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Chapter 8

Where do we go from here? Lessons, and questions, for political philosophers
Introduction

‘Protection, therefore, against the tyranny of the magistrate is not enough: there needs protection also against the tyranny of the prevailing opinion and feeling; against the tendency of society to impose, by other means than civil penalties, its own ideas and practices as rules of conduct on those who dissent from them; to fetter the development, and, if possible, prevent the formation, of any individuality not in harmony with its ways, and compel all characters to fashion themselves upon the model of its own.’

John Stuart Mill’s principal concern in On Liberty was to address the oppression visited upon individuality through public opinion. His case for liberty of thought and expression as the central liberal institution was that it created the conditions that could thwart such oppression. Free speech was necessary to forestall the deterioration of democracy into a softer, more insidious ‘social tyranny’. The findings of this thesis suggest that even under liberal-culturalist conditions, however, which arguably stand closest to the ideal envisaged by Mill, public opinion still can be a force that marginalizes individuals differing from the norm, especially if they are members of minority moral communities. Indeed, these findings show that freedom of speech may primarily be useful for the majority to criticize such minority moral communities, and that it is of little avail to those of their members who wish to protect themselves against the imposition of its ways by the majority. For their protection, freedom of conscience remains indispensable.

This dissertation research analyzes parliamentary debates in order to determine how certain liberal values bearing on individual freedom, religious liberty, and cultural diversity are currently interpreted in the Netherlands. Besides supplying ample material for this analysis, the debates themselves proved to be an object lesson in the practice of liberalism, showing how different interpretations interact and collide and the dynamics inherent therein. As such, the findings of this research should be of interest to students of political philosophy in general and liberal political philosophy in particular. In this final chapter, therefore,
I will briefly revisit the theoretical beginnings of chapter 1 in order to reexamine certain central tenets of liberal theory in light of the findings of this research. These observations, it should be borne in mind, are partly speculative in nature, raising questions for, rather than passing judgment on, theory.

**The social embeddedness of reason as a burden of judgment**

Framework liberals such as Larmore and Kukathas assume, in line with Rawls, that the central task of liberal theory is to answer the question ‘how citizens, who remain deeply divided on religious, philosophical, and moral doctrines, can still maintain a just and stable democratic society.’ Underlying this question is the contention that the free exercise of reason does not tend towards converging, but rather towards diverging moral beliefs. While this may be true with regard to reason freely exercised, however, it perhaps shines too positive a light on reason as generally exercised. For in practice reason is hardly ever exercised in isolation from, but in relation to society, and more often than not its shape and its products are strongly determined by that society. This in itself is a magnificent ‘burden of judgment’, which, unlike those burdens of judgment recognized by Rawls as stimulating the divergence of moral beliefs, may more often stimulate their convergence, a point to be returned to below. Indeed, recognizing the social embeddedness of reason goes a long way towards explaining why the pluralism which framework liberals, as well as Rawls, seek to accommodate is essentially a pluralism of moral communities, not of individuals. It also helps to understand why, despite liberal institutions highly conducive to the free exercise of reason, in densely populated, urbanized liberal societies such as the Netherlands the result of that exercise may not be more diversity, but precisely the opposite.

The Netherlands, it is clear from the preceding chapters, qualifies as a liberal society. Its commitment to liberalism is hybrid, as that of most actual liberal societies, in the sense that it is committed to both autonomy and the freedom of conscience. In theory this hybridity should leave ample room for diversity, even if the case of a country such as the Netherlands, which has been found to tend towards liberal culturalism. Autonomy is

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4 This is not to say that reasoners do not reason individually, but that their intentional mental states are influenced by the society they keep.
5 See *supra*, chapter 1, 34.
a second-order capacity to revise one’s conception of the good if it is found rationally wanting; a society converging on the value of autonomy need not converge on any particular set of first order moral beliefs. But even though in theory a society consisting predominantly of autonomous individuals may harbor any number of diverging conceptions of the good, the findings of this research strongly suggest that in practice such a predominantly liberal-culturalist society will tend to further convergence of its moral beliefs. There are two reasons for this convergence on first order moral beliefs in a liberal-culturalist society, I believe, both relating to the social embeddedness of reason identified above. The first I will call the ‘presumption of dogmatic belief’ that is accorded to moral beliefs that are at odds with those of the majority. The second is the imperfection of autonomy.

**Public justification and the presumption of dogmatic belief**

The presumption of dogmatic belief is not an element of liberal-culturalist theory, but it may be a consequence of its application. It is a social mechanism that conceivably develops in liberal-culturalist society as follows. A society committed to liberal culturalism promotes a disposition of autonomy in its members. This disposition involves a tendency to critically scrutinize one’s own beliefs and to revise them if this is found to be rationally necessary in light of one’s other values, desires or beliefs. Because the goal is to filter out false beliefs, an autonomous individual will not hesitate to subject his beliefs to the critical scrutiny of like-minded others, making the search for truth a collective endeavor. This general tendency in liberal-culturalist society to submit moral beliefs to intersubjective, critical scrutiny puts pressure on individuals not so disposed to justify themselves to the liberal-culturalist majority. If they refuse to do so for whatever reason, the liberal-culturalist can interpret this unwillingness as a denial of the fallibility of those beliefs. This in turn may prompt the dismissal of such unconfirmed moral beliefs as mere dogma, and the holder of those beliefs as dogmatic, and therefore as unreasonable.

Chapter 6, in its analysis of the Ritual slaughter debate, provided evidence of the dynamic described above. As argued in the previous chapter, the demand that those deviating from the norm justify themselves in terms accessible to the majority effectively comprises a limitation of their freedom of conscience, whether they choose to act upon the demand or not. It stands to reason that the dynamics of public justification described
here are not limited to liberal-culturalist societies, but obtain where- and whenever a minority is called upon to justify its beliefs in terms designated reasonable by the majority. This has direct repercussions for the pursuit of what Gaus calls ‘public reason liberalism’, i.e. the accommodation of pluralism by identifying

‘an agreed-upon public judgment or public reason that allows us to overcome the disunity and conflict that would characterize a condition in which each followed her own private judgment or reasoning about morality and justice."

Though such ‘public reason liberalism’ is associated primarily with Rawls and may therefore be thought to be especially reminiscent of framework liberalism, Gaus argues that the search for public reason is actually implicit in much, if not all, of liberalism’s historical development. Indeed, the above observation of the dynamics of public justification at work in a predominantly liberal-culturalist society provides substance to this claim. It also demonstrates, however, that to the extent that public reason is informed by the normative ideals of the majority, the demand for public justification may only serve to disguise and legitimize the privileged place of the majority’s view. If the goal of liberalism is indeed to accommodate pluralism, appeals to public reason should therefore be treated with caution, especially if public reason is informed by normative ideals of public justification.

The most important difference between framework liberalism and liberal culturalism, then, with regard to public reason is one of scope; framework liberalism attempts to limit the scope of the political, in which public reason obtains, to those matters which truly are of public concern. Framework liberalism thus distinguishes public reason from nonpublic reason. Liberal culturalism, however, given its commitment to rationality and the critical scrutiny of beliefs, makes no such distinction. Failing such a distinction, any topic or belief is a potential object of public deliberation in liberal-culturalist society. As a consequence, the scope of public reason in liberal-culturalist society is unbounded, hence the public to private direction of constraint of liberal culturalism.

The public to private direction of constraint in liberal-culturalist societies is the consequence of liberal culturalism’s commitment to autonomy

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7 Idem.
and the critical, rational scrutiny of beliefs and opinions entailed in that commitment. Given the presumption of dogmatic belief described above, the refusal of minority moral communities to play by the liberal-culturalist rules of justification is of no avail to them, as it will only result in their dismissal as unreasonable, thus furthering their marginalization. At the same time, the presumption of dogmatic belief isolates the majority from criticism from without, thus reinforcing its commitment to its own (partial) comprehensive doctrine. As a result of these twin processes of marginalization and isolation, liberal-culturalist society may actually converge on its first order moral beliefs, despite its nominal commitment to autonomy. This tendency to convergence is strengthened by a second, related characteristic feature suggested by the practice, if not the theory of liberal culturalism, namely the imperfection of autonomy.

**The imperfection of autonomy**

The central value inspiring liberal culturalism is individual autonomy. Aspiring to autonomy, however, is not the same as achieving it. The imperfection of actual autonomy is caused not only by the strengths of the actual desires and beliefs individuals have, which may be more difficult to revise in practice than theory would have it, but also by the imperfection of the very capacity for critical reflection through which autonomous man is supposed to investigate those desires and beliefs. This imperfection and its repercussions may usefully be approached by way of Rawls’s ‘burdens of judgment’.

According to Rawls, imperfections in man’s use of reason are key to explaining the existence of ‘reasonable pluralism’, i.e. the simultaneous existence in liberal society of a diversity of conflicting yet equally ‘reasonable comprehensive doctrines affirmed by reasonable people’.8 ‘Burdens of judgment’ is the term with which Rawls identifies a number of inherent limitations in the use of reason as a means of reaching shared judgments between reasonable persons.9 These burdens of judgment

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8 Rawls 2005: 64.
9 Rawls 2005: 54-57. Gaus summarizes the burdens of judgment as follows: ‘1 The evidence is often conflicting and difficult to evaluate; 2 […] even when we agree on the relevant considerations, we often weigh them differently; 3 because our concepts are vague, we must rely on interpretations that are often controversial; 4 the manner in which we evaluate evidence and rank considerations seems to some extent the function of our total life experiences, which of course differ; 5 because different sides of an issue rely on different types of normative considerations, it is often hard to assess their relative merits; 6 in conflicts between values, there often seems to be no uniquely correct answer.’ (Gaus 2003: 14).
figure in Rawls’s political liberal theory especially as an explanation of reasonable pluralism, and therefore as an explanation of the divergence of first order moral beliefs between moral communities in liberal society. What these burdens of judgment do not explain, however, is why, despite these very burdens, there exists a convergence of first order moral beliefs within moral communities. This convergence, it seems, according to Rawls also, has not so much to do with reason, but with ‘prior loyalties and commitments, attachments, and affections’ incurred by individuals in the moral communities in which they happen to be born. What individuals believe, in other words, depends in larger part on the company they happen to keep, than on their use of reason.

Liberal culturalism, of course, is not committed to any particular set of first order beliefs, but to autonomy, i.e. to the deliberate and critical use of reason to investigate one’s beliefs and reject them if they are found to be wanting. Doing so is a tall order, however. Even if one does not agree with Rawls that the burdens of judgment must result in reasonable pluralism, they do offer an indication of the fundamental complexity involved in reflecting on our beliefs and other (value) judgments. To the extent that a commitment to autonomy is practically feasible, it is to be expected that it will be a reactive, rather than an active, commitment, in the sense that the critical scrutiny of one’s beliefs will generally be preempted by a particular incident calling one’s first order beliefs into question. As a matter of economy, therefore, even an individual strongly committed to autonomy will leave certain of his beliefs unexamined. Other things being equal, then, the more one’s first order beliefs are shared by others, the less will they be called into question. As a result, even in a society committed to liberal culturalism certain first order beliefs may be regarded as self-evidently true, rather than possibly false. This is all the more so if the commitment to autonomy itself is held less from conviction than from the circumstance of being born in liberal-culturalist surroundings. In this light it is notable that the debates analyzed in this dissertation research show that a commitment to autonomy is more readily witnessed in the rejection of others as wanting in autonomy, than in the manifest desire to address the fallibility of one’s own beliefs.

Given imperfect autonomy, even in a society in which autonomy is held in high regard individuals may hold their moral beliefs, including the commitment to autonomy itself, not because they have confirmed them

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10 Rawls 2005: 222.
rationally, but because they are socially confirmed. If it is indeed the case that imperfectly autonomous individuals may substitute socially accepted beliefs for their own judgment, a nominal commitment to autonomy can go hand in hand with a high degree of convergence on first order moral beliefs in actual liberal-culturalist societies.

**Social tyranny, the freedom of expression, and the freedom of conscience**

The presumption of dogmatic belief and the imperfection of autonomy may work in tandem to marginalize moral communities who refuse to subject their beliefs to the rational scrutiny of others and to reinforce the convergence on first order moral beliefs in actual liberal societies that tend towards liberal culturalism. While in theory autonomy is supposed to stimulate self-authorship and choice, the result in practice may therefore be a limitation of choice and the substitution of social for self-authorship. This is all the more so if members of minority moral communities live in in heterogeneous urban neighborhoods. Tellingly, many members of Dutch orthodox Protestant communities that subsist in the Netherlands are concentrated in relatively small municipalities where they are somewhat isolated from the majority culture.¹¹

This raises the question of how the kind of social tyranny rejected by Mill can be prevented despite a nominal commitment to autonomy. Mill, of course, recognized the imperfection of man’s nature; for Mill freedom of expression served the unrestricted investigation of opinion for the sake of finding the truth, even though human imperfection promised to make the road to its discovery long and difficult.¹² For the sake of finding the truth Mill defended a broad freedom of expression, constrained only by the harm principle. He also promoted ‘experiments in living’, i.e. a diversity of ways of life actually pursued, however.¹³

For Mill, experiments in living should spring from the minds of individuals striving to deviate from the mean. It was ‘individuality’ he admired, not tradition.¹⁴ Arguably such experiments for Mill did not include the

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¹¹ The Netherlands, like the United States, has a ‘bible belt’ where orthodox protestants, though nowhere in the majority, form relatively large minorities.

¹² Mill 1975 [1859]: 70.

¹³ Idem.

¹⁴ ‘Where, not the person’s own character, but the traditions or customs of other people are
lifestyles of communities steeped in orthodoxy or otherwise committed to tradition for tradition’s sake. But in actual liberal societies, communities significantly deviating from the mean may do so for the sake of protecting their conscience.

The more a liberal society converges on moral beliefs, the more pressure it levies on the members of such moral communities to conform to its own ways. Taking account of the mechanisms described above, it is clear that the freedom of conscience has at least as much of a role to play in warding off social oppression as liberty of expression does. If such oppression is the result of a homogenizing tendency in a predominantly liberal-culturalist society that is in practice assisted by the freedom of expression, freedom of conscience becomes that much more vital, not just for individuals, but for liberal society itself.

It is sometimes suggested that freedom of expression can serve as a substitute for the freedom of conscience, thereby securing the freedom of moral communities to adhere to and express opinions contrary to those of the majority in a liberal society.\textsuperscript{15} This contention should be rejected, however. The essence of the freedom of conscience is the freedom not to subject one’s conceptions of the good to the critical scrutiny of non-likeminded others. The purpose it serves is therefore to insulate moral communities from criticism and societal pressures to change their beliefs. That is precisely why this freedom is so central to framework liberalism. The freedom of expression, however, serves an entirely different purpose. This purpose is to allow individuals to express criticism, be it of religious or secular authority, or of majority or minority beliefs and opinion. It is because freedom of expression thus facilitates the interpersonal scrutiny of conceptions of the good that it achieves such prominence in liberal-culturalist society. This prominence, however, offers scant security to moral communities that are already vulnerable to pressures to conform to that society.

**Where do we go from here?**

A liberal society aims to protect the individual liberty of its members. Individual liberty, the findings of this research demonstrate, cannot only

\textsuperscript{15} See, e.g., De Beer 2007.
suffer at the hands of other individuals, family members, or communities; it can also suffer at the hands of liberal society itself, when society sees no reason not to impose ‘its own ideas and practices as rules of conduct on those who dissent from them’.

Therefore it will not suffice to offer the protection of either freedom of expression or freedom of conscience. A liberal society must offer both. If it does not, the consequence may be that such a society will either slip into the kind of social tyranny feared by Mill, or that it will forsake its commitment to individual liberty by deferring to the primacy of moral communities instead. In either case, individual liberty is diminished. Because liberal society must therefore protect both freedom of expression and freedom of conscience, it must also accept the conflicts that will result as a consequence. The resilience of liberal society resides in its continuing ability to accommodate such conflicts, of which the ritual slaughter debate is but one example.

As both freedom of expression and liberty of conscience are necessary for an enduring liberal society, balancing these two liberties is not a matter of determining which one has primacy and setting the parameters of each accordingly, once and for all. It means acknowledging conflicts between these liberties when they arise and determining which of the two should prevail under the particular circumstances of each conflict. It is this ability to continuously reinvestigate the limits and scope of either liberty that marks a resilient liberal society. Recognizing the central values implicit in each is indispensable to such reinvestigation, and theoretical positions such as framework liberalism and liberal culturalism are helpful to that end. Contrary to liberal theory, however, liberal society is not premised on either individual autonomy or freedom of conscience, but on both.

As the findings of this dissertation show, liberal society can change. As society changes, the appreciation of individual liberty can change also. The conflicts that result as a consequence of such shifts, like those emerging in the Dutch shift from framework liberalism to liberal culturalism, do not of themselves signify that a country is becoming less, or more, liberal. These conflicts are to be expected and are a necessary part of the process of reinvestigating and renegotiating the conditions for the exercise of liberty pointed to above. It is the mark of a liberal society that it can accommodate such conflict.

\[16\] Mill 1975 [1859]: 9.
The resilience of liberal society, then, resides not merely in achieving a balance between freedom of expression and liberty of conscience, but especially in its ability to achieve a dynamic equilibrium, adjusting to changing circumstances without jettisoning either. Typically, this means allowing for the renegotiation of the conditions under which either liberty may be enjoyed in particular cases. This calls for a high degree of tolerance for conflict. The danger liberal society faces, therefore, is not this kind of conflict, for it is endemic to the balancing act it must perform. The danger is that liberal society loses its balance by succumbing to the desire of settling the higher order conflict between these two liberties once and for all. This is a danger that liberal theorists, also, would do well to take to heart.