**In the Name of Equality—**

**An Examination of Equality Arguments for National Self-Government**

INTRODUCTION

One of the rights frequently demanded by national communities is the right of *self-government*.[[1]](#endnote-1) Members of the same national group often wish to create their own sub-state autonomous government so that they can collectively manage their public affairs and be free from the interference of nonmembers. Quite a few philosophers sympathize with their cause and argue for different reasons that a national community has the right to govern itself. (Kymlicka 1995; Patten 2014; Gans 2003; Moore 2003; Seymour 2007)Prominent among those are Will Kymlicka and Alan Patten who argue that the equal treatment of different national cultures requires that each be granted the right to create its own sub-state government. Since both philosophers justify the right of national self-government by appealing to the value of *equality*, I label their arguments *the equality arguments*.[[2]](#endnote-2)

In this paper, I shall consider the merits and limits of the equality arguments. My examination will reveal that, although proponents of this argument correctly diagnose a serious social problem in many multination states, the solution they proposed is quite inadequate. The social problem is the fact that, due to their minority status, national groups consistently suffer from various forms of inequality. Both Kymlicka and Patten believe that a key solution to this problem is the right of national self-government. I argue that, for the equality argument to justify a group’s right of self-government, one must specify *the kind of good that is being unevenly distributed among different national groups* and prove that *granting the right to self-government is the only way to equalize the distribution of this good.* However, neither Kymlicka nor Patten explain adequately what this good is. In addition, a thorough reflection on the proposed solution shows that it is based on an unreasonable, anti-pluralistic assumption. Thus, even though we must treat different national communities equally, this does not entail that each group must be granted the right of self-government.

BACKGROUND

Before introducing the equality arguments, I shall briefly consider alternative arguments that national communities commonly make. There are many arguments a group can make to demand the right of self-government; the equality is only one of them. (Buchanan 1997; Norman 1998) Although I shall eventually refute the equality argument for national self-government, it does not mean that national communities do not have other ways to justify a similar demand.

The strongest claim a group can make to demand the right of self-government is likely to be based on some type of serious *injustice*. For instance, if the group was involuntarily incorporated into the current society by deception or colonization, then surely it has the right to reclaim its sovereignty and resist the existing government (Moore 2003). [[3]](#endnote-3) Or, if a government imposes serious injustice on a national group, e.g. human rights violation or even genocide, then the state loses its legitimacy and the suffering group has a right to secede. (Brilmayor 1991; Buchanan 1997) The injustice-based argument applies to most aboriginal communities in the world, including those in America and Australia.

However, such a claim is available only to indigenous communities suffering from forced inclusion or oppression. If a group becomes a part of the current society via voluntary immigration, then it seems that the injustice-based argument would not apply. For instance, the Francophone in Canada and various immigrant, polyethnic groups in the US are nonindigenous. These groups do not, as a group, suffer from serious injustice. Can they also claim the right of self-government?

An argument that nonindigenous communities can make is that it is desirable for a liberal government to formally recognize *the right of secession*, say, by allowing citizens the right to hold a referendum and decide whether they shall secede from the current state. (Beran 1977; Gauthier 1994; Philpott 1995; Wellman 1995) There are constraints on the legal validity of such referendums. For instance, upon separation, the seceding group must repay the debt it owes to the government and distribute fairly the fruits of previous cooperation. Once relevant requirements are fulfilled, a group can follow the legally prescribed procedure and decide whether it shall become an independent political unit.

I shall not consider the soundness of these arguments. I bring them up only to call the reader’s attention to an important feature of the equality argument. Notice that these two strategies for justifying a group’s right of self-government—namely, by appealing to the claim based on injustice or a right to unilateral secession, do not appeal to the group’s status as a national community. For both theories, it is irrelevant whether members of the seceding group shared the same national language, history, and culture. So long as the requirements are fulfilled, the group may justifiably create its own government. However, for supporters of the equality argument, whether the group demanding the right of self-government is a nation or not is highly important. Only national communities, but not other types of communities, enjoy this right.

Many philosophers advocate the right of national self-government. For them, it matters whether the group making the demand is a nation or not. There are several different arguments a philosopher can make to defend a nation’s right of self-government. For instance, some appeal to the intrinsic value of national identity and/or culture (Margalit and Raz 1990; Miller 1995; Nielsen 1996; Tamir 1993), others appeal to its instrumental value (Miller 1995; Seymour 2007). Alternatively, without making claims regarding a nation’s rights, some philosophers argue that the ideal form of government is one in which the boundaries of the state coincide with that of a nation. (Caney 1997; Moore 2001) The equality arguments considered in this paper also emphasize a group’s status as a nation. It argues that minority nations are situated in socially disadvantaged positions and granting them the right of self-government is an important way to make up for their loss.

Because the equality argument requires that each national group be granted the right of self-government, we must first understand what a national group is. For decades, philosophers and political theorists have tried to theorize national cultures (Anderson 1983; Beiner 1999; Gellner 1983; Hobsbawm 1990; Kymlicka 1995; Smith 1993; Patten 2011; Yack 2012) However, because different nations have different cultural characteristics, and the characteristics of the same nation may change over time, it is very difficult to offer a set of defining criteria for national communities. (Kymlicka 1995) Fortunately, even though there are disputes regarding the defining feature of a nation, most people are able to recognize national cultures when they see one. Here, I cannot consider in detail all the features of a national community. It would suffice for us to note that most nations share the following features.

(1) *Objective* *features*: A national community usually has an *encompassing* culture. This includes, but is not limited to, a shared language, history, certain traditions, customs, and practices. Avaishi Margalit and Joseph Raz point out that, unlike other types of cultures or identities, such as the gay community or the teen culture, a national culture is a *pervasive* one. It encompasses a wide range of activities and events in the lives of its members (Margalit and Raz 1990, p. 448). Kymlicka suggests that it is a culture that “provides its members with meaningful ways of life across the full range of human activities, including social, educational, religious, recreational, and economic life, encompassing both public and private spheres (Kymlicka 1995, p. 76).” Recently, Patten argues that a culture is “what people share when they have shared subjection to a common formative context.” (Patten 2011, p. 735) Bernard Yack stresses that a nation shares cultural *inheritance*, not cultural practice. (Yack 2012, p. 69)

(2) *Subjective features*: Members of a national community usually identify themselves as such (Moore 2001, pp. 9-14). Because national cultures are the sources of personal autonomy and identity, people often value their national culture and historical heritage. David Miller suggests that “national communities are constituted by *belief* [italic added]: nations exist when their members recognize one another as compatriots, and believe that they share characteristics of the relevant kind (Miller 1995, p. 22).” Benedict Anderson famously calls a national community an *imagined community—* the relationships between members are not personal but mostly imagined (Anderson 1983).

(3) *Historical homeland*: Every national community has a homeland where, for generations, its members have resided and its culture developed. Without geographical proximity, an encompassing culture can hardly be formed and permeated in the public life of a community. Thus, nations are almost always territorially concentrated, and a national identity is always intimately connected to its historical homeland. The homeland also plays an important role in the development of both the subjective and objective features. This may be so even when members emigrate to a new society. (Kolers 2012; Yack 2012, pp. 90-92)

Examples of national communities include Japan, Vietnam, Tibet, the Kurds, and the Dutch-speaking Flemish community in Belgium. As the examples show, some national communities have their own states, others have their own autonomous governments, and still others do not form any kind of political community. Next, I will consider whether equal treatment of different nations requires that the last type of group be granted the right of self-government.

KYMLICKA’S ARGUMENT

In *Mulcicultural Citizenship*, Kymlicka defends the right of a national community to establish a sub-state, autonomous government. This right, along with special representation and polyethnic rights, is included in a package of *group-differentiated* rights granted to national communities. [[4]](#endnote-4)

Kymlicka’s justification for the right to self-government is a part of his larger project to justify the group-differentiated rights given to national communities. These rights are meant to protect the interests people have in national culture, membership, and identity. They are referred to as group-differentiated because, unlike those assigned to individual citizens, they are assigned to a group or members of the group.[[5]](#endnote-5) One can enjoy these rights only by virtue of being a member.

Because Kymlicka‘s argument for the right of national self-government is derived from his argument for group-differentiated rights, to understand his argument for national self-government, we must understand his argument for group-differentiated rights first. There are three steps in the equality argument. First, Kymlicka explains why a national community is singled out. Because the right is group-differentiated according to national membership, Kymlicka must explain why *national* culture, membership, and identity are morally significant.[[6]](#endnote-6) Second, Kymlicka explains why the usual basic rights or civic liberties assigned to individuals are not enough to protect their group-specific interests. That is, he explains why *individua*l rights are not enough and why national communities also need rights that are *group-specific* according to national membership. Lastly, Kymlicka explains why a national community should be granted the right of self-government.

Here, due to the limited space, I cannot consider Kymlicka’s argument for the moral value of national identity in detail. Very roughly, Kymlicka argues that national identity is important because it is the source of personal *identity* as well as individual *autonomy* (Kymlicka 1989, p. 47; 1995, p. 83). I shall assume that his argument successfully defends the value of national identity and move on to the next step. Clearly, if national identity was insignificant, we need not pay special attention to it, let alone giving national communities the right to govern themselves. The question I am interested in is, *assuming that national identity is morally important, does this justify the right of a national community to establish a sub-state government*?

While the first step explains why national identity matters, the second step explains why this particular type of group should be granted certain group-differentiated rights. This step explains why the *relevant interests should be* *protected and recognized in institutional settings*. Kymlicka’s argument for recognizing group-differentiated rights for a national community is composed of three different arguments: the value of cultural diversity (the diversity argument), the role of historical agreements (the history-based argument), and the equality argument ( Kymlicka 1995, pp. 107-30). Among these three, the equality argument is the most important one in supporting a nation’s right to self-government. The reasons are as follows.

First, the diversity argument appeals to interests the larger society has in *cultural diversity*. Cultural diversity is regarded as valuable because it allows members of the society to have more options. However, this argument cannot explain why a national community should be allowed to establish an autonomous government because this right would limit cultural diversity *within* the national community and constrain the options available to its own members. In addition, Kymlicka suggests that because this argument “appeals to the interests of the larger society, it cannot explain why minorities should be able to decide for themselves whether or how to maintain their culture.” (Kymklicka 1995, p. 123) Although cultural diversity is valuable, its value cannot explain why the larger society should limit its own freedom for the sake of cultural diversity. Thus, even though the diversity argument lends support to certain polyethnic rights, it hardly justifies a group’s right to govern itself.

Second, Kymlicka’s history-based argument focuses on the role of contracts and agreements actually made between national communities and the current state governments. Kymlicka points out that these agreements have often been blatantly ignored or unilaterally suspended by the government. (Kymlicka 1995p. 116) Presumably, a reasonable solution would be to honor the terms of these agreements. However, Kymlicka points out that many historical agreements are unfair or outdated. Thus, the value and status of these agreements are not clear. Consequently, we should not rely solely on historical agreements. We must also consider what the principle of equality would say about these agreements. Kymlicka thus suggests that historical agreements should be reinterpreted, and that when talking about group-differentiated rights, both the principle of equality and historical arguments ought to be taken into account.

Because the diversity argument cannot justify a group’s right to self-government and because historical agreements do not provide decisive guidance, Kymlicka’s argument for group-differentiated rights depends crucially on the equality argument. To show how members of a national community are treated unequally *as a group*, Kymlicka points out the problems ignored by the *benign neglect* view (Kymlicka 1995, pp. 107-108). The benign neglect view holds that, if individual citizens are given equal rights and resources, then the government should not give any national community any group-specific rights because such a policy would disrupt the equal distribution of social resources and give members of a national community an unfair advantage. We should ignore the cultural differences within a society. If a group wishes to preserve its national culture, its members should do so by using their own personal rights and resources.

However, Kymlicka argues that the benign neglect view is not benign because it results in *de facto* inequality.

[G]overnment decisions on languages, internal boundaries, public holidays, and state symbols unavoidably involve recognizing, accommodating, and supporting the needs and identities of particular ethnic and national groups. *The state unavoidably promotes certain cultural identities, and thereby disadvantages others* [italics added] (Kymlicka 1995, p. 108).”

While the benign neglect view suggests that equal rights and resources given to individual citizens are enough for liberal equality, Kymlicka shows us how members of a national minority are systematically treated unequally even whenthey enjoy the same rights and resources as everyone else. In other words, with regard to certain social institutions, policies, or affairs, it is impossible for a society to remain culturally neutral. In those cases, social institutions cannot avoid favoring one national group, often the majority group, over the others (Kymlicka 1995, pp. 108-115). As a result, those whose national identity is different from that of the majority are relegated to a disadvantageous position. They are often outvoted by the majority, their language and culture marginalized and in decline. To maintain their national culture, members of the minority group have to spend a part of their resources on the preservation of their culture. This is a cost that members of the majority do not have to bear; members of the majority culture can take for granted the recognition of their language and culture.[[7]](#endnote-7)

Consequently, we have an important reason to *redress the inequality* that arises from national membership. Because one incurs this disadvantage as a result of her national membership, only members of the relevant communities suffer from this inequality. This is why the relevant rights are group-differentiated according to national membership.

So far, the equality argument explains why, in addition to the equal rights granted to each citizen, equality requires that we recognize rights that are group-specific according to national membership.[[8]](#endnote-8) Kymlicka’s argument demonstrates clearly how members of a national community can suffer from inequality by virtue of their national membership. This provides a sound reason for redressing this particular inequality, which happens only to members of a minority group. Individual rights are not enough to offset this inequality; group-differentiated rights must be granted.

After showing that national identity is important and that members of minority cultures suffer from unequal treatment, Kymlicka must explain why self-government right should be given to a national community. Margaret Moore suggests that, even if we can prove that a national community is unfairly treated, this fact does not by itself tell us *how* this inequality should be rectified (Moore 2003, p. 99). That is, even if we know that members of a national community suffer from inequality as a result of their membership, we do not yet know *how we should redress this inequality* or *which institution* should be set up to compensate for their loss.[[9]](#endnote-9) Why, then, should a national group be given the right to build an autonomous government?

We can find a short discussion by Kymlicka on why the right to self-government is justified. The main reason is that equality calls for equal benefits and opportunities for different national minorities.

[W]e should aim at ensuring that all national groups have the *opportunity to maintain themselves as a distinct culture*, if they so choose. This ensures that that *good of cultural membership is equally protected* for the members of all national groups. In a democratic society, the majority nation will always have its language and societal culture supported, and will have the legislative power to protect its interests in culture-affecting decisions. The question is whether *fairness requires that the same benefits and opportunities should be given to national minorities*. The answer, I think, is clearly yes.

Hence group-differentiated self-government rights *compensate for unequal circumstances* which put the members of the minority cultures at a systemic disadvantage in the cultural market-place, regardless of their personal choices in life [italics added] (Kymlicka 1995, p. 113).

Therefore, to give members of a national community equal opportunity to protect their national culture and to give them benefits equal to those received by the majority, a national community should be given the right to self-government.

Does Kymlicka’s argument successfully justify the right of a national community to establish a sub-state government?

Kymlicka’s argument successfully shows us how members of a national minority can suffer from systematic and structural inequality, even when they enjoy the same rights and resources as other citizens. As expected, the principle of equality requires that we redress these inequalities. Even so, it is not clear why this must be done by granting them the right to self-government. To redress these problems of inequality, other measures of compensation are available. For instance, if a national minority lacks substantive political power, they could be given the right to special representation in the legislature. Their language could be recognized in governmental institutions and taught at school. Additionally, because their cultures, traditions, and practices are in decline, they could be granted rights that protect these interests. A society could treat different national groups equally by officially recognizing all of their languages and cultures.[[10]](#endnote-10) For every disadvantage a national group faces, we can, in principle, find a corresponding compensation to redress that inequality. Why, then, must the right to self-government be granted?

Allen Buchanan raises a similar objection. Whereas Kymlicka holds that a national community should be granted special representation, self-government, and polyethnic rights, Buchanan questions if it is necessary to grant all three:

[E]ither ‘polyethnic rights’ protect a culture well enough so that it can supply a meaningful context for choice for its members or they do not. If they do, then why do any cultural groups, including nations, need rights of self-government in addition? If ‘polyethnic’ rights do not protect cultures well enough to provide a meaningful context for choice, then every cultural group must have self-government, and ‘polyethnic rights’ are simply a waste of time (Buchanan 1996, p. 301).

In any case, Kymlicka must explain what it is that *the right to self-government can do but polyethnic rights cannot*. Otherwise, if polyethnic rights provide sufficient protection for a national culture, it is not clear why a national community is also entitled to the right to self-government. It may make for a good policy, but it is hardly a *right*.

Kymlicka can possibly respond to this challenge by making a distinction between two different types of goods that are unequally distributed among different national communities: those that *can* be redressed without the right to self-government, and those that *cannot* be redressed without this right. Whenever we say that there is inequality, we mean that there is some good that is not equally distributed among members of different groups. The unequal distribution of the goods of language, culture, and political power among different national communities can be redressed by granting a national community special representation and polyethnic rights. These rights are enough to ensure that the disadvantages a national group incurs are made up for and that the national group has equal rights and resources as the majority group.

On the other hand, there is also a second type of good that is unequally distributed among different national communities. Inequality in this case cannot be redressed without the right to establish an autonomous government. To defend the right of a national community to self-government, Kymlicka must explain what this good is. The answer to this question is the key to justifying the right to self-government. What, then, is it?

Unfortunately, Kymlicka does not clarify what this particular type of good is. Nonetheless, there are two clues that we can follow to figure out the answer. First, the answer can most likely be found if one analyzes what *equal benefit, opportunity, or circumstance* for different national communities entails (Kymlicka 1995, p. 113). In the passage cited earlier, Kymlicka talks about equal “*opportunity for all national groups to preserve their cultures*”, “*equal distribution of the good of cultural membership*”, and “*compensating for unequal circumstances.*” However, he does not explain what equality in these areas means. Thus, it still is not clear how concerns for equality would entail the right of self-government.

Nevertheless, there is a second clue we can follow, namely, the right that Kymlicka intends to argue for. Because the right Kymlicka intends to argue for, i.e., the right to self-government, is supposed to offset some benefit that the majority group enjoys while the minority group does not, we may reasonably infer that Kymlicka assumes that *the majority group is enjoying the benefit of self-government in some sense, and that the same benefit should also be granted to a national minority*. It seems that this second clue provides a more straightforward explanation why the right to self-government is justified. It also explains better why special representation and polyethnic rights are not enough and why the right to self-government is also necessary.

I am not sure if this is the explanation Kymlicka has in mind, but given the information available, it seems to be the best, though not the only, explanation. However, this explanation assumes that the state belongs to the majority national group but not the minority. Is this a plausible assumption? To answer this question, we must not only examine the institutional arrangement in society, but also investigate how these groups came to join the society. Depending on how the state came into existence, we may question whether the above assumption was plausible. If the state was formed as a result of unjust colonization or settlement, the government would indeed be regarded as belonging to the majority and the minority group has a right to re-negotiate the terms of cooperation or even to create its own state. However, in such cases the injustice-based argument would suffice; it is not clear what role the equality argument plays. On the other hand, if the state was born as a result of voluntary cooperation among different national communities, it is not clear on what basis should the state be regarded as belonging to one group but not the others.

Furthermore, in cases in which different communities agree to form a state, if the government officially recognizes the language, history, and culture of each national group and grants every group the right to proportional representation and/or veto power, it is not clear in what sense do the state belong to the majority but not the minority. It seems that Kymlicka’s argument assumes that there is something *intrinsically bad* about a multination state because no matter what the government does, it can never adequately recognize the national identity of a minority culture. Any multination state where one group is the dominant majority would necessarily be unfair for the minority group. Given that there are many multination states in which different national cultures are treated relatively equally, e.g. Switzerland and Belgium, this suggestion seems quite implausible. In addition, it seems to ascribe to multination states some kind of original sin that a multination state can never free itself from; such a suggestion is inherently antipluralistic.

Second, assuming for the sake of argument that the state belonged to the majority group but not the minority, this assumption would entail not just the right of a national minority to establish a sub-state government, but perhaps also the right to build its own state. If equal recognition of national identity entails equal benefits and opportunities and the state belongs only to the majority, shouldn’t a national community be given the right to establish *a sovereign* *state*? This would give it even more substantive power over its own affairs and ensure that its members receive the same benefits and opportunities as members of the majority culture. It is not clear why we should stop at the right to sub-state government. The right to build a state can better approximate the ideal of equal treatment.[[11]](#endnote-11) Or, alternatively, Kymlicka could have drawn the conclusion that multination states should adopt a confederation system, such as the one in Switzerland, where each of the constituent national communities is treated equally, as each has its own government and is equally recognized at the state level. In any case, if equal recognition requires that each national community receive the same benefits, then Kymlicka must hold that any national group has the right to establish an independent state, or that a multination state must adopt a confederation system where each constituent national community has its own autonomous government. However, both conclusions are somewhat different from Kymlicka’s original proposal.

Lastly, even if this theory of equal recognition can explain why the right to self-government is justified, it still needs an argument. That is, we still need an explanation why *equal recognition of different national communities requires that each be given the right to self-government*. Kymlicka’s argument is based on concerns for the *disadvantages* members of a group incur by virtue of their national membership. As long as a society can find ways to redress these disadvantages, these inequalities would seem to be rectified. However, the claim that *equal treatment of different national community requires that each has its own government* is different from the claim that the *group is treated unfairly and that this inequality needs to be redressed*. The former claim is justified unless one can also prove that a state government embodies the recognition of the dominant majority culture, or that each state can recognize only one nation group. Otherwise, if the state government can recognizes every national culture, how can one deny that the state is a multination state? In what sense can one claim that a national community is not properly recognized? The claim that a group has the right to establish a government entails more than a right to compensation. We need to know why we cannot recognize national identity in the usual political/social institutions (such as language or cultural rights), but must also recognize it by granting the right to self-government.

I am not sure how Kymlicka would response to my challenge. Although Kymlicka does not have an argument for the claim that equal recognition of national identity or culture requires that each national group be given the right to self-government, Patten does consider one. I will discuss his argument in the next section. Next, I shall move on to my second critique of Kymlicka’s argument.

It seems that the treatment Kymlicka prescribes for national and polyethnic groups leads to some difficulty. Since these group-differentiated rights are rooted in national identity and culture, all types of national communities— indigenous groups, national groups, and polyethnic groups— can enjoy these rights. Notice that although Kymlicka distinguishes between national minorities and polyethnic groups, he does not distinguish between indigenous and non-indigenous ones.[[12]](#endnote-12) In addition, because his argument for group-differentiated rights is mainly defined by national culture, the rights implied by his theory apply to all three types of communities. This lack of distinction leads to confusion in the distribution of rights.

Chaim Gans points out that Kymlicka’s argument cannot explain how we can justify our differential treatment of national and polyethnic groups (Gans 2003, pp. 48-49). While many believe that a national community should be granted the right to self-government, not as many believe that a polyethnic group should enjoy the same right. However, in Kymlicka’s discussion, what is said of a national community, i.e., the importance of identity and the corresponding inequality, applies equally to a polyethnic group. Thus, if a national community should be granted the right to self-government because it suffers from certain disadvantages, then a polyethnic group, which suffers in a similar manner and sometimes to a greater extent, must equally be granted the right to self-government. In other words, what Kymlicka says applies equally to national and polyethnic groups. Thus, if his argument justifies the right to self-government for one group, it justifies the same right for the other.

Kymlicka seems to be aware that his argument has such implication; still, he does not see it as a problem. He believes that there is nothing inherently unjust about such arrangements (Kymlicka 1995, p. 95).However, since immigrants voluntarily emigrate into the host society, their claim to self-government is greatly diminished (Kymlicka 1995, p. 63, 95). Also, they are usually too dispersed to form a government. Nevertheless, if a society were to grant polyethinc groups the right to self-government, there is nothing wrong.

This response cannot be satisfactory. Gans suggests, “If the voluntary nature of immigration is a good enough reason to silence claims to self-government, why is it not sufficient grounds to also silence demands for polyethnic rights? (Gans 2003, p. 61)” Kymlicka’s response would entail that polyethnic groups do not have *any* culture-based rights, either. This apparently is inconsistent with his original inspiration. Moreover, if polyethnic groups had rights to govern themselves, then settlement would be justified. This contradicts almost every liberal theory of land entitlement (Buchanan 2003, pp. 231-261).

There is also a good reason to question an immigrant group’s right to self-government. In Moore’s historical argument, we find reasons why indigenous groups have rights of self-government—i.e., that the government fails to represent their interests and that they did not participate in the creation of the current society. However, in the case of non-indigenous groups, if their members voluntarily joined the society and if the government grants them special representation and polyethnic rights—on what basis could they demand the right to self-government? Each part of the society has a legitimate expectation for the long-term cooperation of its constituent parts. Without any supporting historical claim, recognizing the right of any group to self-government will unjustifiably disrupt such expectation.

Thus, Kymlicka’s response is not satisfactory. In the end, Kymlicka cannot say that a polyethnic group *does not have the right* to self-government, but must claim that this right is defeated or cannot be exercised for some reason. However, *immigrant polyethnic groups do not have such a right at all*. It is not that they have this right but somehow cannot exercise it. Rather, an immigrant group does not have the right to self-government. Thus, Kymlicka’s equality argument fails to account for the differential treatments of national and polyethnic groups.

PATTEN’S ARGUMENT

Patten’s argument for national self-government is based on the interest people have in having their identity *recognized*. He believes that the *recognition* of national identity is an important good, and that governmental institutions must actively regulate its distribution. An institution that supports the equal distribution of identity recognition would be preferable to one that does not. Because a *multinational constitution*, which is defined as one that officially recognizes the right of national self-government, is the *best* way to equalize the distribution of identity recognition, every state should adopt such a constitution (Patten 2014, p.242).

Before I explain Patten’s argument, I should first specify the kind of society to which his theory applies. His focus is on societies characterized by *identity pluralism.* One might associate such a society with a *multination* state, but this would be imprecise. Although a multination state is often also a society with identity pluralism (and vice versa), they are different. The former is defined mainly by the identification with a *culture*, while the latter by its *political aspiration*, which, in turn, is rooted in its identification with the culture.

Identifying with a group means having certain dispositions and attitudes toward that group. For instance, members of a national group typically feel proud or ashamed of the conduct of other members, or of the achievements and failures of the group. Further, this identity involves a desire that the group “enjoy some significant degree of collective self-government as a group. (Patten 2014, p.239)” The focus on the desire for *self-government* is an important element that distinguishes Patten’s argument from that of Kymlicka’s.

Patten further clarifies that a society is *identity-pluralistic* if a part of the citizens identify with the larger state, S, while the others identify with a subunit of the state, T (Patten 2014, p. 239). An example of an identity-pluralistic society is Northern Ireland: some citizens identify with the sub-unit of Ireland, while the others identify with the larger state of the United Kingdom. On the other hand, a multinational society is not identity-pluralistic if its constituent national groups do not aspire to establish its own government. Singapore can be considered multinational (as it is composed of citizens with different national backgrounds) but not identity-pluralistic (as none of the constituent group aspires to establish its own government).

Now that I have explained the kind of societies that Patten has in mind, I will go on to explain Patten’s argument. Patten suggests that, in an identity-pluralistic society, the government must try to actively equalize the distribution of *the good of recognition* in political institutions*.* He does so by first explaining why the recognition of national identity is a *good*, and then why the distribution of this good must be governed *by political institutions*. First, the recognition of identity is a good because it would *fulfill the identity-bearer’s aspiration* for self-government. The group may govern its affairs *collectively* and make decisions that better “reflect its beliefs about value, cultural priorities, traditions (Patten 2002, p. 568)” This would in turn promote the value of *communal integrity,* i.e., a “fit” between the values of the members and the policies that govern them (Patten 2014, p.244). Thus, the recognition of national identity is a good.

Still, even if the recognition of identity is a good, why should it be regulated by the government? Why not adopt a policy of non-interference? Patten explains that this is because, with regard to certain political arrangements, such as territorial boundaries or official holidays, the government cannot avoid making decisions that are more favorable to one group—it is not difficult to see how the way state boundaries are drawn would allow the majority more substantive political power/influence, and how political institutions almost always reflect the needs or preferences of the same majority group. This leads to *de facto* inequality— these political arrangements are in fact more favorable to one group and disadvantageous for the others.

In such a society, the government can either adopt a policy of non-interference, or it can actively equalize the distribution of the relevant goods. The policy of non-interference would, in substance, amount to the recognition of the identity of the majority. Because certain political arrangements can hardly avoid favoring one group over the other, Patten believes that non-interference is unfair and active involvement is necessary.

When it is impossible not to recognize at least one identity, then it seems reasonable to think that equal recognition of the different identities—as far as this is possible—becomes the response most in tune with the principle of equal respect (Patten 2002, pp. 571-572).

To redress the unequal distribution of identity-recognition, the government must be more pro-active.

Now that Patten establishes that the equal recognition of national identity requires active governmental regulation, the next step is to look for the institutional arrangement that would best promote equal recognition. Patten considers two possible options: the plebiscitary theory and his *failure-of-recognition condition.* He argues that his failure-of-recognition condition would provide a more equalized distribution of recognition than the plebiscitary theory.

Patten believes that, in an identity-pluralistic society, the government should adopt a *multinational constitution* that recognizes the right of a national group to build its own *sub-state* government. Only when the government fails to recognize this right, that is, only when the *failure-of-recognition* condition is met, is the group justified in seceding unilaterally. Recognizing the right to self-government would allow the good of recognition to be distributed to those who identify with the group.

Their identity is recognized in the sense that political boundaries are drawn, and powers assigned, in such a way as to acknowledge the group as a group and give it a space in which to enjoy self-government (Patten 2002: p. 565).

However, if a state failed to recognize this right in its political institutions, then the state would fail to grant proper recognition to those who identify with the group. In that case, the group would be justified in establishing its own independent state, because its identity should be recognized and the original society has manifestly failed to accommodate its national identity. Patten suggests that, in this situation, the “failure-of-recognition” condition is met because the state fails to properly recognize the national identity of the group. This would justify the right of the group to establish its own state.

Many believe that the plebiscitary theory provides the best solution for the equal distribution of national identity. This theory holds that, so long as relevant conditions are met, members of a group have the right to vote in a referendum and decide if they should establish their own state (Beran 1977; Gauthier 1994; Philpott 1995; Wellman 1995). Having this right would put the group on a par with the dominant majority, as it is also granted the right to have a state in which it becomes the dominant majority, with its cultural preferences reflected in public institutions.

 However, Patten argues that the plebiscitary theory is not the best way to equalize the distribution of identity recognition. Without the “failure-of-recognition” condition, simply allowing a group to vote in a referendum and decide if it wants to establish its own state would lead to a less equal distribution of national identity—assuming that most members of the sub-unit T voted for the independence of T (from the larger state S), this result would grant recognition only to those who identify with T but not those residents of T who identify with the larger state S. Once T became an independent state, the identity of those who identiy with the larger state S would be completely suppressed. Thus, the plebiscitary theory would sanction an uneven distribution of identity recognition—it may lead to a situation in which only the identity of some (those who identify with the seceding group) is recognized, but the identity of others (those who identify with the larger state) is disregarded.

On the other hand, Patten’s theory would not prioritize such an unequal distribution. According to Patten, we should prefer his failure-of-recognition condition to the plebiscite theory because his theory gives priority to an arrangement that provides a more equalized distribution of the good of recognition. It requires that a national group be given the right to sub-state self-government *first*, and only when this right is denied is the group justified in demanding the right to secede. When T has the right to establish its own sub-state government, those who identify with T can express their identity through the sub-state government of T, and those who identify with S can express their identity via the state government of S. This arrangement is superior because “*a distribution in which all get some of what they want should be regarded as superior to one in which a majority gets all of what they want while the minority get none* (2002: 579)*.*” Patten’s theory prioritizes an arrangement that grants recognition to both those who identify with T and those who identify with S. On the other hand, the plebiscitary theory completely ignores this arrangement. It gives recognition only to those who identify with T, or only those who identify with S. Therefore, Patten’s multination constitution allows the good of recognition to be more equally distributed.

Does Patten’s argument successfully justify the right of a national group to sub-state self-government?

Patten’s strategy involves showing that the good of recognition is in fact unevenly distributed among majority and minority groups, and that this fact by itself discredits policies of non-interference and justifies active governmental regulation. This argument is similar to Kymlicka’s in that both appeal to the *de facto* inequality that minority nations endured. In my discussion of Kymlicka’s argument, I explained that the equality argument justifies a right by appealing to the disadvantage a group receives as a result of its minority status. That is, this argument justifies a right (to compensation) by pointing out that one receives a lesser share of a particular good *because of* one’s national membership. Thus, were a person to justify the right to self-government by appealing to this argument, she must show that (a) there is a good that a minority group receives a lesser share of exactly because of its minority status, and (b) the lesser share can be made up for only by granting the right to self-government to the minority group. In other words, if the point of the right is to equalize an unbalanced distribution of goods, one needs to explain which good it is that this right is supposed to help equalize. Thus, one crucial task in appealing to the equality argument is to identify the good in question. I argued earlier that because Kymlicka does not explain what this good is, his argument fails to justify the right of national self-government.

Patten’s argument somewhat addresses this issue. Although he does not acknowledge the above methodological requirement, he does explicitly specify that his focus is *not* on recognition in the “common” or “*cultural”* sense, such as the recognition of the group’s language, history or custom in governmental institutions (Patten 2002, pp. 565-566). Rather, he is concerned with addressing the desire of the group *to self-government*. This straightforward focus on the aspiration to self-government allows Patten to focus his discussion on how a multination state should equally distribute this good, i.e., the aspiration to self-government. Does his argument successfully justify the right of minority nations to self-government?

There are good reasons to think that it doesn’t. First, we have reason to question his conception of the good of recognition. Patten defines national identity as involving “attitudes and dispositions” toward a group, or a “propensity” to feel shame and pride for this group (Patten 2002, pp. 563-564). However, it is not clear why one should take these attitudes, dispositions or propensities seriously. People may also have similar attitudes toward other types of groups, such as a political party. It is not clear why people’s attitudes, dispositions, or propensities toward a *national* group deserve special recognition in institutions. In any case, Patten needs to explain the moral significance of these dispositions.

This is not the most serious problem in Patten’s theory. Many philosophers have tried to answer this question. Due to the limited space, I will not go into depth on this issue. What matters the most, in Patten’s argument, is not why these attitudes and dispositions require special recognition, but why we must recognize a national group’s *aspiration to self-government*. Why should we be concerned with a national group’s aspiration to self-government? Why is this an issue that the government must address?

Patten does try to answer this question. He discusses Buchanan’s challenge that political institutions should not arbitrarily single out some identity for special recognition when they can treat different identities in an unbiased way (Buchanan 1996, p.571). This is when he points to the *de facto* inequality among majority and minority national groups. Patten agrees that political institutions should not arbitrarily recognize one identity and ignore the others. Nevertheless, he believes that we still have a good, non-arbitrary reason to do so in the case of national identity, i.e., the *de facto* inequality between the majority and the minority groups. The culture of the majority group is recognized by the state, but the culture of the minority group is not.

Does this response explain why we must recognize a minority group *by* giving it the right to self-government? As I explained earlier, in order to justify this right to self-government by appealing to the equality argument, the most important question one must answer is what the good is that is being unevenly distributed among different groups. Patten’s answer seems to be *the political aspiration to self-government*.

However, there is a good reason to question whether Patten answers the question satisfactorily. His answer assumes that the majority national group’s aspiration to self-government is achieved. As I explained in the last section, whether the assumption was plausible depends on how the state was established. Were the state a result of unjust colonization or settlement by the majority group, the minority group can of course re-negotiate the terms of cooperation with the current state government. However, if the state was born as a result of fair cooperation among citizens, it is not clear on what basis should the state be considered the realization of the aspiration of self-government of one particular group.

 In addition, as I suggested earlier, if a state government recognizes the language, history, and culture of all the national groups in the state officially and gives each group special representation in the legislature to equalize political power and influence, in what sense should the state be understood as a nation state, but not a multination one?

Patten’s response to Buchanan’s challenge would probably be that the way the state boundary is drawn has a different impact on different national groups. However, this does not answer Buchanan’s challenge: Buchanan can be understood as saying that, the way the state boundary is drawn can have a different impact on various identity groups, not just national groups. It may also affect the aspiration of liberals and conservatives, people who have different religious beliefs, and even people who support different policies. Were the boundary drawn differently, the aspiration for gun-control would readily be recognized. Were the boundary drawn differently, the aspiration for abortion prohibition would be recognized. Were the boundary drawn differently, different people’s political aspirations would receive more recognition. Why should we evaluate its impact solely on members of different national groups? Why not also evaluate its impact on, say, liberals and conservatives? They have their political aspirations as well. It seems that Patten’s answer to the question “what is the good that is being redistributed to the minority group?” is not satisfactory.

In addition, Patten’s strategy makes him vulnerable to the same objection raised against Kymlicka. The second problem in Patten’s argument is that, if the political aspiration to self-government of different national groups should be equally distributed, then recognizing this right would entail that immigrant polyethnic groups also have the same right. Patten’s conception of national identity is defined by people’s dispositions and attitudes toward a group. This possibly characterizes both the identity of a national group and a polyethnic one. As explained earlier, recognizing the right of a polyethnic group would amount to a sanction of settlement policies, which blatantly violates modern conceptions of land entitlement. Thus, Patten’s argument fails to justify the right of a national group to self-government. His argument shares the same problem with Kymlicka’s.

CONCLUSION

 In this paper, I have examined Kymlicka and Patten’s equality arguments. I believe that they have correctly identified a social problem in many multination states, namely, the systematic inequality facing national minorities. Because this inequality affects only members of a national minority, to solve this problem, minority groups must be granted certain group-specific rights. In particular, they must be granted rights to those goods that they consistently receive a lesser share of due to their minority status.

Nonetheless, I have also shown that the equal treatment of different national communities would not require that each be granted the right of self-government. The only way to show that it would is adopt the implausible assumption that a multination state can never treat a minority group fairly. This claim is implausible both in theory and practice.

Therefore, at the end of this paper, I must warn the readers, especially proponents of liberal nationalism and multiculturalism, against this particularly dangerous implication of the equality arguments. Although the attempts to preserve national cultures are laudable and worthy, we must be careful not to revive the kind of narrow-minded, monistic nationalism in the past. Liberal multiculturalists must allow some space for real pluralism, where different national cultures may co-exist and thrive.

1. In the literature, “the right to self-government” is sometimes used to mean “the right to self-determination,” which refers to the right of a group to decide whether it should establish its own *independent, sovereign* state. Here, I use “the right to self-government,” “the right to govern itself,” and “the right to build a sub-state government” interchangeably to mean the same right of a national community to create a *sub-state, autonomous* government. Although the discussion here bears some relation to the question of whether a nation has the right to create a sovereign state, due to the limited space, I will not consider this issue here. [↑](#endnote-ref-1)
2. Some philosophers, such as Helder De Schutter and Lea Ypi, also recognize that minority nations are situated in socially disadvantaged positions due to their minority status. They advocate language rights for these communities. However, because they do not advocate a minority group’s right of self-government, their arguments will not be considered here (2012). [↑](#endnote-ref-2)
3. This is not to say that historical injustice would conclusively or permanently define the relationship between an indigenous group and the current state. Two possibilities include: (1) *Consistent resistance*: some national groups have consistently resisted the sovereignty of the current state over them; (2) *Gradual acceptance*: even though the initial acquisition was unjustified, an indigenous group may nonetheless become a part of the society via other forms of acceptance, e.g. acceptance of governmental funding. (Moore 2003). [↑](#endnote-ref-3)
4. The right to special representation is the right of a national community to have special representation in the legislature. Polyethnic rights are rights that national groups have to practice their traditions and customs. An example is the exemption of motorcycle helmet rules for Sikhs in Canada (Kymlicka 1995: 26-33). Kymlicka uses the term *group-differentiated* right and *group-specific* right interchangeably. In this paper I follow his terminology. [↑](#endnote-ref-4)
5. When I say that group-differentiated rights are assigned to a group or members of the group, some might understand it as suggesting the right-holder is the national group as a whole but not the individual members. However, this is not the case. Kymlicka suggests that, “What matters is not whether the right is collective (as opposed to individual), but that it is group-differentiated…Whether these group-specific rights are attributed to individual Indians or Indian bands/tribes is, for critics, largely irrelevant.” In short, Kymlicka needs *not* assume that the right-holder is the collective. (1995:45-8). [↑](#endnote-ref-5)
6. There can be other types of group-differentiated rights. For instance, in some societies, women are given the right to have special representation in the legislature. Another example would be the right of senior citizens to certain social welfare. [↑](#endnote-ref-6)
7. Kymlicka makes a similar point in the book *Liberalism, Community, and Culture*. There, Kymlicka asks us to consider the circumstances of two boys with different national memberships. One boy is from the Anglophone community, which is the dominant majority group in Canada. The other is an Inuit boy, whose community is a minority and whose culture is in decline. Even if we give these two boys equal rights and resources, we can imagine that, to protect his culture from decline, the Inuit boy would have to spend more resources to save his culture, and this is a price that the Anglophone boy would not have to pay (Kymlicka 1989: 189). [↑](#endnote-ref-7)
8. Kymlicka argues that “it is legitimate, and indeed unavoidable, to supplement traditional human rights with minority rights. A comprehensive theory of justice in a multicultural state must include both universal rights, assigned to individuals regardless of group membership, and certain group-differentiated rights, or ‘special status’ for minority cultures (Kymlicka 1995:.6).” [↑](#endnote-ref-8)
9. Several philosophers argue that we cannot defend a particular institution merely by defending the intrinsic worth of an important value (Gans 2003: .41; Marmor 2007: 233-4; Tamir: 1999: 168). [↑](#endnote-ref-9)
10. Or, a society can treat different national groups equally by recognizing none of their languages, as is the case in Singapore. In Singapore, to show equal concern for all the ethnic groups in the society—Chinese, Malay, and Indian—the official language is English, which is not the native language of any of the ethnic groups. The important holidays for each of the national communities are equally recognized. [↑](#endnote-ref-10)
11. Presumably, Kymlicka would not be bothered by this suggestion, as in his discussion of the right to self-government, he suggests that we should be more open to the option of secession (1995:186). [↑](#endnote-ref-11)
12. Kymlicka calls North American Indians and the Francophones national communities; he calls immigrant groups such as Chinese or Indians polyethnic groups (1995: 11-25).

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