideration in promoting justice, as is enhancement of equality. Accordingly, in assessing the comparative merits of available options, Sen's theory of justice caters to both the fairness of the process and the enhancement of freedom and opportunities. Sen is the original architect of the capabilities approach, which states that since human rights are seen as rights to certain specific freedoms, and since capabilities are actual indicators of human functioning that help us understand what these freedoms are, the capabilities agenda gives the rights discourse the substance it needs. The idea of capabilities is especially helpful when people are situated differently and have different levels of needs and expectations, which conforms more to lived reality than does the ideal construction of human rights. Within the capabilities framework, rights-claims are better understood as claims regarding the equal level of capabilities that are required for functioning, rather than, for example, the equal right to resources, which may turn out to be unequal in real terms.[15]

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Sen's construal of human rights as capabilities is a helpful device in ensuring that the interests and needs of the affected parties are given due consideration in the political process, thus connecting with people on issues that they themselves value. Because the idea of capabilities is context- and culture-sensitive yet sufficiently universal, public reason and political participation can be made more inclusive by incorporating the capabilities agenda into rights talks. This would give the discourse the necessary latitude without it becoming too thin or abstract. It would also extend the scope of public reason to the frontiers of environmental sustainability and the well-being of the planet, as these concerns directly relate to the questions of human capabilities and functioning.

Sen's great contribution to the culture and human rights debate, as well as to the topic of justice, is that he has opened the way to bridging the divide between the statists and the globalists by situating the arguments of liberalism in the real world of diversity, need, vulnerabilities, and interdependence. He has shown that the issue is not about how a liberal society should respond to illiberalism, but about looking within liberalism itself and seeing how well it is able to confront the issues of justice and injustice in the real world.

We can draw several conclusions from the foregoing discussion. First, cultural disputes are often motivated by need- and interest-based disagreements, and require political deliberation on vital issues of justice and equity that liberalism must confront head-on.[16] The liberal unease with accommodating pluralism is due to liberalism's distance from the real world of diversity and from the actual issues of need, vulnerabilities, and oppression. This distance builds up stereotypes, creating ignorance and fear of the "other." So we need to focus on real-world justice by going beyond the narrow dichotomies of liberalism and illiberalism and seeing the issues in strategic, political, and practical terms.[17] This is how liberalism can be freed from being boxed into a false conundrum. Demands of cultures and claims of global justice, instead of posing an irreconcilable dilemma within liberalism, should be viewed as a healthy challenge for a liberal theory of justice.

Liberalism's challenge, then, is to see that cultural differences are not viewed as divides both within and beyond national boundaries. Along these lines, Jorge Valadez, a prominent multiculturalist critic of mainstream liberalism, claims that our focus should be on the rectification of real-world injustices against ethnocultural groups, and not on any alleged "primordiality" of ethnocultural group identity.[18]

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In 2011, British Prime Minister David Cameron announced in a speech to the annual Munich Security Conference of world leaders that multiculturalism had failed in his country: "Frankly, we need a lot less of the passive tolerance of recent years and much more active, muscular liberalism."[19] What Cameron failed to realize is that the real issue goes beyond both the "passive tolerance" of benign neglect and the "muscular liberalism" of confronting the illiberal other. Failure of assimilation is failure of liberalism itself. It is the result of a parochial, noninclusive liberal justice. In the real world of interdependence and injustice, the liberal project should aim to go beyond the limitations of a narrowly construed liberalism to a genuinely inclusive and pluralistic liberal theory of justice.[20]

This is the real challenge of global ethics, whereby the imperatives of human rights are not compromised in the name of culture or blindly followed while ignoring whole cultures. The entire debate on culture and universal norms needs to be reframed in practical-political terms, away from its usually contested cultural and foundational juxtaposition of liberalism versus illiberalism, so that substantive issues of human rights and real-world justice are addressed. The project of global ethics is the pursuit of human justice.

NOTES

[1] Seyla Benhabib, *The Claims of Culture: Equality and Diversity in the Global Era* (Princeton, N.J.: Princeton University Press, 2002); Monique Deveaux, *Gender and Multicultural Justice in Liberal States* (New York: Oxford University Press, 2006); Christopher Eberle, *Religious Convictions in Liberal Politics* (Cambridge, U.K.: Cambridge University Press, 2002); "Challenge of Gender Justice," in Reiko Gotoh and Paul Dumouchel, eds., *Against Injustice: The New Economics of Amartya Sen* (Cambridge, U.K.: Cambridge University Press, 2009), pp. 94–111; Martha Nussbaum, "Perfectionist Liberalism and Political Liberalism," *Philosophy & Public Affairs* 39, no. 1 (2011), pp. 3–45; Jeff Spinner-Halev, "Feminism, Multiculturalism, Oppression, and the State," *Ethics* 112, no. 1 (2001), pp. 84–113; Lucas Swaine, *The Liberal Conscience: Politics and Principle in a World of Religious Pluralism* (New York: Columbia University Press, 2006); Jorge Valadez, *Deliberative Democracy, Political Legitimacy, and Self-Determination in Multicultural Societies* (Boulder, Colo.: Westview Press, 2000).

[2] Uday Singh Mehta, *Liberalism and Empire: A Study in Nineteenth-Century British Liberal Thought* (Chicago: University of Chicago Press, 1999); Anthony Anghie, *Imperialism, Sovereignty, and the Making of International Law* (Cambridge, U.K.: Cambridge University Press, 2005); Kimberle Crenshaw et al., eds., *Critical Race Theory: The Key Writings That Formed the Movement* (New York: New Press, 1995).

[3] Deveaux, *Gender and Justice in Multicultural Liberal States*; Eberle, *Religious Convictions in Liberal Politics*; Swaine, *The Liberal Conscience*.

[4] John Rawls famously championed the connection between liberal justice and the practice of democracy, but critics contend that the Rawlsian reasonable pluralism is not democratic enough. See Amartya Sen, *The Idea of Justice* (Cambridge, Mass.: Harvard University Press, 2009); Seyla Benhabib, "On the Alleged Conflict Between Democracy and International Law," *Ethics & International Affairs* 19, no. 1 (2005), pp. 85–100, and *Another Cosmopolitanism* (Oxford: Oxford University Press, 2006); Jürgen Habermas, "Reconciliation Through the Public Use of Reason: Remarks on John Rawls's Political Liberalism," *The Journal of Philosophy* 92, no. 3 (1995), pp. 109–131; James Bohman, *Public Deliberation: Pluralism, Complexity, and Democracy* (Cambridge, Mass: MIT Press, 2002); Iris Young, *Inclusion and Democracy* (New York: Oxford University Press, 2000).

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[5] In fact, John Rawls's transition from his earlier robust liberalism to his political liberalism took place partly in response to this challenge of conflicting equalities.
[6] Anita Allen, "Undressing Difference: the Hijab in the West," *Berkeley Journal of Gender, Law & Justice* 23 (2008), pp. 1–15; Joan Wallach Scott, *The Politics of the Veil* (Princeton, N.J.: Princeton University Press, 2007).
[7] Mark Landler, "German Judge Cites Koran, Stirring Up Cultural Storm," *New York Times*, March 23, 2007.
[8] Will Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Clarendon Press, 1995); Michael McConnell, "Accommodation of Religion and a Response to the Critics," *George Washington Law Review* 60 (1992), pp. 685–742; James Nickel and David Reidy, "Relativism, Self-Determination, and Human Rights," in Deen K. Chatterjee, ed., *Democracy in a Global World: Human Rights and Political Participation in the 21st Century* (Lanham, Md.: Rowman and Littlefield, 2008), pp. 91–109; Nancy Rosenblum, "The Moral Uses of Pluralism: Freedom of Association and Liberal Virtue Illustrated with Cases on Religious Exemption and Accommodation," University Center for Human Values Working Papers No. 3 (Princeton University, 1993).
[9] Deveaux, *Gender and Justice in Multicultural Liberal States*; Eberle, *Religious Convictions in Liberal Politics*; Swaine, *The Liberal Conscience*.
[10] Amartya Sen, "Human Rights and Asian Values: What Lee Kuan Yew and Le Peng Don't Understand About Asia," *The New Republic* 217, no. 2–3 (1997), pp. 32–40; John Gastil, Dan Kahan, and Don Braman, "Ending Polarization: The good news about the culture wars," *Boston Review* 31, no. 2 (2006), at p. 18; William J. Talbott, *Which Rights Should Be Universal?* (Oxford: Oxford University Press, 2005).
[11] Landler, "German Judge Cites Koran, Stirring Up Cultural Storm."
[12] Seyla Benhabib, "Culture, Human Rights and Vulnerable Minorities: A Modest Proposal" (unpublished draft, originally prepared for presentation at Honorus Causa Ceremony at the University of Valencia, November 8, 2010).
[13] Amartya Sen, *The Idea of Justice*.
[14] For a fuller account of Sen's idea of justice, see my "Reciprocity, Closed-Impartiality, and National Borders: Framing (and Extending) the Debate on Global Justice," *Social Philosophy Today* 27 (2011), pp. 199–215; and my chapter titled "Sen, Amartya" (co-authored with Lynette Sieger), in Deen K. Chatterjee, ed., Encyclopedia of Global Justice, vol. II (Dordrecht, Neth.: Springer, 2011), pp. 987–93.
[15] Sen's capabilities approach was later endorsed and considerably expanded by Martha Nussbaum. Though Sen and Nussbaum differ in their ideas of justice, they both find the contractarian account inadequate.
[16] On this, see also Deveaux, *Gender and Justice in Multicultural Liberal States*.
[17] Again, see Deveaux, *Gender and Justice in Multicultural Liberal States*; also Martha Nussbaum, "Challenge of Gender Justice."
[18] Jorge Valadez, "Response to My Critics," *Philosophy & Social Criticism* 29, no. 1 (2003), pp. 107–24.
[19] "Multiculturalism has failed us: it's time for muscular liberalism, says Cameron," *The Times*, London, February 5, 2011, p. 15.
[20] Along this line, Nussbaum sees liberalism as a political theory of "human justice more generally." See her "Challenge of Gender Justice," p. 95.

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