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## Introduction

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For almost twenty years, the re-emergence of political philosophy's engagement with the culturally diverse character of political communities in the modern state has been characterized by fierce debate and continuing controversy, during which time an impressive variety of philosophical approaches, theoretical positions, and practical judgments have been elaborated, attacked, defended, revised, and (occasionally) abandoned.<sup>1</sup> There are a number of reasons, however, for thinking that this is an appropriate juncture at which to take half a step back from these debates.

First, the field of inquiry is now sufficiently well established for it to be possible to review its development and, in so doing, to draw attention to significant trajectories within this process, highlight central problems, interrogate unnoticed assumptions, and elucidate its current limitations. In other words, it is now possible to take the field of inquiry itself as a relatively well-defined object of reflection and evaluation. Second, reflections on cultural diversity within analytical political philosophy have established three major approaches within which – and, to a lesser extent, between which – critical dialogues have flourished. In this context, an “approach” is not to be seen as a theory but as something like *an orientation in thinking*, a framework of argument within which a number of different theoretical positions are situated against a broadly common background of basic commitments concerning the appropriate character or shape of arguments in political philosophy. Third, in the course of the theoretical debates concerning multiculturalism, a number of critical issues have emerged as pivotal; topics ranging from the concept of culture itself and, more specifically, whether defenses of multiculturalism appeal, despite their protestations to the contrary, to an objectionable *essentialist* understanding of culture, to the position of minority groups within cultural minorities or within the territory of a

<sup>1</sup> See Jeremy Waldron, “What is Cosmopolitan?,” *Journal of Political Philosophy*, 8 (2), 2000, pp. 227–243.

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(partially) self-governing national minority. Fourth, the delineation of this field of inquiry helps to make visible new directions for research in this field and, in particular, theoretical innovations that have emerged either through an immanent process of critical reflection on the development of the field or by way of the application of heterodox theoretical approaches to this domain.

These reasons provide *prima facie* grounds for taking this half step back from the debates in order to *review* the development of this field of inquiry, *survey* the major approaches established on this terrain, *address* the critical questions posed in the debates, and *highlight* new directions in research. Attending to these four tasks provides the rationale for the structure of this volume in which each part takes up one of these tasks. This introduction will provide contexts for each of these endeavors by sketching the background to the relevant debates and role of each of the chapters in the collection. In the course of doing so, it will also highlight certain methodological and philosophical developments that the debates over issues of cultural diversity have fostered, developments whose relevance cuts across the organization of the volume and whose importance spreads beyond the engagement with cultural diversity.

## I

Reflection on the rights of peoples is contemporaneous with the emergence and development of modern Western political thought. While the issue of religious toleration was brought acutely to the fore as a topic for philosophical and political reflection by the confessional conflicts that ravaged Europe in the sixteenth and seventeenth centuries,<sup>2</sup> it is equally true that, at the same time, the European encounter with the New World and the colonial empires that emerged from this encounter raised the issue of the rights of peoples.<sup>3</sup> Debates concerning the legitimacy of rights *over people* in the Spanish case and *over things* (primarily land) in the French and English cases served as crucial loci for the development of European legal and political thought.<sup>4</sup>

With the emergence of nationalism within post-revolutionary Europe, this issue ceased to be a topic related primarily to colonial contexts and

<sup>2</sup> See Stephen Krasner, *Sovereignty: Organized Hypocrisy* (Princeton: Princeton University Press, 1999), p. 77.

<sup>3</sup> See Robert A. Williams Jr., *The American Indian in Western Legal Thought: The Discourses of Conquest* (Oxford: Oxford University Press, 1990) and Anthony Pagden, *Lords of All The World: Ideologies of Empire in Spain, Britain and France c. 1500–c. 1800* (New Haven: Yale University Press, 1995).

<sup>4</sup> See Williams, *The American Indian* and also S. James Anaya, *Indigenous Peoples in International Law* (Oxford: Oxford University Press, 1996), p. 23.

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became an issue for internal European politics, a shift marked at the Congress of Vienna (1815) in which, for the first time, protection was granted by an international peace treaty to an ethnic or national group as well as to religious groups. Castlereagh's successful argument "that the rights of the Poles ought to be guaranteed by the great powers within the three states that participated in the partition of Poland (Prussia, Russia and Austria)" was grounded on the claim that efforts "to make the Poles 'forget their existence and even language as a people has been sufficiently tried and failed.' Institutions had to reflect the desires of the population; otherwise it was impossible to maintain stability."<sup>5</sup> This argument represented one side of what became a central debate in nineteenth-century liberalism between the advocates of rights for national minorities such as Castlereagh, Leonard Hobhouse, and Lord Acton, and advocates of the liberal nationalist position represented by John Stuart Mill and T.H. Green, who argue that political stability requires the "common sympathies" brought about by shared language, culture, and history; in other words, "cultural homogeneity."<sup>6</sup> This liberal debate concerning national minorities was given further impetus by the shift in the Balkans from rule by the Ottoman Empire to a plurality of independent successor states (Greece, Romania, Serbia, Montenegro, Bulgaria, and Albania) addressed in the Treaty of Berlin (1878) as well as by the post-First World War emergence of a plurality of successor states to the Austro-Hungarian Empire addressed by the League of Nations' system of minority guarantees.<sup>7</sup>

Thus, from Vitoria's innovative articulation of a largely desacralized Law of Nations in 1532 via the disparate but related arguments of Grotius (1604), Pufendorf (1688), Locke (1690), Vattel (1758), and Blackstone (1765) concerning property rights and the law of nations to the classic liberal texts of the late nineteenth and early twentieth centuries, the issue of the rights of indigenous peoples and national minorities has been a significant element in the articulation of the tradition of Western legal and political theory.

From this historical perspective, then, the puzzle is twofold. First, why is there such a paucity of engagement with the topic of minority rights between the end of the Second World War and the later years of the

<sup>5</sup> Krasner, *Sovereignty*, p. 83.

<sup>6</sup> Will Kymlicka, *Multicultural Citizenship* (Oxford: Oxford University Press, 1995), pp. 49–74. The phrase "common sympathies" is from John Stuart Mill, *Considerations on Representative Government*, ch. 16.

<sup>7</sup> See Jennifer Jackson Preece, *National Minorities and the European Nation-States System* (Oxford: Oxford University Press, 1998), pp. 55–95 and Krasner, *Sovereignty*, pp. 90–104.

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twentieth century? Second, what triggered the theoretical re-engagement that has proliferated over the last twenty years?

In response to the first of these questions, we can note that there are a number of different political developments that supported the marginalization of the topic. The failure of the minorities regime established by the League of Nations and the justifiable sense that it had contributed to the outbreak of the Second World War led the Allies to develop the alternative policy of massive forced population transfers as a way of dealing with the immediate post-war problem of national minorities. This policy was explicitly legitimated by the 1950 UN Report *Study of the Legal Validity of the Undertakings Concerning Minorities* which argued not only that the pre-war minority treaties were no longer in force (so could not justify claims to the illegality of Allied policy) but also, and crucially, that “the protection of minorities in the post-war era was governed by a new philosophy: the promotion of the fundamental human rights of all human beings.”<sup>8</sup> This new philosophy expressed through the Universal Declaration of Human Rights ensured attention was focused on the issue of universal rights and human dignity; as Musgrave notes, “[a] proposal to include a provision protecting minorities in the Declaration was expressly rejected by the General Assembly, which concluded that it would be too difficult to formulate a provision applicable to all minorities”<sup>9</sup> and, at the multilateral level, “there was clearly a reluctance in the early post-war period to grant special rights to minorities.”<sup>10</sup>

It also seems likely that the fact that the ideological terrain of the Cold War was rapidly expressed in terms of the issue of civil and political vs. social and economic human rights helped divert attention from the rights of minority cultures or peoples. The formation of this ideological terrain was undoubtedly facilitated by the fact that both of the major Cold War blocs shared a commitment to a vision of cosmopolitanism underwritten by a developmental account of history that legitimated coercive projects of assimilation with respect to “pre-modern” minority peoples in these blocs or states. This may have been more visible and violent in the case of the figure of New Soviet Man and the policies of Russification legitimated in its name or in the continuing case of the Han Chinese repression of nomadic groups such as Kazakhs and Uighurs as well as “pre-modern” societies such as that of Tibet, but such a view equally informed the child-removal policies that produced

<sup>8</sup> Thomas Musgrave, *Self-Determination and National Minorities* (Oxford: Oxford University Press, 1997), p. 129

<sup>9</sup> *Ibid.*, p. 130. <sup>10</sup> *Ibid.*, p. 133.

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the “stolen generations” of indigenous peoples in Australia and Canada as well as of the Roma in Switzerland. It is also the case, we may recall, that it was the United States of America and France who blocked the proposal of the Ad Hoc Committee which drafted the 1951 Convention on Genocide to include “cultural genocide” as a prohibited category.<sup>11</sup>

Alongside these political developments, we can also identify contributing academic developments. Will Kymlicka has argued with some plausibility that the neglect of the topic of cultural minorities owes much to the specific history of liberal thought in the USA. Kymlicka points out that American liberals in the nineteenth and early twentieth centuries were not impelled to address two of the major motivations for discussing national minorities – governing colonized peoples and negotiating nationalist conflicts in Europe. Moreover, we can add, since the USA was, given its own historical self-representation, understandably sympathetic to the liberation struggles of colonized peoples (other than those of its own domestic nations) and also deeply suspicious of the role played by national minorities issues in leading to two “European” wars in which the USA had reluctantly become a late entrant, it is unsurprising that neglect of this issue continues into the post-war period in which “American theorists have become the dominant interpreters of liberal principles.”<sup>12</sup> On a less sociological note, we can also suggest that a specific intellectual development in political philosophy may have played a (largely inadvertent) role in marginalizing the topic of minority rights. The publication of John Rawls’s *A Theory of Justice*<sup>13</sup> not only marked the re-emergence of analytic political philosophy but also shaped its methods and agendas. In particular, much subsequent work in analytic political philosophy followed Rawls in reflecting on ideals of justice at a relatively high level of abstraction and also, critically, making a number of idealizing assumptions such as the closed character of the polity (entered at birth, left at death) and its cultural homogeneity. These idealizations acted, at least initially, to deflect philosophical attention from the related topics of migration and cultural diversity.

Among the developments that no doubt led to a re-engagement with issues of cultural diversity were the character of two predominant types of political struggle in the 1950s and 1960s – national liberation struggles on the part of the colonies of European empire-states and equal rights struggles by blacks and women. The story here is, however, somewhat complicated, as one strand of both those movements encouraged a normative picture of a world of equal states in which

<sup>11</sup> Ibid., p. 131. <sup>12</sup> Kymlicka, *Multicultural Citizenship*, p. 56.

<sup>13</sup> John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971).

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citizenship denotes the effective enjoyment of an identical set of rights and opportunities on the part of all adult members of the polity. That is to say, the sort of idealized picture that led liberal political philosophy to ignore issues of cultural diversity. However, a different, perhaps more radical strand of these movements challenged liberal notions of equality as similar treatment for all, demanding not similar treatment but an end to domination and oppression. The first wave of such radical action in Scotland and Wales, in the Basque Country and Catalonia, and in Quebec as well as among North American Indians, manifested itself in the rise of nationalist independence organizations (some peaceful, some violent) for whom the initial goal and spur to political action was to redress the balance in their relationship to a culturally dominant other within the nationalizing state by forcing that other to acknowledge their own equal status as independent nations or distinct societies.<sup>14</sup> As these movements have developed second waves, the demands for independence and against domination have been disentangled, and this has generated both political action and philosophical reflection on the possibility of relations of non-domination between national minorities and majorities that do not take the form of independent statehood for national minorities but, rather, of self-government rights within a state (or within and across states in the case of groups such as the Kurds), whilst simultaneously requiring the recognition of the relevant parties in international and not merely domestic law.

During the same time period, social movements for racial and gender equality also challenged the liberal ideal of equal citizenship as an identical set of rights and opportunities. While these movements emphasized the idea of equality as non-domination clearly from the beginning, and were not, for the most part, making demands for political independence, they can also be seen as making two intertwined demands that succeeding generations of “ethnocultural” activists and theorists have more clearly distinguished. The first is a demand for equal power, for an end to domination and oppression. The second is a demand that the non-necessary differential burdens that members of diverse cultural groups bear as citizens should be acknowledged by the state.<sup>15</sup>

Thus, by the later years of the twentieth century, it was manifestly clear that both of these forms of political struggle were directed to a goal of equality as non-domination that could not be adequately captured in

<sup>14</sup> See M. Monserrat Guibernau, *Nations without States* (Oxford: Polity Press, 1999).

<sup>15</sup> See the chapters by Young and Mills in this volume for discussions of the relationship between oppression and diversity.

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terms of either a model of equal nations as independent sovereign states nor of equal citizenship as an identical set of rights and opportunities.

Just as the flowering of feminism and critical race theory in the academy occurs within the context of political struggles against gender and racial inequality, the political struggles by indigenous peoples, national minorities, and immigrants provide the background against which the sudden re-emergence and rapid development of engagement with the topic of culturally diverse peoples and the modern state takes place. The suddenness of this re-emergence can be seen in the fact that following the publication of James Crawford's important edited collection *The Rights of Peoples* (1988), there emerges a plethora of work across a number of disciplines focused on this topic. In political theory, the crucial standard-bearers were Will Kymlicka's *Liberty, Culture and Community* (1989), Andrew Sharp's *Justice and the Maori* (1990), and, in a less direct way, Iris Marion Young's *Justice and the Politics of Difference* (1990); works that were rapidly followed by, among others, Charles Taylor's influential essay "The Politics of Recognition" (1992), Yael Tamir's *Liberal Nationalism* (1993), and James Tully's *Strange Multiplicity* (1995). The late years of the twentieth century also saw the publication of significant studies in law such as Antonio Cassese's *Self-Determination of Peoples: A Legal Reappraisal* (1995), Thomas D. Musgrave's *Self-Determination and National Minorities* (1997), and S. James Anaya's *Indigenous Peoples in International Law* (1996) and in history, with texts ranging from Robert Williams Jr., *The American Indian in Western Legal Thought: The Discourses of Conquest* (1990) to Anthony Pagden's *European Encounters with the New World* (1993) and *Lords of all the Earth: Ideologies of Empire in Spain, Britain and France c.1500–c.1800* (1995) presenting significant studies on how European thought is transformed through Europe's engagement with the New World. Whatever the precise explanation for this eruption of interest, the salience of the issue of cultural diversity for political theory was rapidly established and entrenched in the final years of the twentieth century.

## II

As suggested by this brief historical overview, within analytic political philosophy and political theory, discussions of cultural diversity have largely taken place in a context where the dominant political theory was some form of liberalism, and thus much of the debate has involved identifying aspects of liberalism that obscure or distort questions surrounding culturally diverse political societies. It is thus possible to chart some of the more theoretical developments of this debate by seeing how



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they arose in response to various features of traditional liberal thought. At first glance, however, that the issue of cultural diversity rose to theoretical prominence in the form of *criticisms* of liberalism strikes many liberals as surprising. After all, liberalism, at least according to its own self-understanding, was itself a philosophy developed partly in response to issues of diversity.

Liberals generally see the origins of the relevant liberal doctrines about diversity as a response to the religious wars of the sixteenth and seventeenth centuries in Europe. Liberalism is thus seen as a theoretical response to the fact of religious diversity (albeit narrowly defined as a diversity of Christians). That response involves three characteristic features. The first is an idea of religious tolerance that ultimately develops into liberal ideas of the separation of church and state, and, more generally, state neutrality.<sup>16</sup>

The second feature involves the strong protection of individual liberties. A state can conceivably remain neutral between competing religions while nevertheless allowing each religion unbridled authority over its believers. Liberalism, however, justifies state neutrality by conceiving of religious belief as a matter of individual conscience. Individual citizens, it is claimed, have particularly strong and deep ties to their religion, and these ties generate non-negotiable ends.<sup>17</sup> The state can only adequately respect its members, then, if it gives them the space to pursue those ends. It does this by protecting a variety of individual liberties, from liberty of conscience to freedom of assembly and speech. These liberties then allow members of a religion to band together free from the influence of the state, but also allow members of different religions to organize their religious lives in peaceful coexistence within a single state.

Finally, liberalism offers a theoretical justification for the protection of individual liberties via an argument about human equality and similarity. The ultimate ground for the protection of individual liberties, then, is not the merely pragmatic matter of ensuring social peace, but a claim about the importance and even necessity for mutual respect as a matter of justice. Although this argument takes a number of different forms in the hands of different liberal theorists, the basic idea is that although people may belong to different religions, and thus have, as John Rawls famously put it, a variety of “conceptions of the good,” beneath these differences, citizens are basically the same, in that they have a claim and

<sup>16</sup> See Rainer Forst’s chapter in this volume for a more detailed discussion of the forms of tolerance and their implications for broader forms of diversity.

<sup>17</sup> See, for example, Rawls, *A Theory of Justice*, pp. 206–207.



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a desire to be treated equally, where this involves having a fair share of the same basic goods, like liberty, opportunity, income, and respect.

Thus, liberalism's response to religious diversity involves a general theoretical solution to the problem that emphasizes human equality as a result of human similarity, and thus conceives equality in terms of similar treatment, treats religious belief as a matter of individual conscience, and advocates state neutrality and the protection of individual liberties as the just response to diversity.

Many philosophers and political theorists who have turned their attention to issues of cultural diversity have found this basic liberal framework inadequate for handling questions of diversity that are broader and touch on different matters than those that stem from doctrinal disputes among European Christians. They have thus developed new philosophical ideas and analyses whose value and power extend beyond the particular debates in which they originated.

While liberty of conscience and freedom of assembly have served to protect and preserve certain forms of religious diversity and religious minorities rather well, they turn out not to be very good one-size-fits-all remedies for other forms of diversity. Linguistic minorities, for instance, do not merely need the freedom to speak and think in their own language in the privacy of their own homes and clubs, but the ability to interact with the state and wider social institutions in their own language. They may need the government to provide free public education in their language as well as that of the dominant linguistic group. Non-Christian religions may require forms of dress or diet or activity that go beyond issues of thought, speech, and assembly protected by standard liberal liberties. The attention to forms of cultural diversity beyond the Protestant–Catholic divide, then, led many theorists to develop a greater sensitivity to both social context and the particularities of different cultural demands. Rather than trying to shoehorn all issues of diversity into the model developed to handle one form of religious pluralism, these theorists have urged political theorists to pay more attention to the specific form various cultural needs take. This has resulted in two related developments within political theory. The first is a greater engagement with more empirical disciplines, and a greater attention to the complexity of actual political societies.<sup>18</sup> The second is a theoretical engagement with the question of the relevance of context to doing political theory at all.<sup>19</sup> If we are going to reject once-size-fits-all remedies, then this opens the question of just what kind of theory we

<sup>18</sup> See, for example, the chapters by Will Kymlicka and Daniel Weinstock in this volume.

<sup>19</sup> See, for example, the chapter by Jacob Levy in this volume.

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need to develop. Thus, the attention to cultural diversity has led to philosophical discussions about the place and role and aims of political theory itself.<sup>20</sup>

Second, many theorists have criticized liberalism's reliance on a norm of equality that takes similar treatment as an ideal. In a culturally diverse society, members of a majority and minority culture may have greatly differential needs and access to resources that might enable them to support and reproduce their culture. Treating these individuals equally, it is thus argued, may require treating them differently, either by allowing exceptions to general rules to make space for particular cultural practices, or by subsidizing or regulating activities that either support or undermine the flourishing of minority cultures. The idea that cultural diversity may require adopting differential treatment as a means of producing equality has generated some of the most strident debate between liberals and those who criticize liberalism's capacity to address issues of cultural diversity adequately.

It is important to distinguish this debate about differential treatment from a different criticism of liberal norms of equality. Here, critics have charged that liberalism turns a blind eye to inequality that takes the form of domination, especially when that domination is carried out through social structures and actions, rather than directly via state action. Critics have thus charged that the idea of state neutrality turns out to cover up a variety of ways that states favor majorities, especially cultural, national, or linguistic majorities. As a consequence, they have focused our attention on the workings of social power, power that does not rest directly in the control of the state, but which can serve to systematically disadvantage minority or other socially oppressed groups. The recognition of the importance of social power is of course not new in theoretical discussions of cultural diversity; it is a longstanding theme of radical political theory of all stripes. But advocates of what Iris Young calls a politics of difference have done much to expand our understanding of how that power functions, and its role in undermining the possibility that state neutrality could provide a proper path to justice in a culturally diverse political society.

Both those theorists who criticize liberalism for failing to take sufficient heed of inequalities in social power, and those who criticize liberalism for its insensitivity to the difference that cultural difference makes direct their criticisms against liberal norms of equality. As a result, it has been

<sup>20</sup> For a discussion of this point in the context of feminist theory, see María Lugones and Elizabeth Spelman, "Have We Got a Theory for You?" reprinted in *Hypatia Reborn*, ed. Margaret Simons and Azizah al-Hibri (Bloomington: Indiana University Press, 1990), pp. 18–33.