

detention camps have drawn considerable public criticism, particularly in view of the number of cases of detention-induced mental illness and suicide. For a recent treatment of the issue, see Peter Mares, *Borderline: Australia's Treatment of Refugees and Asylum Seekers* (Sydney: University of New South Wales Press, 2001).

15. There is no reason in principle, however, why admitting asylum seekers as refugees need be especially expensive unless they are entitled to extensive welfare services. The problem is that it may not be easy to have differing entitlements for some residents—or, for that matter, desirable.

16. I am grateful to William Maley for this statistic, accurate in July 2001.

17. This is, of course, a highly contentious area. I make these arguments because I have been persuaded by the writings of development economists such as Peter Bauer and, more recently, Deepak Lal. See Peter Bauer, *Dissent on Development* (London: Weidenfeld and Nicolson, 1972); Bauer, *The Development Frontier: Essays in Applied Economics* (Cambridge, Mass.: Harvard University Press, 1991); Lal, *The Poverty of Development Economics* (London: Institute of Economic Affairs, 1991).

18. It is interesting to note in this regard that a number of declarations of human rights by Third World nations have taken pains to emphasize the overriding importance of national sovereignty and the right of governments to govern without outside interference. See, for example, the Bangkok Declaration (1993) and the Kuala Lumpur Declaration (also 1993).

19. Miller, *Citizenship*, 127–141. This section reveals a sophistication in Miller's analysis that my arguments here may appear to overlook, but I think my criticisms of his assumption that the state is a natural reference group hold in spite of his recognition that devolutionary measures may sometimes be necessary or wise.

20. Somewhat perversely, perhaps, the only way to disentangle oneself from a state is often to try to form a new one. My concern here, however, is not to advance a case for secession but simply to draw attention to the moral arbitrariness of state membership. This would be even more abundantly clear when one considers how often secessionist movements themselves reflect not so much popular desires for separateness as political opportunism on the part of the advocates of a new state.

21. Noel Malcolm, *Bosnia: A Short History* (London: Macmillan, 1996), 1.

22. Figures from G. P. O'Driscoll, Kim R. Holmes, and Melanie Kirkpatrick, eds., *2001 Index of Economic Freedom* (New York and Washington, D.C.: Wall Street Journal and Heritage Foundation, 2001), 375–378.

23. Both quotations come from "A Discourse on the Origin of Inequality," in Jean-Jacques Rousseau, *The Social Contract and Discourses*, translated and introduced by G. D. H. Cole, revised by J. H. Brumfitt and John C. Hall, updated by P. D. Jimack (London: Everyman, 1993), 98–99.

24. "All ran headlong into their chains, in hopes of securing their liberty; for they had just wit enough to perceive the advantages of political institutions, without experience enough to enable them to foresee the dangers." Rousseau, *Social Contract*, 99.

25. Both quotations from Miller, *Principles*, 18.

26. Miller, *Principles*, 18.

27. Miller, "Justice and Global Inequality," 193.

28. Miller, "Justice and Global Inequality," 193–196.

29. For a thorough investigation of this aspect of the state, see James Scott, *Seeing Like a State* (New Haven, Conn.: Yale University Press, 1998).

30. Arguably, one aspect of Miller's position that ought to have received careful consideration is his theory of deliberative democracy, which is at the heart of his account of the political process through which social justice is to be secured. This issue is taken up by other chapters in this volume.

31. See Miller, *Principles*, 253. This is another aspect of Miller's argument that I have not addressed in detail, though again other contributors to this volume have done so.

32. Miller, *Principles*, 246.

## 7

## What Rights for Illiberal Communities?

Michael Walzer

What is the meaning of the "cultural rights" demanded by so many minority religious and ethnic communities in the modern world? And how far can liberal democratic or social democratic nation-states go in accommodating communities of these kinds? These seem to me the crucial questions raised by recent arguments for "multicultural citizenship"—they point to the conflicts that erupt in actually existing pluralist societies and to the likely political firestorms.<sup>1</sup> In his book *On Nationality* and again in *Citizenship and National Identity*, David Miller addresses some of these questions, but he focuses only briefly on what seems to me the hardest of them, which has to do with cultural reproduction.<sup>2</sup> I want to take up this question in a way that roughly follows his line of argument, but with a somewhat higher level of anxiety than he displays.

For my purposes here, I shall take Miller's "nationality principle" to articulate a strong version of citizenship, holding that citizens must share a common history and political culture. How then should they deal with minority communities whose members don't quite share, or don't acknowledge sharing, either of these, or who don't attribute importance to them? How should people who are, so to speak, citizens first, relate to people who are members first? Before answering this question, however, I need to say something about the kinds of communities and the kinds of membership that are at issue here. If we are to argue usefully about the political culture of a pluralist democracy, we have to pay attention to the sociology of group life.

The strong version of citizenship that I take Miller to defend (which he distinguishes from one stronger still) would raise no problems with "cultural rights" of



a certain sort. It would accommodate rights to voluntary self-organization by minority communities, and to the free and open use of a communal language in ritual or domestic settings and (perhaps) in some political settings, and to some degree of public recognition of the community in museums and monuments and even in the state calendar—so long as the priority of the culture of citizenship was not thereby challenged.

But the core meaning of *cultural rights* has been shaped in response to the problems many communities have, because they are small and relatively powerless, in reproducing themselves. Their members look for protection, maybe also for help, and this is the claim they make on their fellow citizens (whom they may or may not acknowledge as “fellows”): that all ethnic and religious and, maybe, political and ideological communities have a right to reproduce themselves or, at least, to try to do that—which means, they have a right to raise and educate their own children. They may also claim a right to state assistance in this project, since they will often be hard-pressed to fund it on their own.

“The right to try. . . .” If that sounds like an easy right, readily acknowledged, uncontested, it isn’t. It isn’t easy, above all, because in so much of the modern world people belong to more than one community, and so “cultural reproduction” is likely to require that their children be taught more than one culture—crucially, for our purposes, the culture of the minority community and of the democratic state. But the teachings may be inconsistent, even contradictory; and there are sure to be conflicts over which teaching takes precedence and over who, finally, is in control of the educational process. These conflicts can be wrenching for individuals, and when they are acted out politically they can significantly divide the country (any country). Still, given certain sorts of communities, the conflicts are not unmanageable.

Imagine a case from my own country: a set of parents who are U.S. citizens, Catholics, and Italian Americans. At every level of the educational system, these parents will have to make difficult or potentially difficult choices between public/secular and parochial/religious schools. These are parental choices exclusively, but they are shaped, and their financial consequences determined, by decisions made within the Church, by the governments of the several states, and by thousands of cities and towns (schooling is the most decentralized of governmental functions in the United States) about their educational budgets. It is an important and disputed political question whether the cultural reproduction of Catholic Italian Americans should be funded, wholly or partly or not at all, with public money. If public funding is provided, then it seems obvious that the body of citizens has a right, if not a duty, to attend to its own reproduction, if only so that its agents can go on collecting taxes and providing the funds. The easiest way to do that is to require that certain subjects, having to do with the state and its legitimacy, be taught in the parochial (religious) schools that the state is paying for. In the United States, indeed, state governments claim such a right to ensure their own ongoing le-

gitimacy, even though they don’t pay for but only license and certify the parochial schools: they commonly require courses on American history and democratic politics. And isn’t it a justifiable practice for democratic citizens, exactly as it is for strongly identified Italians or faithful Catholics, to try to reproduce their values and commitments in the next generation?

Yes, it is justifiable, and it is also possible, most of the time, to arrange for the simultaneous enactment of these different reproductive/educational activities . . . because each of the three communities I am now considering is prepared to accept the divided loyalties of its members. The United States has long acknowledged the pluralism of American society and the resulting hyphenated identities of its citizens (it even permits, in practice if not in law, dual citizenship and the twofold allegiance that this entails). So, “Italian American” is fine with other Americans—as it is, also, with Italians-in-America, whose community is very loosely structured, ready to accommodate the participation of its members in American politics and in American society generally, and to accept, however unhappily, the consequences of this participation: namely, members who come and go, who move away from Italianess and then, sometimes, return, often with non-Italian husbands or wives in tow. In similar fashion, American Catholicism has gradually accommodated itself to the practices and even to the values of democratic debate and decision (despite its own hierarchical character)—so that faithful Catholics can also be Democrats and Republicans, liberals and conservatives, socialists and defenders of *laissez-faire*. These three communities, then, have been pluralized from within, and as a result the claims they make to reproduce themselves are already qualified by a recognition of similar (but different) claims made on behalf of some or even all of their own members.<sup>3</sup>

These different claims have to be, and can be, negotiated. Of course, it isn’t difficult to imagine the negotiations temporarily deadlocked or suspended in anger—as negotiations over the funding and regulation of parochial schools have frequently been in the United States since Catholic immigrants began arriving in large numbers in the 1840s. But once Catholics recognize that their children are also future citizens of a democratic secular state, and once all the other Americans recognize that some of their fellow citizens are faithful Catholics, and once Italian Americans recognize that their children may marry non-Italian Americans, the hardest questions have been settled. The key to the settlement is that these communities have effectively given up any claim to the total loyalty of their members. No doubt, they still hope for a substantial part of the time, energy, and available wealth of those same members, but they don’t demand everything.

This is exactly the situation that Miller describes with a different example, arguing that there is no conflict between an Arab ethnic identity and a French national identity.<sup>4</sup> That’s right, so long as the two, so to speak, make room for each other—as some militant Muslims and some modern-day Jacobins are not entirely willing to do. So, what about “identities” that claim all the possible room?



Some years ago, the sociologist Lewis Coser published a book called *Greedy Institutions*, in which he examined groups and organizations that did in fact demand everything their members could give.<sup>5</sup> Most of the groups discussed in Coser's book recruited their members as adults (the Communist Party—as-it-once-was is an obvious example). But there are also greedy or totalizing communities into which people are born and bred. And it seems to me that it is these groups whose "right" to cultural reproduction is most problematic. I mean, problematic for a liberal and democratic state, but it is only in liberal, democratic states that claims are commonly made and regularly adjudicated in the language of rights. So, this is my question: do totalizing communities, like fundamentalist or ultraorthodox religious groups (the *haredim* in Israel, evangelical and pentacostal sects in the United States) or like traditionalist ethnic groups (the aboriginal tribes of Canada or New Zealand), have a right to reproduce themselves—that is, to do whatever they think necessary to pass on their way of life to their children, who are also future citizens of a democratic state? And should the state subsidize the exercise of this right?

The right is problematic for (at least) two reasons:

- First, because these groups generally don't recognize the individual rights attributed to their members by the democratic state and so won't be inclined to teach their members about such rights. Above all, they won't want their members to understand the full extent of their liberal right of exit—the right to leave, resign, walk away, become an apostate—which holds for any and all groups, including the religious community (and, in principle at least, the state too).
- Second, because these groups are unlikely to teach their members the values that underlie democratic politics: the equality of citizens, the need for free and open debate, the right of opposition, and above all the commitment to a "commonweal" or general good that extends to all citizens of the nation-state, including nonmembers of the parochial community—heretics, apostates, infidels, "foreigners," and so on.<sup>6</sup>

Assume now that the descriptive statements I have just made are accurate: totalizing groups will in fact behave in these ways. That means, first, that the education they provide won't produce individuals who are capable of acting autonomously in the world; and second, that it won't produce citizens who are ready to take responsibility for the well-being of a political community that includes "the others." It may well be that the reproductive project of totalizing groups depends upon these two results: the project won't succeed, I mean, won't prosper over time, unless new members are taught not to seek autonomy and not to pursue the general good. And then, should the democratic state support, should it allow, that success?

## II

The first issue raised by this question is the extent of parental rights over children—when these rights are contested not by the children themselves but by other people who claim to have an interest in the future values and behavior of the children. In this case it is the nation-state, or better, the body of citizens, that claims this interest. I suppose that the usual claim is limited: the citizens have an interest that exists alongside the parental interest and modifies it to such and such a degree; their aim is to "add a national identity to an ethnic identity," as Miller says.<sup>7</sup> Only if the state were itself a totalizing community, only if it were a totalitarian state, would it claim a superseding interest or try to impose a singular identity.

Let us try to imagine a group of citizens explaining their interest to skeptical or hostile parents. "You can raise your children (or try to raise them) to be whatever you want them to be," they would say, "with this qualification: that if they are to be citizens, if they are to participate in the public life of the wider community, join in debates about domestic and foreign policy, vote in our elections, then they must be taught something about the history of the country, the meaning of citizenship, and the values of democratic politics. As citizens, they are not simply your children; they are, so to speak, the children of the republic, which means that together with our children, they are going to make critical decisions about the shape of our common life, perhaps even about the survival of this political community. And they have to be taught to understand and acknowledge their responsibility so that we can be reasonably confident that they will attend to it—because what is at stake is of critical importance to all of us."

That is, I think, the minimalist position of the citizens; note that it doesn't specify the extent of the educational role they are claiming. But even if the extent is modest, they will probably have more to say than I have just imagined them saying. For I imagined the citizens speaking only about democratic citizenship, not about personal autonomy. (Compare Miller's statement that he will not consider the issues that education raises about "individual rights and autonomy, but look at the problem from the perspective of nationality."<sup>8</sup>) Though citizenship and autonomy are certainly connected, the argument that I want to make is more easily grounded in the first of these. Still, if some of the children of the parochial group lay claim to the rights that go with autonomy and that are guaranteed to all citizens—the right of escape, say, from the discipline of a religious court or the patriarchal control of ethnic elders—this right (and others too) would certainly be enforced by the officials of the democratic state. "Among us," the officials will say, "all men and women are equal before the law, and this equality must be upheld by the state and enforced by the magistrates, whatever the consequences for particular parochial groups. Above all, individuals can leave these groups without any civil penalty—indeed, without costs of any sort so far as the state is concerned."



## III

But this brings us immediately to the second issue that groups of this sort pose—and that is the extent to which we really are prepared to tolerate difference. Liberal advocates of toleration sometimes assume that they are being as tolerant as they can possibly be, as tolerant as anyone could possibly want them to be, when they recognize a very wide range of individual choice. Virtually any imaginable life plan, short of a plan to rob or murder one's fellows, is legitimate, and people are free to associate freely in support of any plan that requires their cooperation. Many plans, many associations: what more could anyone ask?

In truth, however, the life plans that people form under these conditions of individual freedom turn out to be remarkably similar to one another. At least, they are similar relative to the actual range of difference revealed in the historical and anthropological record. People who plan their lives, who make their lives into personal projects, who are entrepreneurs of the self, are people of one sort among many possible sorts. I know them intimately, and so will most of the readers of this essay; nonetheless, they have made a rather late appearance in human history; it is only in the last couple of centuries that they have come to dominate Western societies. Today, they are us (or most of us), and so we have to ask ourselves: Are we prepared to tolerate the others, men and women who are differently connected to their own lives, who have inherited rather than chosen their lives, for example, or whose lives are collectively rather than individually determined, or who bear the yoke of divine command?

I am inclined to worry more about this question than Miller seems to do. For only if we are prepared to tolerate people with lives of that kind can we call ourselves tolerant of *difference*. And then we have to imagine what such people, members of a total community that isn't (in their understanding of it) a voluntary association, would say to a group of liberal/democratic citizens who claim an interest in their children. "But if you mean to tolerate us," they would say,

[I]f you mean to recognize our right to live in our own way and to raise our children to value and sustain that way, then you must allow us full control over their education. For our way is an integral whole, complete in itself, leaving no aspect of personal or social life without guidance and constraint. It can't be compromised; it can't be combined with a little bit of this and a little bit of that. Perhaps in the course of their working lives, many of our sons will be forced to move into the larger world and adapt to its manners and mores. But that makes it all the more important that we control their education for as long as we can and that we control even more completely the education and upbringing of our daughters. For it is the daughters who bear the burdens of continuity; they guard the home even when our sons wander; they give to our infant grandchildren their first words and earliest inclinations. In any case, we can't compete for the allegiance of our chil-

dren, for until we have taught them the value of our ways, the outside world is sure to look more exciting; its gratifications come more quickly; its responsibilities, for all your talk of citizenship, are much easier to live with than the responsibilities we impose—to God, to our ancestors, to one another. We simply can't survive as a voluntary association of autonomous individuals, each with his or her own life plan.

Groups of this sort may or may not be internally democratic, but they are obviously hostile to the values of the democratic state whose toleration they are seeking. Nor is it likely that such a state, or its regime of toleration, would survive if a single totalizing group became demographically dominant. Nonetheless, there is a strong argument in favor of tolerating such groups, even in favor of providing some degree of state support for their cultural reproduction. This argument provides the grounding for (a modest version of) what is today called "multiculturalism," and what it holds is, first, that human beings need the support and nurturance of a cultural community (not necessarily of only one but at least of one) if they are to live decent lives; second, that cultural communities are highly complex entities, created over many generations, with the effort and devotion of many people; third, that though these communities are unchosen by their members, the members are, most often, deeply committed to them; and fourth, that these communities embody values that can't be rank ordered on a single scale (which doesn't mean that they can't be criticized).

Most members of communities of this kind, as I have already suggested, are members of more than one. But some men and women—most obviously, the adherents of fundamentalist religious sects—hold fast to a singular membership and value precisely its singularity. And though they would have no trouble ranking their community, and all the others, on a single scale, it seems to me that the rest of us should avoid doing that. At any rate, for those singular members, the four points about community hold, just as they hold for pluralist members of more liberal groups: they are indeed supported and nourished; they stand in a tradition and continue the efforts of their predecessors; they accept communal responsibilities; and their way of life cannot be located in a single hierarchy of value. And we have to find some way to accommodate that way of life . . . at least to some significant degree. Even if the values of the democratic state take precedence over those of the parochial community for *certain purposes*, they can't come first in every case.

But it isn't easy to determine the precise extent of legitimate state purposes and so of the demands that citizens can make on members. The number of purposes is potentially large, but disputed at every point: does the state have an interest in the economic competence of its future citizens? in their understanding of modern science? in their military training? in their acceptance of public health measures? in equal opportunity for their boys and girls? I have a strong inclination to say yes to all these questions (and I suspect that Miller would have the same inclination), but that can't be the right answer, for it



would turn the body of democratic citizens into something much too close to a totalizing community.

Consider the problem that I have already hinted at: political participation, where interesting questions arise that relate both to the gender hierarchy and to the everyday meaning of democracy.<sup>9</sup> The democratic state recognizes the political equality of men and women, grants them the same rights to vote, hold office, join in campaigns and policy debates, and so on. The different parochial communities cannot then deny these rights, as many of them would be inclined to do, to their women members. But what if the women are taught to defer to their fathers and husbands in such matters and either not to vote at all or, since their numbers are useful, to vote only as they are told? I doubt that democracies can tolerate that kind of inequality, though I also doubt that they can avoid it.

But the male members of the community are commonly taught much the same thing: to defer, say, to religious leaders and vote only for approved candidates. So, the most immediate outcome that totalizing groups produce is not disenfranchised women but bloc voting of a sort alien to a democratic society—for in well-functioning and well-integrated democracies, group members routinely disagree, and ought to be able to disagree, about how to vote. Even in such a highly polarized community as contemporary Quebec, for example, the Liberal party manages to challenge the Nationalists for the support of francophone voters. There is a general truth here: given a politics of argument and opposition, any claim to know the one right way for members of a community to respond to its difficulties is sure to be disputed—and disputed within the community itself. In the United States, similarly, if 65 percent of unionized workers vote Democratic, that is considered a remarkable instance of class discipline; no one imagines that American workers could have a single and unanimous or even near-unanimous view of their situation. By contrast, when 85 percent of blacks vote Democratic, that is taken as a sign of their radical alienation from the political mainstream; if they were more integrated, they would be more divided. But totalizing groups, when they are politically mobilized, are likely to deliver even higher percentages of their votes to a single party or candidate (as ultraorthodox communities routinely do in Israel)—a sign of even more radical alienation. The give-and-take of democratic politics simply isn't part of the experience of these voters; it is, in fact, wholly alien to them.

Should it be part of their experience? And if it should, what can their fellow citizens do to make it so? These questions require, it seems to me, highly qualified answers. Democracy should indeed be *part* of the experience of all citizens, but not necessarily a large part, and not, as it were, the same part for everyone. And the citizens as a body can do something, but not everything, to make it so. Earlier on, I imagined citizens claiming a say, without specifying how much of a say, in the education of the next generation. They might well allow a religious community to control its own schools and shape a large part

of the curriculum—but subject to limits and controls. The state could, as I have suggested, require that certain courses be taught; it could send teachers into the parochial schools to teach them; it could set examinations that students must pass before being certified as high school graduates; it could take students out of the parochial schools for fixed periods of time, for national service, perhaps, or simply to show them something of the world outside their own community.<sup>10</sup> I can readily imagine Ministry of Education officials doing these sorts of things with a heavy hand and with perverse effects. But given some sensitivity and a readiness to negotiate the arrangements in detail, it's not impossible to imagine the officials doing their job well or reasonably well.

But the programs would have to be coercive—legally mandated and compulsory. Since they challenge the totalizing claims of the religious or ethnic community, they are sure to encounter fierce opposition. Their aim is to allow or encourage the community's children, as many of them as possible, to accept another identity (I am speaking now only of citizenship, still bracketing the question of autonomy). The citizens can honestly say, as Miller says, that they want these children to *add* citizenship to their religious or ethnic self-understanding, not to replace the latter with the former. But there is in fact a replacement here: a singular and undivided (ethnic or religious) traditionalism is being replaced by the characteristic dividedness of modern life. If we advocate and then actively pursue that replacement, are we abandoning toleration?

#### IV

I do advocate that replacement, and I don't want to abandon toleration (hence the movement of this chapter, around and around a dilemma that I can't cut my way through). I believe that parents have a right to (try to) sustain a traditional and total way of life and that citizens have a right to (try to) educate the young men and women who will soon be responsible for the well-being of the political community. It is the coexistence of the two rights that makes the difficulty—which is to say that it's democracy that makes the difficulty. Democratic citizenship is an inclusive status, and it is an official status, a kind of political office that carries with it significant responsibilities. If the members of the total community were not citizens, if their children were not future citizens, there would be no problem. In a multinational or multireligious empire, where all the members of the different nations or religions are imperial subjects whose only responsibility is obedience, the emperor has little reason to interfere in the different projects for cultural reproduction carried on in communal schools (though he may want his portrait to hang in every school building). He can even allow the existence of parochial courts with fairly extended jurisdictions, alongside the imperial courts—as in the Ottoman millet system. There is no common life for which his subjects need to be trained; it is probably in his interest that no common life emerges. But democracy requires the



common life of the public square, the assembly, the political arena, and certain understandings must be shared among the citizens if what goes on in those places is to issue in legitimate laws and policies. Citizens, as Rousseau said, "give the law to themselves."<sup>11</sup> But they can't do that if different groups among them are bound to other, wholly encompassing laws that demand total commitment.

Or rather, they can't do that unless these groups, like the Amish in the United States, live entirely on the margins of the political community, claiming none of the benefits, exercising none of the rights, of citizenship. "They may choose," says Miller, "to withdraw from citizenship and live . . . as internal exiles within the state."<sup>12</sup> Marginalization is one way of dealing with totalizing groups; I think that it is Miller's preferred way, so long as the groups are relatively small. If it is successful, they won't be required to give the law to themselves (a good thing, since they believe they can't do that; they have already *been given* the law), and what is even more important, they won't be allowed to give it to the other citizens. They will live in a corner of the democratic state as if they were living in a vast empire.

But most totalizing communities, including some fundamentalist religions, aren't in fact . . . total. Totality may be an idea they cherish, but their everyday practice falls short. They make more radical claims than the American groups with which I began, but they still leave room for political maneuver and prudential decision making. Hence, some sort of negotiation is possible between members and citizens, between the parochial groups and the democratic state—and if it is possible, it is probably necessary. Still, I can't see a principled resolution of the conflict between them. Miller seems to believe that democracy can resolve the conflict, in principle if not always in practice. Imagine a country, he suggests, where all formal education is secular in character. Then "the claim [which is sure to be made] that Islamic schools [are] essential to Muslim identity would have to be assessed on its own merits, and might well be rejected in a democratic forum." To call the rejection illegitimate, Miller argues, is to deny the very essence of republican citizenship.<sup>13</sup> Well, maybe. But how would the Muslims know whether their fellow citizens were deciding that Islamic schools were not, as a matter of fact, essential to Muslim survival or that Muslim survival itself wasn't essential? I am not sure that the first question can be decided democratically; I am sure that the second question shouldn't be. What the citizens can and must decide is what sort of education, what course of study, is necessary for citizenship. If they are wise, they will set a minimalist standard, even if they hope for additional courses, say, in political history or theory. But whatever they do, they are posing a problem for the members of parochial communities, not resolving the problem.

From the standpoint of the two parties, citizens and members, there are only better and worse positions along a spectrum of possibilities, none of them likely to be stable. The two can only coexist in antagonism, for the

democratic state demands some significant part of the attention and commitment of the group's members, especially its youngest members—and the group feels, probably rightly, that any concessions on this point are the beginning of the end. I mean the end of the wholly encompassing way of life, for alternative, more modest or more liberal, versions of the way can probably be saved.

Of course, there is another possibility that I have not yet considered; I have been assuming that the totalizing groups are minorities, but that isn't necessarily a correct assumption. The group may grow, as fundamentalist religious movements have grown in many parts of the world in recent years. Then we have to consider the possible takeover of the state or of major state institutions by the totalizing group, which is likely to mean the end of democracy. Again, I mean the end of liberal democracy, for some modified version of democratic politics can probably be sustained (as it is in Iran today). Imagine the conflict now as a power struggle. Perfect equilibrium is unlikely; the balance will tilt one way or another. So, the questions that I have been asking can be given a new form: which way would we tilt the balance (if we could)?

Now it seems to me that there is a principled position: if political power is at stake we should tilt decisively against the totalizing groups. The reason for this is simply that their view of "the others" is much harsher than the democratic state's view of group members. No doubt, the conflict can produce ugliness on both sides, but liberal democratic toleration, even if it is finally intolerant of totalizing religions and ethnicities, is gentler, less humiliating, less frightening than the alternative is likely to be. Liberal democracy has managed to include fundamentalist religions and chauvinist nationalities, even if it has also modified, even transformed, them in the process. Fundamentalism-in-power and chauvinism-with-an-army are far more likely to exclude than to bring in, and if this is in a certain sense more respectful of difference (since it acknowledges the actual depth of the differences), it has often been far less respectful both of human dignity and of life and limb.

But this liberal democratic tilt is simply a guideline for decision making in a political crisis. It doesn't solve, or even address, the problem of day-to-day coexistence. For that there is no theoretical solution, no deduction from a set of principles, not even from Miller's nationality principle; there are only compromises that have to be made and remade endlessly and that are sure to leave both democratic citizens and community members unhappy. Bad compromises maximize unhappiness, on one side or the other; better compromises minimize and equalize it. But the citizens and the members are unhappy *with each other*, and they can't escape each other. When we write about these questions, we must never hold out to either one the hope of such an escape. So, maybe happiness just can't be the main subject or primary aim of politics—or of political theory.



## NOTES

1. See Will Kymlicka, *Liberalism, Community, and Culture* (Oxford: Clarendon Press, 1989) and *Multicultural Citizenship* (Oxford: Clarendon Press, 1996); and Charles Taylor, *Multiculturalism and "The Politics of Recognition"* (Princeton, N.J.: Princeton University Press, 1992) for argument with which I am, with reservations, sympathetic. For the full range of views, see Kymlicka, ed., *The Rights of Minority Cultures* (Oxford: Oxford University Press, 1995).
2. David Miller, *On Nationality* (Oxford: Clarendon Press, 1995), 143–145; *Citizenship and National Identity* (Cambridge: Polity, 2000), ch. 3.
3. On the character of ethnic and religious communities in the United States, see my *What It Means to Be an American* (New York: Marsilio, 1992).
4. Miller, *Nationality*, 144.
5. Lewis A. Coser, *Greedy Institutions: Patterns of Undivided Commitment* (New York: Free Press, 1974).
6. On the necessary content of an education in democratic values, see Amy Gutmann, *Democratic Education* (Princeton, N.J.: Princeton University Press, 1987; revised ed. with an epilogue, 1999); the new epilogue directly addresses the issues discussed here.
7. Miller, *Nationality*, 143.
8. Miller, *Nationality*, 145.
9. For a fuller discussion of the gender issues than I can provide here, see Susan Moller Okin, "Feminism and Multiculturalism: Some Tensions," in *Liberalism and Its Practice*, ed. Dan Avnon and Avner de-Shalit (London: Routledge, 1999), 81–105; also Anne Phillips, "Democracy and Difference: Some Problems for Feminist Theory," in *Rights of Minority Cultures*, ed. Kymlicka, 288–299.
10. A wide range of possibilities is considered in the articles collected by Yael Tamir, ed., *Democratic Education in a Multicultural State* (Oxford: Blackwell, 1995).
11. Jean-Jacques Rousseau, *The Social Contract*, Bk. One, ch. viii: "Obedience to a law which we prescribe to ourselves is liberty."
12. Miller, *Nationality*, 145.
13. Miller, *Citizenship*, 57.

## 8

## Deliberative Democracy

### Guarantee for Justice or Preventing Injustice?

Avner de-Shalit

David Miller's egalitarianism leads him to support deliberative democracy. His egalitarianism is also reflected in his discussion of justice. In fact, Miller ties the two together, claiming that there is a very strong connection between them. More precisely, Miller seems to claim that if we have deliberative democracy we are likely to have justice. We shall have justice, in the very democratic sense of the term, because we shall be able to find out what people think of justice and what principles of justice they want to have. I want to argue that the connection is a weaker one: deliberative democracy may help to prevent arbitrary injustice, but it cannot guarantee justice. The reason for this, I shall argue, is that the expectation, that deliberation will bring about better information and therefore more rational decisions, is far-fetched.<sup>1</sup>

But first let me say a few words about deliberative democracy. In her review essay on books on deliberative democracy, Emily Hauptmann asserts that "as recently as twenty years ago, no one would have identified himself or herself as a 'deliberative democrat.'" <sup>2</sup> Nowadays, however, it is quite common to declare that this is what you are. Deliberative democracy remains to achieve a final definition due to the range of definitions that abound. In this chapter, I plan to focus on David Miller's notion of deliberative democracy, namely, that a democratic system is "deliberative" "to the extent that the decisions it reaches reflect open discussion among the participants, with people ready to listen to the views and consider the interests of others, and modify their own opinions accordingly." <sup>3</sup> My argument, however, relates to the work of other scholars as well, and my reading of Miller's defense of deliberative democracy is influenced by arguments raised by Gutmann, Habermas, Dryzek, Joshua Cohen, Elster, and others.<sup>4</sup>