

Equal Citizenship, Neutrality, and Democracy: A Reply to Critics of *Equal Recognition*

Alan Patten

Stripped down to its essentials, *Equal Recognition* sets out to defend a fairly simple thesis:

Strong cultural rights thesis. There are basic reasons of principle to think that cultural minorities as such are owed specific forms of public recognition and accommodation.

All liberal philosophers would readily agree that cultural minorities are entitled to the same package of basic civil, political and social rights as their fellow citizens. Most would also agree that special measures might be justified to ensure that cultural minorities are not disadvantaged by discrimination or insensitivity. And many would acknowledge the need for special transitional accommodations that would help reduce the social costs associated with minority culture status. The strong cultural rights thesis goes further, however, than any of these propositions. It says that, in virtue of their cultural difference, and whether or not they are able to integrate into the majority culture, some minorities have a principled entitlement to special forms of recognition and accommodation that go beyond the standard package of liberal rights.

Liberal theorists are divided about whether to embrace the strong cultural rights thesis. Some have defended the thesis on the grounds of freedom, identity,

or the inevitable non-neutrality of the state. Others have disputed the cogency or liberal credentials of these arguments, or have questioned the coherence of the culture concept, or have drawn attention to various perverse consequences that they say would arise from accepting the thesis.

Equal Recognition proposes a new defense of the thesis on liberal grounds. Chapter Two of the book develops a distinctive conception of culture and argues that it is not vulnerable to the charges of incoherence and essentialism that are often pressed against culture concepts. In Chapter Three, the book then builds on this conception of culture to explore why cultures matter to their members. The heart of the argument can be found in Chapters Four and Five. Chapter Four introduces a new conception of liberal neutrality, and then Chapter Five argues that the liberal state's obligation to be neutral in this sense justifies the strong cultural rights thesis. Chapters Six to Eight apply and elaborate this argument by considering more concrete debates about language rights, federalism and secession, and immigrant integration.

Several of my commentators raise questions about the overall structure of the book's argument. I shall start by considering these questions. I then move on to a cluster of three comments that take issue with the book's analysis of neutrality. A third set of comments zooms in on language rights, and questions whether the equal recognition approach described in the book is defensible. And a final trio of articles takes up some issues that are apparently marginalized in

the book, including the role of democracy and the relevance of the book to actual problems of public policy.

I am glad that a number of the papers attempt to sketch their own positive view of the issues at hand. Even when they are critical, several of the commentators offer their objections in the spirit of friendly amendments. All of the comments are insightful and interesting, and I fear that I cannot do justice to them in my responses below. The task is a daunting one in part because of the sheer number of the comments. Readers will be relieved to know that I will not try to answer all of the criticisms that are raised.

General argumentative strategy

Rainer Bauböck worries that the book marginalizes rights to equal citizenship and collective self-government by treating them as defeating considerations that might override a cultural minority's pro tanto claim to equal recognition. As an alternative, Bauböck suggests that these rights "ought to be built into a liberal theory of cultural recognition from the start". Some cultural rights are better justified in terms of democratic self-government than liberal neutrality.

Calling his proposal a "friendly amendment" to my account, Bauböck seems to sense that the gap between our views is not very great. In fact, I do not think there is any fundamental difference at all. The neutrality-based justification of cultural rights is developed in Chapter Five of the book. I begin by assuming that all citizens enjoy a "standard package" of liberal rights and entitlements,

including “the basic liberties, as defined and defended by Rawls,” fair equality of opportunity, and other conditions. I then ask: Would the presence of the standard package be sufficient to confer justice on whatever outcomes should arise, including the decline or loss of particular cultures? An affirmative answer to this question is suggested by various prominent liberal philosophers, including Rawls, Barry, and Scheffler. But I argue for a negative answer. A further condition is normally necessary, which is that public institutions be designed in such a way as to treat neutrally the different commitments and attachments of citizens. This further condition is a game-changer as far as minority recognition and accommodation are concerned – or so Chapter Five argues.

Far from marginalizing the values of equal citizenship and democracy, this set-up is consistent with acknowledging their importance and indeed their priority. These are the values that are embodied in the standard liberal package, which is assumed to be in place when the question of minority cultural rights is raised. The argument is that a state devoted to protecting the standard package could be “formatted” in different ways. All else being equal, given the liberal commitment to neutrality, formats that extend recognition and accommodation to minorities ought to be preferred whenever they are possible.

Bauböck’s reading of the book goes off the rails when he supposes that my account “subsumes” the interest in recognition as a member of a political community under the interest in living one’s life in accordance with one’s conception of the good (Bauböck, p. ??). I try to guard against this interpretation

in Chapter Four (sec. 4.2) when I insist that neutrality is not to be regarded as a “master value” that shapes and constrains all other political values. Instead, I argue, neutrality is a “downstream” value, which has only *pro tanto* or presumptive weight. This is because the upstream value from which neutrality is derived – fair opportunity for self-determination – has multiple conditions, of which neutrality is only one. And it is also because this upstream value is not the only higher-order political value that should be of concern to liberals. This structure does not subsume equal citizenship or democracy under neutrality, and is fully consistent with embracing Bauböck’s claim that “individuals have many noncultural reasons why they are rationally interested in being citizens of liberal democracies.”

At one point, Bauböck goes further and suggests that cultural rights “are not morally required unless upholding them contributes to the realization of another principle of liberal justice, which is the recognition of legitimate self-government claims.” This formulation makes self-government the master value, and does conflict with my argument. Again, my view is consistent with regarding self-government and equal citizenship as having priority, but not with thinking that these values must be the source of all justifications for cultural rights.

Bauböck also makes some comments about language rights, questioning, for instance, whether what I call “toleration” and “accommodation” rights would provide cultural security to members of endangered cultures, and also suggesting that I give “short shrift to the communication value of languages because it does

not serve [my] purpose of providing support for linguistic minority rights.” But these too are misreadings, which I think can be traced back to the previous misreading. I distinguish toleration and accommodation rights from “promotion” rights. It is the latter that are designed to protect and promote a language, and to offer speakers some tools for securing the language. The former categories of rights are based on the interests that people have in what Bauböck calls “equal citizenship” and revolve (especially in the case of accommodation rights) precisely around the communicative function of language. Even a liberal that insists on nothing more than the standard package ought to support these rights, because they help to protect the basic rights and entitlements of minority speakers (to free speech, equal opportunity, etc.). So we have here an illustration of my earlier insistence that values of equal citizenship and democracy are not sidelined in my account.

Bauböck’s strongest argument for his alternative self-government-based view is found in his discussion of the cultural rights of immigrants. He thinks that his self-government view does a better job of explaining why the language rights of immigrants can legitimately be limited than the account I propose. Although I see the force of his position, I am puzzled about how it offers much of an advance over the view I advance. Why does Bauböck think it would be legitimate to prioritize the claims of current citizens to territorial self-government over the claims of immigrants? His answer, in part, is that immigrants are admitted on condition that they not upset the existing structures of self-government. But why

is this a legitimate condition for the receiving society to attach? The “situational” and “perspectival” arguments I sketch seem like possible answers. Bauböck also says that immigrants have rights of self-government through their countries of origin. But how does this fare any better against the objection he presses against me about second-generation (and beyond) immigrants, who may have no citizenship rights in their parents’ country of origin?

Although very different in its focus, Eldar Sarajlic’s comment ends up raising issues that are similar to Bauböck’s. Sarajlic’s topic is the account of neutrality that is developed in Chapter Four of the book. Sarajlic reads this chapter as grounding neutrality in autonomy. Autonomy, in turn, is identified with self-determination: with an individual’s ability to pursue and enjoy the conception of the good that he or she in fact holds. Sarajlic then criticizes this foundation of neutrality for being much too narrow. Autonomy, he argues, involves much more than pursuing whatever conception of the good one happens to have. An autonomous person must be in a position to reflect on her ends, and to revise them if she wants. Her commitments must not be dictated by the power structures of her society, but must be under her own control. As Sarajlic puts it, autonomous persons must be able “to engage and fight off other possible challenges to control over their commitments.” Insofar as neutrality is based on a narrow conception of autonomy – autonomy as self-determination – it leaves too

much room for various sources of power to influence outcomes, and it offers too little protection to the critical independence of autonomous persons.

Since the issues raised by this line of criticism are quite similar to the ones raised by Bauböck, I will respond quite briefly. It is not the case that I equate autonomy with self-determination. I am quite careful to say that self-determination is an *aspect* of autonomy. There are other conditions that are required for autonomy as well, many of which are mentioned by Sarajlic. As I say in Chapter Three,

There should be rights and institutions that make it possible for people to reflect critically about their ends and to revise them as they judge best. There should be democratic freedoms and practices that check the power of elites to manipulate cultural attachments and identities. And the law should foster an environment in which ideals of the good life are vigorously contested, and in which ideas and information circulate freely.

Just as neutrality presupposes a background in which other rights of equal citizenship are secured and protected (my response to Bauböck), self-determination presupposes a background in which the other conditions of autonomy are in place. The important point is that establishing these other conditions – of equal citizenship and autonomy – does not render self-determination and neutrality superfluous or irrelevant. Indeed, as I suggest very briefly in Sec. 4.6 (commenting on Raz on autonomy) there are reasons to think

that self-determination, and thus neutrality, will still have a very significant place, even once the other conditions of autonomy are looked after.

Neutrality

Three of the comments contain extended engagement with the account of neutrality offered in the book. In each case, the author proposes an alternative conception of neutrality, and suggests that adopting this alternative would lead to different conclusions about cultural rights.

Chiara Cordelli begins her contribution by noting that my proposed conception of neutrality – neutrality of treatment – is offered as an alternative to the more familiar justification- and effects-based conceptions. She questions whether neutrality of treatment really is superior to these alternatives, and especially whether it does better than neutrality of justification in handling a number of tricky cases.

One such case she calls Divine Egalitarianism. In this case we are to imagine that the state has passed laws satisfying neutrality of treatment but justifies these laws on theological grounds. Cordelli believes that these laws should be considered non-neutral, whereas my view seems committed to the opposite. A second case, Symbolic Establishment, imagines a situation in which the state symbolically favors some religion or culture but does so without affecting anybody's opportunities. Since neutrality of treatment is justified by reference to fair opportunity for self-determination, it would seem to have nothing

to say in condemnation of this departure from neutrality. Neutrality of justification can handle both of these cases easily.

In another case, Humanitarian Policy, Cordelli argues that neutrality of treatment improperly considers as non-neutral a policy of channeling humanitarian aid through a religious organization, where this is the most effective means of delivering that aid. She thinks that this policy “provides no preference for religious conceptions of the good” and so should be considered neutral. And, finally, in Self-Effacing Costs, she thinks that neutrality of treatment (unlike neutrality of justification) cannot explain why a perfectionist policy that imposes no costs on third parties might still be objectionable.

Cordelli’s cases all raise interesting issues, and I cannot do justice to them here. Proponents of neutrality of justification usually identify the justification reconstructively, by asking what justification a charitable observer would attribute to a law if she tried to put it in the best possible light. Since, by assumption, the law in Divine Egalitarianism is egalitarian, presumably the most charitable justification would appeal to equality and not to divine command. It is true that the fact that the law in question is, as a matter of stipulated historical fact, religiously motivated is a little troubling (but not so much that we would abandon the law). But both neutrality of treatment and neutrality of (reconstructed) justification could be supplemented with additional principles that condemn motivations of this sort.

When I was writing *Equal Recognition* I thought of cases like Symbolic Establishment as being analogous to a tax. An individual can only pursue a

symbolically disfavored conception if she is willing to put up with a symbolic cost – a state-sponsored message of exclusion or marginalization. On this view, even purely symbolic establishment detracts from a person's opportunities. Under the pressure of Cordelli's example, and of other similar cases, I am now inclined to add an additional layer to the analysis. Fair opportunity for self-determination should not be regarded as the only value undergirding neutrality of treatment. There are other fairness-related values that provide further support for neutrality, including something like fair access to the state's symbolic resources. Neutrality of treatment need not be abandoned in favor of the justification-based view; instead, a fuller account of the moral basis of neutrality of treatment ought to be developed.

More briefly on Humanitarian Benefit, it sounds like the policy does extend a selective benefit to those with a particular religious view by giving resources to their organization. It doesn't extend that benefit *because* it seeks to promote the view in question, but that is not required for non-neutral treatment. So this may indeed be a case of justified (all-things-considered) non-neutral treatment. Finally, Self-Effacing Costs suggests that there may be a further anti-paternalist principle that explains why certain departures from neutrality are wrong even when there is no denial of fair opportunity. I do not dispute Cordelli's observation that "neutrality of treatment does not provide a *comprehensive* account of why perfectionist policies ought to be constrained" if this is taken to mean that the grounds I adduce in favor of neutral treatment do not explain what is wrong in

Self-Effacing Costs. I do say that “in general...there is a fairness objection to perfectionism” but this generalization is explicitly made to depend on empirical factors that are filtered out of Self-Effacing Costs.

Whereas Cordelli defends the traditional idea of neutrality of justification, Kasper Lippert-Rasmussen is persuaded that the traditional understandings of neutrality are wanting in some respects. However, he does not think that neutrality of treatment is the only or the best candidate for an alternative. Instead, he proposes a view that he calls “neutrality of disposition.” In one respect, as Lippert-Rasmussen emphasizes, this view is more relaxed about neutrality. It permits states to be more accommodating of some commitments than of others so long as in an appropriately defined counterfactual situation some different commitment or set of commitments would enjoy the greater accommodation. Thus, it is consistent with neutrality, on this view, for the state to support a struggling minority culture so long as, if the tables were turned, and the majority culture were struggling, the state would provide equivalent support to it. Lippert-Rasmussen argues on luck-egalitarian grounds that this implication of neutrality of disposition is more plausible than the view of struggling minority cultures implied by neutrality of treatment.

I agree that dispositional neutrality is a distinct view from other contenders in the neutrality literature. It says that there would be no departure from neutrality if a state were to establish a particular religion as official to promote social

stability, so long as the state would treat a different religion in the same way if that were to help with social stability. On my view, by contrast, such a policy might be justifiable all things considered but it would not be neutral with respect to religion.

I worry that dispositional neutrality is going to have some odd implications. If Catholicism is regarded by the state as the true religion, is it consistent with dispositional neutrality for the state to promote it for this reason so long as it would promote other religions were it to come to regard them as true? If a soccer referee favors one team because it is losing and he wants the match to be more exciting, would this be consistent with dispositional neutrality so long as he would do the same for the other team if it were the one losing? In addition it is not immediately obvious why Lippert-Rasmussen sees a connection between dispositional neutrality and what he calls equal opportunities for self-determination. If the state is privileging a particular religion (and would privilege other religions instead if the facts were relevantly different) it seems entirely contingent whether this would promote equal opportunities for self-determination.

This contingency would disappear if neutrality of disposition were to be specified in such a way as to make the relevant facts hinge on whether equal opportunity for self-determination is realized. This would imply that the real disagreement Lippert-Rasmussen has with neutrality of treatment arises from his lack egalitarianism. Whereas Lippert-Rasmussen thinks that equal opportunity for self-determination is a reasonable standard, neutrality of treatment is based on

what he terms equal resources for self-determination. The resourcist standard, he argues, is unfair to people who have the bad luck of being born into a small and/or struggling culture.

Lippert-Rasmussen makes a number of sensible and subtle points in favor of his preferred distributive standard, and I won't try to respond to them in detail here. In brief, I agree that the example of Martin includes some confounding details that detract from the anti-luck-egalitarian point being made, but I think the example could be cleaned up, and supplemented by other examples, to support the theoretical claim in question. I think that Lippert-Rasmussen's reliance on the case of Misael is equally if not more problematic. He could stipulate that Misael's culture enjoys both equal recognition and an adequate set of opportunities, but in practice I think our intuitions about the case are likely to be confounded by the knowledge that indigenous peoples do not enjoy these conditions, that there has been substantial historical injustice, and so on. Finally, to respond to one other strand in Lippert-Rasmussen's critique, it is true that people don't exercise individual choice over whether their culture is flourishing or struggling. This is true with respect to the opportunities they have to exercise all their preferences. These opportunities are profoundly shaped by the preferences and upbringing of other people and by facts about resource availability, population, and so on. My point is that, even though people have no control over these features of their preferences, they may, in a liberal society, have some indirect control over which

preferences they have. It is this control – when it is present – that makes it reasonable to think of them as responsible.

Denise Réaume's central question is whether I dismiss neutrality of effects too quickly. According to my account, she says, the human interest in this area is self-determination. If the state were to equalize the realization of this interest for everyone, then the implication would be a view that looks like neutrality of effects. Réaume agrees that a simplistic, unqualified neutral effects principle would obviously be objectionable. But she points out that such a principle might be safeguarded from these objectionable implications if it is treated as a defeasible presumption rather than an all-things-considered requirement. If satisfying neutrality of effects produces excessive burdens on others, then the presumption in its favor would be defeated.

Réaume suggests that her presumptive version of neutral effects is not so very different from my neutrality of treatment. With its guiding principle of fair opportunity for self-determination, neutral treatment builds limits via the idea of fairness into what people can claim in the way of accommodation of their preferences. Presumptive neutral effects also limits what people can claim, but it makes the limits extrinsic to the initial claim, so that the claimant's interests are being balanced against the interests of others. Although the views are similar, she thinks, they are not identical. She believes that, on her proposal, minority

claims will less likely be dismissed at an early stage, and thus minority accommodations are more likely to be substantial and meaningful.

One small quibble about Réaume's exposition and then a response. The quibble is with the suggestion that I treat fair opportunity for self-determination, rather than self-determination itself, as the interest that needs protecting. I never say that. What I do say is that the *pro tanto* claim we have on others is for fair opportunity and not for self-determination itself.

For a while, when I was writing *Equal Recognition*, I tried out the presumptive neutral effects view, but I ended up setting it aside for two reasons. First, it seems to me that in some situations where a law is imposing a constraint on someone's self-determination there isn't even *a* reason to accommodate. There is no *pro tanto* claim that then needs to be outweighed by countervailing considerations. For instance, consider someone with a racist conception of the good, who wants to receive his public services in an all-white setting. He wants an accommodation that takes the form of separate but equal. To my mind, it would be wrong to think of this as a case in which there is a reason grounded in his interest in self-determination to accommodate him, but then offsetting anti-racist reasons based on the burdens on others not to accommodate. By contrast, the fair opportunity view can say that, yes, the racist's self-determination is limited by non-racist public policy. But the racist cannot complain that he lacks a *fair opportunity* for self-determination, insofar as the limitation of his self-determination is necessary to protect the equal citizenship of others.

Second, even setting aside cases of this sort, I wonder whether the presumptive neutral effects view always gets the right answer. There's an argument in the recent US Supreme Court case *Hobby Lobby* that provides a possible test of this. Writing for the majority, Justice Alito – accepts *arguendo* that there is a compelling state interest in guaranteeing the provision of contraception. But he found in favor of the Hobby Lobby complainants nonetheless because he argues that the contraception mandate is not the least restrictive means of meeting that compelling state interest. As one less restrictive alternative, he suggests that the government, funded by general taxation revenues, could have paid for contraception coverage for the women in question.

Given how US healthcare is funded, this strikes me as problematic. Alito's alternative would mean, in effect, that corporations like Hobby Lobby are excused from paying their fair share to fund an important coverage for women's health. But the total burden on taxpayers of granting this accommodation is likely to be quite small, and the burden on individual taxpayers is minuscule. So it seems that the presumptive neutral effects and neutral treatment views come apart here. A theorist supporting presumptive neutral effects might recognize the real burden on self-determination of the religious owners and then notice the small burden on others of an accommodation. Neutral treatment, by contrast, would question whether the burden on self-determination of the religious owners grounds a claim that they lack a fair opportunity for self-determination. After all, fair opportunity is partly a matter of a fair sharing of the burdens of social cooperation.

A possible counter-argument here is that the presumptive neutral effects view might stipulate that the presence of any sort of unfairness would be enough to defeat the presumption. I agree that, with enough stipulation, it is possible to fix the presumptive neutral effects proposal so that it arrives at identical outcomes to fair opportunity. It all depends on what counts as presumption-busting. But when presumptive neutral effects is understood in this way it seems to me that the real work is being done by fair opportunity. It is fair opportunity that explains when and why some claims of self-determination are outweighed by other interests and others are not.

Language Rights: The Equal Recognition Approach

Both Réaume and Helder De Schutter comment on the implications of equal recognition for language rights, which are discussed in Chapter Six of the book. In the area of language rights, equal recognition means that majority and minority language are treated equally by public institutions: public institutions are to offer services, and conduct business, in each language. But, as De Schutter emphasizes, there is an ambiguity in how the idea of equal recognition is to be unpacked. Equality could fundamentally be targeted at individuals (speakers of different languages) and thus the level of recognition for each language could be pro-rated according to demand. Or equal recognition could just mean “equal services” (as De Schutter calls it), a scheme in which the state communicates in both languages equally and provides the same level of public service in each

language. In *Equal Recognition*, I argue that pro-rating is the better interpretation of the underlying normative principles. Both De Schutter and Réaume criticize this claim, and De Schutter defends the equal services alternative.

One initial observation is that there may be less disagreement here than meets the eye because pro-rating might still allow for equal services. De Schutter ridicules the pro-rating approach for implying that the Slovenian name for the European Parliament (which appears on a multilingual sign in front of the building) should be covered 99.5% of the time because Slovene-speakers account for only 0.5% of the EU's population. But this suggestion misunderstands the logic of the pro-rating proposal. The claim is that the same per capita resources should be devoted to supporting services and communication in each language. So long as the Slovenian sign can be paid for out of the share of resources fairly allocated to Slovene-speakers there is no issue about its taking its place equally alongside other EU languages. In general, there will be a divergence between pro-rating and equal services only when the per person cost of providing a service in a particular language falls as the number of speakers of that language increases. We would certainly expect to see a pronounced difference in costs in some areas. When a language group is small, it would be very expensive to operate a university in that language, or to guarantee specialized medical care in the language. But, in other policy areas, such as primary education and basic health-care, costs/person may be fairly flat beyond a

minimal threshold. In these areas, there would be little or no divergence between pro-rating and equal services.

Let us put this aside and assume there is a divergence. Which approach is better? It is hard to get over the impression that there is something deeply counterintuitive about the equal services approach. It would seem to imply that even a tiny language group, e.g. German speakers in Belgium, would be entitled to a full range of services and communications in their own language. This would be very expensive, so it is worth asking whether there really is a fairness-based reason for devoting so many resources to the linguistic concerns of a small number of people. De Schutter offers a luck egalitarian argument according to which speakers of small languages should be compensated for their unchosen circumstances. But for reasons briefly touched upon in my reply to Lippert-Rasmussen above (and expanded further in Sec. 4.6) I do not find this argument persuasive. In any case, it is not clear that a fully consistent and worked out luck egalitarianism would support any kind of equal recognition approach. Perhaps luck egalitarian goals would be best satisfied by providing less-than-equal services in the majority language?

Réaume allows that numbers make some difference, but, like De Schutter, she thinks that a strict pro rata regime is too harsh on minorities. She agrees, I think that the overall level of services might be adjusted according to numbers (so that a province with a tiny Francophone minority, e.g. British Columbia, is not required to create a full French-language university), but she thinks that once a

decision has been made to provide a minority-language service at a particular level, the quality of that service has to be equal to the quality of the majority-language counterpart, even if the per person cost of the former is higher.

I fully agree with Réaume on this point, so I think the only question is whether my concurrence is consistent with the general theory I am proposing. I don't think there is an inconsistency. One reason is that the numbers need not be counted on a local basis. There is a substantial population of French-speakers in Canada (about 25%) and this makes it reasonable to guarantee French-language services anywhere in the country so long as local numbers pass some minimal threshold. A second reason is noted by De Schutter. In the end, I do not favour the equal recognition model of language rights but a hybrid model that incorporates equal recognition but also nation-building and language preservation. The considerations discussed in Chapter Six under the heading of language preservation would help to motivate the "generous" application of protecting that Réaume and I both endorse.

Democracy and Public Policy

Matteo Gianni's comments mainly concern the role of democracy in the book's argument. In focusing so intently on a moral principle of fair opportunity for self-determination, Gianni worries that I neglect the importance of the political process through which problems of cultural difference are resolved. If cultural minorities are to be treated as equals in this process, then various forms of

recognition are called for to enhance democratic inclusion and dialogue, long before any question about fair opportunity for self-determination is raised.

I do not disagree with Gianni's overarching point here. We certainly cannot take it for granted that the state is some kind of impartial referee responding only to the force of normative claims. Political theorists have to pay attention to the political process by which decisions are made, and to the normative questions that concern that process. But, while I accept all of this, my focus in the book is different. I grant for the sake of analysis that the standard liberal package is established (including democratic decision-making procedures) and then ask whether this is *sufficient* to justify whatever cultural outcomes should arise. My response to Gianni, then, would be essentially the same as the response I offered earlier to Bauböck and Sarajlic.

To be sure, the questions about the democratic process are very complex, and "standard liberal" answers to these questions might easily be contested. But, however these questions are answered, there will still be a *further* question about whether cultural minorities have valid claims to various forms of recognition and accommodation. As I say in Sec. 1.3, I do not think that a "derivative" approach to theorizing cultural rights can exhaust the subject. And to explore the further question, it is analytically useful to assume that certain other issues are reasonably settled. So I *assume* a democratic process, the standard liberal package of rights and entitlements, and so on. Of course, in the real world, these issues are typically not settled. But we don't need a theory of cultural rights to

help us understand what is wrong about failures of democracy or denials of non-cultural rights.

This reply to Gianni might seem to make me more vulnerable to the concerns raised by Nenad Stojanovic and Albert Branchadell. Stojanovic perceives that I want to “bracket” (as he puts it) the question of democratic process, but he thinks that I am not consistent about this. In fact, questions about democracy do arise from time to time in the book, and rightly so in Stojanovic’s view. One place they arise, Stojanovic points out, is in my “perspectival” argument for giving a (modest) degree of priority to the cultural claims of established citizens over immigrants. Another even more prominent place where democracy is discussed is in the account of self-government for national minorities. There the issue is whether institutions should be designed, and boundaries drawn, so as to put national minorities in the majority in a democratic forum.

To consider these criticisms, it is necessary to unpack a little more the idea that democracy is “bracketed” for the purposes of the book’s main arguments. I would accept this characterization of my argument if it is taken to mean one or other of two things:

- The main argument does not revolve around an analysis of the meaning or preconditions of democracy in general. It is taken for granted that democratic processes are established, and the main question is how

should those processes respond to certain claims to cultural recognition and accommodation.

- The evaluation of claims to cultural recognition and accommodation is not just a matter of asking what the democratic process says or would say. There's a job for political theory to think about what the actors involved in such a process *should* say.

If democracy is bracketed in these two senses, there is still room for more localized appeals to democratic circumstances (as in the perspectival argument) or to consideration of claims to recognition and accommodation that by their very nature involve questions about the design of the democratic process (as in claims to self-government).

The latter point is especially important. Problems of boundaries – of what units of democratic decision-making there should be and what their powers should be – are central to debates about multiculturalism and nationalism. So are the questions about representation that Stojanovic mentions. A theory of cultural rights could not possibly neglect these questions. My point in “bracketing” questions about the democratic process is simply that we are not going to answer these questions persuasively by thinking about the value or preconditions of democracy in general, nor does it get us very far to simply refer them to democratic procedures themselves.

The other reaction that my response to Gianni (and others) might provoke is that it shows that the book is grounded in too restrictive a set of empirical assumptions. There are few if any places where the standard liberal package is well established, and thus there would seem to be few if any places where my argument (which presupposes that package is in place) has any applicability.

Branchadell develops a version of this argument, generalizing it beyond the assumption made about democracy to include other explicit and/or implicit empirical assumptions he finds in the book. He notes that the book largely sidelines questions about historical injustice. And he thinks it tends to assume a simplistic state-minority dualism, ignoring international actors, immigrants, and the fact that minorities aspire to control a state structure of their own. With these special empirical assumptions in the background, it is not clear what applicability the book's argument is left with. Branchadell certainly does not think the argument is applicable to the case of Catalonia.

I have two different reactions to Branchadell's critique. First, I think it misunderstands the role of simplifying assumptions in an analytic argument such as I am trying to make. I don't see the book as treating some set of real-world cases that are characterized by the assumptions I make for the purposes of the analysis. Given how many simplifying and idealizing assumptions that have to go into producing a theory, there are probably *no* actual cases that fit all the assumptions.

Instead, I see the theory as addressing certain forms of *argument* that are often repeated in debates relating to cultural and national differences. It seems to me that some such arguments are broadly presentist in orientation – in that they make claims about what equality, fairness, and so on, imply about the different claims that people make, where equality and fairness are understood in a non-backward-looking way. This doesn't mean that there is no past injustice in those cases, just that such injustice doesn't figure in the arguments in question. I see the book's project as trying to clarify and critically engage with arguments of this form. So I'm not assuming no past injustice but am instead focused on clarifying arguments that don't rest on assumptions about past injustice. I suspect, by the way, that a theory focusing on historical injustice would find it necessary to adopt the same procedure. It would bracket questions of *present* injustice to better theorize the role of injustices in the past.

Second, I think that Branchadell underestimates the relevance of some of the claims developed in the book to the more complex empirical situations that he discusses. Of course, national minorities aspire to self-government in their own political community. The book attempts to theorize both the legitimate grounds and the moral limits of this aspiration. And, yes, immigrants and international actors also play roles in multicultural and nationalist disputes. But I don't think the presence of these actors affects the underlying normative principles, although it may be relevant to policy implications. Moreover, the theoretical principles I

develop are meant to be relevant to anyone who participates in these disputes and is committed to addressing them in a principled way.

Conclusion

Let me conclude by thanking all my commentators for their stimulating remarks.

I've tried to respond to them, but I've also learned a great deal from them and regret that I didn't have these reactions when I was writing the book.