Culturally Responsive Policies

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Around the world, ethnocultural minorities are demanding greater recognition and accommodation of their cultural practices and identities. Examples include demands for the recognition of customary law for indigenous peoples; demands for language rights by substate national groups; demands for the accommodation of cultural and religious practices by immigrant groups; and so on. The details of these various policies will be discussed below, but in general terms they can all be said to reflect a demand that ethnocultural diversity be respected and accommodated, rather than suppressed or ignored, by the state.

This is an important trend that is reshaping political life around the world. These demands for more culturally inclusive policies are not just being asserted, but also, in many cases, being accepted and implemented, at least in part. We are witnessing the emergence of genuinely new models of "multicultural" states.

Yet this is a controversial trend, and remains a very uneven process, both across different states and within states for different groups. My goal in this paper is to explore some of these new models of accommodating ethnocultural diversity through culturally inclusive policies, including the role of language policies and legal pluralism; and to discuss some of the limits to these models, and some of the obstacles to further progress in this area. First, however, I need to say something about the very idea of "cultural exclusion/inclusion", how it differs from other forms of exclusion/inclusion, and how it relates to the broader themes of the HDR.

1. Understanding Claims for Cultural Inclusion

Ethnocultural minorities in the modern world have typically faced multiple forms of disadvantage and exclusion. Cultural exclusion is not the only form of exclusion they face, and is often not the most important or visible. For example, groups may face *political* exclusion: e.g., they may be denied access to citizenship, or the right to vote, or the right to run for political office, or they may be prevented from having access to public media to present their views. Groups may also face state-sponsored *economic* exclusion: for example, they may be denied the right to own land, or to engage in certain professions, or they may be denied access to public-sector employment.

These forms of political and economic exclusion are sometimes the result of explicit laws, but may also be the result of informal conventions. Even where no laws expressly forbid members of a particular group from applying for citizenship or public-sector employment, their applications may be routinely rejected simply because of their ethnicity or religion. And even when the state ceases to discriminate against ethnic minorities, there often remain high levels of discrimination in private sector employment.

The question of how to deal with the political and economic exclusion of ethnocultural minorities is being addressed in other background papers commissioned for HDR 2004. The challenges of ensuring political and economic inclusion are immense, in part because a history of exclusion cannot be undone overnight. Even when formal laws and informal practices that discriminate against minorities are removed, the members of these groups are still likely to be starting at a disadvantage in terms of the resources, skills and connections needed to participate on

equal terms in the political process and the economy.

My paper, however, is focused on a different but related issue: namely, the problem of *cultural* exclusion. There is no universally-accepted definition of "cultural exclusion", and as we shall see, it takes many different forms. But, as a starting-point, we can say that it occurs when the culture of a group, including its language, religion, or traditional customs or lifestyles, is denigrated or suppressed by the state. When this occurs, members of the group are likely to become alienated from the state. Policies of cultural inclusion, by contrast, refer to policies that give some form of public recognition, accommodation and support to these aspects of a minority's culture. When this occurs, minorities can see themselves reflected in the symbols and institutions of the state.

It should be noted that the problem of cultural exclusion is not limited to minorities. In some Latin American countries, for example, such as Guatemala or Bolivia, the majority of citizens are indigenous, yet the state has suppressed their languages, religions and customs in favour of the culture of the ladino/creole elite (Yashar 2004). In most countries around the world, however, it is minorities that are at risk of cultural exclusion.

Needless to say, cultural exclusion is often linked to economic and political exclusion. Indeed they are often rationalized by the same sorts of arguments. For example, the claim that a minority group has a "backward" culture is often invoked not only to suppress its culture, but also to deny political rights to its members, on the grounds that backward peoples are not capable of exercising democratic self-rule. Similarly, in cases where a minority shares the same ethnicity, language or religion with the rulers of a neighbouring rival state, charges of potential "disloyalty" are often invoked by the state not only to suppress the minority's culture, but also to restrict its political rights and economic power.

So it is common for political, economic and cultural exclusion to go together. However, they are distinct phenomenon. Cultural exclusion, while often overlapping with economic and political exclusion, requires its own analysis and remedies.

To oversimplify, we can say that in modern societies, there are two powerful hierarchies. First, there is an *economic/class* hierarchy. In the British case, for example, this starts at the top with the landed aristocracy, then the mercantile and industrial capitalist elite, then professionals, white-collar workers and skilled craftsmen, down to unskilled manual labourers and the unemployed. One's position in this economic hierarchy is determined by one's relationship to the market or to the means of production. Struggles against the inequalities inherent in this economic hierarchy generate what Nancy Fraser calls a "politics of redistribution". This is the traditional form of working-class mobilization, which focuses on socioeconomic injustices rooted in the economic structure of society, including exploitation (having the fruits of one's labour appropriated by others), economic marginalization (being confined to undesirable work or excluded from the labour market entirely), and economic deprivation (lacking an adequate material standard of living). The remedy for this economic hierarchy is economic restructuring, such as income redistribution, reorganizing the division of labour, or regulating investment decisions.

The second hierarchy is a *cultural/status* hierarchy. In the British case, this hierarchy asserts that it is better to be English than Irish; better to be Protestant than Catholic (and better to be a Christian of either sort than Jewish or Muslim); and better to be white than black or brown or yellow. (And, looking beyond the case of ethnocultural groups, it is better to be male than female; better to be heterosexual than homosexual; and better to be able-bodied than disabled). This status hierarchy is reflected in a history of discriminatory laws against lower-status groups, and in their ongoing invisibility or stereotyping in the media, schools, police, courts, museums or state symbols.

All of these public institutions have a history of either discriminating against, or simply ignoring, lower-status groups, and this typically reflects, and reinforces, prejudice and discrimination in the larger society, including civil associations and the private economy.

Struggles against the inequalities inherent in this cultural/status hierarchy involve what Fraser calls a "politics of recognition", of which contemporary ethnic politics is one prominent example (alongside social movements for gender equality, gay rights, and the rights of disabled people). According to Fraser, the politics of recognition focuses on cultural injustices, including cultural domination (being subject to patterns of interpretation associated with another culture); nonrecognition (being rendered invisible in the authoritative communicative practices of one's society); and disrespect (being disparaged in stereotypic public cultural representations or in everyday life interactions). The remedy to these cultural exclusions involves revaluing and reasserting the cultural identities and cultural products of maligned groups in public space.

So we have two distinct hierarchies, generating two different sorts of political movements.[1] As I noted earlier, some groups find themselves at or near the bottom of both hierarchies, and so face both economic exclusion and cultural exclusion. Indeed, many people have supposed that the second hierarchy is purely secondary and epiphenomenal. On this view, one's place in the economic hierarchy determines one's place in the status hierarchy - a group becomes culturally stigmatized only if and because it is economically disadvantaged. If we eliminated economic inequalities, cultural inequalities would automatically fade away. Hence the traditional Marxist view that all of our effort should be devoted to the politics of redistribution. Attempting to tackle cultural stigmatization without challenging the underlying economic inequalities is said to be futile and pointless.

However, the evidence suggests that the status hierarchy is not reducible to the economic hierarchy. To be sure, some groups, like African-Americans and indigenous peoples in Latin America, are both disproportionately concentrated in vulnerable economic positions, and also subject to demeaning or silencing cultural representations. But there are other groups that occupy quite different locations on the two hierarchies.

For example, there are some groups that are economically privileged but culturally (and politically) marginalized. A striking example is the Chinese minority in southeast Asia, such as in Indonesia, Malaysia, Philippines or Thailand. In these countries, the Chinese minority forms a small percentage of the population, yet often owns a large part - perhaps even the dominant part - of the economy. In Indonesia, for example, the Chinese minority forms around 3% of the population, but is estimated to control 70% of the private economy. Yet, despite their economic privileges, they have faced serious cultural exclusions. Until recently, Chinese-language education was restricted; and it was forbidden to publish in Chinese, or to put Chinese characters on shop signs. In Thailand, the Chinese were pressured to adopt Thai surnames. More generally, Chinese groups in the region are often still defined as "foreigners" who do not really belong, even if they have been living in the country for generations; they are invisible in the public sphere, and excluded from state symbols and national narratives.[2]

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[1] For a more detailed discussion of the distinction between a politics of recognition and a politics of redistribution, see Fraser 1995, 1998, 2000.

[2] In the Indonesian case, for example, the Chinese are invisible in the authoritative state representations of national history at the main independence monument (Monas) or at the "Taman Mini" complex that illustrates the cultures of the country. For a general overview of the status of

This is just one example of a more general phenomenon that is sometimes described as "pariah traders" (Riggs 1994), or, more neutrally, as "market-dominant minorities" (Chua 2003). Groups like the Jews in early modern Europe, or the Lebanese today in West Africa, have a dominant role in trade (though typically not in manufacture or agriculture), yet they are defined as cultural outsiders whose language, culture and religion are systematically excluded from public space. So economic privilege can go hand-in-hand with cultural exclusion.

The case of economically privileged but culturally stigmatized traders may seem like a peculiarity of the "crony capitalism" found in authoritarian regimes. But there are many cases within the established Western democracies of groups that are culturally stigmatized without suffering economic exclusion. A non-ethnic example is that of gays and lesbians in most Western democracies, who enjoy similar per-capita levels of income or education as heterosexuals, but are victims of homophobia. Some well-established immigrant or religious groups, like Arab-Americans, enjoy higher-than-average levels of education and income, but are culturally marginalized or stigmatized. They are typically invisible in public space, except when presented in the media or Hollywood as terrorists or religious fundamentalists.

Or consider substate nationalist minorities like the Catalans or Québécois. They enjoy the same standard of living as the majority, and in some cases actually a higher than average income. Moreover, their right to participate as individuals in the political process is well-protected, and indeed they are represented in proportion to their population in the national legislation. Yet they have suffered from cultural exclusion: their language and culture has been stigmatized as inferior by the majority. These groups resent the way their language and traditions have been marginalized by the central government, and have mobilized for regional autonomy (or even independence).[3]

So there are cases where minority groups have a comparable or even privileged standard of living, and are not excluded from the political process, yet remain strongly mobilized to fight what they view as cultural exclusion. For all of these groups, achieving economic equality and political rights has not eliminated the cultural/status inequality (although it has helped reduce it), and hence has not eliminated the need to mobilize for a politics of recognition.[4]

This potential for cultural exclusion to endure despite the diminishing of economic and political exclusion helps to explain the surprising strength of movements for cultural rights in consolidated Western democracies with strong anti-discrimination provisions and a developed

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Chinese in southeast Asia, see Ho 2000.

[3] For a refutation of the common view that these movements are a reaction to economic underdevelopment, see Connor 1993.

[4] Conversely, there are groups that enjoy a privileged position in the status hierarchy, yet are economically disadvantaged. This is arguably the case of the traditional native-born male working class in most Western countries. While the working class suffers from an unjust economic hierarchy, they often benefit from the status hierarchy. Most working class men in Britain could gain satisfaction from the thought that their English language, male gender, white skin, Christian religion and heterosexual orientation were defined as the norm, giving them a superior status to women, blacks, Jews or gays. And indeed many (white, male, Christian, heterosexual) members of the working class have resisted attempts by women, gays, religious minorities or immigrants to challenge the status hierarchy. As economically disadvantaged members of a high-status group, the traditional working class had an interest in challenging the economic hierarchy, but a self-interest in preserving many aspects of the status hierarchy.

welfare state. Democracy and economic prosperity is no guarantee of cultural inclusion. Indeed, the link between democratization and cultural inclusion is a complicated one. Since democracy is often understood as "majority rule", democratic consolidation can generate populist pressures on the state to impose the majority language, religion and customs on minority groups, particularly if the minority is seen as having enjoyed some unfair or undeserved privilege under the previous undemocratic or colonial regime. The first stages of democratization are therefore often risky for minorities, who see their supposed "privileges" under assault from newly-empowered masses in the majority group (Snyder 2000; Chua 2003).[5] For this reason, some commentators question whether in fact liberal-democracy is the best system for minorities in some parts of the world, like East Asia (Bell 2003). On this view, authoritarian regimes (or "illiberal democracies") are best able to resist populist pressures to exclude minorities that are seen as foreign, disloyal, or backward.

This is a dubious claim. Evidence from the mammoth "Minorities at Risk" project, tracking the fate of 275 politically active ethnic minorities, shows conclusively that over the long-term, democratic systems have provided the best protection for minorities at risk (Gurr 2000). But as that study also notes, this is because of a (fairly recent) trend within democratic states to take issues of cultural exclusion seriously, and to address them through culturally inclusive policies, rather than assuming that cultural exclusion is simply a by-product of political or economic exclusion that will disappear with democracy and economic growth.

So it is a mistake to suppose that cultural exclusion is reducible to economic or political exclusion. These various forms of exclusion often overlap and reinforce each other, but not always. And even in cases where these different forms of exclusion do overlap, it is a mistake to suppose that economic or political exclusion is necessarily the most resented or resisted. Intense conflict and even violence along ethnic and religious lines often emerges when it is a minority's religion or culture that is attacked (eg., burning churches or mosques; inflammatory articles attacking particular customs; restricting language rights). Issues of cultural exclusion often serve as the "trigger" that ignites ethnic conflict, although these conflicts then quickly expand to focus on other forms of exclusion as well.

2. Cultural Exclusion and Human Development

So cultural exclusion is a distinct phenomenon. But how is it related to issues of human development? It is generally accepted that economic and political exclusion are barriers to human development, but can the same be said about cultural exclusion? Does human development require recognizing or accommodating cultural diversity? Or can cultural diversity itself be an obstacle to human development? For example, when the British colonized India, their policies excluding Indians from various economic positions and political offices were clearly unjust barriers to human development, but was it wrong to ban the cultural practice of sati? Is it wrong for countries in Africa today to ban clitoridectomies? It is difficult to see how respecting these cultural practices can be said to promote human development. On the contrary, they violate the basic premises of the human development approach, and indeed violate the most basic of universal human rights. Providing state protection or support to such practices would undermine, rather than extend, the goals of human development.

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[5] As Snyder (2000) emphasizes, this sort of populist attack on minorities is often instigated and coordinated by elites for their own self-interested reasons, rather than being the spontaneous expression of popular attitudes amongst the masses.

More generally, the very process of human development is inherently culture-transforming. For example, when an oral culture acquires literacy, this dramatically changes its traditional conceptions of history, knowledge, and law (Levy 2003). When the average life-expectancy in a group increases from 45 to 65, this changes traditional patterns of family relationships and inter-generational bonds. When more efficient technology is introduced into production, this changes the traditional division of labour, and also perhaps leisure patterns. The spread of education, travel and trade exposes people to new cultural ideas and products, generating new forms of religious syncretism and cultural hybridity.

Some aspects of these cultural transformations are likely to be regretted, even if they are acknowledged to be the unavoidable consequence of the generally beneficial process of human development. But other aspects of cultural transformation are surely to be welcomed, as they expand the opportunities for a rich and varied cultural life. The process of cultural change is often enriching, not a loss, and human development is worth pursuing in part because of its culture-enriching tendencies.

All of this raises difficult questions about what we mean by "cultural inclusion". When we say that states should adopt culturally inclusive policies, what exactly is the "culture" that ought to be included? If we say (as the UN's International Covenant on Civil and Political Rights does) that minorities have a "right" to "enjoy their own culture", what is the content of the culture that minorities have a right to enjoy (and how is that right to be enforced?).[6] How can we reconcile policies of cultural inclusion with the reality that human development is inevitably culture-transforming?

These questions are particularly difficult if we make the mistake of equating "culture" with "tradition", and hence of equating "cultural inclusion" with "cultural preservation" or with the maintenance of "traditional ways of life". This approach is surprisingly common, and surfaces in a wide variety of forms. One familiar form argues that while some degree of cultural change is inevitable, there are certain practices that are vital to the "authenticity" or "integrity" of a culture, and which must therefore be protected from change. These "authentic" practices are said to be essential to the identity of the group, and hence to the identity of its individual members. This link between culture and identity is thought to be particularly strong if the cultural practice is "traditional" - that is, deeply-rooted in a people's history, and not just the result of recent adaptations or outside influences. On this view, cultural rights and policies of cultural inclusion are presented as primarily or exclusively intended to protect such "authentic" cultural practices from pressures to change.

On this view, cultural claims are defended in terms of a complex set of ideas relating to cultural authenticity and group identity. "Culture" is typically interpreted in terms of (or reduced to) a set of discrete practices, preferably "traditional" and "authentic" practices. These practices are then said to be essential to the group's identity, and hence to the identity of individual members, and so must be accommodated by a right to culture.

This is a version of what Sen, in his conceptual framework paper, calls the "communitarian" or "conservative" approach to cultural diversity. As Sen argues, this approach is at odds with the basic premises of the human development framework. In fact, there are multiple objections to this

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[6] Article 27 of the ICCPR states: "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language".

traditionalist view of cultural rights:

(a) the cultural practices for which state recognition is being sought are rarely "timeless" or "authentic". Studies repeatedly show that so-called traditional practices are fairly recent, often themselves the product of earlier cultural interchanges, and sometimes even "invented" by elites to legitimize their position.[7] So ideas of "cultural authenticity" or "cultural purity" are often anthropologically naive. They are also politically dangerous. They imply that there is something abnormal and regrettable about cultural evolution and cross-cultural influence, when in fact such changes and influences are normal, inevitable, and essential to the process of human development. It is cultural hybridity, not cultural purity, which is the normal state of human affairs, and fantasies of cultural purity can only be maintained by artificially cutting off groups from interaction with the larger world, and by instilling xenophobic fear of others (Waldron 1995; Cowan et al 2001).[8]

(b) the claim that certain practices are "authentic" to a group, or essential to its identity, is rarely a neutral statement of an objective fact. It is rather a matter of political contestation *within the group itself.* It is often conservative elites within the group who claim the authority to judge what is "authentic" and "traditional", and they do so precisely to suppress demands for change from reformers within the group. Practices that historically may have been variable, evolving, contested and optional are declared by conservative elites to be "sacred", a matter of religious or cultural "obligation", and essential to group membership. To interpret a right to culture as protecting traditional or authentic practices has the effect of rewarding such conservative elites: it gives power to those who can claim to be the guardians of ancient traditions, while implying that those people who wish to challenge these traditions are not "true" or "proper" members of the group (Parekh 2000). In this sense, the conservative interpretation of a "right to culture" is more accurately described as a "duty to maintain one's culture", whether one wants to maintain it or not.

(c) the idea that there is a right to live by one's cultural traditions has been interpreted by some - most famously, by the American Anthropology Association - to preclude the very idea of universal human rights. According to the AAA's statement to the United Nations in 1947, people's identities and personalities are realised through their cultures, and so everyone has the right to live by their own traditions, which means that the very idea of judging local cultures by universal standards of human rights is unsound (AAA 1947). More recently, anthropologists have backed away from this extreme relativist view, and have attempted to reconcile support for a right to cultural preservation with support for universal human rights.[9] Anthropologists today are more likely to accept the possibility that some cultural traditions are oppressive, and that universal human rights can help to prevent this oppression. So we now find people talking about "balancing" human rights and the right

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[7] The literature on the invention of tradition is huge. For the locus classicus, see Hobsbawm and Ranger 1983.

[8] A related mistake is to view our identities as citizens of larger societies as somehow "inauthentic" and "artificial", as compared to the "true" identity tied up with membership in particular ethnic or religious groups. In reality, wider pan-ethnic civic identities are just as normal and natural - just as common in history - as more particularistic ethnic or religious identities.

[9] For the evolving and tortured relationship between anthropologists and human rights, see Freeman 2002; Cowan et al 2001; Wilson 1997.

to cultural preservation. But this still is a potentially dangerous position if it implies that human rights protection should be sacrificed or compromised (albeit "not too much") in order to accommodate practices that violate those standards. It would be more plausible, I think, to say that people have a right to maintain their cultural practices only if those practices are themselves consistent with human rights standards. But that idea, while not unattractive, is difficult to reconcile with the idea that a right to culture is about protecting "traditional" practices. Traditional cultural practices in most societies (certainly in most Western societies) have often involved elements that violate contemporary human rights standards. If cultural practices must go through a human rights filter to warrant protection, it is likely to be modified or reformed versions of these practices that pass muster. Talking about a right to cultural preservation can obscure or deny this prior responsibility to amend practices to conform with universal human rights.

In short, the tendency to equate culture with tradition (and hence to interpret a "right to culture" as a right to cultural preservation) raises several potential dangers: [10] it may inhibit constructive relations between cultures (by privileging cultural purity over cultural hybridity); it may erode the freedom of individuals within groups (by privileging authoritarian or conservative elites over internal reformers); it can be invoked to deny the existence of universal human rights; and it may threaten the space for civil debate and democratic negotiation over cultural conflicts.

Given these dangers, some critics have dismissed the whole idea of "cultural rights" (and associated ideas of "multiculturalism", "identity politics", or "the politics of recognition") as sociologically naive, historically inaccurate, illiberal, and undemocratic. Hence we hear pleas to reject "the tyranny of culture" (Booth 1999), and to get "beyond rights talk and culture talk" (Mamdami 2000). Some critics argue that the very idea of a right to culture is inherently in tension with ideals of human freedom, and of universal human rights (eg., Barry 2001).

Critics who make these pleas do not necessarily deny the importance of culture and identity to people's well-being. On the contrary, this is often how they defend the importance of traditional civil rights. Freedom of speech, association, worship and conscience are valuable precisely because they enable people to freely pursue their cultural practices in association with other members of their group. What they deny is that there is a "right to culture" over and above these traditional civil liberties. Where these traditional civil liberties are respected, so that people can freely join with other like-minded people to pursue their cultural practices, there are no further "cultural rights" that provide a legitimate basis for claims to public resources, political powers or legal exemptions that would make it easier to maintain cultural traditions.

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[10] A further difficulty arises when the link between "tradition" and "identity" is invoked as a "trump" to avoid democratic debate. To say that a particular cultural practice is part of my "identity" is often a way of inviting others to consider and debate its value and significance. But in some contexts, this claim is invoked as a way of foreclosing that debate, by implying that any questioning of that practice will be interpreted as a sign of disrespect for me as a person. Where identity claims are presented in this way as non-negotiable "trumps", the result is to erode the potential for democratic dialogue. In multiethnic states where there are diverse and sometimes competing cultural traditions, we need to find a way to talk civilly about our practices, to discuss their benefits and costs, and to think about fair and honourable compromises where these practices conflict. For an eloquent statement of this concern, see Waldron 2000.

This, of course, is the classical liberal view of culture - ie., as something to be pursued through the exercise of civil liberties in private life and civil associations.[11] This is sometimes also called the strategy of "privatization" (Barry 2001). This model has the virtue of protecting the capacity of individuals to act upon their cultural identities, in free association with others, without the dangers discussed above - ie., without privileging cultural purity over cultural hybridity, or privileging traditional elites over reformers, or jeopardizing the idea of universal human rights, or eroding space for democratic dialogue. It gives people the (civil) rights they need to act upon their cultural beliefs, without running the risks associated with the idea of a separate and free-floating "right to culture".

This debate between conservative defenders of cultural preservation and classical liberal defenders of the strategy of privatization is a familiar and long-standing one. The former interpret the right to culture as the right to maintain and protect authentic cultural traditions, even at the expense of the civil liberties of group members; the latter argue that there are no cultural rights over and above the non-discriminatory protection of traditional civil liberties.

However, I believe that this familiar debate between classical liberals and cultural conservatives rests on a misinterpretation of minority claims for cultural inclusion. In fact, the two contending positions - cultural preservation on the one hand, and privatization on the other - are both misleading, and obscure more than they reveal about the true nature of minority claims.

There is a third way of thinking about cultural inclusion, which is sometimes labelled as "liberal culturalism", to distinguish it from both cultural conservatism and classical liberalism.[12] This third approach has two main components: first, a re-interpretation of what we mean by "culture", which challenges the conservative equation of culture with tradition; and second, a re-interpretation of cultural inclusion, which challenges the classical liberal strategy of privatization. Let me briefly describe these two components.

First, according to liberal culturalists, "culture" should be seen not as a fixed set of inherited traditions that dictates our behaviour, but rather as an environment that provides us with a range of choices, and also with the evaluative criteria needed to make sense of these choices. Culture, on this view, is a "context of choice": it provides us with the "familiar, understandable and predictable environment" needed for rational decision-making and for the development of personal autonomy (Tamir 1993: 84). Individuals have the capacity (and the right) to critically reflect on inherited lifestyles and traditional practices, but their capacity to do so is dependent on the presence of a cultural context that makes sense of these choices (Tamir 1993: 22). As Tamir puts it, "no individual can be context-free, but all can be free within a context" (Tamir 1993: 14).

The "right to culture", on this view, is not a right to protect and enforce traditional practices,

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[11] For a recent restatement of this view, see Kukathas 2003.

[12] For statements of this position, see Tamir 1993; Raz 1994; Kymlicka 1995; Carens 2000; Spinner 1994. In the political theory literature today, we can find many different attempts to develop a "third option" between cultural conservatism and classical liberalism, each with its own account of the appropriate goals of cultural inclusion, and hence different models of multiculturalism. Some suggest that the aim of multiculturalism should be to create the conditions for a Habermasian ethic of inter-cultural dialogue (Benhabib 2002); others argue that multiculturalism should be founded on the idea of a "right to culture" (Margalit and Halbertal 1994); others argue that multiculturalism should be premised on the Shklarian idea of the avoidance of cruelty (Levy 2000b); or on the need of individuals for the recognition of their identities (Taylor 1992).

but rather is the right to sustain a meaningful context of choice for group members.[13] This desire is not rooted in sociological fantasies about preserving ethnic purity or cultural authenticity. It accepts that cultural change and cultural hybridity are normal processes, the inevitable result of the free choice of individuals reflecting on the value of inherited practices, and of alternative ways of life they are exposed to. It accepts that new lifestyles will emerge, while old practices will die out or be reformed in various ways. It simply argues that certain positive cultural rights or culturally inclusive policies - including language rights and legal reforms - may be needed to sustain this cultural context.

I believe it is this conception of culture - as an evolving context of choice - that underlies most (but not all) contemporary demands for cultural rights. (Indeed, as I will try to show below, this is true even in cases where groups, for strategic reasons, invoke the rhetoric of protecting timeless traditions or authentic practices). As such, I think these demands are broadly consistent with Sen's claim that the goal of cultural inclusion should be *cultural freedom* - that is, cultural practices are worthy of respect (within a human development framework) only if people freely choose to maintain them, and only if they do not restrict the freedom of others.

What is more controversial, perhaps, is why cultural freedom, so understood, requires anything more than standard civil rights of association, speech and worship. Why is the classical liberal strategy of privatization not sufficient to ensure that minorities can sustain an evolving context of choice for their members? Why are specific cultural rights or policies of cultural inclusion required?

This leads to the second component of the liberal culturalism approach: namely, a particular account of the role of the modern state in creating cultural exclusion. The problem, according to liberal culturalists, is that the modern state cannot consistently follow the strategy of privatization. It is inevitably involved in directing the processes of cultural change and cultural adaptation. Indeed, it has seized control over these processes, and done so in a way that systematically favours some groups while burdening others.

More specifically, modern states have historically suppressed ethnocultural diversity in the name of unitary *nationhood*, in order to construct unified nation-states.[14] It is these "nation-building" policies that threaten the capacity of various minority groups to sustain a cultural context for their members. And so minority claims for cultural inclusion are, at least in part, a defensive response to the cultural biases and exclusions that are part and parcel of modern state policies of nation-building.

The claim that state nation-building policies are the cause of cultural exclusion is amply demonstrated, I believe, in the other background papers prepared for the 2004 HDR report as well as in the literature generally, no matter which region of the world we are considering. These nation-building policies were first adopted in the West (Tilly 1975), but have become the norm in post-independence Africa (Prah 2004) and Asia (Pfaff-Czarnecka 1999), as well as post-Communist Eastern Europe (Brubaker 1996). In all of these contexts, they have resulted in the cultural exclusion

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[13] For a clear statement of this conception of the "right to culture", see Tamir 1993. For an example of someone who defends a conservative interpretation of the right to culture as cultural preservation, see Margalit and Halbertal 1994. For an example that seems (to me) to be ambiguous between these two conceptions, see Anaya's account of the right to cultural integrity (Anaya 1996). For further discussions of the idea of a right to culture, see also Benhabib 2002; Markell 2003.

[14] For classic accounts of this process, see Gellner 1983; Anderson 1983; Tilly 1975.

of minorities, and often also in their economic and political exclusion.

The precise character of these nation-building policies varies from country to country, and region to region. In most Western countries, there has been a single dominant ethnonational group, forming a clear majority of the population (eg., the Greeks in Greece; the Castilians in Spain, etc.), and nation-building policies have been used to impose this dominant group's language and culture on the rest of the population. Some of the policies adopted to achieve this goal include:

- the adoption of official language laws, which define the dominant group's language as the only official "national" language, and which require this to be the only language used in the bureaucracy, courts, public services, the army, higher education, etc.;

- the construction of a nationalized system of compulsory education promoting a standardized curriculum, focused on teaching the dominant group's language/literature/history (which are now defined as the "national" language and literature and history);

- the centralization of political power, eliminating pre-existing forms of local sovereignty/autonomy enjoyed historically by minority groups, so that all important decisions are made in a forum where the dominant group forms a majority;

- the diffusing of the dominant group's language and culture through national cultural institutions, including national public media and public museums;

- the adoption of state symbols celebrating the dominant group's history, heroes and culture, reflected in such things as the choice of national holidays, or the naming of streets, buildings, mountains, and so on.

- the construction of a unified legal and judicial system, operating in the dominant groups' language and using its legal traditions, and the abolition of any pre-existing legal systems used by minority groups;

- the adoption of settlement policies, encouraging members of the dominant national group to settle in areas where minority groups historically resided, so as to swamp the minorities even in their historic homelands;

- the adoption of immigration policies that require knowledge of the "national" language/history as a condition of gaining citizenship, and that often give a preference to immigrants who share the same language, religion or culture as the dominant group;

- the seizure of lands, forests and fisheries which used to belong to minority groups and indigenous peoples, and declaring them as "national" resources, to be used for the benefit of the nation.

This is just a sample of the policies adopted in Western states: one could quickly expand the list. But the intended outcome of these policies is clear: to centralize all political and legal power in forums dominated by the majority group; to privilege that group's language and culture in all public institutions, which are then diffused throughout the territory of the state; and to make minority

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languages and cultures invisible in public space.

Similar policies have been adopted in most post-Communist countries (eg., Romania; Croatia), and in most post-colonial contexts where there is a numerically dominant ethnic group (eg., Malaysia; Thailand; Sri Lanka; Ethiopia; Sudan). The situation is somewhat different in those post-colonial states where no single group forms a numerical majority. In such cases, the former colonial language is often chosen as the official national language, and the colonial legal tradition forms the basis for the national legal system, to the exclusion of all indigenous languages and legal traditions. Yet even in these contexts, nation-building policies operate in a similar way to construct a homogenous national culture, reinforced by the centralization of power, the nationalization of the legal system and education system, the development of national media and national holidays, and so on.

It is difficult to exaggerate the pervasiveness of these nation-building policies. When states periodically engage in particularly virulent or intrusive forms of nation-building, there is often some international publicity and protest. But the more everyday forms of nation-building – what Billig calls "banal nationalism", in which public institutions and public space are imprinted with a particular national identity – often goes unnoticed or unremarked upon (Billig 1995). Nation-building policies have become such a pervasive feature of modern life that most people scarcely even notice them.

It is these nation-building policies that are the main cause of the cultural exclusion of minorities in the modern world, and that undermine the capacity of ethnocultural groups to sustain an evolving cultural context for their members. Indeed, minorities are typically the first target of these policies, since they are the greatest obstacle to the goal (or myth) of a unified nation-state, and hence most in need of "nationalization". As we will see below, these policies can also potentially create a wide range of political and economic exclusions for minorities.

The central task in designing culturally inclusive policies, therefore, is to think about how to limit, modify or supplement these nation-building policies, so as to lessen their potential for cultural, economic and political exclusion. There are various strategies available to mitigate or eliminate the risks of exclusion posed by state nation-building. I will describe some of these models of multiculturalism and culturally inclusive policies below. However, it is important to note that nation-building policies vary in two important ways – their intensity and their motivation - and these variations affect the sorts of risks they involve (and hence the sorts of remedies they require).

First, the intensity of nation-building policies varies. Nation-building has been much more virulent and oppressive in some times and places than others. For example, virtually all nation-building states have sought to disempower ethnic minorities by abolishing any pre-existing forms of minority autonomy.[15] However, some states take more radical steps to ensure the political exclusion of minorities by, for example, stripping them of citizenship, or gerrymandering boundaries so that minorities do not form a majority in any electoral districts, or adopting loyalty tests and language tests for voters or candidates. Similarly, while virtually all nation-building states have sought to exclude minority languages from public institutions, some states also restrict the use of minority

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[15] To my knowledge, Switzerland is the only exception in the Western democracies: it always accepted that the French- and Italian-speaking minorities would enjoy some form of autonomy through control of cantons in which they formed a local majority. All of the other Western democracies that today allow for some form of minority autonomy tried, at some point in the past, to suppress minority self-government in the pursuit of unitary nationhood.

languages in private associations, private schools or private (commercial) signs. While many nation-building states privilege the dominant group's religion in state symbols and the choice of public holidays, some states also prohibit the construction of minority churches/mosques or the importing of minority religious materials. While most nation-building states nationalize public space through the choice of toponyms, some go further in requiring people to "nationalize" their own surnames. While many nation-building states have engaged in settlement policies that encourage members of the dominant group to settle in the minority's historic territory (internal colonization), a few also attempt to forcibly move the minority outside of its traditional territory (resettlement), and perhaps even outside of the state entirely (ie., expulsion). And so on. Every nation-building policy can be implemented in a more or less coercive or discriminatory way.

Second, the range of motives underlying these nation-building policies varies significantly across times and places. There are a variety of distinct, and sometimes even contradictory, reasons why states engage in these policies. First, of course, there is the self-interest of the dominant group, whose language, history and culture becomes defined as "national", to be used and diffused in all public institutions. This process gives members of the dominant group an advantage in access to public institutions, helps to strengthen and diffuse their culture, increases their mobility (since they will find public institutions operating in their language and culture throughout the territory of the state), and enables them to assert claims on the natural resources within the traditional territories of minority groups. The dominant group may rationalize this self-interest by asserting that minority groups are backward or disloyal, and hence not worthy of respect and accommodation.

But it would be a mistake to suppose that this sort of ethnocentric self-interest or prejudice is the only reason for modern state nation-building. Nation-building policies are also intended to enhance the efficiency of state institutions. When all public institutions operate in a common language, and when all citizens are subject to a common legal code, it is easier for states to administer institutions and to govern citizens. As James Scott puts it, states are interested in the "legibility" of citizens: states like to be able to count their citizens, measure their property, assess their education, skills and health status, track their mobility, monitor their economic activity, and so on (Scott 1998). Nation-building policies assist in this, and so are typically supported by state bureaucracies. Diffusing a common language is also supposed to facilitate democracy, by enabling citizens to communicate with each other.

But there are deeper reasons for nation-building as well. In the modern world, virtually the only remaining basis for political legitimacy is the idea of popular sovereignty. To be seen as legitimate by their citizens, states must present themselves as embodying the will of "the people". The legitimacy of the state is enhanced, therefore, when citizens perceive themselves as a single "people", whose will is expressed and protected by a common state. Where minority groups see themselves as belonging to a distinct "nation" or "people", they are likely to question the legitimacy of the larger state's rule over them. Nation-building policies are intended to generate the sense that citizens belong together as a single nation, and that the state is the embodiment and defender of their common nationhood. Where this is successful, and citizens see the state as the defender of their nationhood, they will be more willing to cooperate with state initiatives, and indeed to make sacrifices for the state.

This sense of common nationhood is intended to create not only vertical legitimacy between citizens and the state, but also horizontal solidarity amongst citizens themselves. Where nation-building policies succeed in persuading citizens that they belong together as members of a common nation, they are more likely to make sacrifices for their co-nationals. Nation-building is intended to

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turn co-citizens, who merely share subjection to a common sovereign, into co-nationals, who share a common national identity, language and culture. Where co-citizens are also co-nationals, it is easier to persuade citizens to make sacrifices to help disadvantaged individuals or regions (Miller 1995). After all, these sacrifices are being made for "one of us", and thereby strengthen the nation as a whole. A sense of common nationhood is also supposed to strengthen feelings of trust, another requirement for a stable system of social redistribution. Diffusing a common education system operating in a common language can also be seen as promoting equality of opportunity, ensuring that isolated groups or regions are not at a disadvantage when competing for positions in higher education or the economy.

These perceptions of vertical legitimacy and horizontal solidarity are essential to the function of modern states, whether they are liberal or illiberal, democratic or authoritarian. As Margaret Canovan puts it, nationhood is like a "battery" which makes states run - the existence of a common national identity motivates and mobilizes citizens to act for common political goals - and these goals can be liberal or illiberal (Canovan 1996: 80). Liberal reformers invoke the battery of nationhood to mobilize citizens behind projects of democratization, economic development and social justice; illiberal authoritarians invoke nationhood to mobilize citizens behind attacks on alleged enemies of the nation, be they foreign countries or internal dissidents. This is why nation-building is just as common in authoritarian regimes as in democracies (eg., Spain under Franco, or Latin America under the military dictators). Authoritarian regimes also need a "battery" to help achieve public objectives in modern societies.

So there are complex motives underlying state nation-building – some respectable, some reprehensible - ranging from the self-interest of dominant ethnic groups, to pragmatic reasons of state efficiency, to beliefs about the necessary conditions of political legitimacy and civic solidarity, to strategic manipulation by authoritarian elites.

The two key varying dimensions of state nation-building – its intensity/intrusiveness and its underlying motivations – significantly affect the risks it poses for minorities (and hence the strategies needed to counter these risks).[16] When nation-building is primarily driven by the self-interest or ethnocentric prejudices of a dominant group, and takes a highly intrusive or coercive form, then the risk to minorities is highest. When nation-building is primarily driven by liberal reformers who seek to enhance the vertical legitimacy and horizontal solidarity of a democratic welfare state, and takes a less intrusive form, the risk is less. But in reality, there is almost always a complex mixture of motives behind any nation-building policy: sincere concern for civic solidarity and state functioning intermingles with ethnocentric interests and prejudices. Moreover, history

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[16] These differences in the intensity and motivation of state nation-building policies have led some scholars to distinguish two ideal types of state nationalism: liberal-democratic "civic" nationalism vs illiberal and authoritarian "ethnic" nationalisms (eg., Ignatieff 1993; Pfaff 1993). These categories are then said to reflect different regions or historical traditions: eg,. Western/civic nationalism vs Eastern/ethnic nationalism. Unfortunately, the reality is much more complex. Some of the most intrusive and coercive forms of nation-building have occurred in the West, often defended by self-proclaimed liberals, who viewed these harsh measures as necessary to create the conditions for a stable republican order. It would be more helpful to say that all cases of state nationalism contain both liberal and illiberal elements, which vary in strength over time, depending in part on the level of internal resistance and external threat. For more on this, see Kymlicka and Opalski 2001: 54-59.

shows that these risks are difficult to predict. Nation-building policies adopted by liberal reformers can be captured by illiberal and xenophobic authoritarian elites; banal forms of nation-building can quickly be ratcheted up into coercive and intrusive forms of nation-building. As a result, minorities typically demand culturally inclusive policies that will protect them, not just from current risks, but also from potential future risks if/when the underlying motives or techniques of nation-building change.

In any event, even the most liberal, and/or least intrusive, versions of state nation-building pose risks of exclusion to minorities. Whatever the motives and intensity of these nation-building policies, they put minorities in a difficult position. The initial effect of these nation-building policies, typically, is cultural exclusion – ie., the exclusion of minority languages and traditions from public space and public institutions. This is often the first effect, because the state wishes to make a visible statement that it is a nation-state, embodying the sovereignty of a single united people. This is often accompanied or followed by both political exclusion and economic exclusion. Politically, pre-existing forms of minority autonomy may be abolished, and various barriers set up to participation in national political process (eg., language/loyalty tests; gerrymandering boundaries). Economically, minorities may face discrimination when seeking entry to higher education or public service, but even if not, they will likely be a disadvantage in competing for positions in majority-language institutions. The state may also favour majority regions over minority regions in economic development plans. Also, the nation-state may claim the right to expropriate the lands, forests and other natural resources in the minority's homelands, which are now claimed to be "national resources". Or the state may nationalize minority-owned businesses.[17]

Yet as I discussed earlier, the link between cultural exclusion and political/economic exclusion is complex. Nation-building policies are not always driven primarily or exclusively by malevolent or xenophobic forces committed to the economic and political exclusion of minorities. While these policies do typically lead to the exclusion of a group's language and culture from public space, those members of the group who are able and willing (and permitted) to assimilate into the dominant society may well find opportunities for political participation and economic advancement. As I noted earlier, there are several examples of minority groups that continue to feel culturally excluded, yet are neither economically disadvantaged nor politically under-represented (in proportion to their percentage of the population). Indeed, in order to reduce resistance to these nation-building policies, some countries take active measures to enable individual members of minority groups to successfully assimilate into the larger society, and thereby avoid economic or political exclusion (eg., through firm anti-discrimination policies; or various affirmative action measures).

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[17] For an example of the tendency of nation-states to strip minorities of their traditional lands by declaring them as "national resources", see Sundar 2001, who cites the Government of India's 1952 Forest Policy, according to which "The accident of a village being situated close to a forest does not prejudice the right of a country as a whole to receive benefits of a national asset". As Sundar notes, while the village is assumed to be an accident, "the nation state was naturalized into a unified entity" (337). From the villagers' point of view, one could say that the accident that their village has been arbitrarily and involuntarily incorporated into a larger nation-state should not prejudice their right to maintain their traditional use-rights in the land. For examples of the nationalization of minority-owned businesses, see Chua 2003.

So the risks and opportunities entailed by state nation-building vary from country to country, and from group to group (and indeed from individual to individual). The challenge, therefore, is to design policies that will ameliorate these risks, in light of the aspirations and capacities of the people involved. Several such policies have recently been developed, some of them quite successful, which I will discuss in the next section, including new models of indigenous rights, national autonomy, and immigrant multiculturalism. As we shall see, all of these successful models require something more than the classical liberal's strategy of privatization. That strategy is simply unable to respond to the risks of exclusion posed by state nation-building policies. Moreover, I will also try to show that these successful models involve something more than, or other than, the cultural conservative's strategy of protecting "authentic" traditions. Instead, they seek to enhance the capacity of groups to sustain a meaningful context of choice for their members, including the choice of revising or abandoning certain traditional practices. As such, they reflect developments that are broadly consistent with the basic UNHDR framework.

3. New Models of Accommodating Cultural Diversity

There are many interesting developments regarding culturally inclusive policies around the world, each emerging from the specific circumstances of the individual countries. But while each country's policies are unique, we can also detect certain general *patterns* or *trends* of cultural inclusion, and it is these I will focus on this section. Different types of ethnocultural groups confront different risks and challenges from state nation-building, and as a result, we can detect different patterns of cultural inclusion and exclusion associated with each type of group.

There is no universally agreed-upon typology for categorizing ethnocultural groups. Many different terms are used, including "nations", "nationalities", "national minorities", "ethnic groups", "tribes", "diasporas", "migrants", to name just a few. For the purposes of this paper, I will follow one of the most influential, and I believe most useful, typologies, developed by Tedd Gurr in his mammoth "Minorities at Risk" project.

His typology begins with a basic distinction between "national" groups and "minority" groups: the former occupy a historic homeland which they once ruled, and aspire to regain self-government on that homeland; the latter do not claim to possess a homeland in their country of residence (although they may have left a homeland in another country), and do not seek territorial self-government, but rather seek greater status and opportunity within the larger society. To oversimplify, we can say that the former groups respond to state nation-building by demanding that the state recognize their nationhood, and thereby redefine the state as a multination state, rather than a nation-state. The latter groups, by contrast, do not necessarily reject the idea of a unified nation-state, but seek to redefine the nation in a more inclusive and pluralistic way. The former groups seek a multination state; the latter seek a more multicultural nation-state.

As Gurr notes, this distinction (like all such distinctions) is not without grey areas and complicated exceptions. Nonetheless, I agree with Gurr that it captures an important divide in the nature and aspirations of most ethnocultural groups today. However, these two categories – of "national" groups and "minority" groups – must themselves be further differentiated. Amongst "national" groups, for example, there is an important difference between what Gurr calls 'ethnonational" groups and "indigenous" groups. Both share the aspiration for self-government on their historic homeland, but they differ in other important respects. Similarly, amongst "minority" groups, there is an important difference between "ethnoclass" groups, formed either by voluntary

immigration or involuntary slavery, and "religious sects" emerging from religious schisms.

In what follows, I will describe some of the patterns of cultural inclusion and exclusion associated with these various types of ethnocultural groups. In each case, I will discuss how these types of groups have been affected by state nation-building, what sorts of exclusions they have suffered, what sorts of claims for inclusion they have made in response to this nation-building, and how these claims relate to ideas of cultural preservation and cultural context. I will start with the "national" groups, and then consider the "minority" groups.

3.1 "NATIONAL" GROUPS: As noted above, "national" groups in Gurr's typology are groups that formed complete and functioning societies on their historic homeland prior to being incorporated into a larger state. National groups can be further subdivided into two categories: "ethnonational groups" and "indigenous peoples":

a) Ethnonational groups are groups that had their own state or kingdom in the past, but now find themselves as a minority within a larger state. Their incorporation into a larger state may be due to a variety of factors. They may have been conquered or annexed by a larger state or empire in the past; ceded from one empire to another; or united with another kingdom through royal marriage. In a few cases, this incorporation arose from a more or less voluntary agreement between two or more national groups to form a mutually beneficial federation. However this incorporation originally occurred, these groups typically seek greater autonomy within the larger state, and if thwarted, threaten to secede.

In virtue of their history of self-government, and their aspiration to regain it, these groups typically describe themselves as "nations", invoke the idea of national self-determination, and support nationalist political parties. So they form examples of *minority nationalism.*

It is common to distinguish two different forms of minority nationalism, depending on whether the ethnonational group has a neighbouring "kin-state" in which its co-ethnics form a majority.[18] For example, the Hungarian ethnonational group in Romania has a kin-state (Hungary): it is therefore sometimes called a "trans-state" national group, since it is historically part of a larger nation that still rules in a neighbouring country, but from which it is now cut off. Trans-state national groups got caught on the wrong side of the border when international boundaries were being drawn. Other examples include the Albanians in Serbia, or the Malays in Thailand. By contrast, the Scottish ethnonational group in Britain does not have a kin-state; it is therefore sometimes called a "stateless nation". So too with the Catalans in Spain, the Québécois in Canada, the Kurds in Iraq, or the Achenese in Indonesia.

Both trans-state national minorities and stateless nations mobilize along nationalist lines for greater autonomy over their territory, and both may threaten to leave the state if that aspiration is not met. The main difference between the two is the nature of the exit option: stateless nations threaten to secede to form an independent state; trans-state national minorities may threaten to rejoin their "kin-state" or "mother-country". The former groups are potential secessionists; the latter are potential irredentists.

Some commentators argue that the challenge of accommodating minority nationalism is much more difficult if the ethnonational group has a kin-state. I will return to this question below.

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[18] While Gurr makes this distinction, I have adapted his terminology to better reflect the nature of the two types of groups.

However, historically, most states have been equally intolerant of both forms of minority nationalism, and have attempted to suppress them, often ruthlessly. To have a regional group with a sense of distinct nationhood has been seen as a dire threat to the very existence of the state. It questions the basis of the legitimacy of the state, by denying that its citizens form a single nation or people, asserting instead that there are at least two separate peoples in the state, each with their own claim to popular sovereignty, and hence to self-government. It also jeoparizes the state's claim to parts of the territory of the state, which are asserted instead to be the homeland of another nation. Minority nationalism, in short, is the most direct threat to the legitimating ideology of the modern nation-state, and to the state's claim to rule over all its citizens and territory.

As a result, ethnonational groups have typically been the first target, and most energetic target, of state nation-building policies. States have historically adopted various measures to erode the minority's sense of distinct nationhood, including restricting minority language rights, abolishing pre-existing forms of regional self-government, and encouraging members of the dominant group to settle in the minority group's territory so that the minority becomes outnumbered even in its traditional homeland. For example, when the British conquered Canada, they stripped the Québécois of their French-language rights and institutions, and redrew political boundaries so that the Québécois did not form a majority in any province. When the United States conquered the Southwest in the war with Mexico in 1848, it stripped the long-settled Hispanics of their Spanish-language rights and institutions, imposed literacy tests to make it difficult for them to vote, and encouraged massive immigration into the area so that the Hispanics would become outnumbered.

We can see similar policies in Asia. Indeed, Asian countries have often used precisely the same tools to suppress minority nationalism that Western countries historically adopted. These include settlement policies designed to swamp ethnonational groups in their historic homeland with settlers from the dominant group (eg., government policies to promote ethnic Bengali settlement in the Chittagong Hill Tracts of Bangladesh; or ethnic Javanese settlement of East Timor or West Papua in Indonesia; or Christian settlement of the Moro areas of the Philippines; or ethnic Han settlement of Tibet and Eastern Mongolia in China; or Viet settlement of the Champa and Montagnard areas of Vietnam). Or consider the many cases in which minorities have been stripped of their traditional self-government, either through the centralization of power or the redrawing of boundaries. This disempowering of minorities has often occurred even where promises had been made to respect the autonomy of minorities, as in Baluchistan in Pakistan, Arakan and Kachinland in Burma/Myanmar, South Moluccas in Indonesia, East Turkestan in China, or Bougainville in Papua-New Guinea. Or consider the policies to impose the majority Sinhalese language on the Tamils in Sri Lanka; the Persian language on the Arabistans in Iran; the Dzongkha language on the Nepalese in Bhutan; the Burmese language on the Mons in Burma; or the Urdu language on the Sindhi in Pakistan.[19]

All of these measures were intended to disempower ethnonational groups, and to eliminate any sense of possessing a distinct national identity. This was justified on the grounds that minorities that view themselves as distinct `nations' would be disloyal, and potentially secessionist or irredentist. This raises the question captured nicely in the title of Walker Connor's famous article: are nation-states "Nation-Building or Nation-Destroying?" (Connor 1972). In truth, they are both.

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[19] However, it should be noted that many Asian countries have a "surprisingly good" record on tolerating linguistic diversity, including India, PNG, Vanuatu, and the Federated States of Micronesia (Brown 1997: 563-4).

Nation-states have typically sought to build a common nationhood by destroying any preexisting sense of distinct nationhood on the part of ethnonational groups.

So the fate of ethnonational groups in a world of nation-building states has not been a happy one. However, there have been encouraging developments in recent years, and a growing trend towards rethinking the status of ethnonational groups, particularly in the West. Today, virtually all of the Western countries with sizeable ethnonational groups (over 250,000 people) have reversed course, and accepted the principle that these substate national identities will endure into the indefinite future, and that their sense of nationhood and nationalist aspirations must be accommodated in some way or other.

This accommodation has typically taken the form of what we can call "multilingual multination federalism".[20] This model of accommodating diversity has three core characteristics: first, it involves creating a federal or quasi-federal subunit in which the ethnonational group forms a local majority, and so can exercise meaningful forms of self-government. Second, the group's language is recognized as an official state language, at least within their federal subunit, and perhaps throughout the country as a whole. Third, the group is given the public powers and resources needed to sustain a high level of institutional completeness: for example, having publicly-funded media, schools and universities operating in the minority language, so that its members can achieve high levels of educational attainment and professional accomplishment within their own society. (An additional interesting feature in some of these multination federations is the presence of legal pluralism. For example, Quebec maintains its civil law tradition; Switzerland maintains both a Roman and German legal tradition; Scotland preserved its traditional legal system).

At the beginning of the twentieth-century, only Switzerland and Canada had adopted this combination of territorial autonomy and official language status for substate ethnonational groups. Since then, however, virtually all Western democracies that contain sizeable substate minority nationalist movements have moved in this direction. The list includes the adoption of autonomy for the Swedish-speaking Aland Islands in Finland after the First World War; autonomy for the German-speaking ethnonational group in South Tyrol in Italy, and for the Spanish-speaking ethnonational group in Puerto Rico in the US, both adopted after the Second World War; federal autonomy for ethnonational groups in Catalonia and the Basque Country in Spain in the 1970s, for Flanders in Belgium in the 1980s; and most recently for Scotland and Wales in the 1990s. Amongst the Western democracies with a sizeable ethnonational minority, only France is a partial exception to this trend, since its main substate nationalist group in Corsica has not yet acquired autonomy. However, legislation was recently adopted to accord autonomy to Corsica, so France too is joining the trend.[21]

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[20] It is important to distinguish such "multination" federations from other federal systems where internal subunits are not designed to enable minority self-government, such as the continental United States, Germany, Australia, and Brazil. In these countries, none of the subunits was designed to enable an ethnonational group to exercise self-government over its traditional territory, although that certainly would have been possible in the American case. Indeed, in the US, internal boundaries were drawn in such a way as to precisely prevent the possibility of a minority-dominated subunit. For more on the difference between multination federalism and other forms of federalism, see Stepan 1999; Kymlicka 2001: chap. 5.

[21] For more detailed discussion of this trend in the West, see Keating and McGarry 2001; Gagnon and Tully 2001; Keating 1996; 2002; Guibernau 1999. Needless to say, the details vary enormously

In my view, this is a remarkable development, and a very successful example of the emergence of new and innovative ways of accommodating ethnocultural diversity. Clearly this model of multilingual, multination federalism involves a complex package of policies, including issues of political rights, economic resources as well as cultural policies. The details of the political and economic aspects of this model are discussed in other background papers for the 2004 HDR Report (O'Leary 2004; Stepan 2004). Since these countries are amongst the top-ranked countries in the world on the HDR scale, it would appear that this model has not harmed the economic well-being of either majority or minority groups.

My concern in this paper, however, is with the cultural aspects of this model. Is this an effective remedy to the cultural exclusion created by state nation-building, and does it provide a desirable model of cultural inclusion? It is clear, I think, that this model effectively remedies the earlier exclusion of the culture of the ethnonational minority group from public space and public institutions. Indeed, multilingual multination federalism gives a very high level of public recognition to the minority's culture, at least at the regional level. Its language is given official status; its history and literature is taught in schools; its arts are displayed in public museums; its legal traditions are maintained; its heroes are celebrated in public holidays and public statues; and so on. In fact, this model gives the ethnonational minority group many of the same powers to express and diffuse its language and culture at the substate level that the majority group exercises through the central state. This is perhaps as close as one can get to equality or parity between majority and minority groups in the capacity to have one's culture affirmed in public space.

But what is the nature of the "culture" that is being included? Is this a case of cultural conservatism, attempting to maintain "authentic" traditions even at the expense of the freedom of individual members? Or is this a case of liberal culturalism, seeking to maintain an evolving cultural context of choice, including the choice to reform or repudiate earlier lifestyles and traditions?

It is clear, I think, that this trend towards multilingual, mulitnation federalism, at least in the West, cannot be interpreted as a manifestation of cultural conservatism. For one thing, all of these substate autonomies operate within the constraints of liberal-democratic constitutionalism, which firmly upholds individual rights. They are subject to the same constitutional constraints as the central government, and so have no capacity to restrict individual freedoms in the name of maintaining cultural authenticity or cultural purity. In fact, these substate autonomies typically show no wish to adopt such a conservative approach to their culture. On the contrary, they are often hotbeds of social experimentation, adopting more progressive policies than those adopted at the central level. Policies on gender equality or gay rights, for example, are more progressive in Scotland than the rest of Britain; more progressive in Quebec than in other parts of Canada; and more progressive in Catalonia than other parts of Spain. Moreover, support for cosmopolitan values is also typically higher in these substate regions than in other parts of the country, including support for foreign aid, or for strengthening the role of the European Court of Human Rights, or other international human rights instruments.[22]

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in these different countries, most obviously in terms of the status of the ethnonational group at the central level: eg., whether its language is recognized as official at the central (as well as regional) level; how it is represented in the central legislature (eg., veto rights) or central constitutional court, whether it has guarantees about representation in the central bureaucracy, and so on. It is on these issues that "federal" and "quasi-federal" regimes typically differ.

[22] For some of the evidence, see Kymlicka 2001: chaps. 10-15. Cf. Keating 2002.

For these reasons, I would argue that these models, as they have developed in the West, rest on a `liberal culturalist' view of culture as an evolving context of choice, incorporating cultural change, cultural hybridity, and universal human rights, rather than any idea of cultural conservatism. This fact is sometimes obscured by the rhetoric of tradition adopted by some minority nationalist leaders. Claims to autonomy, for example, are often wrapped up in stirring historical narratives about the glories of the ancient traditions of self-government, and the need to return to them. Similarly, the maintenance of distinct legal traditions is sometimes described as a "sacred duty", an essential part of the group's "identity", which must therefore be preserved at all costs. And so on. And yet the very same leaders who invoke this rhetoric of tradition in fact often support the dramatic revising of these traditions of self-government and law, so as to bring them in line with modern standards of human rights, and in accordance with modern aspirations for choice and freedom.

This may seem like a paradox, but in fact is a ubiquitous feature of nationalist politics. As theorists have long noted, nationalism is a "Janus-faced" phenomenon: it invokes the glories of the past in order to mobilize people for projects of the modernization of society. It is an interesting question – beyond the scope of this paper - why appeals to sacred traditions and glorious histories are needed in order to mobilize support for modernizing reforms. But it is important to remember that states have typically justified stripping minorities of their traditional self-government by arguing that these minorities were "backward" and that their traditions of government and law were "uncivilized". The first task of any nationalist movement, therefore, has been to contest these stereotypes, and to persuade others (and themselves) that they are <u>worthy</u> of self-government. When nationalist leaders say that their traditions of law and self-government should be respected, they are really saying that their nation is capable of exercising the right to decide on issues of law and government. They do not mean that they wish to exercise these national rights in an "authentically traditional" way.

There is a related reason why modernizing nationalist elites emphasize cultural tradition. Ethnonational groups often demand self-government on the ground that it is needed to protect their cultural differences. Yet the causal relationship often goes the other way. As Baubock puts it, "Rather than self-government being a means to preserve cultural difference, this difference is more often preserved as a means to justify the claim to self-government" (Baubock 2000: 384; cf. 2001 332-5). For example, ethnonational minorities may claim that they need self-government in order to maintain their distinct legal traditions. In reality, the distinct legal tradition is often maintained in order to justify claims to self-government. After all, ethnonational minorities are continually required to explain why they deserve self-governing rights, and having a distinct legal tradition (or language) provides one possible answer.[23] This means that the maintenance of a distinct legal tradition does indeed become a kind of "sacred" inheritance, but not in a conservative sense: it does not preclude dramatically reforming that distinct legal tradition so as to match EU requirements, for example, or international human rights; or gender equality, as indeed has happened in these

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[23] In the Canadian case, for example, the presence of the civil law tradition in Quebec not only provides an argument why Quebec should have autonomy, but also provides an argument why Quebec needs three of the nine seats on the Supreme Court (which sometimes has to rule on issues of civil law). If Quebecers gave up the civil law tradition, they would lose a central argument for autonomy and judicial representation. In this way, the civil law tradition becomes "sacred", but not because of any conservative commitment to traditional values or lifestyles, and hence not in a way that precludes modernizing reform of the civil law tradition.

regional autonomies. In short, minority nationalist leaders sometimes have strategic reasons for invoking quasi-traditionalist rhetoric in defense of liberal culturalist projects.

So I would argue that the model of multilingual, multination federalism emerging in the West is a successful example of a new approach that accommodates cultural diversity, and one that is consistent with the HDR's commitment to cultural freedom. The more difficult question is whether this model can successfully be adopted outside the West. As Connor notes, the phenomenon of minority nationalism is a truly universal one: countries affected by it

> are to be found in Africa (for example, Ethiopia), Asia (Sri Lanka), Eastern Europe (Romania), Western Europe (France), North America (Guatemala), South America (Guyana), and Oceania (New Zealand). The list includes countries that are old (United Kingdom) as well as new (Bangladesh), large (Indonesia) as well as small (Fiji), rich (Canada) as well as poor (Pakistan), authoritarian (Sudan) as well as democratic (Belgium), Marxist-Leninist (China) as well as militantly anti-Marxist (Turkey). The list also includes countries which are Buddhist (Burma), Christian (Spain), Moslem (Iran), Hindu (India), and Judaic (Israel). (Connor 1999: 163-4).

One might expect, then, that many non-Western countries would have adopted the model of multilingual, multination federalism. However, the examples outside the West are few and far-between: eg., India, Russia, Nigeria, Ethiopia, and South Africa. Many commentators have argued that this model is the only viable approach in many other countries in Asia, Eastern Europe, the Middle East or Africa: eg., in Sri Lanka; Burma; Indonesia; Moldova; Georgia; Iraq, Afghanistan, Sudan, Cameroons, to name a few. Yet this model is strongly resisted in most of these countries. As Nandy puts it, "Any proposal to decentralise or to reconceptualise the state as a truly federal polity goes against the grain of most postcolonial states in the third world" (Nandy 1992: 39). It also goes against the grain of most postcommunist states in Eastern Europe (Kymlicka 2004). Around the world, mulitlingual, multination federalism is typically only granted as a last-ditch effort to avoid civil war, or indeed as the outcome of civil war.

India stands out as an interesting exception to this trend. It is one of the few countries outside the West to have voluntarily adopted a model of multiligual, multination federalism to accommodate minority nationalist claims for autonomy. Most commentators argue that this decision was sound, and that the model has succeeded in defusing potentially explosive challenges of secessionist and irredentist ethnonational minorities.[24] So it is clear that there is no inherent reason why this model should be restricted to the West. But we need to think seriously about why it is so strongly resisted in most countries, and whether it is something that can be recommended and successfully implemented elsewhere.

b) Indigenous peoples: The second type of "national" group, in Gurr's typology, are indigenous peoples, such as the Indians and Inuit in Canada, the Aboriginal peoples of Australia, the Maori of New Zealand, the Sami of Scandinavia, the Inuit of Greenland, and Indian tribes in the United States. Indigenous peoples are peoples whose traditional lands have been overrun by settlers, and

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[24] Of course, federalism was not intended to solve the serious issues of caste and religious violence in India. Other solutions are needed for these issues, which fall under the head of "minority" groups in Gurr's typology, rather than "national" groups.

who have then been forcibly, or through treaties, incorporated into states run by people they regard as foreigners.

The contrast between indigenous peoples and ethnonational groups is not precise, and there is no universally agreed definition of `indigenous peoples'. One way to distinguish stateless nations from indigenous peoples in the Western context is that the former were contenders but losers in the process of European state-formation, whereas the latter were isolated from that process until recently, and so retained a pre-modern way of life until well into the last century. Stateless nations would have liked to form their own states, but lost in the struggle for political power, whereas indigenous peoples existed outside this system of European states. The Catalans, Basques, Flemish, Scots, Welsh, Corsicans, Puerto Ricans and Québécois, then, are stateless nations, whereas the Sami, Inuit, Maori, and American Indians are indigenous peoples.[25]

If the history of ethnonational groups within nation-building states has been bleak, it has been even worse for indigenous peoples. Like ethnonational groups, their historic sovereignty as distinct peoples has been seen as a potential threat to the state's claim to govern a single unitary sovereign people, and so states have attempted to wipe out any formal recognition or visible evidence of indigenous sovereignty. However, because indigenous peoples were typically not contenders for independent state formation, and so neither secessionist nor irredentist, they were not perceived as posing an immediate threat to state consolidation, and so were sometimes ignored, particularly if they lived in remote or peripheral areas (at least until natural resources were discovered in their territories). So some indigenous peoples maintained de facto forms of self-government for quite a long time, even if de jure recognition was denied.

In the past, all of the Western countries containing indigenous peoples had the same goal and expectation that indigenous peoples would eventually disappear as distinct communities, as a result of dying out, or inter-marriage, or assimilation. Various policies were adopted to speed up this process, such as stripping indigenous peoples of their lands, restricting the practice of their traditional cultures, languages and religions, undermining their institutions of self-government, imposing assimilationist/nationalizing education systems, and swamping them with settlers.

However, here too there have been encouraging developments in recent years, and a growing trend towards rethinking the status of indigenous peoples. Starting in the 1970s, all of the Western countries with indigenous peoples have reversed course, and now accept, at least in principle, the idea that indigenous peoples will exist into the indefinite future as distinct societies within the larger country, and that they must have the political, economic and cultural rights needed to sustain themselves as distinct societies.

We can call this process the gradual "internal decolonization" of indigenous peoples. This model typically involves three core elements: first, the recognition of land claims, protecting at least some traditional territories from further expropriation or settlement; second, a range of cultural rights, including language rights, intercultural education policies, and the recognition of "uses and

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25. For a discussion of various ways of distinguishing indigenous peoples and other national minorities, and its relevance for rights claims, see Kymlicka 2001, chapter 6. In his account of indigenous rights in international law, James Anaya argues that indigenous peoples have been singled out, not because they have greater rights than other ethnonational groups, but because the cultural and political rights they share with other national groups are more likely to have been violated, and the need to remedy these violations is more urgent. In other words, they differ not in the rights they can claim, but in the rights-violations that need remedying (Anaya 1996).

customs" or customary law; and third, self-government rights, typically at the village or community level. An additional interesting feature, found in some countries, is the re-assertion of treaty rights, based on agreements signed at the time of contact or soon thereafter, but subsequently neglected or repudiated.

We see this pattern emerging in all of the Western democracies. For example, in Canada there has been a constitutional affirmation of Aboriginal rights in the 1982 Canadian constitution, the adoption of a land claims commission, and the signing of new treaties; in New Zealand the revival of treaty rights through the Treaty of Waitangi, and recognition of Maori as an official language; in Australia, the recognition of land rights for Aboriginals in the *Mabo* decision; the creation of the Sami Parliament in Scandinavia, the evolution of "Home Rule" for the Inuit of Greenland; and the laws and court cases upholding self-determination rights for American Indian tribes. In all of these countries there is a gradual but real process of decolonization taking place, as indigenous peoples regain their lands, customary law and self-government.

There are also comparable developments in Latin America, including a flood of legal and constitutional changes recognizing the existence of indigenous peoples, affirming cultural pluralism as a defining feature of several countries, and recognizing a range of land rights and customary law (but less often self-government rights).[26]

Like the model of multilingual, multination federalism for ethnonational groups, this model of internal decolonization is a complex package of economic, political and cultural claims. Details of the economic and political aspects of the model are discussed in other papers (Stavenhagen 2004, Yashar 2004). Unlike many ethnonational groups in the West, who often share comparable standards of living to the dominant national group, indigenous peoples remain systematically disadvantaged, and it is not clear that any of the policies yet adopted will be sufficient to remedy these forms of economic exclusion. (The economic implications of the decolonization model depend, in part, on whether land claims also include claims to subsoil resources).

However, the focus of this paper is on the cultural aspects of the model. Do these new policies constitute effective forms of cultural inclusion, and if so, is culture being included in a way that is consistent with the HDR's emphasis on cultural freedom? These are not easy questions to answer, in part because of the immense variations in the history and current conditions and aspirations of different indigenous groups. Some indigenous peoples (like the highland Indians in the Andes) have been integrated as peasants into the larger economy for 500 years; other indigenous peoples (like the Amazonian tribes) may have only come in contact with European society in the last few decades. Some indigenous groups contain several million people (like the Quechua), others are only a few hundred people. It is impossible to make generalizations about the forms of cultural inclusion and exclusion that will cover such vastly different cases.

One difficulty is that many indigenous groups in the West have suffered such a long history of assimilation, dispossession and exclusion that some important manifestations of cultural difference have already been lost. For example, it is doubtful whether these new models of internal decolonization will be able to ensure the survival or revival of many indigenous languages. Settler states often attempted to suppress indigenous languages, refusing to teach them in schools, and even forbidding their use in the playground. As a result, many languages are close to disappearing. In a

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[26] For overviews of these developments in the West, see Havemann 1999; Fleras and Elliot 1992; Alfred 1995; Hannikainen 1996; Niezen 2003; Ivison et al 2000. On Latin America, see Van Cott 2000; Yashar 2004; Brysk 2000; Diaz Polanco 1997; Warren and Jackson 2003.

few cases, such as the Maori in New Zealand, the Cree in Canada, the Navaho in the United States, or the Maya in Guatemala, the language is still spoken by a large enough group that it can be used in various public institutions, including schools, media or courts, and thereby survive as the language of everyday communication. There are enough actual and potential speakers for it to make sense to publish textbooks in the language, for example, or to write literature.[27] But in many other cases, there are now too few fluent speakers left. Under these conditions, policies regarding indigenous languages are largely of a symbolic or ritual character. Learning and using a few traditional phrases becomes a mark of group membership, and when used in public, a mark of cultural recognition, but there is no expectation that the language can become the language of everyday communication or the working language of public institutions.

A similar situation applies to some other traditions and customs, such as the loss of groups' oral histories. Many indigenous people wish to restore traditional forms of dispute resolution, in part because mainstream legal institutions are expensive, culturally alien, and often dismissive of indigenous peoples. But these traditional forms of dispute resolution typically depended on broader patterns of authority and obligation within the community that have broken down, making it difficult to revive past cultural practices. As a result, even when new forms of dispute resolution are adopted, they are often drawn from the practices of other cultures and societies, with only a symbolic link to the group's own traditional practices.

The new models of internal decolonization cannot reverse this sort of culture loss, although they can help prevent further loss. Where indigenous communities have maintained only fragments of their pre-contact culture, without the surrounding beliefs and practices that made those fragments functional, yet remain alienated from many aspects of the mainstream culture that was imposed on them, the sort of "cultural inclusion" that is made possible by internal decolonization is also likely to be fragmentary, and in places dysfunctional or contradictory.

And yet, notwithstanding these limitations, the new models of accommodating indigenous peoples do involve meaningful forms of cultural inclusion. For example, the public visibility of indigenous cultures has been dramatically enhanced within the larger society. Indigenous arts are now prominently displayed in museums and state institutions; indigenous leaders are recognized in state symbols (eg., stamps), indigenous rituals are incorporated into state ceremonies (eg., the presence of elders; indigenous prayers and phrases); and indigenous history is included in school curricula. Moreover, these new models give indigenous peoples the space they need to design public institutions and public services within their own communities in culturally sensitive ways, such as education, health care, child welfare services, or the administration of justice. Within both indigenous communities themselves, and the larger society, there is now greater recognition and accommodation of indigenous culture.

Is this cultural inclusion occurring in a way that is consistent with the HDR's commitments to human freedom and human development? This is a matter of considerable debate. Some commentators argue that indigenous cultural rights are tied to ideas of cultural conservatism. Indeed, the claims of indigenous peoples are often cited as the paradigm of claims rooted in ideas of cultural purity and cultural authenticity. Whereas ethnonational groups in the West are seen as sharing modern values of individual freedom and human rights, indigenous peoples are often seen as rejecting these values in favour of communitarianism and traditionalism. Critics worry that granting cultural rights, in this context, will lead to the limitation of individual freedom within the group.

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[27] For the successful example of Maori-language policy, see May 1999; 2001.

There is certainly some grounds for these worries. It is worth noting, for example, that some indigenous leaders in both Canada and the United States have sought exemption from some of the requirements of the larger constitutional bill of rights. And there are examples of indigenous groups engaging (or seeking to engage) in practices that most people would see as violating these constitutional provisions, such as practices involving various forms of discrimination (against women, or religious minorities), or denials of due process (eg., punishing alleged wrongdoers without fair trails), or the use of cruel and unusual punishments (eg., spearing; banishments).[28] All of these practices have been defended by some indigenous leaders (or their non-indigenous advocates) as "traditional", and hence as falling under their right to culture.

A particular concern in this regard has arisen regarding indigenous customary law. Many Latin American countries have granted legal status to the "uses and customs" of indigenous peoples. These are often described, by defenders, as "authentic" practices, deeply-rooted in the group's history, and hence essential to the group's identity. Careful studies, however, have shown that these claims are contestable. In fact, the three problems mentioned earlier in section 2 about cultural conservatism have all been found in studies of the operation of indigenous customary law. First, the legal practices that are said to be timeless and authentic are often in fact fairly recent, based on a pastiche of cultural influences. Claims to cultural authenticity or purity hide the reality of cultural hybridity, and create false views about the "unbridgeable gulf" between indigenous cultures and European cultures. Second, the claim that these practices are authentic, and essential to the groups' identity, are often contested within the group. Local elites attempt to redefine these contested practices as "sacred obligations" precisely in order to silence or delegitimize those group members who wish to challenge these practices. Third, the idea that there is a right to maintain such authentic traditions is invoked to justify discrimination against women or refugees, and other violations of human rights.[29]

Therefore, there are grounds for thinking that the current operation of indigenous customary law in some countries is potentially inconsistent with the HDR framework. Cultural rights, in some of these contexts, are being interpreted as the right to enforce cultural traditions, not as the right to sustain an evolving context of choice. One strategy for overcoming this problem would be to make customary law optional: that is, individual members of indigenous communities would choose whether they want to proceed within the system of customary law, or within the legal system of the larger state. This strategy has been proposed in response to comparable problems with the operation of religious personal law (eg., for Muslims in India, or Jews in Israel – Shachar 2000).

However, it is worth considering whether indigenous demands for customary law really are tied to cultural conservatism. While some indigenous leaders invoke the rhetoric of authentic traditions, others dispute it, and emphasize the evolving nature of indigenous cultures, and the need for individual freedom within them (eg., Anaya 1996). Moreover, most indigenous leaders accept the principle that indigenous laws should be consistent with international human rights.

More generally, we need to consider the pragmatic reasons why indigenous leaders invoke the rhetoric of tradition. As with ethnonational minorities, there are strategic reasons for demanding respect for a distinct legal tradition: it serves as a marker of cultural difference, evidence of a worthy past, and a justification for a distinctive legal and political status. The problem facing many

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[28] For examples, see the discussion in Robinson 2003; Deveaux 2000; Speed and Collier 2000.
[29] For a cataloguing of these problems in the case of Mayan customary law in Guatemala, see the work of Rachel Sieder (1997; 1999; 2001).

indigenous peoples in Latin America, however, is that unlike ethnonational groups in the West, they have no self-governing power to amend their customary law. They have the right to *follow* indigenous law, but not to *make* indigenous law. They have the right to live according to their laws, but not the right to give themselves laws. Indigenous laws are recognized, but not indigenous law-makers (Levy 2003).

The inevitable result of this stunted conception of legal pluralism is to trap indigenous peoples into a traditionalist framework. Since they have no power to democratically amend their traditional customary law, they must present these laws as "authentic". This suggests that the solution is not to abolish legal pluralism (as the classical liberal strategy would recommend), but rather to strengthen it, by giving indigenous peoples the right to make indigenous law, as well as to follow it, and to ensure that this process of making indigenous law is publicly debated, and reflects the views of all members of the community, not just self-appointed guardians of "tradition". This indeed is what we see in the United States, Canada and New Zealand: the emergence of indigenous law-makers, adapting indigenous law to new circumstances and international norms, accountable to their members.

Of course, many states will resist granting indigenous peoples law-making authority. Law-making authority is jealously preserved as the exclusive jurisdiction of the nation-state. Allowing indigenous peoples to follow customary law is not as threatening to the state as allowing indigenous peoples to make law. But it is rather hypocritical for states to then turn around and condemn indigenous peoples for the fact that their customary law may not be consistent with modern norms of human rights (Speed and Collier 2000).

Put another way, the recognition of customary law is important, not because it upholds authentic traditions, but because it implies recognition of the law-making capacity of indigenous peoples, and justifies their claim to exercise that capacity anew. As Sieder puts it, customary law should be understood as an oppositional project – attempting to wrest power from the central state – not as a project of cultural primordialism (Sieder 2001).

I think a similar story can be told about the role of treaty rights. Many indigenous groups demand that the provisions of centuries-old treaties be legally upheld. Some commentators take this demand as evidence of a conservative commitment to preserving "authentic" practices that date from the time of contact. I would argue, however, that treaties are given a revered status in indigenous communities because they are tangible proof that indigenous peoples at the time of contact were regarded as possessing politically organized societies capable of entering into international agreements on a nation-to-nation basis. They are signs of the historic political competence of indigenous peoples, and justification for re-asserting that status, so that indigenous people can regain control over their destiny and adapt to new challenges. The revered status of customary law and treaty rights are evidence, not of cultural conservatism, but of the need to mobilize people for the project of indigenous self-government – a project that (like all nationalisms) is inherently culture-transforming.

The picture that emerges from this discussion of the cultural inclusion of indigenous peoples is a complex one. In many respects, these emerging models of internal decolonization must be seen as dramatic progress. Many of the cultural injustices imposed on indigenous peoples by state nation-building policies have been acknowledged, and considerable progress has been made in giving indigenous cultures and identities a more prominent role in public space and public institutions. But whether these forms of cultural inclusion are fully consistent with the HDR framework will depend on further developments regarding indigenous self-government. It is important both that indigenous

communities acquire the powers and resources needed to govern themselves, and that this power be exercised in accordance with democratic standards and universal human rights. There are encouraging trends in this direction in the West, but the process remains incomplete.

Whether this trend is applicable outside the West is another contested issue. The first question we need to ask is whether we can even distinguish a separate subcategory of "indigenous peoples" in non-Western contexts. Some Asian governments claim that the category of "indigenous peoples" does not apply to minorities in Asia. For example, the People's Republic of China has argued at the United Nations that the concept of "indigenous peoples" only applies in the context of overseas European colonization. Hence all peoples living in Asian countries prior to the era of European colonization are equally "indigenous", whether they are majority or minority. It makes no sense, on this view, to say that some of the minorities in China or India are "indigenous" while the majority is not (Kingsbury 1995; 1999; Colchester 1999; MRG 1998).

This attempt to restrict the scope of "indigenous peoples" to the context of European colonization rests on the so-called "saltwater thesis". The term "indigenous peoples" is connected to that of colonialism: indigenous peoples have had their lands conquered and settled by a colonizing society, and forcibly incorporated into a larger state dominated by this colonizing society. A glance at history would suggest that this sort of colonialism has occurred in many different forms throughout the world, but the saltwater thesis claims that the only "real" form of colonialism involves colonizers coming from overseas (ie., from Europe). The conquest and settling of Ainu lands by Japan can't be called "colonialism", on this view, since the conquering settlers didn't come from overseas, and so the Ainu can't be called "indigenous".

Restricting the categories of colonialism and indigenous peoples to cases of overseas conquest is out of step with the usual usage of these terms. For example, it is almost universally accepted that the Sami in Scandinavia are an indigenous people, and I think there are good reasons for this. After all, the way in which their lands were claimed and settled was very similar to the way that the lands of the Inuit in Canada were claimed and settled, with the same disastrous results. It is not clear why the injustice of colonizing the lands of another culture changes when the colonizing settlers come by land (backed by an army), rather than by sea (backed by a navy).

If we focus on this common experience of colonizing settlement, then we can find various groups in Asia - from the Ainu of Japan, to the Dayak of Indonesia and the Chittagong Hill Tribes of Bangladesh - which would qualify as indigenous peoples.[30] The way in which their lands have been colonized is similar to that of the Sami in Scandinavia or the Inuit in Canada, and was rationalized on similar grounds. And their claims today are also similar, including the protection of traditional lands, customary law, and political representation. Hence it is not surprising that many of these hill tribes are in fact adopting the international language of "indigenous peoples" (Colchester 1995: 4; Gellner 2001: 187-8; Barnes 1995).[31]

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30 According to Gurr, other indigenous peoples in Asia include the Kachins, Mons, Zomis and Rohingya in Burma; the Assamese, Bodos, Mizos, Naga, Tripuras and Scheduled Tribes in India; the Hmong in Laos; the Papuans in Indonesia; the Dayaks in Malaysia; the Igorots in Philippines; the Aboriginals in Taiwan; the Northern Hill Tribes in Thailand, and Montagnards in Vietnam (Gurr 1993).

31 We see a similar dynamic in Latin America, in which groups increasingly adopt the label of "indigenous", partly as a result of growing links with international movements of indigenous peoples. See Brysk 2000.

As in the West, the dividing line between indigenous peoples and other ethnonational groups is not clear or precise. One important distinguishing feature is the extent to which a group has played a role in the process of state formation. In the European context, the reason why the Sami are considered indigenous while the Catalans are not is that the latter were contenders but losers in the process of forming the state of Spain, whereas the Sami were isolated from the process of forming the state of Sweden. Using this criteria, we can say that what distinguishes the indigenous Dayaks or Ainu from other national groups in Asia - such as the Kashmiris and Sikhs in India, or the Tamils in Sri Lanka - is that the latter have been active contenders in modern state-formation. Indeed, had the balance of power differed slightly, they could easily have consolidated themselves as independent states. But they lost, and now face many of the same issues as substate ethnonational groups in Europe.

We can debate whether the term "indigenous people" is the best one to mark this distinction. In one sense, the Catalans are just as "indigenous" to Europe as the Sami, and the Tamils are just as indigenous to Asia as the Dayaks. But there surely is an important distinction between the Catalans and the Sami that needs to be marked. And I think that a similar sort of distinction is required between the Tamils and the Dayaks. For better or worse, the term "indigenous peoples" has been used in international law to draw this distinction. Perhaps a better term could have been devised, but whatever the terminology, it seems to me that the basic distinction between indigenous peoples and substate ethnonational groups is as applicable in the Asian context as in the European context. And indeed some countries in Asia are accepting the usefulness and validity of the term, especially the Philippines and Nepal. And while some other Asian countries continue to resist the term "indigenous peoples", they recognize the need to create a distinct category for such groups, whether it is "aboriginal tribes" (Taiwan), "aborigines" (Malaysia), "hill tribes" (Thailand), "isolated peoples" (Indonesia), "natives" (Borneo) or "scheduled tribes" (India).[32]

Whatever the terminology, the crucial question is how these groups are treated. In the West, as we've seen, there has been a powerful trend towards greater self-government and land-rights for indigenous peoples. The situation in Asia is more complicated.[33] There are comparable moves in some countries - or perhaps more accurately, in some parts of some countries. For example, there are relatively progressive laws in some parts of India, including self-government, collective land ownership, and affirmative action. India has accepted the need for quasi-federal forms of territorial autonomy for smaller indigenous peoples or hill tribes for whom full statehood may not be appropriate, particularly in the northeast.[34] There are other promising developments regarding land rights in Nepal, Taiwan and New Caledonia, although much less progress regarding self-government. And even where good laws exist regarding land rights, the weak rule of law often means that settlers/businesses can simply ignore indigenous title.[35]

But the situation remains grim in most countries of the region. Indigenous peoples in several countries continue to suffer from state policies to swamp their lands with settlers, including Indonesia, Bangladesh, Malaysia, Nepal and Vietnam. Their land rights often receive minimal or no

32. See Kingsbury 1999, who defends the applicability of the term indigenous peoples to Asia, but emphasizes that groups which do not qualify as indigenous may have similar claims.

33 For an overview of indigenous peoples in Asia, see Colchester et al 1999; Barnes 1995.

34 Eg., the recent creation of Bodo Autonomous Area in Assam, for the tribal Bodos.

35 Eg., the case of the settlers in Kerala (India) who have been required by a 1985 law and by a 1996 court judgement to return land to tribals, but have consistently refused (Colchester 1995: 20).

legal protection, as in Malaysia, Indonesia, Bangladesh, and Laos, and there is no attempt to restore land that was wrongly taken from them historically. In several countries their lands have simply been unilaterally declared as national forests or national parks by the state, which then passes laws forbidding indigenous peoples to continue their traditional practices on "state land". Indigenous peoples are also subject to assimilationist policies in several countries, including Thailand, Indonesia (eg., "Operasi Koteka" to "Indonesianize" indigenous peoples in West Papua), and Malaysia (where indigenous peoples are pressured to convert to Islam). In many countries, the prospects for greater recognition of indigenous rights remain bleak, except as the outcome of violent struggle or international pressure.

Here again, as with ethnonational groups, we need to think seriously about why this model of internal decolonization is so strongly resisted in many countries, and what are the obstacles to its being successfully implemented elsewhere.

3.2 "MINORITY" GROUPS

So far, we have considered the first main category in Gurr's typology – namely, 'national' groups seeking territorial autonomy on their historic homeland. I will spend less time on his second main category of `minority' groups, mainly because they are less likely to raise issues of language rights and legal pluralism. However, they do raise their own important issues of cultural inclusion, which I want to briefly mention, if only to show how the framework of analysis I have been using in this paper can be extended to these cases as well.

The category of "minority" groups in Gurr's typology is a very heterogenous one: all they really share in common is that they are not national groups seeking self-government. So it is important to look at the more specific types of 'minority groups'. According to Gurr, one form of minority group is what we can diaspora groups: that is, groups who no longer live in their traditional homeland, but who share a sense of ethnic identity based in part on their common roots in that homeland. These diaspora groups may emerge in a variety of ways: voluntary emigration; temporary labour migration; forced enslavement; indentured labour; colonial settlers; refugee movements, and so on.

In Gurr's typology, such groups only become a "minority at risk" if they form what he calls an "ethnoclass' – that is, if these groups occupy a distinctive niche in the economic structure, usually disadvantaged (eg., African-Americans; Turks in Germany), but sometimes advantaged (eg., Europeans in Namibia; Lebanese in West Africa). This exclusive focus on class-defined ethnic minorities is useful for his purposes of measuring the potential for ethnic conflict, but it unduly narrows our focus on issues of cultural inclusion. So in the rest of this section, I want to consider diaspora groups more generally, focusing in particular on immigrant groups.

c) immigrant groups: By immigrants, I mean groups formed by the decision of individuals and families to leave their original homeland and emigrate to another society, often leaving their friends and relatives behind. Over time, and with the second and subsequent generations born in the new country of residence, they give rise to ethnic communities with varying degrees of internal cohesion and organisation. But it is essential to distinguish two categories of immigrants - those who arrive with the right and expectation of becoming citizens, and those who do not. I will use the term "immigrant group" only for the former case, and will discuss the latter case, which I will call

"metics", below.

Immigrants, then, are people who arrive under an immigration policy which gives them the right to become citizens after a relatively short period of time - say, 3-5 years - subject only to minimal conditions (eg. learning the official language, and knowing something about the country's history and political institutions). This has been the traditional policy governing immigration in the four major "countries of immigration" in the West - namely, United States, Canada, Australia and New Zealand.

Immigrant groups obviously have a different relationship to state nation-building than either ethnonational groups or indigenous peoples. As discussed earlier, "national" groups have typically been perceived as a threat to the state, precisely because they assert a distinct nationhood, and are potentially secessionist or irredentist. For many states, the presence of such groups was a problem, an obstacle to nation-building. By contrast, immigrants (in the sense defined above) have typically been actively recruited and admitted by the state, precisely in order to help build the nation, and to settle the territory. Immigration, in this sense, is itself a tool of nation-building in these countries. Indeed, these immigrants have sometimes been recruited precisely to serve as settlers to help swamp the traditional territory of ethnonational groups and indigenous peoples.

In the traditional countries of immigration, then, immigrants have been a valued tool of nation-building, and not just targets of nation-building. However, the state has wanted to ensure that these immigrants became loyal to their new country, and accept the hegemony of the dominant national group. And, until recently, this has typically meant a heavy dose of assimilation. In all of the major countries of immigration, immigrants were encouraged and expected to assimilate to the pre-existing society, with the hope that over time they would become indistinguishable from native-born citizens in their speech, dress, recreation, and way of life generally. Any groups that were seen as incapable of this sort of cultural assimilation were prohibited from emigrating in the first place, or from becoming citizens. This was reflected in laws that excluded Africans and Asians from entering these countries of immigration for much of the twentieth-century, or from naturalizing.

However, since the late 1960s, we have seen a dramatic change in this approach. There have been two related changes: first, the adoption of race-neutral admissions criteria, so that immigrants to these countries are increasingly from non-European (and often non-Christian) societies; and second, the adoption of a more tolerant and pluralistic conception of integration, one which expects that many immigrants will visibly and proudly express their ethnic identity, and which accepts an obligation on the part of public institutions (like the police, schools, media, museums, etc.) to accommodate these ethnic identities. These two-fold changes have occurred, to varying degrees, in all of the traditional countries of immigration.

We can call this emerging model "immigrant multiculturalism". It contains a number of elements, including:

(1) the constitutional, legislative or parliamentary affirmation of multiculturalism, at the central and/or regional and municipal levels;
(2) the existence of a government ministry or secretariat or advisory board to consult with ethnic communities;
(3) the adoption of multiculturalism in school curriculum;
(4) the inclusion of ethnic representation/sensitivity in the mandate of public media or media licensing;
(5) exemptions from dress-codes, Sunday-closing legislation etc. (either by statute or by court

cases);
(6) allowing dual citizenship;
(7) the funding of ethnic group organizations or activities;
(8) the funding of bilingual education or mother-tongue instruction;
(9) affirmative action for disadvantaged immigrant groups.

There are important differences in how official or formal this shift to immigrant multiculturalism has been. In Canada, Australia and New Zealand this shift was formally marked by the declaration of an official multicultural policy by the central government. But even in the United States, which does not have an official policy of multiculturalism at the federal level, we see similar changes on the ground. If we look at lower levels of government, such as states or cities, we often find a broad range of multiculturalism policies. State-level policies regarding the education curriculum, for example, or city-level policies regarding policing or hospitals, are often indistinguishable from the way provinces and cities in Canada or Australia deal with issues of immigrant ethnocultural diversity. As Nathan Glazer puts it, "we are all multiculturalists now" (Glazer 1997). Similarly, in Britain, while there is no nation-wide multiculturalism policy, the same basic ideas and principles are pursued through their race relations policy.[36] All of these countries have accepted the same two-fold change: adopting a race-neutral admissions and naturalization policies, and imposing on public institutions a duty to accommodate immigrant ethnocultural diversity.

This trend is now quite widespread in the West. Amongst countries that legally admit immigrants as permanent residents and future citizens, the main exception to this trend is France, which clings to an assimilationist conception of French republican citizenship, although it too has moved haltingly in a multicultural direction (Schain 1999).

I believe that this is another important and successful example of innovative policies designed to accommodate ethnocultural diversity. As with the other models discussed earlier, it involves a complex combination of economic, political and cultural elements. Other background papers will discuss some of the economic and political dimensions of this process (Zolberg 2004). The economic status of immigrants varies enormously across the Western democracies: some with higher levels of education and income than native-born citizens, others with much lower.

My focus, however, is on the cultural aspects of this model. Does this model remedy the cultural exclusions associated historically with state nation-building, and if so, is culture being included in a way that is consistent with the HDR framework?

Very briefly, l would argue that immigrant multiculturalism is indeed an effective remedy for earlier patterns of cultural exclusion generated by state nation-building policies. In the past, it was often considered "unpatriotic" (or "unAmerican") for immigrants to visibly or proudly express their ethnic identity. Today, by contrast, it is considered normal and natural for immigrants and their descendants to have an ethnic identity, to cherish it, to express it in public space, and to have it reflected and accommodated in public institutions. Immigrant ethnicity has become "normalized". It is now recognized that one of the many perfectly legitimate ways to be a good American is to be a good Greek-American or Vietnamese-American. For most immigrant groups, ethnic identity is no

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[36] For the British model of multiculturalism through race relations, see Favell 2001. For a plea to adopt a more formal national declaration of multiculturalism in Britain, see the "Parekh Report" (Commission on the Future of Multiethnic Britain 2000).

longer a source of shame, or fear.

Of course, this process remains uneven. Since Sept. 11[th,] immigrants from Arab or Muslim countries have faced pressure to hide their ethnic and religious identity. Anyone who too visibly or publicly identities themselves as Muslim today is suspected by some of being "unAmerican". But I believe this is an exception (and hopefully a short-term one) to an otherwise powerful trend to normalize the presence of immigrant ethnic identities in public space.

Immigrant multiculturalism also helps to remedy more subtle forms of cultural exclusion, since it involves a commitment to explore our social institutions to see whether their rules and symbols disadvantage immigrants. For example, it involves examining dress-codes, public holidays, even height and weight restrictions, to see whether they are biased against certain immigrant groups. It also involves examining the portrayal of minorities in school curricula or the media to see if they are stereotypical, or fail to recognize the contributions of immigrants to national history or world culture. And so on.

In all of these ways, immigrant cultural identities are being recognized and accommodated in public space. Moreover, I believe that the way in which this cultural inclusion is occurring is fully consistent with the HDR's framework, reflecting a liberal culturalist rather than a cultural conservative approach. The various measures I listed above as elements of immigrant multiculturalism allow individuals the choice to maintain cultural practices and identities, if they so wish, within the constraints of the prevailing liberal-democratic constitutional order, but they do not allow immigrant groups to impose traditional practices on members who contest them.

This isn't to say that some traditionalist members of immigrant communities might not wish to maintain practices that violate these constitutional rights (eg., clitoridectomy; forced arranged marriages, etc). And there are many stories of how these practices are being maintained illicitly within particular immigrant groups (Okin 1999). But this was always the case, long before the adoption of multiculturalism policies. What is important to emphasize is that in the Western democracies, multiculturalism policies provide no protection to these illiberal practices, and immigrant leaders have not asked for such protection. For example, no South Asian ethnic leaders in Britain have asked that forced arranged marriages be legally recognized (Phillips and Dustin 2003). Similarly, no leaders of the relevant immigrant groups in Canada have asked that clitoridectomies be legally permitted (Government of Canada 1995). It is understood and accepted that immigrant multiculturalism, as a government policy, operates within the framework of the liberal-democratic constitutional order.

More generally, the very idea of immigrant multiculturalism, as it has been implemented in the West, is inherently tied up with ideas of cultural transformation and cultural hybridity. It is a recognition, even celebration, of the cultural mixing that arises when immigrants are free to bring their cultural identities into the larger society, and to interact with members of other groups.[37] In all of these ways, I believe, the basic thrust of immigrant multiculturalism is fully in line with the principles of the HDR approach.

Here again, these policies are primarily limited to the Western democracies, although in this case the explanation is easier to see. Most countries around the world simply do not admit

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[37] There are many critics who would deny this, and insist that immigrant multiculturalism is premised on fantasies of cultural purity and ethnic isolation (Schlesinger 1992; Bissoondath 1994). However, these critiques are based on an almost complete ignorance of the actual content of immigrant multiculturalism policies. Or so I argue in Kymlicka 1998.

"immigrants" in the sense I am using that term: ie., admitting newcomers with the right and expectation that they become citizens. Most countries have various "foreigners" on their soil, in the form of illegal economic migrants, asylum seekers or "guest-workers": such foreigners may form a sizeable percentage of the population. But these groups were not admitted as part of an immigration policy, and were not admitted with the expectation that they would become either permanent residents or citizens. These are the groups that Walzer calls "metics" (Walzer 1983), from the ancient Greek term for long-term foreign residents of Athens who were excluded from citizenship.

A full survey of policies of cultural inclusion would need to consider the evolution of policies towards these metics,[38] as well as towards other diaspora groups, such as the descendants of slaves (African-Americans; Afro-Brazilians),[39] or the descendants of labourers brought by colonial powers (eg., Indo-Fijians; Indo-Trinidadians),[40] or indeed the descendants of colonial settlers themselves (eg., Europeans in Namibia or Zimbabwe). [41]

I do not have the space to deal with all of these cases here. However, I believe that the same framework can be used to analyze their claims. In each case, I believe that we need to consider how these groups have been affected by state nation-building policies, and what sort of cultural exclusions these policies have entailed. We can then consider what sorts of policies could be adopted (or have been adopted) to remedy or mitigate these exclusions, and to achieve a greater degree of cultural inclusiveness. And then we can consider whether these policies of cultural inclusion operate in a way that is consistent with HDR principles of cultural freedom, and what sorts of reforms might be needed to bring them more in line with these principles. (Such reforms, if needed, will typically involve strengthening democratic procedures, the rule of law, and the protection of human rights).

4. Conclusion

This paper has covered a lot of ground, and I won't try to summarize it all in the conclusion. I would just like to make two concluding comments. First, as I have repeatedly emphasized, the linkage between cultural exclusion and political/economic exclusion is a complicated one. On the one hand, cultural exclusion does not always track economic exclusion: it remains a powerful source of political mobilization and possibly ethnic violence even when the minority is not economically disadvantaged. On the other hand, issues of cultural policy are always linked to issues of economic and political policy, because they all form components of larger strategies for the management of ethnocultural diversity. The various "models" I have described - such as multilingual multination federalism for ethnonational groups; internal decolonization for indigenous peoples; and immigrant multiculturalism for immigrant groups – are all complex packages of policies, involving economic, political and cultural dimensions. We are prone to misunderstand these elements – particularly the cultural components – if we do not keep the links between the different elements in mind. In

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[38] For helpful discussions of the cultural inclusion of metics, see Bauböck 1994; Carens 1989; Walzer 1983; Rubio-Marin 2000.
39. For helpful discussions of the status and claims of African-Americans, see Spinner 1994, Gutmann and Appiah 1996; Brooks 1996; Cochran 1999; Kymlicka 2001: chapter 9.
[40] For a helpful discussion of the Fijian case, see Carens 2000.
[41] Some of these groups are designated as "ethnoclasses" in Gurr's typology, some as "communal contenders" (Gurr 2000).

particular, it's important to remember that minorities often seek to maintain markers of their cultural difference (such as a distinct legal tradition), not out of a conservative desire to maintain primordial traditions, but because these markers of cultural difference are important to the justification and mobilization of larger political projects, such as self-government. We are prone to exaggerate the cultural conservatism of groups, and of group claims, if we miss this connection.

Second, I think it is worth reflecting on the apparent divide between the West and other regions on these issues. The trends I have described towards the greater accommodation of diversity have taken root most deeply in the West, and are strongly resisted in many non-Western countries. This is true of the adoption of multilingual/multination federalism for ethnonational groups, and of the adoption of internal decolonization for indigenous peoples. It is also true of policies regarding migrant groups. Access of migrants to citizenship (let alone immigrant multiculturalism) is much more restrictive in most non-Western countries than in the West.

I think this apparent divide is relevant to the work of the HDR. As I've noted earlier, we need to think seriously about why these models of accommodation have not spread more widely. It should be obvious that the explanation for this divide cannot be that "Western civilization" is inherently more "tolerant" of diversity. On the contrary, if we look at the historical record, most societies in Africa, Asia, and the Middle East have been much more tolerant of religious and ethnic diversity than Western Europe, with its long history of religious wars, nationalist violence, racist exclusions, and culturally homogenizing states.

The explanation must lie in contemporary realities, not "civilizational differences". There must be certain factors present in the West today that have made it possible for the West, despite its heritage of intolerance, to adopt innovative new models of cultural inclusion. I think it is important to try to identify these factors, and to consider whether they are present in other regions of the world (and if not, whether they can be nurtured by the international community).

I do not believe that we have a clear understanding of what these factors are. However, as a first step, and to encourage debate, let me suggest five factors that I believe have made the trend towards the greater accommodation of ethnocultural diversity possible, and perhaps even inevitable, in the West:

(a) Demographics: The first factor is demographics. In the past, many governments had the hope or expectation that ethnic minorities would simply disappear, through dying out or assimilation or inter-marriage. It is now clear that this is not going to happen. Indigenous peoples are the fastest-growing segment of the population in the countries where they are found, with very high birth-rates. The percentage of immigrants in the population is growing steadily in most Western countries, and most commentators agree that even more immigrants will be needed in the future to offset declining birth rates and an aging population. And substate national groups in the West are also growing in absolute numbers, even if they are staying the same or marginally declining as a percentage of the population. No one anymore can have the dream or delusion that minorities will disappear. The numbers count, particularly in a democracy, and the numbers are shifting in the direction of non-dominant groups.

(b) Rights-Consciousness: The second factor is the human rights revolution, and the resulting development of a "rights consciousness" (Ignatieff 2000). Since 1948, we have an international order that is premised on the idea of the inherent equality of human beings, both as individuals and as peoples. The international order has decisively repudiated older ideas of a racial or ethnic hierarchy,

according to which some peoples were superior to others, and thereby had the right to rule over them.

It's important to remember how radical these ideas of human equality are. Assumptions about a hierarchy of peoples were widely accepted throughout the West up until World War II, when Hitler's fanatical and murderous policies discredited them. Indeed, the whole system of European colonialism was premised on the assumption of a hierarchy of peoples, and this assumption was the explicit basis of both domestic policies and international law throughout the nineteenth century and first half of the twentieth century.

Today, however, we live in a world where the idea of human equality is unquestioned, at least officially. What matters here is not the change in international law per se, which has had little impact on most people's everyday lives. The real change has been in people's consciousness. Members of historically subordinated groups today demand equality, and demand it as a <u>right</u>. They believe they are entitled to equality, and entitled to it <u>now</u>, not in some indefinite or millenarian future.

This sort of rights-consciousness has become such a pervasive feature of modernity that we have trouble imagining that it did not always exist. But if we examine the historical records, we find that minorities in the past typically justified their claims, not by appeal to human rights or equality, but by appealing to the generosity of rulers in according "privileges", often in return for past loyalty and services. Today, by contrast, groups have a powerful sense of entitlement to equality as a basic human right, not as a favour or charity, and are angrily impatient with what they perceive as lingering manifestations of older hierarchies.[42]

Of course, there is no consensus on what "equality" means (and, conversely, no agreement on what sorts of actions or practices are evidence of "hierarchy"). People who agree on the general principle of the equality of peoples may disagree about whether or when this requires official bilingualism, for example, or consociational power-sharing. But there can be no doubt that Western democracies historically privileged a particular national group over other groups who were subject to assimilation or exclusion. This historic hierarchy was reflected in a wide range of policies and institutions, from the schools and state symbols to policies regarding language, immigration, media, citizenship, the division of powers, and electoral systems. So long as minority leaders can identify (or conjure up) manifestations of these historic hierarchies, they will be able to draw upon the powerful rights-consciousness of their members.

(c) Democracy: The third key factor, I believe, is democracy. Democracy is relevant for many reasons. At the simplest level, the consolidation of democracy limits the ability of elites to crush ethnic minority political movements. In many countries around the world, elites ban political movements of minority groups, or pay thugs or para-militaries to beat up or kill minority leaders, or bribe police and judges to lock them up. The fear of this sort of repression often keeps minority groups from voicing even the most moderate claims. Keeping quiet is the safest option for minorities in many countries.

In consolidated democracies, however, where democracy is the only game in town, there is no option but to allow minority groups to mobilize politically and advance their claims in public. As a result, members of minority groups are increasingly unafraid to speak out. They may not win the

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[42] The development of this rights-consciousness is related, in part, to growing levels of education amongst many minorities.

political debate, but they aren't afraid of being killed, jailed or fired for trying. It is this loss of fear, combined with rights-consciousness, which explains the remarkably vocal nature of ethnic politics in contemporary Western democracies.

Moreover, democracy involves the availability of multiple access points to decision-making. If a group is blocked at one level by an unsympathetic government, they can pursue their claims at another level. Even if an unsympathetic political party were to win power at the central level, and attempted to cut back on the rights of minorities, these groups could shift their focus to the regional level, or to the municipal level. And even if all of these levels were blocked, they could pursue their claims through the courts, or even through international pressure. This is what democracy is all about: multiple and shifting points of access to power.

These first three factors help to explain the "push" for policies of accommodation: increasing numbers; increasing rights-consciousness; and increasing access to multiple arenas of safe political political mobilization all help to explain the growing strength of ethnopolitical mobilization by minority groups in the West. But they do not yet explain why majority groups have been willing to accept minority demands. After all, most Western states have a dominant national group that forms a clear numerical majority, and in a democracy "majority rules". So why have majority groups become more willing to respond to these demands, and to negotiate them? Why not use the power of the state to suppress these demands, with force if necessary, as was the case in the past?

I believe there are two additional factors that help to explain the growing tendency of dominant groups to accept (however grudging and reluctantly) these new models of accommodation:

(*d*) *Liberal-Democratic Consensus*: One factor is the remarkable consensus on liberal-democratic values across ethnic, racial, linguistic and religious lines in most Western democracies. As I noted earlier, there is strong evidence that ethnonational groups within the West – like the Scots, Catalans, Québécois, and Flemish – are as committed as dominant groups to the basic values of a constitutional democracy. In fact, in some cases, they show a higher level of commitment to these values than the majority group. Perhaps more surprisingly, surveys show that immigrants too, in a fairly short period of time, come to internalize the basic liberal-democratic values of their new country, even if they were raised in countries with no history of liberal-democracy. Studies suggest that within 7-10 years, immigrants in North America become indistinguishable from native-born citizens in their basic political values (Harles 1993; Frideres 1997). The children of immigrants who are educated in their new country, also, are indistinguishable from the children of native-born parents in their political values.

The existence of this consensus has a number of consequences, but for our purposes, the most important is that it reduces the perceived risks of empowering minorities. Members of the dominant group may not want to share power with minorities, and may not feel that they have an obligation to do so. But at least they do not fear that their basic rights will be abused if minority groups acquire power. Where there is a strong consensus across ethnic lines on liberal-democratic values, people feel confident that however issues of minority rights are settled, their own basic civil and political rights will be respected. No matter how the claims of ethnonational and minority groups are resolved – no matter what language rights, self-government rights, land rights, or multiculturalism policies are adopted – people can rest assured that they won't be stripped of their citizenship, or subject to ethnic cleansing, or jailed without a fair trial, or denied their rights to free speech, association and worship. Put simply, the consensus on liberal-democratic values ensures that

debates over accommodating diversity are not a matter of life and death. As a result, dominant groups will not fight to the death to resist minority claims. Where minority mobilization is strong enough (because of the three factors I mentioned earlier), and where majorities do not fear the worst (because of the consensus on liberal-democratic values), negotiated accommodations of diversity will emerge.

(e) Desecuritization: There is one additional factor that may block or reverse the trend towards accommodating diversity. States will not accord greater powers or resources to groups that are perceived as disloyal, and therefore a threat to the security of the state. In particular, states will not accommodate groups that are seen as likely to collaborate with foreign enemies. In most Western democracies, this is rarely an issue. For example, if Quebec gains increased powers, or even independence, no one in the rest of Canada worries that Quebec will start collaborating with the Taliban or China to overthrow the Canadian state. Québécois nationalists may want to secede, but an independent Quebec would be an ally of Canada, not an enemy, and would cooperate together with Canada in NATO and other Western defense and security arrangements. Similarly, an independent Scotland would be an ally, not enemy of England; an independent Catalonia would be an ally of Spain, and so on.

This may seem obvious, but it's important to remember that in most parts of the world, minority groups are often seen as a kind of "fifth column", likely to be working for a neighbouring enemy. This is particularly a concern where the minority is related to a neighbouring state by ethnicity or religion, so that the neighbouring state claims the right to intervene to protect "its" minority.

Under these conditions, we are likely to witness what political scientists call the "securitization" of ethnic relations.[43] Relations between states and minorities are seen, not as a matter of normal democratic politics to be negotiated and debated, but as a matter of state security, in which the state has to limit the normal democratic process in order protect the state. Under conditions of securitization, minority self-organization may be legally limited (eg., minority political parties banned), minority leaders may be subject to secret police surveillance, the raising of particular sorts of demands may be illegal (eg., laws against promoting secession), and so on. Even if minority demands can be voiced, they will be flatly rejected by the larger society and the state. After all, how can groups that are disloyal have any legitimate claims against the state? So the securitization of ethnic relations erodes both the democratic space to voice minority demands, and the likelihood that those demands will be accepted.

In most Western countries, however, ethnic politics have been almost entirely "de-securitized".[44] Ethnic politics is just that - normal, day-to-day politics. Relations between the state and minority groups have been taken out of the "security" box, and put in the "democratic politics" box. This then allows the three "push" factors I discussed earlier to operate freely, and the result is the trend towards accommodation.

In my view, these are the five key foundations of the Western trends towards accommodating

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[43] For a more extensive discussion of the "securitization" of ethnic relations, see Kymlicka and Opalski 2001: 66-68, 366ff.

[44] As I noted earlier, 9/11 has put Arab/Muslim immigrants back in the security box, at least temporarily.

diversity: demographics, rights-consciousness, multiple access points for safe political mobilization, a consensus on liberal-democratic values, and the desecuritization of ethnic relations. When these five conditions are in place, I believe that the trend towards greater accommodation of ethnocultural diversity is likely to arise. Indeed, I think it is virtually inevitable. If we consider the recent experience of the Western democracies, these trends have not depended on the presence or absence of particular personalities, or particular political parties, or particular electoral systems. We see enormous variation across the Western democracies in terms of leadership personalities, party platforms and electoral systems. Yet the basic trends regarding diversity are the same, and the explanation, I believe, rests in these five deep sociological facts about numbers, rights-consciousness, opportunity-structures, value-consensus, and geo-political security.[45]

If this is correct, then when thinking about the possibility of recommending these models of accommodation in other regions of the world, we need to determine how widespread these factors are. It should be obvious, I think, that these factors are found very unevenly around the world. In fact, it is difficult to think of countries outside the West where all five factors are present. If so, we also need to think about what role the international community can play in nurturing these conditions, so as to enable countries to adopt desirable models of culturally inclusive policies.

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[45] A certain level of economic prosperity may be another precondition. But if so, it is not because these policies of accommodation are themselves expensive. Federal regimes can be just as efficient as unitary states, and even the costs of bilingualism are much lower than most people think (Grin 2004). In any event, it is clear that the resistance of states to these policies usually has nothing to do with their expense: nation-building states have often rejected cultural rights that have no financial cost at all (eg., allowing privately-funded minority schools). So if a certain level of economic prosperity is a precondition for the successful adoption of these models, it is not because the models themselves are expensive, but because one or more of the other conditions (eg,. democratic consolidation) may have economic prerequisites.

REFERENCES

AAA (American Anthropological Association Executive Board (1947) "Statement on Human Rights Submitted to the Commission on Human Rights, United Nations", <u>American Anthropologist</u>, New Series Vol. 49: 539-43.

Alfred, Gerald (1995) <u>Heeding the Voices of our Ancestors: Kahnawake Mohawk Politics and the Rise of Native Nationalism</u> (Oxford University Press, Toronto).

Anaya, S. James (1996) <u>Indigenous Peoples in International Law</u> (Oxford University Press, New York).

Anderson, Benedict (1983) <u>Imagined Communities: Reflections on the Origin and Spread of Nationalism</u> (New Left Books, London).

Barnes, R.H.(ed) (1995) <u>Indigenous Peoples of Asia</u> (Association of Asian Studies, Ann Arbor).

Barry, Brian (2001) <u>Culture and Equality: An Egalitarian Critique of Multiculturalism</u> (Polity, Cambridge).

Baubock, Rainer (1994) <u>Transnational Citizenship: Membership and Rights in Transnational Migration</u> (Edward Elgar, Aldershot).

Baubock, Rainer (2000) "Why Stay Together: A Pluralist Approach to Secession and Federation", in Will Kymlicka and Wayne Norman (eds) <u>Citizenship in Diverse Societies</u> (Oxford University Press, Oxford): 366-94.

Baubock, Rainer (2001) "Cultural Citizenship, Minority Rights and Self-Government", in Alex Aleinikoff and Douglas Klusmeyer (eds) <u>Citizenship Today: Global Perspectives</u> (Carnegie Endowment for International Peace, Washington): 319-48.

Bell, Daniel A. (2003) "Is Democracy the Least Bad System for Minorities", in Susan Henders (ed) <u>Democratization and Identity</u> (Rowman and Littlefield, forthcoming).

Benhabib, Seyla (2002) <u>The Claims of Culture: Equality and Diversity in the Global Era</u> (Princeton University Press, Princeton).

Billig, Michael (1995) <u>Banal Nationalism</u> (Sage, London).

Bissoondath, Neil (1994) <u>Selling Illusions: The Cult of Multiculturalism in Canada</u> (Penguin, Toronto).

Booth, Ken (1999) "Three Tyrannies", in Tim Dunne and Nicholas Wheeler (eds) <u>Human Rights in Global Politics</u> (Cambridge University Press, Cambridge): 31-70.

Bowen, John (2003) <u>Islam, Law, and Equality in Indonesia: An Anthropology of Public Reasoning</u> (Cambridge University Press).

Brooks, Roy (1996) <u>Separation or Integration? A Strategy for Racial Equality</u> (Harvard University Press, Cambridge).

Brown, Michael (1997) "The Impact of Government Policies on Ethnic Relations", in Brown, Michael and Sumit Ganguly (eds) (1997) <u>Government Policies and Ethnic Relations in Asia and the Pacific</u> (MIT Press, Cambridge): 511-75.

Brubaker, Rogers (1996) <u>Nationalism Reframed: Nationhood and the National Question in the New Europe</u> (Cambridge University Press, Cambridge).

Brysk, Alison (2000) <u>From Tribal Village to Global Village: Indian Rights and International Relations in Latin America</u> (Stanford University Press, Stanford).

Canovan, Margaret (1996) <u>Nationhood and Political Theory</u> (Edward Elgar, Cheltenham).

Carens, Joseph (1989) "Membership and Morality: Admission to Citizenship in Liberal Democratic States", in W.R. Brubaker (ed) <u>Immigration and the Politics of Citizenship</u> (University Press of America, Lanham), 31-50.

Carens, Joseph (2000) <u>Culture, Citizenship and Community</u> (Oxford Universitey Press, Oxford).

Chua, Amy (2003) <u>World on Fire: How Exporting Free Market Democracy Breeds Ethnic Hatred and Global Instability</u> (Doubleday, New York).

Cochran, David Carroll (1999) <u>The Color of Freedom: Race and Contemporary Ameican Liberalism</u> (State University of New York Press, Albany).

Colchester, Marcus et al (1998) <u>Forests and Indigenous Peoples of Asia</u> (Minority Rights Group, Report 98/4, London).

Commission on the Future of Multi-Ethnic Britain (2000) <u>The Future of Multiethnic Britain</u> (Profile Books, London).

Connor, Walker (1972) "Nation-Building or Nation-Destroying", <u>World Politics</u> 24: 319-55.

Connor, Walker (1993) <u>Ethnonationalism</u> (Princeton University Press, Princeton).

Connor, Walker (1999) "National Self-Determination and Tomorrow's Political Map", in Alan Cairns et al (eds) <u>Citizenship, Diversity and Pluralism: Canadian and Comparative Perspectives</u> (McGill-Queen's University Press, Montreal): 163-76.

Cowan, Jane et al (eds) (2001) <u>Culture and Rights: Anthropological Perspectives</u> (Cambridge

University Press, Cambridge).

Deveaux, Monique (2000) "Conflicting Equalities? Cultural Group Rights and Sex Equality," Political Studies 48/3: 522-39.

Diaz Polanco, Hector (1997) Indigenous Peoples in Latin America: The Quest for Self-Determination (Westview, Boulder).

Favell, Adrian (2001) Philosophies of Integration: Immigration and the Idea of Citizenship in France and Britain revised edition (St. Martin's Press, New York).

Fleras, A. and Elliot, J. (1992) The Nations Within: Aboriginal-State Relations in Canada, the United States and New Zealand (Oxford University Press).

Fraser, Nancy (1995) "From Redistribution to Recognition? Dilemmas of Justice in a `Post-Socialist' Age", New Left Review 212: 68-93.

Fraser, Nancy (1998) "Social Justice in the Age of Identity Politics: Redistribution, Recognition and Participation", in Grethe Peterson (ed.) The Tanner Lectures on Human Values Volume 19 (University of Utah Press, Salt Lake City), 1-67.

Fraser, Nancy (2000) "Rethinking Recognition", New Left Review 3: 107-120.

Freeman, Michael (2002) "Anthropology and the Democratisation of Human Rights", International Journal of Human Rights 6/3: 37-54.

Frideres, James (1997) "Edging into the Mainstream: Immigrant Adult and their Children", in S. Isajiw (ed) Cmulticulturalism in North American and Europe: Comparative Perspectives on Interethnic Relations and Social Incorporation (Canadian Scholar's Press, Toronto), 537-62.

Gagnon, Alain and James Tully (eds) (2001) Multinational Democracies (Cambridge University Press. Cambridge).

Gellner, Ernest (1983) Nations and Nationalism (Blackwell, Oxford).

Gellner, David (2001) "From Group Rights to Individual Rights and Back: Nepalese struggles over culture and equality", in Jane Cowan et al (eds) Culture and Rights: Anthropological Perspectives (Cambridge University Press): 177-200.

Glazer, Nathan (1997) We are All Multiculturalists Now (Harvard University Press, Cambridge).

Government of Canada (1995) "Female Genital Mutilation: Report on Consultations Held in Ottawa and Montreal" (Report WD1995-8e, Department of Justice, Research and Statistics Section, Ottawa).

Grin, Francois (2004) "On the Costs of Cultural Diversity", in Philippe Van Parijs (ed) Cultural Diversity Versus Economic Solidarity (Deboeck Université Press, Brussels), forthcoming.

Guibernau, Montserrat (1999) Nations Without States: Political Communities in a Global Age (Polity Press, Cambridge).

Gurr, Ted (1993) Minorities at Risk: A Global View of Ethnopolitical Conflict (Institute of Peace Press, Washington).

Gurr, Ted (2000) Peoples versus States: Minorities at Risk in the New Century (Institute of Peace Press, Washington).

Gutmann, Amy and Anthony Appiah (1996) Color Conscious (Princeton University Press, Princeton).

Hannikainen, Lauri (1996) "The Status of Minorities, Indigenous Peoples and Immigrant and Refugee Groups in Four Nordic States", Nordic Journal of International Law, 65: 1-71.

Harles, John (1993) Politics in the Lifeboat: Immigrants and the American Democratic Order (Westview, Boulder).

Havemann, Paul (ed), (1999) Indigenous Peoples' Rights in Australia, Canada and New Zealand (Oxford University Press, Oxford).

Ho, Chin Ung (2000) The Chinese of South-East Asia (Minority Rights Group, London).

Hobsbawm, Eric and Terence Ranger (eds) (1983) The Invention of Tradition (Cambridge University Press, Cambridge).

Ignatieff, Michael (1993) Blood and Belonging: journeys into the new nationalism (Farrar, Straus and Giroux, New York).

Ignatieff, Michael (2000) The Rights Revolution (Anansi Press, Toronto).

Ivison, D., Patton, P. and Sanders, W. (eds) (2000) Political Theory and the Rights of Indigenous Peoples (Cambridge University Press, Cambridge).

Keating, Michael (1996) Nations Against the State: The New Politics of Nationalism in Quebec, Catalonia and Scotland (Macmillan, London).

Keating, Michael (2001) Plurinational Democracy: Stateless Nations in a Post-Sovereignty Era (Oxford University Press, Oxford).

Keating, M. and McGarry, J. (eds) (2001) Minority Nationalism and the Changing International Order (Oxford University Press, Oxford).

Kingsbury, Benedict (1995) "`Indigenous Peoples' as an International Legal Concept", in R.H. Barnes (ed) <u>Indigenous Peoples of Asia</u> (Association of Asian Studies, Ann Arbor): 13-34.

Kingsbury, Benedict (1999) "The Applicability of the International Legal Concept of `Indigenous Peoples' in Asia", in Joanne Bauer and Daniel Bell (eds) <u>The East Asian Challenge for Human Rights</u> (Cambridge University Press, Cambridge), 336-77.

Kukathas, Chandran (2003) <u>The Liberal Archipelago</u> (Oxford University Press, Oxford),

Kymlicka, Will (1995) <u>Multicultural Citizenship: A Liberal Theory of Minority Rights</u> (Oxford University Press, Oxford).

Kymlicka, Will (1998) <u>Finding Our Way: Rethinking Ethnocultural Relations in Canada</u> (Oxford University Press, Toronto).

Kymlicka, Will (2001) <u>Politics in the Vernacular: Nationalism, Multiculturalism, Citizenship</u> (Oxford University Press, Oxford).

Kymlicka, Will (2004) "Justice and Security in the Accommodation of Minority Nationalism", in Alain Dieckhoff (ed<u>) The Politics of Belonging: Nationalism, Liberalism, and Pluralism</u> (Lexington, Lanham), 127-54.

Kymlicka, Will and Magda Opalski (eds) (2001) <u>Can Liberal Pluralism be Exported? Western Politicial theory and Ethnic Relations in Eastern Europe</u> (Oxford University Press, Oxford).

Levy, Jacob (2000) "Three Modes of Incorporating Indigenous Law", in Will Kymlicka and Wayne Norman (eds) <u>Citizenship in Diverse Societies</u> (Oxford University Press, Oxford), 297-325.

Levy, Jacob (2000b) <u>The Multiculturalism of Fear</u> (Oxford University Press, Oxford).

Levy, Jacob (2003) "Language Rights, Literacy and the Modern State", in W. Kymlicka and A. Patten (eds) <u>Language Rights and Political Theory</u> (Oxford University Press, Oxford), 230-49.

Mamdami, Mahmood (ed) (2000) <u>Beyond Rights Talk and Culture Talk</u> (St. Martin's Press, New York).

Margalit, Avishai and Moshe Halbertal (1994) "Liberalism and the Right to Culture", <u>Social Research</u> 61/3: 491-510.

Markell, Patchen (2003) <u>Bound by Recognition</u> (Princeton University Press, Princeton).

May, Stephen (ed) (1999) <u>Indigenous Community-based Education</u> (Multilingual Matters, Clevedon).

May, Stephen (2001) <u>Language and Minority Rights: Ethnicity, Nationalism and the Politics of Language</u> (Longman, London).

Miller, David (1995) <u>On Nationality</u> (Oxford University Press, Oxford).

MRG - Minority Rights Group (1999) <u>Forests and Indigenous Peoples of Asia</u> (Minority Rights Group, Report 98/4, London).

Nandy, Ashis (1992) "Federalism, the Ideology of the State and Cultural Plrualism", in Mukarji, Nirmal and Balveer Arora (eds) <u>Federalism in India: Origins and Development</u> (Vikas Publishing, Delhi).

Niezen, Ronald (2003) <u>The Origins of Indigenism: Human Rights and the Politics of Identity</u> (University of California Press, Berkeley).

Okin, Susan (1999) <u>Is Multiculturalism Bad for Women?</u> (Princeton University Press, Princeton).

O'Leary, Brendan (2004) "Building Inclusive States" (Background Paper prepared for 2004 HDR Report).

Parekh, Bhikhu (2000) <u>Rethinking Multiculturalism: Cultural Diversity and Political Theory</u> (Harvard University Press, Cambridge).

Pfaff, William (1993) <u>The Wrath of Nations: Civilization and the Furies of Nationalism</u> (Simon and Schuster, New York).

Pfaff-Czarnecka, Joanna et al (eds) (1999) <u>Ethnic Futures: The State and Identity Politics in Asia</u> (Sage, New Delhi).

Phillips, Anne and Moira Dustin (2003) "UK Initiatives on Forced Marriages: Is Exit Enough?" (Gender Institute, London School of Economics, London).

Prah, Kwesi (2004) "African Wars and Ethnic Conflicts: Rebuilding Failed States" (Background Paper prepared for 2004 HDR Report).

Raz, Joseph (1994) "Multiculturalism: A Liberal Perspective", <u>Dissent</u>, Winter 1994: 67-79.

Riggs, Fred (1994) "Ethnonationalism, industrialism and the modern state", <u>Third World Quarterly</u> 15/4: 583-611.

Robinson, Andrew (2003) "Cultural Rights and Internal Minorities: On Protestants and Pueblos", <u>Canadian Journal of Political Science</u> 36/1:
Rubio-Marin, Ruth (2000) <u>Immigration as a Democratic Challenge: Citizenship and Inclusion in</u>

Germany and the US (Cambridge University Press, Cambridge).

Schain, Martin (1999) "Minorities and Immigrant Integration in France", in Christian Joppke and Steven Lukes (eds) Multicultural Questions (Oxford University Press, Oxford), 199-223.

Schlesinger, Arthur (1992) The Disuniting of America (Norton, New York).

Scott, James (1998) Seeing Like a State (Yale University Press, New Haven).

Shachar, Ayelet (2001) Multicultural Jurisdictions: Cultural Differences and Women's Rights (Cambridge University Press, Cambridge).

Sieder, Rachel (1997) Customary Law and Democratic Transition in Guatemala (Institute of Latin American Studies, London).

Sieder, Rachel (1999) "Rethinking Democratisation and Citizenship: Legal Pluralism and Institutional Reform in Guatemala", Citizenship Studies 3/1: 103-18.

Sieder, Rachel (2001) "Advancing Indigenous Claims Through the Law", in Cowan et al (eds): 201-25.

Snyder, Jack (2000) From Voting to Violence: Democratization and Nationalist Conflict (Norton, New York).

Speed, Shannon and Jane Collier (2000) "Limiting Indigenous Autonomy in Chiapas, Mexico: The State Government's Use of Human Rights", Human Rights Quarterly 22: 877-905.

Spinner, Jeff (1994) The Boundaries of Citizenship: Race, Ethnicity and Nationality in the Liberal State (Johns Hopkins University Press, Baltimore).

Stavenhagen, Rodolfo (2004) "Indigenous Peoples in a Comparative Perspective: Problems and Policies" (Background Paper prepared for 2004 HDR Report).

Stepan, Alfred (1999) "Federalism and Democracy: Beyond the US Model", Journal of Democracy 10/4: 19-34.

Stepan, Alfred (2004) ""Nation State" or "State Nation"? Conceptual Reflections and Spanish, Belgian and Indian Data" (Background Paper prepared for 2004 HDR Report).

Sundar, Nandini (2001) "Beyond the Bounds? Violence at the Margins of New Legal Geographies", in N.L Peluso and Michael Watts (eds) Violent Environments (Cornell University Press, Ithaca), 328-53.

Tamir, Yael (1993) Liberal Nationalism (Princeton University Press, Princeton).

Taylor, Charles (1992) "The Politics of Recognition", in Amy Gutmann (ed.) <u>Multiculturalism and the `Politics of Recognition'</u> (Princeton University Press, Princeton), 25-73.

Taylor, Charles (1997) "Nationalism and Modernity", in J. McMahan and R.McKim (eds), <u>The Morality of Nationalism</u> (Oxford University Press, New York), 31-55.

Tilly, Charles (1975) "Reflections on the History of European State-Making", in C. Tilly (ed) <u>The Formation of National States in Western Europe</u> (Princeton University Press, Princeton), 3-83.

Van Cott, Donna Lee (2000) <u>The Friendly Liquidation of the Past: The Politics of Diversity in Latin America</u> (University of Pittsburgh Press, Pittsburgh).

Waldron, Jeremy (1995) "Minority Cultures and the Cosmopolitan Alternative", in Will Kymlicka (ed) <u>The Rights of Minority Cultures</u> (Oxford University Press, Oxford), 93-119.

Waldron, Jeremy (2000) "Cultural Identity and Civic Responsibility", in Will Kymlicka and Wayne Norman (eds) <u>Citizenship in Diverse Societies</u> (Oxford University Press, Oxford), 155-74.

Walzer, Michael (1983) <u>Spheres of Justice</u> (Basic Books, New York).

Warren, Kay & Jean Jackson (eds) (2003) <u>Indigenous Movements, Self-Representation and the State in Latin America</u> (University of Texas Press, Austin).

Wilson, R.A. (ed) (1997) <u>Human Rights, Culture and Context: Anthropological Perspectives</u> (Pluto Press, London).

Yashar, Deborah (2004) "Citizenship and Ethnic Politics in Latin America" (Background Paper prepared for 2004 HDR Report).

Zolberg, Aristide (2004) "The Democratic Management of Cultural Differences: Building Inclusive Societies in Western Europe and North America" (Background Paper prepared for 2004 HDR Report).