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From Diversity to Difference

Structural Dilemmas of Identity Politics

CAMIL ALEXANDRU PÂRVU

In the last decades, we witnessed a substantive and abundant literature on the topics of multiculturalism, identity politics, struggles for recognition, or the politics of difference, most of these writings connecting or treating these subjects as integrated with the broader aims of justice and political justification. The notions of multiculturalism, identity politics or difference politics are either used interchangeably, or claimed to be distinct in some of their aspects or implications. They are adopted as moral, political ideals, or as grounds for differential policies that focus on the uniquely important influence that such identities bear on the individual's capacity to be an authentic actor of political justification. Whatever the case, the positions and arguments developed in the name of these ideals and policies claim to widen, broaden the scope of toleration in a way that some liberal democrats consider unwarranted.

Beyond the sheer conceptual diversity of the works on multiculturalism and the struggles for recognition of distinct identities, the focus of these writings does vary according to concrete cultural and historical experiences and to the political contexts in which such debates were born in recent years. The problematic of multiculturalism fundamentally changed according to such contexts, in ways that explain why there is no unified set of presuppositions or arguments that all theories of multiculturalism might share. For this reason, I intend to address here a rather much more narrow set of arguments put forward under the name of "politics of difference" or "identity politics" by such authors as Iris Marion Young, Seyla Benhabib¹ and others.

The differences entailed by identity represent more than just a rephrasing of the rather uncontroversial idea of value-pluralism. Value-pluralism denotes a broad and diverse set of theories and accounts which share, at least in a generic or minimal sense, an acknowledgement of the cultural diversity and plurality of interests, values and forms of life in modern societies, and of the need to adequately take this fact in consideration within the normative construction of the political terms of our living together. In this quite uncontroversial version, it has characterized liberal and other theories, including republicanism or deliberative democracy.

The accounts in question develop a different type of reasoning, however, by replacing value pluralism and the diversity of interests, with difference in identity; not only that identity, religion, culture, language, ethnicity crucially define the way in which we relate to the others: membership in identity-based social groups becomes itself the key focus of political theorizing.

This paper is structured in two main parts: in the first part, the structure of politics of difference is discussed, by examining some main arguments developed by I.M. Young on the role of identity, oppression and justice. The wider intellectual

¹ Seyla BENHABIB (ed.), *Democracy and Difference: Contesting the Boundaries of the Political*, Princeton University Press, Princeton, 1996.

context in which this debate takes place is briefly characterized. In the second part, I raise a number of issues which are related to the implications of this move from *diversity of interests* and conceptions, to *difference of identity*. I claim that a number of serious difficulties arise: such arguments are still dependent on problematic essentialist and reductionist views of identity; culture or identity become the actors of political justification, instead of individuals; they tend to overlook the fact that respect for diversity is not self-sustaining, hence the need for a definition of common conditions in which diversity is valued; such arguments have a hard time accounting for the internal diversity and legitimacy issues within those groups; finally, their attempt to provide a formal definition of cultural membership runs afoul of the contextually determined, historically relative experiences which have represented the origin of these debates.

IDENTITY AND OPPRESSION IN IRIS MARION YOUNG'S "POLITICS OF DIFFERENCE"

In *Justice and the Politics of Difference*¹, I.M. Young mounts a long critique of both communitarian and liberal understandings of justice, and at the same time attempts to elaborate a different perspective on the relevant and multiple forms of oppression that characterize contemporary plural societies. It is her claim that the liberal ideals of impartiality, equal rights or color-blind state have become more of an instrument for denying and ignoring relevant differences in favor of dominant attitudes and identities, and that denying differences represents in itself a form of oppression against the various minority social groups. The "politics of difference", then, represents an appeal for the need for group-differentiated policies and group-differentiated representations, as means to undo the structures and forms of oppression that the liberal theory apparently chooses to ignore.

Young's objective is to reformulate the ideal of social justice and the concept of oppression, so that the modern focus on a "homogeneous" public will be displaced in favor of a perspective in which social groups and their specific and different identities, rather than individuals, become the subject of justificatory discourses.

In that sense, Young criticizes what she calls the reductionism and the positivism of the dominant liberal political theory. The perceived reductionism of contemporary political theory is manifest, according to Young, in the constant fixation of liberal political theory to "reduce political subjects to a unity and to value commonness or sameness over specificity and difference"². The positivism of such accounts is determined by "too often assuming as given institutional structures that ought to be brought under normative evaluation"³.

Misrepresentation or negation of the normative implications of identity differences represent defining trends that modern and contemporary liberal political

¹ Iris Marion YOUNG, *Justice and the Politics of Difference*, Princeton University Press, Princeton, 1990.

² *Ibidem*, p. 3. The main illustration of this denial of differences is perhaps the Rawlsian construction of an "original position", with its abstraction from the individual characteristics that differentiate persons in real life, in order to ensure fair conditions for the choice of the principles of justice.

³ *Ibidem*.

theory assumes either overtly or implicitly, according to Young, and the reason for this incapacity to consider difference originates in a weak understanding of the norms of equality and the value of impartiality, as well as in the abandonment, by contemporary political theory, of the critical perspective on social and historical contexts.

The drive towards de-contextualization is precisely what Young and other authors would intend to reverse, in the name of a critical theory represented as a normative reflection that begins "from historically specific circumstances, because there is nothing but what is, the given, the situated interest in justice, from which to start"¹. One argument that shares affinities with communitarians' critique of liberalism is that liberal theorists' claim to provide an elaboration of the elements of "a universal normative system insulated from a particular society" is at best illusory, and fails to correctly represent the proper role of normative (critical) theory. "Without social theory, normative reflection is abstract, empty, and unable to guide criticism with a practical interest in emancipation"². Moreover, the philosopher must always perceive the distress of others' (or his own) life – and his reflection on oppression will necessarily contribute to either reinforcing it or fighting it. The philosopher himself is socially situated, then, and hence he cannot abstract himself meaningfully or fruitfully from his own context. Choosing to deny or ignore the forms of oppression present in his society will only reinforce these. The role of critical theory is thus to explore the "normative possibilities unrealized but felt in a particular given society"³, in other words to elaborate norms and ideals that originate in the various modes of social organization that would be possible, preferable or desirable given the various experiences of oppression that the theorist must uncover.

Young's theory is thus one that tries to reformulate the scope and aims of political theorizing about justice and social institutions. In order to expose the theoretical and practical shortcomings of dominant (liberal) political theory, inadequately focused on the ideal of impartiality and mechanisms of redistribution, I.M. Young elaborates a different conception of social justice, and at the same time develops a complex analysis of the notion of oppression and of the mechanisms to fight it, namely the "politics of difference".

The main weakness of theories aiming for the ideal of impartiality and constructing mechanisms of redistribution in order to correct unfair inequalities is, according to her, that these theories ignore the normatively significant differences and tend thus to confirm structural and latent forms of oppression, associated mainly, but not exclusively, with the attribution, by the dominant groups' world views, of marginalizing roles and demeaning identities to the minority social groups. This incapacity of contemporary political theorizing to connect to some pertinent critical dimension represents the characteristic feature that Young attempts to correct, by providing the social theorist with the critical tools of evaluating experiences that are normatively relevant when focusing on institutional injustices.

Young identifies the reasons for the growing disparity between "contemporary situated claims" about societies containing institutional injustices and the theoretical claims about justice, in some of the fundamental presuppositions of "modern western political philosophy" namely the ideal of impartiality and the

¹ *Ibidem*, p. 5.

² *Ibidem*.

³ *Ibidem*, p. 6.

associated mechanisms of correcting social injustice by redistributive mechanisms. The ideal of impartiality, according to her, "denies difference"¹.

The reasons and implications of this important claim must be explained. The ideal of impartiality is typically assumed by, or associated with contemporary liberal theories, and these are the focus of Young's critique, but we may attempt to elaborate on one of Young's remarks: "The ideal of impartiality suggests that all moral situations should be treated according to the same rules"².

If I understand it correctly, the ideal of impartiality suggests rather that "all moral situations, the differences among which are non-relevant, should be treated according to the same rules". If that is the content of the ideal of impartiality, then this is of course a characteristic claim of most liberal theories, but it is also an aim present in most political, moral, and legal theories. The notion of judicial precedent, for instance, and the dicton "cases alike must be treated alike" in legal theory and judicial practice involves perhaps the same idea, namely that non-relevant differences should not be taken into consideration and that adjudication must proceed relying on the evaluation of the relevant similarities as well as the relevant differences across cases or situations. What is debatable then is what qualifies as "cases alike" and not whether they should be treated alike.

My contention is that eventually not the ideal of impartiality itself is contentious in this sense, but rather the evaluation of the normatively "significant" differences that should be taken into consideration and the differences among situations that should be discarded from the reasoning leading to adjudication or policy-making. In this sense, contesting or arguing about the "relevant" differences does not necessarily amount to denying the notion of impartiality altogether.

It may also be the case that I.M. Young provides a too vague description of the ideal of impartiality³. The idea that "all moral situations must be treated according to the same rules" cannot easily be attributed to any coherent political or moral theory. Perhaps it means rather that "all significantly similar moral situations must be treated according to the same rules", and this would be again a rather general and little controversial ideal, leaving for theoretical and critical debate to establish the adequate "relevant" similarities among moral situations. To recapitulate the analogy with jurisprudence, which "cases" are "alike" (which "moral situations" display significant similarities) is the real subject of controversy, and much less the idea that they should be treated alike.

The ideal of impartiality is also associated by Young, in a move similar to that of thinkers like Michael Sandel or Charles Taylor, to the idea of a single standpoint that "all subjects can adopt", an idea which "denies the difference between subjects". "By positing a unified and universal moral point of view, it generates a dichotomy between reason and feeling. Usually expressed in counterfactuals, the ideal of impartiality expresses an impossibility"⁴.

This critique has a stronger implication, since it is related to the complex notions of difference, identity and especially to the elaboration of the category of "social groups". Taylor's "politics of recognition" and Young's "politics of difference"

¹ *Ibidem*, p. 10.

² *Ibidem*.

³ For an elaborated account of the various understandings of impartiality as a criterion for justice and its possible alternatives see Brian BARRY, *Justice as Impartiality*, Oxford University Press, Oxford, 1995.

⁴ Iris Marion YOUNG, *Justice and the Politics of Difference*, cit., p. 10.

bear multiple similarities, including many aspects related to their foundations or presupposition, that is, a critique of the perceived theoretical shortcomings of the modern or contemporary view of the subject. Subjects of justice, in many liberal political theories, are invited to adopt a certain "public" or "common" standpoint, and that move entails denying or abandoning the differences that make the experiences of each individual unique. Young contends that the moral ideal of impartiality is often associated to a certain political ideal, the ideal of the "civic public". That political ideal is in fact the idea of homogeneous public that entails that many differences are left aside as non-important. The ideal of impartiality is finally criticized by I.M. Young in virtue of being a form of cultural imperialism, namely a kind of oppression, which tends to be less visible and at the same time more dangerous than other forms of oppression.

The defense of an alternative understanding of justice entails for Young emphasizing the overwhelming influence of social groups (and their status in the broader society) on the capacity of their members to realize the values that constitute a good life, values of self-determination and self-development. It also entails deploying a complex analysis of what may impede on the individuals' capacity to realize these values, and that means elaborating a typology of oppression that criticizes the liberal – and even the Marxist understandings and classifications.

Young's claim is that "standard" elaborations of the concept of oppression missed some central aspects of that concept, and that could be explained by modern political theory's concentration on finding the sources of oppression in the *deliberate* actions of identified or identifiable individuals or institutions, aiming to unjustly or unjustifiably coerce individuals. Beyond deliberate oppression or domination however, there are, according to Young, many other fundamental aspects that are equally capable of diminishing or denying one's capacities to realize the values of a good life. And these other aspects are even more damaging or destructive as they are less visible, non-intentional and hence it is more difficult to attribute them to, or originate them in the deliberate actions of specific individuals or institutions.

These other forms of oppression are mainly *structural*, meaning that they are attached to a network of multiple and unrelated institutions, conducts, attitudes, informal relations and symbolic references, they most of the times concern specific (minority) social groups by attaching to the identity shared by the members of those groups devaluating social meanings, symbols or practices and they undermine by that the capacity of those individuals to form an adequate and positive valuation of their moral experiences, situations and traditions.

Moreover, in order to undo the effects of oppression, some forms of group rights (among which there is a central political right of group representation) are to be devised and implemented. The "politics of difference" aims then to realize the emancipation and liberation of social groups from their ascribed demeaning identities not by internally and publicly repudiating such identities, not by conforming to mainstream attitudes and practices, but on the contrary, by re-appreciating and re-constructing these identities as positive and worthy, as enabling – rather than shameful aspects.

Of course, since in Young's construction it is *social groups* that are represented as the primary focus of (structural) oppression, and individuals are considered as suffering from oppression only by virtue of their belonging to these groups – as members of those groups that receive a certain socially demeaning or degraded projection of their identity – it becomes of central importance for Young to provide an adequate definition of these "social groups". As we shall see, her intention is to offer such a

description of social groups that is both adequate for explaining the special forms of oppression associated with groups, and that enables her theory to avoid standard criticisms, especially the accusation of essentialism¹. Social groups, according to Young, must not be assimilated to aggregates, nor to mere associations.

Aggregates are constituted by "any classification of persons according to some attribute". This means that persons sharing a set of attributes, like eye color, the brand of their computers or the kind of music they listen to, can be classified into such groups without there being any obvious social or normative meanings associated with this casual membership. In this sense, it is not that attribute that is primarily meaningful and determines the existence of a social group: African Americans are not defined as a social group simply by their skin color; as Young notes, sometimes such an attribute is necessary, however it is not the attribute itself that marks a social group, but instead "it is identification with a certain social status, the common history that social status produces, and self-identification that define group as a group"².

That also means that what is shared by the members of a social group is not simply the common (objective) attribute – sometimes the attribute is not even present in some of its members, (as when the color of the skin is fairly light) – but a common identity. What actually defines their membership is this sense of a shared identity, a common fate, or a common understanding of their status as belonging to a same cultural or social situation. The meanings that constitute this identity may have been perhaps forced upon them or created by them, or a combination of both, but these meanings and identities are what differentiates their belonging to a social group from their belonging to an aggregate.

People's eye color or their skin color may seem to produce similar implications on their integration into the relevant categories or classifications if we regard aggregates as relevant, but the meanings associated with skin color are obviously much different if we take seriously the social significance and historical weight of some dimensions of the identification of skin as particularizing a group of people with or without their own acceptance of it. It is obvious that skin color, unlike eye color, has indeed played an overwhelming importance in the way entire groups of individuals, without any other connection among them, were treated, and also in the way they came to identify themselves, not always assimilating this feature with a positive or socially valued one. Skin color has been a ground for discrimination, oppression or fixation in rigid, unjust and undeserved social and political inferior positions. Individuals were oppressed because of their skin color, as a mark that applied to them as a group, and the same may be said about other marks such as gender, sexual preference etc.

In Young's view, that is a central feature of social groups, their members being marked as distinct from the rest by a certain feature, objective or not, and without there being a necessary connection between the mark itself and the treatment of the group in question. The social meaning attached to that feature is distinguishable from the trivial meanings attached to other features.

¹ As her theory is intended as an alternative to both liberalism and communitarianism, Young has to provide an account of social groups that enables her to dissociate her view from both the aggregative/associative individualist views and the communitarian idealization of the communities.

² Iris Marion YOUNG, *Justice and the Politics of Difference*, cit., p. 43

The key element that differentiates a social group from an aggregate is the identity that comes to be shared by the members of the group, an identity either imposed upon them or developed by the members themselves, and this identity supplants the common feature (skin color, practice etc.) that initially defined membership. This key element enables Young to formulate a thesis that is similar to many communitarians' claim, that is, that "group meanings partially constitute people's identities in terms of the cultural forms, social situation, and history that group members know as theirs, because these meanings have been either forced upon them or forged by them or both".

Social groups are equally distinct from associations. These are institutions that are formally organized and ruled, such as trade unions, clubs, political parties or even, according to Young, churches. The model of association is itself different from that of an aggregate in that it does acknowledge that the members do share common practices, values, beliefs or forms of common living. However, Young maintains that this model lacks a fundamental dimension necessary to tackle the complex aspects of oppression suffered by individuals as members of certain groups: this model can only consider individuals as "ontologically prior to the collective"¹.

This implies viewing individuals as setting up such associations in many fields of their social interactions on a voluntary basis, defining, controlling and modifying their constitutions as well as deciding when and why to leave such associations. It is of course a familiar structure of widespread social relations and involves us on many levels of our social life. However, claims Young, this represents an incomplete perspective. Such a model, favored by the individualist contractarian approaches, is unfit to describe and build around phenomena of oppression associated with membership in a certain social group. What this model of association misses is two-fold, and I.M. Young explains these two deficiencies in the following manner: first, adequately conceptualized social groups are not made up, constituted by individuals in a voluntary and deliberate manner. The individual is not, hence, prior to the collective, to the group itself, but rather finds himself in that social group. I will come back to this aspect below. The second claim put forward by Young, is that a person's identity itself and sense of self are not prior or independent of membership in the social groups.

An association is indeed constituted by its members and it exists only as long as they see it fit. They institute it, define its rules, procedures, criteria of membership, structure and internal positions. Membership is usually voluntary and the individuals do come together "as constituted persons", in that their identities "are usually regarded as prior to and relatively independent of association membership".

"A contract model of social relations", according to Young, "is appropriate for conceiving associations, but not groups". Individuals constitute associations and enter these associations with already-structured identities.

"Groups, on the other hand, constitute individuals. A person's particular sense of history, affinity, and separateness, and even a person's mode of reasoning, evaluating, and expressing feeling, are constituted partly by her or his group affinities. This does not mean that persons have no individual styles, or are unable to transcend or reject a group identity. Nor does it preclude persons from having many aspects that are independent of these group identities."²

¹ *Ibidem*.

² *Ibidem*, p. 44.

The problem emphasized by Young can be understood as follows: claims for recognition coming from members of oppressed social groups cannot be adequately grasped if one places himself within the dominant paradigm in which social interactions are viewed as belonging to a "privatized" sphere of voluntary associations. The control that individuals do possess upon associations, and their capacity to retain an identity somehow separated from these, is not matched by the influence of non-voluntary social group membership on their sense of self:

"A person joins an association, and even if membership in it fundamentally affects one's life, one does not take that membership to define one's very identity, in the way, for example, being [an Indian] Navaho might"¹.

The difference between an association and a social group is fundamental for Young in order to distinguish the specific forms of oppression that are associated with group membership but not to association membership. The fact that membership in a social group influences a person's identity in a manner that is incomparable with voluntary association membership provides a ground for Young's critique of a model widely accepted in (liberal) political theory but which does not, according to her, render justice to the normative dimensions of the complex and less salient aspects of a person's social status and position. Whether a person belongs or not to a social group that has traditionally been object of structural oppression is a fact without serious consequences in a contract model of association membership, whereas in the model proposed by Young, this fact becomes crucially relevant both for critical normative theory and for the effort to find institutional remedies to the situation of oppression.

Non-deliberate and non-voluntary membership in social groups has quasi-political implications for Young:

"Group affinity [...] has the character of what Martin Heidegger calls 'thrownness': one finds oneself as a member of a group, which one experiences as always already having been. For our identities are defined in relation to how others identify us, and they do so in terms of groups which are always already associated with specific attributes stereotypes and norms"².

I mention this quasi-political dimension of group membership, besides the identification dimension, because this analysis of social group membership bears significant parallels to the strongest normative implications of the justification of political obligation in political theory. Without explicitly affirming this, I.M. Young "raises the normative stakes" of social group membership for political theory to the level of political membership in a political community.

According to many conceptions in political philosophy, the most important political institutions and norms of a society have to be justified to those under their dominion precisely because of their non-voluntary and non-deliberate foundations. Social contract theory and other political theories, instead of considering political membership as voluntary, have placed such a considerable justificatory burden upon political discourse precisely because membership in a political order is not voluntary in the way membership in associations is. Constitutions and fundamental political institutions can and should be rationally justified to their subjects; social

¹ *Ibidem.*

² *Ibidem*, p. 45.

contract, or rather hypothetical rational agreement, can be understood without there being the notion of a group of individuals actually deciding to set up an association that will rule their lives in the way they would set up a football association.

The premise of political justification is that political membership is already given, individuals are born in already existing political societies, and what is needed is a theory explaining in which conditions their authoritative directives are justified. That is, in which conditions the authority is legitimate. The need for strong rational normative justification arises from this closed character of political communities. Their members have no meaningful exit option: we enter when born and exit by death. The existence of an exit option would entail that a person be able to re-create with others the basic terms of their political cooperation in a complete overhaul of these terms, or that he be able to leave one political community in order to re-create another elsewhere; but one has nowhere else to leave because wherever he settles he will find himself subject to some political authority that he did not participate in establishing.

This is what makes the case of political justification so compelling: fundamental political relations are different from associational voluntary relations precisely because, as John Rawls characterizes political relationship:

“First, it is a relationship of persons within the basic structure of society, a structure of basic institutions we enter only by birth and exit only by death (or so we may appropriately assume). Political society is closed, as it were; and we do not, indeed cannot, enter or leave it voluntarily.

Second, political power is, of course, always coercive power backed by a state’s machinery for enforcing its laws. But in a constitutional and democratic regime political power is also always traced to the power of equal citizens as a collective body: it is regularly imposed on citizens as individuals, some of whom may not accept the reasons widely believed to justify the general structure of political authority (the constitution); or when they do accept that structure, they may not regard as well grounded many of the laws enacted by the legislature to which they are subject”¹.

However, Rawls goes on in the following paragraph to make a contention that has been intensely criticized by Young:

“There is a distinct domain of the political identified by these features (among others) to which certain values specified in an appropriate way, characteristically apply. So understood, the political is distinct from the associational, say, which is voluntary in ways the political is not; it is also distinct from the familial and the personal, which are affectional, again in ways the political is not. (The associational, the familial, and the personal are simply three examples of the nonpolitical; there are others.)”.

It is precisely this clear-cut distinction between the domains of the political and the non-political and their differential normative implications for political justification, that I.M. Young contest so strongly in her *Justice and the Politics of Difference*. The communitarian critique of the “fictitious” and “un-situated” self attempting to achieve an impartial standpoint void of particularisms, traditions and communal influences – associated with the feminist critique of the public/private

¹ John RAWLS, *Justice as Fairness. A Restatement*, ed. by Erin Kelly, The Belknap Press of Harvard University Press, Cambridge (Mass.), London, 2001, p. 182.

liberal distinction that excludes "the familial and the personal" from the proper domain of political justification, enable Young to formulate a critique that targets most of the standard assumptions of liberal political theory.

Of course, the Rawlsian distinctions between public/nonpublic or the political/non-political do not completely overlap with the other classical liberal distinctions separating the public from the private, but it remains a strong assumption of many such theories that private attachments and personal commitments and affinities are not to be put on the same level as the fundamental political relationship. Conciliating feminism and communitarianism is a rather difficult task, but Young deploys a combination of such arguments that are linked and harmonized in view of displacing a perceived dominant discourse in political theory that happens to be embraced mostly by liberal theorists.

Young's argument of the overwhelming importance of social group membership as a matter of justice is comparable, as I mentioned above, to the liberals' insistence that a membership in a political community is the focus of political justification. A methodologically individualist approach – which characterizes "the social ontology underlying many contemporary theories of justice" – is not suited, in Young's view, to render the "thrownness" of group affinity. If the individual is presumed prior to the social, if the self is considered authentic if and only if autonomous, which for many critics of liberalism means "self-made, standing apart from history and affiliations, choosing its life entirely for itself"¹, then one is not able to adequately relate identification with oppression. Missing the complex way individuals' identities are shaped by their group membership leads many (liberal) theorists to find the reason for oppression in the group identification itself. Eliminating oppression then means eliminating groups. For Young, however, "group differentiation is both an inevitable and a desirable aspect of modern social processes"².

In order to understand this claim one has to remember Young's first claim: namely, that traditional concerns with political and social rights are not to be confused with the new concerns related to the recognition of individuals' identity-related differences.

What renders Young's theory of social justice distinct from mainstream liberal egalitarianism and enables her to develop a strong critique thereof, is the original and at the same time controversial link between her definitions of social justice, oppression, difference and social groups, which in turn allow her to elaborate on the political consequences such as the "politics of difference". This means that in order to prove the existing (liberal or egalitarian) accounts of justice misguided or incomplete, she has to explain the way in which situations of lack of justice (that is, oppression) are not adequately answered by these accounts.

In this sense, then, it is important to adequately understand the complex elaboration by Young of the situation of injustice determined by what she calls the absence of proper institutional support for the realization of self-development and self-determination. This implies for Young a discussion of the aspects of oppression and domination that emphasizes their multifaceted character. This, in turn, is then correlated with the fact that injustice originates mainly through inadequate treatment of group-specific differences. Oppression and domination, for Young, are much more complex phenomena than what has been understood thus far.

¹ Iris Marion YOUNG, *Justice and the Politics of Difference*, cit., p. 45.

² *Ibidem*, p. 47.

Liberal or Marxist elaborations of these notions have missed a central feature of oppression: the fact that it is not simply a matter of either illegitimate deliberate coercion, or of class domination. It is rather a phenomenon that involves different, sometimes overlapping, non-intentional forms of obstruction on self-development, and it is a basic task for the political theorist to attempt to provide an account of oppression that covers its multiple forms.

Oppression, for Young, is a more relevant concept for political theory. It sometimes includes or entails domination, but it is the multiple and many times elusive forms of oppression that render this concept both fundamental and difficult to grasp:

"Oppression consists in systematic institutional processes which prevent some people from learning and using satisfying and expansive skills in socially organized settings, or institutionalized processes which inhibit people's ability to play and communicate with others or to express their feelings and perspective on social life in contexts where others can listen".

"Domination consists in institutional conditions which inhibit or prevent people from participating in determining their actions or the conditions of their actions. Persons live within structures of domination if other persons or groups can determine without reciprocation the conditions of their actions, either directly or by virtue of the structural consequences of actions. Thorough social and political democracy is the opposite of domination"¹.

Young is keen to emphasize the radical difference between her elaboration of the concept of oppression and most previous conceptualizations. It is her contention that we should not consider it as limited to conditions of material deprivation. This remark is manifestly directed against dominant (liberal) understandings, which presents the struggle for justice as a struggle for equal individual rights and equal access to the social, that is material and political, conditions for the fair value of these rights and liberties.

The fact that oppression involves issues beyond material unfair inequalities and unfair distribution represents for Young a central claim used to extend the scope of the idea of oppression in order to cover many more aspects that equally impede the individual's capacity for self-determination. Understanding oppression and thus injustice as entailing more, perhaps something radically different from, fair distribution, presupposes an elaboration of the concept that takes into consideration both deliberate and non-deliberate, or "structural", forms of oppression, in other words requiring a mode of analyzing focused on the evaluation of social and institutional structures and practices that is "incommensurate with the language of liberal individualism".

What differentiates then her analysis of oppression from previous accounts is the fact that hers corresponds to an account that proposes "an enabling conception of justice". That means in turn that questions of injustice are not simply related to issues of adequate or fair distribution of rights and opportunities, but more importantly, to the "institutional conditions necessary for the development and exercise of individual capacities and collective communication and cooperation"².

This enabling conception of justice must include references that cannot be reduced to distributive patterns, since it is not only unfair distribution that characterizes the conditions of injustice. These references relate to disabling constraints

¹ *Ibidem*, p. 38.

² *Ibidem*, p. 39.

on self-development and self-determination involved in procedures of decision-making, labor division, and culture, among others.

Of course, the abstract definition of oppression is not sufficient for Young in order to provide a significant alternative conception of justice. Beyond the general understanding which equates oppression with some sort of inhibition or limitation of individuals' capacities for formulating, expressing and pursuing their needs and feelings, there are some quite precise but mutually non-exclusive forms of oppression that together constitute the alternative understanding of the meaning of oppression and injustice which lays at the basis of Young's construction. She characterizes the analysis of this notion as revealing in fact "a family of concepts and conditions", divided in five categories: exploitation, marginalization, powerlessness, cultural imperialism, and violence¹. Among these complex forms of oppression, Young claims that it is cultural imperialism and marginalization that have been overlooked by most theories of justice, while violence or exploitation have already constituted the object of many discourses of justice.

One central feature of this analysis is that this definition of oppression necessarily has to include an adequate account of these five complex aspects or forms of oppression, and does not consider any one of these forms as having any sort of moral priority over the others. This means that not only are these not limited to the Marxist or liberal "reductionist" accounts, but also, more importantly, that no one aspect can account for the "true" or "basic" form of oppression. Moreover, as individuals or members of groups, we may be the object of multiple forms of oppression and this situation may require differentiated remedies.

It is important for Young to explain the limits of standard accounts of justice and oppression in order to make place for the alternative understanding that she promotes. As it has been mentioned, these limits are mainly related to the "reductionist and simplistic" understanding of the actual conditions in which institutions, practices, and attitudes generate non-intentional constraints upon the individual's capacities for realizing self-determination and self-development. Her own account of the five forms of oppression is intended as a more exhaustive and nuanced account of the situations in which such capacities are unjustly limited and develops in the same time a conception in which the systemic aspects of oppression are highlighted. In emphasizing these non-deliberate, structural aspects, Young draws, in an original way, upon various critical theories that include Marxism, communitarianism, feminism and manages to extend these approaches towards an elaboration of these forms of oppression that traces their causes and manifestation in practices and institutions that were not considered to be the proper object of study, that is, not having significant or relevant references for most theories of justice.

These include everyday interactions among well-intentioned individuals, their assumptions and reactions illustrating cultural stereotypes, the mass media and its capacity to reproduce and propagate such often unconscious symbols and presuppositions, institutional hierarchies and bureaucracies, and the market. The sometimes-elusive character of such forms of oppression must not obliterate the fundamentally damaging and lasting consequences upon the individuals that are object of such oppression. It is one thing to acknowledge the source of such forms of oppression as being "embedded in unquestioned norms, habits and symbols, in the assumptions underlying institutional rules and the collective consequences of fol-

¹ *Ibidem*, p. 40.

lowing those rules"¹, and another one to give up on trying to alleviate or eliminate such manifestations.

Precisely because "[o]ppression refers to systemic constraints on groups" and "in this sense it is structural, rather than the result of a few people's choices or policies", that the critical theorist's duty is to uncover and expose the complex manifestations and forms of oppression and suggest methods that adequately answer the plight of those who suffer because of these previously un-accounted for forms of oppression.

It is indeed because such a complex account of "structural" oppression may discourage approaching it within the standard requirements of analytical political theory, that Young employs such a lengthy analysis of this subject and of the correlated notion of social group. She does claim that the reason for the modern political theory's difficulty and ultimately, according to Young, incapacity to properly evaluate the causes and consequences of injustice as structural oppression, lies in the so-called misconstrued aim (the ideal of impartiality) and consequently in its preferred method (some sort of distribution and equality of opportunity).

Liberal political theories, as well as other modern political theories, have conceived as the fundamental proper subject of justice, the individual. The person, agent, actor has always been taken as not only the primary but the unique subject, and groups, minorities and communities in general were treated as merely associations of individuals, that is, their claims of justice were taken as amounting to not more than the sum of individual such claims. Individuals can be oppressed by states, tyrants, even communities, and their legitimate claims take precedence over any other collective aims. Traditionally, individual civil and political liberties represent protections against such entities and when associated with various forms of distribution these are meant to enable individuals to control and participate in those entities' procedures of decision-making. Legitimate authority is authority that has a right to issue authoritative, compelling, and coercive directives, and that right is established through some sort of free agreement, acquiescence or participation from individuals as equals.

In recent liberal theorizing, various aims related to perfectionist, paternalist policies or social utility can only be accepted, if then, after adequate respect and protection of individual legitimate basic interests, and these protections are always against salient, visible, deliberate such policies or actions by specific entities such as individuals, collectivities, institutions or the state. This explains the unease, which is manifest in these theories, to take into consideration any forms of injustice that do not correspond and cannot be corrected according to the aims and methods specified above.

According to Young, the structural character of oppression render inadequate former approaches of based on distribution and equality of opportunity. It is insufficient to devise some new rules or laws in order to eliminate such forms of oppression for the reason that these tend to reproduce themselves, which means that such mechanisms cannot fundamentally affect and change the omnipresent and pervasive cultural, political, social, and economic institutions that confirm and propagate structural oppression.

Which are then these forms of systemic or structural oppression? One form that has been, indeed, only marginally treated in political theory, and then mainly in feminist writings, is cultural imperialism. It has been marginally treated for the simple reason that it is almost a matter of perception, or rather non-perception. On

¹ *Ibidem*, p. 41.

the one hand, its supposed effect on individuals is to inoculate meanings and interpretations of a dominant group, replacing their original understandings and self-understandings. On the other hand, I will argue that one major difficulty with Young's claim is that one has no independent criterion to establish whether forms of cultural imperialism have ceased.

What Young understands by cultural imperialism is the phenomenon by which a member of one social group experiences "how the dominant meanings of a society render the particular perspective of one's own group invisible at the same time as they stereotype one's group and mark it as the Other"¹. In a similar move with many critical feminists, Young argues that modern and contemporary political theorizing ignores the complex and often subtle ways in which dominant groups impose their experiences and cultural forms upon the other groups, transforming these dominant understandings into "the norm", and thereby not only denying other groups the capacity to form and express their own (self-) understandings, but also contributing to their marginalization, fixation in pejorative, negative or repressed identities.

Again, this process and its consequences do not have to be intended, deliberate, and indeed, it is precisely when it is not deliberate that it becomes more difficult to contemplate and correct. What is interesting in Young's analysis is the perception that the non-deliberate character of cultural imperialism takes the forms of apparently "neutral" positions. Neutrality, as impartiality, is a dangerous ideal precisely because impossible. It only hides and renders difficult to observe the fact of cultural imperialism. Groups that experience cultural imperialism are rendered invisible and at the same time marked as the Other, but the cultural imperialists themselves need not be aware of their non-neutral attitudes, indeed not aware that they form a group, a dominant group.

"Judgments of beauty or ugliness, attraction or aversion, cleverness or stupidity, competence or ineptness, and so on are made unconsciously in interactive contexts and in generalized media culture, and these judgments often mark, stereotype, devalue, or degrade some groups."²

Cultural imperialism, marginalization, powerlessness are forms of structural, non-intentional oppression that need not be associated with overt discrimination or downright violence. The fundamental aspect underlying this strange relation, for Young, is that

"The systemic character of oppression implies that an oppressed group need not have a correlate oppressing group. While structural oppression involves relations among groups, those relations do not always fit the paradigm of conscious and intentional oppression of one group by another"³.

There is, however, always a (sometimes unaware) privileged group for any oppressed one. Moreover, when oppression takes these less visible forms, the image of neutrality and impartiality serves to mask deep and devaluating prejudices, and the social groups thus oppressed are in a twofold difficulty. Cultural imperialism, according to Young, is associated with false neutrality, and that renders

¹ *Ibidem*, p. 91.

² *Ibidem*, p. 133.

³ *Ibidem*, p. 41.

oppressed groups not only humiliated by the condescending, aversive behavior of others, but also silent, forced to experience such treatment while unable to confront the others about the perceptions that inform the oppressive attitudes.

If I understand Young correctly, that implies that the neutralist or impartialist standards in moral and political reasoning and discourse not only mask prejudice against particularities, but also incapacitate members of oppressed groups to react against such prejudice and force these to perpetuate and confirm the prejudices. This may be explained perhaps also by a lesser capacity of oppressed groups to translate their claims into the neutralist discourse that serves to propagate oppression itself. Remember Young's critique of the ideal of impartiality:

"The ideal of impartial transcendental subject denies or represses difference in three ways. First, it denies the particularity of situations. Second, in its requirements of dispassion, impartiality seeks to master or eliminate heterogeneity in the form of feeling. Third, the most important way that ideal of impartiality reduces particularity to unity is in reducing the plurality of moral subjects to one subjectivity. In its requirement of universality, the ideal of impartial reason is supposed to represent a point of view that any and all rational subjects can adopt, precisely by abstracting from situational particularities that individualize them."¹

Or, it is – according to Young –, precisely by the forced ignorance of the "situational particularities" that the ideal of impartiality undermines the quest of authenticity and thus the capacity of oppressed groups to resist or fight prejudice. If the goal is a "transformative politics that aims to undermine oppression and domination", then one must take seriously the contexts in which these occur, whatever their complexity. That means for Young acknowledging the difficulty of the task of "locating the conceptual and normative problems that bedevil our political conflicts" and the "perpetual failures to redress injustice". "Liberal individual institutions", she claims, are not sufficiently adapted "to overcome the very real dilemma that to do justice we must attend to liabilities generated by social group differentiation, but we must also attend to the relational fluidity and internal differentiation of groups"².

This is indeed the ambitious aim that may single out the effort of Young from both liberal individualism and communitarianism: Providing an account of structural and systemic, not only manifest, deliberate oppression – which places group-differentiation as one of the defining trigger-causes of such oppression and justifies group-differentiated rights of representation – and at the same time, emphasizes mediation and fluidity instead of rigid fixating or reifying group attributes. Ultimately, I contend that this strategy fails, for the reasons developed in the second part of this article.

The conception of groups is central in Young's theory:

"A social group is a collective of persons differentiated from at least one other group by cultural forms, practices or ways of life. Members of a group have a specific affinity with one another because of their similar experience or way of life, which prompts them to associate with one another more than with those not identified with the group, or in a different way. Groups are expressions of social relations; a group exists only in relation to at least one

¹ *Ibidem*, p. 100.

² Iris Marion YOUNG, "A Reply to Trebble", *Political Theory*, vol. 30, no. 2, April 2002, pp. 286-287.

other group. Group identification arises, that is, in the encounter and interaction between social collectivities that experience some differences in their way of life and forms of association, even if they also regard themselves as belonging to the same society"¹.

Nevertheless, despite Young's efforts of demarcation, the main tension of this theoretical construction derives from her insistence that social groups be the subjects of discourses of justice and the central aim of the politics of difference, while at the same time defining the object of social justice (reducing oppression and domination) in rather individualist terms.

After all, even in Young's alternative account of social justice, it is *individuals'* capacities for self-determination and self-definition that justice is meant to protect. This tension is actually capable of undermining her explicit effort to present her theory as different from both liberal individualism and communitarianism. By refusing the idealization of communities, offering a description of a fluid and overlapping membership in social groups, Young has to address the possibility that oppression occurs not only among groups, but also, crucially, *within groups*. The defense of group rights and the defense of individual rights can many times be incompatible and Young does not seem to provide a clear method of adjudicating between competing claims.

Young's critique of the ideal of impartiality actually expressly shares many features with both Michael Sandel's critique of John Rawls' theory as well as feminism's critique of liberalism. Her argument

"against the effort to construct an impartial point of view is not simply that it is abstract, unencumbered, as Sandel ably shows. More important, I argue, drawing on theorists of class, gender and racial hegemony, that the assertion of an impartial standpoint under circumstances of differential power results in distortion or silencing of members of the polity who are not members of the hegemonic group"².

This double perspective in Young's work provides an interesting tool for approaching the main theories of justice and avoiding the standard responses to communitarian or feminist critiques.

However, at least one important question mark is raised by Young's insistence that oppressed social groups should be entitled to special rights of representation. To generalize the problem, the question is, why should historical oppression give social groups some sort of permanent rights beyond the (however durable) always *temporary* rights for compensation of their individual members? After all, liberal policies already include a long set of principles of compensations, redistribution etc, which are intended precisely to provide the members of such historically oppressed groups with the means for not being unfairly disadvantaged in their choices.

The challenge that Young mounts against liberal theories is radical, in this sense, since it does not merely purports to re-arrange the already present or desirable policies for that aim. Instead, the "politics of difference" introduces the prescription of group rights of representation, and while she firmly denies any incompatibility with individual rights, one cannot exclude the conflicts that such an approach may allow.

¹ IDEM, *Justice and the Politics of Difference*, cit., p. 43.

² IDEM, "A Reply to Trebble", cit., p. 284.

Questions as "who is the narrator of the group's history of oppression?", or "who decides which aspects of the fluid identities need to be protected?" are not simply to be answered by designating either "the group" or "the majority in the larger society". Of course, within groups themselves historical oppression may also exist. In that case, we may end up in a cycle of dilemmas in which protecting some identities necessarily means reinforcing intra-group oppressions and, unfortunately, there may be no accurate way to exit such dilemmas.

The problem may be one of good intentions and bad policies, but in fact, as I will argue in the next section, there are certain structural dilemmas of the discourses aiming to protect groups or cultures that inevitably brings them into collision with classical liberal concerns for the primacy of the individual, and, inevitably, with the basic tenets of the contemporary justificatory project. To quote Martha Nussbaum, one may, in the end, wonder which is the normative appeal of such protection, after all; referring to more radical discourses for the protection of minority cultural practices and their potential conflict with the main protections of individual liberties, Nussbaum draws this conclusion: "It is hard to understand how the sad history of a group can provide a philosophical justification for the gross denial of individual rights and liberties for the members of the group"¹.

WHOSE IDENTITY, WHICH TOLERATION?

I advance, in this final section, a number of considerations pertaining to the problematic nature of the arguments for identity policies and the "politics of difference". There are several aspects, in my view, that may indeed pose significant difficulties in the way toward an elaboration of a conception of group-differentiated cultural rights, aspects that are insufficiently taken into consideration by authors such as Seyla Benhabib², Charles Taylor³, Iris Marion Young, or Will Kymlicka⁴.

I concentrate my analysis around the following three points: first, we may question the internal incoherence or indeterminacy of theories that prescribe group-differentiated policies while defining groups in a rather indeterminate fashion. I call this *the problem of structural over-inclusiveness* and I treat it as applying to the arguments for instituting group-differentiated policies such as special representation rights for ambiguously defined oppressed social groups, or exemptions from generally applicable laws.

Secondly, I follow Brian Barry and others in questioning the possible hidden logic of *cultural essentialism* in these writings, a charge that is though vigorously (but, I contend, unsuccessfully) denied by many theorists of multiculturalism. This critique applies to the internal logic and practical consequences of instituting cultural group-differentiated policies, and is best captured by Susan Moller Okin's questioning of the compatibility between multicultural policies and gender equality.

Thirdly, I question the lack of symmetry of the burdens of justification, among the levels of political justification and intra-group justification. This final

¹ Martha NUSSBAUM, *Sex and Social Justice*, Oxford University Press, Oxford, 1999, p. 109.

² Seyla BENHABIB, *The Claims of Culture*, Princeton University Press, Princeton, 2002.

³ Charles TAYLOR, Amy GUTMANN (eds.), *Multiculturalism*, Princeton University Press, Princeton, 1994.

⁴ Will KYMLICKA (ed.), *The Rights of Minority Cultures*, Oxford University Press, Oxford, 1995.

critique refers to the puzzle of *justificatory asymmetry*; it reveals the difficulty of conceiving a differential burden of justification, and has a clear implication on the (in)compatibility of identity group-differentiated rights and the individual rights to political justification.

Structural Over-inclusiveness

What is perhaps overlooked in many occurrences of the debates on the desirability of multicultural policies advocating the public recognition of distinct and valuable identities is that many theories of multicultural toleration seem to have failed to account for the full variety of potential social groups, cultural identities, or cultural practices that may press claims for toleration. By simply praising the existence of a visible plurality of forms of cultural experience, many theorists seem to ignore the fact that there is also a significant variety of the claims for toleration, and that it is not clear why all these claims should be compatible or equally valuable.

A community with a historical experience of racial discrimination and marginalization obviously may advance claims for a different type of toleration than, for example, a radical environmentalist or a religious group. The reasons for these claims for recognition are completely different, and a theory that praises "cultural survival" or "difference" as such may fail to capture and render justice to the real differences in the reasons and justification of the various claims.

At the same time, it seems that many theories of multiculturalism focus on some ideal of cultural community, which is somehow threatened to disappear in the context of modernity, criticism, and social mobility. In reality, however, there are very few entities resembling such "pure" communities, if they exist at all, and while trying to preserve this ideal projected upon some existing cultural communities in the name of "difference", one has to acknowledge that many other similar claims, whether reasonable or not, should be publicly endorsed too.

That may explain why discussions about the proper limits of (liberal or democratic) tolerance are so difficult to settle. One of the difficulties with the "identity politics" or the "politics of difference" is that they may at times plausibly identify reasonable claims for remedy from specific historically discriminated and oppressed communities, but at the same time, they do lend legitimacy to many other claims that have unrelated origins. An adequately developed theory of toleration must provide for criteria and forms of toleration that are neither under-inclusive nor over-inclusive.

While the multiculturalist critique addressed to liberal justifications of political toleration is that the liberal construction of the criteria and forms of toleration is *under-inclusive*, and that it does not account for a multitude of relevant differential cultural or social experiences – be they of oppressed minorities or fragile cultures –, the reverse critique of *over-inclusivity* may be addressed to some of the theories enthusiastically praising "difference". Not all differences and not all claims for toleration can be equally justified.

An adequate theory of toleration, according to Sheldon Leader, must correspond to a number of criteria, among which "that it will cover a sufficient range of real issues, and [...] that it will not be biased"¹.

¹ Sheldon LEADER, "Toleration without Liberal Foundations", *Ratio Juris*, vol. 10, no. 2, June 1997, p. 139.

If we focus on the first of these criteria, it entails that such a theory must be capable of accounting for a relevant number of situations that "come under the generic topic of toleration", while developing a limited set of formal and substantive tests and principles. A theory of toleration that focuses narrowly on the demands of a certain social group, or on the contrary, extends the public recognition of such claims indiscriminately to any manifestation of "difference" – is an inadequate theory, either biased or under/over-inclusive or both.

Moreover, a theory may be under-, or over-inclusive in two distinct ways. It may be so either in respect to the specification of real situations that should properly fall under its scope and be legitimately accounted for, that is, its tests and criteria may refer to a too limited or to a too indiscriminate set among the possible and legitimate situations of tolerance; or it may be so in relation to its internal structure, that is, this inadequacy may be built into the very premises of the justification for toleration.

Let me explain this distinction. A theory of toleration, for example, must provide, on the one hand, a set of principles that offer guidance as to how to answer specific claims for toleration, and on the other hand, a set of criteria, that offer guidance as to which situations properly fall under the scope of those principles.

Now, it is one thing to say that a certain theory's criteria miss certain situations of toleration or perhaps include claims for toleration that should not properly be awarded recognition (I will call this contextual under- or over-inclusiveness), and it is another thing to say that the reasons for toleration themselves, apart from the criteria for judging to which claims these principles apply, are inadequately formulated (structural under- or over-inclusiveness).

If, let's say, the reason for toleration is that all cultures or cultural forms are equally valuable and must be equally protected, or if that reason is cultural survival *per se*, then the indeterminacy and over-inclusivity is built into the very premises of the argument for toleration. If, on the other hand, the reasons for toleration are drawn from a larger and coherent theory that includes also an indication of the limits of such toleration, limits that are necessary in order not to witness performative contradictions, then the charge of over- or under-inclusiveness may refer rather to the particular, modifiable criteria that establish which claims are properly covered by these principles, and not to the principles themselves.

It follows that an adequate theory of toleration must, on the one hand, provide an argument for toleration that is cogent and thoroughly coherent, that explains the reasons for and the limits of toleration in a principled and precise way, and on the other hand provides specific criteria that enable us to distinguish properly among the possible situations that should be covered by its principles. At both levels such a theory should avoid over- or under-inclusiveness.

It may not be reasonable to expect from any political theory of toleration to provide a full set of justifications for its principles as well as a complete set of criteria for all possible situations that should fall under its scope of application. However, it is reasonable to demand from such a theory that it preserves a certain coherence among justifications, principles of toleration and the criteria of application.

Theories of toleration are indeed, after all, theories of public justification. I.M. Young's theory represents perhaps such an example of structural over-inclusiveness in the formulation of the reasons for, and of the principles of toleration. The manifest but widely overlooked over-inclusiveness derives from the definitions that the author provides for the relevant social groups that deserve to be protected under the "politics of difference". Her characterization of these groups and

the reasons for their special representation is, in this sense, more problematic than the formulation of the criteria for assessing which situations properly fall under the application of her principles.

The theory is thus over-inclusive not as much because of these criteria, but rather because Young offers at the first level, a too vague notion of what constitutes a social group and why it needs special policies of representation. The notion of a social group is central in Young's account, and it is incorporated into the main argument for the "politics of difference". It explains the reasons for such a policy, since structural oppression occurs at the level of the social group. Consequently, the notion of a social group is not one that is used only to highlight marginal examples or possible applications.

Throughout her book, the only references, when it comes to examples of oppressed social groups and the comparison of the remedies provided by (according to her, inadequate) liberal institutions and alternatively by the institutions applying a "politics of difference", are chosen among the various social groups involved in the civil rights movements, and especially groups based on gender, race, age or physical disabilities. Comparing these restrictive criteria with her own – rather generous – definition of a social group, generates a number of obvious interrogations, which are unfortunately not answered.

On the one hand, Iris Young's definition of a social group is regrettably vague and indeterminate, since it relies on differential cultural forms: "A social group is a collective of persons differentiated from at least one other group by cultural forms, practices, or ways of life"¹. On the other hand, by distinguishing the social group from aggregates or associations, and instituting shared identities and cultural forms as the defining elements of social groups, Iris Young does indeed provide a powerful account of the complexity of social experiences and relationships. She also provides a compelling argument for taking into consideration structural oppression, its reasons and its consequences on the ability of members of such oppressed social groups to meaningfully act as equal citizens. However, it is difficult to associate group-differentiated rights to social groups thus (broadly) defined. Moreover, while Young restricts the "eligible" social groups with criteria related to gender, race or sexual orientation, this restriction is in no way demanded by her definition of what a social group is, or how structural oppression works.

The impression left when reading these examples is that Young never stops to consider whether other social groups, given the generous and all-encompassing definition thereof she provides, might be equally entitled to file for such special protections. It does seem intuitively obvious that certain groups' claims to toleration may be at odds with her own idea of what should be protected; but, as it is apparent also in the case of the possible hidden logic of cultural essentialism, it seems again that the theory, as it is formulated, cannot but include and legitimize claims that perhaps contradict the initial intentions and moral outlook of the author.

Will Kymlicka introduces in *Multicultural Citizenship*² a number of distinctions among forms of cultural pluralism, among group-differentiated rights and among reasonable protections for such groups. These distinctions are necessary, in his view, in order to clarify the precise contours of the conflict between liberal individual rights and collective rights, more precisely, to accommodate the protection of

¹ Iris Marion YOUNG, *Justice and the Politics of Difference*, cit.p. 43, emphasis added.

² Will KYMLICKA, *Multicultural Citizenship. A Liberal Theory of Minority Rights*, Oxford University Press, Oxford, 1996.

the cultural contexts of autonomous choice with the traditional liberal concerns for individual rights.

The first distinction is between multinationalism and polyethnicity, where the former describes territories on which, over time, more than one people or nation exists; the latter refers to the presence of newly immigrated communities. The second distinction separates self-government rights, polyethnic rights¹ and special representation rights. While the first two kinds of rights are usually the focus of the new literature on multiculturalism, the special representation rights are assimilated to the already standard liberal defense of *temporary* measures of compensation and protection for historically oppressed groups, such as, for instance, affirmative action policies in education and political representation.

Kymlicka's argument throughout the book is that collective rights and individual rights must not necessarily come into conflict or be incompatible. By focusing on the terminology of group-differentiated rights instead of "collective" rights, Kymlicka argues that we should view the problematic of group-differentiated rights in terms of *external protections* to groups (protections of group-specific cultural experiences against the dissolution in the wider society) and *internal restrictions* (restrictions imposed on individuals members of such groups). While external protections may be warranted for providing compensatory (yet – importantly – not temporary, as in the case of the liberal defense of affirmative action) measures for minorities that are vulnerable in the face of the larger society, and as such do not necessarily come into conflict with individual rights, the internal restrictions – intended or claimed as limitations of members' individual rights in order to promote or protect some collective aim – are, from the liberal perspective, truly problematic².

These distinctions, while providing a very useful categorization of the different contexts of the claims of minorities, and at the same time treating as a matter of justice the differential responses that the liberal state must provide to these minorities, have inevitably a too rigid character. In the words of I.M. Young, the distinction itself between national minorities and ethnic minorities, while a first step towards contextualizing the demands of justice for these groups, has a too categorical nature. It is impossible to distinguish with such confidence, according to Young, "mutually exclusive categories of cultural minorities"³. Instead, she suggests that:

"It is far better to think of cultural minorities in a continuum, or perhaps in a set of continua [...] Thinking of differences among cultural groups as a matter of degree rather than kind, [...] seems to me to fit the facts better and to support more nuanced moral arguments"⁴.

However, the basic problem in this context is, in my view, that while Kymlicka's categorical distinction, and the differential prescriptions of justice he associates to it, renders his conceptual apparatus under-inclusive – by missing a host of situations (i.e., cultural minorities) that do not fit in either of his categories, and at

¹ Joseph Carens estimates that the difference between the first two kinds of rights lies in that "polyethnic rights do not necessarily require any control by the group over the legislative or administrative process establishing or carrying out the rights"; Joseph CARENS, "Liberalism and Culture", *Constellations*, vol. 4, no. 1, 1997, p. 37.

² Will KYMLICKA, *Multicultural Citizenship...cit.*, pp. 34-48.

³ Iris Marion YOUNG, "A Multicultural Continuum: A Critique of Will Kymlicka's Ethnic-Nation Dichotomy", *Constellations*, vol. 4, no. 1, 1997, p. 50.

⁴ *Ibidem*, pp. 50-51.

the same time seriously but groundlessly over-emphasizing the difference between national and ethnic minorities –, Young's own version is symmetrically over-inclusive, for the reasons suggested above.

The origin of this conundrum consists in fact in the considerable difficulty of conceiving "groups" as rights-bearers, in a strong sense; that is, in the sense of groups holding *rights to political justification*, since that implies searching for the fundamental yet ever-elusive characteristics that entitle such groups to acquire the formal status of actors or subjects of political justification. The next lines are dedicated to the critique of this search, and the further complications it generates.

Cultural Essentialism

It is interesting to view some of the most powerful critiques that, for instance, Brian Barry¹ among others, addresses against some of the authors best known for their insistence upon some forms of multiculturalism or politics of difference, as targeting in fact the internal incoherences of such theories. Barry argues, for example, that there is a common problematic assumption in the arguments of I.M. Young or James Tully², namely that of essentialism.

Of course, Tully, Young and Kymlicka³ explicitly and repeatedly deny that any such assumption exists in their arguments; they, moreover, criticize in turn alternative or competing theories as failing precisely to reject and eliminate this presupposition.

We can surely read Barry's critique as representing more than an all-out, principled opposition to the inclusion of diversity and cultural forms from liberal political justification. In his book, he devotes a great length of argumentation in favor of accommodating liberal principles to contemporary pluralism and multiculturalism, understood as a social characteristic of liberal societies. He convincingly deploys a number of liberal positions intended to cover the relevant aspects of social exclusion and injustice, and despite the polemic tone of his work, he is committed to answer the fundamental concerns of his opponents.

Instead, he makes the distinction between multi-culturality and multiculturalism, in other words between the fact of multiculturalism and the policies usually advocated under this name. While praising diversity and multi-culturality and advocating for the inclusion of plural experiences and identities into the main liberal justificatory project, he explicitly rejects any capacity to principled and non-temporary multicultural policies, as advocated by Young, Kymlicka or Taylor, to effectively ensure the value of equal citizenship and meaningfully equal political rights.

In this sense, Barry's commitment to liberal equality prevents him from accepting multicultural policies other than with temporary effects. Contemporary liberalism's advocacy in favor of affirmative action or positive discrimination is meant to reduce, as *temporary* policies, the effects of historical discrimination and oppression, and equalize through temporary compensations the conditions for the

¹ Brian BARRY, *Culture and Equality*, Polity Press, Cambridge (UK), 2001, and IDEM, "Essentialism and Multiculturalism, A Response", *Ethnicities*, vol. 2. no. 2, June 2002, pp. 284-288.

² James TULLY, *Strange Multiplicity. Constitutionalism in an Age of Diversity*, Cambridge University Press, Cambridge, New York, 1995.

³ Will KYMLICKA, *Politics in the Vernacular: Nationalism, Multiculturalism and Citizenship*, Oxford University Press, Oxford, 2001, p. 44.

equality of opportunity or equality of chances. Multicultural policies, instead, are supposed to render permanent a special status for particular cultural or ethnic groups by virtue of these groups' cultural specificity, and not by virtue of their members' equal status as free citizens.

Building on such an argument, it becomes clear that multicultural policies risk fixing members of given groups within a particular reading of their own identity, certainly perpetuating by neglect the contradictions and tensions within those groups. In addition, that particular and always temporary reading of the group's identity – which would thus be recognized and sanctioned by the state – is by no means the only possible reading. It might just as well represent a certain given power structure within the group, a synthesis of historical injustices and exclusions characterizing not just the relation between the group and the rest of the society, but the relations within the group itself. And thus, the problem cannot be solved by simply granting state recognition to some particular definition of the group's identity. Who is entitled to provide that definition? Which are the normal guarantees that have to accompany that process of (self-) definition, such that mis-recognition does not simply shifts places?

Because, if Charles Taylor legitimately warns us against the consequences of society's misrecognition of particular identities, then there is a particularly sensitive case to be made regarding the risk that the misrecognition within groups becomes sanctioned by such group-differentiated rights. The problem of misrecognition is not solved by simply shifting its possible location. If the language of *rights* is deployed – and not just employing these terms as a figure of speech –, it is fundamentally necessary to identify what *defining features* would allow for the identification of the right-bearer, and hence the problem of the definition of those essential features becomes central and inescapable. The process of providing an explicit and definitive identification of the essential features – which in turn allow the identification of a group as rights-bearer – is deeply problematic, not only because of the essentialist approach implied, but also because of the fact that there are no independent ways to verify whether the definition itself does not rely upon, or consecrates, historic forms of misrecognition and oppression.

The definition of the essential features of a group deserving rights can only come from two directions. On the one hand, it can be the majority, or the state, or some administrative agencies which are entrusted with, and have the authorization to proceed with such characterizations. On the other hand, it may be some process of *self-identification* that results in the public affirmation of the defining features to be protected, and of the associate claims for group-differentiated rights. Administrative decisions in such sensitive issues are, of course, profoundly unreliable and leave much space for prejudice and misrepresentation. But the alternative process of self-identification is also problematic. It is always a complex course and one that should raise serious concerns.

The origin and the actors of the process of self-identification, as well as the content of the group's characteristics that have to be protected, constitute a delicate problem. In certain situations, self-identification processes generate a race among potential actors in search for more radical and exclusive definitions and affirmations of the group's essential attributes, and struggles for sharper identification. While the normal history of such groups makes possible the gradual confrontation and even critical examination of their central cultural, religious attributes, practices, values, the problematics of *rights* based on such attributes generates, unavoidably, a fixation and a reduction of that complex evolution, an essentialization

or re-essentialization. That might be the basis for Barry's concern. If the language of rights is employed, that fact by itself is inevitably associated with an effort of identification and formalization of such debatable and inexorably fluid attributes of various groups, paradoxically generating a need for the fixation of otherwise changing identities.

Cultural essentialism, according to Barry, is closely related to a "birth is fate" presupposition, to the idea that group differences are acquired at birth, and refers to the deeply problematic idea

"that members of such groups have some sort of primordial attachment to certain ways of life or ways of looking at the world, and can flourish only if these are sustained, if necessary over the objections of some of those who are members of the group by birth"¹.

The assumption of cultural essentialism, while vigorously denied by Tully, Young and others, must actually be present in their theories, according to Barry, in order to make sense of several of their arguments and examples. Without such a presupposition, it would be difficult to understand why cultural differences *per se* would play such an important role in the prescription of multicultural policies, and why is it necessary to protect cultural forms, whatever their nature, even against the options of the members of those groups that are attached to, or define themselves by reference to these differences.

An account of toleration based on the ideal multiculturalism, which does indeed presuppose cultural essentialism, is manifold problematic. In the case of I.M. Young, while she emphatically denies² any fixed identities for the members of the social groups that deserve special representation rights, emphasizing the fluidity of identities and the permeability of groups' borders, one cannot make sense of her demands for special group-differentiated rights without assuming some sort of cultural essentialism. Despite the distinction she operates between "difference" and "identity", these rights seem less intended to compensate for historical oppression, as rather to validate and endorse the given definition of cultural forms and ways of life within groups, whatever the origin of such definitions.

As Adam Trebble remarks, despite Young's insistence on offering an anti-essentialist justification of such rights:

"No account is offered to explain why social group-differentiated domination and oppression is normatively significant – and thus meriting institutional attention in the form of specific representation – whilst the oppression of a subgroup from within a social group is not. Yet, it seems that subgroups are just as important as social groups as objects of domination and oppression because membership of more than one social group may be the trigger of oppressive relations for the same individual at any given time"³.

While Young's own solution to this problem is to grant specific representation to these subgroups within the institutions in which social groups exert their

¹ Brian BARRY, "Essentialism and Multiculturalism...cit.", p. 284.

² Iris Marion YOUNG, "Difference as a Resource for Democratic Communication", in James BOHMAN, William REHG (eds), *Deliberative Democracy. Essays on Reason and Politics*, MIT Press, Cambridge (Mass.), 1997, pp. 383-406.

³ Adam James TREBBLE, "What is the Politics of Difference?", *Political Theory*, vol. 30, no. 2, April 2002, p. 267.

group-differentiated representation rights, that is not the same, Trebble argues, as granting these subgroups some special representation within the larger public. And we have here, indeed, the possible asymmetry of the burdens of justification (in the form of arbitrarily differential "special" representation rights) that constitutes the third critique mentioned below.

Of course, not all theorists of multiculturalism attach the same "primordial" dimension to group differences. It is reasonable to conceive of a scale of such assumptions, varying from truly primordialist accounts to more open-ended and multifaceted accounts of how identities are formed and the role they play in any conception of toleration and justification.

It may be confusing and even unfair to associate every theorist of multiculturalism or of "the politics of difference" with a commitment to a primordialist view of cultural identities, but at the same time it is important to pay close attention to Barry's charge that there is present in many of these theories a *hidden logic* of cultural essentialism. Barry's forceful claim is that such a *de facto* hidden logic exists. We may add that when such logic is present, it steers the conception in question towards a form of structural over-inclusivity that renders it problematic.

Justificatory Asymmetry

There is an apparent ambiguity concerning the drive towards group-differentiated rights. There is, first, the question related to the reason, or justification, of each of the rights under discussion. That involves weighing the legitimacy of the claim for having some different, and not equal, rights recognized across particular groups. The other question, not completely separated from the first one, is related to the actual entity that can be said to enjoy these rights.

Group-differentiated rights may mean either rights that apply for the individual members of some group, or indeed group-rights, that is, rights claimed by the group itself and not by the individual members of the group, but on behalf of them. That may entail either their protection from alienation from their own culture and assimilation in the larger society, or the protection of the distinct identities themselves, as singular cultural forms and ways of life that are transmitted through generations within the group. This difference between rights of members and rights of groups is crucial, I argue, for one reason because there is still a fundamental problem and a difficulty for modern political theory to envisage, as rights bearers, anything other than persons, individuals, citizens.

Of course, states, institutions, agencies, political authorities in general may be said to have a right to issue authoritative directives, potentially coercively imposed, by virtue of their being legitimate such authorities. Political legitimacy entails the existence of a right to issue such directives, and there is, in most political theories, considered to exist also a corresponding duty or obligation to obey, on behalf of their subjects. Hence, political legitimacy and political obligation may be such two elements of a relation connecting conceivable rights of non-individual entities, to obligations attributed to individuals.

However, the institutions of the modern liberal democratic state and the various social (ethnic, cultural, religious) groups that are the focus of the literature on multiculturalism and group rights, are hardly comparable entities. The question of political legitimacy, as it is conceptualized regarding the state's right to issue

authoritative directives, and especially the conditions that are considered to be necessary for such a right to be justified, have no conceivable correspondent and application when compared to a social groups' relation to its members, or a church's relation to the followers of the faith in question.

The way in which "internal restrictions" (to use the vocabulary suggested by Will Kymlicka) are in fact defined and applied within certain cultural, ethnic, and (especially) religious groups, has no correspondence with the present justificatory burden that the liberal tradition imposed on the state. The frequent contradictions within such groups is an indicator of the incoherence of any political theory which bestows *rights* to composite entities within which the definitions of the cultural identity, religious precepts, and ethnic filiations are subject to the same pluralism as the wider society.

This represents a principled argument, as opposed to an argument from fact. The simple evidence that such groups sometimes impose unjustified coercion upon their members – usually by means of exclusivist readings of ancient texts or traditions – does not represent by itself a sufficient counter-argument to the defense of group-differentiated rights. One would just as well direct comparable evidence against the liberal democratic justificatory accounts. That is not, however, enough in order to invalidate the reasons for such commitments. The principled argument presented here is rather the one which points to the internal incoherence of the theoretical stance of the defenders of group based rights. The basic difficulty involved in this critique is that of an unwarranted inconsistency across the several levels of *political justification*.

Since the central focus here is on the elements of a coherent account of political justification, there is an obvious requirement that whenever the same circumstances for justification are said to be met, the same justificatory approach – or at least the same normative requirements – should be deployed. Thus, when discussing the need of political justification, the various accounts which ground it on the non-voluntary aspect of membership into political communities, have to respond to the same reasons, whenever these apply.

In any definition of a social group (including Iris Young's definition), it is precisely the *non-voluntary* aspect of membership that is emphasized and considered as central. It represents one of the aspects of what makes a social group different from voluntary associations, in Young's view. One "finds himself", in Young's words, as a member of a group he never actually chose to enter. That kind of membership may correspond, in an important measure, to some objective features (skin color, gender, age) – but it is never that feature itself that is significant. Instead, what is significant is a set of identifications from non-members and self-identifications by the members themselves, a process of acknowledging that there is a particular identity, a set of practices or cultural forms – perceived by others and by the members themselves. That distinctive identity has constituted the reason for various structural or deliberate forms of discrimination or oppression, by other groups or the wider society.

However, whatever the definition and characterization of the dimensions of membership in such social groups, there is never a *burden of justification* toward their members that can be reasonably compared with the requirements of political justification as we now normally conceive them. This represents one of the main problems highlighted in the present argument, an argument regarding the fundamental difficulty of conceiving non-individual entities as holders of rights.

Since membership in a social group thus defined, and membership in a political community, are both *de facto* non-voluntary, unavoidable, un-chosen, and

moreover, affect individuals' lives in ways that find no equivalent in voluntary associations, it follows that the political and quasi-political relations which characterize such memberships need to be justified in a similar way.

Once we placed such a huge burden of justification on the state and its main institutions, the ensuing legitimate right to use coercive power and impose duties to citizens under specified conditions *cannot*, normally, be a weaker right than a potential right of groups to impose duties on their members. In addition, when the state and the institutions in question are liberal, then it follows that the illiberal groups in a society cannot normally enjoy broader rights than the liberal state's institutions themselves.

Of course, the argument is rather complex, but its main lines should be by now salient. It is in this context that we can understand the difficulty posed by what I call the political form of the paradox of toleration. When the differential in justificatory burdens is visible, the political theorist has to find some reasons for that difference. Justificatory asymmetry, here, could be defended only by an argument which appeals to some overriding value of the preservation of cultural identities – something which few theorists, if any, are prepared to explicitly make. Otherwise, in the absence of the presupposition that survival of cultural identities is more important than equal rights to political justification – whenever the “political” context of justification is present, i.e., including at the level of social groups – the asymmetry cannot be defended.

The presence of justificatory asymmetry within the various accounts of multicultural policies or “the politics of difference” makes visible the underlying assumption that the preservation of given – but in a certain way, arbitrarily defined – identities overrides the claims for equal rights to political justification. The often associated prejudices or the inherent incentives for radicalism generated by the process of forced definition of these identities are revealed when analyzing the more complex situations of self-identification (discussed above) or the alternative – potentially equally biased – administrative identification of the identities to be protected. The problem, therefore, is created not only by the claim itself that preservation of identities has preeminence over equal individual rights to political justification; in addition, the definition of the identities is a complicated process which may involve a questionable degree of arbitrariness.

Furthermore, there is another possible argument against group-differentiated rights that relates to the first point of ambiguity identified above: what exactly does it mean to say that groups have rights by virtue of having distinct identities, or by virtue of they representing the necessary conditions for the survival of certain cultural forms, and that without such protections (specific group rights), these identities would disappear or would be dramatically undermined? What, in other words, would be the possible reasons for such rights?

Why indeed protect through guaranteed exemptions certain dimensions of “cultural” interpretations and practices, why insulate them from possible internal and external criticism and debate? The worth of some cultural practices and traditions is perhaps difficult to be measured within a tradition which, for some time now, praises or at least allows a significant degree of critical reflection to accompany social practices. But similar contradictions and tensions existed at various moments in the affirmation of critical individualism, personal liberties, the rule of law, etc, and there is no reason why some political engineering should be deployed today to protect other cultures.

Both Charles Taylor and I.M. Young are right that mis-recognition is indeed a form of re-essentialization. The conundrum arises when realizing that the move from explaining it to prescribing group-based policies cannot be made without it involving in fact the same logic of re-essentialization. I recall here some examples from Susan Moller Okin's provocative essay¹ on the compatibility between feminism and multiculturalism.

The three critiques (related to structural over-inclusiveness, cultural essentialism and the asymmetry of the burdens of justification) illustrate the considerable difficulties that characterize attempts to extend the limits of toleration, and by that the limits of public justification without a clear understanding of the circumstances in which theories of toleration risk be internally inconsistent. The politics of difference also fails to offer a better account on how the underlying common framework of toleration and respect for diversity can be fostered and preserved, when the focus shifts towards identity difference, rather than diversity. The reasons themselves for valuing pluralism and diversity seem to be radically undermined within such an approach.

¹ Susan MOLLER OKIN, "Feminism and Multiculturalism: Some Tensions", *Ethics*, vol. 108, no. 44, July 1998, pp. 661-684, and IDEM, "Is Multiculturalism Bad for Women", in Joshua COHEN, Matthew HOWARD (eds.), *Is Multiculturalism Bad for Women*, Princeton University Press, Princeton, 1999.