WHY GROUP MEMBERSHIP MATTERS
A Critical Typology[1]

I. *INTRODUCTION*

In this paper I address the question of whether, and how, membership in a social group might have moral significance. This question is a crucial precursor to the justification of what Will Kymlicka (1995) has termed group-differentiated rights; that is, rights we have by virtue of our membership in a particular social group, rather than universally. We need to know why and how certain acts or circumstances harm or benefit individuals before we can argue for political action.[2] For instance, if we were to attempt to justify the exemption of a certain social group from a state law (Muslims from animal cruelty legislation to allow for Halal meat; Native Americans from anti-drug laws to allow for the smoking of peyote; or Sikhs from motorcycle helmet laws to allow for the wearing of turbans), or if we were to attempt to justify the provision of additional benefits to a certain social group (affirmative action for university entrance; differentiated welfare payments; or special representation in the legislature or judiciary) we would need to know what kind of impact these legislations (or their absence) have on individuals as members of social groups.

This paper thus asks two questions: first, and most importantly, on what grounds would the state be obligated to treat some citizens differently on the basis of their group membership? And second, is there a basis from which such justifications can be made that does not lead to the conclusion that social identities are merely handicaps that in an ideal world would be transcended? This latter question in particular has been worryingly

overlooked in the literature defending group-differentiated rights, potentially leading to a situation in which group-differentiated rights are defended on grounds that, if taken to their natural conclusion, would suggest the transcendence rather than protection of identity.

In order to provide answers to these questions I develop a typology to track the interests individuals have in group membership. For the purposes of this paper I intend interests to mean broadly whether individuals are benefited or harmed, in this case as a consequence of their membership in the group.[3] Answering the question of group membership's moral significance in terms of interests provides the necessary foundation for considerations of group-differentiated rights, assuming we accept Joseph Raz's (1986) influential account of rights as interests of sufficient strength to ground duties. What I am considering here, then, is the first half of Raz's equation. I posit three different models for understanding how group membership matters in this regard, and thus how justification for particular group-differentiated rights might be framed: the nominal model, according to which groups are no more than a semantic fiction useful for advocating the meeting of universal human needs; the relational model, according to which the group is seen as a set of mutual-identification relations which impact upon self-respect; and the participatory model, according to which individuals coalesce around a set of shared practices that give meaning to their lives.[4] I take each of these three models to offer a plausible pathway of justification for group-differentiated rights, since all three show that important interests are at stake. Further, they are to be understood as providing differing perspectives on the interests at stake in any given issue, rather than as standing in competition with one

another. For any rights claim, then, each of the models could be appealed to either severally or in conjunction.

It is important to note, however, that it is only from the perspective of the participatory model that group membership is a benefit rather than a liability for group members. This means that if we were to defend group-differentiated rights solely from the perspective of the nominal and/or the relational models, our justification would force us to concede that such rights are contingent goods whose benefits could be equally – if not better – achieved through the transcendence or eradication of identity groups. In other words, the nominal and relational models see group membership as morally relevant only insofar as it is a potential site of disadvantage. Whilst this conclusion may not be problematic for certain social identities (gender or race, perhaps) it appears far less benign when applied to other social identities, such as indigeneity, ethnicity, or religion. Part of the purpose of this paper, then, is to tease apart these three perspectives in order to show when and why group membership is a benefit rather than a liability. When these perspectives are not clearly differentiated – a situation I suggest is unfortunately common in the philosophical literature – we risk defending group-differentiated rights on the basis of arguments whose internal logic leads to a rejection of the value of group-membership.

Before setting out the details of my account, it is worth clarifying very briefly its relationship to two of the more prominent typologies in the literature. Kymlicka, in his highly influential book *Multicultural Citizenship*, sees the relevant distinction within group-differentiated rights to be between self-government rights, poly-ethnic rights, and

special representation rights. Another prominent classification has been Jacob Levy's eight-fold categorization of cultural rights. Levy (1997) differentiates between exemptions, assistance, self-government, external rules, internal rules, recognition/enforcement, representation and symbolic claims. The key difference in approach between these accounts and my own is that both Kymlicka and Levy's distinctions track the nature of the good that the right guarantees, rather than the nature of the interest that the right protects. To put it another way, both Kymlicka and Levy are concerned with differentiating the content of group rights, i.e. whether a given rights claim is best understood as falling within the category of self-governance, say, or whether it is rather a claim for state subsidization of group practices. My account, by contrast, takes the relevant distinction to be between the various ways in which group membership might impact upon an individual's interests, for example as a source of discrimination, or as a locus of self-understanding. As such, my account distinguishes between various normative foundations for group-differentiated rights, which may well cut across the content-based categories of Kymlicka and Levy.

2. THE NOMINAL MODEL

The first perspective for understanding the moral significance of group membership is the nominal model. This model identifies the interest members have in group membership in universal terms. In other words, there are universal needs or interests that all individuals experience, and membership in a particular group can sometimes block individuals from accessing them. From this perspective, the political instantiation of group-differentiated

rights does not track anything of significance in the group itself, but rather ensures members of that group are not prevented from realising their individual rights. David Miller (2002: 183) describes this view succinctly:

> Belonging to [group] E is not a condition for having the right; all that belonging to E does is make securing the right of immediate and pressing importance, since as it happens it is only in the case of members of E that the state is preventing the right from being exercised.[5]

According to the nominal model, group-differentiated rights identify individuals whose rights are routinely violated, and articulate the demand to meet their needs. So we draw a circle around those individuals, so to speak, and, for nothing more than political rhetoric, announce that the group in question has the right in question. The moral significance of group membership is thus purely contingent on political circumstances – membership in a group can be a source of harm for individuals insofar as the group is discriminated against.

We can explicate this claim with some examples. By this reasoning, while we might say that indigenous peoples have a right to their ancestral land, or that disabled people have a right to access public buildings, all we are really doing is drawing attention to the fact that *everyone* has a right to property, or *everyone* has a right to mobility, and these rights are being denied to members of certain groups. There is no non-trivial sense in which indigenous people, or disabled people, can be said to have interests divergent from, or additional to, the interests of all persons.

There is clearly an element of truth to the idea that, in the political sphere, group rights are frequently a call for the recognition of individual rights that are denied to particular peoples. The Declaration of the Rights of Indigenous Peoples, for example, specifies rights such as freedom from discrimination, life, liberty and security of person – quintessential universal individual rights. The Convention on the Elimination of Discrimination Against Women can also be read as an attempt to extend universal individual rights to women, rather than specify rights that are to apply to women alone. (CEDAW includes, for example, the right to vote, to equal access to education, and to equal remuneration for work.) Nonetheless, I resist the claim that the nominal model provides the only perspective from which to consider group-differentiated rights. While the nominal model is a useful adjunct to the other models, it overlooks the complexities of harms that involve identity, with the consequence of preemptively dismissing potentially valid claims that cannot be accommodated within this individualistic model.

Evidence of this problem can be seen by considering a potential group right – genocide – that Miller dismisses in passing as nothing more than an individual right:

> [Freedom from genocide is better seen] as a simple corollary of the right to life, a right possessed by all the individuals who make up the group threatened by genocide... Nothing is gained by postulating a group right over and above the individual right (Miller, 2002: 183-4).[6]

I maintain that to interpret freedom from genocide as limited in this way is to profoundly misunderstand the nature and scope of the harms involved. Genocide is the deliberate attempt to eradicate a people on the basis of some attribute they are seen to hold in

common. As such, genocide involves the denial of the moral equality of all persons who hold that attribute. What the nominal model fails to capture is that genocide denies the moral worth not only of the individuals killed, but also of all the individuals who see themselves as members of the group that is being targeted. This subtly changes the nature of the interest the individual has in group membership. While both the right to life and the recognition of one's moral equality can be understood as universal interests at stake by virtue of one's membership in a particular group, it is only in the latter case that how the group as a whole is treated bears on the protection of the interest. This undermines the foundational premise of the nominal model that the group is nothing more than a semantic fiction, with the individual interest at stake only having a contingent relationship to membership in the group.

Despite these reservations, the nominal model does serve as a useful perspective from which to defend certain group-differentiated rights. Given the acceptance of the fundamental moral equality of all humans by even ardent sceptics of group-differentiated rights, the nominal model provides a simple and non-controversial justification for anti-discrimination legislation, and potentially also for affirmative action policies.[7] Its limitations, however, must also be noted. Alongside its inability to adequately capture the types of harms that can occur to individuals on the basis of their membership in groups, as noted above, the nominal model also provides no grounds from which to defend the retention of social identities. Since individuals are being denied goods on the basis of their perceived identity, the most effective way to secure access to those goods would be to work towards a world in which such identities were no longer salient. The

nominal model gives us no reason to value group membership; instead, it points solely to the disadvantages that such membership can carry. From the perspective of the nominal model, group membership is a handicap we should either shed or, if that proves impossible, counter through our political institutions.

3. THE RELATIONAL MODEL

In contrast to the nominal model, we can develop two further ways of conceptualizing the relationship between individual well-being and group membership. The first of these is the relational model. This perspective takes as central the fact that members of a group share an identity, and so enter into a particular type of relationship with one another: one of mutual identification. The moral significance of the group is explained with reference to the fact that actions directed towards a particular individual because of their membership in a social group can potentially harm all other members of the group. The relational mode thus fills in the step overlooked by the nominal model.

Under the relational model, the well-being of each member is interwoven with the well-being of all other members. If individuals are targeted by virtue of their membership in a particular group – for example, if certain people are sexually harassed because they are women, or physically assaulted because they are Jewish – then the attackers are making a statement regarding the worth of all members of that group. Such attacks communicate that the defining features of the group make members unworthy of equal treatment and

respect. This denial of equality and respect thus extends to all who take themselves to be members of the group, and not just those who are the direct targets of the attack.

The relational model assists our understanding of how harms inflicted on members of a group are felt by those beyond the immediate victims. It helps explain, for example, how the removal of indigenous children from their families, as practiced in Australia until the 1970s, was a grievous harm not just for those children removed and their families, but for all indigenous Australians.[8] This is because all Aborigines were in effect being told by the government that they were not worthy of raising their own children, the simple fact of indigeneity being deemed sufficient to prove incapacity as a parent. Aborigines were taken to be less worthy than their non-indigenous counterparts, with this lack of worth publicly expressed through governmental policy. Contra the nominal model, the victims of such acts extend beyond those who are directly persecuted to include all who self-identify as members of the targeted group, since it is all who self-identify as members of this group whose moral worth is being denied.

When an individual is harassed on account of her sexuality, denied a promotion because of her skin color, or her concerns dismissed because of her gender, the perpetrator is expressing disdain for all who fall within these social groups. She is thus inflicting a harm on all who self-identify with that group. One implication of this observation is that such harms are going to extend even to individuals who find themselves personally able to avoid harassment and discrimination. They too are suffering disrespect, because one of the sources of their self-understanding is being publicly disparaged. For example, if an

individual were to pass as other than how she self-identified (as some African-Americans did in the time of slavery, and as some gay people do today), she would be able to access the material benefits that were denied to others of their group, but would still be suffering the identity harm that accompanies the institutional disrespect directed at her group.

We can also utilise the relational model to analyse more diffuse social phenomena such as stigmatizing portrayals of social groups. While it should be relatively uncontroversial to assert that acts such as racial violence generate harms for all members of the social group (for instance by creating a climate of fear) it is much less obvious that individuals are harmed through public attitudes. According to the relational model, expressions of disrespect directed at an individual by virtue of her membership in a particular group will both harm her directly, and harm all those who identify with the group in question. Ethnic stereotyping would by instances of expressing disrespect. They are public speech acts containing presuppositions, which – if they are not actively contested – enter the communal language game as legitimate assertions about the subject (Langton and West, 1999). Jokes whose punch-lines rely on some derogatory characteristic of an ethnic group for their humour, for example, require the listener to accept the truth of the stereotype in order to enter into the shared practice of the joke. Movies in which the plot revolves around the sole honourable Arab, or sole hard-working African-American, also carry presuppositions about these groups. The narrative meaning is derived from positing these characters as exceptions, thus requiring the viewer to accept that the norm for each group is to be dishonourable or lazy, respectively.

Of course, much fiction relies upon such stereotypes in order to critique them, or at the very least to critique the social circumstances which bring them about. My discussion here is not intended to imply that artistic endeavor should always be constrained to portray all social groups in a positive light. Rather, I am concerned simply to draw attention to the potential damage caused by stereotypical depictions of social groups in fiction, particularly where this is not countered by either explicit or implicit critique.

It is also important to be clear that identifying the interest at stake in these cases does not presuppose that political action should be taken. In each case the interest must be shown to be of sufficient strength to justify the corresponding duty, and as such the strength of the interest necessary to justify a right will vary depending on the type of speech that would be affected. Nonetheless, it is useful to have a clear picture of just how far-reaching these harms can be, even if (as in the case of racist jokes) there is no presupposition that this will serve to justify political intervention.

It could be objected at this point that the kinds of harms I assume to follow from such speech acts as racist jokes or stereotypical movies will not in fact eventuate, since these speech acts operate within the sphere of fiction, and thus merely require a temporary assumption of these beliefs that can be shed once the narrative is completed. This is not the appropriate place to enter into a detailed discussion of belief-acquisition, so I will restrict my attention to one observation.

The point is simply this: even if we were to grant that the assumptions of inferiority in these narratives are intended and read as fiction, the mere fact of temporarily holding such views can lead to a belief in them. The theory of impression perseverance advanced in the field of psychology supports this claim. It demonstrates that subjects show a strong tendency to rely on evidence they have been given to make judgments about individuals, even *after* they have been explicitly informed that the evidence is false (Walster et al, 1967; Ross et al 1975; Ross et al 1977). In the core experiments, subjects observed an individual performing a task, whilst being given feedback either praising or critiquing her performance. At the conclusion of the task, the subjects were informed that the feedback they had been given was false, and in no way tracked the performance of the subject. Nonetheless, when asked to evaluate the individual's performance, the subjects reliably followed the information provided during the feedback. Even more strikingly, Wegner, Coulton and Wenzlaff (1985) have gone on to show in similar experiments that subjects will rely on such information even when they are explicitly instructed *before* it is presented that it is false. This has immediate relevance for the kinds of public assertions of inferiority under discussion. Even though the presentation of inferiority or subordination is largely happening in the context of fiction, which we might think of as carrying an explicit instruction to discount the evidence it presents, the psychological studies suggest that by also telling us that people in our world have certain derogatory features, these media initiate and/or perpetuate belief in the inferiority of the social groups represented.

I have been arguing that under the relational model, we can understand harms to individuals that come about through stigmatization of the social group/s to which they belong. Thus far I have pointed to the relatively nebulous harm of disrespect. We might ask, however, why this harm is of particular concern. The first point to note is that disrespect in and of itself has a profound effect on well-being, and in particular one's ability to form and pursue a life plan. Rawls, for one, was quick to point out the debilitating consequences of internalizing a belief in one's inferiority, noting that without self-respect, 'nothing may seem worth doing... All desire and activity becomes empty and vain, and we sink into apathy and cynicism' (Rawls, 1999: 386). It is only if we take our life to be of equal worth to others that we will come to see our goals as equally legitimate, and thus have the motivation to pursue them even when they conflict with the goals of others (such as pursuing a career that is competitive, or pressing one's needs in the face of limited supply).

While Rawls fully comprehends the importance of recognition, he significantly underestimates its necessary scope. For Rawls, it suffices that 'there should be for each person at least one community of shared interests to which he belongs and where he finds his endeavours confirmed by his associates' (Rawls, 1999: 388). The implications of this are highly dubious: it would mean that the level of public contempt in which a group were held would be irrelevant for an individual's self-respect, since the other members of the group would provide sufficient affirmation of her goals and deeds. This grossly underestimates the extent to which groups within a shared polity or social sphere influence one another's self-respect. Self-respect requires more than affirmation from

one's group – it also requires, to some extent, that the group itself is afforded public respect (Taylor, 1992).

Alongside the general harms of misrecognition, there are also a number of subsidiary effects of social disrespect that should be brought to attention. Work in social psychology on stereotype-threat has exposed a variety of ways in which individual well-being is harmed in virtue of being a member of a stigmatized group – in many cases, even when the individual in question rejects the truth of the stereotype. These effects range from increases in blood-pressure (Blascovich, 2001), to impaired cognitive capacity (Steele and Aronson, 1995: Spencer et al, 1999; Schmader and Johns, 2003; Salvatore and Shelton, 2007), to damage to self-esteem and perceptions of autonomy (Ruggiero and Taylor, 1997; Verkuyten, 1998; Fisher et al, 2000).

The harms involved in stigmatization are more than merely symbolic. They affect agency, health, cognitive ability and self-esteem. This is so even when individuals hold no belief in the accuracy of the stereotype. Utilizing the perspective of the relational model thus provides a viable justificatory framework for many group-differentiated rights, in particular those centering on the accordance of public recognition to particular identities, practices or beliefs. Even when the harm identified is not appropriately regulated in the public sphere, such as the harm accompanying racist jokes, an understanding amongst the public of the effects such actions have is vital. While in these situations the relational model may not justify political obligations, it may well help to illuminate ethical obligations in the private sphere.

Finally, alongside these more diffuse obligations around recognition, the relational model can also serve as justification for policies such as affirmative action and special legislative representation. This is because mutual identification leads to a concern with visibility. If I identify myself with a particular social identity, then I cannot but be aware of the extent to which that identity category is represented in public space, for example in the narratives and histories that are given priority in the schools and universities, in the symbols of state, and in public institutions (Wolf, 1994). If there is an absence in the public sphere of people who share my social identity, it will impact on the extent to which I can feel a part of the broader community.[9]

It should be noted, however, that this concern with the respect accorded, and the visibility given, to "people like me" need not carry much in the way of belief that "people like me" share any deeper commonality than simply the act of mutual identification itself, which may be motivated in large part by the ascription by others of the identity in question, and the discrimination that this may carry. In particular, the relational model does not presuppose that justifications for recognition or affirmative action rely on recipients being members of communities who share cultural practices, since the relevant interest is freedom from discrimination or stigmatisation, and these can occur whenever there is a visible marker of difference. While this is one of the strengths of the relational model, allowing as it does the extension of group-differentiated rights to gender and racial categories whilst avoiding their essentialization, it is also the reason for its limitations.

Often, when the justification for group-differentiated rights comes from an egalitarian perspective, the focus is on ways in which group membership undermines equal standing. Frequently, this takes the form of looking at how the decisions made by, and the institutions operating within, the state show disrespect towards groups. But this perspective tends away from engagement with the issue of why group membership is itself a good. Though it is only rarely acknowledged, this perspective taken in isolation leads to the conclusion that group membership is either an unavoidable evil whose effects need to be mitigated (we cannot stop people from seeing me as x, so we need to ensure that members of x are afforded respect), or is something to be transcended.[10]

We might attempt to counter this conclusion by pointing out that just as mutual identification can be a potential site of shame, so too it can be a potential site of pride. For example, I could feel pride in the achievements of women, and this could add to my self-respect as someone who identifies as a woman. Likewise, someone could feel pride in the achievements of indigenous leaders, and this could boost their self-respect as someone who identifies as indigenous. This argument will only take us so far, however. While it avoids the purely negative connotations around group membership that accompany the nominal model, it still provides no independent grounds for resisting assimilation. If I take pride in the accomplishments of women or indigenous people because I self-identify as a woman or as indigenous, then how much more would my self-esteem be boosted if I self-identified instead as human? There is nothing to be gained from identification with particular social identities that couldn't be gained to at least the same degree through identification with humanity as a whole.

Of course, mutual identification may be much thicker than the account I have presented above. In such cases, the reasons for mutual identification go beyond a reaction to discrimination, and can be found in the shared meanings and perspectives that we commonly associate with cultural groups. It is here that we finally encounter the interests individuals have in group membership as a benefit rather than a hindrance to their well-being.

5. THE PARTICIPATORY MODEL

From the perspective of the nominal and the relational models, the significance of group membership lies primarily in its potential to be a source of disadvantage. It is for this reason that these models, taken alone, provide no grounds for objecting to assimilation, and only contingent or temporary justifications for such group-differentiated rights as institutional representation, language provision, and legal exemptions. It is unfortunate, then, that much of the literature defending group-differentiated rights primarily appeals, either explicitly or implicitly, to such arguments. Too often no clear distinction is drawn between the need for non-discrimination, where this is understood as necessary for self-respect, and the need to protect cultural practices per se.[11] When these two perspectives are blurred in this way, the justification for group-differentiated rights becomes likewise confused.

One notable exception to this generalization is the work of Kymlicka. First in *Liberalism, Community and Culture,* and then again in *Multicultural Citizenship*, Kymlicka lays out a defence of group-differentiated rights that makes direct appeal to the benefit individuals gain from membership in cultural groups, arguing that culture provides a context of choice within which individuals can pursue and reflect upon their conception of the good. Individuals thus have rights to culture and language because without these they could not lead fully autonomous lives.

There are significant problems with Kymlicka's thesis, and in particular with his conception of societal cultures (Carens, 2000: 52-87). Nonetheless, I take it that the general direction of his argument – identifying the benefit that individuals derive from membership in groups – is a necessary adjunct to any theoretical discussion of group-differentiated rights. Furthermore, I consider Kymlicka's central idea that there are practices that can only be pursued in common, and that these provide the orienting framework within which an individual's life is pursued, to be a valuable one (provided we are careful not to make the same essentializing assumptions). In what follows, I sketch one way in which a defence of group-differentiated rights from the perspective of the participatory model might proceed.

Practices such as language, ritual and history provide the context within which the self is understood, providing the scaffolding upon which personal identity is built. Importantly, such practices cannot be undertaken by isolated individuals, but gain their meaning from the fact that they are shared. The practices I am concerned with would fall under Denise

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Réaume's label of 'participatory goods' (Réaume, 1988). The notion of participatory goods enables us to articulate the difference between a group of individuals simultaneously partaking in an activity, and a group of individuals sharing an activity. While the former refers to an activity that two people happen to be pursuing at the same time, though perhaps in separate locations, the latter refers to an activity that two people are undertaking in partnership. Participatory goods are shared in this way, reflecting the fact that they are co-operative endeavors.

The participatory model is concerned with goods that gain their meaning through being shared by the social group. Language would be the most obvious example, but we can also think of other cultural practices such as initiation ceremonies. Such practices are meaningless without the participation of others and an appropriate context. Were I to independently go through the motions of an initiation rite alone in my bedroom, for example, I would not have actually participated in an initiation, since what it is to be initiated is to play a determined role in a shared practice. It is simply not something that can be enjoyed alone.

It should be stressed, however, that in saying a participatory good cannot be enjoyed alone I do not intend to imply that it must always be undertaken in the presence of the group, where that is understood spatially and temporally. Language, for example, is precisely the sort of thing that can be enjoyed alone in one's bedroom. Nonetheless, the meaning of language comes from its being a shared practice. There must be a language community, whether physically present or not, for my enjoyment of it to be possible. The

cultural saturation of the English language can make it hard for English speakers to comprehend the necessity of interlocutors for one's language to be meaningful. For those whose language is dying, or for those isolated from other speakers and media in their own language, however, it is very much a live issue whether they can enjoy the benefits of being part of their language community. While on some level they could still speak and write in their language, without the possibility of a listener they would not be enjoying the participatory good of language.[12]

A similar point can be made with regard to other cultural practices. Many rituals require mutual recognition within the group of the various roles that individuals play – think again of the initiate, or the medicine man. In some cases, these roles extend beyond the celebration itself and become definitive of the self. Without the mutual recognition that the fellow members of the community offer, that identity is in some important respects lost. For example, we can imagine a medicine man whose entire community has been assimilated into the broader society. While he could still go through the motions of his role, the structures of meaning from which his self-understanding is derived are absent. In all but the most trivial sense, he would cease to be a medicine man.

This example may seem somewhat exaggerated – after all, most group-differentiated rights do not revolve around the needs of medicine men. Nonetheless, it casts light on a phenomenon which is more diffuse, but no less important. Many aspects of the self – how we understand what it is to be a son or daughter, what social meanings different occupations carry, or how the notion of romantic love fits into a life narrative – are

derived from the communities within which we live. While these self-understandings are by no means inescapable, they are nonetheless constitutive of the self insofar as we do not choose to renounce or redefine them.

The value of these participatory goods comes from their role in self-understanding. What this means is that I can only stay true to myself insofar as I also stay true to those participatory goods that contribute to my self-understanding. It is on these grounds that group-differentiated rights directed at protecting cultural practices may be necessary. This brings us to the further claim that membership in the group itself, as well as the specific practices within it, is a participatory good. The shared meanings of the culture provide the background for understanding one's place in the community, and in the world. As such, I can only inhabit my culture, and enjoy its practices, insofar as there is a community of practitioners with whom I share the culture. The participatory model provides a potential justification not only for the protection of particular cultural practices, but also for measures which ensure the viability of the community of practitioners.

A caveat is important at this point. Talk of the shared meanings of culture, and of the benefits of participatory goods, may give the impression that groups have a definite, holistic horizon of meaning, or that there are certain practices we can single out as integral to the group. Both of these positions would be misleading. The argument I am putting forward turns on the extent to which *individual members* of a group take certain beliefs or practices to be constitutive both of the group and of their self-understanding.

For any given individuals within a group, however, there may well be divergences over which practices they take to be constitutive, and which meanings they assign to their group. Importantly, there is no definitive, objective answer as to whether they are correct. Two individuals within a given group may diverge over whether a given practice is central to their self-understanding (for example, whether wearing the hijab is an essential aspect of being a female Muslim), or they may differ in what the significance of that practice is (whether it serves as a visible marker of faith, or as an act of solidarity with fellow group-members). As such, the participatory model does not rely upon there being *any* practices that are constitutive of a group, if this is to be taken as meaning the group as a whole understands them to be constitutive. This amorphousness, which is so characteristic of groups, is nonetheless compatible with the stance that participatory goods are connected to the well-being of those members for whom they are (at least in part) constitutive of self-understanding.

Nonetheless, when it comes to moving from the identification of an interest at risk to the justification of a group-differentiated right, numbers are going to matter. If only one member of a group takes a particular practice to be constitutive of her self-understanding, the grounds for granting a group-differentiated right are going to be weak (though there may still be cases, such as conscientious objection, where they will be sufficient). While it is impossible to say with any precision what percentage of a group would need to consider a practice constitutive in order for a group-differentiated right to be justified, since this is a political question best addressed in context, a number of observations are warranted at this point. The first is that pointing to a practice as being constitutive of a

group is, on my understanding, going to be a shorthand way of saying that the practice is central to the self-understanding of a significant proportion of group-members. It does not imply that any practice is going to be definitive of 'the group', understood as a unit over and above the individual members. Following on from this, my account allows for change over time in the practices that members take to be constitutive. Since no practices are aligned with the group itself, but rather gain their meaning from the interpretations of current practitioners, my account avoids the reification of culture that can sometimes accompany appeals to participatory goods.

These observations allow us to contest one of the central objections Brian Barry makes against group rights. Barry opposes what he sees as the multiculturalists' claim that a practice 'simply in virtue of forming part of the group's culture, […] is essential to its well-being' (Barry, 2001: 252). For Barry, appeals to culture are mere anthropological statements of the status quo, and thus carry no normative weight. What he is missing is the fact that cultural practices may have a direct bearing on the well-being of individual members: insofar as their self-understanding is connected to the practices in question, to deny them access to the practice is to deny them expression of a part of their self.

Barry further tries to defuse arguments from culture on the grounds of a *reductio*, and this objection must also be addressed if the participatory model is going to be viable. What, he asks, are we to do about cultures whose central practices involve such heinous acts as cannibalism and genocide? We need not follow Barry into these admittedly remote possibilities. Many groups' self-understandings are arguably noxious, particularly those

that rely upon the inferiority of other groups: adherents to the caste system, for example, or members of the Ku Klux Klan.

There are two ways in which a response to this problem could be broached. The first would be to argue that such groups rely on false beliefs, and since false beliefs are harmful, members would in fact benefit by having their group dissolved or transformed in some way. I am sceptical of taking this approach, largely for pragmatic and epistemic reasons. If we were to take it upon ourselves to rid individuals of their false beliefs, we would find ourselves with an incredibly large re-education program (most of us presumably holding at least some false beliefs). We could attempt to narrow this programme by identifying false beliefs that are especially pernicious, and perhaps beliefs about others' inferiority would make plausible candidates. However, our stated motivation is to avoid the harms to the self – not harms to others – that accompany false beliefs, and it is far from clear that believing oneself to be superior is a grave harm to one's well-being. A far more plausible candidate would seem to be false epistemic or metaphysical beliefs – ones that fail to track the world in some significant way. But how then could we justify interfering in people's beliefs about social hierarchies, and not, for example, their beliefs about the world being created in seven days by a divine power, or being sung into existence by a giant rainbow serpent? Most of us, I hope, would balk at the suggestion that these ontological and religious beliefs are so grossly harmful to the self that they should be taught out of existence.

Given these problems, I feel it is better to concede that stripping an individual of her group identity, whatever that may be, does in fact harm her. As such, I hold that insofar as the practices of these groups form a significant part of their members' self-understandings, the members will be harmed through being denied access to the practices (or, we should add, access to the group itself).

Of course, acknowledging the harm involved in interfering with such practices does not as yet tell us anything about the appropriate political response to these groups. Even if we concede that group members are harmed through being denied access to their group's practices, this still needs to be measured against the harms committed against non-members. The two alternative models of group membership discussed above offer some guidance here. Where a group's beliefs lead them to physically harm others, we can appeal simply to the violation of universal interests at stake, as the nominal model makes clear. Where a group's beliefs lead them to position others as social inferiors, we can appeal to the relational model to show that such actions impose significant harms on others. Since we cannot only be concerned with the interests of the group members whose practices are at stake, but also with the interests of those the practices are directed against, my approach suggests the need to weigh the harms involved. The harms of cultural exclusion will need to be weighed against the harms involved in denying basic needs, or of misrecognition. In many (though perhaps not all) such cases, the appropriate response would be the suppression of just those obnoxious practices Barry is concerned advocates of group-differentiated rights are committed to protect. The triple-lens approach I am putting forward, by contrast, allows us to both acknowledge the harm

involved in cultural suppression, and justify such suppression from within an identity sensitive framework.

I noted above that the problem of obnoxious cultural practices must be addressed on a case by case basis. In order to make the appropriate calculus, much will rest on the esteem in which the contested group is held by the broader society, and the corresponding pervasiveness of their ideas. In the case of, say, the caste system, the belief in hierarchies of moral worth is clearly all pervasive and thus highly damaging to those occupying the lower rungs. We could also imagine, however, a small group of bigots whose views were resoundingly rejected by the broader society, and whose targets received sufficient recognition of their worth from all other quarters that the relational affects were minimal. For example, we might imagine a minority group whose self-understanding was tied to a belief in the inferiority of white males (perhaps in response to a history of oppression), and whose shared practices involved shunning such individuals and eulogising about their inadequacies. In a situation such as this, to interfere in the self-understanding of the group would cause more harm than would tolerating their discredited assertions of another social group's inferiority. This is because the harms associated with the relational model do not come about simply through being confronted with another who declares one inferior. A broader social context reinforcing this perspective seems necessary for the impact on self-respect to take hold. Since, at least in contemporary society, white males have consistent social reinforcement of their privileged position in society, it is highly unlikely that they will experience the psychological harms identified

in the relational model if they become aware of a marginalised group who proclaims their inferiority.

6. CONCLUSION

The three models I have put forward each provide a different argument for understanding the moral significance of group membership. The crucial distinction between the three conceptions I endorse lies in how they conceive of the interests requiring protection through group rights. For the nominal conception, these interests are conceived atomistically – group rights justified through the nominal model would protect universal human interests that have been denied to some due to their membership in particular groups. Under the relational conception, by contrast, the interest requiring protection is the self-respect of group members, insofar as that is tied to their identification with a group. The participatory model, finally, sees the interest to be protected in the enjoyment of common practices, such as language, culture, and history. Justifying group rights on the basis of this model would involve pointing to the connection between the interest in self-understanding, and access to the participatory goods that are necessary to remain true to this identity.

It should be stressed again that these conceptions are not intended to be mutually exclusive. There is no one way in which groups should be conceived for the purposes of determining the validity of rights claims, and nor is there a single way in which any particular rights claim would need to be cashed out. Any given rights claim may appeal

to one or more of the models to illustrate the potential harms from which protection is required. Returning to genocide, we can see that all three models could conceivably be invoked: the nominal model, as identifying the right to life that is being violated by virtue of the group membership; the relational model, as identifying the disrespect directed at all self-identifying members of the targeted group; and finally the participatory model, as identifying the loss of participatory goods that accompanies the decimation of a community. Similarly, we might understand language rights in terms either of the relational model, whereby the refusal to acknowledge the presence of other languages is read as a demonstration of contempt, or of the participatory model, whereby access to one's language is seen as a necessary aspect of personal identity. These models thus provide a starting point for the justification of group rights. They illustrate the multifaceted ways in which human interests are tied up with membership in social groups, ranging from susceptibility to discrimination, through to the need for a stable identity. In doing so, a framework such as this provides a necessary starting point for a theory of group rights. While not all of these interests will be sufficient to justify the imposition of duties that accompanies a right, achieving clarity on just what interests are at stake in group membership is a vital step in the process of justifying group rights.

A final observation is necessary in closing. I noted at the outset that, while the three models were to be understood as mutually sustaining, in the absence of the participatory model we would be led to the conclusion that identity was either a necessary evil or a harm to be transcended. Throughout the discussion of the participatory model I made repeated reference to culture, which may give the impression that only ethnic or religious

groups have participatory practices, and thus only ethnic or religious groups benefit their members. The participatory practices I refer to are, however, intended to be very broadly construed, including such practices as shared beliefs, attitudes or histories. As such, it is entirely possible that the participatory model can shed some insight on groups that are not commonly associated with culture, for instance gender, sexuality, or even race. The problem, though, is that this will require an identification and articulation of precisely what those shared practices are. If we baulk at the idea that African-Americans share attitudes, or that women share a history, or that gays share beliefs, then we are returned to the problem that the only grounds we have for advocating differentiated rights for these groups construe identification with the group as a potential harm, rather than a benefit. We are thus left with a choice: either accept that certain social identities offer no benefit for their bearers; or show which participatory goods the group provides for members.

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[1] This is the penultimate draft of a paper forthcoming in *Ethnicities*.

[2] In saying this, I reject the idea that group rights can be justified on the basis of the intrinsic value of the group, absent any reference to the benefit it brings to individual members. While space does not permit a full rebuttal of such positions, advocated most forcefully by Charles Taylor (1992), a few words are in order. I maintain that even if it can be shown that groups do have intrinsic value, it highly unlikely to be of sufficient value to justify the imposition of the kinds of duties necessary to protect cultures. For instance,

Taylor uses the intrinsic value of the culture to argue for a right to continued existence. If taken seriously, this right would impose duties on individuals not to exit their culture, not to marry outside their culture, and to raise their children in accordance with that culture. Such restrictions on individual liberty cannot be undertaken without appeal to the most serious of interests, and I do not see how the semi-aesthetic value Taylor appeals to can fulfill this role.

[3] While I do not offer a fully developed account of human well-being here, I take it that the kinds of interests I identify – self-respect, equal rights, self-understanding – are such that most accounts of well-being would incorporate them.

[4] I should make clear at the outset that in talking about cultural practices, I do not presume these to be in any way monolithic, static, or uncontested. As I hope will become apparent, defences of group rights do not need to appeal to any essentialist features of groups to gain traction. The first two perspectives achieve this by disconnecting the justification of group rights from any features of the group at all; the participatory model does invoke features or practices of the group, but the value of these comes through their meaning for the individual members, and there is no presupposition that this meaning is going to be identical or constant for all members.

[5] Peter Jones (1999: 354) makes a similar point: "we might assert the right of Protestants to practice their religion or the right of homosexuals not to suffer discrimination. However, relating a right to a characterstic that individuals share with others does not transform it into a group right. Individuals may share their Protestantism or their homosexuality with others but still hold their rights as individual Protestants or individual homosexuals. Indeed, we are likely to regard both of these rights as merely special instances of rights that are general to individuals – the rights of all individuals to enjoy freedom of religion and not to suffer discrimination because of their sexual orientation." It should be noted of both Miller and Jones that these passages are simply spelling out the position, and do not take this to be the only way in which group-differentiated rights can be framed.

[6] Miller here assumes that genocide involves the physical eradication of a people. When I refer to genocide throughout this paper I understand it in accordance with the United Nations definition, which includes assimilation and the expulsion of a people from a state or region.

[7] Even Barry, who is something of a bête noir for advocates of group rights, concedes that affirmative action may be necessary on grounds similar to those provided by the nominal model. See Barry 2001, pp.12-13.

[8] For the official overview of these events, see Wilson, 1997. For a conflicting view, see Windschuttle, 2003.

[9] Not all identity groups actually seek visibility (for instance the Amish), and in these cases special representation rights would be inappropriate. We should note, however, that even for these groups the lack of visibility corresponds with not feeling part of the broader community. In this case, unlike for many others, it is a feeling of exclusion that members themselves perpetuate. When considering self-excluding groups, though, care must be taken not to confuse cause with effect, since an understandable response to discrimination and exclusion is retreat from public space. Thanks to an anonymous referee for suggesting this example.

[10] Nancy Fraser is one theorist who openly acknowledges this conclusion, when she advocates what she calls transformative rather than affirmative recognition. See Fraser, 2003, pp.78-80. See also Appiah 1994.

[11] Charles Taylor (2002) often slips between discussion of the need for recognition, and demands for the protection of particular cultural practices. Joseph Carens (2000) similarly elides between the two.

[12] We might think that, like some latter day Robinson Crusoe, there is always the possibility of writing for posterity. It is worth noting, however, that even Crusoe could be reasonably sure that were his diary to be found there would be some English speaker for whom it would be meaningful.

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