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# National Minority Rights in the Himalayas

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India is a multicultural liberal democratic state. It is also a poor, overpopulated Third World country. Many modernization theorists have assumed that these two descriptors were at odds, or at least sequentially determined with economic development a necessary pre-condition for democracy, and hence predicted the failure of the Indian experiment because of its 'fissiparous tendencies' (Harrison 1960). More contemporary comparative political scientists have attempted more sophisticated and nuanced explanations of the Indian experiment than what modernization theorists offered (see, e.g., Mitra 2001). Also recently political theorists have increasingly turned their attention to multiculturalism (see, e.g., Parekh 2000). In this paper, I use a particular type of accommodation made by the Indian state to cultural diversity, constitutionally prescribed in the Sixth Schedule for parts of Assam but increasingly applied elsewhere in the northern stretches of Indian territory, to investigate contributions of recent liberal theory to understanding India's multiculturalism.

One of the most prominent political theorists in recent times in the West is Will Kymlicka, who weds multiculturalism to liberalism in his liberal theory of minority rights. The mainstay of his theory is his distinction between national minorities and immigrant ethnic groups. Through this distinction he describes and prescribes accommodations made by the liberal state to cultural diversity. Although he admits that there are gray areas or 'hard cases' that challenge his categorization, his 'approach' has been 'to draw clear lines in muddy waters' (Kymlicka 1997: 72). Can Kymlickian lines be drawn in the sediment-filled streams flowing down from the Himalayas? Do Kymlicka's categories, and, more generally, his theory help us understand India's liberal multiculturalism as practiced in the Himalayan foothills of north India?

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## KYMLICKA TRAVELS TO INDIA

For Kymlicka, national minorities are ‘territorially concentrated cultures’ that have been historically ‘incorporated’ into a larger nation-state. In contrast, ‘ethnic groups’, in Kymlicka’s schema, result from ‘individual and familial immigration’ (1995:10). Kymlicka argues that his two categories of national minorities and immigrant ethnic groups have practical relevance for liberal democratic states: ‘differential treatment of immigrants and national minorities [...] is a well-established feature of liberal democracies’ (1997: 73). This differential treatment is grounded in the rights discourse of liberalism. National minorities have the right to self-determination, according to the Wilsonian liberal tradition that Kymlicka admires. Immigrant ethnic groups, on the other hand, are usually granted ‘polyethnic rights’ or perhaps even ‘special representation rights’ by the liberal state. Polyethnic rights would include, for example, government funding for privately practiced cultural or religious beliefs; special representation rights would be some kind of quota affirmative action or what is known in India as reservations policy.

Polyethnic and special representation rights are indeed familiar features of Western liberal democracies. As Kymlicka (1989) notes, liberal democracies usually have no problem with temporary special representation rights or polyethnic rights in the private sphere; however, they may be quite reluctant to grant self-determination rights. This does not appear to be the case in India. In India, for reasons to be explored in this paper, the liberal state seems to be more willing to grant self-determination rights than polyethnic rights in the ‘hard cases’ of the Himalayas.

India grants self-government rights to certain minority groups through provisions of the Sixth Schedule of its constitution. These provisions allow for the establishment of ‘autonomous councils’. Originally designed for the Naga region of Assam, autonomous councils have more recently been established in Darjeeling and Ladakh, as well as regions in addition to the Naga area in the Northeast and elsewhere. The Jharkhand autonomous council has already evolved into statehood in the Indian federal union, and in Uttarakhand a contemplated autonomous council was bypassed in favor of statehood. After briefly discussing the original autonomous council provisions, I will focus on Darjeeling, where the first autonomous council outside of Assam was established in 1988, and on Uttarakhand.

The siting of autonomous councils insinuates the historical incorporation of territorially concentrated cultures. Autonomous councils are all on the borderlands of the Indian nation-state. They are all in areas that under British colonial rule were, to use colonial terminology, ‘excluded’ or ‘partially excluded’ areas along the ‘frontiers’ of the British empire. Darjeeling and Uttarakhand are in the Himalayas, the former just east of Nepal and the latter just west of Nepal. Even someplace like Jharkhand which today appears to be well in the interior of India was the South West Frontier Agency in 1833, given that Bengal was the colonial center at the time. By ‘excluded’ the British meant ‘non-regulated’ (a term used

prior to 'excluded'), in terms of the Raj's regulations and administration. Upon independence, the Constituent Assembly heatedly debated the wisdom of retaining these colonial exclusions – but they were retained, renamed as 'scheduled areas' (Sonntag 1999). Scheduled areas, the constitutional designation for granting self-government rights, are as much a feature of the post-colonial state as they are of the liberal state.

The 'schedule' in 'scheduled areas' refers to the Fifth and Sixth Schedules of the Indian Constitution, both of which address accommodation of 'tribals'. At the Constituent Assembly, there was intense discussion and disagreement between assimilationists, who argued for only polyethnic and special representation rights for tribals, and Nehruvian liberals who argued for self-government rights. The compromise was that the Sixth Schedule would grant self-government, originally limited to the Nagas in Assam. The Fifth Schedule was for all other tribals; though it granted the tribals the right to participate in an (appointed) tribal advisory council, its main purpose was to establish special development zones in tribal areas. Its measures were considered temporary with the ultimate goal being tribal assimilation into the mainstream. The Fifth Schedule granted what Kymlicka would define as special representation associated with polyethnic rights, rights that, in Kymlicka's scheme, are meant to be temporary and to enable integration and assimilation. The Sixth Schedule, in contrast, recognized permanent self-governing rights.

Given the contrasting rights granted in the Fifth and Sixth Schedules, are tribals 'national minorities' or 'ethnic groups' in Kymlicka's terms? The widely used Indian term for tribals is '*adivasi*'. It carries the connotation of aboriginal, living in geographically and topographically isolated areas (usually in forest-jungle areas). Tribal/*adivasi* also carries the connotation of being culturally different. These characteristics would suggest that they are national minorities, according to Kymlicka's categorization. However, it seems to have been the degree of cultural difference that determined whether tribals fell under the Fifth or Sixth Schedule, at least when these constitutional provisions were initially conceived. Many in the Constituent Assembly appeared fixated on the head-hunting cultural traits of the Nagas, willingly granting the Nagas self-government rather than risking their own heads by forcing assimilation (Sonntag 1999: 420). For other tribals such as those in Jharkhand, who were at least superficially just as different as the Nagas (minus the head-hunting), the Constituent Assembly only granted temporary measures under the Fifth Schedule to facilitate assimilation. In other words, tribals who were at the cultural margins (e.g., headhunters) were most likely to be granted self-government. One non-Naga *adivasi* member of the Constituent Assembly complained that he was expected to don native garb and brandish a spear if he was to be considered a tribal by his colleagues.<sup>1</sup>

Not only were the Nagas culturally 'far out', but they were also geographically peripheral. Assam is located to the north and northeast of Bangladesh (formerly East Pakistan), sandwiched between Bhutan, China (Tibet) and Burma. It was and

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<sup>1</sup> *Constituent Assembly Debates*, Volume IX, 995 [5<sup>th</sup> September 1949]; Jaipal Singh.

still is at the outer limits of the Indian nation-state. Ironically, in addition to being head-hunters, the Nagas were apparently skilled negotiators: Some members of the Constituent Assembly referred to the delicate negotiations between the Nagas and the new Indian state, with the Nagas threatening to join Tibet or Burma if not granted self-government (Sonntag 1999: 420). Although Kymlicka dismisses deal-cutting as an anomaly in liberal accommodations of minorities (for example, with the Amish or Hasidic Jews in the United States), the Indian case here suggests that it may be more central than Kymlicka acknowledges.

India's initial reasons for granting self-government rights appear at odds with Kymlicka's theory. Self-government rights were established, but only in the Sixth Schedule, limited to a portion of Assam, and probably because of fear (of those head-hunting Nagas). At least initially, then, the liberal Indian government didn't treat its tribals consistently and in some cases not even differently from the allegedly assimilable polyethnic groups, despite Kymlicka's insistence that liberal governments do so but liberal theorists just don't acknowledge it (Kymlicka 1997: 74).

### *Darjeeling*

The extension of self-government through autonomous councils outside of Assam beginning in the 1980s casts further doubt on the applicability of Kymlicka's categories to India. As mentioned above, Darjeeling was the first area outside of Assam in which an autonomous council was established. Although this was a 'partially excluded' area under the British Raj, it is not a tribal area. Some groups are supposedly autochthonous (such as the Bhotia and Lepchas) and therefore could be, and sometimes are, considered adivasis, albeit Tibeto-Burman. Other, non-adivasi, Tibeto-Burman groups, such as Tamangs, Magars, Gurungs, Sherpas, Rai and Limbu, form the majority of the population. Along with the Indo-Aryan Khas Chettris, these groups all make up the 'Gorkhalis' of the region.<sup>2</sup> The region was incorporated into the British Raj in the early 19th century, a 'gift' from independent Nepal. By being 'historical incorporated', the population would fit into Kymlicka's category of national minority. However, many Gorkhalis migrated to the region during the British Raj to work on the tea plantations. They are therefore ethnic groups, according to Kymlicka's categorization. There is no distinction made in Darjeeling between those who were incorporated, i.e., those who form a national minority in Kymlicka's terms, and those who migrated, i.e., those who are ethnic. Already we are presented with a problem in using Kymlicka's categories.

When we move from categories of minorities to categories of demands in Kymlicka's framework, the problems do not resolve themselves. What unites the Gorkhalis is the Nepali language, used as the lingua franca and regarded as a cultural marker to be protected and enhanced. Joined by Nepali speakers in Sikkim, agitation for recognition of the Nepali language in the Darjeeling area resulted in

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<sup>2</sup> Not incorporated in the Gorkhali identity are Dalits such as the Rajbhansi, as well as migrant tribals from primarily the Jharkhand region and Bengalis.

December 1992 in Nepali being added to the Eighth Schedule, the constitutional clause listing major languages of India.<sup>3</sup> According to Kymlicka, national minorities have the right to protect and enhance their language, even through imposing restrictions on the use of other languages, as in Quebec for example. More commonly, however, demands for language rights are ‘polyethnic’ demands according to Kymlicka, i.e., the type of demand made by ethnic groups (e.g., mother-tongue instruction in primary grades, access to native tongue in courts). In either case, Kymlicka assumes that the national minority or the ethnic group is demanding rights for its language. That is because he assumes that culturally distinct minorities have their own distinct language. Nepali is an Indo-Aryan language, the mother tongue of the locally dominant Chhettris. Here we have Tibeto-Burman groups identifying with a language from a completely different language family and demanding rights for that language. What is being created in the process is a pan-ethnic identity based on the Nepali language. It is an identity that is socially constructed in opposition to the dominant Bengali culture of the state of West Bengal, in which Darjeeling is located. In nearby Nepal, these same Tibeto-Burman ethnic groups have been rejecting the Indo-Aryan Nepali language in recent years as democratic political space opens for voicing opposition (Sonntag 1995). This suggests that the social construction of identity may be a better indicator of the demands put forth than the type of minority as defined by Kymlicka.<sup>4</sup>

The primary demand of the Gorkha National Liberation Front (GNLF), which led the frequently violent agitation in the Darjeeling area for most of the 1980s, wasn’t for language, but for citizenship rights. Citizenship rights are Kymlicka’s quintessential ‘polyethnic demand’, desired by immigrant groups but eschewed by national minorities who, according to Kymlicka, usually don’t want to be part of the nation-state in which they find themselves. Ironically, this ‘polyethnic demand’ by the GNLF led to the granting of self-government in Darjeeling, Kymlicka’s quintessential national minority demand! In the early 1980s, Nepali-speaking tea-plantation workers in Assam and further east were being expelled by ‘sons of the soil’ movements. Darjeeling Nepali-speakers’ sense of insecurity was heightened by the plight of these Nepali-speaking refugees from the east (Datta 1993: 150-51). In expressing politically their insecurity, the GNLF focused on Clause VII of the 1950 India-Nepal treaty, which the GNLF saw as ‘an immediate danger for thousands of Nepalis to be dubbed “aliens”.’<sup>5</sup> Clause VII states: ‘The Government of India and Nepal agree to grant, on a reciprocal basis, to the nationals of one country in the territories of the other, the same privileges in the matter of residence, ownership of property, participation in trade and commerce, movement and other privileges of a similar nature.’ In short, Nepalis living in India had residency rights but not citizenship rights. This, the leader of the GNLF, Subash Ghising, argued, opened the door to expulsion and exclusion as had happened to the Nepali-speakers

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<sup>3</sup> For a discussion of Eighth Schedule languages, see Gupta, Abbi, and Aggarwal (1995).

<sup>4</sup> If Kymlicka talked about French and joul in Quebec, he might be able to draw parallels during his travels to Darjeeling.

<sup>5</sup> ‘Disputed Clause’ (1986: 45). See also Government of West Bengal (1986: 17).

further east of Darjeeling: 'We are not bona fide citizens of India; life and future is not secure for us here'.<sup>6</sup> Ghising wanted citizenship rights for Nepali speakers who, according to him, were not 'Nepalese', the term implying loyalty to and citizenship of Nepal, but were 'Gorkhas'. This latter term for Nepali speakers was popularized by the British as the designation for the 'brave' soldiers from the Himalayas in the Indian army, and is derived from the Gorkha Valley west of Kathmandu where the Nepalese dynasty was founded in the 18th century.<sup>7</sup>

Why, then, if polyethnic demands were being made, did the GNLFF end up with self-government in the form of an autonomous council being established in 1988? In addition to the problems with the application of Kymlicka's categories in offering an explanation, we must also pay more attention than Kymlicka does to the politics surrounding such demands. The establishment of the Darjeeling Gorkha Hill Council (DGHC) and the continuing debate over devolution of power to the council have much to do with the political antics between the Centre, dominated by the Congress party in the 1980s, and the West Bengal state government, the bastion of the Communist Party of India (Marxist). It has been said that Rajiv Gandhi, Prime Minister in the late 1980s when the DGHC was established, 'used Ghising as a stick to beat West Bengal [CPI(M)] Chief Minister Jyoti Basu' ('Encounter' 1992: 6). Ghising himself was recognized as politically astute with his 'dual strategy of adopting a soft line toward the Congress(I)-ruled Centre and a tough posture against the CPI(M)-led West Bengal Government' ('Ghising's Games' 1988: 28). In this triangulation of power plays, deals were made and unmade (despite Kymlicka's dismissal of deals as anomalies).

### *Uttarakhand*

Surely the most glaring anomaly in India to Kymlicka's categories and theory is what transpired in the Himalayan region of Uttar Pradesh in the 1980s. Again, the political context provides explanatory background. While Jyoti Basu and the CPI(M) remained in power in West Bengal in the 1990s, Congress(I)'s hold on power at the Centre had been usurped initially by the left (1996-8) and more recently by the BJP, the Hindu nationalist right-wing party. These power dynamics at the Centre and in the states explain the momentum toward granting statehood to Uttarakhand, bypassing earlier proposals for an autonomous council for the region. Uttarakhand is BJP territory. By severing it from the plains region of the state of Uttar Pradesh, where left and lower-caste parties tend to dominate, the BJP stood to gain.

In the mid-1990s, there was 'fire in the hills' of northern Uttar Pradesh fueled by violent demonstrations, agitations, and police reprisals (including rape) (Ramakrishnan 1994). The catalyst for the conflict was the implementation by the

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<sup>6</sup> Subash Ghising, quoted in Government of West Bengal (1986: 18).

<sup>7</sup> The nomenclature issue also surfaced in disputes over what to call the language of the region for its inclusion in the Eighth Schedule. As noted above, the battle for inclusion finally succeeded in 1992, with Sikkimese politicians taking the lead. Their preferred nomenclature of 'Nepali' won out over Ghising's preference for 'Gorkhali'.

Uttar Pradesh Samajwadi (Socialist) Party government of a 27% reservations policy for backward castes in state education. The state already had implemented, as had all of India, dating back to the 1950s, special representation rights (to use Kymlicka's terminology for reservations) for Dalits in education and employment. The late 1980s, early 1990s had seen political impetus to extend these representation rights to backward castes. The Chief Minister of Uttar Pradesh (UP), Mulayam Singh Yadav of the Samajwadi Party, had popular support for this in the plains of the state where backward castes (such as Yadavs) predominate. However, in northern UP, where the plains give way to the Himalayas, upper castes form the overwhelming majority of the population. Despite being upper caste, the people in this Himalayan region of Uttarakhand are quite poor and illiterate. Indeed, lack of economic development has been the prevalent problem in the past. As a result, the area suffers from severe out-migration, as most men leave to the plains to find employment (Mawdsley 1997a).

In response to Mulayam Singh Yadav's reservation policy, the Uttarakhandis demanded a separate reservation quota for the region, more reflective of the demographic make-up. The state government refused (Pande 1995: 48). As frustration mounted, violence erupted and demands escalated – from repeal of the 27% quota to autonomy for Uttarakhand.

For Kymlicka, Uttarakhand would indeed be a 'hard case'. In Kymlicka's framework, the Uttarakhandis might well be classified as a national minority. The inhabitants of the area claim a separate culture based on telluric distinctiveness: survival in the mountainous terrain allegedly breeds a different kind of folk. This is the region, after all, of the famous Chipko movement. The area was annexed by the British from Nepal in the early 1800s, with parts of it remaining excluded up until the 1920s (Trivedi 1995; Keith 1937). Furthermore, the Uttarakhandis would probably qualify for self-government rights under Kymlicka's scheme because of the severe out-migration from the region for wage labor in the plains. This threatens the cultural context in which Uttarakhandis can exercise personal autonomy, the latter being the foundation of liberalism (as discussed below).

But in terms of caste, the Uttarakhandis are part of a privileged minority. Indeed, their demands for self-government stemmed from their opposition to special representation rights for the underprivileged. The application of Kymlicka's theory in this case seems to lead to a perversion: the granting of minority rights to upper-caste Hindus in India.

## LIBERAL NARRATIVES IN THE HIMALAYAS

The cases presented above suggest that Kymlicka's categories aren't very useful or applicable to the Indian Himalayas. Kymlicka's liberal narrative, originally developed for the Canadian context, doesn't appear to be transnational. The problem is not only one of Kymlicka's analytical categories but also, more fundamentally, of his underlying theoretical premises. Categories are not empirical realities but rather a method to concretize perceived relations among things,



relations that are often unenunciated except through the naming of categories. What are Kymlicka's unenunciated assumptions that inform his categories? We need to uncover the thematic informing Kymlicka's categories—that is, the justificatory principles establishing relations that allow Kymlicka to derive his categories.

Kymlicka's categories derive from his arguments about why liberal governments should, and do, grant self-government rights to national minorities but not to ethnic groups. Kymlicka argues that liberal states should facilitate personal autonomy, defined as the ability of the individual to reflect upon and make choices about the good life. As a multiculturalist, Kymlicka adds that such choices are only meaningful in a cultural context. The liberal notion of a completely unencumbered individual is non-existent in practice. In practical terms, there is no such thing as a culturally unencumbered individual.

Kymlicka's acknowledgement of the importance of cultural context stops far short of the cultural determinism espoused by communitarians. For communitarians, the cultural context is foundational from which individualism may be derived, at least in Western cultures. Kymlicka remains a liberal. For him, the self-reflecting individual is foundational. The individual exercises personal autonomy in a cultural context. But that capacity for autonomy, for choice and self-reflection, is independent of the cultural context. In this regard, Kymlicka is a minimalist. According to Geoffrey Levey, 'Kymlicka tends to conceive of autonomy simply in terms of an individual's capacity to choose' (Levey 1997: 235).<sup>8</sup> In contrast, a Lockean liberal assumes that reason dictates an individual's choice. Furthermore, most liberals assume that rational choice is a universal human trait. For Kymlicka, the question of whether an individual's capacity to choose is rational, hence whether 'reason' is universal or particular to Western tradition, should be decided at the end of the day, after debate and reflection and not a priori (Kymlicka 1989: chap. 4).

Liberals who posit reason as informing individuals' choice of the good life can easily and effortlessly extrapolate to justify the liberal state. Liberal institutions are derivative of the Lockean concept of human nature because of its presupposition of the individual being endowed with reason. Liberal institutions are the choice of rational autonomous individuals, as liberals see it. The collective nature of the choice can be resolved by the Habermasian liberal, who would emphasize the consensual, dialogical contract through which liberals establish political institutions. Liberalism's critics, such as Uday Mehta, argue that this Habermasian contract is itself a liberal institution that doesn't necessarily follow from Lockean assumptions (Mehta 1997: 65). Mehta argues, using Locke's *Thoughts on Education*, that liberals assume, without problematizing, that individuals are socialized into 'reason'. This necessary socialization through education refutes any

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<sup>8</sup> Levey frets over Kymlicka's 'anything goes' minimalism and attempts to resolve it by creating more categories rather than pinning the problem on authenticity, as I do further on here. Levey correctly but briefly raises the authenticity question in his article immediately after his characterization of Kymlicka just quoted, noting that problems occur when there is 'doubt about the authenticity of a person's preferences', but then quickly notes that '[t]hese points raise complex issues beyond the scope of the present inquiry' (Levey 1997: 235).

universal claim, since reason has to be learned. Learning, Carlos Forment (1996) points out, is the basis for exclusion: Learners, i.e., those who have yet to learn or are in the process of learning, are excluded from being ‘choosers’, those who by virtue of reason can exercise personal autonomy. Hence, as Mehta argues, ‘the exclusionary basis of liberalism derive[s] from its theoretical core’; that is, ‘liberalism has been exclusionary and [...] in this it manifests an aspect of its theoretical underpinning and not merely an episodic compromise with the practical constraints of implementation’ (1997: 61). Bhikhu Parekh similarly notes that ‘[t]he contradiction [in liberalism] is not just between liberal thought and practice, but within liberal thought itself’ (1995: 82).

Kymlicka would agree with Mehta that the liberal minimalism he espouses doesn’t necessarily lead to liberal institutions. Indeed, Kymlicka doesn’t even assume universal reason as a foundation from which to derive liberal institutions. In this regard, he gives ground to liberalism’s critics. But, as with his giving ground to the communitarians in regard to the cultural context of personal autonomy, this places him in a conceptual conundrum. Although, according to Kymlicka, liberal institutions are not derivative of (rational) personal choice, the reverse does hold: liberal institutions guarantee the ability to act upon self-reflection, i.e., to choose. Not only is this true, but also desirable; Kymlicka insinuates that his theory has policy implications that liberal governments can follow. Liberal governments should set up liberal institutions which will foster the individual’s capacity to choose. Since liberal institutions and cultural context are necessary for individual/personal autonomy, according to Kymlicka, it is imperative for liberal states to protect the cultural context of culturally distinct minorities. Protecting minority cultures is required for liberal states if self-reflection for autonomous, minority individuals is to be meaningful.

What if these two imperatives for the exercise of personal autonomy, i.e., liberal institutions and cultural context, conflict in practice? In protecting minority cultural contexts, one might not end up with liberal institutions within that context. Choosing, i.e., exercising self-reflection, doesn’t guarantee liberal institutions, Kymlicka admits, as we saw above. And he frets over this – what to do with those illiberal communities that good liberals must tolerate? ‘Liberals in the majority group’, Kymlicka distresses, ‘have to learn to live with this [illiberalism in the minority community]’, though they should ‘provide [...] support’ to ‘any efforts the [minority] group makes to liberalize their culture’ (1995: 168). The stench of benevolent paternalism, so familiar to liberals, is strong here. Kymlicka distances himself from what he calls ‘paternalistic colonialism’ where liberal principles were imposed by force (1995: 167). Instead, Kymlicka prefers non-coercive methods (e.g., support, encouragement, role-modeling). Only when the illiberal practices are truly offensive, such as wife-beating, is intervention by the liberal majority called for. But in most cases, the illiberal minority community can learn to be, or be socialized into becoming, liberal.

With this argument, Kymlicka is confronted with a conundrum. Above we saw how liberalism’s critics, such as Mehta and Forment, suggest that learning and socialization, as necessary practices of liberalism, are exclusionary. However,

Kymlicka is in effect saying that liberalism isn't exclusionary because, after all, a liberal state wouldn't/shouldn't/doesn't exclude illiberal minority cultures. Kymlicka laments that despite majoritarian liberal institutions, illiberalism may occur in minority cultures. Where does this illiberalism come from then? Since Kymlicka would never suggest that liberalism itself might foster illiberal cultures, the illiberalism must come from somewhere else. Accordingly, there must be cultures (and individuals for that matter) 'outside' of liberalism. According to Kymlicka's reasoning, it isn't because liberalism 'excludes' that these communities/individuals are outside of liberalism (as Mehta and Forment might argue). They therefore must be outside because of something else. For Kymlicka that something else is cultural distinctiveness which translates into claims of (both cultural and personal) authenticity. Kymlicka assumes that illiberal national minorities are authentic.<sup>9</sup> That is, they are/have been 'insulated' (1995: 164). Their culture is 'thick'. '[A]s a culture is liberalized,' explains Kymlicka, 'the resulting cultural identity becomes both "thinner" and less distinctive' (1995: 87). Less distinctive means less authentic, and therefore less illiberal. Assuming the authenticity of national minority cultures as the source of illiberalism absolves liberalism and liberals of responsibility and justifies liberal hegemony. This was the justification Mill gave, Kymlicka admits, for colonialism.

But what if illiberalism is caused by liberalism, rather than by 'authenticity'? What if liberalism reproduces its other, its alterity – to justify itself? Then the 'source' of illiberalism wouldn't be external to, but rather internal to, liberalism. Kymlicka claims that the Pueblo Indians in the United States are illiberal because they disbar membership to the offspring of tribal women who marry outside the tribe (1995: 164-65). Were marriage and tribal membership even issues in 'authentic', i.e., pre-contact, Pueblo culture (see, e.g., Minow 1995: 359)? Marriage and citizenship are liberal institutions – the quintessential contracts. How do we know that it wasn't the introduction of liberal institutions that provoked the illiberalism?

As noted above, many liberals derive liberal institutions from the presumed universal premises of liberal theory. But a liberal theory that truly has any pretense of being universal must be so minimal that there is no theoretical guarantee of it emanating liberal institutions. Hence Kymlicka's minimalism. Yet, in the end, Kymlicka, like Locke, must introduce a more expansive definition of capacity to choose and the exercise of personal autonomy through learning/socialization. This 'learning' may guarantee liberal institutions but it means forsaking any claim to universality. In forsaking universality, the criteria for distinguishing liberal from illiberal practices become culturally specific. Practices that evolve in reaction to the imposition of liberal institutions could thusly be defined as illiberal. Whereas Kymlicka would argue that the 'source' of this illiberalism is an 'authentic' culture, the source might actually be the imposition of (western liberal) culture-specific criteria for evaluating practices.

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<sup>9</sup> Kymlicka makes the same argument for what he perceives to be illiberal sovereign states.

Kymlicka's liberalism, then, assumes authentic national minority cultures that need to be tolerated and preserved (up to a point) by liberal governments, in order for individuals in that minority culture to exercise personal autonomy.<sup>10</sup> Anthony Appiah (1994) worries that such an appeal to authenticity facilitates essentializing. Those making the appeal assume that there must be some authentic essence to those (illiberal) insulated cultures. It is often this 'essence' then that liberals seek to preserve rather than the cultural context. Appiah warns that this might just 'replace one kind of tyranny with another' by demanding a show of authenticity in order to achieve recognition and minority rights (1994: 163). This was indeed the case for tribals at the Constituent Assembly as we saw above: Authenticity (easily identifiable by illiberal head-hunting) was the determinant of the granting of self-government.

Kymlicka maintains that only national minorities have the right to self-government. This is because Kymlicka assumes their culture is authentic; it is 'thick'. Other minority cultures such as those of immigrant ethnic groups are less authentic. Hence, ethnic groups don't pose the same problem for Kymlicka because their culture is already 'thin'. Ethnic groups 'take the larger political community for granted, and seek greater inclusion in it' (Kymlicka 1995: 181). They want to and do assimilate – 'assimilation [being] the cardinal sin against the ideal of authenticity' (Taylor 1994: 38). Their 'thin' cultures aren't necessary for providing meaningful context to choices. Individuals belonging to ethnic groups can exercise personal autonomy, i.e., make choices, within the dominant cultural context. Therefore immigrants can't get away with illiberal practices in Kymlicka's scheme. Indeed the liberal state is legitimate in 'compel[ling] respect for liberal principles' from immigrant ethnic groups (Kymlicka 1995: 170). At the end of the day, Kymlicka ends up with 'authentic', preservable cultures (national minorities) and 'thin' cultures not necessary for liberalism to preserve (ethnic groups). This conclusion, however, is based on exclusion, as suggested above. Authentic cultures are perceived to be illiberal cultures, formed outside and independent of liberalism. In contrast, thin cultures are perceived to be assimilable, and hence more likely to be liberal.

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<sup>10</sup> Taylor (1994) comments on similar liberal assumptions about the authenticity of the individual. An authentic individual, critiques Taylor, today at least defines herself dialogically. There is no pristine authenticity anymore. Unfortunately, Taylor only briefly notes the analogy between authenticity at the individual level and authenticity at the cultural level (1994: 31). See Seglow (1998) for a more extensive discussion of individual versus cultural authenticity. Cosmopolitans such as Waldron (1995) explicitly reject the reality of cultural authenticity. But Waldron uses this rejection to attack the communitarian dimension of Kymlicka's argument rather than the liberal dimension. Waldron is concerned to show that individuals don't need just one cultural framework, and ignores the issue of 'accommodation of nonliberal minorities [which] represents such a conundrum for Kymlicka' (Levey 1997: 231).

## HIMALAYAN EXCLUSIONS

Above I argued that in Kymlicka's view, autonomy for national minorities is linked to and dependent on cultural 'authenticity', a 'condition', Kymlicka implies, existing 'outside' of liberalism. If the Kymlickian liberal state justifies self-government on the basis of cultural exclusion, what does this imply for the Indian liberal state in terms of its accommodation of cultural minorities? Is the liberal narrative of exclusion, a narrative that Kymlicka doesn't acknowledge but to which he nevertheless contributes, transnational?

Kymlicka implies that national minorities with 'thick' cultures want to be excluded: '[d]emands for self-government [...] reflect a desire to weaken the bonds with the larger political community, and indeed question its very authority and permanence' (Kymlicka 1995: 181). They claim an 'inherent' and 'permanent' right to self-government (Kymlicka 1995: 30). Self-government rights are desired by national minorities, but not desired by ethnic groups (Kymlicka 1995: 10, 97-98). As we saw above, Kymlicka worries that these national minorities may not be liberal. We also noted how Kymlicka regards self-government as a liberal institution that guarantees autonomy. So, according to Kymlicka's logic, illiberal groups naturally/inherently demand a liberal institution that will guarantee their autonomy so that the source of their illiberalism, i.e., their authentic culture, can survive.

In the Indian Himalayas, an inverted logic seems to be the *modus operandi*: by identifying cultures as authentic and culturally distinctive, the liberal state can declare them illiberal and hence candidates for exclusion. Concomitant to this exclusion, however, is the granting of (nominal) self-government. In Darjeeling, the 'Gorkhalis' demand inclusion only to be granted self-government which justifies their exclusion. The liberal state contends they need to be excluded because of their illiberal practices and the distinctiveness/authenticity of their culture. The state then backs up its contentions with its presentation of evidence. Hence, when the GNLF leader, Subash Ghising, spouts off admiration for Hitler, as he has done in the not-too-distant past, the West Bengal government frets about the problem of these minority types being illiberal and speculates about the need to rein them in – justifying the state government's intransigence in devolving power to the Darjeeling Gorkha Hill Council (DGHC). And, in the Naga case as we saw above, the illiberal head-hunting appeared to be the cultural practice that preoccupied the liberal Constituent Assembly. But how do we know that Naga head-hunting wasn't a response to the imposition of the colonial and post-colonial liberal state and its institutions?

The Indian liberal state goes to great lengths to establish the cultural distinctiveness of the areas granted self-government. In the case of Darjeeling, the West Bengal government emphasized the cultural distinctiveness/authenticity of the area in justifying (nominal) self-government: '[W]hile it is true that the constitutional provision [Sixth Schedule] presently applies only to tribal areas, this is precisely why an amendment [...] is being sought, in some specific situations, to

make it applicable to non-tribal areas with such culturally distinct minorities living in compact areas' (Government of West Bengal 1986: 26; emphasis added). Similarly, in Uttarakhand, the portrayal of cultural distinctiveness went so far as to claim that upper-caste Hindus were tribals in a government report (Mawdsley 1997b: 2229)!

Why should the liberal state grant self-governance to minorities? In my re-interpretation of Kymlicka's liberal logic, the liberal state grants self-government to national minorities because this establishes borders, and borders exclude. Authentic, geographically concentrated cultures can be physically and culturally marked off by liberal borders. Both abstract and concrete markers of inclusion and exclusion are the hallmarks of the liberal state:

Think of liberalism as a certain way of drawing the map of the social and political world. The [...] preliberal map showed a largely undifferentiated land mass, with rivers and mountains, cities and towns, but no borders. [...] Society was conceived as an organic and integrated whole. [...] Confronting this world, liberal theorists preached and practiced the art of separation. They drew lines, marked off different realms, and created the socio-political map with which we are still familiar. [...] Liberalism is a world of walls [...] (Walzer 1984: 315).

Kymlicka's approach does indeed 'draw clear lines' in the 'muddy waters' of the Himalayas, but only after revealing his unenunciated premises of exclusion.

Chantal Mouffe (1996) has argued that these exclusions are necessary for liberalism. It is the exclusions, the 'constitutive outside', that define liberalism. Liberalism is theoretically consistent, but its theory is not the one explicated by its theoreticians and practitioners. Rather its consistency and its power are visible through its own unacknowledged exclusions.

These exclusions, the 'constitutive outside', of liberalism are apparent in the Indian context. The Indian liberal democratic state grants self-government to certain groups by allowing these groups to establish autonomous councils. The location of autonomous councils and the designation of which groups are afforded councils by the state reveal the liberal state's exclusions. These liberal exclusions, as outlined above, are premised on projecting authenticity onto assumed isolated, insulated cultures, and establishing borders in order to overcome the 'cartographic anxiety' (Krishna 1996) of the liberal nation-state.

Alternatively, we might then characterize self-government in the form of autonomous councils not as an accommodation to a national minority based on recognizing its inherent rights,<sup>11</sup> but as a liberal projection that legitimizes the liberal core (i.e., the liberal democratic state) by demarcating the periphery

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<sup>11</sup> Martha Minow deftly argues that demanding a 'right' acknowledges and legitimizes liberalism rather than challenging it. Although this is quite apparent with special representation and polyethnic rights, Minow implies that this applies even to self-government demands (1995: 358-59).

culturally in terms of projecting authenticity, theoretically by projecting illiberalism, and institutionally by granting self-government.

At the end of the day (or rather at the end of this paper), we can conclude that Kymlicka's theory helps us understand India's liberal multiculturalism, but not in the way that Kymlicka intended. Liberalism can accommodate multiculturalism, but not because of any transnational or trans-cultural, i.e., universal, premises inherent in liberal theory. Indian liberalism accommodates multiculturalism in the Himalayas through exclusion. In the process of excluding, the definition of who is included is negotiated (e.g., in the Constituent Assembly) and renegotiated (e.g., in the politics of extending the Sixth Schedule to new areas). The result is what Mitra (2001) calls 'fuzzy multiculturalism' or what I have referred to elsewhere as India's capacity to 'muddle through' (Sonntag, 2003).

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