Against a Universal Theory of National Minority Rights

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Recent political history of the West shows that national minorities struggles for recognition and cultural rights have led to the development of various multicultural policies in western democracies. In many Western countries, national minorities have been granted some political and language rights, evidenced by the status of Quebec in Canada, Scotland in the United Kingdom, Flanders in Belgium, Catalonia in Spain, Puerto Rico in the United States, the Swedish minority in Finland, the German minority in Italy, and the French and Italian minorities in Switzerland. These changes demonstrate the contemporary pattern for accommodating ethnocultural and national diversity. This pattern indicates that national minorities have been offered some degree of territorial autonomy within the federal system along with some form of official language status. These policies were quite successful in handling the challenges posed by cultural claims of national groups in multinational states. In many cases, multicultural policies were enforced by the states in order to avoid more extreme and violent consequences of ethnic conflict such as civil war or secession that could potentially destabilize the central state. This is particularly true in the case of Quebec in Canada.

The practical success of these policies in managing ethnocultural challenges in a peaceful and democratic manner created enthusiasm in academia to examine and theorize these policies in the late 80s and the early 90s. New theories of liberal multiculturalism emerged in both areas of politics and philosophy. In political theory, liberal theorists tried to provide and defend some particular political models for accommodating ethnocultural diversity, for instance the nation-based federalism form of devolution of power. At the level of political philosophy, in the West we have witnessed the emergence of an extensive literature on moral justification and arguments

developed to acknowledge why recognizing national minorities is normatively right and why the demand for minority rights is consistent with liberal justice and equality. These arguments defend multicultural policies not only as being practically successful but as also being morally right and politically correct. Although most of the multicultural theories found in the literature were developed based on the experience of specific national groups in the West, little or no attention was given to the situation of minorities in non-Western societies. Many multicultural theorists had the tendency to universalize their theories to the international level; they saw multiculturalism not as a contingent political model but as a demand of equality and justice.

The flourishing of multicultural theories in academia and its successful practice in the West during 90s was concurrent with the collapse of Communism and ethnic war in Eastern Europe. Fear of spread of ethnic violence created international incentive to generalize an already developed Western multicultural model to the international level in order to better manage future ethnic conflict around the world. During 1990 to 1995, various efforts have been made by different international organizations toward developing regional and global norms of minority rights, for instance the European Charter for Regional and Minority Language in 1992, the Framework Convention for the Protection of National Minorities in European Union in 1995, the UN Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities in 1992, and the Draft Declaration on the Rights of Indigenous Peoples in 1993 provide several examples. By that time, many liberal multiculturalists felt very optimistic about the global agreement on a universal set of minority rights that could be enforced through international organizations as a supplement to the UN human rights.

However, after fifteen years, the initial optimism in the project of universal theory and practice of minority rights has turned into a total disappointment for many liberal theorists. There is a

global retreat from the enforcement of multicultural policies; since 1995, there has been little important advancement in codifying the norms of international minority rights; and even the main proponents of multiculturalism, such as Will Kymlicka, describe the whole project of international minority rights as being "full of conceptual confusions, moral dilemmas, unintended consequences, legal inconsistencies, and political manipulation" (Kymlicka, forthcoming NASSP, p.1)

The reasons for this withdrawal have been the subject of much social, political and philosophical investigation. Many have referred to pragmatic problems and dangers that multicultural policies could pose for the stability of developing countries. Kymlicka, for example, outlines the geo-politic security of post-communist countries and the way territorial autonomy of national minorities in this region can result in insecurity and destabilization of the central states (Kymlicka, forthcoming NASSP). He mainly argues that though the Western model of multiculturalism is normatively a desirable model and a long-term ideal for non-Western countries, it has short-term harmful upshots which are too risky and costly to be taken by the international community. He also points to the absence of mutual trust between majority and minority as another pragmatic problem.

But putting aside all pragmatic concerns, there are some more philosophical problems for the project of universal minority rights at the level of justification which have been mostly ignored. As I noted earlier, liberal theorists have developed a normative framework that justifies multiculturalism and politics of diversity, not only as practically useful, but as a fair and desirable policy for distributing power equally between majority and minority. Now, the question is whether we can invoke these normative frameworks to justify a universal theory of minority rights in the global context. In other words, whether the underlying moral justifications for the

rights of national minority is normatively universal enough to be applied to every culture and society including non-liberal ones? If the theory of multiculturalism as a theory of justice is not universal in its essence, then, other than some short-term pragmatic reasons, we would have no demand by justice to see these policies as a long-term goal for every country.

My aim in this paper is to examine one of the main arguments for the cultural rights of national minorities, which I call the argument from nation-building, and explain why I think it does not work as a universal justification for minority rights. I would like to show that from a philosophical perspective the project of universal multiculturalism works only if we find alternatives theories that justify cultural rights not on liberal basis or Western history but against a more universal background.

The nation-building argument for national minority rights is based on the historical process through which nation-sate become the default political unit in western civilization. During the last two centuries, the nation state model emerged in the West as the only political unit to replace all the previous forms of states such as empires, colonies, theocracies, city states, or feudal states. This process of *building* a *nation* had a tremendous effect on many aspects of modern civilization, from politics and economy to language and culture. But what is important here for a normative theory of minority rights is that it has been argued that the process of nation-building has created injustices for national minorities. Therefore, it is claimed that national minority rights can be justified as a remedy for this historical injustice that is resulted by majority nation-building. Let me explain little further what I mean by majority nation-building and what kind of effects it could have had on national minorities.

There is a huge literature and controversy about how and why the nation-state model became dominant in the West during 18th and 19th centuries which I cannot discuss here. However, what almost everyone agrees on is that when the nation-state emerged as the basic unit of polity in last centuries, two important parallel processes i.e. liberalism and industrialization were taking place at the same time. In fact, nation-building, liberalism, and industrialization went hand in hand in this period and nurtured each other in the process of modernization. It is not too difficult to see the reasons behind the affinity between nationalization and the other two trends. Industrialization, for example, requires a big market over a vast territory and standard education among remote citizens. As Gellner argues "the needs of an advanced industrial society encourage the development of a standard language and a standard high culture over a vast territory. In these highly mobile yet often anonymous societies, people need to be able to talk to people they do not see, and interact with people they barely know" (Gellner, 1983, p. Part 2). Standard education is also important for liberalism because it provides *equal opportunity* for citizens from all social classes to participate in the public policies and the marketplace. The process of nation-building diffused a single identity, language and culture throughout the country; and as Miller and Canovan explain, this common identity and solidarity is essential for both distributive justice policies and democracy in the West. (Canovan, 1996, p. Sec. 3 and 4, Miller, 1995, pp. 50-80)

But how does this somehow fruitful process affect national minorities? Diffusing a common national identity, or as Norman puts it *forging* a national identity (Norman, 2006, p. 29), requires the state to assimilate all national minorities within the borders into the mainstream culture which is the culture of the majority. National minorities were usually seen by the majority as the competing candidates in the process of nation-building, because like the majority they usually had their own social and political structures and institutions operating in their own language over

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a particular territory (This social political structure is what Kymlicka calls "societal culture"). So the project of constructing a national identity by the majority involved a project of de-constructing and destroying social and political structures of national minorities which reside within the 'national' borders; this in turn resulted in marginalization of their culture, language, and identity. In order to de-construct the minority's societal culture, states have used varieties of strategies many of them were extremely cruel, discriminatory and not consistent with what we now identify as the norms of human rights. Some examples are ethnic cleansing, terrorizing minority communities, forcing minorities to move from their homeland and disperse through the country, banning minority language and religion from all forms of public space, drawing the province boundaries in a way that the minority could not form majority even in their own territory. Nation-building policies are still going on but in more subtle ways. Now after two centuries though this process was very successful in homogenizing many minority cultures, there are still many struggles in the West for recognition and survival of the remaining minorities.

According to the argument from nation-building, national minority rights are justified as a remedy for this historical injustice. Following Kymlicka, many liberal multiculturalists like Norman defend the right of national minorities to re-construct their own societal culture by going to their own process of national building. As Kymlicka points out, it is possible for a state to support more than one societal culture in a single country (Kymlicka, 2007, p. 35). In fact, this is exactly what is happening in many multination states like Canada, Spain, and Switzerland. This new understanding of minority rights is called by Kymlicka "the third stage" in theorizing multiculturalism. He writes "National minorities have typically responded to majority nation-building by fighting to maintain or rebuild their own societal culture… [T]he adoption of such

minority nation-building projects seems fair. If the majority can engage in legitimate nation-building, why not national minorities?" (Kymlicka, 2007, p. 38).

The nation-building argument has some advantages over other types of arguments for the rights national minorities. First, it explains why among all the cultural minorities it is only national minorities and indigenous people who deserve different treatment by the state. Unlike immigrants and metics, for example, who have chosen to leave their own already existing societal culture, Indigenous people were colonized by the Europeans and national minorities lost the competition for nation-building to the majority, and both failed to maintain their own societal cultures through an unjust process. Second, it identifies and justifies a set of rights for those groups. National minorities deserve language rights and territorial autonomy, because they already had these social and political institutions in their homeland which are taken away from them. Third, it shows why the cultural neutrality model – i.e. leaving culture to private sphere – doesn't work. History of nation-building demonstrates that liberal states were in fact never neutral in respect to national culture and they still support, though in a much weaker form, majority culture over minorities'.

Now, again the question that I am asking is whether this argument works as a universal defense for national minority rights at the global level. I believe not. Nation-building in the West has roots in its own contingent historical facts, which is totally different from the story of nation-building in the rest of the world. In many developing countries, nation-building policies either enforced for a short period of time and in a very weak form or it never took place in a significant way. In comparison to the situation of minorities in the West, there is no similar historical assimilation and injustice toward national minorities in the other parts of the world to become a normative ground for justifying national minority rights. Putting aside the normative problem,

this historical difference creates some pragmatic difficulties for applying multicultural policies in these countries. The number of national minorities and different categorization of minorities are among the most significant obstacles. Let me explain both normative and pragmatic problems in more details.

There is no single pattern for the process of nation-building in the developing countries and it seems impossible to give any general model that can be applied to every case. But what we can say is that if nationalization, industrialization and liberalism were the general theme of 19th century in the West, colonization was what generally happening in the rest of the world. Many countries in the world, especially in Africa, were created after the First or the Second World War out of the process of decolonization, so it is less than a century that they have the idea of belonging to a single 'nation' as one 'people'. In many other countries like Asian countries that were not directly colonized by Europeans, the need for nationalization, as well as industrialization, was not recognized until the 20th century, simply because they don't have the same western conception of "modernization." Even in the cases that they recognized the need, sometimes, due to the exploitation of colonizers the majority did not have the required tools and political structure to diffuse a unique national identity throughout the country. Therefore, many non-western countries did not have the chance or were not fully successful in de-construction and assimilating their own national minorities. The best evidence for this fact is the number of national and ethnic minorities in the East. Unlike the Western countries that each contains only a very few national minorities, there are hundreds and thousands of recognized ethnic groups in developing countries, no matter if it is a large country like India, or a comparably small one like Malaysia. If I am right about this historical picture then it has an important consequence for our normative theory of minority rights which is based on Western history. The question is if no

strong destruction of societal culture has taken place in many countries, how does the argument from nation-building justifies *re*building them.

But one might be more concerned about the nation-building policies in the post-World War era. In this period almost every country realized the need for industrialization and nation-building, so the same type of injustices toward national minorities could happen in these countries only a century later. Although this is a legitimate concern, I don't think that it is helpful. The dominant international discourse after the Second World War is based on the norm of Human Rights. The constraint that the regime of human rights imposes on all the countries prevent majorities in using any strong or cruel assimilation strategies like ethnic cleansing or dispersing national minorities. Therefore, in some cases it might make more sense to encourage the model of cultural neutrality of state rather than multicultural model, particularly if we take into account the pragmatic problems.

The first pragmatic obstacle in applying the Western multicultural model in non-Western countries is the large number of their national minorities. No model of territorial autonomy or official language policy seems feasible in a country with hundred or even twenty national minorities. Spinner points to the same problem in criticizing Miller: "States with two or three national groups pose little problem for Miller; states with two or three hundred render his argument meaningless" (Spinner -H. J., 2001, p. 18). Another problem is the categorization. In liberal multiculturalism, based on Western history, two types of 'national' groups are recognized: national minorities, who were the losers in the process of nation-building, and Indigenous People whose lands were colonized and settled by Europeans colonizers. However, national and ethnic groups in the rest of the world do not always fit into these two categories. There are cases like in some of the sub-Sahrawian African countries in which no ethnicity makes up more than fifty

percent of the whole population, while there are numerous ethnic groups. In such cases there is no national minority because every ethnic group is minority. The category of minority exists only when you have a majority, but there is no majority in a country like Nigeria with 200 to 400 ethnic and national groups. The category of "indigenous people" is even more ambiguous. Unlike the colonization in the 'New World' in which colonizers settled and built a settler state, in other part of the world, Europeans left the colonized country and went back home. Now it is not clear whether no group in these countries could fit into the category of indigenous people or in another sense all groups are "indigenous".

If I'm right about these pragmatic and theoretical problems, then I think they help us to understand why after years of prosperity for multicultural theories in the late 80s and the early 90s, today, the initial optimism in the project of universal theory of national minority rights has turned into a total disappointment. What we now have as nation-building theory of multiculturalism fails to justify a universal set of rights for national minorities because the argument is mostly based on contingent facts in the Western history. That means we need to search for alternatives theories that justify cultural rights against a more universal background.

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