

## Why and How Democracies Limit Pluralism<sup>i</sup>

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### Abstract:

Pluralism is best understood as the acceptance of multiple conceptions of the Good within one polity. The range of pluralism available in modern democratic states may appear to be very broad, but there are forces at work that restrict that range. Some theorists attribute these forces to aspects of liberalism. We argue that the problem is magnified by the demands of democracy. Pluralism is most severely constrained for traditionalist cultures within democratic polities. More 'embracing' versions of the pluralist idea, such as those of Galston, Tomasi, and others, can, in the long run, do very little to prevent this. The long-term pressure on these cultures, from democratic liberalism is magnified by two factors: first, the moral epistemology and ontology, of the democratic state; second, the state's role as cross-cultural adjudicator. The pressure against traditionalist moral epistemologies and ontologies regarding the Good will persist, unless the liberal democratic revolution itself is abandoned.

**Key Words:** pluralism, liberal democracy

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# **Why and How Democracies Limit Pluralism**

## **Outline / Contents**

|  |    |
|--|----|
| When Worlds Collide: Plural Communities in Liberal Democracies                                   | 1  |
| Introduction (1); Ontological and Epistemological Contradictions (2)                             |    |
| The Fundamental Tenets of Pluralist Democracies  | 4  |
| Liberal Society (5); The Conflict between Liberalism and Pluralism (7); The Spillover Effect (9) |    |
| Democracy: The Modern Political Envelope of Liberal Pluralism                                    | 12 |
| Democracy's Conflicts with Pluralism (13); Adjudication (15)                                     |    |
| In Conclusion  | 19 |
| Bibliography   | 20 |

# Why and How Democracies Limit Pluralism

Eduardo Frajman, Norman Frohlich and Joe Oppenheimer

*“Pius IX’s ... encyclical Quanta Cua of 1864 issued with the attached Syllabus of Errors declar(ed) that liberty of conscience, freedom of the press, and democratic government were anti-religious positions.”*  
(From Garry Wills, *The New York Review of Books*. XLIX, Number 19, December 3, 2002, p. 42.)

[The authors are inclined to agree.]

## When Worlds Collide: Plural Communities in Liberal Democracies

### Introduction

Few intellectual debates have persevered over the millennia and have remained as vibrant and unresolved as those having to do with the nature of the Good<sup>1</sup>. From Plato to Aristotle to Dewey to Popper, and on to Rawls, Dworkin, Galston and others in our times, the debate has continued. Numerous conceptions of the Good have been proposed and debated, and there appears to have been little in the way of decisive argument ruling out any of the ‘big ideas’ of the past.<sup>2</sup> The proponents have changed even though the candidates have not.

Every government and every religion carries within itself certain assumptions about the nature of the Good. The assumptions may be more or less explicit. Yet, these assumptions must be there, since all political regimes of governments and religions are at least partially based on normative principles. For governments, the Good may be the well-being of the emperor, the health of the body politic (viewed as an organic entity), the common good, the individual welfare of citizens, some combination of the above, or perhaps some other alternative. For religions, the Good may involve the purification of the soul, salvation, the strict following of commandments, the proper worshiping of God, achieving enlightenment, and so on.

The most rudimentary reading of history shows that the conceptions of the Good held by governments and their contemporaneous religions often fail to coincide. Consequently, conflicts between secular and religious authorities have been ubiquitous and pervasive. The resolution or management of those conflicts involves extraordinarily complex stories that contain both theoretical and contextual elements.

We do not propose to address those stories writ large, but to focus on the problem as embodied in the newly emergent political entity: modern pluralist liberal democracy. Pluralism can be thought of as the acceptance of social subgroups that organize their lives around differing conceptions of the

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1. The Good may be variously characterized as “the primary goal of living”, “the best way to lead one’s life”, “the ideal state of being (or of thought)” or a variety of other goals depending on subsidiary assumptions incorporated in the world-view in question. When not capitalized, the word “good” will assume one of its other, more common, meanings.

2. The usual contenders include welfaristic conceptions like the Utilitarians’, the deontological notions of the Platonists and Kantians, the virtue ethics of Aristoteleans and their modern interpreters, as well as half a dozen other, less popular, options.

Good<sup>3</sup>. Our particular purpose is to examine the problems that result when different conceptions of the Good collide in modern democracies.<sup>4</sup>

## Ontological and Epistemological Contradictions

On the face of it, the relatively peaceful coexistence of multiple ethnic and religious communities under the protection of liberal democracy appears a triumph of liberal democratic values. The reality is a bit more complicated. Several contemporary works focus on how the fundamental moral assumptions of liberalism and democracy place constraints on the scope of pluralism. These authors note that certain conceptions of the Good are in serious conflict with the fundamental norms of liberal pluralist societies. In particular, the liberal requirement that one respect alternative conceptions of the Good may be absent in some subcultures. Those groups or cultures are nevertheless permitted to inhabit the liberal space if they are willing to ‘play by the rules:’ that is, if they agree to respect the basic norms of coexistence imposed on them by society. This basic principle of tolerance, itself, may deleteriously affect those cultures and communities that dissent from this aspect of the liberal conception of the Good, when its members continue to wish to live within a liberal society.

But that is not the only problem. Recent literature has pointed to the issue of ‘spillover.’ Spillover occurs when the overarching principles of liberal societies insert themselves (in a subtle, though pervasive manner) into the civil life of the constituent subgroups in the society. As interactions within a liberal democracy increase in their scope, frequency and intensity, more and more individuals from various groups are exposed to characteristically liberal ways of relating and perceiving the world. Only rarely can a cultural or religious community, no matter how much it tries, avoid the effects of such spillovers.

After reviewing this literature, we argue that the authors do not sufficiently examine some of the implications of these problems. Regarding spillover, they tend to assume, with the possible exception of Joseph Raz (1986), that the set of *procedural protections* adopted by liberal political systems are responsible for the existence of spillover. The authors argue that one could reconfigure the procedures of these systems to make the problems disappear, or at least greatly diminish. We believe that these proposed solutions cannot have more than marginal success because the pressure on traditional communities stems, not only from procedures, but from the spillover effects of the underlying assumptions of liberal democracy. The first of these assumptions is the set of fundamental rights upon which liberal societies rest: such rights as freedom of expression, assembly and exit, security of the person, and so on. Those rights set the stage for many of the “spillover” arguments, but their deeper implications have not, we believe, been fully explored. The second set of assumptions inherent in liberal democratic thought are both less obvious and more problematic.

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3. These subgroups with different conceptions of the Good often coincide with ethnic and/or religious communities, but, for the purposes of our argument, they need not.

4. The belief that different moral and ethical world views are equally acceptable is what some have called ‘cultural pluralism’ (Gray, 1996). This is not to say that Gray or, for that matter, most relevant theorists, believe that *all* moral or ethical views are equally acceptable. Rather, they presume that among the elements in the set of moral and ethical world views that one could hold and which would be acceptable are many that are *incommensurable*. That is, there is no rational way in which one can judge one better than another, without some yardstick external to these views. As will become clear, our arguments regarding adjudication are based on a similar observation of pluralism that includes an element of incommensurability. However, we need not completely adhere to Gray’s characterization of cultural pluralism for our other arguments.

Those are the ontological and epistemological assumptions which lie at the base of the liberal-democratic conception of the Good.

Any form of political regime inevitably privileges certain conceptions of the Good. Liberal democracy is no exception. Recognizing and legitimating the individual voter as the appropriate judge of her own welfare implicitly involves some ontological and epistemological assumptions regarding the moral universe. It presumes that the world of individual welfare is both real and potentially knowable by each individual. That is not to say that every individual at every (or any) moment in time knows what is best for her. But it does imply that it is better for individuals to make judgments on what is best for themselves because they *can* have (better) knowledge about their own welfare, on average, than anyone else. Individuals do make those judgments. In legitimating those judgments, liberal democracy reinforces the normative assumption that individual welfare constitutes a major component of the Good. Hence, choosing a liberal democratic political regime puts in place certain implicit notions regarding the underlying moral, epistemological and ontological world views that are privileged in the society. Those notions have implications for both the processes of adjudication and the long term cultural development in democracies.

The impact of these ontological and epistemological assumptions on the fate of subcultures becomes evident when there are disagreements across subcultures which require adjudication. How might the adjudication process interact with subcultures in a pluralist society? For adjudication to be invoked, there must be some conflict of interest. We are concerned with those conflicts in which the subcultures hold different conceptions of the Good.<sup>5</sup> When the subcultures are very different, such conflicts can be based on differing ontological and epistemological assumptions. If there is to be adjudication either between communities holding different conceptions of the Good or between an individual and her community, the adjudication must proceed on some common evidentiary base. That common base requires that, in principle, the evidence be accessible to all parties. Empirical evidence has special status here. Other claims based on essentially non-observable notions, such as “the salvation of the soul” have a harder time in adjudicative processes between cultures that don’t necessarily agree on the soul’s existence or how to know of it. Freedom of religion allows individuals to engage in actions they believe have non-observable and non-inter-subjectively confirmable effects when they cause no observable harm. But when empirically observable harms are pitted against non-observable claims<sup>6</sup> there will be a tendency in liberal democracies to give greater weight to the observable. The result is a tendency to privilege empirical claims regarding observable individual welfare rather than purely metaphysical ones. To the extent that the actions subcultures desire rely on unobservable metaphysical consequences, the processes of adjudication in democracies will constrain those actions which cause observable harms and thereby impinge on the subculture’s ability to seek the Good as they see it.

Thus, while liberal democracies contain forces that foster pluralism even to the extent of spawning anti-liberal communities, there are counter-tensions that tend to limit social or religious aspects of those communities. To the extent that these tendencies and constraints exist, this dynamic poses a political and philosophical hurdle for democratic pluralists. In contrast to most political and moral theorists currently writing on these issues, we argue that these problems are unavoidable. The task for liberal democratic theorists is not to minimize the conflict, but rather

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5. A good example might be the welfare of a sick child in a Christian Science home.

6. Again consider a transfusion for a Christian Scientist’s child who will die without it.

both to acknowledge its existence and to provide a moral justification for the legitimacy of the underlying conception of the Good at the heart of modern liberal democracy.

### **The Fundamental Tenets of Pluralist Democracies**

Modern democracies are constituted around three main values: democracy (that social choice is to be based upon a voting procedure with a free and open discussion of the issues to be decided); liberalism (protection of individual freedoms such as those of belief, expression, and movement); and pluralism (the right of subgroups to define, for themselves, their own notions of the Good). The latter is the most recently agreed upon addition to democracy and it has complex political roots. That liberalism implies pluralism was well understood by John Stuart Mill (cf., *On Liberty*).<sup>7</sup> Socially, pluralism also stems from the large flow of minorities into Western democracies in the late 19<sup>th</sup> and 20<sup>th</sup> centuries; the impact of racist ideologies during World War II; and a deeper understanding of the nature of liberalism.

Pluralism is far more than ‘all people are created equal’ and the ‘melting pot’ or the ‘cultural mosaic.’ It is also more than the concern for differentiation in interests and diversity in memberships in civic associations as popularized by de Tocqueville and Dahl. Rather, as it is conceived today, it is the inverse of the melting pot: the coexistence of multiple cultural communities in one society.<sup>8</sup>

The cultural sub-communities within a pluralist democracy are at least partially defined and held together by collectively shared understandings of traditions, identity and morality. Often, the members of the communities are related by place of origin, ethnicity, religion and language<sup>9</sup> and these components serve to define each group’s conception of the Good. Accordingly, as Habermas notes (see Habermas, 1996 and the volume’s fine introduction by Cronin and De Greiff), a *universally* shared conception of the Good is difficult to insure in a pluralist society. Habermas argues that this occurs because each cultural enclave is allowed to have its own conception and we cannot assume the existence of an inclusive overlap of conceptions. Since identifying and communicating what different groups view as the Good are difficult, an agreement on the Good is unlikely. Convincing different groups that what the majority views as good *is* good for them will therefore also be difficult. Thus, decisions that may appear good and legitimate to the majority may appear to be anything but to some minority cultural communities. This is particularly true of groups largely delineated by religious differences. Religions are often based on a dual ontology – both the empirical world (world of the flesh) and the spiritual world are assumed to exist. The former is accessible via an empirical epistemology. The latter is accessible only via some other form of non-intersubjectively testable procedure, such as faith, introspection, or through the intermediation of some ‘priestly’ class. Devotees of different religions will likely not be able to agree on the Good, accessible in this way.

What then is the key to the decoding of the moral tower of Babel? Habermas has argued that it is respect for the speech act. Other theorists suggest that agreement on a conception of the Good

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7. Also, see Gray (2000) for an historical overview of how classical liberal thinkers dealt, or failed to deal, with the idea of tolerance.

8. This necessarily implies the understanding of cultural communities independent of the notion of a political state.

9. Perhaps it is for this reason that pluralism is often equated with diversity. When it is criticized as a ‘bad,’ it is often equated with anti-foreigner sentiments. We will not deal with the issues of immigration in this paper, but it should be clear that we do not see this as a threat to the liberal society.

may not be achievable, or even desirable. They often conclude that special efforts must be made to preserve the plural conceptions in the liberal society. Others still see a virtue in necessity and declare an intrinsic value in diversity itself: the more numerous the conceptions of the Good present, the better off the society is. As laudable as some of these positions may be, we argue that liberal democratic societies inevitably privilege a particular set of conceptions of the Good. This is so because these regimes reinforce a set of fundamental assumptions about both what actually exists morally (i.e. they reinforce a particular moral ontology), and how we can come to know it (a particular moral epistemology). Such privileging tends, in the long-run, to reduce the variance of conceptions of the Good in general and in the adjudication processes (very broadly defined). Further, the adjudication processes in a democracy facilitate the development of interpersonally understandable other-regarding behavior, and an agreement on a social ethic. It privileges an epistemology that is, of necessity, interpersonal.

To make this argument, consider the nature of a liberal democratic pluralist society in a bit more detail.

## **Liberal Society**

Although competing versions of what constitutes liberalism exist, some elements are central to virtually all conceptions. These include the primacy of the individual as moral actor, the importance of such elements as negative freedom, individual welfare, individual choice, and freedom of speech, movement, and exit.<sup>10</sup> To these one must add those characteristics that are implied by the core values. Here, primacy is placed on tolerance for others' conceptions of value as well as allowing individuals to make choices that lead to subjectively meaningful and fulfilling lives. Pluralism seems to follow from these basic tenets of liberalism.

Liberal societies are composed of individuals that hold different, and sometimes irreconcilable, views about what constitutes the Good and how to achieve it. In most modern incarnations of liberal societies, pluralism has grown as an implication of the basic belief that each individual has the right to choose her own view of the Good. This position has been defended both on epistemological and ontological grounds.

Some liberal thinkers follow Mill's belief, expressed in *On Liberty*, that there might be but one true set of moral principles. Of course, he noted that since we are incapable of knowing whether we have reached that truth, no one can proclaim with certainty any particular view to be true. Mill then concludes that one should extend this openness to modes of living:

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10. It is difficult to understand why exit is much less often remarked upon. If one is not happy with a local conception of the Good and the opportunities afforded where one currently resides, liberalism allows one the ability to move: to pick one's community. Entrance and egress is obviously a safety valve insuring a certain minimal freedom from social (or political) exploitation. This fundamental right of egress was not often considered until the genocidal entrapment of minorities by oppressive regimes during the wars of the 20th century. Being able to leave a society has subsequently been recognized by scholars as a way of preventing regimes from being too oppressive. At a lecture at the University of Maryland, James Buchanan identified this as a way of preventing a Rawlsian world from being overly rigid and exploitative. Of course, we must note there has to be a place to go: Hitler boasted that all the Jews would be free to leave if only the Allies would have them. At a meeting in the US, the Allies rejected the offer.

As it is useful that while mankind are imperfect there should be different opinions, so is it that there should be different experiments of living; that free scope should be given to varieties of character, short of injury to others.<sup>11</sup>

Most current liberal theorists seem to argue that one cannot easily justify one true conception of the Good. Instead, a number of incommensurable sets of values are equally justifiable. Judging whether one is better than the rest is impossible. This is perhaps due to the tremendous influence of Isaiah Berlin's work characterizable as 'value pluralism.'<sup>12</sup> They assume that some (though by no means all) values are simply incommensurable with others, and that there is no rational way of selecting one over the other. Gray (1996, pp. 43-44) points out that value pluralism may appear at three different levels. First, there may be irreconcilable tension among different values within a particular moral system: liberty and equality in the liberal conception, for example. Second, different incarnations of a particular value can create extremely complex dilemmas: for instance, freedom of speech and freedom of privacy often conflict, as do the ideas of equality of opportunity and equality of outcome. Third, whole moral systems often stand in opposition to each other. We are concerned with this third level.

The implication for liberalism, regardless of whether one accept Mill's or Berlin's position, is the same: liberal societies must not only protect negative individual freedoms, but they must also allow for the flourishing of many different and competing views of the world. Thinkers across the ideological spectrum put forth strikingly similar vision of what a liberal society should look like. Compare, for instance, Robert Nozick's vision of "Utopia"<sup>13</sup> to William Connolly's, a thinker who would have nothing to do with Nozick, version of a de-centralized, "rhizomatic" society in *The Ethos of Pluralization*. It is clear that in the current debate on pluralism and democracy disagreement on fundamental matters of morality is an unavoidable fact of modern society.

## **The Conflict between Liberalism and Pluralism**

A minimum requirement of pluralism is that each subculture in the society be permitted to define for itself its own notion of the Good. Although pluralism seems to flow naturally from the tenets of liberalism, the two are logically and historically independent and often conflict.<sup>14</sup> As Charles Taylor (1994) puts it, liberalism is a pursuit for "the politics of universal dignity" in which the goal is to achieve the equal treatment of all, while pluralism is the pursuit of "the politics of identity," in which each individual should be recognized as a member of a differentiated cultural community of equal standing. While liberalism requires that we respect something that belongs to everybody, pluralism demands that "we give acknowledgment and status to something that is not universally shared." Many problems that arise out of this dichotomous pair of goals cannot possibly be dealt with within this paper.<sup>15</sup> Liberal societies do not function in practice as they are conceived in theory. The weaker or smaller cultural subgroups within them usually bear most of the weight of the society's imperfections.<sup>16</sup> Here we limit ourselves to problems that arise out of the basic

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11. Mill, 1859, Chapter III, On Individuality, as One of the Elements of Wellbeing

13. "[A] wide and diverse range of communities which people can enter if they are admitted, leave if they wish to, shape according to their wishes; a society in which utopian experimentation can be tried, different styles of life can be lived, and alternative visions of the good can be individually or jointly pursued." Nozick (1974), p. 307

14. Morris (1998) contains an insightful discussion of the relationship between liberties, democracies and the state.

15. Particularly we shall put aside the extremely complex and important issues concerning the 'politics of difference' and the 'politics of identity.'

16. See Galeotti (1999) for a preliminary discussion.



structure of the liberal worldview; issues that arise in practice but are unavoidable consequences of the theory.

Clearly, it is possible for an authoritarian political system (e.g., an imperial one) to honor a great deal of diversity. Individuals in such a regime would be known by their membership in differentiated communities; even liberal sub-communities could be tolerated. The constraint on pluralism in such a system would be that all the constituent cultures would have to accept fealty to the authoritarian rule of the empire. Any political system, at a minimum, requires a degree of allegiance, and by virtue of that, the political vehicle for pluralism will always impose a requirement that can constrain the scope of pluralism. Communities unwilling to grant the allegiance required will fall outside the scope of what is acceptable. Liberal democracies are no exception. Again, not every possible conception of the Good is compatible with liberal, democratic principles, and this constrains what constitutes acceptable pluralism. Only those systems of values that do not reject fundamental individual rights, and that tolerate others' claims can possibly be accepted into the fold without contradicting the tenets of a liberal society. No liberal society can escape this limitation and remain liberal.

Contemporary philosophical debates on pluralism/liberalism often center on three themes: to what degree liberal societies follow the pluralist ideal, what constitute the constraints on pluralism in liberal societies, and whether these constraints can, or should, be changed. Rawls (1971), Dworkin (1985), and Habermas (1996) develop systems of moral justification for the adoption of liberal principles based on agreement between all citizens. They look for a justification of liberalism that is broad enough to allow different worldviews to thrive: even non-liberal ones. However, each justification of expanding the acceptable conceptions of the Good requires additional normative premises and so leaves out some other cultural possibilities. Romantics and communitarians such as Taylor (1994), Waltzer (1983), Etzioni (1993), Sandel (1982), MacIntyre (1981),<sup>17</sup> have argued that liberalism, even in the form that Rawls or Habermas develop it, is too individual-centered. Liberalism, in their view, gives primacy to individualist conceptions of the Good, to the detriment both of more collective pursuits and of the welfare of those members of society who wish to pursue them. Other theorists have become alarmed by what they see as a secularist bent of liberalism, creating a society of nonbelievers (Galston, 2002) or of fundamentalist secularists (Connolly, 1995).<sup>18</sup> Habermas, Taylor, and Connolly have all pointed out that because liberalism is a direct, though universalistic and secularist, offspring of the Judeo-Christian moral tradition, it cannot be equally hospitable to cultures structured upon completely different values.

Because of these criticisms (Mulhall and Swift, 1996), an important debate is currently underway as to how to achieve maximal pluralism under a liberal regime. It focuses on how, in actuality, a liberal society can increase (on an equal footing) the range of acceptable conceptions of the Good. In his later writings, Rawls (1993), along with Larmore (1990), Nagel (1991), Tomasi (2001), and many others have developed a theory of 'political liberalism.' This program advocates procedural and institutional changes to the polity. The changes are to permit the functioning of a liberal and pluralist society without offering a specific moral justification for it. The basic idea in these proposals is the adoption of procedures which are acceptable to all 'reasonable individuals.' The

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17. We imply neither that these thinkers' views are interchangeable, nor that there are no important disagreements among them. However, in relation to our argument, the positions taken by this group are quite similar.

18. Of course the rapid explosion of fundamentalist movements in the United States belies this, but we shall not follow up such empirical hints here.

proponents of political liberalism believe that by removing the moral justification for the creation of liberal institutions, people holding diverse conceptions of the Good will feel more comfortable participating in the public debate. In other words, they want to make the structures more welcoming to those who hold more 'traditional' beliefs.

This program has run into trouble from the beginning. Raz (1990) points out that political liberalism requires that all 'reasonable people' subscribe at least to the minimal principles of tolerance and individual choice. This is close to what Larmore calls a "minimal moral conception." The substitution of political liberalism in place of 'ethical' or 'comprehensive' liberalism does nothing to improve the fundamental fit with more intolerant cultures. To wit, since liberal societies place primary importance on individual choice – specifically, in this case, the option of an individual to choose to belong to a group whose basic conception of the Good she shares – it can be said that individuals who inhabit these societies ought to respect the basic tenets of liberalism and pluralism.<sup>19</sup> Gray (2000, p. 19) concurs, arguing that a "strictly political liberalism, which is dependent at no point on any view of the good, is an impossibility."

### **The Spillover Effect**

Philosophers who support liberalism *and* fundamentalist diversity (mainly the communitarians and others supporting 'identity politics') adopt a different strategy. Finding that they cannot define changes to the normative premises directly to do the job, they advocate modifying political institutions in manners all reasonable people can accept and into which each diverse subgroup can fit their own justification and conception of the Good. This does not imply that all members of the different communities must necessarily accept the moral validity of the principles of individual moral primacy or tolerance of conflicting views. It only requires that they respect the societal rules enough that they allow those who do accept these principles to lead their lives as they choose. It is here that a new problem appears. Some individuals and groups tacitly or explicitly agree to accept the societal precepts, even though they do not believe they are morally right<sup>20</sup> It is on that basis that they are welcomed into the liberal pluralist society. Nevertheless, they will constantly be exposed to a societal worldview that directly contradicts theirs. In time, this 'spillover' of societal values will encroach upon the distinct cultural enclaves. This can have a corrosive effect on those conceptions of the Good that are not compatible with the liberal and pluralist mindset. It is nigh impossible for any person or group to avoid being exposed to this worldview or remain completely immune to its influence.

In order to clarify how this 'spillover' operates we borrow a typology from Tomasi's book, *Liberalism beyond Justice*. Tomasi imagines a world divided into four kinds of 'alphabet people.' The 'A people' are those individuals who accept liberal pluralism fully, and who subscribe to one of the ethical models that fully justify it. The 'D people' are those who reject it in principle, and wish to impose an alternative worldview on others. Between them are both the 'C people,' and the 'B people.' 'C people' hold non-liberal or non-pluralistic world views, but accept the fact that they must tolerate others who do. 'B people,' are closer to the liberal worldview but need other sets of beliefs to give meaning to their lives. Fascists and religious fundamentalists, for example, are D

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19. Of course, in our not quite perfect world, individuals are not free to migrate costlessly to their chosen homelands. Hence, obligations of habitation must be based on such facts as place of birth.

20. Although, as Gray points out, some of these groups may make demands of the society in which they live using the same principles that they may not, as a general rule, accept (Gray 2000, p. 14).

people, if they actively try to undermine the institutions that allow a liberal pluralist society to function as such or force others to accept their beliefs. Fascists are C people if they do not accept the basic principles of the society but are not actively involved in subverting the state via illegal means. Tomasi argues, and we would tend to agree, that liberal societies today are comprised of a majority of B people, and sizable minorities of A and C people. D people must, by definition, be kept in check by liberal institutions. The measures must involve either limiting their activities through legal means (force, if necessary), or placing them outside the bounds of society altogether. No critic of existing liberal pluralism could reasonably expect to create an alternative version that would allow D people to function as they wish. Similarly, it is difficult to see how any form of liberal pluralism could be created that would be unacceptable to A people (short of perhaps the radical change that Connolly or some postmodern thinkers envision). Therefore, the question at hand is what the effect of liberal pluralism is on B and C people.

Tomasi argues, and we agree, that liberal pluralism places a heavy burden on C people, because of the spillover of the liberal culture onto all corners of civil society. Even if it theoretically respects all ways of life, the requirement to accept the principles of tolerance, equality, and the right of exit may itself constitute, or lead to an erosion of many C conceptions of the good. Religious groups such as the Amish and Orthodox Jews have attempted to prevent this erosion by separating themselves from mainstream society as much as possible, but even in such cases, there is often substantial exit by people who choose a more mainstream life.<sup>21</sup> The charge laid against liberal pluralism as a homogenizing force is, therefore, largely true. Liberal pluralist societies tend toward making an increasingly large majority into A and B people. This, however, does not mean that all individuals will hold the same beliefs. Such a homogeneous outcome might be caused by giving a particular set of beliefs and values hegemonic place in a particular society. Alternatively, one might hypothesize a contrary effect from the increase in the number of individuals who regard others' beliefs with tolerance and respect, on the one hand, and encounter the nihilism of modern liberal capitalist societies on the other. These tensions might actually result in the proliferation of new and different spiritual, religious, and moral outlooks; but one would always expect such outlooks to assume certain principles (i.e., the basic principles of liberalism and tolerance) to be true.

A number of thinkers have identified and discussed the spillover effect. In most cases, however, they have done so to further a particular alternative to liberalism, rather than to expose a problem inherent in the liberal understanding of the world. Gray, for one, pointed out that "liberal societies tend to drive out non-liberal forms of life, to ghettoize or marginalize them, or to trivialize them." He asserts that non-liberal ways of life "linger on in liberal societies" only "as shadows of their former selves" (Gray, p. 154). He does not explain, however, why or how this happens.<sup>22</sup> Taking his cue from this idea, Galston clarifies the point by arguing that "if we insist that each civil association mirror the principles of the overarching political community, then meaningful differences among associations all but disappear" (Galston, p. 20). "The liberal state," he continues, "cannot be understood as comprehensively neutral. Rather, it is properly characterized as a community organized in pursuit of a distinctive ensemble of public purposes" (Galston, p. 23). For that reason, the liberal pluralistic society should pursue "maximum feasible accommodation" for as many ways of life as possible. Galston is troubled by this lack of neutrality in the liberal state. He

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21. This is not to say that we predict that such groups as the Amish or Orthodox Jews will shrink or disappear altogether in a given amount of time. There are several factors that influence the size of these communities, such as high birthrates, immigration, and so on.

22. Crowder (1999) believes that Gray has in mind the 'McDonalization' prevalent in contemporary liberal cultures.

believes that diversity is an intrinsically important and desirable element of modern society and everything possible should be done to maintain it. In an effort to avoid a corrosive spillover effect, he advocates concessions to religious fundamentalist groups that many liberals would find unacceptable. In other words, he advocates giving as much leeway to non-liberal organizations as possible.

The tensions between liberalism and some cultural or religious groups are obvious. Some such cultures can be quite tradition-bound and yet may find a safe political refuge in a liberal society. This safety, though, is purchased at a steep price: the members (the young ones in particular) of the group may be seriously attracted to the many choices socially available but proscribed in their community. This could eventually lead to their choosing to remove themselves from their parent culture. Galston proposes changing existing liberal institutions in order to expand the acceptance of more subcultures with non-liberal world views.<sup>23</sup> But he is not willing to renounce universal adherence to individual rights. If, like many other liberal thinkers, he is reticent in providing a full list of the rights that should be protected no matter what, he does give the right to life and exit from any group a very prominent place in his book. We agree with Galston that liberal institutions do reduce the scope of pluralism. However, his argument for preserving pluralism is too optimistic (if one sees the acceptance of anti-liberal groups for the sake of diversity a positive thing). We disagree that allowing for different kinds of institutions, while insisting on only a small number of basic rights, will allow for the continued existence of many fundamentalist views. It is precisely the insistence on holding on to a set of inviolable individual rights that aggravates the spillover effect in the first place.

Taylor (1994), in a related vein, argues for the adoption (in certain places) of liberal institutions that cater to more collective pursuits of the Good. This would provide a supportive environment for cultures and religions that reject the possibility of individual happiness outside of a community. Like Galston, Taylor places certain universal principles beyond the authority of the particular culture or religion in charge to avoid the persistent control of one central “hegemonic culture . . .”: “As it turns out, then, only the minority or suppressed cultures are being forced to take an alien form. Consequently, the supposedly fair and difference-blind society is not only inhuman (because suppressing identities) but also, in a subtle and unconscious way, itself highly discriminatory” (Taylor, p. 43). Liberalism cannot possibly reflect a variety of cultures, but only those that arise from the liberal tradition, or at least from the Judeo-Christian tradition that originally spawned it (Taylor, p. 62). But, with all the problems he finds in liberal societies, he is also unwilling to divorce himself from the concept of the protection of individual rights. These rights should be protected *regardless of cultural difference* (Taylor, p. 61). In a sense, therefore, Taylor and the rest of the communitarian thinkers are not looking to replace the fundamental ideas of liberalism. They are only asking that liberal principles be allowed to accomplish their original promise: to create a space in which individuals can effectively pursue their own welfare.

Among the more traditional liberals, Macedo is the one that most clearly acknowledges the existence of a ‘spillover’ effect in liberal societies. That is, he recognizes that communities that do not hold liberal values (e.g., the Hutterites, fundamentalist Moslems, neo-fascists), likely will see their values erode over time due the “spillover” pressures. He does not, however, apologize for the limits that liberal societies place on the groups that live in it. He wants a “liberalism with spine.”

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23. His target appears to be fundamentalist religious communities, as long as these remain faithful to a minimal set of universal rights.

“Assimilation,” he states, “is an inescapable and legitimate object of liberal policy. It all depends on the justifiability of the values towards which institutions assimilate, and the reasonableness of the means” (Macedo, p. 470). Against those who argue that liberalism does not stand for any one thing, that it implies a ‘differentiated’ society, he correctly responds that liberal societies do in fact stand for something. By insisting on the presence of the exit option it “serves the cause of freedom and promotes moral laxity as well as a certain kind of individualism” (Macedo, p. 479). As a result, Macedo rejects conceptions of ‘perfect fairness’ (perhaps akin to Connolly’s). “Announcing an ideal of perfect fairness or neutrality of effect would, moreover, heighten group consciousness, group-based grievances, and political divisions. ‘Perfect fairness’ is also unappealing: it means being fair to reasonable and unreasonable views, to those who recognize the political authority of public reasons that can be shared with people who disagree and those who do not. [...] We should avoid a postmodern angst about our inability publicly to establish a comprehensive scheme of human values” (p. 484). Yet, after recognizing the existence of the spillover effect, Macedo does not follow up on its possible consequences. He concentrates on defending political liberalism, and does not seem to recognize that, in this sense, it is no difference from any other form of liberalism. He even goes so far as to call for “political respect for fundamentalists who acknowledge the political authority of liberal public principles” (Macedo, p. 487).

In sum, all of the thinkers discussed above identify the existence of the spillover effect mainly in order to justify adopting a certain version of liberal pluralism over another. We are not claiming that all of these theorists can or should be grouped together. Taylor has a number of profound things to say about the ways in which liberal societies discriminate against some cultures and religions that would not necessarily be acceptable to Galston or Macedo. Rawls’ political liberalism must be differentiated from the communitarian project. It is a fact that, in most cases, spillover, when identified at all, is mentioned as part of the critique of ‘conventional’ liberalism and then summarily discarded when it comes time to propose an alternative. There is a surprising lack of full engagement with the phenomenon, as if changes in the institutional framework of the society or the legal or educational systems could make it go away. Yet, it cannot be made to go away.

The liberal conception of the Good privileges individual rights, individual choice, and individual welfare (be they expressed and pursued in groups or individually) as basic moral considerations. Philosophers who remain committed to those rights, and who hold tolerance as the basic tool to coordinate the coexistence of varied cultural or religious groups, defend these values explicitly. The laudable idea of minimizing the ‘spillover’ effects should not overshadow a fundamental fact: Liberalism *is* at odds with many subcultures that reside within the liberal democracies of our time. Indeed, it is at odds not only with those that would be intolerant and illiberal. In the long run liberalism also slowly erodes those cultures with conceptions of the Good not centered on individual welfare. Of course, in the long run, one probably would want to change neither democratic liberalism’s tendency to spawn pluralist communities, nor its fundamental tilt toward an epistemology and ontology of the Good based on the welfare of the citizen (a la Hayek).

### **Democracy: The Modern Political Envelope of Liberal Pluralism**

Any attempts to achieve truly pluralist liberal societies will be hindered by the fact that the issues of subcultural conflict are political. Solutions must be worked out within the structure and biases of the political regime. Although there are historical precedents for pluralist liberal societies that are not democratic (e.g. the Ottoman Empire), democracy is the current political vessel for such societies. Thus, the privileged position that certain conceptions of the Good may enjoy in liberal

societies is further reinforced by the unavoidable fact that democracy has become the political handmaiden of modern liberty and pluralism. Democracy, like liberalism, does not provide a level playing field in the competition between different conceptions of the Good.

Democracy comes with its own values and presumptions. These furnish subtle and slow-acting limitations on attempts to provide more tolerance, smaller ‘spillovers,’ and greater pluralism. The procedures and methods of democracy are supportive of a particular moral epistemology and ontology. These implicit foundations of liberal democracy presume and privilege certain views of the Good and disadvantage others. Once this is layered on top of liberalism’s effects, these presumptions further impact the viability of a wide range of acceptable conceptions of the Good. To see why there is a further tendency for certain otherwise conforming subcultures<sup>24</sup> in a democratic pluralist society to be under pressure, one must consider two tendencies of democracy. The first is observable in the direct effect of the values implicit in democracy’s methods and how these affect particular subcultures. The second in processes of adjudication in democracies. These processes reinforce democracy’s ontological and epistemological biases which impinge upon certain conceptions of the Good.

### **Democracy’s Conflicts with Pluralism**

That certain rights inhere in the individual, is an integral aspect of the modern conception of democracy. For what is democracy if it does not involve some liberty? How can individuals reach meaningful collective decisions except by free and open debate? For democratic decisions to have any moral force requires a degree of fundamental liberty: freedom of speech, press, assembly, and so on. Although liberalism does not imply democracy, democracy does at least imply some liberties.

How does democracy relate to any particular notion of the Good? Democracy insures that political decisions are made by the people via some voting procedures.<sup>25</sup> The community’s choice is deemed to represent what is good for the community. But what is good for the community is decided by (or in a republican, or indirect democracy, it is seriously informed by) the decentralized choices of the individuals in the community. For that to make sense, it must be the case that the decisions are based on matters that can be potentially *knowable to the voter*. This bespeaks an implicit epistemology regarding the Good: no-one, in general is in a better position than the individual voter, to gain direct knowledge of what is good (at least for herself) based on observation, discussion, consultation, and inward reflection. This is not to say that the individual necessarily gains knowledge of the good. If the good is knowable at all, it is the individual’s right to seek it for herself or to delegate the authority to recognize it to someone with a particular expertise (a doctor, a politician, etc.). The democratic government creed deems the social Good to be a function or reflection of the citizens’ decisions and the decisions of their elected representatives.<sup>26</sup> Theirs is the power to debate and discuss and then determine.<sup>27</sup>

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24. By otherwise conforming, we mean those cultures which are tolerant of others and others’ rights. Hence, we are saying that the problem of ‘spillover’ goes beyond the demand for conformity with a liberal society’s presuppositions of liberties and rights.

25. These may be quite complex, direct or indirect, etc. The important thing is merely that the decisions are arrived at via votes freely taken, and that the agenda options are open to free debate and amendment.

26. The problems posed by the ‘social choice’ literature (Arrow, 1963; Sen, 1970) poses problems for this perspective. These problems lead to various reinterpretations of the claim being made here. Presumptions of probabilistic decision making on the part of representatives or voters permits a reintegration of standard arguments regarding social welfare and individual choice (see Mueller, 1989; Coughlin, 1988). Other paths are opened by Miller (1983) who argues that one

Since individuals may disagree about what is good for society, dissenting conceptions of the Good must be allowed even though they may not have realistic chances of being adopted. Indeed some proposals may be so ‘unpopular’ as to lead to a conception of the Bad – practices or situations that must be prevented or avoided. Nevertheless, democracy recognizes and legitimates the individual as the authoritative judge of her own welfare. Neither the application of an abstract metaphysics nor the intermediation of priestly experts is required.

Of course, there are relatively few things whose existence can be directly known by virtually everyone. Things that have this property are either generally observable singularities (e.g. the moon) or general experiences that we share in common (such as joy or pain). Some natural moral characteristics with this property are the basic components of an individual’s welfare – they are a part of the human condition.<sup>28</sup> They require neither expert testimony (such as is required to establish the existence of sub-atomic particles or microscopic carcinoma) nor divine revelation. Potentially, it is the voter as every-man, or his elected representative who has access to them. This epistemological presumption forms the basis of a realist ontology. And this welfare is then given an implicit moral status. The justificatory structure of democracy is built upon this, in that individual welfare is assumed to be directly tied to the voters’ considered choices. That votes are counted in a decision process and determine a society’s definition of the Good reinforces and legitimates a certain underlying conception of reality. It implies an individualistic epistemology, and a moral ontological presumption regarding the status of individual welfare.

Let us be clear. This process of social aggregation via votes gives each citizen the authority to evaluate her own welfare. By legitimating the vote, the state empowers the individual.<sup>29</sup> The vote is the reflection, at least in part, of the individual’s expression of her own welfare as well as a demarcation of its fit into the larger fabric of social welfare. That expression of perceived welfare is expected, legitimate, and acceptable. And, to the extent that the issue at hand deals with matters pertinent to the individual’s particular cultural community, the vote also carries with it the individual’s articulated acceptance or rejection of that subgroups’ understanding of the Good.

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ought to conceptualize the relation between social choice and social good not in terms of any one decision but rather by the trajectories of the policy paths. Sen (1966) pointed out that a general restriction of values held by the citizenry would alleviate the problem. Later, Arrow (1977) himself argued that a shared conception of some forms of justice can circumvent the social choice problem.

27. This function is often presumed, incorrectly to be one which is additively separable in most modern consequentialist theories. Such an assumption amounts to a notion of ‘utilitarian’ additivity of welfare. Such an assumption, ruling out all synergies, and team interdependencies among members of society, is perniciously wrong (Oppenheimer, forthcoming).

28. The other moral ontological pole available to democrats, the ‘emergently observable’ singularity, would be the social will, as understood and argued for by Rousseau. Its singularity, in Rousseau’s formulation, is such as to allow all to perceive it if they but put on the right lenses. It relates to the conception of the Condorcet Jury theorem: that the voters are helping each other collectively to arrive at the ‘correct’ or ‘right’ outcome. But in the light of Arrow’s (1963, p. 81+), and, derivatively, Riker’s (1982), arguments some would see its connection to democratic procedures as an oxymoron: a chimera of ill-formed argument. We don’t need to take a position on this debate.

29. This is a bit of an overstatement. Obviously, the empowerment is limited by the structure of the agenda and the resources made available beyond the vote, in order to persuade, cajole, etc. others. And if there is considerable asymmetry in the holdings of resources for communication, it may well be that individuals are given neither sufficient information to know their ‘real welfare’ interests nor sufficient resources to protect these interests.

Of course, differences of opinion regarding the Good are to be expected, and can lead to political disputes. The basic democratic ontology and epistemology do not guarantee that knowledge is acquired or that, given a certain level of information, all will agree at any point in time. On the one hand, individuals in one community may wish a different conception of the Good to prevail, or may wish to permit or restrict activities in a manner more in keeping with their own desires and life plans. On the other, an individual in a particular community may dissent from a prevailing belief within that community. In either of these cases, the very nature of democracy permits public discussion to occur, although it in no way guarantees one outcome rather than another.

What is insured by the properties of liberalism is that the individual in a particular subculture, who is not in agreement with (or is oppressed by) the social mores associated with that community and its conception of the Good, has options. He or she may speak, organize, and attempt to get notions of the Good that she finds more congenial onto the political agenda. By voting and other political actions, she may seek to have changes explicitly adopted by the society. Failing that, she may seek adjudication of a potential dispute between her and her cultural community to allow her to pursue her personal view of the Good. As a last resort, the individual is free to leave the subculture, and become a member of another community.<sup>30</sup> These challenges to the pluralist agenda come to a head in the adjudication processes of a democratic system. There pluralism, in the sense of multi-cultural visions of the Good, suffers another serious challenge.

## **Adjudication**

When an individual believes that the community is impeding her pursuit of her personal conception of the Good, a liberal democracy affords that individual a chance to seek correction via adjudication. What are the constraints on such adjudication?

Virtually by definition, a pluralist society, honoring its heterogeneity, must insure that it does not *arbitrarily* overrule any one subculture's or individual's understanding of the Good when it comes in conflict with other conceptions of the Good. Yet the judicial authorities need a means of adjudicating among competing claims regarding the Good in a manner that has the best chance of generating the general acceptability of the judgment. To preclude arbitrariness, the judgment must rely upon taking evidence. The evidence must be as accessible to all parties as possible. Notwithstanding some deep philosophical difficulties there is general agreement in adjudicative processes that observable actions, consequences, and effects can be entered into evidence. Certain non-observables, (such as "state of mind") which can be inferred directly by the application of common knowledge, accepted theory, or experience can also be entered. Indeed, such relatively abstract effects such as "a chilling effect" can be inferred on the basis of past experience with certain observable phenomena. Empirical evidence of this sort is the mother's milk of litigation. Such evidence is both accessible by all and acceptable. But what does this accessibility and acceptability rely upon, if not upon some shared epistemology and ontology regarding what exists as evidence, and how we know it? Those are the same assumptions which lie at the heart of the legitimation of the democratic decision process.

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30. It is only fortuitous, though it is interesting, that these relate nicely to the concerns of Hirschman in *Exit Voice and Loyalty* (1970).



The evidentiary requirement of liberal democratic systems stands in contrast to other possible forms of adjudication, such as those one could imagine in an imperial setting. Perhaps, in past times of pluralist empires, subgroups were permitted to handle their own affairs and inter-group adjudication could be done on an imposed basis (the right of the imperium to determine the rules without local input). Without the liberty of movement and the elixir of democracy, there need be no cultural bias toward a realist empiricism regarding the Good. In an imperial system, the emperor may be ‘free’ to tilt toward any one side in a dispute between cultures, and remain unquestioned. But adjudication in a liberal democratic pluralist system must rely on more input than the conflicting conceptions of one or another community. In a democracy, adjudication requires the interpretation of citizen rights and counter claimed obligations.

As we have argued, intersubjectively accessible, empirical evidence is necessary, desirable and admissible in adjudications. But when cultures differ on their ontological and epistemological presuppositions, the different parties may wish to introduce what they consider to be evidence, which is not intersubjectively accessible. Claims about certain actions leading to the “salvation of the soul” or “entrance into paradise” may be “real” or “justified” from the perspectives of different cultures, but they cannot be credited as evidence when foundational opinions differ. At such junctures the fundamentally different ontological stances of liberal democracy and some religiously based or traditional subcultures come into conflict. The dual ontology of many religious groups, which separates the world of the empirical and the world of the spirit, spawns a non-empirical epistemology for the latter. For such groups, claims regarding what is good at times are based on non-empirical evidence: divine revelation, mystical experience, scripture, purity of the soul, and so on. When the group justifies the appropriate (or perhaps even required) action on the basis of a non-observable metaphysical claim, and the action implies an observable harm to a second party, the empirical bias of democratic ontology and epistemology is brought to bear. Intersubjectively accessible empirical evidence is given different status in adjudications than empirically inaccessible claims based on tradition and culture.

Consider, for instance, the case of *Sherbert v. Verner* (1963).<sup>31</sup> A woman was removed from her job for refusing to work on the Sabbath and was fired when the South Carolina Employment Security Commission found that she had no compelling reason to refuse to work, despite her being a member of the Seventh Day Adventist Church. Lower courts supported this decision. The Supreme Court subsequently revoked this decision by finding that the woman’s right to practice her religion trumped the employer demand that she work on that particular day. The majority decision of the Supreme Court asserted that only two questions were considered relevant in deciding the fate of this woman: “First, did the State’s decision to deny her benefits place an ‘infringement’ on her constitutional right to practice her religion? Next, did the State’s decision protect a compelling State interest?” No consideration was given to the value that the woman placed on the particular religious practice, nor on the possible benefits of following it. There is simply no way the court can rule on the basis of those issues. Only a religious right and the empirically identifiable harm to others are considered. Similarly, in the case of *Employment Division v. Smith* (1988), the two counselors fired for smoking peyote as part of a religious ritual could only appeal to their constitutional right to practice their religion. They could simply not

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31. “*Sherbert v. Verner*” 374 U.S. 398 (1963). While our examples here are from higher courts, authoritative adjudication by the state takes place in a wide variety of venues. We use these only illustratively.

express the personal or religious significance of ingesting the drug. The Court's decision as to whether these individuals were rightfully terminated, and whether or not they should receive unemployment benefits, was based purely on the weighing of an assumed individual right, on the one hand, and the observable or quantifiable damage done to society at large, on the other. Implicit in these decisions is the notion that any substantial identifiable harm would trump the religious right - no matter how dearly held or central to the religion in question.

What do these cases imply? Here, the right to practice religion is accepted but the (metaphysical) claims of welfare associated with that right are not admissible. On the other hand, the potential empirical harms to the rest of society are entertained. Thus, there is a tendency to privilege evidence bearing on the *empirical* welfare of the individual(s) as opposed to their religious welfare. In other words, in the adjudicative process, liberal democracies tilt towards a realist ontology distributed at the individual level and an empiricist epistemology regarding conceptions of the Good. This privileges the authoritative voice of the individuals concerned with empirical (broadly understood) aspects of welfare, and undermines the claims of those who stand for, or would protect, spiritual or metaphysical claims. This does not mean that individuals making demands of the system will necessarily be ignored or discriminated against simply because they hold a conception of the Good based on spiritual or metaphysical claims. The point to be kept in mind is that, when adjudication is called for, the metaphysical claims are weighed against evidence of empirical ones. The latter are demonstrable, often quantifiable, and sometimes even dramatic, while the former are not necessarily interpersonally communicable.

How intrusive can a liberal democratic state be regarding individual and group practices? In general, there will be limits that are historically and culturally imposed on the areas intruded upon by the state. A culturally homogeneous democracy might impose behavior conforming to the prevailing conception of the Good. For example, it may mandate prayers and other religious observances in school, dissimilar treatment of male and females etc. However, when the state confronts a pluralist population, such actions are more difficult to justify because of the impossibility of producing empirical evidence of the good which is claimed versus the harms which are empirically demonstrable. This empirical bias flows from the ontological and epistemological presumptions necessary for a pluralist democracy to make sense.

Given that pluralist liberal democratic societies seek to have the adjudication viewed as legitimate to the larger society the results must be *cross-culturally* accessible.<sup>32</sup> This dynamic implies that adjudication will tend to favor intersubjectively accessible evidence that will be welfaristic, and based on empirical evidence. Where observable harms to others are counterpoised to metaphysical benefits to some member(s) of a subculture, rulings will tilt towards reducing the observable harms. Thus, it seems that in a liberal pluralist democracy in addition to the primacy of the individual as the judge of her welfare, adjudication will serve to color the nature of the outcomes.

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32. Of course, in all societies there will be some (cultural) limitations as to what is accepted as conceivable variations on the nature of the Good. And so pluralism exists on a continuum. One relatively certain severe constraint is that of a theocratic society. In such societies, the notion of the Good is left open for definition to the religious authorities. As such, the degree of pluralism will be particularly constrained given that the content of what we refer to as religion is most often precisely about the definition of the Good. A democracy can be constrained by theocratic rules, as in Israel. But it should be clear that the argument here is made regarding situations without such theocratic constraints.

Cultural claims that the Good does not have empirical referents (i.e. are metaphysical – as is often the case when they are religious) are disadvantaged. In any liberal democratic pluralist society, such arguments are likely to be increasingly narrowed in their accepted (legal and practical) scope. Judicial and quasi-judicial deliberations generate pressure toward the development of a realist ontology and an empirically based epistemology for welfare claims. This implies the existence of pressure towards the secularization of the state,<sup>33</sup> at least in terms of the characterization of the Good.

Let us insist, however, on the point that there is no deliberate exclusion of particular conceptions of the Good. Rather, it is the manner in which deliberation takes place that leads to the effects we note. Courts may, and in many cases do, rule in favor of a religious individual or a cultural group over a secular individual or group. But the decision is made solely on the grounds of protecting individual freedom and autonomy so long as the consequences which follow are empirically verifiable or at least intersubjectively understandable and not pernicious. The inclination toward a secular world view is subtle though often incisive.

### **In Conclusion**

Our arguments reach the same conclusions as many of the writers cited above: there is a tendency for the liberal democratic state to impinge upon the notions of the Good held by subcultures within the democracy. But our arguments differ significantly from theirs. Others attribute the erosion of subcultures to a sort of drift or spillover of the liberal values into the supposedly neutral and pluralistic social realm. It is a gradual eating away at the periphery due to unavoidable contacts between the sub-culture and the mainstream: in daily life, via the media, the schools, the ambient culture, and so on. We agree that this effect exists, however, we identify a much more formal and overt avenue of attack by the mainstream against peripheral cultures. Our position is that the erosion is enhanced as an inevitable consequence of the structural ontological and epistemological underpinnings of liberal democracies. The legitimating values and institutional procedures in democracies load the dice against more inclusive notions of the pluralist ideal. And the need for, and the nature of, the adjudicative process in a democracy is a second mechanism for the subtle subversion of visions of the Good that are at variance with liberal democratic norms.

The manner in which the erosion of the values held by non-liberal communities takes place, via formal adjudication as opposed to informal spillover, has its own implications for the resulting political conditions. There are three ways in which adjudicative change is different from spillover change. First, whereas spillover is often implicit and particularistic, adjudication is explicit. When a young Moslem girl sheds a veil in her school because she wants to “fit in” it is an individual decision taken in response to no particular explicit action of the state. But when a young Moslem girl is the object of a judicial proceeding to prevent her parents from having her subject to female circumcision, the resultant ruling is public and generalizable to any other Moslem girl who wishes to assert her right. Moreover, that right is likely to be backed by the

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33. For reasons completely different to those outlined by Connolly. In our argument, this secularization is inevitable, the logical consequence of democratic principles, instead of the reflection of the hegemony exercised by a particular group. It is not difficult, however, to see how these two positions may be synthesized; given, of course, that Connolly abandons his utopian rhizomatic alternative.

full coercive power of the state, and to be seen as such. A second difference is ‘non-reversibility.’ In the former case, the decision is easily reversible – if the student changes her mind and wants to don her veil again, or if her parents convince her, she is free to do so. The same is not true of the court ruling forbidding genital mutilation. In the latter, a binding precedent is set, for all individuals in the society; the undermining of certain values proceeds in a ratchet-like manner. Finally, adjudication publicly pits the legal power of the state against the moral authority of the culture and pronounces in favor of the secular authority, thereby both limiting the real and perceived authority of the latter. Where religious practices imply identifiable physical or emotional harm, they are at risk in the adjudicative sphere and are likely to be challenged. Indeed, it should be noted that it is explicitly those religious or cultural practices which can be shown to imply physical harm which are at risk in liberal democracies.

In the long run, the resulting society is not likely to be the homogeneous and universally secular nightmare that Galston and Connolly warn against. Rather, differences will remain, perhaps even multiply, in light of the almost endless options available to individuals: be they religions, spiritual communities, cults, radical political movements, and countless others. But all of these different ways of life and conceptions of the good will fall within a set of parameters that sanction what is ‘acceptable’ from what is not. Some of these parameters, as Galston shows, must be explicit: freedom of speech, of worship, and of exit must be openly protected. Others, we believe, need not, but that does not make the processes which tilt in their favor less powerful. As a cluster, they may be as vital to the survival of liberal democracy as are the basic freedoms that all liberal thinkers agree must be protected.

The conflict between liberal democracy and non-liberal or non-democratic cultures and groups cannot be eliminated just by making the liberals more ‘tolerant.’ Together, spillover and adjudicative encroachment form a powerful duo that seems likely to eat away at divergent notions of the Good in a pluralist society. It may be possible to limit the force of the first, as some have argued, but the second is more difficult to control. It is lodged in the very fiber of liberal democracy. Defenders of liberal democracy should not seek to deny these forces. Rather, they should affirm the moral basis of the liberal democratic state. Democracy’s reliance upon empirical principles plus its granting of moral force to individual judgments and welfare should not be foregone for the sake of expanded pluralism

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