

**Multicultural Motivations:
Power,
Counterpower,
Elites, and
Independence**

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ABSTRACT

This thesis examines the motivations for adopting multiculturalism. To this end, it examines a phenomenon that is commonplace in everyday life but is curiously absent from the academic literature: power. I argue that power provides a better causal explanation for the adoption of multiculturalism than previous explanations, such as desecuritization, and renders justifications for multiculturalism based exclusively on moral grounds insufficient and impractical in the world of politics. I divide the analysis into two parts: power acquisition as a factor that prompts dominant groups to enact multicultural policies, and power as a factor that enables non-dominant groups to mobilize for greater rights. In the process, I examine the structure of power in the modern nation-state, and claim, in short, that it is not only a network of boundaries, rules and institutions, but also an instrument used to delimit independence. I also claim that dominant groups will be most amenable to accepting multiculturalism if it does not alter the existing power praxis, and even reinforces the authority of the bearers of power. In areas of the world where multiculturalism is perceived as granting minorities too much power, it has been and will continue to be outright rejected. Moreover, I contend that minorities are not powerless and can effectively mobilize to acquire greater rights by engaging in ‘counterpower’. Ultimately, I conclude that the realistic prospects of diffusing multiculturalism, in light of the analysis of power, are poor, since in many areas of the world, authorities have too strong a grasp on power, and the counterpower of the masses is concordantly too weak. In this respect, a focus on the concept of power with regard to the adoption of multiculturalism reflects the political reality.

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INTRODUCTION

§1. THE MANY MEANINGS OF MULTICULTURALISM

The 1990s were a veritable golden era for the topic known as ‘multiculturalism’. The term exploded onto the academic scene and into public consciousness, particularly in North America and Europe, where it was for a time a recurring talking point among politicians, academics, judges, and regular folk alike. Those who advocated multiculturalism argued that support for minority cultures reinforced equality, and on this basis that members of cultural groups and their children should be encouraged to retain their inherited cultures and languages to the greatest extent possible. On the other hand, those who supported assimilation believed that immigrants and minorities should divest themselves of their heritage cultures and languages and adopt the dominant mainstream culture and language. Between those extremes, more nuanced arguments were made. Some took issue with the manner in which multiculturalism conceived of ethnic minority life in an overly simplistic way; others argued that intercultural dialogue supplements and ameliorates one’s own culture; others still claimed that the politicization of culture masked imperialist and economic forms of oppression, which served only to further marginalize ethnic minorities, while some went as far as to make distinctions between special rights, according self-governance to national minorities and native peoples.¹ The debate raged on. The concept itself, ‘multiculturalism’, emerged and spread so rapidly, underwent such varied revisions, and was attacked and defended by such different political paradigms and at so many angles, that it was not always obvious what one meant by it. Today, there are few attempts to rid the term of its ambiguity.

¹ See Appiah, Kwame A. *The Ethics of Identity*. Princeton: Princeton University Press, 2005; Parekh, Bhikhu. *A New Politics of Identity: Political Principles for an Interdependent World*. Basingstoke: Palgrave Macmillan. 2008.; and Kymlicka, Will. *Multicultural Odysseys: Navigating the New International Politics of Diversity*. Oxford: Oxford University Press, 2007.

Perhaps this is owing to the fact that critics and supporters do not expect to reinvigorate such an entrenched debate. Or perhaps this is because, as some claim, the multiculturalists have won, and the term ‘multiculturalism’ has become part of the quotidian lexicon – in line with terms like feminism and environmentalism – where, paradoxically, no one exactly knows yet everyone generally knows what is meant by the term, giving little reason or need to strictly define it.² Indeed, the more defined a term, the more opportunities there are to attack it.³

The purpose of this thesis is to examine how multicultural *ideas* turn into multicultural *policies*. To this end, the central aim of this thesis is to investigate – in light of the controversial and divisive nature of debates associated with multiculturalism - the reasons for accepting multiculturalism, and to present an option for how opposed reasons for rejection should be understood, by analysing the role of power as a social, economic, and political phenomenon. I argue that dominant groups will be open to accepting multiculturalism if it does not alter the existing political power praxis. Where multiculturalism is seen as placing too much power in the hands of minorities, it will be rejected outright. Since such an examination would be sorely lacking if it did not make some attempt to define its central terms, in this brief section, I adumbrate the main tenets of multiculturalism. And since there are several iterations, I will look at some common strands, and observe the ways in which they converge and differ. This will reveal a family resemblance of sorts, from which we can extrapolate the kind of essential qualities that make ‘multiculturalism’ multiculturalism.

The most prominent iterations in discourse and practice are *liberal* multiculturalism, *communitarian* multiculturalism, and *interculturalism*. Liberal multiculturalism, of course,

² Glazer, N. (1998). *We Are All Multiculturalists Now*. Cambridge, Mass: Harvard University Press.

³ Concordantly, the more vague a term, the easier one can dismiss criticisms by arguing that the critic has the wrong conception of the term.

upholds the traditional liberal values of freedom, autonomy, and equality. To be autonomous, an individual needs to be free to choose and pursue, amongst a wide range of options, his or her own conception of the good life. At the forefront of this model is Will Kymlicka, who argues that culture is vital to enabling and even fostering freedom, and by extension autonomy, since culture is said to provide the context by which individuals are able to make meaningful choices and decisions vis-à-vis their lives.⁴ Without this context, and without the range of options that culture illuminates, Kymlicka says, an individual is fashioning his or her life from a limited pool of choices, and therefore cannot truly be said to be making meaningful, autonomous decisions – and is therefore not free. Thus, states that care about their citizens must recognize the cultural diversity that exists within the polity by taking measures to protect and accommodate that diversity. Here, liberals differ to varying degrees on what measure to take and how far to pursue them, but the commitment to autonomy remains intact. Accordingly, the state cannot be difference-blind, because this would represent a failure to recognize the disadvantage and difficulty that some members of minority groups experience when trying to access their own cultures. So, multicultural policies become, essentially, the cost of accommodation to ensure that members of a minority have as equal an access to their cultural membership as do members of the majority culture do to theirs. For Kymlicka and most liberals, this includes recognizing culture as something more than just a private affair.⁵ As such, liberal multiculturalism is a balancer of equal opportunity, proffered in the name of defending the dignity of the human individual.

Rather than focus on the individual, the communitarian approach to multiculturalism emphasizes the importance of community life, collective goods and social relationships. Stemming

⁴ Kymlicka (2007).

⁵ Balint, Peter. “Acts of Tolerance: A Political and Descriptive Account.” *European Journal of Political Theory*, 2014, vol. 13 (3), 273.

from, for example, Michael Sandel's powerful critique of liberalism, one of the most repeated criticisms made by communitarianism is that liberals presuppose a defective, excessively individualistic conception of the self – as a “being prior to its ends”.⁶ Under the liberal framework, all values, commitments, and conceptions of the good life are ultimately valorized as objects of choice, implying that the individual must be conceived of as distinct from and prior to such choices. Communitarian multiculturalists stress the indelibility of these commitments, personal attachments, and responsibilities to individual personal identity; they reject the view of the individual as merely the conglomeration of chosen, autonomous commitments. This communitarian conception of the self is underlined in Charles Taylor's critique of liberal multiculturalism.⁷ For Taylor, culture is irreducibly important to the individual because it provides the scope or horizon from which conceptions of the good are formed.⁸ For this very reason, culture is a social good to be valued, meaning that cultural identities should be preserved, and diversity protected. Communitarian aims on the topic of multiculturalism thus entail civic education, robust public institutions, and the establishment of public arenas where open dialogues about the commonalities and requirements of a people living together can take place. Communitarian multiculturalism encourages a commitment to the common good, to the nation's history of shared values and common experience, while also fostering diversity, but doing so within the grander societal context of unity.⁹ For communitarians, then, multiculturalism is a community-building tool.

⁶ Sandel, M. (1996). *Democracy's Discontent: American in Search of a Public Philosophy*. Cambridge, Mass.: Belknap Press of Harvard University Press.

⁷ Taylor, Charles. “The Sources of Authenticity.” *Canadian Forum* 70 (1992). 4-5.

⁸ Taylor, Charles. “The Politics of Recognition.” *Multiculturalism: A Critical Reader*. Ed. David Theor Goldberg. Cambridge: Blackwell Publishers, 1994.

⁹ Sandel (1996).

Interculturalism, meanwhile, is the newest addition to the multicultural family, a made-for-Quebec conception of immigrant integration to combat the perceived malaise that characterized Canadian multiculturalism. Gerard Bouchard has done the most to champion the principles of interculturalism. The core principle is the presumption that all members of a given society will fully respect and adhere to the basic values and institutions that are considered part of the shared framework of society; and for Quebec, this crucially includes the primacy of the French language.¹⁰ At the same time, every group is free to maintain its distinctiveness – its habits, traditions, and practices – but only insofar as that distinctiveness does not conflict with the shared core.¹¹ Thus, loyalty to one's country of origins is acceptable, though it is expected that that loyalty is trumped by the loyalty one has to the larger society in which one lives. Similarly to communitarian multiculturalism, interculturalism emphasizes the creation of a common public culture, based upon shared values, history, and respect for the contribution of both majorities and minorities, while also aspiring to create or articulate a shared identity that is the result of the contribution of both majority and minority cultures.¹² Further, interculturalism, like its liberal counterpart, is committed to the affirmation of rights. Since interculturalism has been particularly situated in the context of Quebec's history and political culture, it also involves a fundamental commitment to the promotion of French as the language of public life and vehicle of integration.¹³ This insistence by Bouchard that French be the language in which integration occurs adduces an apparent element of divergence with liberal multiculturalism. Thus, one might argue that, if nothing else, interculturalism combines elements of the communitarian and liberal kind, but differs by requiring immigrants not

¹⁰ Bouchard, G. (2008). *Building the Future, a Time for Reconciliation*. Québec, Que.: Commission de consultation sur les pratiques d'accomodement reliées aux différences culturelles.

¹¹ Ibid.

¹² Ibid, 447.

¹³ Ibid, 464.

only that they affirm their loyalties to the polity within which they live, but also that they agree to learn to interact in the public sphere in French. This brand of multicultural theory is, therefore, community-preserving.¹⁴

As noted earlier, we can arrive at a general description of multiculturalism by examining what each particular iteration aims to achieve.¹⁵ The first noticeable trend is that, according to all multicultural theories, culture is paramount to the process of ‘soul-crafting’, since it is capable of providing a particular content and a sense of authenticity to an individual’s life. Therefore, accommodations should be made to help individuals reach self-realization – though the variants of multiculturalism diverge on how far we can or ought to accommodate the demands arising from the links between culture and identity. So, multiculturalism aims at achieving recognition for minority groups, because recognition emphasizes the equal dignity of all citizens and hence the concrete equalization of rights and entitlements. Multiculturalism can include policies aimed directly at integrating immigrants, such as settlement services, assistance in finding work, and acquiring citizenship, but these are typically tangential to securing cultural respect. That is, securing a culture can and does require that some basic economic necessities be met in order to have a cultural life and perpetuate the cultural community.¹⁶

In some ways, affirmative action policies overlap with the aims of multiculturalism, by seeking to redress past wrongs with positive actions in the present. For example, recruitment techniques by educational institutions aimed at Aboriginal peoples might be put into place because of the difficulties that native peoples have had in accessing quality education, which in turn has

¹⁴ It is worth bearing in mind that the variant of multiculturalism that has shaped public policy in Western countries is the liberal variant. See Kymlicka (2007) for a discussion of the ‘really-existing’ multiculturalism. For reasons that we will explore more fully in chapter three, the link between liberal democracy and liberal multiculturalism should not be surprising.

¹⁵ Parfit, D. (1984). *Reasons and Persons*. Oxford, Oxfordshire: Clarendon Press. 9.

¹⁶ Aronovitch, Hilliard. “Political Equality by Precedent.” *Ratio Juris*, vol. 28 (1). 110-126. 2015.

negatively affected other aspects of life. In this way, goals and quotas can be measures of good faith which provide or attempt to provide opportunities to persons who, on the basis of their membership in a specified cultural groups, might not have otherwise had adequate opportunities. Hence, equal provisions can be exclusively about the balancing of equal opportunity – in the form of quotas – and retributive justice for individuals and groups.¹⁷ These provisions may say nothing about culture, race or ethnicity, while still providing opportunities for minorities. Integrative policies, therefore, can be race-conscious, by recognizing the presence of discrimination against minorities and its effect upon employment, educational, or other types of life chances. However, multiculturalism is fundamentally about respecting the minorities which comprise the polity. Cultural-support policies can manifest respect for the contributions of minorities to society by granting funding for ethnic cultural festivals and ethnic studies programs, and allowing amendments to educational curricula in schools to more closely reflect a multicultural reality. Without this element of respect, ‘support’ policies more typically tend towards the assimilationist side of the integration spectrum.¹⁸

Recognition of the contributions of minority cultures to mainstream society is therefore one mainstay of any general definition of multiculturalism. Another is the ‘aspirational’ quality that each version of multiculturalism seems to possess. By this, I mean that multiculturalism can be used to refer to the kind of society that people hope will arise as a result of, or perhaps in tandem with, the application of multicultural policies and of the various dynamics that obtain within society. Multiculturalism, therefore, represents a new orientation for addressing ethno-cultural

¹⁷ I would argue that this is more true in practice than in principle. Many employers consider affirmative action policies as boxes to check when creating employment application forms.

¹⁸ Reitz, Jeffrey. (2013). “Multiculturalism Policies and Popular Multiculturalism in the Development of Canadian Immigration”. *The Multiculturalism Question: Debating Identity in 21st Century Canada*. Ed. Jack Jedwab. McGill-Queen’s University Press.

relations and dealing with immigrant integration; one that is founded in respect, open-mindedness, and appreciation for the achievements of minority cultures. That is, multiculturalism covers a variety of ways of responding to the reality of minority and ethnic diversity, and it is the hope that this forms the blueprint for dealing with other issues and developments. For example, some people may hope for a society in which the result of multicultural policies is a greater degree of interaction between ethno-cultural citizens. Communitarians, in particular, will be in favour of this, because of the open dialogue regarding the common good that such policies create. Interculturalists, meanwhile, will hope that the application of multicultural policies leads to the survival and even the well-being of the French language in Canada. One way in which we can see the general aspiration making itself clear is in the broadening of university curricula, which has been expanding since the 1990s to better include a multicultural paradigm.¹⁹ That is, universities are responding to the need for a curriculum that reflects the perspective of and includes materials about women and minorities as well as Third World and non-western peoples.²⁰ This broadening has facilitated the hiring of faculty who have the training and the experience to provide these perspectives. The sphere of education is, now more than ever, much more sensitive to racial and ethnic minorities.²¹ The option to choose to study ethnic and women's studies is open and accessible for students (and, in fact, encouraged), and new rules and programs have been developed to teach students and faculty and administrators how to properly respond and relate to minority and female students, faculty, and administrators.²² As such, multiculturalism not only refers to the prescriptive ideal of equality between ethno-cultural minorities and the mainstream majority, but also to a normative view of society as generally progressive.

¹⁹ Glazer (1997).

²⁰ Ibid, 5.

²¹ Ibid, 6.

²² Ibid, 5.

Finally, all multicultural theories consider multiculturalism to be state-sponsored with programmatic content. It is not simply a movement pertaining to the idea of equality; as Kymlicka notes, there are actual politics involved.²³ The state is always necessarily embroiled in the types of conflicts which interest multiculturalists. One counter-example might seem to be intra-group conflicts. Indeed, it is not uncommon for intra-group minorities to dissent from the majority opinion within a minority. In these scenarios, (apart from a concern indicated below), it is commonly accepted that the problem of disputed cultural or religious practices is one to be arranged by and within the minority group: whether an action is considered legitimate by the specific minority culture ought to be decided by those whom the culture affects, and outside authorities must remain uninvolved.²⁴ This should not quite be considered a multicultural issue, because multiculturalism deals chiefly with the issue of diversity within the polity as a whole. Where the intra-group conflict becomes an aspect of multiculturalism is when those minority group members seek rights or exemptions from practices that are disputed by its own members. Are we to grant group rights to self-governance, or requests for cultural subsidies, or claims to be exempt from certain laws, if the result entails or facilitates discriminatory actions towards some members of the group or a deviation from standard regulations of health and safety? All such questions require state resolution. An exemption permitting Sikhs to deviate from RCMP uniform protocol, for example, necessarily requires a dominant authority with the power to uphold such an exemption. Otherwise, the exemption could not be legally binding, nor would it be embedded within the sutures of the law for future generations to practice. Thus, multiculturalism always requires a state authority to be involved. Intra-group conflicts are not as such multicultural issues,

²³ Kymlicka (2007), 98.

²⁴ Johnathan Quong, "Disputed Practices and Reasonable Pluralism." *Res Publica* 10 (2004)10: 43-67.

because they do not necessarily affect wider society. When they begin to have an effect, then they require state resolution, and then they become multicultural issues.

It goes without saying that multicultural theory would be moot if multiculturalism were not also a sociological fact. Statistically, there are 650 ethnic groups compacted into just 190 countries.²⁵ From Canada through Central America down to Brazil, the chance that two people are not from the same ethnic group is 65 per cent.²⁶ In Canada alone, there are over 200 ethnic groups, and 21 per cent of Canadians were born outside the country.²⁷ 44 per cent of Australia's population consists of immigrants or first-generation immigrants, one in four of Australia's 22 million people was born overseas, and there are over 260 languages and ancestries present.²⁸ Africa's history of settlement and colonization means that there is an 85 per cent chance that two people in any given country are of differing ethnicities.²⁹ According to studies done by Ekran Goren, only Japan and the Koreas remain relatively culturally homogenous.³⁰ Owing to open immigration policies, the relative ease of travel thanks to cosmopolitanism and globalization, countries are only likely to become more culturally diverse.

What makes 'multiculturalism' multiculturalism, then, is recognition, aspiration, and state endorsement. Recognition means acknowledging the importance of culture, for one reason or another, and that this should be celebrated and accommodated rather than simply tolerated. Aspiration means that multiculturalism stands, in some broad sense, as a symbol of a progressive

²⁵ Alesina, Alberto, Arnaud Devleeschauwer, William Easterly, Sergio Kurlat, and Romain Wacziarg. 2003. Fractionalization. *Journal of Economic Growth* 8(2): 155-194.

²⁶ Ethnicity is a more quantifiable metric than culture, and the implication is that people of differing ethnicities will also be a part of different cultures.

²⁷ Goren, Ekran. (2012). "How Ethnic Diversity Affects Economic Development?". *Oldenburg Discussion Papers in Economics*, vol. 353 (13). 1-40.

²⁸ See Australia's Multicultural Policy (2014), 5.

(https://www.dss.gov.au/sites/default/files/documents/12_2013/people-of-australia-multicultural-policy-booklet.pdf)

²⁹ Alesina et al. (2002).

³⁰ Goren (2012).

society. The state is involved because of the support needed from policy-makers to develop programs to assist immigrant integration and to address the emerging problems affecting a society with a diversity of sometimes-conflicting cultural forms of life. Multiculturalism, then, is this: a state-sponsored initiative that delivers accommodative content in the hopes of developing a polity based on mutual recognition, respect, and the equalization of rights and opportunities for minority ethno-cultural groups in a society sociologically characterized by cultural heterogeneity.

§2. THE PROBLEM

If most societies today are multicultural as a matter of sociological fact, then why have they not all adopted multiculturalism as a normative commitment and policy? This essential political question provides the impetus for this thesis, and has been troublingly overlooked in the canon of multicultural literature. I say ‘troublingly’, because the literature seems to be focused on addressing admittedly critical notions of autonomy and identity, culture and religion, accommodation and the limits of toleration, and other sorts of principled matters. Such arguments are often illuminating in their substance, but arguments of principle are tendentiously inadequate at addressing the perplexities of practice. For, political philosophy is not like the study of metaphysics: political theories, if enacted, have an effect on actual institutions, on an actual constitution, on actual elections, and on rights that affect actual people. When it comes to philosophical arguments, politics, or at the least, the real world, is the great equalizer. The value of cultural diversity is a vexatious an issue indeed, but so too is the issue of the management and realistic prospects of inter-cultural dialogue. Whether a government *ought* to provide resources to preserve certain cultural traditions should take into account whether a government *can*. And a perspicuously salient issue, practically and politically, is whether minority cultural groups can

effectively make claims upon the state in the first place (which, of course, is not the case in too many areas of the world). Not only does an emphasis on practice simplify the multifarious layers of principled arguments, but once we accept that the limits of practice should be the limits of principle, then we begin to see how few political theories actually have a chance to effect political change, which was or ought to have been primarily the point of the argument in the first place – to persuade relevant actors that political reality should be different or can be ameliorated. This is not to say that principled arguments are irrelevant or unimportant, but only that they need to be weighed together with the idea of ‘playing politics’. In many contexts such as in the opposition to slavery, or to footbinding of young girls, or to the general subordination of women, a common thread running through each is that the arguments for and against each of these practices were essentially known and understood by parties on both sides well before changes were made. So, whatever happened when these progressive changes occurred, it seemed to me (as was argued, for example, by Appiah on this topic) that it had not essentially to do with the force of the moral arguments put forth by those who wished to enact change. Slavery was from early on argued to be a grave moral evil; women's inequality was always irrational and unfair; footbinding was always painfully crippling. A similar thing can be said for multiculturalism: the arguments for targeted, minority rights were present during the era of expanding consciousness about human rights; for example, they were implicit in the civil rights liberalism or the affirmative action programmes that spread during the mid-20th century. Yet, multiculturalism as a political policy is itself a relatively recent phenomenon. To this end, we can raise serious concerns about the ability of moral arguments to persuade political actors to adopt multicultural policies, at least, on their own accord, and even question whether or when those same arguments can motivate minority groups to mobilize and make demands of state authorities. That is, the principles of morality and justice,

which many pro-multicultural arguments are based on, might have played parts in effecting change, but are, at best, necessary and not sufficient conditions for turning multicultural ideas into multicultural actions.

Hence, the purpose of this thesis is to examine practically effective reasons for politically adopting multiculturalism, and to present an option for how concrete reasons against or concerns about politically adopting it should be understood. In other words, supposing there is a moral or philosophical case that multiculturalism is a good that ought to be pursued, how, where, and why this can be pursued successfully.

It is an interesting question whether we can, in fact, identify the sources and preconditions which have led to the adoption of multiculturalism. Some commentators have traced the adoption of multiculturalism to the presence of particularly large minority groups that could not be assimilated within society³¹, while others have spotlighted influential multiculturalist public officials³² or the strategies of non-governmental organizations to pressure governments.³³ These factors are insightful, but bring us to an intellectual dead end. Highly localized factors are irreproducible and therefore cannot explain, as Kymlicka says, “why such a broad range of countries have become more willing to accept [multicultural] claims”.³⁴ In fact, the more I read about the global diffusion of multiculturalism and about the factors pertaining to influence, strategy and politics, the more I am persuaded that a single phenomenon is inextricably at play. My own suspicion is that if you began an inquiry into the universal and generalizable motives of adopting multiculturalism, the concept of power, which is foundational to political theory and

³¹ Mann, Jatinder. “The Introduction of Multiculturalism in Canada and Australia”. *Nations and Nationalism*, 2012, vol. 18(3). 483-503.

³² Wickstrom, Mats. “Comparative and transnational perspectives on the introduction of multiculturalism in post-war Sweden”. *Scandinavian Journal of History*, August 2015, vol. 40(4). 512-534.

³³ Kim, Joonk. “The Politics of Culture in Multicultural Korea”. *Journal of Ethnic and Migration Studies*, 2011, vol. 37(10). 1583-1604.

³⁴ Kymlicka (2007), 87.

furtively present in every social interaction, would turn out to be more useful than any other concept, looking backward, in articulating the factors which have led to the creation of multicultural policies.

Power, I believe, helps us move from the multifarious layers of principle and into the realm of practical, political reality. In the pages that follow, I plan to explicate the concept of power as a, if not the, main motivation to multiculturalism, but not merely because power is a prominent topic in modern political thought, but because it can genuinely help illuminate the canon of multicultural issues and conflicts. In the first chapter, I map out the architectonic of power, particularly as it relates to multiculturalism. I also make significant reference to Thomas Hobbes, whose treatise on power, *Leviathan*, to this day provides one of the better frameworks for understanding the structure of state power and the relational power between the political authorities that govern and those who are governed. This first chapter is designed to be the least contentious part of this thesis, as it sets the stage for the subsequent chapters. In Chapter Two, I try to show how justifications for multiculturalism could be made more feasible by directly accounting for how any new powers it involves can be accounted for. Chapter Three will discuss how multiculturalism can be rendered acceptable from the standpoint of the society as a whole.

What this thesis will overall attempt to show is that power provides a better causal explanation for the adoption of multiculturalism than previous explanations, such as desecuritization - a variable that Kymlicka champions, as we shall see in Chapter Two. It will also show that normative multicultural theories that do not account for the power praxis should be dismissed as unrealistic and unfeasible. Kymlicka, for example, was not wrong to try to rectify Rawls' view of primary goods by accounting for culture, but he would have been more right had he started with *Multicultural Odysseys*, which appeared in 2007 and addressed real-world

prospects for multiculturalism, rather than with or alongside *Multicultural Citizenship* which appeared in 1995 and focussed on the more purely philosophical case for multiculturalism. Moreover, what will be discussed is the structure and instrumentality of power as it relates to the adoption of multiculturalism. The aim is to show how power not only determines a network of boundaries, rules and institutions, but also provides an instrument to delimit independent agency. Further, one of the indirect yet plain goals of this analysis is to show that multiculturalism is a difficult political doctrine to implement, especially if dominant groups do not see it as reinforcing their power. Multiculturalism involves restructuring the prevailing and unequal balance of power, one which the dominant group is happy to maintain. In this respect, focusing on power in relation to multiculturalism addresses a central issue of political reality. Finally, the focus on the concept of power will help us understand multiculturalism as, paradoxically, the struggle against power and yet at the same time the practice of power; for a demand for recognition and yet also as restriction of recognition.

A disclaimer: in focusing on the prospects for the global diffusion of multiculturalism, I have largely tried to abstain from making definitive ethical judgments regarding the utility of multiculturalism as public policy. I have equally tried to stay away from discussions regarding central notions of multicultural discourse, such as autonomy and identity. Instead, I have mainly sought to address the motivating factors for adopting multiculturalism, by acknowledging that dynamics of power are always engaged in social and political relationships. Hence, I have looked at multiculturalism as a political policy that introduces new powers, i.e. targeted minority rights, into society, and at how these are and could be accounted for. This means that I have tailored the focus of this thesis exclusively on the relationship between dominant groups and minority cultures. I cannot purport to have definitively determined the specific and best way to mobilize the adoption

of multiculturalism. Instead, what this thesis offers is more of an exploration of that issue through the perspective of power, rather than a final resolution of it. Since the area of focus is at the level of power and not at the level of abstract ideas, I do not spend much time distinguishing between kinds of differentiated rights, in particular immigrant versus indigenous groups.³⁵ Rather, I focus on how the introduction of any kind of multicultural programme always necessarily affects the balance of power *in spite* of the contents of these rights – and how the bearers of power react to these programmes. The aim is to advance, even in some modest way, our understanding of the reasons for accepting multiculturalism, and of the opposed reasons for its rejection, by framing this modern phenomenon of multiculturalism through the more traditional lens of power.

³⁵ Besides, a sharp distinction along these lines as demanded by Kymlicka has been repeatedly challenged.

ONE

§3. THE FRAMING OF POWER

The central formulation in the modern understanding of power has belonged to Robert Dahl. “A has power over B,” Dahl wrote, “to the extent that he can get B to do something B would not otherwise do.” Despite children’s pleas, parents have the power to set curfews; the President of the United States has power over the Senate if he can convince them not to override his veto; and a boss can tell her employees what the quotas will be. In the literature of power theory, Dahl’s conception of power is categorized as *power over* (sometimes ‘reserve power’ when referring directly to the state). Indeed, it is not uncommon in academic and everyday parlance to speak of power as the capacity to influence, force, and effect the behaviour of others or the outcome of events. As a result, reprimanding, rebuking, restricting and ruling have all become synonymous with the exercise of power over. Parents can ground disobedient children; the American President can promise to appoint key Senators to judgeships; bosses can threaten to terminate employment if quotas are not met. In this regard, power exists when it can be shown that human agents would have acted otherwise, were it not for some other human agent affecting, influencing, or stirring their decisions.

Theorists of power have pounced on the implicit causal nature of Dahl’s formulation. For Steward Clegg, Dahl’s formulation was deficient in that the probability for making observations which determined with certainty that a relation of power had occurred was so low as to be negligible. “Causal relations may obtain only between distinct things or events; that is, causal relations hold only between individuated entities. A cause has to be identified and described in

terms absolutely independent of the effect.”³⁶ Inspired in large part by Hume, Clegg argues that the necessary data for linking two separate actors and two separate events may not always exist, and we, therefore, cannot always make the observations we need in order to measure power. Indeed, Hume, writing almost two centuries before Dahl, laid the groundwork for our understanding of causal relationships: “When we look about us towards external objects, can consider the operation of causes, we are never able, in a single instance, to discover any power or necessary connexion”.³⁷ A can only be said to have caused B to ‘have acted otherwise’ if we can genuinely determine that the effect, B’s act, was, with logical certainty, caused by A; if the cause and effect are even remotely implicated in other phenomena or intertwine in other courses of events, then conceptual distinction and logical relation cannot follow. That is, if there exists at all a chance that event C or actor D or agent E may have caused B to act instead of A, then we cannot say for sure that a relation of power exists between A and B. Some Senators may not have been persuaded by the President’s promise to appoint them to judgeships, but were instead influenced by moral obligation or by bribes by rich corporations. “There is certainly a probability,” Hume writes, that A caused B, but “we must not overlook the other effects.”³⁸

Of course, Dahl voiced congruent concerns, noting the ‘messy epistemological’ implications of his conception of power: “If Hume and his intellectual successors had never existed, the distinction between the two events might be firmer than it is.”³⁹ Amendments were made by Dahl and some of his proponents to include varying qualifications such as ‘scope’: B’s response to A can be said to have been effected by A only if B’s response falls within the scope of A’s power (for example, the President’s scope of power includes passing or killing a bill,

³⁶ Clegg, Stewart. *Frameworks of Power*. London: Sage. 1989. 43.

³⁷ Hume (1748), 62.

³⁸ Hume (1748), 56 & 58.

³⁹ Dahl (1957), 203.

overriding vetoes, holding hearings, etc. If any of these Presidential actions can be said to have affected Congressional actions, then the President is considered to have power over Congress). Additional amendments included the ‘intentionality’ of the relevant human actors. Intentionality considered what A actually thought and intended to happen, usually expressed in terms of the ‘reasons’ or ‘motivations’ that A might give for his/her actions, and B’s own intentions, precluding and including, A’s influence. If A intended to cause B to ‘act otherwise’, and B’s intention was changed as a result of A’s actions, then A can be said to have power over B. These failed to be convincing for reasons stated similar to above: it was, first, difficult to ascertain that B had, indeed, ‘act otherwise’, even with recourse to these additional amendments, and, second, actions fallen under the purview of A’s power could still not necessarily establish that A caused B to act otherwise (again, no logical relation could be guaranteed). Further, Clegg notes that “certain problems associated with accessing just what the internal mental and intentional well-springs of another’s causal actions might be will necessarily present themselves to any analyst who wants to argue that intentions can function as causes.”⁴⁰ Intentions are stored within the ‘black box’ known as the brain, and we can never truly know what is in there other than by asking people to report on their intentions. Even then, it could “never be clear that the putative intentional cause and the alleged action effect were in fact separable.”⁴¹

Amid this enfilade of objections, the controversy over how to formulate power leads to another consideration: whether power exists only when something has happened. In Dahl’s account, expressions of power result only when A has influenced B to act. For Clarissa Hayward, however, power should also be associated with inaction or non-decision, when those in power “use power...[to] interfer[e] with choices that the powerless would make.” And so, “we should define

⁴⁰ Clegg, 3.

⁴¹ Clegg, 3.

power, not as an instrument some agents use to alter the independent action of others, but rather as a network of boundaries that delimit, for all the field of what is socially possible.”⁴² Power, for Hayward, is expressed not only in doing things but also in ensuring that things do not get done. Bachrach and Baratz mimic this view, arguing that any analysis of power must “investigate the dynamics of nondecision-making; that is...examine the extent to which and the manner in which the status quo oriented persons and groups influence those community values and those political institutions.”⁴³ Proponents of this view have called this the hegemonic or structural face of power. The term ‘hegemonic’ should belie its Marxian roots, though this concept of power is also closely linked to post-structuralism. Though variously framed, the general proposition is that power is best understood as “a set of practices, primarily of a discursive provenance which seeks to foreclose the indefinite possibilities of signifying elements and their relations, in determinate ways.”⁴⁴ There is an infinite number of possible habits, responses, convergences, interpretations, modes of behaviour, understandings of the world, and so on, that could have been; but the exercise of power in the world narrows these infinite interpretations in particular places and times into one world-view. This is achieved through a dominant ideology which is sustained through political, economic, psychological and sociological paradigms. Paradigms are themselves instituted through an overarching network of power by power-holders, who govern the norms, behaviours, and actions of those without power in order to manage the communities that the governing bodies are responsible for. While hegemonic/structural power is most closely associated with Marxist theory and post-structuralism, there is a Nietzschean thread that runs through these considerations. In *Truth and Lies in a Nonmoral Sense*, Nietzsche urges that language and truth are symptoms of

⁴² Hayward, 3 & 5.

⁴³ Barach and Baratz. “The Two Faces of Power.” *The American Political Science Review*, Volume 56, Issue 4, 1962, 952.

⁴⁴ Clegg, 16.

political society. According to Nietzsche, when communities came together, there emerged a need to mobilize and control the populace. As a result, individuals struck a ‘peace treaty’ (otherwise known as ‘the social contract’ in liberal circles) whereby certain conditions or interpretations were marked as ‘true’ and ‘false’.⁴⁵ Thus, truth and falsehood, for Nietzsche, rely ultimately on fixed conventions: if, for example, an individual misuses a “valid designation in order to make something which is unreal appear to be real”, then the designation is false. If the individual continues to make false designations, to misappropriate signifier and signified, then “society will cease to trust him and will thereby exclude [the individual].”⁴⁶ In this manner, society imposes the order that enables itself to exist. An individual must act in accordance with the constructed concepts and conventions imposed by language and established by the peace treaty, or risks being ostracized.

So, it is important to note that overt necessity is not mostly or even standardly present in human activity. We commonly act in accordance with conventions and conditions that are determined by their “life-preserving consequences” and by the human individual’s basic need “to exist socially and with the herd.”⁴⁷ It is this drive for self-preservation and a kind of community that inclines individuals to limit their interpretations of reality in order to understand and coordinate with one another. Truth, then, according to Nietzsche, is something humans produce, not discover, because humankind arbitrarily creates truths in order to preserve human relations or a specific worldview.⁴⁸ Tradition, for example, on Nietzsche’s account, can be understood as the concealment of the origin of truth-systems that individuals have created, or of a political process

⁴⁵ Nietzsche, F. (2005) *On Truth and Lies in a Nonmoral Sense*, in *Truth: Engagements Across Philosophical Traditions* (eds J. Medina and D. Wood), Blackwell Publishing, Ames, Iowa, USA.

⁴⁶ Nietzsche (2005), 5.

⁴⁷ *Ibid.*

⁴⁸ *Ibid.*

that has sought to shape a reality the guidance of a system of norms. This is not to dismiss outright any notion of necessity in human nature.⁴⁹ As Stanley Cavell takes great pains to show, many human conventions are based on human finitude. The point, however, is that there exists paradigms which shape and enable human activity in specific manners. These paradigms are contradictorily general, yet specifically embedded within conventions, traditions, and institutions, and are created by persons or groups in power for the purpose of managing, predicting and manipulating human behaviour in particular ways.⁵⁰ That is to say, normative orders and ethical-political practices are put into place through institutions, such as bureaucratic agencies, trade unions, mass media, and so on, as well as social-cultural constitutions, such as families, churches, and schools. Power, in this way, rules not merely by restricting freedom directly, but by granting freedom for specific, restricted purposes, not only through exclusions but through forms of inclusion. Normative orders, paradigms and ideologies, therefore, not only interfere with choices that people make, but also influence, orient, and delimit all human social actions. That is why all human interactions involves the use of power.

These considerations lend support to John Porter's statement that to be in power means to have "the recognized right to make effective decisions on behalf of a group of people."⁵¹ Human

⁴⁹ On human finitude, Cavell writes that very little of what human beings do is *merely* conventional. For example, in baseball, the distance between home and first base might seem arbitrarily determined, 'done solely for convenience' – after all, we can imagine first base being 100 feet away from home, or 80 feet, etc. While there are no apparent necessities to certain rules of action, Cavell illustrates that most rules are derived from the limits of human capacity: e.g. the average speed human beings can run various short distances, the velocity a trained athlete can throw a baseball, etc. Thus, first base being 90 feet from home – and other rules of engagement - is derived from human finitude, from measuring the best distance at which the most recurrent exciting crises occur, given certain limits and abilities of the human species.

⁵⁰ Porter, J. (1965). *The Vertical Mosaic: An Analysis of Social Class and Power in Canada*. Toronto, Ont: University of Toronto Press.

⁵¹ Porter, 201. If Porter's definition of power seems vague and imprecise, it is purposefully so. Thinking of power in generic terms enables Porter to account for various species of power without subscribing to any one kind of particular behaviour. This frees Porter up to oscillate between different conceptions of power: as being held in the hands of small determinate group of leaders, whose power significantly exceeds that of all other members of the community; or as being diffused locally, such that some leaders are powerful on some issues and others on different issues, whereby no leaders are completely powerful on all issues.

beings are finite in their competence and their general know-how, and cannot reasonably be expected to possess a full gamut of specialized knowledge, or to agree on and coordinate all matters by purely voluntary means.⁵² Thus, communities need governing bodies to make decisions on their behalf and to provide direction in order to ‘get things done’. A war cannot be won without a general’s strategy; if a road is to be built, the timetable cannot be left up to the caprices of the construction workers; and if peace and cooperation are to be brokered within human communities, someone must set the terms.⁵³ In institutions, communities, and other collective enterprises, there must be leaders and those who follow. As Bertrand Russell poignantly notes, even a government that is elected to represent the people is still appointed to govern, meaning that, at bottom, there are always some people who give orders and others who must obey them.⁵⁴

The hegemonic/post-structuralist conception of power, taken together with Porter’s definition, would indicate that anything of human doings that could putatively have been otherwise is under the influence of power. The rule of law, moral codes, political cultures, economic systems, modes of measurement, names and categories, architectural styles, official languages, sociological norms, behavioural responses, and so on, are all expressions of power. The entrenchment of these in social institutions only serves to perpetuate the dominant ideology of the time.

For the sake of our discussion on multiculturalism, we must ask: who is designated with the power of accepting or rejecting multiculturalism? Since, as noted earlier, multiculturalism is a state-sponsored doctrine, those responsible for co-ordinating multiculturalism are those in power roles closely associated with the state: the Prime Minister or President, the ministry or office responsible for immigration and cultural integration, their policy-makers and policy analysts

⁵² Russell, B. (1938). *Power: A New Social Analysis*. New York: W.W. Norton.

⁵³ Ibid.

⁵⁴ Ibid, 8.

(and, to certain degrees, legislative assistants, political advisors, secretaries, and other support staff, who are by no means nonentities in the social dynamics of power). In associated or alternative ways, Supreme Court judges, leaders of the opposition, and others in the political power system are key figures. Institutions such as the mass media and educational enterprises are not directly in positions of power to accept or reject multiculturalism. Their influence or efficacy is indirect.

“People in power roles belong to an elite,” Porter writes.⁵⁵ This notion of power elites has been met with some gimlet-eyed scrutiny. Dahl, for example, argued that no one single elite does govern; different, competing groups prevail over different issues, and it is the responsibility of the government to mediate these conflicting interests. “Do leaders tend to cohere in their policies and form a sort of ruling group, or do they tend to divide, conflict, and bargain? Is the pattern of leadership, in short, oligarchical or pluralistic?” asks Dahl rhetorically.⁵⁶ Given Porter’s account, I believe the matter to be more of a lexical issue than of a substantive one. Dahl took issue with the elitist model of power which implied that the democratic process was effectively stymied and that democratic decision-making was only a myth which served as an ideological cover for elite domination.⁵⁷ This meant that proponents of elitist theories of power made distinctions between ‘official’ and ‘real’ decision-makers, with the official decision-makers being relatively powerless.

⁵⁵ Porter, 207.

⁵⁶ Dahl (1961), 5.

⁵⁷ Dichotomies are plentiful in philosophy: analytic vs. continental philosophy, dualism-materialism, free will and determinism, and so on. In this respect, power theory continues the trend, and there are two approaches which have been most commonly circulated: the pluralist and elitist models. Proponents of the elitist model claim that the power system does not distribute power at all equally, since resources are inequitably distributed and political inequalities are cumulative. This means that some groups are denied access to the decision-making process, and therefore do not gain representation. Communities and societies are dominated by an oligarchy of securely ensconced elite figures. The system of power, generally, does not deliver satisfaction, but instead heavily favours some groups against others. On the other hand, those who favour the pluralist model argue that the major actors in society are the leaders of a wide variety of interest groups which have political resources available to them. Interest groups are competitive with one another, but in requiring resources from each other, are forced to make compromises which cultivates an open system of communication. From this follows the conclusion that the system of leaders and decision-makers is a relatively open process. As such, compromises between competitive groups produces some general distribution of satisfaction. See Dahl (1971) and Mills (1956) for a more detailed breakdown of the battle between the two models of power.

Porter, however, does not subscribe to the conventional elitist model. He considers people in positions of power to be elites by the very fact of their occupying a position of power (in the same way that unmarried men are bachelors). Anyone that is recognized as having the right to make decisions on behalf of a group of people is an elite. “The group may be a boys’ gang, a coffee club, a nation, or a far-flung empire.”⁵⁸

Bearers of power are also elites by virtue of the fact that, in most collective enterprises, there are fewer people making decisions than those whom the decisions affect – in this sense power-holders are elites because of the privileged status of being one of the few in the decision-making body. Further to this point, Porter adds that elites are trained in the esotericisms of their positions. For example, it would be unusual today for the general of an army to make a good head of state, though this certainly has happened in the past. Both the general of an army and the head of state possess specialized skill-sets which tailor to their domain, and which typically are not appropriate or transferable to the tasks which the CEO of a company and the Church minister have.

It is important to acknowledge this familiar point stated by Bertrand Russell: “Owing to the love of power which is expected in those who acquire governmental posts, every organization will, in the absence of any counteracting force, tend to grow in both size and in density of power,” and so, “growth in size is only stopped by the pressure of other organizations.”⁵⁹ There is a need for the various parts of society to cohere or coordinate in some significant measure. Otherwise, the groups of elites would be at constant war with each other, and nothing would get done, which at times is the case.⁶⁰ But some limits on the power and the gains in power of the diverse sectors of society must be established. That is not to say that power elites do not compete, for they do, but

⁵⁸ Porter, 201.

⁵⁹ Russell (1938), 130 & 131.

⁶⁰ Russell (1938), 128.

competition occurs along with a significant need or pressure for making accommodations, entering into coalitions, and maintaining some equilibrium of compromise, as opposed to engaging in open conflict – at least in democratic societies.⁶¹ It is essential that there be some co-ordination among elites, though the amount of co-ordination can vary from state to state. The increasing complexity of a society's internal system and the increasing complexity of its relations with other societies entails significant degree of co-ordination. That results in a greater hold on power by incumbents since the higher the degree of co-ordination, the more difficult it is to dislodge power elites.

Russell identifies one important factor that aids co-ordination, but I think that there are at least two. The factor that Russell identifies is the relatively small size of elite groups. This smallness facilitates communication and control within any one collective enterprise.⁶² Only a few people are allowed in the meeting rooms where decisions are made, and even among those, only a few people's opinion truly matters. The rest support these relatively few people, as institutional representatives or placeholders or administrative assistants. For example, in Parliamentary democracies, it is not unusual for political parties to toe the party line – a line which has been drawn by the head of the party. Thus, backbenchers and non-cabinet members at best amount to supporters in a vote, because in practice they have minimal influence on national policy. The small size of these elite groups also means that the head of power is well-known. In a larger group, the individual most in charge of directing units is more difficult to establish because there are so many people involved in the decision-making process and surrounding the decision-maker. Smallness serves the purpose of not only being able to trace the root of power in an institution, but of additionally easing communication between institutions.⁶³ That is, elites are known and accessible

⁶¹ Porter (1965).

⁶² Max Weber also wrote extensively about the collegiality of power elites in *The Theory of Social and Economic Organization* (1947).

⁶³ Russell (1938).

to one another. In liberal democracies, the head of government will be familiar with the heads of major lobby groups, for example. The smallness of elite minority groups, then, helps foster the kind of working relationships which facilitate co-ordination.

The second, and more important, factor facilitating co-ordination is formulated by Max Weber's rational-legal view of the world; as the commitment to the rule of law, and a more general agreement to not encroach on the power systems of other elites. According to Weber, modern liberal democracies are characterized primarily by rationally-created juridical rules. This 'domination of legality', as Weber calls it, means that power elites operate under a network of juridical norms which demands statutory obligations and protections in the form of civil rights.⁶⁴ The commitment to the rule of law ensures that open conflicts do not normally occur and minimizes violence. (The rule of law, as an integument of the structure of power, is important in many ways, for reasons we will discuss in Chapter Three). For example, in parliamentary democracies, if by majority vote the elected parliament signals that it no longer has confidence in the appointed government, then the Governor General must dissolve parliament and call a general election. In feudal systems of power, meanwhile, it was not unusual for non-confidence to translate to wars or revolutions (e.g., the French Revolution). This established procedure aids co-ordination because elites, and the institutions and resources they control, are, through rights and the rule of law, protected from one another.⁶⁵ Where they are thus protected, they will feel more secure, and security breeds more communication. Communication leads to co-ordination, which eventually promotes relatively peaceful communities. Open conflict would only serve to undermine this, and

⁶⁴ Weber (1965).

⁶⁵ Porter (1965).

at the cost of one or more elites losing their power. So, because their power depends upon it, ruling elites will commit themselves to rule such that no others encroach upon their territory.⁶⁶

There are, therefore, clear demarcations of power in society. This is not just because of the specialized skills required to maintain and direct specific institutions, but also because elites compete with one another, within limits, for power. As a result, institutional elites essentially accept boundaries for themselves. In practice, however, these distinctions between power elites are sometimes blurred. For example, heads of corporations with large profits are sometimes able to influence national policy more than they ought to be allowed to do. Still, power is firmly in the hands of these competing elites. It is far from evenly dispersed between the elites and ordinary citizens, even in democracies.⁶⁷ The checks and balances that are abundant in any stable society are typically not imposed by the masses, but rather come from the elites themselves. As noted, by passing a vote of non-confidence in parliament, the government falls and a new election is required. In instances where the governing party holds a majority of the seats in parliament, it is kept in check by scheduled elections, which themselves are instituted to ensure that no one party enjoys a monopoly on power, and the government's legislation can be challenged in the courts as unconstitutional. Corporations, for their part, are kept in check by regulatory agencies, while the judiciary is kept in check by established legal precedents and the legislature. Judges to the Supreme Court, for example, are selected by the heads of government; so, some suitability by prospective judges to the political party of the day is required. Military power less firmly fits this model, because the checks on it are based on sentiments of nationalism, loyalty, moral honour, legitimate

⁶⁶ A possible third factor that breeds coordination is the specialized skill- set required to maintain each respective institutional order. Because each power elite is trained in the esotericisms of their respective faculties, it reduces the likelihood of encroachment, since the encroaching elite will not have the specialized knowledge required to manage the encroached power system. But this is more true in principle than in practice. We see quite regularly the political and economic powers encroaching on one another in different circumstances.

⁶⁷ Parsons (1963).

rule, etc. which military power claims to represent; as well, ultimately, in democracies, military leaders are accountable to civil authorities. These various checks and balances have evolved through a complex series of historical events and constitutional conventions. Limitations, therefore, exist on the power of those who govern – even those who govern in the name of the majority – which is expressed in a legal system that respects certain fundamental rights of citizens, as well as those of the competing elites.

§4. THE SOURCE OF POWER

In Porter's account of power, an important, confining qualification should not be overlooked. "To be in power means to have the *recognized* right to make effective decisions on behalf of a group of people."⁶⁸ Suppose I stand at an intersection, and I direct automobile drivers to move through the intersection when the light turns green and to stop when the light turns red. And suppose further that the automobile drivers seem to follow these directions (i.e. at green they just happen to go, at red they just happen to stop). It would be foolish to insist that it was my directions that caused the automobile drivers to move as they did and to regard myself as having power over automobile drivers. On the other hand, if a policeman is standing at an intersection and orders traffic to turn right or left or go straight ahead, and the traffic moves correspondingly. Wonted would the claims be that the policeman, acting in his particular role, compelled the automobile drivers to move. The policeman is recognized as having the power to direct traffic, whereas my commands are likely appear to be the gesticulations of some lunatic.

⁶⁸ Porter (1967), 201. If Porter's definition of power seems vague and imprecise, it is purposefully so. Thinking of power in generic terms enables Porter to account for various species of power without subscribing to any one kind of particular behaviour. This frees porter up to oscillate between different conceptions of power: as being held in the hands of small determinate group of leaders, whose power significantly exceeds that of all other members of the community; or as being diffused locally, such that some leaders are powerful on some issues and others on different issues, whereby no leaders are completely powerful on all issues.

Wondering where recognition and authority are derived from leads to another consideration: What is the source of power in modern societies? Perhaps the most influential examination of the possible sources of power is that of Thomas Hobbes, who derived the legitimate right to rule from the consent of those who are to be ruled. “The only way to erect such a common power as may be able to defend them from the invasion of foreigners and the injuries of one another, and thereby to secure them in such sort as that by their own industry...is to conger all their power and strength upon one man, or upon one assembly of men...which is as much to say, to appoint one man or assembly of men to bear their person,” Hobbes writes. Persons, then, are inaugurated into power “when men agree amongst themselves to submit to some man, or assembly of men, voluntarily, on confidence to be protected by him against all others.”⁶⁹ Here and elsewhere, Hobbes insists that political authority is only established when people covenant with each other to authorize a common authority. Hobbes’ critics have often accused him of promoting a tyrannical or paternalistic regime; and the reasons for these accusations are replete, though Hobbes would disagree. John Locke, for example, admonished the absolutist model of power and the rights of the sovereign set forth by Hobbes⁷⁰: “as if when men quitting the state of nature entered into society, they agreed that all of them but one should be under the restraint of laws, but that he should still retain all the liberty of the state of nature, increased with power, and made licentious by impunity.”⁷¹ Indeed, Hobbes conferred on the sovereign a great many powers and unchecked liberties which are commonly found in corrupted and dictatorial regimes, and he frequently reminds us that sovereign power cannot be forfeited. However, Hobbes did register an important caveat which enables the subjects to make judgments about the rule of the sovereign, and which

⁶⁹ Hobbes (1651), 109.

⁷⁰ For all of the rights of sovereigns, see Hobbes 110.

⁷¹ Locke (1689), 140.

could sanction individuals to renege on the social contract. A covenant creating a sovereign who cannot “defend man’s own body [is] void”, Hobbes says, meaning that the sovereign is, in effect, accountable to the subjects by virtue of ensuring the protection of those who have consented to the covenant.⁷² Since the task of the sovereign power is to effectively preserve the security and liberty of its constituents, obedience to the sovereign ends when the sovereign ceases or fails to protect the subjects: “the obligation of subjects to the sovereign is understood to last as long, and no longer, than the power lasteth by which he is able to protect them.”⁷³

The original institutionalization of the sovereign therefore requires the express consent of individuals to the social contract, though once ensconced, the sovereign enjoys a vast array of powers which it can enact “whether [its subject’s] consent be asked or not”.⁷⁴ Therefore, Hobbes understood the consent criterion to apply not only to educed forms of consent but to tacit ones as well. With express consent, the relationship of power between the sovereign and the body politic begins and ends with the social contract and the inauguration of the sovereign body. The added element of tacit consent, meanwhile, implies that the social dynamic of political power is always engaged: the body politic depends on the power invested in the sovereign body to maintain civil order and peaceful co-existence – and in the modern nation-state, to manage order and make decisions - though the sovereign, too, is dependent on its subjects, since its power depends on their continual acceptance to the terms of the social contract. Without the consent of the body politic, the sovereign finds itself powerless to effect and maintain order. Equally, power elites in the modern era are not legitimate if no one elected, asked, or appointed them to govern. They have no authority, no sovereignty, and the other power elites will not recognize them as players in the

⁷² Hobbes (1651), 141.

⁷³ Ibid, 144.

⁷⁴ Ibid, 112.

power system. Legitimate elites will therefore not co-ordinate with or take seriously the attempts at co-ordination of an illegitimate power.

We see these same ties of consent to the legitimacy being remarked on by other thinkers. Russell, for example, noted that “the law is almost powerless when it is not supported by public sentiment, as might be seen in the United States during Prohibition, or in Ireland in the eighties, when moonlighters had the sympathy of a majority of the population.” Obedience to those in power, therefore, “depends upon opinion and sentiment...the degree of feeling in favour of Law is one of the most important characteristics of a community.”⁷⁵ Weber, meanwhile, linked an account of legitimacy to ‘belief’ in the political regime: “the basis of every system of authority, and correspondingly every kind of willingness to obey, is a belief, a belief by virtue of which persons exercising authority are lent prestige.”⁷⁶ The ‘belief’ that Weber mentions, I take it, is closely related to Porter’s notion that power elites are viewed as problem-solvers or decision-makers that the masses can defer to. Power, we have established, arises from a social need for order. Without social structures, individuals evidently face significant challenges in coming together and co-existing peacefully. Since not everyone is or can be trained in the esotericisms of the economy, the political system, the military, and so on, only a few gain the right to make decisions on behalf of the collective. These few are chosen when circumstances are such that the individuals of the collective enterprise do not know how to deal with a particular issue or problem or cannot agree or cannot effectively implement the result. Indeed, Russell confirms this point: “Men like power so long as they believe in their own competence to handle the business in question, but when they know themselves incompetent they prefer to follow a leader.”⁷⁷ Thus,

⁷⁵ Russell (1938), 25.

⁷⁶ Weber (1962), 382.

⁷⁷ Russell (1938), 9.

power elites are, in principle, supposed to be experts in their field, or at the least, that is one main reason why they are assigned to their positions.

Of course, we might be skeptical about the function of legitimacy to justify the coercive powers that Hobbes grants the sovereign; but the notion that legitimate power is founded in consent should be unsurprising: it is intuitively self-evident. In the modern era, legitimate authority need not be derived from individuals who have literally consented to a social contract, but can come from public opinion, which is expressed by votes or other indications of support, such as respect or sentiment. Since sentiments can change and respect can decay, power is much more subject to being forfeited than Hobbes envisioned in 1651. For example, the Church was for long an authority that commanded respect, and though the Pope was never voted into his position by the general public, his authority carried legitimacy. This is as much to say as that the word of the Pope, for many people, was the criterion of moral law, which translated to civic duty and obligation. This was evident, for example, during the 200-year period in which the Crusades took place. Public sentiment towards the Church and its elites was, for a time, generally favourable, and the public often considered the Pope to be superior to the political rulers of the time.⁷⁸ By contrast, today, we can see very obvious deteriorations of the legitimacy of the Church on many socio-political issues, in large part due to decaying respect for the Church as an institution (or changes in the common attitudes which the Church has been at odds with). In other words, respect for the Church has waned, and so has its legitimacy, and therefore, its power to enact change, make decisions, and influence the masses and the other power collectives has diminished significantly. The judiciary, particularly the Supreme Court, is another interesting example of how institutional respect may be won and subsequently lost. When Supreme Court judges rule in accord with the public social

⁷⁸ Russell, (1938).

philosophy of the time, the judiciary is viewed favourably and is therefore considered a legitimate entity of the liberal democratic process. When the judiciary does not follow the trend of the majority, there are calls for cutbacks or resistance to the power of judges. This is, in part, due to how decisions by the courts affect other powers which may feel threatened by the judiciary, and therefore attempt to arouse negative public sentiment.⁷⁹ In democracies, basic legitimacy is granted through the voting booth, of course; but like the kind of legitimacy that is gained through respect, this, too, is fleeting. Those voted in may be voted out in the next election, and even if they are not, there are often limits on how many terms any one person can serve, even in private corporations. Thus, legitimacy and public opinion are an omnipresent concern for bearers of power. Over time, the persons that a power elite has dominion over may become increasingly dissatisfied for any number of reasons, and public respect can begin to decay and wilt altogether. This is in part why Fidel Castro and comrades were able to overthrow the Cuban regime in 1958; why Russia is no longer a Tsarist autocracy; and why the Arab Spring happened in 2011. The Occupy movement of 2012 was also an example of pushback, though generally more peaceful, and this time explicitly targeting the economic system. Thus, power elites must concern themselves with maintaining and even cultivating perduring public consent if they wish to prevent an upheaval. And this says nothing of potential upheavals from the other collective enterprises to which each elite is connected. The Church, again, is a good example. Once a major player in the power game, it no longer controls many facets of social life as it once did. Most of the spheres of tradition, family, and community have been taken over by the political and economic sectors.

Revolutions do happen; those in power one day may be impeached the next; and public pressures can force resignations. This holds true even in liberal democracies. In Canada, there are

⁷⁹ Russell (1938).

constant calls for the reform and even outright abolition of the Senate. In another regard, the call for ‘small government’ and bureaucratic reform has become water-cooler talk among the American public. And, stemming from police shootings, the decisions and actions of police chiefs and constable have been put under a magnifying glass. Since power elites need to enjoy the consent of those governed, and because, we can only assume, those in power wish to retain their power, sustaining consent by remaining legitimate is a continuing concern for bearers of power. Again, this means that the dynamics of power are forever involved. Decisions made by power elites, for example in government policy, reflect the balance of power in society. Given a number of options, power elites will always consider the options that allow them to stay in their positions of power.

To bring out an important facet of the concern for consent and its link to authority, I will symbolically lay down the relationship between power elites and those governed.⁸⁰ Let,

(L, w) = the threat of shareholders leaving if the CEO of company X does not ratify a shareholders benefits program.

(L, \bar{w}) = no action on the shareholders part.

(C, x) = the CEO of company X ratifies a shareholders benefits program.

Herewith, there are two probabilities:

P1 = P (C, x | L, w) = the probability that the CEO of company X ratifies a shareholders benefits program if the shareholders threaten to leave the company.

P2 = P (C, x | L, \bar{w}) = the probability that the that the CEO of company X ratifies a shareholders benefits program if the shareholders do not threaten to leave the company.

⁸⁰ This formulae is heavily influenced by Dahl (1957), 205.

Now, the amount of power can be defined as:

$$\text{amount of (CEO's) power} = P1 - P2,$$

for, if (1) $P1 = 1$ and $P2 = 0$, then the CEO's power is at a complete minimum. This means that the CEO is entirely under the influence of the shareholders (perhaps because he or she holds onto his/her position tenuously, and/or perhaps because the company risks folding if the shareholders withdraw their investment). In (1), the CEO is consumed with appeasing the shareholders, for his/her power is utterly *dependent* on their favourable opinion of his/her tenure. Meanwhile, if (2) $P1 = 0$ and $P2 = 1$, then the CEO's power is at the absolute maximum. The threats of the shareholders do not, in the slightest, affect the decisions of the CEO, indicating that the CEO is not accountable to the shareholders by any virtue of them holding power over him or her. The absence of power on the side of the shareholders entails complete *independence* of the opinions and sentiments of the shareholders on the side of the CEO. In (2), positions of power are most stable, because they are unaffected by and unaccountable to the masses that are governed under them. Finally, if (3) $P1 = 0.5$ and $P2 = 0.5$, then there exists a perfect equilibrium of power between those that govern and those that consent to be governed. Statistically, this is the equivalent of saying that the CEO is concerned but not consumed with placating the shareholders, and the shareholders recognize their involvement, though limited, in affecting the decision-making process; in this case, through the threat of withdrawal.

Evidently, between these three outcomes, (2) is most desired by those in power, and (1) is most desired by the masses, though there are probably strong cases to be made for (3) being most desirable in society as a whole. In relation to the central concern of this thesis, the realistic prospects for adopting multiculturalism lie in the multiculturalist's ability to appeal to the prevailing power structure. Power elites will only recognize the collective rights and identities of

minority groups insofar as this recognition does not throw into question the background legal, political, and economic framework of power itself. Those in power will therefore be most amenable to the adoption of multiculturalism if and where such adoption embraces and reinforces or is somehow compatible with the power of the elites. In other words, if multiculturalism is perceived – erroneous as that perception might be – as giving preference to outcome (1), then it will be rejected outright; if favouring outcome (2), it is (only) likely to be accepted; and if augmenting outcome (3), that is, if an equal balance of power is made unbalanced to the advantage of power elites, then it might receive consideration. This means that multiculturalism cannot be regarded as an impartial affair, normatively-speaking, because its agenda must be implemented by political actors and ruling elites who themselves are interested parties. They are ‘interested’ insofar as those in power seek to increase, or at the very least, retain that power.⁸¹ In contexts where multiculturalism reinforces or somehow coheres with state sovereignty and bureaucratic power, for example, by being viewed as a political practice or a form of state policy, the purpose of which is to maintain freedom, public order, peaceful coexistence, stability, etc., then it is more likely to be accepted by political actors. In contexts where that is not the case, where multiculturalism is viewed as promoting moral and cultural relativism by, for example, favouring self-governance for certain minorities, or as enabling value systems different from the majoritarian norm, then it has often been received with hostility. In these cases, a discourse of multiculturalism as ‘tearing at the social fabric of society’ is usually present, and comes up against a deep-rooted fear of a shift in power.

⁸¹ That those in power seek to retain power is, perhaps, an obvious truism.

So, claiming that power is an explanatory factor in the development and adoption of multiculturalism is not quite penetrative enough. Instead, we should note that what is truly up for grabs when those in power consider adopting multicultural policies is the *amount* of power.

§5. THE AMOUNT OF POWER (POWER COMPARABILITY)

To say, “The Prime Minister of Canada has a lot of power” is not very informative. We learn nothing in the statement about the source, scope, and means of employing the Prime Minister’s power. Further, the statement neglects the fact that the amount of power one has is entirely relational: the current Prime Minister of Canada might be more or less powerful than the previous Prime Minister, owing to affluence, charisma, political connections, and a stronger case to legitimate authority. Again, legitimacy is imperative for power. Consider, for example, that in parliamentary democracies, the Governor General is constitutionally allowed to ask the opposition parties to try to form a government of their own if he/she feels that the election results do not satisfactorily reflect the state of public opinion vis-à-vis the electoral results - most notably when a minority government is elected - and if there is a significant desire among the populace to see the opposition parties collaborate. That is, the Governor General must consider who has the legitimate right to govern regardless of who wins the most seats.⁸² Moreover, we must not forget

⁸² There are two examples that come to mind where public opinion seemed to trump electoral results. The Progressive Conservative party won the most seats in the 1985 Ontario election, though less than the combined amount of the Liberals and New Democrats. The Liberals and NDP had enough of a common agenda to sign a formal accord and form government, essentially kicking out the party that won the most seats. Another is the threat by Liberals and NDP in the 2015 general election to form a coalition if the Conservatives won another minority government. Though this never materialized because the Liberals won the election, the idea had legs among the Canadian populace, because “there’s more visceral antipathy towards the [current Conservative] prime minister than there has been in the recent past,” said pollster Frank Graves, “and that reflects itself in many Canadians desiring the opposition parties...to provide progressive change.” McKenna, T., & Sphrinstein, A. (2015, October 14). What happens if Harper wins the most seats but not a majority? Retrieved October 19, 2015, from,

that a polity consists of a ramified variety of collective enterprises, institutions, and communities, most of which are headed by power elites. Thus, quantifications of power are not complete without a comparison, either explicit or implied: “The Prime Minister of Canada has less power than most multinational corporations.”

A society is not composed of one unified concrete group, as conceived by Hobbes, but rather, as Talcott Parsons writes, of a “systematically related pluralities of persons,” who converge in their interests and capacities for the purpose of effective collective action.⁸³ It is worth repeating that at the helm of each of these collectives are power elites.⁸⁴ When we speak of power elites, we may ultimately refer to politicians, bureaucrats, judges, and other government officials, as well as CEOs, religious leaders, heads of trade unions, presidents of educational institutions, lieutenants, sporting managers, etc. Any person who occupies a position of power (that is, in accordance with Porter, a position in which he/she must make effective decisions) is an ‘elite’, insofar as that person occupies a position of superiority over others by virtue of being responsible for determining, directing, managing, controlling the actions of others. This is to say, categorizing persons as power elites can be wholly circumstantial – persons can at times constitute the dominant group and at other times constitute the non-dominant. The priest is a religious leader in the hallowed halls of the local church, but just an ordinary person in other everyday environments. A revered film director can coax peculiar performances out of her actors but is unable to convince the studios to budget her films. The beloved municipal representative can influence local companies to hire more

<http://www.cbc.ca/news/politics/canada-election-2015-minority-government-harper-conservatives-what-happens-1.3270660>

⁸³ Parsons (1963), 232.

minorities but is hapless to effect change at the federal level. Different spheres of society mean different dominant groups, the constituency of which can evidently change.

Since there are various enterprises, institutions, and organizational bodies within any given polity, power elites must exist alongside other power elites. The modern nation-state is sustained by this dense web of interlocked power elites who are frequently communicating with one another in order to effectively maintain the total society. For example, members of the legislature will meet in committees with members of economic organizations in order to address how to best manage or promote the economy with political policies. Doctors, physicians, surgeons and other leaders in health will meet with relevant political and economic actors to propose policies that produce large gains in public health and economic productivity. The media is in frequent contact with people in positions of power in order to report the news, produce sound bites, or provide content of some sort. Municipal schools that need funding for textbooks, equipment or educational trips might ask local companies to sponsor them. In any case, no single power elite can be so pervasive as to regulate all the patterns of sharing, dividing, and exchanging which shape a society. For example, state officials can tax, allocate, regulate, appoint, reward, and punish, but they cannot capture the full range of goods or substitute themselves for every other agent of distribution.⁸⁵ Non-dominant groups can find ways to avoid a (economic) power elite's control by creating black markets, clandestine organizations, and the like. Thus, communication and interchange are mandatory features of a functioning, stable society.

As part of the development of stable structures of coexistence and of cooperation, a legal framework is accepted by all power elites (even if not uniformly or without challenges). This framework typically takes the form of a set of constitutional limits that prevents collective bodies

⁸⁵ Forst (2013), 308.

from encroaching on one another. These limitations prevent any one collective enterprise attempting to acquire a monopoly on power. Organizations may push the boundaries of these legal norms, but such perturbations need not necessarily represent a challenge to the overall power structure, but may instead be purely local struggles for autonomy and control, which pose no threat to the structure *per se*.⁸⁶ For example, some financial investors may heavily lobby government officials to pass bills which help line their pockets, or keep the government out of theirs. This is an encroachment to some degree, but not anything atypical of the usual relations between political and economic elites. An encroachment would include the investors outright bribing the government officials, for this would mean that these economic elites would hold dominions of power in more than one sphere of society – or, at the least, in a sphere in which they ought not to be allowed to hold dominions of power. Evidently, there are rules against bribery.

The point to be made is that we need to think of power as not only a ‘power over’, but as a system of relations. Naturally, in the interest of order there must be some rebuking, reprimanding, and restricting. But, power should also be understood as the ability to influence, direct, and even acquire control of other enterprises, as well as the ability to negate outside influence, direction, and encroachment. That is, an elite, called A, is ‘more powerful’ than another elite, called B, if A is better able to navigate the network of juridical norms and use it to its advantage to encroach into other spheres of social life than B.

A brief example is in order: The President of the Treasury Board is comparatively more powerful than the Minister of Science. The Treasurer is responsible for overseeing the fiscal and economic policy of the entire country. As a result, the Treasury provides bureaucratic departments the resources and the administrative environment they need to translate policies and programs into

⁸⁶ Clegg (1989).

an operational reality. Naturally, this means that the Treasury Board must encroach upon various spheres of social life, since it must approve financial, personnel, regulatory and administrative decisions for myriad sectors of society. The Treasury Board's scope of power is, therefore, wide-ranging and pervasive. Consequently, the Treasury is able to influence the decision-making process of other bureaucratic departments by using its economic and political clout (e.g. by threatening to withdraw funding, or conversely, to promise funding given certain favours are returned). Since the Treasury's Board scope of power is expansive, this influence is not an unlawful encroachment and does not contravene constitutional limits and conventions. Given that these encroachments are not unlawful or atypical, the Treasurer will have less difficulty navigating the legal framework relative to other portfolios. The Ministry of Science, meanwhile, is charged specifically with coordinating the development and innovation of science and technology. Concordantly, the Minister's responsibilities are much more esoteric and focused than the Treasurer's, and therefore affect smaller portions of society. As a result, the Ministry's scope of power is more limited than the Treasurer, and the Minister cannot influence other departments in the same way or with as much ease as the Treasury can. In other words, because the Treasurer has a broader range of responsibilities than the Minister of Science, he/she is tasked with making effective decisions which affect a broader range of individuals, collective groups, institutions and dominions of society.⁸⁷

Understood as a set of relations, Parsons proposes that the structure of power in modern society should be conceived as a fluid, circulating medium.⁸⁸ One way in which Parsons makes this conception of power clear is through an analogy to money. Money, of course, works as a

⁸⁷ « *Ils doivent envisager qu'une grande responsabilité est la suite inséparable d'un grand pouvoir.* » So goes an old French Proverb.

⁸⁸ Parsons (1963), 236.

medium of exchange, but only within a relatively defined network of market relationships. Moreover, money is a 'good' insofar as it enables the procurement of other goods and services, but is valueless without the commitment to a monetary system by the actors involved in the exchange.⁸⁹ With such a market exchange system in place, the measure of the value of money lies in the degrees of freedom it enables those who possess it to have. According to Parsons, there are four important degrees of freedom that money awards: An individual with money is "(1) free to spend one's money for any item or combination of items available on the market which one can afford; (2) free to shop around among alternative sources of supply for desired items; (3) choose one's own time to purchase; and (4) free to consider the terms of the exchange which, because of freedom of time and source, one can accept or reject or attempt to influence."⁹⁰ This degree of freedom is subject to the exchange system, inasmuch as it is subject to the "probabilities of the acceptance of money by others and of the stabilities of its value."⁹¹ Given the relative instability of the economic market and the fluctuations even in typically strong national currencies in recent years, that is a point worth reiterating, but the principle of a range of freedoms still stands.

Analogously, power systems in the modern nation-state are relational. We have discussed in previous sections how collective enterprises may seek to encroach on one another as a means of gaining greater access to other spheres of public life. Encroachment, in this way, enables one enterprise to directly influence the decision-making process of another body. For example, CEOs of oil companies may encroach (through cronyism, lobbying, or even bribery) on the political sphere in times of war if the enemy's territory has precious resources that may be extracted.⁹² Conversely, legislative elites may encroach on the economic sphere by legislating sanctions

⁸⁹ Ibid, 237.

⁹⁰ Ibid, 238.

⁹¹ Parsons (1963), 238.

⁹² Porter (1968).

prohibiting trade with enemy factions. They may also purposefully arouse public sentiment against the judiciary in particular cases where the judiciary is felt to have encroached on other spheres of social life. To defend itself from encroachment, economic elites may espouse a *laissez-faire* market ideology as a means of preventing government from setting or controlling prices, supply, or demand. These are all just examples illustrating the way in which power systems are inherently and deeply relational. No power elite lives in the vacuum of its own system. It must constantly struggle with and defend against encroachment while sometimes pushing the boundaries of juridical limits itself in order to get what it wants.

Another aspect of the relational quality of the power system is that there exist categories of commitments and obligations which are treated as binding.⁹³ These obligations are the mechanism by which the various parts of society cohere and coordinate in some significant measure, and provide the pressure of making accommodations, entering into coalitions and maintaining a floating equilibrium of compromise, as opposed to engaging in open conflict. It is essential that these obligations exist so that there may be some co-ordination between elites, for the betterment of total society. For example, the Governor General is expected to comply with the Prime Minister when he/she asks the Governor General to dissolve Parliament and issue a writ of election. Likewise, the Prime Minister is expected to step down if his or her party does not win the most seats in the ensuing election. Corporations are expected to adhere to the policies set out by regulatory agencies.

What makes these obligations binding is not only the commitment by each collective sphere to the more general system of collective organization, but additionally that these obligations

⁹³ Parsons (1963), 244.

are handed down by legitimate elites. Legitimation implies that the obligation has bearing on collective goals. For example, the Governor General may reject the Prime Minister's request to prorogue Parliament if he or she estimates that the reasons for the request are anti-democratic (such as avoiding a non-confidence vote). Opposition parties may attempt to filibuster bills which serve an agenda and are detrimental to the common good. Conversely, corporations will accept obligations to stakeholders set out by government agencies, because of an understanding that these obligations exist to protect stakeholders. All this is to say, whether a certain rule is a law, creating legal obligations to comply with it, depends on the source. Valid laws are simply rules that come from certain persons or groups in accordance with certain procedures that society enforces. A 'powerful' legitimate elite, then, will be able to secure the performance of obligations with more ease, and on a more regular basis. Legitimacy is a real concern for power elites, not just vis-à-vis its constituents but also in the face of other elites. So, legitimation is the factor which is parallel to confidence in mutual acceptability and stability of money in monetary systems. Likewise, power elites depend upon the consent and opinion of non-elites; a dependence which may often make them uncomfortable.

All these aspects about power and power elites, from the basic point about consent-based legitimacy to these further issues about spheres or elites of power being at times opposed and also connected, will be key matters to draw upon in the ensuing focus on the role of power in relation to multiculturalism.

TWO

§6. THE WILL TO INDEPENDENCE

With legitimation, power elites come to acquire limited degrees of independence. In the previous chapter, I inferred that legitimation is paradoxical, since it both fuels and disables power. On the one hand, legitimacy grants power elites the independence to influence, orient, direct, and delimit the acceptable social and legal actions of the domains of society which they govern, since the public recognizes their right to do so. Legitimacy enables those in power to rule, not merely by restricting freedom, as conceived by Hobbes, but by granting freedom for specific, restricted purposes. On the other hand, since legitimation is endowed by the masses, it can, in both principle and practice, be rescinded. The lack of consent to rule means that the state cannot morally or politically impose and enforce its authority over its subjects, and therefore has no power to effect change. An elite's power is therefore limited by public opinion. Just the fact of rescinding consent is enough to cause a crisis of power, since being concerned with public opinion will colour and even inhibit the actions of power-holders. For example, when policy-advisers present policy options to politicians, they have to consider whether enacting these policies will allow them to keep their jobs. Therefore, an aim of those who wish to retain their power is to render the public more and more dependent, since this will enable those who rule to act more freely, independent of criticism and consequence.

Elites that are not bogged down by the need to cultivate consent are able to make and execute decisions at a much faster pace. With abiding public consent, they need not devote as much time and resources to ensure that they retain the favour of the body politic as do elites that must laboriously foster favourable sentiment. It also enables elites to take more risks, to push the

boundaries of the legal framework, find loopholes, etc., because there is little to no worry about the masses withdrawing their consent.

Multiculturalism intersects with the power system by offering an opportunity for elites to lessen this element of dependency on the public. Consider the following remark from Bertrand Russell:

Every increase in the size of organization increases inequalities of power by simultaneously diminishing the independence of ordinary members and enlarging the scope of the initiative of the government.⁹⁴

By ‘internal’ activities, Russell means any general function of the state – promoting the welfare of its citizens, controlling the coinage and value of currency, regulating industrial conditions, policing civil legislation, and so on.⁹⁵ These noted functions are foundational to the state; a system of power that does not perform these functions is not, by definition, demonstrably in power. Multiculturalism, as a socio-political doctrine establishing special rights and accommodations for minorities, becomes another activity or function of the power elites. For example, it empowers elites to mediate ancient treaties by granting hunting rights to Aboriginal groups; to protect (or contest) the rights of Muslim women to wear hijabs in the public space; to ensure accessibility to public institutions for disenfranchised communities; or to accommodate religious beliefs so as to secure neutrality in religious matters. Multiculturalism, however, is not an original function of political elites; as a modern phenomenon, it is an additional responsibility on top of their other general functions. This is why multiculturalism means an alteration to the original balance of power in society. If multiculturalism is implemented, elites must then erect more bureaucratic institutions to administer cultural-support policies, to enact and enforce more

⁹⁴ Russell (1938), 129.

⁹⁵ Russell (1938).

laws and prohibitions, and provide more safe spaces for public discourse. Generally, multicultural policies sanction and require governments to be much more active and intrusive in the spheres of public (and in certain cases, private) life – all in order to meet the demands of multiculturalists. In accord with Russell’s point, power elites may be happy to concede to the demands for multiculturalism, because these result in added responsibilities for them which mean an expansion of their power.

Multicultural policies allow the dominant group to decide what counts as culture for the purposes of recognition and receiving benefits, the particular characteristics of members, the limits to cultural activity and specifying which cultural traditions are important to the identity-forging process and more.⁹⁶ Because the politics of culture is defined and perpetuated by those whose interest it serves, some argue that multiculturalism has been used to skew our understanding of cultural identity, as well as divert attention from issues that might be more troublesome to power elites, such as racial inequality, Eurocentrism, and the legacy of colonialism.⁹⁷ For Anthony Appiah, multiculturalism fosters and imposes on minority group members “what we might call scripts: narratives that people can use in shaping their projects and in telling their life stories.”⁹⁸ Life-scripts, problematically, “come with notions of how a proper person of that kind behaves: it is not that there is *one* way that gay people or blacks should behave, but that there are gay and black modes of behaviour.”⁹⁹ Life-scripts can be, Appiah notes, enabling or constraining, through fostering stereotypes associated with women, homosexuals, blacks, Catholics. Minority identities may be negatively conceived, not merely by the dominant group, but by members within the

⁹⁶ Appiah (2005).

⁹⁷ Fanon, F. (1952). *Black Skin, White Masks*. New York: Grove Press. & Coulthard, G. (2014). *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition*. Minneapolis: University of Minnesota Press.

⁹⁸ Appiah (2005), 22.

⁹⁹ Appiah (2005), 108.

culture itself. For example, in some cases, life-scripts have served to justify the unequal treatment of marginalized groups. For Seyla Benhabib, the emphasis that multiculturalism places on defending different cultural norms, stemming from a faulty understanding of cultures “as unified, holistic, and self-consistent,” opens the floodgates to the ‘cultural defense strategy,’ which “is used to excuse...cultural norms, some of which are discriminatory in that they devalue women and children and condone their treatment as morally and politically less valued beings.”¹⁰⁰ Indeed, the multicultural canon is replete with critiques which take issue with the conceptual and normative underpinnings of culture and power. Because the issue is an old one and has been widely debated, I cannot add much to the discussion. But it can be said that multicultural policies can express ethnic minority life experiences in an overly simplistic way. Legislators may fail not only to distinguish between cultures but also create distinctions and subordination which are disguised behind the label of culture or ethnicity.

In societies that have adopted multiculturalism, the bearers of power must accept the responsibility of ‘serving’ the needs and interests of minority cultural groups. But this also means that people become dependent on the power elites to provide the resources, accommodations, exemptions and institutions needed for the preservation and prosperity of their culture. This dependency translates to a growing independence on the part of the elites, and as a result, for a minority group to challenge the power of the elites is to risk not receiving the support and resources one needs for the preservation of one’s culture. Minorities are therefore tacitly discouraged from challenging the elite’s position of power. As such, bearers of power can focus less on cultivating lasting sentiments of consent from public opinion, because they know that political contestation,

¹⁰⁰ Benhabib, S. (2002). *The claims of culture: Equality and diversity in the global era*. Princeton, N.J.: Princeton University Press, 87.

not to mention revolution, are less likely. That is to say, the prospects of political contestation become costly to dissenters, and minority groups are cognizant of this and are, therefore, less likely to challenge the elites.

This is, of course, a desirable position for those in power, and if multiculturalism is perceived as lessening the element of their dependency on public opinion, then power elites will be more likely to accept multiculturalism. If multiculturalism is perceived as actually altering the structure of power by displacing power away from the elites and into the hands of minority groups, then multiculturalism can be expected to be rejected outright by those in power. This helps explain why the demands for self-governance and self-determination from minority groups are often met with hostility on the side of the elites: with self-governance, the minority group becomes another competitor in the circulating medium of power, and one less domain which power elites have control over. Conceivably, such demands could be palatable for the power elites if the minority group seeks to partake in the system of power along with the other collective enterprises. For example, a trade union, by representing the interests of their constituency also becomes amenable to compromise and arbitration and thus functions itself as a power elite.¹⁰¹ Partial self-governance is, therefore, acceptable, since the governing body adheres to and accepts its standing in the structure of power in the nation-state. However, this is not typically the case. While one self-governing body could not displace the entire power structure, the concern for power elites must be the legal precedent that granting self-governance would set. Granting the right of self-government to a few communities, groups, bands, etc., can be managed, because these self-governments must still co-ordinate with state and provincial agencies with which they exist. However, too many fully,

¹⁰¹ One such example is the case of indigenous peoples. Some indigenous tribes have been acquiring increasing control over health, education, law, and resource development. However, they still must co-ordinate with the state/provincial jurisdictions within which they exist territorially, meaning that their self-governance is always co-ordinated with other power elites.

autonomous self-governments can create localized pockets of uncontrolled power which can threaten to dissolve federal boundaries and any notion of the nation-state. This can lead to a revolution, either of the violent kind, or an ideological revolution, where the many minority groups establish their own set of values, beliefs and paradigms by overthrowing the current ones. At the very least, this could obstruct the freedom of the power elites to make effective decisions, and at worst, would incur a shift in the relations of power in favour of one group or another. Therefore, the demand for self-governance will only be met in extremely specific, highly irreproducible circumstances, which do not set legal precedents for other minority groups to exploit.

In fact, the general populace cannot reach a point of complete dependency on the power elites. This is fortunate, primarily because the autonomy of citizens prevents totalitarian regimes and avoids all the ills of a state that does not care about its citizens. In democracies, even majoritarian governments regulate themselves because they want to retain their majority standing (or position) in the next election. So, while multiculturalism contributes to the lessening of mutual dependency between elites and the people generally, by forcing minority groups to depend on the elites for resources and support, it only ever lessens, and never quite eradicates, that mutuality. But the elites can overcome will to independence on the part of citizens through “propaganda and education, which can indefinitely weaken the desire for personal independence.”¹⁰² The aspirational quality of multiculturalism, in some sense, is a potent force. As we have noted, multiculturalism stands as a symbol for addressing ethno-cultural relations and dealing with immigrant integration. Part of multiculturalism’s appeal is that those who have accepted multiculturalism are seen as progressive, respectful, open-minded, and neither chauvinistic nor xenophobic. Multicultural rhetoric encourages positive attitudes towards immigrants and First

¹⁰² Russell (1938), 137.

Nations peoples, and packages multicultural policies as a ‘good’. To reject multiculturalism risks being seen as racist, xenophobic, or untenably conservative. Moreover, in the areas of the world where multiculturalism is already in place, multiculturalism is viewed as a distinguishing feature of national identity. Canadians, for example, generally view multiculturalism as a source of pride because it distinguishes them from their American counterparts.¹⁰³ And there is a modicum of truth in saying that Canadians delight in feeling superior to Americans because of the progressive symbol that multiculturalism conveys. Multiculturalism can, therefore, function as a ‘national-popular’ outlook: a shared, seemingly progressive perception of the world, which has the effect of the desire for independence among the populace.

What we are left with is the consideration of how far a power elite can increase its own power without provoking a revolt from either the other power elites or the ordinary people; but this is more a question for practice than for theory.

§7. LOSS AVERSION

If multicultural policies present such an obvious opportunity for those in power to gain more power, the equally obvious question to ask is, Why is multiculturalism not the global phenomenon its advocates would like for it to be? After all, if multicultural policies help them alleviate the burden of dependence, then governments should be eager to adopt multiculturalism. If it is the assumption that the bearers of power have the goal of acquiring more power, and if the option to adopt multiculturalism helps them achieve that goal, then why have those in power not sought out that option? Is the will to independence which we have theorized merely an abstracted concept with no relevance to the real world? Are power elites not interested in acquiring more

¹⁰³ Reitz (2011), 27.

power? Or does multiculturalism not actually present an opportunity to acquire more power, as I have argued, or, is this opportunity perhaps not as evident to bearers of power as it might appear to us?

Power elites might in fact be averse to taking advantage of an opportunity to acquire more power, and by extension might reject multiculturalism, for a curious reason: according to behavioural economists Kahneman and Tversky, people are generally "loss averse". Loss aversion is the phenomenon whereby people impute greater value to losing a possession they have acquired than they do to the prospect of gaining one they do not possess. The example provided by Kahneman and Tversky is one of a coin flip, wherein if the coin lands on heads, the participant wins 150 dollars, and if on tails, loses 100.¹⁰⁴ Despite the fact that there is an equal chance of loss as there is of an opportunity for gain, and despite the fact that the reward for gain is measurably greater than the cost of loss, most people, Kahneman and Tversky observe, choose not to participate in such a gamble. People's reluctance to bet on a fair coin for these stakes is explained by the fact that the "loss of X is more aversive than a gain of X is attractive", which, Kahneman and Tversky posit, has an evolutionary history.¹⁰⁵ The self is driven more strongly to avoid loss than to achieve gains, because "organisms that treat threats as more urgent than opportunities have a better chance to survive and reproduce".¹⁰⁶ We are, essentially, more motivated to avoid negative self-definitions than positive ones. Kahneman and Tversky sum this up in their dictum, 'losses loom larger than gains.'¹⁰⁷

And that may help explain the reluctance to adopt multiculturalism. Power is an endowment held 'for use'; for the purpose of maintaining order, regulating behaviour, making

¹⁰⁴ Kahneman, D. (2011). *Thinking, fast and slow*. New York: Farrar, Straus and Giroux. 546.

¹⁰⁵ *Ibid*, 866.

¹⁰⁶ *Ibid*, 547.

¹⁰⁷ *Ibid*, 574.

decisions, etc. Other endowments, like money and commercial items, are held ‘for exchange’, or in other words are intended to be traded for other goods. People do not feel any loss when giving up endowments ‘for exchange’ because the very purpose of these items is to serve as a proxy for something else. For example, a merchant does not experience any loss when selling shoes to a consumer, because the shoes were never meant for any other purpose than to be sold for money. Likewise, the consumer does not experience any loss aversion when purchasing the shoes, because the money was effectively a proxy for the shoes he intended to buy. There is no loss on either side of a transaction between two items that are held ‘for exchange’. But endowments ‘for use’, on the other hand, differ inasmuch as they are not intended for sale or exchange, but rather for consumption and enjoyment. There is, therefore, much more considerable pain in giving up an endowment ‘for use’ than there is pleasure in the acquisition. As such, Kahneman and Tversky posit that the loss of a ‘for use’ endowment will be weighted twice as much as a corresponding gain.¹⁰⁸ I suggest that the same can be said for power elites vis-à-vis their endowment of power. The attitude to the perceived threat of a loss of power is stronger than the attitude to a corresponding gain. Therefore, elites are more likely to be fastidious and calculative in the face of any policies that may potentially threaten to cause a loss of power. This is both good and bad: good in the sense that loss aversion enables decision-makers to reject marginal options which they may otherwise have accepted, and bad insofar as loss aversion tends to favour stability over change.

In cases where there is a mixed gamble, an equal opportunity for loss and for gain, there tends to be strong risk-averse approaches. And, to *some* degree, the adoption of multiculturalism does present a mixed gamble for power elites. There is the opportunity to lessen the element of mutual dependency and acquire more power, as we have discussed above, but there is equally the

¹⁰⁸ Ibid, 570.

perceived threat – faulty as that perception might be – that multiculturalism alters the current practice of society in a manner that exclusively benefits minority groups. For example, one common concern in the dominant discourse against multiculturalism is that it withers or erodes national culture and identity, by forcing the mainstream culture to comply and accept the traditions, habits and practices of some minority cultures which do not often gel with the mainstream. This is manifested in the discourse that multiculturalism ‘tears at the social fabric of society’. Further, majorities typically complain about the trend towards ‘political correctness’, which unfolds as a result of heightened awareness surrounding the power and use of language. Again, there is the perception that multiculturalism encourages minorities to impose their will on the majority, by forcing them to adopt and comply with the politics of difference. Power elites will not be amenable to this because the perceived threat of minorities usurping their power will be weighted twice as much as the corresponding opportunity to acquire additional power.

Power elites may also be concerned that the rapid expansion in the scope and strength of their power afforded by the responsibilities of the multicultural program will cause them to be perceived by other power elites as encroaching on or posing in general a threat to their power. The members of the political sphere, for example, may believe that multiculturalism could foster an environment of open conflict and resentment, which power elites tend to avoid (for the betterment of the total society). For example, the legislative branch may come to resent the power that the judiciary has in striking down laws, which the judiciary may do in the name of defending minority rights. Likewise, the judiciary will conflict with the executive on the ideological versus practical applications of multicultural policies. The judiciary has also tended to clash with trade unions, property management¹⁰⁹ and educational institutions.¹¹⁰ Economic elites might view

¹⁰⁹ See *Syndicat Northcrest v. Amselem* [2004], 2 S.C.R. 551.

¹¹⁰ See *Multani v. Commission scolaire Marguerite-Bourgeoys* [2006] 1 S.C.R. 256,

multiculturalism as an interference with their freedom, when perceiving, for example, affirmative action policies as impinging on their autonomy to hire whomever they choose and as bogging down the entire hiring process. Power elites would rather avoid engaging in open conflict, because such conflict may undercut their own power. Thus, elites may simply view the opportunity for power that multiculturalism provides as not worth the risk.

Loss aversion, Kahneman and Tversky are quick to point out, does not imply that change cannot happen. In some cases, the benefits of an opportunity outweigh the losses. What loss aversion does imply is a manner of behaving in the face of particular situations. This brings up another point: power elites may hesitate to adopt multiculturalism if they see minorities as merely ‘failing to gain’, as opposed to ‘incurring losses’.¹¹¹ Kahneman and Tversky observe that people do not feel that those who ‘fail to gain’ something should be entitled to compensation, while those who have suffered losses of opportunity should be entitled. For example, power elites might not view group A as being entitled to differentiated, targeted rights, if group A argues its case on the account of being excluded from certain job opportunities on a discriminatory basis. Meanwhile, group B might be seen as deserving more protection from the law if its members were let go from their employment on the basis of discriminatory practices. The influence of loss aversion extends also to perception. Aboriginal people in Canada may be compensated for the harm prior governments have caused, but are often not compensated for the damage prior governments have done that continues to affect members of those communities today. For example, governments may offer Aboriginal people compensation for schools in an effort to make up for traumas of the past while ignoring the marginalization said traumas have caused and which may prevent Aboriginal people from wanting to partake in mainstream institutions. The way in which

¹¹¹ Kahneman (2011), 594.

multicultural demands are perceived and framed, therefore, has an effect on whether power elites are amenable to their adoption or not.

Loss aversion means that even where there are gains of power to be had, power elites may be reluctant to seize the opportunity. This helps explain why elites often eschew rapid, wholesale reform in favour of change which comes in partial, controllable increments over long periods of time. It is, Kahneman and Tversky point out, “difficult to accept change for the worse”, and one way to avoid loss is to simply maintain the status quo.¹¹² That is why loss aversion tends to favour stability over change, and even where changes comes, it typically does so conservatively. Thus, much of what enables or disables multiculturalism is how multiculturalist policies measure up vis-à-vis the status quo. A relatively progressive polity will not view multiculturalism as a radical change in political culture, whereas a society with clear and delineated racial and cultural hierarchies will think of multiculturalism as drastic.

Agreements between power elites and the citizenry can therefore be difficult to reach. The concessions one side will make will mean much more to the conceding side than to the side that gains by them. That is, concessions cause more harm to one side than benefits do to the other. This can make a mutual agreement to adopt multiculturalism between power elites and the citizenry difficult or near-impossible to achieve. One side must push the issue to overcome loss aversion.

§8. AN APPLICATION: THE NIQAB BAN IN CANADA

In 2011, the Canadian Immigration Minister issued a policy manual stating that candidates for citizenship must remove any kind of face covering when taking the public citizenship oath. The policy manual targeted Muslim women, who were resultantly forced to remove their niqabs

¹¹² Kahneman (2011), 563.

or any other face-covering garments before they could recite the oath of citizenship to become Canadian citizens. The government was later sued by women who felt that the ban impinged on their Charter rights. The case was noted in mainstream society because the incident sparked debates across Canada about the meaning of the niqab and its place in Canadian society. In 2015, the Federal Court of Appeal ruled that the ban on face coverings was unlawful.¹¹³

There are several underpinnings of power to the niqab ban in Canada, and more generally the anti-veil discourse. First, let us look at the reasons for the ban in the first place. Government officials and other proponents of the niqab ban evidently feared that tolerating the veil in citizenship ceremonies would create diverging streams of values – a Muslim one and a Canadian one – each equal to the other yet perceptibly contradictory at the same time, therefore threatening Western hegemony and interests. The Immigration Minister was quoted as saying in an interview, “It’s a cultural [and not religious] tradition, which I think reflects a certain view about women that we don’t accept in Canada. We want women to be full and equal members of Canadian society and certainly when they’re taking the citizenship oath, that’s the right place to start.”¹¹⁴ He added: “We cannot have two classes of citizenship ceremonies,” and the fact that “all those taking the oath do so openly,” is a “deep principle that goes to the heart of our values.”¹¹⁵ Another government official added that “the expression of citizenship is the key issue here. And the expression of citizenship should be open, should be transparent, and should be consistent with the values of being Canadian, including gender equity.”¹¹⁶ The Prime Minister even went as far to say that the niqab was “anti-woman.”¹¹⁷

¹¹³ Ishaq v. Canada (Citizenship and Immigration), 2015, FC 156. 57.

¹¹⁴ Payton, L. (2011, December 12). Face veils banned for citizenship oaths. Retrieved October 10, 2015, from <http://www.cbc.ca/news/politics/face-veils-banned-for-citizenship-oaths-1.1048750>

¹¹⁵ Ibid

¹¹⁶ Ibid

¹¹⁷ Ibid

For Katherine Bullock, the public rhetoric demonizing the veil is part of the Western maintenance of its global hegemony. That is, Western powers maintain false divisions between the West and the East because they have a political stake in doing so (access to Middle Eastern oil fields, giving unconditional support to Israel, imposing sanctions on Middle Eastern countries, etc.). This West-East dichotomy works to “fortify uncomplicated divisions” between the ‘civilized’ Western world and the ‘barbaric’ Middle East: “West equals progressive, East equals underdeveloped; Western women are liberated, Eastern women are subjugated.”¹¹⁸ The anti-veil discourse emerges as a manifestation of this fabricated division, where Western powers paint the veil as a symbol of the degraded status of women and “as shorthand for all the horrors of Islam: terrorism, violence, barbarity, and backwardness.”¹¹⁹ Hence, ideas about Islam’s oppression of women and the role of the veil in that oppression are part of the discourse depicting Islam as backwards and anti-Western. “When the Western populace is predisposed to disliking Islam and Arabs, asserting Western foreign policy needs is easier, because the public supports rather than criticizes the foreign policy,” Bullock says, later adding that Western powers have so thoroughly entrenched negative stereotypes about Islam and the veil in mainstream society that the Western populace is convinced that Islam is “in need of strong treatment and punishment from the West.”¹²⁰ As a result, Westerners believe that Muslims with power will be committed to implementing Islamic law which will interfere with Western interests, and are therefore afraid of Muslims gaining any sort of power. This fear among the Western populace enables power elites to take measures to ‘protect’ their power, often at the detriment of Muslims – such as banning face coverings at citizenship ceremonies. The veil’s association with Islam is the wedge issue which

¹¹⁸ Bullock, K. (2002). *Rethinking Muslim women and the veil: Challenging historical & modern stereotypes*. Herndon, VA: International Institute of Islamic Thought. XXXVII.

¹¹⁹ Ibid, 13.

¹²⁰ Ibid, XXXV.

provides Western powers, the media, and scholars the intellectual justifications for maintaining Western hegemony. “Western national interests have allowed the demonization of Islam in the public mind to flourish,” Bullock concludes, “and ideas about Islam’s oppression of women and the role of the veil in that oppression are part of this discourse.”¹²¹

Next are the reasons for striking down the niqab ban. Here, I posit that, although the issue brought before the court was a matter of statutory interpretation (i.e. a question of whether the policy manual infringed on the applicant’s Charter rights), the more pertinent issue facing the judge was whether the Immigration Minister had over-stepped the limits of his power by imposing a mandatory ban on face coverings. In effect, the issue facing the judge was by what means the court could balance and check this encroachment. In fact, the judge presiding over the case explicitly declined to provide a declaration on the Charter issue, saying that it would be “imprudent to decide the Charter issues that arose in this application.”¹²² Instead, much of the judge’s ruling focused on whether the policy manual conflicted with other regulations, and if so, which ones are superior. The judge found that the “mandatory directive in a guideline such as the Policy [issued by the Immigration Minister], by which citizenship judges must ensure that candidates for citizenship have been seen, face uncovered, taking the oath, cannot trump the [Citizenship] Act and the [Citizenship] Regulations,”¹²³ which require a citizenship judge to “administer the oath of citizenship with dignity and solemnity, allowing the greatest possible freedom in the religious solemnization or the solemn affirmation thereof.”¹²⁴ Since a citizenship judge cannot comply with both the policy manual and the Citizenship Regulations and Act, there then came the question of which piece of legislation is subordinate. In effect, the judge was investigating whether the

¹²¹ Ibid, XXXV.

¹²² Ishaq v. Canada (Citizenship and Immigration), 2015, FC 156. 57.

¹²³ Ibid, 56.

¹²⁴ Ibid, 53.

Immigration Minister had the power to make law that overrode existing legislation that was enacted by other powers. The judge found that since it “was the Governor in Council, not the Minister, to whom Parliament expressly granted authority...to make relations,” laws that are enacted “by the Governor in Council generally have a higher legal status than guidelines.”¹²⁵ The Minister, the judge concluded, did not have the power to enact law, and on this basis, could not make the policy manual mandatory. To do so was not only an unlawful extension of the Ministry’s power, but also an unlawful encroachment on the judicial sphere of power, since the imposition of this mandatory duty upon a citizenship judge to ensure that candidates for citizenship appear without a face covering “constrain[s] a citizenship judge’s scope of action.”¹²⁶ This tension of power between the Minister and the courts, and the subsequent determination of a hierarchy of power by the federal judge, is what took center stage in this case.

The context and timing in which the niqab debate took place is noteworthy as well. The issue was an electoral millstone during the 2015 Canadian federal election campaign, and I posit that each of the three major parties formed their positions primarily based on which platform would net them the most votes. This might sound obvious; after all, the point of an election is to get elected. However, I argue that the will to acquire more power overcomes any kind of commitment to adhere to or maintain core party values. The Conservative Party, for example, was accused of using the niqab debate as a means of deflecting the public discourse away from criticisms of the economic, foreign, and social policies enacted during their mandate. Indeed, the Conservatives were indicted by leaders of the other parties for using the niqab debate as a wedge issue to falsely distinguish themselves as proctors of Canadian values and women’s rights. “It’s an emotional issue that only affects a very small number of citizens in a very specific situation...it seems to me that

¹²⁵ Ibid, 56.

¹²⁶ Ibid, 52.

Canada...deserve[s] better than wedge politics, the politics of division,” said the New Democratic leader.¹²⁷ In fact, the Conservative campaign went as far as to highlight that the ban was, in actuality, popular among Canadians: the Prime Minister, pointing to recent polls, claimed that an “overwhelming majority” of Canadians supported the ban.¹²⁸ Much of the Conservative’s campaign ads were directed towards Quebec – a swing province in recent elections – featuring the Prime Minister asserting that his party shared Quebecer’s values. Indeed, the niqab issue was particularly contentious in Quebec, where most of the populace favoured the ban.¹²⁹ For their part, running on a campaign of ‘Real Change’ in an effort to distinguish themselves from the Conservatives, the Liberal party opposed the ban. “[The Conservatives’] approach to politics might work in the short term, but it is corrosive over time, especially in a diverse country like Canada...so it won’t surprise anyone to hear me disagree with the kind of leadership we’re getting from the current Prime Minister and his government,” said the Liberal leader.¹³⁰ The NDP leader, meanwhile, had to navigate a complex political strategy.¹³¹ His party had to retain the seats it secured in Quebec in the prior election, since support from Quebec could go a long way in helping to form government. However, the party could also not risk losing support in areas of the country that opposed the government’s effort to impose a ban, since Quebec alone could not elect the NDP to power. Hence, the NDP leader took a vague and sometimes contradictory stance, at times saying,

¹²⁷ Payton, L. (2015, September 23). CBC News - Niqabs should be allowed during citizenship oath, Mulcair says. Retrieved December 1, 2015, from <http://www.cbc.ca/m/touch/news/story/1.3240341>

¹²⁸ Payton, L. (2015, March 12). Harper says 'overwhelming majority' agrees with Tories on niqabs. Retrieved November 3, 2015, from <http://www.cbc.ca/news/politics/harper-says-overwhelming-majority-agrees-with-tories-on-niqabs-1.2990439>

¹²⁹ CBC News. (2015, September 24). Niqabs should be allowed during citizenship oath, Mulcair says. Retrieved November 23, 2015, from <http://www.cbc.ca/news/politics/canada-election-2015-mulcair-niqab-quebec-debate-1.3240341>

¹³⁰ For the record: Justin Trudeau on liberty and the niqab - Macleans.ca. (2015, March 9). Retrieved October 16, 2015, from <http://www.macleans.ca/politics/for-the-record-justin-trudeau-on-liberty-and-the-niqab/>

¹³¹ CBC News - Stephen Harper 'playing a very divisive game' with niqabs, Tom Mulcair says. (2015, September 23). Retrieved December 3, 2015, from <http://www.cbc.ca/m/touch/news/story/1.3236837>

“I am in agreement with the existing rules under which anyone seeking citizenship must uncover their face to identify themselves before swearing the oath,” and at other times saying, “Let me be clear: no one has the right to tell a woman what she must – or must not – wear.”¹³² Of course, that a politician was taciturn in his or her position in order to placate as many voters as possible is certainly not exceptional to the niqab issue; though the fact that this seems self-evident should highlight that we already have intuitive notions of political actors as always being motivated by power.

Had the ‘overwhelming majority’ of Canadians been opposed to the ban, we might have seen different positions taken by each party. After all, the provincial Liberals in Quebec have themselves introduced similar legislation, while the Conservatives have admonished Liberal governments for not being multicultural enough in the past.¹³³ In politics, this is nothing extraordinary. But Canadians did oppose the ban because of negative stereotypes surrounding Muslims that are parlayed in everyday life in order to justify a host of political actions related to security, globalization, and immigration. At this point, there is a convergence between the common Western view of the veil as oppressive and the attempts of the power elite to protect their power. The veil itself is not the focus of hostility per se, but rather the caricature of Islam as backward, anti-civilization, and oppressive to women. The fear is of Islamic groups being granted too much autonomy or freedom, and being given the power to create their own sects or religious ghettos in society, so power elites act against that. Measures to act against these fears, however, cannot be seen as encroachments of power. That is because the power structure is set up to prevent

¹³² Tom Mulcair clarifies NDP stance on niqabs at citizenship ceremonies: The existing rule works just fine. (2015, September 23). Retrieved December 3, 2015, from <http://news.nationalpost.com/news/canada/tom-mulcair-clarifies-ndp-stance-on-niqabs-at-citizenship-ceremonies-the-existing-rule-works-just-fine>

¹³³ Wentz, M. (2015, September 29). Why the niqab matters, now and in future. Retrieved November 3, 2015, from <http://www.theglobeandmail.com/globe-debate/why-the-niqab-matters-now-and-in-future/article26573582/>

monopolies of power by any group of elites. In this case, the judiciary felt that the legislature had overstepped its boundaries in enacting a mandatory guideline. Hence, the judiciary used its power to check the encroachment of the legislature; and in return, the legislature appealed the check. This is why I have said that power is a game of push and pull, played in the arena of the law.

§9. AN ARGUMENT AGAINST DESECURITIZATION

‘Securitized issues’ are ones conceptualized as security threats to political actors.¹³⁴ For example, in the immediate aftermath of 9/11, immigration (particularly Muslim immigration) became securitized because immigration was perceived – erroneous as that perception may have been – as being somewhat tied to the threat of terrorism. Thus, debates surrounding immigrants became debates about whether or not immigration was deleterious to the security of the state. To securitize an issue is to allow actors to modify or set aside the norms that would typically bind them, for the purpose of eliminating a direct threat. It is important to note that the concept of securitization does not require these threats to be objectively real, but only perceived.¹³⁵ There are responses to securitized issues laden in the constitutional limits of every modern nation-state (take, for example, the fact that most states have, to some degree, a War Measures Act and guidelines for martial law), which enable political elites to enact policies that they could not otherwise legitimately pass. Securitization, therefore, establishes a logic by which actors can justify all sorts of policies in order to deal with a perceived threat.¹³⁶ Securitization theorists consider security to

¹³⁴ Buzan, Barry, Ole Waever, and Jaap de Wilde. (1998). *Security: a new framework for analysis*. Boulder: Lynne Rienner. 4.

¹³⁵ Buzan, Barry, Ole Waever, and Jaap de Wilde (1998).

¹³⁶ Fako, E. (2012). *Strategies of Desecuritization*. (Masters Dissertation). Retrieved from www.etd.ceu.hu/2012/fako_edin.pdf

be a realm outside of politics and of the usual laws and norms that bind actors' decisions.¹³⁷ Desecuritization, then, is the managing of a security threat by moving the securitized issue back into 'normal', deliberative politics. Desecuritization causes the securitized issue to no longer be viewed with a heightened sense of fear, and forces political actors back to their constitutional limits. A desecuritized issue, then, is one that is perceived as not being deleterious to the well-being of society.

In the multicultural literature, Kymlicka has been the most ardent supporters of desecuritization as an explanatory motive for the adoption of multiculturalism. In *Multicultural Odysseys*, Kymlicka outlines five conditions for the adoption of multiculturalism: (1) increasing rights consciousness; (2) demographic changes; (3) multiple access points for safe political mobilization; (4) consensus on human rights by the majority; and (5) desecuritization of ethnic relations.¹³⁸ I want to explore here the implications of desecuritization. The focus of my argument against desecuritization is that power elites are not so much concerned with the security of the community as they are with protecting the power praxis.

Kymlicka begins by explaining that the relative success of the liberal multiculturalist agenda – which he views as the dominant strand of multiculturalism – in countries like Canada and Australia has had to do not so much with the theory's virtues, but rather with a set of empirical conditions favourable to the implementations of these multicultural norms. One favourable condition is the political system itself; that is, democracy.¹³⁹ Consolidated democracies allow for the safe political mobilization of members of minority cultures. They afford them multiple access points in order to press their demands for greater accommodation from within the political system,

¹³⁷ Kymlicka (2007), 11.

¹³⁸ Ibid (2007).

¹³⁹ Ibid (2007), 89.

which enables non-dominant or minority groups to mobilize politically and voice their claims in public without fear of being jailed, exiled, or killed. If, for example, an unsympathetic federal government prohibits or rejects a particular minority group's needs and claims, that group can pursue its case at the provincial and municipal levels of government. And even if those levels remain unsympathetic, the group can continue to make its voice heard through the courts or through international institutions.¹⁴⁰ Therefore, states have no option but to attend to the demands of non-dominant groups and in some way accommodate legitimate claims. Kymlicka does well to avoid an exceedingly 'sovereignist' conception of the state by noting that state authorities are a heterogeneous mix of competing and co-ordinating elites. The members of cultural majorities are able to accept the presence of 'minority culture politics' because they can see its politics as consonant with the human rights agenda to which the majority is firmly committed. Most importantly, because of this familiarity, they can 'see' that minority politics do not pose a security threat to the majority.¹⁴¹ A main impetus in some areas of the world to securitize ethnic politics was the threat of invasions from neighbouring countries, since governments were unsure if national minorities and indigenous peoples would be loyal to the state in case of an attack. Under conditions of securitization, minority self-organization may be legally limited, non-dominant groups may be put under surveillance, and demands made by minority are rarely, if ever, accepted. NATO's mandate, Kymlicka writes, has made this threat largely obsolete.¹⁴² Western countries no longer fear external enemies, and thus treat relations with minorities from neighbouring countries as matters of normal democratic politics, and not of national security. As a result, ethnic politics becomes desecuritized. The state is willing to negotiate, debate, and accept the demands for

¹⁴⁰ Kymlicka (2007), 110.

¹⁴¹ Ibid, 116.

¹⁴² Ibid.

multicultural reforms because the state's collective geo-political security is not threatened by multiculturalism, while multicultural policies help ensure and protect individual human security for minority groups. Hence, multiculturalism appears as a low-risk option, and thus, to the state's dominant group, a permissible one.

Daniel Weinstock, however, argues that desecuritization wrongly figures among Kymlicka's five empirical conditions for multiculturalism. At the very least, Weinstock claims, there must be another condition that supersedes the desecuritization of ethnic politics. The condition that Weinstock identifies is the rule of law, and he argues that this consideration needs more weight as an explanatory factor.¹⁴³ The rule of law, I have purported, is itself a dimension of power, for it is the result of the intellectual and moral leadership of the power elites, which is constituted through ethical-political practices and ideological paradigms. The rule of law operates as a prevailing system of beliefs, values and social attitudes for the purpose of organizing a common world-view or a shared perception of the world. To fragment the rule of law, then, is to cause a social shift in the framework of power. This is, in large part, why the prospect of Sharia courts, proposed in Ontario in 2005, was met with a vehement reaction, Weinstock writes.¹⁴⁴ In Canada, concerns about the rule of law apply to Weinstock's point about secessionist parties, which are definitely deleterious to the state, since they seek to undermine its very conception by threatening secession to satisfy immediate goals. However, in Canada, secessionist politics are accepted as occurring within the context of established constitutional law; so, as long as secessionist parties use the rules of parliamentary democracy in order to achieve their goals, there exists a broad sense of legitimacy from a moral and political point of view in most circumstances.

¹⁴³ Weinstock, D. (2010). "Review: Multicultural Odysseys." *International Journal*, 2010, Vol.65(1), pp.261-264

¹⁴⁴ Weinstock (2010), 16.

This is why, Weinstock says, secessionist parties have been met with relative equanimity compared to the prospect of Sharia courts.

We must also consider the fact that, if securitization releases elites from the normative and juridical shackles that normally constrain them, and if elites in general seek greater freedom and power, then what, exactly, could the motive be for desecuritizing ethnic relations in the first place? At the least, securitization offers an opportunity to make gains of power. That is, if legal norms and conventions present limits and boundaries to an elite's power, then being unbound from these limits means that power elites are free to push the boundaries of the legal framework, free to make gains of power wherever they can, free to encroach on and acquire control of other bodies of power, free to reject obligations from other elites, and, more generally, freed from their obligations to obey and comply with the constitutional limits that characterize the power structure. They can continually claim to be acting under the guise of dealing with a securitized issue. This means that an elite gains a certain (even substantial) degree of independence, and by extension, becomes more powerful. Since securitization is a legitimate legal-political move, elites essentially are afforded the opportunity to become 'legitimately illegitimate' authorities: this is to say, they are free to act in ways in which an illegitimate power might act – i.e. without recourse to public opinion or compliance to standard obligations – though they have achieved this means of freedom legitimately. It would be, in principle, beneficial and wise for an elite to render an issue in the domain of its normal authority a matter of security or of a concern for it. Against this, it may be said that unbound elites will be considered by the other powers as an illegitimate authority, regardless of the means by which that elite secured its power. Indeed, it can be expected that other power elites will resist, and punish through checks and negative sanctions, any elite that has

acquired or seeks to acquire too much power.¹⁴⁵ Strategic securitization, then, may fall under this domain. However, the point to be made is that, if this is the case, then, analyzing the motives for adopting multiculturalism must still be made with an understanding of its relation to the issues of power. That is to say, there must still be some explanation for why desecuritization is a viable course of action for power elites, and it will presumably be that gratuitous and manipulative use of securitization is simply not permitted under the system of power installed in the modern nation-state.

Ultimately, in advocating multiculturalism, Kymlicka argues that nations need to change their fundamental institutional structures in favour of a model which recognizes multiple political communities within the nation-state. Unlike the concept of ‘power-sharing’, where an overarching sovereign retains the ability to recapture power conferred upon subordinate political bodies, this model divides power among various groups without reversing authority to a single sovereign. Such a model requires extensive re-working of the current power structure; a structure which the power elites are currently happy to keep. Kymlicka, to his credit, is not quixotic in his view of multiculturalism diffusion. It is because of his reservations about securitization and power that he concludes with a genuinely dim view of the possibilities for the global dissemination of multiculturalism.

¹⁴⁵ Parsons (1938).

THREE

§10. COUNTERPOWER: A BRIEF INTRODUCTION

In the previous chapter, I discussed how the power of an elite, which is interlocked in a dense system with other power elites, is primarily derived from its legitimacy. Legitimation enables elites to expect others to fulfill obligations and to expect also that these others will resist obligations which are not legitimate or not in keeping with the aim of bettering the total society. Legitimation, therefore, requires elites to use their power rationally, that is, to 'spend it wisely' in the overall 'economy' of power relations. Because legitimacy is conferred based on public opinion, it is an ever-present concern for power elites. They are as dependent on the masses for their power as the masses are dependent on the elites in its application. One way in which elites can forego this element of mutual dependency is by ruling autocratically, but this is not possible because the other elites will resist an illegitimate power in the system. Moreover, one single power elite, legitimate or otherwise, cannot normally control the many facets of society. The exercise of power requires being trained in the very specific skills required to govern each collective enterprise, which is a practical impossibility. Thus, the only way for an elite to lessen the element of mutual dependency is by increasing the substance and size of its enterprise. This is where multiculturalism comes in: it offers an opportunity for elites to expand their role by rendering services, resources, and support to cultural minorities. Minorities then become dependent for the maintenance and sustenance of their culture which the elites provide. Elites satisfy their desire for a degree of independence while minority groups manage to receive the cultural support they need. Desecuritization runs counter to the desire for independence, since securitization actually provides a better outlet for this desire, by allowing the elites to justify actions that it could not otherwise justify. For that reason,

Kymlicka's claims about desecuritization do not provide an adequate insight into the motivations for elites to adopt multiculturalism. Hence, the previous chapter was focused on the concept of power as the factor that encourages (or has encouraged) dominant groups to acquiesce to the demands of the multiculturalists. In this chapter, I explore a subset in the family of power – counterpower - and explain how it has enabled non-dominant groups to mobilize for multicultural rights.

I have already subscribed to John Porter's view that to be in power means to have the recognized right to make decisions which affect individuals and communities. This can mean using power to influence, orient, direct, manipulate, and delimit the acceptable realm of social and legal actions. These exercises of power require that the persons who wield it have specialized knowledge. Of course, some bearers of power wield their power more proficiently than others, but they all, to some degree, form an elite, who have *power over* institutions and communities of people. Moreover, since power roles require specialized knowledge, and since human beings are finite in their intellectual capacities such that not everyone can possess that knowledge while having other main occupations, only a few are capable of filling positions of power. This means that power in the modern democratic nation-state is, essentially, the control of the many by the few.

Counterpower, in that context, is when the many resist the control of the few. In this chapter, I argue that, at times, counterpower involves questioning the legitimacy of current relations, and at other times, it can mean reinforcing those relations if that benefits the larger aims of the movement. This is to say, counterpower should be seen as the struggle against power, (and in the case of multiculturalism, against racial and cultural hierarchies); nonetheless, counterpower

is itself a practice of power. Multicultural counterpower is most successful when there is a demand for recognition but also a restriction of this recognition.

There are three forms of counterpower: ideological, economic, and political. The purpose of counterpower is to oblige political actors to enact change. When there is a distinct lack of one or more of these three forms of counterpower, movements will have less success convincing ‘loss-averse’ political actors, that is those – which means most – who care chiefly not to have their power diminished or taken from them. Optimally, all three forms of counterpower must merge to create one unified demand.

Multiculturalism has run into difficulties where it is perceived as a mixed gamble or as being high risk. Where minorities are seen as potential carriers of illiberal practices, or as economically burdensome, then multiculturalism poses perceived risks to power elites, who fear that adopting multiculturalism may promote ‘ghettoized’ minorities who refuse to integrate into the mainstream culture. A minority underclass introduces too many free radicals into the power structure, which power elites have maintained through constitutional limits and juridical norms. In fact, of course, power elites have often maintained their position by abusing these elements or by wholly other means (consider redrawing voting districts to favour a particular political party; or, in earlier times, violence by companies to break strikes). In general, power elites will fear that multicultural may undercut their power and undermine their interests.

Defenders of multiculturalism have previously focused on promoting multiculturalism on abstract moral grounds. They have mostly focused on highlighting the benefits of cultural diversity and intercultural understanding while condemning the drawbacks of racism and xenophobia. Where these arguments have fallen short, I believe, is in failing to acknowledge the potential risk

for those in power, instead of acknowledging those risks with some account of how they will be mitigated or managed.

Counterpower addresses these issues. The pressure that counterpower puts on the ideological and economic institutions in society obliges political actors to consider multiculturalism as a proactive policy that enables or requires minority groups to feel comfortable within the dominant culture, while promoting mutual understanding and respect. Political counterpower, then, assuages loss aversion by ensuring that multiculturalism does not undermine, but rather reinforces, the current praxis of power.

The analysis below suggests that efforts to diffuse multiculturalism globally will be difficult, however, in parts of the world that are not liberal democracies or do not espouse civil rights. This does not mean that an analysis of counterpower is flawed, but only that other counterpower strategies might be necessary in those areas of the world. We still only have a rudimentary understanding of the motivations for adopting multiculturalism, however, in countries where multiculturalism has been adopted, such as Canada and Australia, ideological, economic and political counterpower have all been present. In areas of the world which have retreated from multiculturalism, such as Germany and Netherlands, the economic and political counterpower were not strong enough to assuage concerns about a cultural or religious underclass (particularly, a Muslim underclass). However, because the ideological counterpower of the human rights revolution has been diffused globally and is generally accepted by most states in the Western and European hemispheres, assimilationist models of nation-building appear to be outdated or doomed to failure. Minorities are, now more than ever, cognizant of their rights and their claims to equality. Eventually, as a result of globalization, and due to the connected nature of the international

networks, the ideological pressures will mesh with the economic and political counterpowers. This seems to indicate that multiculturalism can, indeed, be globally diffused.

Ideological and economic counterpower put pressure on political actors in two ways. One way is by resisting the dominant ideology of the power elites and its role in legitimizing and justifying the dominance of those in power. A second way is by ensuring that minority groups do not pose an economic burden by highlighting their economic value. Political counterpower weaves together these two forms of counterpower by framing the demands of multiculturalism as in accord with or stemming from the framework of power itself (for example, the constitution). The chances of power elites being amenable to the adoption of multiculturalism decrease if one or more of these forms of counterpower is weak or absent.

§11. IDEOLOGICAL COUNTERPOWER

We have previously discussed how one dimension of power involves determining a normative framework of modes of behaviour, habits, responses, convergences, interpretations and general understandings of the world from an infinite number of possibilities. This ‘narrowing down’ of possible interpretations into one finite world-view is implemented through political, economic, psychological and sociological paradigms. Paradigms are thus expressed in most human doings, such as the rule of law, moral codes, political cultures, economic systems, modes of measurement, names and categories, styles of architecture, social movements, official languages, behavioural responses, and so on. Important paradigms are created and established by power-holders for the purpose of more efficiently managing, controlling, and predicting the behaviour of the individuals and the communities that the bearers of power are responsible for. This is an idea which has roots in Nietzsche’s *On Truth and Lies in a Nonmoral Sense*, but it is equally indebted

to Antonio Gramsci's influential concept of cultural hegemony. According to Gramsci, hegemony is, essentially, the control that power elites can engineer through imposing and normalizing their view of the world.¹⁴⁶ It stems from accepted truths, dominant ideas, and normative frameworks which weave together a view of philosophical legitimacy to win support for the dominance of the current elites. Thus, most human activities are an integument of the influence of elites within society. In Gramscian thinking, resistance to the ideological influence of the power elites is called 'ideological counter hegemony' – though this could also be called 'ideological counterpower,' since this practice of forming ideas that challenge the status quo is an example of resistance by the many to the control of the few.¹⁴⁷

Historically, all successful movements have used ideological counterpower.¹⁴⁸ Indeed, challenging the dominant ideas of the times is a necessary condition for effecting change. In some respects, ideological counterpower can simply take the form of public meetings, media engagements, and informing people of events.¹⁴⁹ But the best and most successful forms of ideological counterpower involve questioning the legitimacy of the current praxis and inspiring a change in worldview. For example, the struggle for independence in India was led by Gandhi's form of civil disobedience, *Satyagrah*, which is itself a form of ideological counterpower that recognized that the law itself is a social construct and therefore a form of ideological hegemony.¹⁵⁰ Therefore, as Gandhi explained, non-adherence to the law through nonviolence undermines this aspect of the power wielded by elites. Ideological counterpower for a social movement churns its wheels and keeps its momentum going. A powerful clarion call like the one used in the French

¹⁴⁶ Gramsci, Antonio (2010). *Prison Notebooks: Three Volume Set*. New York: Columbia University Press. 5.

¹⁴⁷ See Steinberg 1993, Lipsitz 1998, Liu 2006, Chalcraft 2007, and Apostolidis, 2007.

¹⁴⁸ 'Successful' in the sense that they have managed to bring about some degree of intended change.

¹⁴⁹ Gee, Tim (2011). *Counterpower: Making Change Happen*. Oxford: Oxford University Press.

¹⁵⁰ Gee (2011).

revolution, ‘*liberté, égalité, fraternité,*’ can not only motivate and keep focused the revolutionaries in the face of the physical and legal blockades put into place by the elites; it can also be a bastion for other major upheavals in other parts of the world. Music, too, can be a form of ideological counterpower, if, for example, the music expresses or evokes popular resistance.¹⁵¹ Generally, any activity or strategy which attempts to change minds or urge dissent in the hopes of effecting change can be considered ideological counterpower. The different ways in which ideological counterpower can be employed are different only in form, not in kind. So long as there is an intentional attempt on the part of non-dominant groups to form an idea that opposes the ideology of the bearers of power, and then a method of communicating that idea, be it through music, philosophy, slogans, literature, rallies, and so on, it constitutes ideological counterpower.

In line with Kymlicka, I argue that multiculturalism as a modern phenomenon exists as an adaption of a more general ideological counterpower. This general counterpower is the emergence of a human rights culture in the mid-20th century, and the subsequent civil rights liberalism that has spread and been adopted in many parts of the world. The rise of a human rights culture has been the most important expression of ideological counterpower, catalysing the demands for minority rights and multiculturalism. Further, civil rights liberalism has served as an ideological counterpower not only in questioning the legitimacy of traditional ethnic and racial hierarchies, but also in helping to inspire and justify claims for multiculturalism, and influencing the ways in which these claims are framed, channeled, and filtered.¹⁵² Multiculturalism has also benefited from the fact that it has been championed and expressed by well-respected thinkers, such as Charles

¹⁵¹ For example, Bruce Springsteen’s ‘Born in the USA’ is a form of ideological Counterpower since it served as a protest of the Vietnam War.

¹⁵² Kymlicka (2011).

Taylor and Kymlicka, who have made strong philosophical cases for targeted, differentiated minority rights.

There are two indexical, historical sequences identified by Kymlicka which have led to the human rights revolution, and one which has unfolded as a result of the previous two. The first two sequences are decolonization and racial desegregation. Some of the Western countries that signed the Universal Declaration of Human Rights “did not believe that endorsing the principle of equality of peoples would require them to give up their colonies,” Kymlicka writes, but this position became unsustainable as the paradox between equality and colonization was too apparent to ignore.¹⁵³ This led to the United Nation’s 1960 General Assembly Resolution 151, which made explicit the link between equality and decolonization. The principles of equality espoused during the decolonization struggles helped inspire the African-American civil rights struggles of the 1950s and 1960s. Again, the principle of equality was at odds with segregationist policies, and the tension between the two became untenable. Eventually, the principle of equality of all persons won out over racial segregation; although its implementation was not immediate or even now completed. The victory was made explicit on the international stage in the UN’s 1965 Convention on the Elimination of All Forms of Racial Discrimination.

Above, thus, are two historical sequences that Kymlicka identifies as inspiring the demand for minority rights. Ideologically, however, the basis for equality was justified much earlier. Famously, in 1215, various English barons confronted King John and forced him to sign the Magna Carta. The Magna Carta established some elementary protections and core legal rights which essentially implied that the privileges possessed by one group must apply to all. These protections and rights were initially embryonic, but eventually enabled people to challenge the legitimacy of

¹⁵³ Kymlicka (2011), 89.

the divine right of rulers because the lustre of ruler privilege had metaphorically rusted.¹⁵⁴ The gap of inequality between ordinary people and ruler was no longer as wide because the Magna Carta implied equal treatment for all; an idea which was interpreted and expanded upon in future constitutions.

In certain countries, multiculturalism has also been inspired by the demands made by Aboriginal peoples for self-governance. Like the Aboriginal peoples, many minorities are under pressure to eschew their language, culture, and traditions, and become involuntarily assimilated as a result. They have been denied opportunities or privileges that are available to members of the majority, excluded from employment opportunities and the decision-making arena, and have had their civil rights suppressed, often on the grounds of their ethnicity or nationality.¹⁵⁵ Like the Aboriginal peoples, minorities have needed anti-discriminatory measures. Thus, First Nations people have been the ‘first through the wall,’ and their struggles for obtaining rights, recognition, and equality have made it easier for other minorities to demand a specific kind of treatment from their governments. They have helped bring to the forefront of public consciousness the need not to only tolerate but also to accommodate minorities by means of differentiated, targeted rights.¹⁵⁶ Moreover, bearers of power have, as a result, developed the political know-how for dealing with these kinds of demands, making these persons more amenable to acquiescing to multicultural protections.

¹⁵⁴ Aronovitch (2014), 16.

¹⁵⁵ Kymlicka (2007). Kymlicka distinguishes between rights of indigenous peoples and those of immigrants: for him, indigenous peoples are entitled to some self-governing, language, and land rights by virtue of being ‘national minorities’ – groups that were involuntarily incorporated into the country and would have retained their own sovereign governments otherwise; meanwhile, the distinctiveness of immigrants is manifested mostly in their private lives. This means that they must still participate in the public institutions of the dominant culture (i.e. learn the common language).

¹⁵⁶ For landmark cases that brought Indigenous rights and issues to the forefront of public consciousness, see *Calder et al. v. B.C. Attorney General* [1973] (Canada), *Mabo v. Queensland* [1992] (Australia), *Milirrpum v. Nabalco Pty Ltd* [1971] (Australia), *Delgamuukw v. B.C.* [1997] (Canada), and *R v. Sparrow* [1990] (Canada).

The form multicultural protections take is not solely that of measures for anti-discrimination and undifferentiated citizenship. When it comes to rights, multiculturalism has been strongly influenced by the politics of recognition. Recognition is the demand to acknowledge the worth of different cultures. It is part of the identity-forging process and it is required in order to prevent assimilation into the culture of the dominant group.¹⁵⁷ The underlying thesis of the politics of recognition is that “identity is partly shaped by recognition and misrecognition, and so individuals and groups can suffer serious damage if the people or society around them mirror back a confining or demeaning or contemptible picture of themselves”.¹⁵⁸ Taylor was the first to note that the ‘liberalism of equal dignity’, which takes itself to be recognizing the equal worth of all its citizens, was an integument of a specific, hegemonic structure.¹⁵⁹ The politics of recognition, the form of ideological counterpower that Taylor championed, charges that treating all citizens equally amounted in reality to a failure to properly acknowledge the equal value of the achieved identity of a state’s citizens. This is to say, different citizens have different needs, and to treat all equally (in the sense of treating them in the very same way) is to inadequately serve the needs of some. For example, giving a test printed on paper to a sighted child and a blind child is treating both children equally, but treating the blind child unfairly and failing to acknowledge his/her disadvantage. Equality in a society comprised of a plurality of cultural forms of life, Taylor posited, means having a “regime of reciprocal recognition among equals”.¹⁶⁰ This form of ideological counterpower implied that withholding recognition, therefore, could inflict damage.

The point to be made is that, as the general principles of civil rights and liberalism have spread, they have had to adapt to particular, localized challenges. The adoption of multiculturalism

¹⁵⁷ Taylor (1994).

¹⁵⁸ Taylor (1994), 1.

¹⁵⁹ Taylor (2007).

¹⁶⁰ Taylor (1994), 26.

must be understood, in part, as the local development of the struggle for minority, differentiated rights, which itself has evolved from and been influenced by civil rights liberalism. There has been a trend of evolving towards greater equality. That is, just as decolonization inspired the struggle for racial desegregation, so racial desegregation inspired the struggle for minority rights, and so the philosophy of multiculturalism was born. Each stage of this unfolding process is inspired by civil rights liberalism, which itself began as a form of ideological counterpower; as a commitment to contesting ethnic and racial hierarchies and to eliminating all of the exclusions, stigmatizations, and inequalities that exist on the basis of race, gender or ethnicity in Western democracies.

Kymlicka notes that the most important change in the struggle against ethnic and racial hierarchies has not been the change in international law, but the change in people's consciousness. This means that the spread of civil rights liberalism has been successful in terms of pushing back against the ideological hegemony – it has inspired a change in worldview. “Members of historically subordinated groups,” Kymlicka writes, “today demand equality, and demand it as a right.”¹⁶¹ The principles of civil rights liberalism have infused in minorities a strong sense of entitlement to equality. “Today,” Kymlicka continues, “groups...are angrily impatient with any lingering manifestations of older hierarchies.”¹⁶² Minorities are now much more forthcoming with making demands on power elites, and this is in large part due to the inspiration provided by the ideals of human rights and civil rights liberalism.

We have also spoken earlier about the aspirational quality of multiculturalism. This quality, if emphasized, can be and is used as a form of ideological counterpower. By ‘aspirational’, I simply mean that multiculturalism stands generally as a symbol for something broader. That something

¹⁶¹ Kymlicka (2011), 91.

¹⁶² Kymlicka (2011), 92.

else might be called the idea of a ‘progressive’ society, wherein lingering manifestations of older racial and cultural hierarchies are dismantled in favour of a more accepting and inclusive political space. This may additionally include the aspiration that a society that has adopted multiculturalism will also be progressive in other areas of public life, such as healthcare, social justice, etc. As such, multiculturalism not only refers to the prescriptive ideal of equality between ethno-cultural minorities and the mainstream majority, but also to a normative view of society as generally progressive. Further, multiculturalism can also stand as a symbol of national identity. This is particularly true in Canada: compared to other important national symbols, Canadians rank multiculturalism highly in terms of importance to their national identity – behind only national parks, health care, the flag, and the Charter of Rights and Freedoms; on par with the national anthem, the RCMP; and ahead of hockey, the CBC, and the Queen.¹⁶³ The importance of multiculturalism to national identity is partly related to Canadians’ attitudes towards the United States. Although Canada and the United States have developed one of the most stable and mutually-beneficial relationships in the international sphere, Canadian identity sometimes suffers from ‘youngest child syndrome’. Canadian multiculturalism plays on this, frequently referencing the contrast between the Canadian mosaic and the American melting pot, making multiculturalism a proud point of distinction for Canadians. As such, Canadian pride in multiculturalism may be explained by its role in defining Canadian identity vis-à-vis the United States. The aspiration that multiculturalism can bring about a change to be proud of, either in the quality of life in society or in national identity, can certainly be used as and can be considered to be a form of ideological counterpower.

¹⁶³ Reitz (2011), 16.

To truly understand the trend towards multiculturalism, however, we have to understand that counterpower has to involve not only a change in worldview or in moral sentiments (i.e., constitute ideological counterpower), but also in behaviour. This is to say, we need to grasp that multiculturalism requires more than the conviction that minorities deserve or ought to have differentiated, targeted rights, because conviction itself does not enact change. The conviction in ideas, as Kymlicka says, “needs to be articulated, mobilized, negotiated and compromised within a larger field of power relations.” Actual politics must be involved. Movements are often unsuccessful when they see themselves as only having to express ideological counterpower. To be sure, ideas can serve as the foundation for inspiring, informing and effecting change, but ideas alone are not usually enough to persuade political actors. Ideological counterpower can inspire change but it is only one cog in the machinery. There are other forms of counterpower that are necessary. Contrary to an implication in Taylor’s thought, power elites cannot be moved by the accord of ideas alone. Historically, the arguments for and against different practices, ranging from slavery, to footbinding, to desegregation, were well known and clearly articulated well before there were actual changes in policies and behaviour.¹⁶⁴ So, arguments are in place well before a movement has begun. The same can be said for multiculturalism. The argument for multiculturalism and for the need to accommodate a plurality of cultural forms of life within society has been repeatedly made, particularly in the 1990s. But since multiculturalism represents a mixed gamble, the idea has been resisted by those who are averse to potentially losing their power.

¹⁶⁴ Appiah, A. *The Honor Code: How Moral Revolutions Happen*. New York: W.W. Norton, 2010. 18.

§12. ECONOMIC COUNTERPOWER

Economic power is the ability to use economic means to get someone to do something that he/she would not otherwise do.¹⁶⁵ The economic balance of power between elites and ordinary people, then, is evidently tilted towards power elites. Elites have at their disposal the means of production: wealth, land, machinery, factories, etc. An elite can get someone to do something directly by paying them, or through economic influence. For example, managers can threaten to fire employees if they do not follow orders. Since it is difficult to survive without pay, there is therefore an incentive for the employee to follow the manager's orders. Equally, the manager can exert his/her *power over* by incentivizing good behaviour or productivity. Again, there is an incentive for the employees to do something that they might not otherwise do. So, if economic power is the ability to get others to work, economic counterpower is the refusal to work. Additionally, the building of alternative economic bases of power, such as trade unions, NGOs, and publicly owned services, can also be taken as forms of economic counterpower, since these might serve to resist or altogether undermine the economic power of other elites.

As the refusal to work, economic counterpower in the most obvious form is the strike. A strike by employees as protest can be in the hopes of gaining specific concessions from its employers, or in order to win recognition of some other kind. A famous strike was the U.S. postal strike of 1970. The strike began because workers had become increasingly dissatisfied with wages, working conditions, benefits and management, and negotiations in the new collective bargaining were coming to a standstill.¹⁶⁶ In terms of economic counterpower, the two-week strike was highly

¹⁶⁵ Gee (2011), 24.

¹⁶⁶ Rubio, P. (2010). *There's Always Work at the Post Office: African American Postal Workers and the Fight for Jobs, Justice, and Equality*. Chapel Hill: University of North Carolina Press.

effective: the strike crippled the U.S.'s mail system and the stock market fell due to the strike's effect on trading volume.¹⁶⁷ President Nixon ordered the National Guard to replace the striking workers, but this measure only served to heighten the strike's economic counterpower, because the National Guard proved to be ineffective in replacing the workers. As a result, the economic value of the U.S. postal service and its workers not only increased but became readily apparent to the public, to the mass media that had been covering the strike, and to the Nixon administration. Eventually, the strike culminated in the Postal Reorganization Act 1970, which saw most of the union's demands for wages and conditions met. Not a single postal worker was fired as a result.¹⁶⁸ A successfully executed strike will highlight the economic necessity and value of those that are striking. With regard to multiculturalism, spotlighting the economic value of immigrants, in particular, can be significant. Immigrants are often erroneously viewed as economic burdens on the welfare state. The purpose of economic counterpower, therefore, is not only to dispel false perceptions (which, in turn, negatively affect the attitudes towards immigrants and makes it more acceptable to ignore their demands), but also to reveal the fact that immigrants, by most metrics, have a substantial impact in boosting a country's global economic clout.

But refusing to work is just one form of economic counterpower. Refusing to pay can be another.¹⁶⁹ This is of course represented in the form of a boycott, which can be highly effective if enough people get behind it (and for that, ideological counterpower is necessary). In 1955, in support of Rosa Parks, many African-Americans and some white people decided to boycott the bus, as a means of undermining the segregationist policies that did not allow whites and blacks to sit together. Instead of taking the bus, African-Americans walked into town or traveled in taxis

¹⁶⁷ Ibid.

¹⁶⁸ Ibid.

¹⁶⁹ Gee (2011).

which agreed to charge only the bus fare rate in support of the boycott.¹⁷⁰ Despite attempts from political authorities to end the bus boycott – by disallowing taxi companies to offer solidarity rates, for example - the boycott proved extremely effective, with enough riders lost to the city transit system to cause serious economic distress.¹⁷¹ Finally, in *Browder v. Gayle*, the Supreme Court ruled bus segregation unconstitutional.¹⁷² Not only did the boycott serve as a form of economic counterpower, but it merged with the broader ideological counterpower of the time and helped bring civil rights to African-Americans across the United States.

Sometimes, economic counterpower can be tacit and implied, and if it is particularly strong, the mere threat of a strike or boycott is enough to pressure political actors. This has been the case for multiculturalism, and it has held true in places where multiculturalism has been adopted and where those economies significantly depend on young, hard-working immigrants to contribute to the growth of the economy's strength and affluence. In Canada, for example, significant portions of the national economy depend on immigrant labour. In 2014 alone, over 165,000 people were selected from foreign countries for their skills and abilities to contribute to Canada's economy (economic immigrants), which constituted 63 per cent of total immigrants.¹⁷³ This means that not only is there a need for economic immigrants, but that political actors are aware of it. Further, in 2011, Canada had a foreign-born population of about 6,775,800 people.¹⁷⁴ They represented 20.6 per cent of the total population, which was the highest proportion among the G8 countries. This is well above the shares in places where multiculturalism has not been entirely embraced, such as

¹⁷⁰ Gee (2011).

¹⁷¹ Ibid.

¹⁷² *Browder v. Gayle*, 142 F. Supp. 707 [1956]

¹⁷³ Statistics Canada. (2015). Table 1: Analysis of the Canadian immigrant labour market, 2008 to 2011. Retrieved from <http://www.statcan.gc.ca/pub/71-606-x/2012006/part-partie1-eng.htm>

¹⁷⁴ Statistics Canada (2011). Figure 1: Foreign-born population, G8 countries and Australia. Retrieved from <https://www12.statcan.gc.ca/nhs-enm/2011/as-sa/99-010-x/99-010-x2011001-eng.cfm#a2>

Germany (13 per cent) and the United States (12.9 per cent).¹⁷⁵ In Australia, 6.6 million people are foreign-born, which corresponds to a third of Australia's population.¹⁷⁶ The rate of labour participation of those 6.6 million migrants is 77 per cent. By 2050, there will be a gain in employment through migration of 45 per cent, easily outstripping the population gain of 37 per cent.¹⁷⁷ In layman's terms, this means that immigration plays a key role in job creation in Australia. Statistically, in both Canada and Australia, new migrants hold higher levels of qualification than the average person in the labour force. By virtually every metric, immigrants have helped the economy. All this is to say, in places where multiculturalism has been widely accepted, it is no coincidence that immigrants help boost domestic productions, giving countries more economies of scale and global economic clout.

In countries that are not able or willing to respond to the needs of immigrants and workers, there is an incentive for these people to head for greener pastures, which can put enormous pressure on the economy. For a sustainable welfare system, both Canada and Australia genuinely need a young, hard-working skilled force. One of the most important economic benefits that immigration provides is the mitigation of the effects of an ageing population. This is because immigration does not just add additional population of any sort; it adds younger workers who have higher participation rates.

Thus, as Kymlicka says, an important factor for the development of multiculturalism is demographics. "In the past, many governments had the hope or expectation that non-dominant

¹⁷⁵ Ibid.

¹⁷⁶ Australian Bureau of Statistics. (2010). Table: Foreign-born selected OECD countries - 1997 and 2007.

Retrieved from

[http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/1370.0~2010~Chapter~Overseas%20born%20population%20\(3.6](http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/1370.0~2010~Chapter~Overseas%20born%20population%20(3.6)

¹⁷⁷ Australian Bureau of Statistics. (2006). Labour Force Participation of Migrants. Retrieved from

<http://www.abs.gov.au/Ausstats/abs@.nsf/7d12b0f6763c78caca257061001cc588/f930564143dfa8a8ca2571b000153dd7!OpenDocument>

ethnic groups would simply disappear, through dying out or assimilation or intermarriage,” Kymlicka writes.¹⁷⁸ Evidenced by the growing fact that societies are becoming more and more culturally heterogeneous, this is a false hope. The number of immigrants in most Western countries has continued to increase, and there is no indication that this trend will reverse itself. “No one any more can have the dream or delusion that minorities will disappear,” Kymlicka correctly notes, “the numbers count, particularly in a democracy and the numbers are shifting in the direction of non-dominant groups”.¹⁷⁹

Economic counterpower can in this way seem more passive than active. It requires that power elites recognize the positive economic effects of immigration, which are statistically numerous, and it requires that political systems accommodate and take advantage of these benefits. It also requires a bit of luck, in the sense that it applies only if immigrants comprise a significant part of the working population. A more active, and perhaps useful, strategy would perhaps be to speak to and negotiate with those in power, especially where the immigrant population is not sizable. Tim Gee, a major proponent of counterpower, is against engaging in such negotiations. He argues that the change that can be won by negotiating with the powerful is “at best microscopic – and could be counterproductive if it serves to lend legitimacy to the very power structures that the movement is challenging.”¹⁸⁰ Instead, Gee argues that minorities must seek to strengthen trade unions, progressive businesses, and even international NGOs so that they can fight to grant rights of participation to minority groups. This allows minorities to advance their interests without potentially gaining disproportionate power and becoming a mouthpiece for the ‘system’.

¹⁷⁸ Kymlicka (2011), 112.

¹⁷⁹ Ibid, 112.

¹⁸⁰ Gee (2011), 38.

In certain regards, this is a fair point. NGOs can often aid non-dominant groups. For example, the Organization for Cooperation and Security in Europe (OSCE) offers a forum for political negotiations, representation and protection for substate and national minorities that are unable to make their voices heard.¹⁸¹ The same is true of Amnesty International and other regional rights bodies. I would only argue that NGOs and trade unions are themselves power elites, and to a large degree do comprise the power structure. They must operate within the same set of juridical norms which characterizes the system of power. If Gee's concern is to not provide legitimacy to the power structure by avoiding working or negotiating with power elites, then trade unions, progressive businesses, and NGOs should be excluded from the list of political strategies. The power structure, as we have discussed earlier, should no longer be understood under the terms of the sovereignty model, which Gee seems to presume. Moreover, there is something to be said for strengthening, as opposed to weakening, the institutions that have traditionally been responsible for providing human rights guarantees. I believe that Michael Ignatieff is right when he argues that we should, to some degree, abandon regional rights bodies and instead rediscover the necessity of the state as the guarantor of human rights.¹⁸² Part of the strategy of multicultural counterpower should be not merely to have minority rights recognized, but to ensure that these minority rights are permanent. Minority rights should be seen as inherent, and the aim of counterpower should be, in the end, to have these rights entrenched in the constitution. Non-state authorities do not have the same amount of resources available, the administrative capacities, nor the political legitimacy of state institutions to co-ordinate such permanency. Thus, if the aim of counterpower is to primarily effect change, and this change can come through legitimate, state institutions, then it

¹⁸¹ Ignatieff, Michael & Gutmann, Amy (2000). *Human Rights as Politics and Idolatry*. Princeton, N.J.: Princeton University Press.

¹⁸² Ignatieff (2000).

should. Minority rights are best protected when that is done by institutions to which minorities belong rather than by outsiders like NGOs.

§13. POLITICAL COUNTERPOWER

Ideological and economic counterpower challenge the legitimacy of present relations which in the case of multiculturalism means challenging racial and cultural hierarchies. The task of political counterpower revolves around political strategy; that is, it is concerned with employing the best and most efficient means of achieving a desired result. In some cases, political counterpower can take the form of a violent uprising against an unjust ruler. In others, political counterpower can be nonviolent. Actively disrupting traffic, routines, etc., with protests and marches, for example, can be an expression of political counterpower – one which seamlessly meshes with the ideological and economic.¹⁸³ Constructing barricades and declaring certain areas autonomous of government authority, as the Egyptians did in Tahrir square, is another example of nonviolent political counterpower, which in this case attempted to push back against the oppression of the regime.¹⁸⁴ The objective of political counterpower, then, is to heighten the presence and awareness of the ideological and economic variants in order to force the hand of political actors and oblige them to react. That objective can also be attained by convincing political actors that the change that is sought does not undermine, but rather reinforces, the current praxis of power. In previous chapters, I have argued that the realistic prospects for adopting multiculturalism lie in its advocates' appealing to the prevailing power structure. Multiculturalism presents somewhat of a mixed gamble for power elites, and so the aim of multiculturalists should

¹⁸³ Gee (2011).

¹⁸⁴ Ibid.

be to lessen the gamble and/or present multiculturalism as an opportunity whose benefits far outweigh the losses. This is to say, multiculturalism must not be seen as throwing into question the background legal, political, and economic framework of power itself. So long as it is not, power elites will be most amenable to the adoption of multiculturalism; that is, where they see adopting it as constituent with or even reinforcing the sovereign power of the state. In contexts where multiculturalism somehow coheres with the structure of power, multiculturalism has received its public and political support. In contexts where multiculturalism is seen as favouring the (illiberal) values of minority groups and/or where immigrants are perceived as burdens on the welfare state, then multiculturalism has been viewed as posing a risk to the self-interests of the political actors, which has overridden the forces that support multiculturalism.¹⁸⁵ Political counterpower, then, if it is to be effective, must push for multiculturalism in a way that addresses and alleviates the concerns of the political actors and other ruling elites.

In the West, multiculturalism represents a mixed gamble because power elites are afraid that multiculturalism will introduce in society differences and changes which are too radical to keep alive the strong conception of liberal-democratic rights and constitutionalism which characterize the rule of law. This is because multiculturalism is often seen as endangering the commitment to liberalism – a point highlighted by Brian Barry. Multiculturalism and liberalism, Barry says, are inherently inconsistent because they foundationally promote contradictory values. Liberalism, writes Barry, is based on individual rights, while multiculturalism is primarily concerned with group rights. This means that speaking of group rights in a traditional liberal paradigm is nonsensical.¹⁸⁶ Even Kymlicka accepts ways in which multicultural rights go beyond

¹⁸⁵ Kymlicka, W. “Liberal Multiculturalism and Human Rights.” *Political Liberalism and Multinational Democracies*. Eds. Ferran Requejo and Miquel Caminal. Routledge, London, 2010. 73-92.

¹⁸⁶ Barry, Brian. *Culture and Equality: An Egalitarian Critique of Multiculturalism*. Cambridge, Mass.: Harvard University Press. 2001.

traditional liberalism. Multiculturalism will then run into difficulties if it is perceived as being high risk. If, for example, immigrants are predominantly seen as illegal, or as potential carriers of illiberal practices or movements, or as economic burdens on the welfare state, then these perceptions will feed back into the fear and concern that multiculturalism and liberal-democratic values are irreconcilable.¹⁸⁷ If the values of multiculturalism and liberalism are perceived as irreconcilable, power elites will be averse to adopting multiculturalism because they will not want to risk the structure of power that sustains and endorses them.

Elites are unlikely to accept multiculturalism if they fear that this will lead to localized pockets of separate and uncontrolled power within society. Political counterpower, then, must instill confidence that multicultural reforms will not essentially jeopardize prevalent values, values which, in Western democracies are liberal-democratic norms.¹⁸⁸ Political counterpower can and should accentuate the ideological counterpower implied by the human rights revolution: civil rights liberalism can thus act to constrain as well as inspire the evolution of multiculturalism. The role of political counterpower should be and at times has been to make obvious this seemingly apparent contradiction.¹⁸⁹ If the human rights revolution is seen as the historical reference point for ideological counterpower, then the human rights revolution is equally the language in which minorities can push for multicultural policies. This means that the demands of minorities have to be reconcilable with the tenets of civil rights liberalism. The aim of political counterpower, then, is to advance multiculturalism in a very specific language, one which obliges minorities to comply with liberal principles.¹⁹⁰ This is to say, minorities can use the tenets of liberal rights norms to

¹⁸⁷ These have all been expressed concerns in countries where multiculturalism has not been adopted, e.g. Netherlands, Germany. See Stehle 2006.

¹⁸⁸ Kymlicka (2007).

¹⁸⁹ Kymlicka (2007), 93.

¹⁹⁰ Minorities must guarantee free exit and liberty of religion to their members; they have to educate children to pluralism; they cannot punish their members in cruel and unusual ways; and cannot impose harmful practices, etc.

challenge the legitimacy of racial and cultural hierarchies, exclusion and subordination, while also promising to remain committed to those values themselves, by accepting to be tolerant and inclusive.¹⁹¹

Using the language of civil rights liberalism and democratic constitutionalism is clearly purposefully strategic. For example, political elites shudder at the thought of granting autonomous and self-governance rights to minority groups, not merely because this introduces a free radical into the power structure, but also because this sets a legal precedent which enables other minority groups to make similar demands. This is problematic for elites, because localized pockets of autonomy within society undermine unified, sovereign state power, and this fragmentation can only serve to overtly challenge the dominance of the elites. However, leaders of minority groups can strategically secure autonomous rights if they appeal to political elites in specific ways. For example, liberalism has tended to focus on the promotion of autonomy as an element of well-being.¹⁹² Minority leaders can draw on this by arguing that the state always has some influence upon the character of its citizens, and that, if autonomy is an ideal of self-authorship, then it is the state that provides us with the tools and the contexts of our authorship.¹⁹³ So, minority leaders can assuage the fear that once their groups acquire some self-governing power, they will not use it to oppress or persecute anyone who does not belong to the minority group, by acknowledging the state as the locus of power. In these accounts, no particular set of values aside from the value of autonomy is being promoted.¹⁹⁴ Further to this, minority leaders can also argue that multiculturalism effectively recognizes the priority of basic liberal-democratic rights, meaning that

¹⁹¹ Kymlicka, Will. *Multicultural Citizenship: A Liberal Theory of Minority Rights*. Oxford: Oxford University Press, 1995.

¹⁹² Appiah (2005), 158.

¹⁹³ As Appiah says, “we may shape ourselves, but others shape our shaping”. Appiah (2005), 157.

¹⁹⁴ Appiah (2005).

not all particularities must be endorsed (e.g. clitoridectomy, etc.). This assures that multiculturalism does not grant minority groups the authority to engage in ethnic cleansing, or violate human rights norms, or subjugate certain minorities within the group, in the name of cultural authenticity.¹⁹⁵ This removes one of the central fears that current power elites typically have about minority autonomy. If minorities make it clear that there is a strong commitment to the rule of law, and more specifically, to liberal-democratic values, then power elites will feel confident that however issues of multiculturalism are settled, their authority and the rule of law will be respected. As civil rights liberalism provided the inspiration for the logic of multiculturalism, this was always to be the case.

There is, of course, one condition that enables the successful deployment of political counterpower that has not yet been made explicit but is indubitably important. That condition is the presence of a system of liberal democracy. Minorities cannot appeal to power elites using liberal-democratic language if there is no liberal-democratic foundation to appeal to. This analysis therefore suggests that efforts to diffuse multiculturalism globally will run into difficulties in parts of the world where human rights protections and liberal democratic values are absent.¹⁹⁶ And power elites in those parts of the world may oppose by the imposition of a liberal outlook which obliges them to respect rules they do not agree with. Kymlicka emphasizes that the constitution of liberal democracies limits the ability of elites to repress ethnic political movements. Kymlicka writes: “in many countries around the world, elites ban political movements of ethnic groups, or

¹⁹⁵ Additionally, minorities can use Canada and Australia as points of reference to show that multiculturalism can lead to higher rates of naturalization. With no pressure to assimilate and give up their culture, immigrants freely choose their new citizenship because they genuinely want to be members of their new state. As Canadians and Australians, immigrants there share the basic values of democracy with all others. I have not included this because it was not an element of counterpower used in Canada and Australia, since they were frontrunners in this respect and has no points of reference. (Stats Can 2015; ABS, Census of Population and Housing, 2015).

¹⁹⁶ Many Muslim countries (Saudi Arabia, Iran, Lebanon, etc.) are generally associated with the idea of a ‘closed’ society, eager to preserve their own traditions from external cultural influences.

pay thugs or paramilitaries to beat up or kill ethnic group leaders, or bribe police and judges to lock them up”.¹⁹⁷ Members of ethnic groups are therefore constrained from advancing their claims in public, because voicing an unpopular opinion is often unsafe. In consolidated democracies, however, the freedoms of speech, thought, peaceful assembly, etc., enable ethnic minorities to mobilize politically and to bring forward their demands. “It is this loss of fear,” Kymlicka believes, “combined with a new rights-consciousness deriving from the human rights revolution, which explains the remarkably vocal nature of ethnic politics in contemporary Western democracies.”¹⁹⁸

So far, I have described political counterpower as essentially the ability of minority groups to ‘play the game’ of politics; to be able to present multiculturalism in the light that makes it most amenable to its adoption. The factor of loss aversion that characterizes the psychology of the overwhelming majority of people means that power elites and the institutions they govern will be wary of the idea of multiculturalism since it seemingly threatens to erode the conception of democratic constitutionalism and civil rights liberalism that is at the centre of their liberal-democratic system. Framing the demand for multicultural policies in terms of liberal-democratic norms alerts power elites to the fact that minority groups are aware of the requirement to accept the basic liberal framework before including minority differences within the community. And counterpower, in this way, acknowledges a psychological weakness or normal human tendency. But ethnic minorities can also exploit structural weaknesses in order to ensure that their voices are heard. As we have noted, societies are characterized by a multiplicity of power elites. This means that if the demands of a group are ignored by one power elite, then that group can perhaps pursue its claims further with another elite.¹⁹⁹ For example, if the government is indifferent to certain

¹⁹⁷ Kymlicka (2007), 110.

¹⁹⁸ Ibid, 110.

¹⁹⁹ Kymlicka (2007), 112.

demands, groups can use other institutions, such as trade unions, NGOs, etc. to advance their agenda and pressure or lobby the government. If the government remains indifferent, groups can take their cases to the courts. And if the courts are indifferent, groups can still pursue their claims at the regional, municipal, and provincial levels. And even if all these levels fail, ethnic minorities can choose to pursue their claims at the international level.

At times, people can become skeptical about multiculturalism's realistic ability to be thus rooted in liberal-democratic constitutionalism and civil rights liberalism, which helps explain some of the strong opposition that has arisen in some European countries. If, for example, multiculturalism is interpreted, as the right to preserve authentic cultural traditions, or as a cultural-relativist reaction against liberalism, or a post-modernist rejection of liberalism (i.e. as anything other than an unfolding of the logic of civil rights liberalism), then power elites will view multiculturalism as raising several potential dangers, and it will be rejected and has been rejected in this way. But, in fact, a distinctly liberal model of multiculturalism has been adopted in the areas of the world where multiculturalism has been accepted.²⁰⁰

§14. A MISAPPLICATION: FAILED COUNTERPOWER IN THE ONTARIO SHARIA COURTS CASE

This chapter has discussed the varying expressions of counterpower which, taken together, form effective strategies for deploying multicultural demands. At the same time, unsuccessful requests for accommodation help highlight the effectiveness of counterpower (much in the same

²⁰⁰ Though, of course, this is not to say that liberal multiculturalism is not without its own faults. For more, see Barry 2001, according to whom liberalism and multiculturalism promote inherently inconsistent values; Appiah, 2005 and Benhabib, 2002, who argue that multiculturalism risks reifying and essentializing cultural stereotypes; and Fanon, 1952 and Coulthard, 2014, who claim that multiculturalism is just another feature of a liberalism that uses the logic of power to oppress non-dominant groups.

way as an exception proves the rule). Therefore, in this section, I examine the case of Sharia courts in Ontario. I argue that all forms of counterpower – ideological, economic, and political – were either weak or absent, yet were available by the minority group requesting these courts.

First, some stage-setting: In 2003, members of a group called the Islamic Institute of Justice (IICJ) announced that they would begin opening Sharia tribunals which would offer Muslims in Canada arbitration in matters of family law. By precedence, this was not unusual, as minorities had been using arbitration tribunals outside formal provincial courts to resolve family disputes and personal law matters for years.²⁰¹ Private arbitration was also encouraged by federal and provincial governments, since this off-loaded several cases from the already overloaded Canadian courts. Arbitration guided under religious principles was therefore common and established at the time of the IICJ's announcement, though significantly, all decisions made under private arbitration were subject to appeal to the formal legal system.

The role of these faith-based courts, however, came under extreme scrutiny following the announcement of the IICJ to open Islamically-based arbitration tribunals. Although, by precedent, it was perfectly appropriate for the IICJ to use arbitration mechanisms to resolve family disputes according to Muslim religious laws, the announcement was met with hostile opposition. This was a result, in part, of poor political strategizing: the IICJ announced that the decisions taken in arbitration hearings would be final and binding on the parties involved in the arbitration process without being subject to appeal to the Canadian courts. From the perspective of power, the gravamen of this announcement was the implication that these Islamic tribunals would function as separate and equal to the formal Canadian courts, thus inciting images of self-governance, autonomy, and pockets of localized authority within Canada. Though some opposition was rooted

²⁰¹ Kymlicka (2011). Personal laws typically govern areas such as marriage, divorce, and inheritance, and are guided by applicable religious laws.

in old-fashioned prejudice and bigotry (which is tangentially related to issues of power), more intellectually-concerned opponents of faith-based arbitration focused on the legal body of Islamic law, finding it to be archaic and male-oriented, and arguing that the implementation of such an out-dated system of law would only work to the detriment of women.²⁰² Generally, many of the opponents of Islamic religious arbitration focused on the potential suppression of gender equality for Muslim women, and argued that, because large parts of Islamic law were outdated, male-centered, and gender-biased, then Sharia courts stood in direct conflict with Canadian laws, which (in principle) provide women with equal rights. In this respect, the IICJ and those who supported the implementation of Sharia courts failed to appeal to the tenets of civil rights liberalism (the ideological counterpower), and failed to provide assurances to dominant groups that there were limits to which Muslim minorities can assert their sovereignty (political counterpower).

In light of this controversy, the Ontario Government asked Marion Boyd to conduct a review of the use of arbitration in family and inheritance cases, with the intent of specifically examining the impact the use of arbitration has on vulnerable people (i.e. women, persons with disabilities, etc.). According to the Boyd report, one major concern among the majority was “the idea of personal law,” which many viewed as granting too much power in familial matters to Muslim patriarchs. Many of those who raised this issue “had little knowledge of the history of religiously based personal law as it has occurred across the world in the past or as it exists today.”²⁰³

While some argue that the general issue in this circumstance is ignorance among the mass populace, it behooves those trying to effect change to educate those that oppose the movement on

²⁰² Philips, Amali. “Sharia and Shah Bano: Multiculturalism and Women’s Rights.” *Anthropologica*, 2001, vol. 52, no. 2, 280.

²⁰³ Boyd, Marion (2004). *Dispute Resolution in Family Law*. Retrieved from Ontario Ministry of the Attorney General website: <http://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/boyd/fullreport.pdf>

uneducated grounds. For example, according to the Boyd report, “Many commentators claimed that the possibility of using Muslim personal law, in particular, was unheard-of elsewhere, and warned that Ontario was allowing a practice found nowhere else in the world, setting a dangerous precedent for other jurisdictions”. The IJC should have countered this ignorance by pressing, in the media and through other platforms, the fact that religious minorities in Ontario, such as Jews and Mennonites, have been availing themselves of the provincial arbitration laws to resolve family disputes and personal matters outside the Canadian courts for years. In this way, the implementation of Sharia courts was perfectly in keeping with Canadian conventions and in no way unprecedented.²⁰⁴

The next step would have been to quell concerns that Islamic law subjugates women and that Sharia courts would be used to favour male patriarchs at the detriment of women’s rights. The concern for women’s rights would have been a difficult issue for the IJC to overcome (see §8). But despite Boyd’s report finding “no evidence of systematic discrimination in private arbitration around family law issues”²⁰⁵, the IJC “hardly showed any sensitivity to issues of gender equality in the private realm and with regard to personal and family law matters”.²⁰⁶ In other words, the IJC did not even try to soften the concerns of its opposition. Engaging in political counterpower would have had the IJC assuring safeguards for women and other measures designed to protect vulnerable persons (this can range from measures concerning informed consent of understanding the nature and consequences of choosing religious law, to screenings by third party arbitrators to certify that there is no circumstance of domestic violence). Instead, the IICJ was staunch in its

²⁰⁴ Other than the fact that decisions in Sharia courts were to be taken as binding and not subject to appeal to the Canadian courts, which either should have not been announced in the media or should have been rescinded altogether. This is also, perhaps, ignoring or not taking seriously enough the fact that Islamic law is not easily digestible to members of the dominant culture, which is patently Judeo-Christian by nature. Even heavy ideological counterpower through the media and other outlets might not have sufficed.

²⁰⁵ Philips (2011), 279.

²⁰⁶ Philips (2011), 282.

entitlement to differential treatment within a multiculturalism mosaic. For example, Syed Ali, then-head of the IJIC, tried to reassure the public that Sharia tribunals were a ‘no-pressure’ environment, but later in the same interview pronounced:

Once the parties have agreed...they will be committed to it by their prior consent. As a consequence, on religious grounds, a Muslim who would choose to opt out at this stage, for reasons of convenience would be guilty of a far greater crime than a mere breach of contract—and this could be tantamount to blasphemy-apostasy.²⁰⁷

And later, when asked why women would need Sharia tribunals at all, since they were subject to the same protections under Canadian law, Ali replied, “To be a good Muslim, you must.” Arbitration was, therefore, hardly a choice, and since the IJIC had done nothing to quell the concern for women’s rights, these comments only engendered further moral outrage. The pretence of a no-pressure environment was evidently insincere.

In tandem with their entitlement to autonomy (within a multicultural framework), the IJIC also made assertions of political identity “that reach[ed] beyond accepted norms of cultural and religious distinction and autonomy in Ontario”.²⁰⁸ These assertions were used to buttress the claim to a right to arbitrate, which in some cases, lead the IJIC to make “problematic and unjustifiable comparisons” to “the political autonomy afforded [to] Canada’s First Nations”.²⁰⁹ This was a poor strategy to take, because arbitration, under the current legal structure, has always existed as a method of alternative dispute resolution (ADR), and not as a parallel system, and has always been clearly understood as being subordinate to the court system.²¹⁰ Establishing a separate legal stream for Muslims would require drastic and practically impossible changes to the justice system. It

²⁰⁷ Syed Mumtaz Ali, Interview: “Muslim Personal/Family Law Campaign” (1995), p. 2

²⁰⁸ Philips (2011), 280.

²⁰⁹ Philips (2011), 280.

²¹⁰ Boyd (2004), 89.

would also remove the existence of a single legal regime which is “the cornerstone of our liberal democratic society”.²¹¹ On this basis alone, the autonomy granted to Muslim minorities by Sharia tribunals would give away more power than the dominant group was comfortable with.

Interestingly, Boyd’s report lacked any real gender analysis and instead made frequent references to the rule of law.²¹² For example, it was repeatedly made clear that the courts would likely strike down any section of religious law that is inconsistent with the Canadian Charter of Rights and Freedoms. Notably missing were discussions involving feminist jurisprudence, women’s citizenship rights, and the gender power dynamic within religious arbitration processes. Instead, the primary area of focus was the reconciliatory capacities of family law arbitration decisions under Canadian law, and whether the right to religious arbitration went against the tenets of Canadian multicultural policy.²¹³ Essentially, the question was not one of women’s rights, but whether religious arbitration took power away from the secular Canadian court system.

Without engaging, in any real sense, in counterpower, and by demanding too much by way of autonomy and self-governing rights, the IJJC’s demand to settle personal matters and family law through religious arbitration was, unsurprisingly, denied by the Government of Ontario. In the end, the enactment of Sharia tribunals did not offer dominant groups an opportunity to acquire power. In fact, stemming from the dramatic opposition to faith-based tribunals, the Ontario Government seized the opportunity to further consolidate and strengthen the authority of the secular legal system by enacting the Ontario Family Law Statutes Amendment Act (2006). This reduced the profile and legitimacy of arbitration and increased the discretion of the court in

²¹¹ Boyd (2004), 88.

²¹² Ontario Women’s Justice Network. An Analysis of Marion Boyd's Review "Dispute Resolution in Family Law: Protecting Choice, Promoting Inclusion" (2005). Retrieved June 5, 2015, from http://owjn.org/owjn_2009/legal-information/aboriginal-law/160

²¹³ Boyd (2004), 278.

supervising arbitrations, while bringing all matters concerning arbitration of family disputes under government authority.

CONCLUDING REMARKS

Ethnic relations are seen in zero-sum terms. Anything that benefits the minority is seen as taking away from the majority; and, therefore, the treatment of minorities is above all a question of establishing the boundaries and limits of their power. This is reflected in assumptions that dominate public debate on minorities and immigrants in areas of the world where multiculturalism has been proposed and rejected (or questioned). Multicultural societies are ‘sleepwalking to segregation,’²¹⁴ we are told, signifying the end of a ‘core’ culture and the beginnings of a lily-livered, politically correct era where minorities need not adhere to the foundations of core values which have ‘traditionally’ linked a country’s inhabitants (although, how traditional these values really are is subject to debate).²¹⁵ Indeed, there is an unease surrounding multiculturalism, and a somewhat common thread running through criticism of it is that the multicultural ethic leads or has led to cultural ghettoizations among the various ethnic components of society. This is viewed as problematic, because this perceived separationism indicates that there are groups living autonomously, sometimes observing the principles of democracy and sometimes not; sometimes adhering to the underpinnings of the justice system and the rule of law, and sometimes taking advantage of it; sometimes looking to the state as the accepted authority for law-making and sometimes making their own rules up.

These concerns are directly tied to the intimate connection between law and the culture of the society in which the law operates. In most areas of the world, the common conception of the law is a ‘legal centralist’ conception. On this view, “law is an exclusive, systematic and unified hierarchical ordering of normative propositions, which can be looked at either from the top

²¹⁴ Phillips, Trevor (2005): After 7/7: Sleepwalking to segregation. Speech given at the Manchester Council for Community Relations, 22 September 2005.

²¹⁵ See Benedict Anderson (1982).

downwards as depending from a sovereign command.”²¹⁶ There are simple and non-coincidental similarities between this and the top-down model of power offered by Hobbes. There, the sovereign is depicted as the overseer of society and civil peace, and as the legitimizer of law, the legal system is intrinsically bound with the power system, since the legal exists as a manifestation of the power. “It is the factual power of the state which is the keystone of an otherwise normative system,” John Griffiths says, “which affords the empirical condition for the actual existence of ‘law’. Hence the necessary connection between the conception of law as a single, unified and exclusive hierarchical normative ordering and the conception of the state as the fundamental unit of political organization.”²¹⁷ Indeed, law is generally considered to emanate from political authority and does not, or cannot, operate outside of the realm of the state. Thus, the ideology of legal centralism has developed to reinforce the position of a minor power elite which is hardly representative of the wider social sphere but speaks and rules on the latter’s behalf. This is not to say the conception of legal centralism reflects legal reality, but that the ideology of legal centralism has been pre-eminently adopted by social scientists, political authorities, and everyday persons. That is to say, conceptions of what law is have reflected this particular idea of what law ought to be.

Hence, the legal system is irrevocably bound up with the power system – the former as an expression of the latter. If multiculturalism is seen as fracturing the centrality of the legal system, for example, by demanding drastic amendments to the law, or by encouraging minorities to order their lives by parallel rules of law, or by justifying a ‘double standard’ of sorts, then its adoption is unlikely, especially if multiculturalists do not engage in counterpower. For example, some interpretations of Islamic law permit Muslim men to have polygamous marriages. In Britain,

²¹⁶ Griffiths, John (1986): ‘What is legal pluralism?’ *Journal of Legal Pluralism and Unofficial Law*, vol. 24, 4.

²¹⁷ *Ibid*, 4.

meanwhile, polygamy is illegal, though under the 1988 Immigration Act, foreigners who migrate to Britain while having already been in polygamous relationships were allowed to maintain those marriages (provided they took place overseas in countries where it was legal). What is more, until recently, they were entitled to receive income support from the British government because of the larger income needed to accommodate such a family: “Where there is a valid polygamous marriage the claimant and one spouse will be paid the couple rate...the amount payable for each additional spouse is presently £33.65.”²¹⁸ Evidently, since polygamy was a criminal charge in Britain, the fact that some people, most of whom were Muslim men, could still engage in such affairs and were even entitled to welfare did not sit well with many. The shadow Work and Pensions Secretary (2008) said that the benefits were “completely unjustifiable,” adding that “you are not allowed to have multiple marriages in the UK, so to have a situation where the benefits system is treating people in different ways is totally unacceptable and will serve to undermine confidence in the system...This sets a precedent that will lead to more demands for the culture of other countries to be reflected in UK law and the benefits system”²¹⁹ On these sorts of issues, the shadow Secretary’s unilateralist opinion is not particularly unusual, as the ‘when in Rome, do as the Romans do’ argument is typically employed to imply that immigrants should either accept the laws of their new home land or leave the country altogether.

Several other political leaders have taken up the legal theme. Consider, for example, this quote from a speech given by Lord Falconer, the Lord Chancellor and Secretary of State for

²¹⁸ DWP detailed benefit guides. (20 December 2013). Retrieved November 14, 2015, from <https://www.gov.uk/government/collections/dwp-detailed-benefit-guides>

²¹⁹ Wynne-Jones, Jonathan. (3 February 2008). Multiple Wives Will Mean Multiple Benefits. Retrieved December 5, 2015, from <http://www.telegraph.co.uk/news/politics/1577395/Multiple-wives-will-mean-multiple-benefits.html>

Constitutional Affairs (2007), in which he condemns the prospects of Sharia being recognized in Britain:

One law for all. This is the principle that underpins our justice system. Which is why we will not consider permitting Sharia law or any other religious law to determine what constitutes criminal behaviour. Parliament sets the law, interpreted by the courts. Allegiance to the Rule of Law is the keystone of our society. It is non-negotiable. Protection under the same law is something that every one of us shares, regardless of region or religion, background or beliefs. We are all subject to the same rules – something that has been a defining characteristic of our society and fundamental to our values.²²⁰

And, in the same vein, Prime Minister Tony Blair (2006):

We must demand allegiance to the rule of law. Nobody can legitimacy ask to stand outside the law of the nation. There is thus no question of the UK allowing the introduction of religious law in the UK. Parliament sets the law, interpreted by the courts. All criminal matters should be dealt with through the criminal justice system. There may be areas where, in civil proceedings, parties consent to arbitration by a religious body. But these are arrangements based on consent and, in all cases, parties will have recourse to the UK courts.²²¹

²²⁰ Lord Falconer of Thoroton (2007): 'Human rights and terrorism'. Speech at the Royal United Services Institute (RUSI), London, 14 February 2007. <http://www.dca.gov.uk/speeches/2007/sp070214.htm>

²²¹ Blair, Tony (2006): The Duty to Integrate: Shared British Values. Speech given at the Runnymede Trust, 8 December 2006.

Both Falconer and Blair were responding to the ongoing debate about the existence of dispute resolution fora among different minority ethnic communities; more specifically, Muslim communities. The intonation in both is that immigrants need to cope with the new legal system of the dominant society in which they now live in, by learning its rules in the same way as they learn the language. Influenced by the legal centralist ideology, political leaders deny that diasporic groups can and do operate within a legal framework composed of traditionally Western laws while also adhering to laws derived from their own cultural heritage. But according to Gunther Bierbrauer, simple assimilation into another legal culture is not so easy, because

Law and legal system are cultural products like language, music or marriage arrangements and as such they form a structure of meaning that guides and organizes individuals and groups in situations of conflict. Thus, legal culture refers to the layman's conception of conception and knowledge of legal rights and duties and the way in which people solve their disputes in a particular culture... cultural norms, values and practices are internalized during socialization and they become part of a person's identity. Legal culture is only one aspect of a person's ethnic or cultural identity.²²²

The legal order of a culture, according to Griffiths, is congruent with social and cultural identity. Evidently, in an ethnically plural setting, conflicts soon surface if and when the legal order of those comprising minorities is at considerable odds with those with which the majority use to govern their own lives. Given that societies are increasingly marked by a plurality of cultural forms of life, and given the profound controversies that have erupted over the limits of multiculturalism, it is a mistake to think of multiculturalism as simply a theoretical enterprise. The greater the ethnic

²²² Bierbrauer, Gunther (1994), "Toward an Understanding of Legal Culture: Variations in Individualism and Collectivism between Kurds, Lebanese, and Germans," *Law and Society Review*, vol. 28, no. 2, 243-264.

diversity, the greater the possibility of conflict. Most Western societies have always been ethnically plural, though the current condition of ethnic plurality is markedly different now in the sense that Western societies are considerably becoming more and more characterized by numbers of people who have either migrated from non-Western societies or are descended from parents who have. That is to say, societies are now much more prevalent with people who trace their roots back to Asia, Africa and Latin America. These immigrants have had to come to some sort of liveable compromise by which they are able to hold on to their cultural value systems and legal cultures while adhering to those that are sharply different in their new homes. Thus, the existence of confrontations across cultural lines is as normal to the human condition as is the desire that such conflicts not exist. That is why any political philosophy which seeks to understand social reality must confront multiculturalism and come to terms with increasingly heterogeneous societies and the cultural conflicts which inevitably stem from them.

A condition of legal plurality requires that individuals themselves become legal navigators, filtering in and out different responsibilities and commitments to their culture and to the state, at times rejecting one, and at others synthesizing the two, deciding for themselves how to maintain their own cultural integrity. Such conditions (which, according to Griffiths, reflect the social reality) make it so that “not all law is state law nor administered by a single set of state legal institutions.”²²³ Therefore, formal acquiescence by the state in a situation of legal pluralism adds a formidable layer of complexity on top of the already existing complexity of the supposedly uniform legal and power systems. As such, legal pluralism unsettles the social order and the power system: a situation of legal pluralism is one in which law and legal institutions are not all subsumable within one system but have their sources in the self-regulatory activities of the state’s

²²³ Griffiths (1986), 6.

constituents, “activities which may support, complement, ignore or frustrate” state law, so that the law becomes subject to enormously complex and “unpredictable patterns of competition, interaction, negotiation, isolationism, and the like.”²²⁴ Bearers of power, therefore, lose their grip on a significant manifestation of their power, so it should be no surprise to see them denying legal reality. And because we have a state-centric and nationalist vision of power and of law, and because ethnic relations are seen in zero-sum terms, a strong state, it is assumed, must necessarily have weak and disempowered minorities.

It goes without saying that the prospects for the global diffusion of multiculturalism, are, therefore, slim. Multiculturalism presents significant risks for power elites, and is therefore a mixed gamble. There is of course the opportunity to lessen the element of mutual dependency, but there is equally the perceived threat that multiculturalism alters the current practices of society in a manner that exclusively benefits minority groups. For example, dominant groups are commonly concerned with the idea of multiculturalism as exclusively benefitting minorities. It is minority groups, so goes the dominant discourse, that are empowered by forcing the mainstream culture to comply and accept the tradition, habits and practices of the minority cultures, which evidently do not often gel with the mainstream. This is manifested in concerns that multiculturalism encourages the withering or eroding of national culture and identity, as well as compromises the legal order. There is also the concern that minorities want to control and oversee the public language by instituting ‘political correctness’ as a measure. Again, there is the perception that multiculturalism encourages minorities to impose their will on the majority, by forcing them to adopt and comply with the politics of difference. Power elites will have to weigh the opportunity to acquire more

²²⁴ Ibid, 39.

power as twice the value of potentially losing power – which, in many areas of the world, has not been the case.

This need not necessarily warrant a large degree of pessimism. Minority groups will have various levers as realistic prospects for change. Native peoples in Canada, for example, have been for long marginalized and disadvantaged, yet have been able to make significant gains in respect to land claims and fishing rights. This has been achieved by convincing judiciary powers of their moral and judicial responsibilities in upholding longstanding aboriginal treaties. The Courts have complied with these principled arguments because the demands do not throw into question the basic framework of power or legal norms. Indigenous claims to self-governance and full autonomy, of course, remain unsettled. However, the point to be made is that power-holders rely on a total conception of justice and the law, and the issue of power would not itself be an issue were there not also concerns about morality and justice. These concerns are motivating factors to be sure, but it has been my contention that they are not as motivating as are the concerns of power.

We may forget that power is omnipresent, because so many expressions of power are commonplace or normal – but the analysis that I have presented expresses something universal about the relationship between bearers of power and the general populace. Any options or implementations for new powers, no matter how small, demanded by a group in society will always involve, to some degree, the restricting of the prevailing and unequal balance of power, which while the dominant group will always be concerned to maintain the *status quo*. This is why the prospects for the diffusion in non-Western (i.e. post-communist or Middle Eastern) countries is poor: political elites in many non-Western countries already enjoy tremendous independency vis-à-vis the decisions they implement, and the ideological and economic counterpowers are so weak as to not be able to keep the power of the elites in check. There is, therefore, no need or incentive

for those in power to adopt multiculturalism, no added power they will thus derive. Further, in such contexts, it should not be surprising that there is an inversed relationship between the power of the elites and any counterpower of the masses. This confirms a point that this study wanted to highlight, namely, that conflicts between the masses and the bearers of power, particularly over toleration, recognition, and accommodation, are all conflicts of power. These conflicts are essentially integuments and expressions of the balance between power and counterpower.

The aim of this thesis was to offer some tentative suggestions for a more satisfactory interpretation of the situation and prospects of multiculturalism without focusing on the centrality of the dynamics of power. My point of departure is that these dynamics in any given society help explain the onset of multiculturalism. My sense is that once we acknowledge more the importance of power as an explanatory concept, we can better identify and understand the trend towards or resistance to multiculturalism. I have argued that acquisition of power is bi-conditionally tied to a will to independence, and that bearers of power will only recognize the collective rights and identities of minorities insofar as this recognition does not throw into question the legal, political, and economic framework of society which serves to justify and maintain the leadership of the dominant group. The development of multiculturalism, as I hope to have shown, takes shape not merely due to practical demands by minorities for access to greater privileges or to solve conflicts of a particular kind, but also as an attempt on the part of the majority to maintain existing relations of power.

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