

# 5 *Reconciling the Cultural Claims of Majorities and Minorities*

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## Introduction

“Liberal nationalists” of the 1990s/2000s (e.g., Tamir 1993, Kymlicka 2000) sought to pair the motivational force of national identity with basic egalitarian commitments to building a liberal “nation” with which all persons in a jurisdiction could identify. By contrast, a new strand of “majority nationalists” unabashedly claim that majority culture should be at the core of national identity and should determine policy such that several policy domains be conditioned by national “values” and the promotion of majority cultures be an object of public policy (Orgad 2015, Goodhart 2017, Eatwell and Goodwin 2018). The case for this “majority nationalism” takes multiple forms. Some believe that practical and theoretical “pendula” have swung too far toward protecting minority rights and correspondingly culturally neutered conceptions of the nation. Others suggest that it stems from the sense (factually based or not) that majorities are themselves vulnerable; forces over which they exercise no control have (or at least appear to have) placed them in a position of vulnerability akin to that of minorities (e.g., Orgad 2015). Both accounts purport to ground majority cultural rights in a manner akin to those recognized for minorities.

Will Kymlicka’s chapter “Nationhood, Multiculturalism, and the Ethics of Membership” develops two arguments for resisting majority rights recognition. First, accepting majoritarian claims as valid bases for cultural rights would inevitably have deleterious effects on minority rights, leading to a questioning and, potentially, rolling back of existing minority protections and fueling those who oppose them in countries that have not yet recognized them. Second, emphasizing majority cultures more would exacerbate “membership penalties” paid by minorities that are key to the nationalist project. Kymlicka concludes that problems raised by majority nationalism deserving

theorists' attention should lead people to work toward "nationalizing" the multiculturalist project.

The problem raised by majority nationalism is, we argue, likely more difficult than Kymlicka suggests. Kymlicka's arguments for nationalizing multiculturalism and against majority rights rest on assumptions with which one can reasonably disagree, namely, that there is nothing to majority rights claims, and that the main challenge that it raises has to do with "repackaging" multiculturalism so as to make it more palatable to members of majorities. But the grounds on which Kymlicka himself defends minority rights may require recognizing at least some majority rights. As we outline below, Kymlickean liberals appear bound by parity of reasoning to countenance some majority nationalists' claims and seek ways to institutionally accommodate them. Some of these claims must be *addressed*, not just neutralized. A plausible Kymlickean variant of the vulnerability-based argument for majority rights does not mean that liberal-democrats must address *all* majoritarian cultural claims. But it may be the case that some should, subject to their satisfying basic liberal-democratic constraints.

### Kymlicka's Argument

A reconstruction of Kymlicka's argument helps explain why we think the majority rights issue is more complicated for a Kymlickean liberal than it may initially seem. That argument revolves around a number of main claims. Some will be familiar to readers of Kymlicka's previous work. Others constitute important new developments. We re-order them for simplicity of presentation. The first claim lays the groundwork for much of the argument. It holds that nationalism is an empirically essential condition for achieving many progressive political objectives. Creating a sense of shared membership is particularly essential for stabilizing support for the welfare state, which is grounded not in universal feelings of humanitarian justice or self-interest, but in the sense that "we" constitute a unit that is joined by a common trans-generational identity for which it makes sense to make the sacrifices involved in the welfare state. When making social policy, we do not ask ourselves for whom we are making social policy. The fact that we have a shared identity forecloses that question. On Kymlicka's view (shared by other progressives, like Philippe Van Parijs), a shared national identity is an important historical achievement largely because it provides

a motivational base for the welfare state and creates a rampart against the kind of sectarianism found in places, like Northern Ireland, where the “who” of politics remains indeterminate.

The second claim is that minority rights must remedy problems raised by this needed national solidarity. Even benign nationalisms emphasize the culture of a historically rooted majority (Kymlicka, Chapter 4, in this volume). Nationalism's advantages as a support for the welfare state and break on possible sectarian violence makes accepting its risks worthwhile, but the risks must themselves be offset by minority rights guarantees: “The fundamental priority in terms of justice cannot be to ramp up nation-building, but ... to *constrain* nation-building by minority rights” (p. 99).

The third claim denies the legitimacy of majority rights. Kymlicka worries about the impact that acceding to some majoritarian claims might have on the hard-won minority rights. He also argues that the claims lack empirical grounding. Majorities claim that the “battery” of national identity (to use Margaret Canovan's image) has been depleted and can no longer “power” the progressive causes to which it has historically been put. Kymlicka denies this is so. Though nationalism and national identity may not be “front of mind” for many people today, it powerfully grounds identities, all the more so, perhaps, for being imperceptible and, to use Michael Billig's expression, “banal.” Kymlicka further claims that foregrounding national identity to a greater degree than we do already by default, risks tipping the subtle balance between majorities and minorities crucial to nationalism doing its progressive work without lapsing into discrimination and exclusion.

The fourth claim is that the cultural distance of minorities from the “paradigmatic” member of the nation raises problems of justice. This perceived distance tends to breed suspicion of minorities' commitments to the nation and corresponding deservingness of full membership benefits. This suspicion is exacerbated by the kind of mobilization minority groups engage in to secure their rights. Whereas, political mobilization by majority members is interpreted by other majority members as a normal manifestation of membership in the polity, minority mobilization is viewed as betokening distance. Minorities thus face a “penalty” for protecting their cultures. We return to this argument, which is severable from the others, in more detail below.

We thus arrive at an unwelcome tension, bordering on contradiction. On the one hand, multicultural policies of the kind that Kymlicka has long advocated are necessary components of the liberal nationalist picture given the antecedent likelihood that even the most seemingly inclusive nationalisms tend to emphasize majority cultures. On the other hand, the policies required to address this fact are likely to exacerbate sentiments that minorities are not really part of “us.” The search for a liberal nationalism capable of fulfilling its intended role remains elusive.

The solution to this seeming dilemma cannot be to negate either minority rights or majority nationalism. Rather, Kymlicka proposes a kind of Hegelian *aufhebung* of its horns. Rather than thinking of multicultural policies as ones in which minorities oppose the steamroller of majoritarianism and defend against their predations, people should think of multiculturalism as a national project, something that “we” do together. “Nationalizing multiculturalism” can re-describe the claimed dilemma’s horns to reveal their potential compatibility and complementarity.

### Rethinking Multiculturalism

The idea of a national multiculturalist project is intriguing. Indeed, even minorities who use constitutional rights to secure judicial protections of their cultures could be described as reflecting a form of patriotism. They use one of society’s central institutions to protect values that have been formally recognized as central to the polity’s identity. Yet legal rights claims formally present themselves as oppositional. A majority expresses its will through its majoritarian institutions, and a minority attempts to thwart it by recourse to the judiciary. What’s more, to revert to a hoary political-philosophical distinction, minorities advocate on the basis of the “right,” eschewing talk of the “good.” One can interpret Kymlicka as calling for a different “framing” of multiculturalism according to which it should be redescribed in a way that brings out the aspects of it that conduce to the good of a whole society that are not sufficiently highlighted when the focus is placed on its oppositional dimensions. All members of society might be more likely to get on the multiculturalist “bandwagon” if multiculturalism is something “we” do together. The idea of a society in which all stand in defense of each other’s legitimate differences is on the face

of it far from an unattractive conception of the good. National multiculturalism has clear appeal.

Kymlicka's proposal nonetheless faces formidable obstacles. The first is political. Multiculturalism's political fate has been at best, mixed. Whatever multiculturalism's theoretical merits and whatever its success as a model of immigrant integration in countries that implemented multiculturalist theory-inspired integration, attempts to "nationalize" multiculturalism will be hampered by the unpopularity of the multiculturalist "brand." Moreover, support for multiculturalism is weakest precisely where the call for an affirmation of majority nationalism is the strongest – and thus where rhetorical reimagining of multiculturalism seems most needed on Kymlicka's account (Alexander 2013). "Rebranding" under a new name will not change this. For instance, while "interculturalism" has been adopted in some societies that reject multiculturalism as a model of integration, it is unclear whether substantive differences exist between the models (Weinstock 2013), as Kymlicka himself notes (Kymlicka 2016). Opponents of multiculturalism are generally unconvinced by claims that interculturalism is a true alternative (Bock-Côté 2016).

As a result, one may question the empirical case for nationalizing multiculturalism as a solution to this problem. One can reasonably worry about whether nationalizing multiculturalism will have the predicted effects. Critiques of earlier "liberal nationalisms" might also apply to "nationalist multiculturalism." For instance, one could, again, be dubious about the idea that majority nationalists who are skeptical of liberalism would be willing to accept a liberal view just because it is repackaged in a nationalist form (see Da Silva 2020, on "moderate nationalism"). One may further wonder whether the "best of both worlds" would actually be realized in a joint nationalist-multicultural project or if protections for national and multicultural goods present a "zero-sum" game like the one applied to alternatives as suggested by Kymlicka. Moreover, even if "nationalist multiculturalism" is a genuine alternative to traditional nationalism and traditional liberalism or multiculturalism that reflects the best of both worlds, one may wonder whether the moral psychology of proponents of traditional views will lead them to respond to this fact by adopting the amalgamation (Da Silva 2020). Clara Sandelind's contribution to this volume raises more questions about national multiculturalism's ability to change majority views – and still others about its ability to secure other intended benefits,

like bolstering the kind of support for solidarity that is valuable for maintaining a thriving welfare state (Sandelind, Chapter 6, in this volume). The balance of (clearly limited) existing evidence could support a prediction to the contrary as much as it does Kymlicka's proposal.

Finally, and most importantly, the rhetorical strategy that "nationalizing multiculturalism" represents is premised on the assumption that the "battery" of majority nationalism is fully powered in all places in which calls for a greater recognition of majority culture have been heard. It supposes that giving greater pride of place to these claims will imperil minority rights without yielding corresponding benefits to do with the satisfaction of possibly national majorities' legitimate moral claims. Yet both assumptions can be reasonably questioned. Kymlicka's proposal that multiculturalism should be rendered more attractive to members of national majorities by being "nationalized" actually belongs to a family of proposals made by those who are sensitive to the destabilizing effect that majorities can have when they wrongly believe that they are victims of injustice. While Kymlicka's strategy is to bring majorities on board by framing policies justifiable on non-nationalist grounds in ways that at least rhetorically resonate with national majorities (a strategy similar to that of fellow liberal nationalist Yael Tamir (2019)), others propose more robust, oppositional political strategies, like "militant democracy" (Kirshner 2014). All these otherwise different political proposals are united in the belief that there is normatively nothing to the claims made on behalf of national majorities and the claims simply have to be confronted or channeled into more benign directions to avoid their potential political costs. So, the issue is political, not philosophical. Sandelind's "cosmopolitan patriotism"-based approach too, likely fits along this continuum insofar as it denies the value of majority nationalist claims and promotes an alternative political position that would require majority nationalists to abandon central concerns. Among these views, we are open to the possibility that Kymlicka's strategy might be best if there is nothing to national majorities' claims. To the degree that the policies to which they belong fully satisfy their legitimate claims, further claims majorities make for greater recognition or accommodation are to be neutralized or rendered benign, rather than addressed.

However, the most fundamental point to be made against the "nationalizing multiculturalism" solution is that it is premised on the assumption that there is nothing normatively significant to the claims

of national majorities, and that all that needs to be done about them is to neutralize them or channel them in a politically benign way. There is, in short, reason to question whether all majority rights claims are indeed invalid. In what follows, we argue that there is at least a set of cases in which the claims of national majorities should be addressed, rather than neutralized or combatted. What's more, these are cases to which Kymlicka himself should be sensitive.

In a nutshell, there are at least some cases in which some national majorities are rendered vulnerable by political and socioeconomic forces that, all things being equal, are morally analogous to the kinds of forces that make minorities vulnerable, and that have historically underpinned the arguments in Kymlicka's work for group-differentiated rights. At least some national majorities are today rendered culturally vulnerable by forces that are in at least certain crucial respects morally analogous to those that afflict some minorities. In the main, they result not from the ill intent of others, but from the operation of political forces that are, aside from their effects, in and of themselves morally neutral. What's more, protections afforded to individuals in what Alan Patten (2014) calls the "standard liberal package" (individual rights protections in the case of members of minority groups, control over democratic majoritarian institutions in the case of members of national majorities) are insufficient to offset the vulnerability created by these forces (Armstrong 2019). By parity of reasoning, theorists who are convinced by Kymlicka's arguments for minority rights should be prepared to consider that some cultural majorities have at least *prima facie* rights.

Our point is not that majorities and minorities are both groups and should thus have the same kinds of groups' rights (Newman 2018). Rather, we argue that the same normative reasons that are said to ground minority cultural rights can ground at least some majority cultural rights. These facts suffice to make majority rights claims the kinds of things that must be addressed in normative theorizing. While one could build a parity of reasoning argument on several grounds (e.g., Patten 2020), we focus in what follows on a vulnerability-based argument inspired by Kymlicka's work. Further facts are then necessary to explain how and when the rights claimed require institutional responses. But we should not assume that protecting rights is a zero-sum game absent strong evidence therefor. Accordingly, one cannot deny the possibilities that morality will sometimes require institutional

protections for majority rights consistent with minority rights protections and that those institutional demands can be justly instantiated consistent with minority rights.

### **A Parity of Reasoning Argument<sup>1</sup>**

People are often skeptical about majority claims for cultural protection due to two implicit assumptions: (1) cultural protection is a remedy for vulnerability and (2) vulnerability tracks minority status. Yet majority cultures could be vulnerable by virtue of a number of political processes for which the fact of possessing control of nation-state-based majoritarian institutions does not represent a sufficient safeguard. For example, such vulnerability can stem from membership in a larger group with more powerful members (e.g., the Baltic states in the European Union), geographic proximity with countries the languages of which exercise significant sociolinguistic pressures, and the like (Weinstock 2020). As Orgad (2015) notes in another parity of reasoning argument, globalization, mass immigration, and minority rights claims could make majority groups more vulnerable still. Many of these pressures surely correspond to requirements of justice. For instance, refugee rights “trump” concerns about majority cultures (Weinstock 2020). But even then, the recognition that the vulnerability-based claims made by majorities are not as weighty as other justified claims might be does not mean that they have no weight. Even outweighed moral claims leave moral remainders. What’s more, as we will now suggest, some of the pressures that contribute to the vulnerability of some national majorities are not requirements of justice. The second assumption is thus only even contingently true if modified into a claim about the groups’ relative vulnerability. Yet relative vulnerability should matter if we care about cultural diversity and use it to justify minority rights. The first assumption then appears persuasive only when grounded in earlier assumptions about the value of cultures and cultural diversity. Those should apply equally to majorities and minorities.

Cultural vulnerability, in other words, is not conceptually connected to minority status (Armstrong 2019). If we value culture as the justification for existing minority rights protections, we should care about threats to culture regardless of whether the group culture is a majority or minority one. Some majority cultures can be and likely



are currently vulnerable. So, some majority claims for cultural protections should have at least *prima facie* weight even if these claims are outweighed by other, weightier moral considerations.

Now, one may object that there is no reason to protect any culture *simpliciter*. Cultural protections can “freeze” (Borrows 2016) and/or folklorize (Patten 2014) culture, inhibiting the very self-determination of people that is meant to ground cultural protections. We agree, but this purported objection applies equally to minority protection rights and so does not undermine our parity of reasoning argument. While one may suggest that there is a form of domination in the minority rights case that makes it differ from the majority rights case, it is not clear whether domination is missing in the case of some majority cultures in smaller states. This objection thus does not undermine majority cultural rights alone but unduly inflexible cultural rights of all kinds.

Linguistic globalization is a plausible instantiation of the phenomenon we seek to identify. This phenomenon has rendered majority languages vulnerable in a way that makes them plausible candidates for rights by parity of the same reasoning Kymlicka applies in earlier work. Consider what one of us recently termed “mere numbers cases” in which linguistic groups of different sizes co-exist and interact across national borders in the absence of obvious injustice (Weinstock 2015, 2020). Linguistic globalization makes it the case that languages are no longer necessarily well protected by the fact of having, to use Van Parijs’ (2011) phrase, “grabbed a territory.” Indeed, linguistic globalization, placing as it does languages of radically different sizes in contact, and thus competition, with one another based on “Laponce’s (1994) law,” renders the languages of national majorities, heretofore thought to be unassailable because of their control of a territory, in a condition comparable to that of minority languages within nation-states. Where language is central to any plausible conceptualization of “culture,” it follows that at least some cultures are subject to forces that should concern theorists concerned with the political protection of culture. This is so regardless of whether the language is, on the national level, a majority or minority language.

This is not simply a theoretical worry. There is increasing evidence that majority languages (and cultures) face threats that could require protection in “mere numbers” cases, that is, cases in which languages of quite different sizes interact across national boundaries without the

pressure exercised by the larger language betokening injustice. Consider the incentives to study and use English to gain access to elite practices in Sweden (e.g., Berg et al. 2001), as just one example. The survival of Baltic languages is also a matter of constant concern, given the pressures imposed upon them by a regionally dominant language (Russian), by the “bigger” languages spoken by citizens of Baltic states’ trading partners in the European Union, and by the global lingua franca, English. The Internet, of course, magnifies the threat posed by “bigger” languages, in Sweden, the Baltics, and elsewhere.<sup>2</sup> While some might argue that language drift and extinction is simply a fact that, when it does not arise from injustice, is regrettable, rather than a matter of justice, this reaction is not obviously available to Kymlicka. On the Kymlickean argument, failures to protect vulnerable cultures against foreseeable threats to their being able to function as “contexts of choice” for their members *constitutes* an injustice, whether that threat emanates from ill intent or from more morally neutral causes. Mere number cases in which no (narrowly construed) injustice is present but threats to majorities remain raise (broadly construed) justice issues that on Kymlicka’s analysis appear bound to be viewed as morally significant on pain of inconsistency.

To see how deeply a concern for vulnerable majority cultures should, by parity of reasoning, be rooted in Kymlicka’s theory, it is worth considering both his earlier and more recently developed views. His original case for minority rights noted that minorities are subjects to threats to their culture through overt state action or benign neglect, and that some protections are necessary to protect minority cultures central to minority members’ self-understanding and basic conception of the good (recall Kymlicka 1989, 1995). This view actually consists of several lines of argument. Two lines of argument are particularly important for the present inquiry: on what one of us once called the “autonomy argument,” minority rights are necessary because minority groups provide necessary contexts for exercising individual autonomy and those groups will not be able to fulfill that role absent “group-differentiated” rights protections, while on what one of us called the “equality argument,” minority rights protections are necessary to provide members with equal opportunity for the goods of cultural membership (Weinstock 1998 summarizing Kymlicka 1989, 1995). Whether the latter argument can be divorced from the former is debatable, though some non-autonomy-based set of cultural

goods plausibly must be identified to complete a severable equality argument. Whether all minority groups to whom Kymlicka sought to provide rights furthered autonomy and/or required minority rights protections to provide a fair range of opportunity remains debatable. Yet the basic idea that minority rights protections were meant to protect against threats against valuable cultures, whichever they might be, is compelling and remains the classic position on minority rights.

In his more recent work, including his contribution to this volume, Kymlicka claims that minority rights are necessary to offset distributional “penalties” faced by those who belong to minority cultures in which minorities are forced to prove their membership in the broader community – and thus entitlement to welfare benefits – by explaining how their identities are consistent with the national one. This appears to be a version of the “equality argument” that is not supposed to rely on appeals to threats to autonomy alone. Majority cultures are viewed as identical to national cultures such that members of majorities never have to defend their membership rights. Minorities are viewed with suspicion and are forced to lobby for their membership rights. They can be denied basic welfare benefits accorded to others when they fail to do so. This creates a distributive justice problem – minorities receive fewer goods than majorities or penalties for receiving the same goods due to the brute luck of their cultural position in a way that violates basic liberal-democratic norms. Minority rights are necessary to remedy this distributional injustice, not to protect “inherently” valuable cultures.

Kymlicka believes that his arguments favor minority rights protections alone, at least when deciding what to do within nation-states. Both early and more recent Kymlickean arguments ground minority rights protections in threats that Kymlicka views as uniquely applying to minority groups and cultures. On both accounts, minorities alone face unjust threats that arise from the state’s commitment to nationhood. In the more recent version, the threats take the form of “penalties” faced by minority groups when seeking to protect their cultural interests and/or (it is unclear as stated) secure access to welfare benefits. This view responds to majoritarian concerns that his earlier account valorized minority rights to the detriment of majority cultures. In light of a potential parity of reasoning argument from “threats” simpliciter, Kymlicka’s present contribution seeks to identify a unique set of threats, now described as penalties, that apply to minorities alone.

Majorities may face threats to their culture, this piece seems to suggest, but they can act against those threats in manners consistent with furthering the national culture. Those promoting minority cultures, by contrast, are perceived as furthering a non-state identity and as less trustworthy and less deserving of rights and social benefits. Minority rights protections alone are necessary to offset distributional errors in terms of the efforts needed to promote the protection of identities and/or pre-empt welfare benefit distributional injustices.

Contrary to Kymlicka's understanding of his work, the moral considerations justifying minority rights on both accounts now plausibly justify at least some majority claims. Kymlicka's original formulation in terms of threats should be agnostic with respect to whether the threatened culture is majoritarian or minoritarian. Like Kymlicka, we do not view any culture as having inherent value. But the *source* of value of each culture is the same. Majority cultures can be crucial contexts for exercising autonomy. The threats to each culture are now parallel too. This alone should justify some majority cultural protections. While the source of the threats may differ, threats to the goods of cultural community – be they the autonomy central to (at least early) Kymlicka or another good one can import into his view – now apply to an Estonian in Estonia and a Quebecker in Canada. Pointing to the different sources of the threats to justify differential treatment appears ad hoc absent further argument not found in the literature. Where distribution is indexed to these goods, the threats should create distributional problems for all groups to whom they apply.

Even if, in turn, the equality argument can be divorced from the autonomy argument, the assumption that threats to minority groups alone produce distributional errors no longer seems justified. Estonians' opportunities for the goods of cultural membership within an Estonian group that Estonians view as central to their identities are now fewer than an Englishman's opportunities for the same within an English group. Still greater distributional issues arise with respect to the other goods of societal membership writ large when one compares an Estonian's opportunities with those of a cosmopolitan in the same state. Though that particular concern may be more pressing for the more recent penalty-based account than the classic one, it also seems capable of grounding majority rights claims in at least some cases. Focus on distributional justice simpliciter still seems to generate at least some valid majority rights claims. Incentives to be cosmopolitans

within states can, in turn, threaten the majority culture within it. Elite English language programs in universities in Sweden take up resources within the state that could be used to foster Swedish language programs, constraining institutional opportunities to grow the Swedish identity that is key to many persons' self-identity – and again raising the general distributional issues in which English language graduates receive greater benefits.

There is then reason to question whether the more recent penalty-based approach uniquely picks out minority cultures for protection as claimed. Let us grant here that this argument is unique – and not “parasitic” on the autonomy argument like an earlier equality argument (Weinstock 1998: 292) – and speaks to different concerns. The cultural good that minority groups face a penalty for furthering (and that majorities do not face) remains undefined. To the extent that we accept a proxy for that good, the case for minority rights protections still may not go through. Kymlicka's more recent account takes for granted that (a) the case for majority rights protections stems from concerns that overly expansive minority rights protections are the source of threats to majorities, (b) desert-based considerations are relevant to assessing the truth of (a) in a way that can lead one to identify the relevant moral considerations for assessing threats and/or penalties, and (c) the framework in (b) identifies how minorities alone face penalties in terms of the efforts one must take to promote protection of one's identity and/or pre-empt welfare benefit distributional injustices. It is not clear that any of these assumptions are warranted or justify minority rights alone as claimed. Contrary to (a), the case for majority rights protections need not rest on concerns about overly expansive minority rights claims in a way that pits the interests of one against the other. As noted above, majority cultures are subject to threats from other sources that are analogous to those facing minority cultures and now ground valid claims for similar protections. The claim that they are necessarily opposed appears unmotivated.

Even if, in turn, we grant that the majority and minority interests and/or rights need to be weighed against each other, whether the deservingness literature provides the best framework for doing so is questionable. Even if we accept *that*, the move from “minorities are viewed as less deserving” to “they alone face penalties for motivating their interests,” let alone “so they will need to do more to get welfare benefits,” takes work. The last claim is empirically contestable, and this is not the place

for empirical debate. But even the idea that minorities alone face penalties in motivating their interests in domestic politics, let alone at the global level, may no longer survive scrutiny. One central insight of the political movements contingently related to majoritarian claims is that access to “elite” institutions within states is now primarily constrained to those who fit a demographic profile that includes mastery of foreign languages, most notably English. This is an identified cause of some forms of modern nationalism (Eatwell and Goodwin 2018). Those who seek to speak in a majority national language that is not in global use do face a penalty in their attempt to further their political, cultural, or economic ends. Where protecting a majority culture through domestic politics increasingly requires also learning another language to prove one’s international and elite bona fides, the penalties for promoting one’s own language should be clear and serve as at least one source of threats to even majority languages. This may not mean that majorities face the same threats to accessing welfare benefits as minorities, but the source of those difficulties may not be attributable to penalties for furthering one’s interests in domestic politics and similar penalties now accrue to all groups. These points also undermine (b) and (c) above.

Moreover, even if Kymlicka is right that minorities uniquely face these penalties within states, and that these penalties alone are relevant for assessing the need for legal protections within states, this would not suffice to establish that there are no reasons to recognize majority rights as morally valuable and incorporate majoritarian claims into a broader account of justice. The parity of reasoning argument for majority rights would still go through at a more global level. Kymlicka’s distributional argument would then be compelling in the narrow boundaries in which it is made in his important contribution to this volume, but we would still need an explanation of why that narrow domestic sphere alone is morally important for assessing majority rights claims. The same kinds of considerations that led Kymlicka to focus in the case of national minorities on external protections – that is, on protections that might be written into the broader state’s constitution, rather than on internal restrictions – might lead in the case of vulnerable majority cultures to focusing on protections available in global institutional settings, rather than domestically, where the control by majorities of majoritarian institutions might lead them to adopting measures aimed at protecting their cultures that unjustifiably limit minority rights protections.

In order to meet this challenge, one might be tempted to reach back into Kymlicka's original argument for minority rights, grounded in the notion of "contexts of choice." The counter-argument would be to the effect that Kymlicka's argument cannot extend to majority rights claims because majorities do not face threats to their contexts for choice and the plausibility of Kymlicka's case for minority rights protections stemmed from the way in which minorities were deprived of a context of choice in liberal-democratic states, not threats to their culture simpliciter. On this view, the value of minority rights lies in their ability to protect against threats to group members' contexts of choice. Majority rights, it might be claimed, never protect against *those* threats. According to this line of argument, the majority's context of choice always remains in place even in the case of vulnerable cultures, because majorities *ex hypothesi* have a state that paradigmatically makes their likely choices the default outcome of the operation of majoritarian institutions. Insofar as culture is valuable as a context for choice, its value always remains in majority states because the majority and state culture are identical. Something like this argument could explain Kymlicka's claims in this volume that majorities are not subject to penalties because their culture and the state culture are largely coextensive. The relevant interests are, on this criticism, simply dis-analogous.

Yet while majority cultures are often (albeit, it is worth noting, not always) coextensive with national ones, this does limit the scope of relevant moral interests as claimed. The issue of whether focusing on the importance of contexts for choice actually justifies applying Kymlicka's arguments to paradigmatic cases of necessary minority rights protections was once a subject of lively debate (Weinstock 1998: 288–92). To the extent that limiting application of his argument to circumstances where there is a threat to the context of choice rules out majority cultures from the protective ambit of group-differentiated rights, it may also rule out minority cultures that have a reasonable amount of political independence within an encompassing state. This move would thus prove too much. At minimum, it would not suffice to establish that there is no parity of reasoning argument for majority cultural rights. Those who believe that minority cultures are subject to threats *qua* contexts of choice need to establish why the threats discussed here do not qualify as analogous threats. If languages really are core components of societal cultures, and thus, of contexts

of choice, and locally majority languages are under pressure, it follows that some majoritarian contexts of choice are under threat and in need of protection. Minorities may face *greater* threats, but this simply establishes that they are in greater need of protection. Absent evidence that rights protection is a zero-sum game, this does not undermine our arguments. One can be privileged with respect to X and vulnerable with respect to Y or overall. Vulnerability to Y should be able to ground valid claims for all groups to which it applies.

Alternatively, one could say that the cases differ because the sources of vulnerability differ across them. Minorities are threatened by the operation of majoritarian democratic institutions, whereas majority cultures are threatened by more diffuse global forces. However, on Kymlicka's account, the source of threats should not be central in determining whether they can form the basis of a moral claim that liberal-democrats must address. The point of minority rights is to address threats to moral goods that we value, rather than focusing on certain *kinds* of threats (threats that emerge from injustice or ill intent, for example). Indeed, international law's particular concern with minority rights is best rendered legible in recognition of the fact that domestic protections alone cannot protect minority cultures subject to multivariant threats, not all of which can be easily attributed to any specific actor. Analogous majoritarian protections are now warranted in political morality, if not law. While some other explanation of why different kinds of vulnerability that only apply to minority cases could justify a disanalogy claim, it is presently unclear what that might be.

This fact also helps address the concern that the preceding argument misses Kymlicka's point because at least Kymlicka's present contribution is explicitly concerned with justice *within* nation-states. Majority cultures are the beneficiaries of the nation-state-based world order. Minority cultures are not. Minority cultural rights remedy that distributional issue alone. Expanding the argument to address further concerns simply misunderstands the scope of Kymlicka's argument on this objection. However, the above point about majoritarian difficulties in domestic politics remains. Moreover, even if that line of argument fails, it is unclear why injustices within states should be the sole source of moral concern here. As we hinted above, one could plausibly state that equality of opportunity for the goods of cultural membership within states always favors the majority group. Estonians are always better able to enjoy the social benefits of cultural membership *in Estonia*



than non-Estonians. Yet, even if we grant this empirical claim, it is still not clear that Estonians are equally able to enjoy the benefits of social membership when compared with other national groups, nor is it clear that this form of inequality is morally unimportant and/or should not be addressed in liberal-democratic politics. Again, even stating that minority rights alone are justified within states does not entail that they alone are justified all-things-considered. *Global* justice concerns remain important. Indeed, whereas Kymlicka takes the division of the world into nation-states for granted and seeks to analyze its distributional impacts, it would appear ad hoc to ignore the broader context of distribution of powers. The goods of cultural belonging cannot be analyzed at the state level alone. If this is so, the concerns underlying Kymlicka's argument do not suffice to show that there are no valid majority rights claims that liberal-democrats must address in at least some political spheres. As we will detail in future work, attending to the broader relevant context provides a clear case for expanding the scope of concern to the international level.

There is, then, at least one domain in which claims about threats to majorities have to be addressed by liberal-democratic theory. This leaves several questions open. For instance, is linguistic globalization, and the attendant linguistic insecurity to which it gives rise in some national majorities, the only case that fits the various requirements we have set forth in order to identify cases of majority cultural insecurity to which liberals ought to pay some heed if they are to be consistent with their defense of certain minority rights? Would the defense of other aspects of culture breach the principle according to which liberals should only concern themselves with protecting the aspect of culture that has to do with cultural "structure," rather than its "content" (Kymlicka 1995)? Attending to which other aspects of culture can justifiably be protected and when requires its own work. Yet even a limited sense of parallel application is potentially important. Indeed, a finding that Kymlicka's arguments might apply to majority groups remains notable even if parity of reasoning would only require majority linguistic rights.

### Constraints on Majority Rights Claims

Having to some extent opened the conceptual window for the legitimacy of some majority nationalist cultural claims, we will conclude our arguments by placing a filter on it. Ours is a liberal-democratic

account of majority claims, and so, in a manner that extends its parity of reasoning nature, we want (as Kymlicka does with minority rights claims) to define constraints that any claim (judged by us to be legitimate) must satisfy. This seems particularly important in the present context where the kinds of claims we are considering have been put forward by decidedly non-liberal-democratic movements and parties. Indeed, one motivation of the present project is to find a way of giving liberal-democratic expression to some majority rights claims in a manner that at least partly blocks what has often been the almost automatic association of majority nationalism with populist, conservative, and nationalist political movements. Regardless of whether addressing majoritarian claims in liberal-democratic politics will best “neutralize” the more problematic views contingently related to them, it strikes us as worth evaluating those claims independently of those views. But incorporation may have political benefits tied to not assuming that only right-wing populism can be a vehicle for some cultural majorities’ concerns.

The first constraint that we propose requires some indication that the people in the state in question actually value the majority culture and wish to protect it. We do not, again, believe that any culture is intrinsically valuable and so must be protected absent any interest in doing so. We do not wish to “freeze”/folklorize cultures. The point of our parity of reasoning argument is that some cultures provide important moral goods to members of the culture and we should be concerned with threats to the cultures because they also threaten individual goods. If people no longer value a culture and explicitly wish to change it, the case for protection no longer applies. Our concern is cases where people wish to maintain a reasonably justly-formed majority culture that is threatened by factors that lead even those who value the culture to act in ways that may run contrary to even minimally sufficient protection of the relevant majority culture.

The second constraint is that of factual plausibility. The *perception* and the *reality* of vulnerability are different things. The former can be generated, absent any plausible empirical basis, by a number of factors. Two seem particularly important to specify here. First, some national majorities may experience a sense of loss because they have been compelled by various political forces to give up a prior position of unjustified and unjust superiority. For example, the requirement (imposed, e.g., as a condition of joining a group like the European

Union) that majorities respect minority rights where they previously had not done so may give rise to a sense of loss and vulnerability. We will not countenance or accommodate any claims grounded in perceptions of loss of unjust privilege. Second, perceptions of vulnerability are often the result of political entrepreneurship undertaken by political parties, movements, and media that strategically induce false perceptions of vulnerability in the majority population to position themselves as best capable of responding to the sense of threat that they themselves created without empirical basis. Again, liberal-democrats should not be in the business of accommodating the political expression of such perceptions or the activities that generate them. The liberal-democrat concerned with vulnerability should only be concerned, as a theoretical matter, with real majority vulnerabilities (Eisenberg 2019).

The final constraint we will discuss here is that political measures adopted to address vulnerabilities cannot deny or abridge minority rights. This reflects a more general constraint implicit in our approach under which no measure can violate basic liberal-democratic norms. Just as Kymlicka was insistent on distinguishing between external protections and internal restrictions, we take as parametric that addressing the global problem of cultural vulnerability involves the hard-wiring of minority rights into the basic architecture of pluralist liberal-democracies. Unlike Kymlicka, we see no reason to assume that majority and minority rights protections cannot co-exist, at least absent further argument. Minority rights protections are sometimes presented by conservative nationalists as a cause of majority culture erosion. Their limitation is then presented as part of the solution to that problematic erosion. But we cannot simply assume that protections for both sets of rights cannot co-exist, at least in the linguistic case. While Laponce's law makes the co-existence of languages difficult, *protections* for multiple sets of languages challenged by that law may co-exist. In contrast, the solutions that we envisage to address justified majority nationalist claims view minority rights protections as non-negotiable. In further work related to the present inquiry, we look toward international law and institutions as the spaces within which to articulate solutions to the claims made on behalf of majorities that do not end up being in a zero-sum relation to minority rights protections. But we cannot assume the zero-sum nature even here.

## Conclusion

There is, then, at least one family of majority rights claims that must be addressed in liberal-democratic theory by parity of reasoning used to require addressing minority rights. This case and reasonable questions about assumptions underlying Kymlicka's proposal for voiding majority rights claims suggest that some majority rights claims complicate the moral landscape more than some liberal-democrats suppose. Of course, institutional responses to even potentially valid majority rights claims are themselves only acceptable when liberal-democratic constraints apply. But we cannot assume that no institutional response is capable of existing subject to those constraints or that majority and minority rights protection is a zero-sum game. Further work should attempt to examine if and when institutional responses to majority rights claims can be justifiable subject to these constraints. It should also, as we have suggested in this comment and will argue in further detail elsewhere, look to the area of international law and politics as the appropriate conceptual and institutional space within which to attempt to effect this reconciliation.

## Notes

- 1 In the final version of his piece in this volume, Kymlicka now acknowledges the force of this parity of reasoning argument. What flows from this is a question for further investigation. It is at least possible that recognition of state sovereignty will not provide adequate protections as claimed. Indeed, they appear unable to do so in the cases at issue here. The precise forms of international actions that may be required must be the subject of further work, which we plan to produce. The question of whether these issues are best dealt with in terms of "rights" is, in turn, largely a semantic issue.
- 2 On the Baltics, see, e.g., the essays on Latvian and Estonian collected in Vila Moreno (2012). For insight into the Internet's role as the vehicle of linguistic globalization, see e.g., <[www.theguardian.com/education/2014/mar/26/digital-extinction-europe-languages-fight-survive](http://www.theguardian.com/education/2014/mar/26/digital-extinction-europe-languages-fight-survive)>.

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