Veiled Politics: The Liberal Dilemma of Multiculturalism

Deen Chatterjee

University of Utah

In her paper, "Undressing Difference: Hijab in the West," Anita Allen claims that the French ban on wearing the hijab in public schools was a misguided attempt toward religious neutrality. For Allen, a liberal society's commitment to a secular, inclusive society can be far better expressed in a more substantive way, for instance, by creating opportunities for jobs, adequate housing, and good education for the minority youth than by legislating against “symbols of difference." She commends the United States where she believes such a ban on the hijab in the classroom would be unconstitutional, though she admits that the United States still has to go some length in being a viable multicultural democracy.  Allen concludes, following the lead of Joan Wallach Scott’s well-known book, *The Politics of the Veil*, that a liberal society committed to pluralism should pursue the goal of "nation-sharing.” Allen doesn’t spell out what such a task would entail, except agreeing with Scott that some of the standard ideas of inclusive politics such as integration, tolerance, and multiculturalism are problematic in finding ways of addressing difference.

In this article I seek to provide some philosophical details and substance to the debate surrounding the politics of difference and the liberal project of inclusion in a pluralistic democracy. The hijab controversy needs to be placed within this broader discourse to be more meaningful.  As economic globalization has built bridges through cultural differences, it has had problems in demarcating appropriate boundaries. The egalitarian commitment to justice and human rights and the democratic ideal of legitimacy through self-rule and autonomy are often manifested in the tension between individual rights and group rights. Because both rights are in a continual state of flux and readjustment due to the shifting nature of the forces of globalization, to work out the right balance in theory is not easy. Thus, though the issues of multiculturalism and democratic accommodation are on the forefront of the liberal consciousness, the problem of moral evaluations of cultural practices in a liberal democracy offers no easy resolution. Norms of cultural well-being may not always coincide with those of individual autonomy, so a liberal society must proceed with caution in promoting a one-dimensional directive that may clash with claims of culture. As Allen points out in her article above, the idea of nationality in a multicultural society is a fluid concept that requires a nuanced approach, not a strict mandate of uniformity. Such a move can be viewed as a sign of unreasonable intolerance, thus being contrary to the tenets of liberalism itself. Accordingly, the multiculturalist challenge to the liberal ideal of a secular, inclusive society that professes to be egalitarian is a powerful reminder, also echoed by liberal critics such as Allen and Scott, that a viable liberal theory must adequately articulate its professed claims of tolerance, pluralism, and neutrality.

Liberal society’s commitment to equality entails democratic pluralism, which requires mainstream equality of illiberal groups and cultures. But this requires a nuanced balancing of several competing claims on several fronts, which seems to pose a dilemma for liberalism. Critics point out that multicultural accommodation in a pluralistic society may require giving minority cultures greater protection and more autonomy, especially in areas where their religious and cultural commitments related to their identity may seem to be at stake, regardless of whether or not those commitments are compatible with liberal egalitarian values. In fact, liberal theorists themselves point out, like Allen and Scott above, that an impartial liberal theory is not incompatible with distinct principles of affirmative equality with regard to illiberal groups--within reason, of course. For them, granting school girls the right to wear the hijab would presumably fall within this threshold of reason.

What could fall outside the pale of reason? Consider this case. A couple of years ago, a German judge had stirred a storm of protest by citing the Koran in turning down a German Muslim woman’s request for a speedy divorce on the ground that her husband routinely beat her. In a ruling that highlighted the tension between Muslim customs and secular European laws, the judge, Christa Datz-Winter, noted that the couple emigrated from a Moroccan Muslim culture where it was not uncommon for husbands to beat their wives and that there are passages in the Koran that would support it. The court in Frankfurt promptly removed Judge Datz-Winter from the case, saying it could not support her ruling.

Deciding on these two cases—one relatively unproblematic and the other quite extreme—may seem easy, but sorting out reasons as to where to draw the line could get complicated. The issue is not simply the practical problems of implementation. The real issue is the underlying conceptual challenge of the claims of equality and state neutrality in a liberal multicultural society. Multicultural and democratic theorists alike have pointed out that despite the seeming commitment to equality, impartiality, and neutrality, liberalism’s idea of what counts as reasonable has a liberal tilt at the outset of the debate. They point out that liberalism needs to recognize minority groups' reasons on their own terms to give them validation; otherwise, the concept of public reason between reasonable parties would be a hollow idea. In fact, though John Rawls’ transition from his earlier robust egalitarianism to his political liberalism took place partly in response to this challenge, democratic theorists have critiqued Rawls for not working at the grassroots level due to his liberal pre-commitments. Though Rawls himself has championed the connection between liberal justice and the practice of democracy, critics contend that the Rawlsian reasonable pluralism is not democratic enough. As Jurgen Habermas has noted, Rawls's theory "generates a priority of liberal rights which demotes the democratic process to an inferior status." For Seyla Benhabib, the Rawlsian project “lands us either in liberal indifference or in liberal interventionism and …both political alternatives are unacceptable.” On the other end of the spectrum, some liberal theorists have critiqued Rawls’ political liberalism for being much too negotiable and not sufficiently substantive. Thus, claims of conflicting equalities pose a formidable dilemma for liberalism.

Some of today's leading liberal theorists fall into this impasse even as they try to break out of it. Though most of them are deeply appreciative of Rawls’ efforts to respond to the challenges of cultural pluralism, they are mindful of carving out their own ideas that are sufficiently different from Rawls and designed to be better suited for today’s liberalism in a culturally diverse global world.  For them, liberalism can be both substantive and negotiable. That is, they would like to show that liberalism can be true to its principles yet be responsive to the cultural complexities and differences both within a pluralistic liberal democracy and in the global world. The goal here is to go beyond liberalism’s usual dilemma of remaining steadfast to its liberal principles and thereby alienate illiberal groups, or compromising its principles to make itself available to the illiberal communities.

In general, the aim of these philosophers, for whom the measure for justice and rights is the individual, not groups or peoples, is to negotiate a middle path between mandates of rights and claims of culture to show that tolerance for cultural and religious diversity are compatible with respect for certain core rights that liberals value. Though sometimes a group’s policies and practices may go against some rights of its members and may pose a challenge to the liberal values of the mainstream community, if the violation does not involve the very core of fundamental human rights, then those arrangements should be tolerated out of respect for cultural and group autonomy, though they can be targeted for critical public discourse (which may eventually bring changes in those customs). For these theorists, then, though tolerance is a liberal virtue, there are moral limits to liberal tolerance.

They point out, however, that the extent to which any of these rights may be considered fundamental enough to pose a limit to tolerance should be judged against the backdrop of a variety of cultural, social, historical, and other considerations that may often be unique to the groups concerned. It would require a careful analysis of the rights in question, specific cultural practices and their history, and the treaties and obligations that bind nations and groups. In other words, these theorists offer rich and nuanced accounts of what may legitimately be construed as violation of core rights, consistent with certain broad latitude accorded to the groups in question. However, the yardstick of measure for justice and rights for them is the individual, not groups or peoples.

A broad base of liberal theorists questions the premise of individuals as autonomous selves. They claim that the individual is an embedded self in multiple networks of relations and dependence, so an individual’s identity bears the mark of the community’s values and identity. For them, this is closer to reality and a good starting point in understanding the concerns about justice and recognition. Accordingly, they would favor the particularist identity of an individual over the notion of a monadic abstract self. This would seem to bring them closer to the multiculturalist critics in the latter’s understanding of and appreciation for the cultural identities and rights of minority groups and individuals. After all, the divide between the universalist and the pluralist approaches within the liberal camp may seem to be a good prospect for multicultural accommodation of illiberal communities. Yet, true to their liberal color, these liberal pluralists are firmly committed to the idea that demands of multiculturalism should not override the dictates of certain fundamental rights. On this point, thus, they seem to agree with the liberal universalists.

Though these liberal theorists of varying shades are trying to respond to the limitations of Rawls’s political liberalism and, in effect, to the liberal dilemma of conflicting equalities, critics could find their move still problematic in a rather predictable way and may find them not that different from Rawls. They would say that there's no middle ground for individuals or groups whose identity is shaped by deep religious or cultural convictions, so for them the liberal attempt at moderation is an infringement on their identity. Critics would also say that illiberal groups may legitimately ask the question as to who decides on the line drawn between the core group of rights and the dispensable ones. Finally, if the liberals’ person-centered rights theory is meant to ensure that justice prevails over modus vivendi, then the other side would remind the liberals that the project of putting justice over modus vivendi is also the goal of the illiberal communities. For the latter, however, justice is understood on their terms, not on those of the liberals. So, on all these counts, the critics would contend that from a neutral point of view, the liberal majority and the illiberal minority groups stand on an equal footing of political legitimacy, so the liberal society's secular and liberal identity is due to the heavy-handed approach of the liberal ideology in spite of its professed impartiality, granting only superficial concessions to the religious minority, such as the right to wear the hijab in the classroom.

These are the standard objections, but today’s liberal multiculturalism is emboldened by several promising trends and ideas that can effectively mute these objections. I will discuss four of them here, though the first one has nothing liberal about it per se but in some respects it works in liberalism’s favor and permeates the other three. These four are: modern globalization, deliberative democracy, Martha Nussbaum’s political liberalism, and Amartya Sen’s articulation of a pluralistic theory of liberal justice based on open-impartiality. Below I comment on each of them in turn.

Globalization:

Though modern globalization is a mixed blessing for human rights, it is evident that the global trends of exposure and interaction are at work in all societies and groups, making it difficult for societies to remain insular and for groups to be unexposed to evolving global human rights culture. In today’s interconnected world in which effects of technology, national policies, global institutions, and even individual actions often have global outreach and impact, the result is a gradual de-aggregation of jurisdiction whereby a diverse constellation of groups is formed not on the basis of peoples or national boundaries but around specific issues or decisions at stake, resulting in overlapping spheres of participation. Thus, in spite of all the problems related to globalization in the formation of a global public—mainly, the steady increase in the gap between the rich and the poor—globalization offers an opportunity for the world to come closer together through numerous channels of contact and communication and via various cross-border constellations of participation. If the viability of human rights depends to a large extent on whether they can withstand unobstructed public scrutiny, then the worldwide reach of public deliberation in the era of globalization should be a mitigating force toward random suppression of rights. Any undue restriction of rights in the name of local culture or religion would be difficult to sustain in a globally vigilant and interconnected world.    The gradual redefinition of national sovereignty due to the forces of an aggressive global economy, the changing global political ecology, and the emergence of a global human-rights culture is increasingly calling into question the moral relevance of a rigidly construed national and cultural autonomy. The national discourse on multiculturalism is embedded in and shaped by this broader milieu of globalization.

Today’s human rights theorists emphasize and appreciate the vitality of cross-cultural discourse concerning human rights. In fact, recent studies suggest that the claim is in fact overblown that there are incommensurable differences across cultures and groups on issues of rights. In addition, leading liberal theorists don't take illiberal communities to be uniformly insular and homogeneous. In fact, appealing to realities of current religious and cultural practices, they note the heterogeneity of religious and cultural communities that are mistakenly treated as uniformly committed to restrictive views. They understand that, like all groups, there are silent members who could be the majority in the group and that most often the vocal leaders speaking in their name do not speak for them. Accordingly, they are hopeful that the universal mandate of human rights would trump the claims of culture or religion where oppressive practices are concerned. Calling the emerging global political practice of human rights as “transcultural conversations and activism across borders” and claiming that religious traditions, cultures, and even nations are composed of “contested narratives,” Benhabib argues that the claims of cultures, human rights and vulnerable minorities can be better addressed in light of this global public reason of human rights. She notes that “… human rights have become the global language of social and political criticism and often, of political resistance and social transformation as well.”

Deliberative Democracy:

Some liberal theorists proposing dialogue and deliberation as a means to negotiating claims of culture both within and between groups take a broad view of democracy and democratic legitimacy. They emphasize the role of deliberative democracy in addressing the contending issues of egalitarian representation in a pluralistic society. Noting the fluidity and contestability of culture and identity, they emphasize the need for multicultural dialogue at the grassroots level in mediating the conflicts of cultural claims.

Seyla Benhabib has aptly described the Rawlsian liberal conundrum, cited above, as “the paradox of democratic legitimacy,” involving a conflict between liberalism and democracy that cannot be resolved through mandates or directives from the top down but can be assuaged through public deliberation and negotiations at the grassroots level. Deliberative democracy puts great faith in well-informed and motivated citizenry, highlighting the need for necessary access to information, education, and meaningful participation in the political process, including liberalization of political institutions for greater democratic inclusion and creating supportive public space for political deliberation.

Reflective of the diverse strands of liberalism comprising the broad base of deliberative democracy, there are contending claims of democratic inclusion among the theorists of deliberative democracy. One of them, espoused by Monique Deveaux, is worth noting here. Embracing deliberative democracy and claiming herself to be both a feminist and a liberal, Deveaux takes a broad group of liberal theorists to task, including some egalitarian liberal feminists like Susan Okin, by showing the limitations of what she calls the a-priori liberal approaches to the problem of liberal accommodation, manifested in a pre-political commitment to certain non-negotiable rights. She argues that the issue of democratic representation in a pluralistic society is essentially a political one requiring a strategic response, not a liberal normative resolution because the conflict, regardless of its appearance, is not a clash of liberalism versus illiberalism. For her, an a-priori normative framing at the foundational level tilts the discourse in favor of liberalism, resulting in the marginalization and alienation of minority groups (and individuals) that differ from the mainstream liberal ideology.

Deveaux’s diagnosis of the limitations of mainstream liberalism sounds like the one espoused by the multiculturalist critics noted above, yet she is a liberal feminist probing the issues of gender and justice in multicultural liberal states. Responding to Okin, she claims that the real reason for women’s subjugation should be explored by looking into the full range of constraints placed on girls and women by the “culturally mainstream society,” whereas “by framing the issue of contested cultural practices as a conflict between the sexist and patriarchal practices of minority cultures on the one hand, and the values of more egalitarian, liberal societies on the other, Okin fails to bring into the equation the importance of sex inequalities within mainstream social relations and institutions.” This resonates well with the ideas of Jorge Valadez, a prominent multiculturalist critic of mainstream liberalism who claims that the real focus should be on the rectification of injustices against ethnocultural groups, and not on any alleged “primordiality” of ethnocultural group identity.

Both Deveaux and Valadez offer a resolution to the liberal dilemma of multiculturalism by framing the issue in practical-political terms, away from its usually contested cultural and foundational juxtaposition of liberalism-illiberalism. Deveaux notes: “A more politically focused framework for mediating cultural conflicts better reflects the practical, strategic, and *intracultural* nature of many actual cultural disputes about social customs in liberal democratic states…” For her, cultural disputes are often motivated by “needs-based and interest-based disagreements,” requiring political deliberation on vital issues of justice and equity that liberalism must confront head-on.

Deveaux’s practical/political reconstruction of the normative challenges of cultural disputes resonates well with Benhabib’s “public political practice of human rights” whereby “the question of groups, cultures and rights are posed anew.” It also relates well to the practical political challenge that Martha Nussbaum’s political liberalism introduces. However, Nussbaum’s account also contains an innovative theoretical reframing of liberalism that is not noted in Deveaux’s discussion.

Martha Nussbaum’s Political Liberalism:

Martha Nussbaum’s political liberalism adds a promising dimension to the multiculturalism debate. Defending a version of political liberalism that goes beyond the limitations of the Rawlsian account, Nussbaum presents a powerful defense of liberal political principles in a pluralistic society, showing how to base liberalism on pluralism. In an earlier article on gender justice, she points out four “gross structural inadequacies” within liberal political theory when it comes to women’s demand for full equality. She offers her own prescriptions for “suitable revisions” of these deficiencies, noting that the challenge of gender justice is as much a theoretical demand within liberalism for a theory of “human justice” as it is a “practical political challenge” in the real world. In this section I try to show that these twin challenges to liberalism feature in Nussbaum’s construal of political liberalism both as a theoretical and a practical devise for a suitably modified liberal theory of justice that responds well to the liberal dilemma of multiculturalism.

Being committed to the core idea of liberalism as “that of the equal worth and dignity of each and every human being,” Nussbaum notes in her earlier article that “(p)olicies expressing respect for religious difference and other prominent types of human self-definition can be given a liberal form.” She commends Rawls’s political liberalism for giving us a viable direction in this area, but notes that more still needs to be done. For her, one challenge that lies ahead for liberalism is that it needs to properly sort out the relationship between relativism and pluralism. She writes: “It is perfectly consistent to hold that local culture is not the criterion of the good (thus rejecting relativism) while also holding that people’s choices in matter of culture and religion deserve respect (thus endorsing pluralism).” The concern she raises here is apparently the same as that I noted above, which is to look for a new and emboldened liberalism that is both substantive and negotiable—a liberalism that is better equipped “against cultural relativism and in favor of at least some universal norms of human freedom and possibility,” and that is still able to articulate the morality of respect—not just mere tolerance—for cultural and religious diversity. This is what Nussbaum tries to accomplish in her political liberalism.

Nussbaum’s political liberalism is predicated on the idea of overlapping consensus among reasonable people who, despite their fundamental value pluralism due to their disparate comprehensive world views, can accept the existence of reasonable disagreement because they respect their fellow citizens as having equal human dignity. For Nussbaum, respecting fellow citizens as equals is not to be understood as a subjective emotional state but a political ideal that is crucial to the idea of overlapping consensus among reasonable people. She claims that the idea of being reasonable, though a political concept, is to be understood in terms of its straightforward moral content, which makes it avoid the high theoretical demands that Rawls places in his definition of reasonable comprehensive doctrines, thus making his political liberalism less inclusive than hers. Nussbaum’s political liberalism holds that if people are reasonable, then whatever comprehensive doctrines they may hold or whatever faith may be the basis of their doctrines is not a matter of public scrutiny or political concern. The idea of reasonable disagreement in Nussbaum’s political liberalism is not about the reasonableness of people’s comprehensive doctrines but about people accepting others as equals, which makes them reasonable. Accordingly, reasonable people can hold all sorts of comprehensive doctrines regardless of how absurd or silly they may be, or regardless of their religious or cultural baggage. If people are willing to live with their fellow citizens under the terms of equality and reciprocity, then the state or the public has no business in assessing or targeting the basis of their comprehensive doctrines. If reasonable people, qua reasonable, can hold them, that makes the doctrines reasonable.

Of course, one may wonder whether Nussbaum’s egalitarian stipulation as the criterion for being reasonable is any less demanding than Rawls’s complex theoretical specifications for the same idea. After all, one may argue that equality and human rights are two hotly contested issues across cultures and communities, so it is not evident that by replacing the Rawlsian theoretical requirements with the moral demand for equality, Nussbaum has made the idea of reasonable disagreement theoretically more

straightforward and practically more attainable than Rawls’s. This is a valid concern, but Nussbaum’s capabilities approach is well poised to respond to it.

Nussbaum claims that to reframe the rights talk by incorporating the capabilities agenda gives the discourse the latitude it needs without it becoming too thin or abstract, making cross-cultural understanding and agreement easier to obtain than when entitlements are couched in terms of rights. Because functioning of the central human capabilities is culturally neutral and sufficiently universal, cross-cultural agreement on basic entitlements is easier to obtain than when the politically and culturally loaded concept of rights is used.

For Nussbaum, capabilities approach offers great potential in deciding on the fundamental constitutional entitlements for citizens in a just democratic state—entitlements that can be put together in constitutional guarantees to ensure equality for all citizens. The capabilities approach starts with the broad idea of human dignity and then goes on to include an open list of ten capabilities as key ingredients of a rich plurality of life-activities that constitutes a life with dignity. A just society must secure for all its citizens each of the ten capabilities up to a threshold as constitutionally guaranteed basic entitlements. Seeing rights as capabilities indicates that all human rights have broader economic and social dimensions because the capabilities approach emphasizes the actual ability to do or to be. The rights talk in itself does not clarify what is needed to make those rights a reality unless they are understood as securing effective measures to make people capable of appropriate functioning in those areas involving needed material and institutional support. It is thus not helpful to rely on the usual distinction between political and civil rights on the one hand and economic and social rights on the other. Because capabilities are integrated together for maximal human functioning, the capabilities perspective can reframe the debate in more substantive terms.

Nussbaum’s capabilities approach demystifies the contested rhetoric of rights, showing that human rights have important economic, social, and constitutional dimensions. Capabilities language is especially helpful when people are situated differently and have different levels of needs and expectations, which is the reality in actual lives of people in the world than in an ideal construction. Rights-claims can be better understood as claims regarding equal level of capabilities to function than simply, e.g., the equal rights to resources, which may turn out to be unequal in real terms. For similar reasons, Nussbaum claims that the Rawlsian primary goods should be understood in terms of central human capabilities because it provides a better account of the need, dependency, and vulnerabilities of real people than the account of needs conveyed by the notion of primary goods of imaginary contracting parties in the Rawlsian original position. This is also one important reason why Nussbaum questions the contractarian account of justice obtained among negotiating parties who are claimed to be all equal and independent in an imaginary situation. For Nussbaum, the situation in the real world is very different. Accordingly, though Nussbaum’s position is close to Rawls’s in many ways, she claims that her version of political liberalism can overcome certain deficiencies in the Rawlsian notion of social justice.

The lesson to draw from this as it relates to the multiculturalism debate is that though human rights provisions are the crucial steps in the debate, they invariably end up being formidable roadblocks due to their loaded and contested claims. Nussbaum’s capability approach provides tools for understanding the egalitarian concept of human dignity in tangible terms. For far too long, liberalism has been making normative pronouncements that were either far too demanding or far too removed from the actual lives of people. Nussbaum’s contribution to the multicultural debate, as well as to the topic of justice, is to situate the arguments of liberalism in the real world of diversity, need, and vulnerabilities. Her version of the Rawlsian political liberalism is more flexible and more inclusive and shows more empathy toward minority cultures and more sensitivity toward faith-based doctrines than Rawls’s formulation and that of most other liberal responses to the claims of culture. Yet, her ideas are firmly committed to the substantive liberal principles.

By reframing the debate, Nussbaum’s political liberalism offers a promising lead toward resolving the liberal dilemma of multiculturalism. In effect, Nussbaum shows that the contested issue in the multiculturalism debate is not about how the liberal society should respond to illiberalism, but it is about looking within liberalism itself and seeing how well liberalism is able to restructure itself as a political theory and confront the issues of justice and injustice in the real world. To this end, Nussbaum draws our attention to several important points. One, noted above, is that the liberal unease with accommodating illiberalism within the fold is due to liberalism’s distance from the real world of plurality and diversity and from the real issues of need and vulnerabilities. This distance builds up stereotypes, creating ignorance and fear of the “other,” resulting in tension, distrust, and confrontation that would distabilize a pluralistic liberal society. Instead, Nussbaum’s political liberalism, based on the idea of reasonable disagreement, is predicated on respect for persons, fostering stability. Its grounding principle of reasonable disagreement goes beyond the narrow conundrum of liberalism and illiberalism and sees liberalism as a political theory of “human justice more generally.” Consequently, cultural differences are not viewed as divides in Nussbaum’s liberal multiculturalism. In a similar vein, Nussbaum warns against the facile thesis of clash of civilizations that demonizes the so-called other, locating instead the sources of prejudice and intolerance as a clash within, much as Gandhi did earlier.

Nussbaum has always cautioned her reader against drawing rigid lines and building misleading categories such as Western/non-Western, liberal/illiberal, natural/unnatural, individuals/groups, reason/emotion, and most importantly, us/them. Fragility of categories tells us that things are more fluid and complex than we’re prone to acknowledge. Speaking about complexity of groups, for instance, Nussbaum points out that groups can have dispersed members, open and unclear boundaries, and internal stratification, so it may not even be clear as to what is meant by group identity or who represents or speaks for a group. This ambiguity raises questions about the viability of group rights. Accordingly, Nussbaum would like us to see that we focus on issues of rights and justice regardless of groups. This change in focus shifts the debate to the substantive issues of justice.

We should also take note of Nussbaum’s great contribution to the quality of life issues and see how it relates to the liberal discourse on multiculturalism. Most liberal theorists preach the virtues of recognition and tolerance, within limits, in responding to the politics of difference. Nussbaum would like to take us beyond tolerance to celebration. In her extensive work on the quality of life, she has emphasized the importance of emotion and empathy as they help us transcend boundaries and make us see the world from the other side. A flourishing life is the one that has room for play, exuberance, and imagination, which take us beyond mere acceptance to the joy of celebration. Taking cues from her favorite author Rabindranath Tagore, Nussbaum would like us to see that boundaries and differences that create barriers to our common humanity are transcended in favor of a joyous engagement with the global world full of diversity. Turning tolerance of difference into celebration of diversity is the key to an expansive and flourishing life. This is Nussbaum’s message of multiculturalism. In her political liberalism, she is quite mindful in making room for silliness and frivolity in the comprehensible doctrines of reasonable people, for which, she insists, they should not be judged negatively. First of all, it is nobody else’s business as to what beliefs people hold privately. Besides, being silly and frivolous, in certain ways, are important dimensions of a playful life.

Deveaux calls Nussbaum’s ideas “an important dimension” in the debate and rightly notes that Nussbaum urges us “to interrogate the social contexts in which cultural practices are developed and sustained.” Still, Deveaux claims that Nussbaum’s egalitarianism and the capabilities list are rather “formal and abstracted processes for determining the legitimacy of disputed practices,” taking too little account of people’s “own understanding of their lives, customs, and conflicts.” In view of my elucidation of Nussbaum’s political liberalism, I conclude that Deveaux, though giving Nussbaum partial credit, has not taken due note of the rich and nuanced depth of Nussbaum’s liberal multiculturalism.

Both Nussbaum and Deveaux seem to show, in their own ways, that by reframing the debate and locating the impasse in the misperception of liberalism itself, liberals can demonstrate that the liberal project of multicultural accommodation need not be an irreconcilable dilemma within liberalism. The “veil politics” is a false conundrum for liberalism; one should look into the veiled politics within liberalism itself. In the real world of interdependence and injustice, the liberal project should be focused on rectifying injustice through a proper understanding and appreciation of interdependence that would take us beyond the limitations of the narrowly construed boundaries of liberalism to a genuinely inclusive and pluralistic liberal theory of justice. This position has been most forcefully articulated in recent times by Amartya Sen.

Amartya Sen: Pluralism, Open Impartiality, and Justice

Amartya Sen’s ideas on justice are based on a different tradition of inquiry than the one typified by the Rawlsian contractarian approach. As noted above, claims of conflicting equalities pose a formidable dilemma for Rawls—a dilemma that seems to be endemic to the liberal contractarian justice. Sen's “comparative” approach is set to go beyond the Rawlsian limitations by effectively responding to the twin challenges of grassroots democracy and substantive liberalism. Let me explain.

In his landmark book *The Idea of Justice*, Sen calls the Rawlsian contractarian approach "transcendental institutionalism," focused on the idea of perfect justice via ideal institutional arrangements, not on actual societies and real lives of people. In contrast, Sen proposes a comparative and pluralistic approach that is primarily about rectifying injustices than locating perfect justice. For Sen, to be focused on identifying the demands of perfect justice is an exercise in futility. Even if we can figure out what perfect justice is, remedying existing injustices in the world is by no means guaranteed. But more important, perfect justice in theory is a difficult if not an impossible pursuit due to the incommensurability of competing paradigms. Accordingly, instead of offering yet another grand theory of justice at an ideal level, Sen's approach focuses on assessing the comparative merits of available states of affairs. For him, we do not need to know what perfect justice is in order to be able to identify a particular state of affairs as unjust and how it stands in relation to some other state of affairs. Sen’s approach is less institutional and concerned more with people's lives and capabilities. It is less parochial and more inclusive in its emphasis on reason and public discussion. With this broad sketch of the two contrasting approaches, I now focus on some of the details.

The Rawlsian conception of reciprocity under reasonable pluralism is the idea of reasonable agreement—endorsing an arrangement that all can agree with. This is the civic face of prudential rationality of self-interested free people in the original position that was meant to produce, for Rawls, a unique set of principles of justice, yielding the Rawlsian basic structure of a just society. Rawls himself has raised doubts in his restatement of “justice as fairness” about whether his matrix of impartiality is poised to yield only one set of principles uniquely suited to his ideally just institutional arrangements. Early on, Sen himself, along with Kenneth Arrow and other economists, has raised this same concern. Sen goes beyond Rawls on the idea of impartiality, calling his own idea "open impartiality," compatible with a multiplicity of competing principles, in contrast to Rawls' "closed impartiality." Citing Thomas Scanlon's non-rejectibility thesis--not what all can agree with but what nobody can reasonably reject--Sen makes the case for a "plurality of unbiased principles" that would meaningfully relate to the idea of democracy as "government by discussion." This is meant to be an inclusive and non-parochial idea of reasonable pluralism that is set to accommodate public discussion among disparate groups with value pluralism, thus catering to the democratic challenges of deliberation and difference.

Sen would like us to go beyond the Rawlsian limitations of reasonable pluralism to the plurality of impartial reasons embedded in today's expanding circle of global democratic human-rights approach. Because the notion of human rights is predicated on our shared humanity, Sen's version of public reason is meant to take us not only beyond reasoning among fellow citizens across cultural divides but also beyond the limitations of national boundaries. Understood this way, Sen's idea of justice is necessarily predicated on the global world. Sen shows us the need to recognize the existence of different approaches to the pursuit of reasonable behavior, not all of which need to be based on the reciprocity-based reasoning of mutually beneficial acts. Though relational, Sen's notion of justice re-frames the discourse through a re-configuration of the idea of relationality not necessarily in terms of Rawlsian reciprocity between equals but with a more critical look at the realities of entrenched inequalities. For Sen, the asymmetry of power and capabilities is a reminder of the need for a more demanding obligation going beyond the limitations of a reciprocity-based self-interested cooperation. This expanding obligation holds between our fellow citizens as well as amongst people everywhere. Sen’s point is that we have responsibility to the global poor precisely because of stark inequality between us—our power and their vulnerability—and not necessarily because of any symmetry that takes us to the need for cooperation and reciprocity. Drawing from the story of the good Samaritan in the Gospel of Luke, where Jesus questions the idea of fixed neighborhood, Sen concludes that "there are few non-neighborhoods left in the world today." Thus, Sen’s ideas cut through the barriers of culture and national boundaries, opening up new dimensions for liberalism as it responds to the issues of multiculturalism and global justice

Multiculturalism and global justice have been two Achilles heels for the liberals, and Rawls is no exception. Rawls’s limitations in responding to the demands of democratic pluralism in his political liberalism are also evident in his law of peoples. Rawls sees a rather limited scope for international obligation, comprising only a duty of assistance to burdened societies. As Sen notes, the Rawlsian closed impartiality generates "exclusionary neglect," leaving open the possibility of parochialism in neglecting "all voices from everywhere." In contrast to this Rawlsian "international justice" that relies on partitioning of the global population into distinct "nations" or "peoples,” Sen is looking for "global justice," which, for him, caters primarily to actual lives of peoples and less on peoples as a political or cultural unit.

Sen’s capabilities approach highlights his idea that the demands of a shared humanity require a broadening of the human-rights model from its state-centric institutional limitations. Along with this global tilt, the neutral capabilities agenda gives the rights discourse the substance it needs, thus providing a broad appeal across cultures. Sen is the original architect of the capabilities approach that was later endorsed and expanded by Nussbaum. Sen states that since human rights are seen as rights to certain specific freedoms, and since capabilities are certain types of freedom, they both go well together, though operating in different domains. However, Sen points out that because capabilities are certain indicators of individual functioning and opportunities only, they by themselves cannot adequately account for the fairness or equity of the process involved in justice.

For Sen, equality has multiple dimensions, including equality of capabilities, so equality is a concern in the distributional equations, and enhancement of equality is an important consideration in promoting justice. But pursuit of justice for him is a nuanced and complex procedure where the focus on equality cannot trump the demand for procedural equity. In this sense, Sen’s theory of justice caters to both the fairness of the process and the enhancement of freedom and opportunities.  For Sen, these two demands are to be understood and realized in their comprehensive outcomes through the matrix of social choice in the real world of interdependence and injustice. Thus, though the issues of rights and justice need not be culturally defined or determined, they ought to be culturally sensitive if they are meant to have any sway over people’s lives and imaginations. Accordingly, they need to be understood and evaluated against the backdrop of a variety of cultural, social, historical, and other considerations that may often be unique to the groups concerned. Indeed, by making the decision-procedure "informationally sensitive," the social choice mechanism in Sen's comparative approach helps us in responding to these concerns. It shows us, for instance, that one need not be unduly deferential toward cultural demands by making liberalism a vacuous doctrine, as Rawls has been accused of doing in his political liberalism, nor should liberalism’s pursuit of fairness and impartiality ignore cultural identities and variations.

If a pluralistic theory of justice for Sen has several dimensions based on the demands of social realization, then claims of groups and culture may indeed play a part in deciding on justice, but that would be no different from taking note of other relevant claims in responding to the comparative merits of available alternatives. In that case, demands of multiculturalism need not pose a dilemma within liberalism. In effect, Sen rescues liberalism from its mistaken self-perception of being boxed into a false conundrum.

The social choice mechanism in Sen’s theory of justice is a strategic devise for effectively responding to people’s needs and interests, while at the same time emboldening liberalism’s normative quest for autonomy and human dignity through the filtering process of open-impartiality. Ingrained in Sen's idea of open impartiality is the universal mandate of broader humanity that makes room for multi-faceted and overlapping identities of individuals and groups. Sen has shown us how the exclusivity of any singular identity can lead to confrontation and violence. Indeed, Sen has been instrumental in drawing attention to the multiple identities of human beings across the world, and he sees no reason why national, group or cultural divisions should have any automatic, hence undue, priority over other categorizations. Public reason, qua public, responds well in cutting through the rigidity of exclusive identities because it is predicated on open impartiality.

Going back to the case of the German judge relying on a certain interpretation of culture and the Koran in ruling against a Muslim woman’s plea for divorce from her abusive husband, the news report says that the German Muslims themselves were offended by the ruling because they didn’t want to be seen and judged as “the other.” Yet, taking pride in their culture and identity, they were just as offended by what they characterized as the judge’s misinterpretation of a much-debated passage in the Koran, an interpretation embraced by the fundamentalists but long rejected by mainstream Muslims. Here we see the concrete validation of Sen’s idea of public reason in the democratic process where the rigid identities of culture (or religion) were rejected as a wedge by the groups themselves in their common pursuit of justice and human dignity.

Sen’s ideas on cultural diversity, like all his other ideas, have profound normative, practical, and policy implications. In addition, they have an added dimension, rare in the technical literature pertaining to this topic, that makes them special. A champion of reason and rational public discourse, Sen is also a great admirer and connoisseur of cultures all around the world. This makes Sen, one of the foremost public intellectuals of our time and a leading critic of culture, also a passionate global citizen who embraces the best in all cultures. Due to the seamless blending of these two sides, there is a touch of poetic, spiritual, and inspirational beauty in his ideas. Influenced and inspired by the other Nobel laureate from his native Bengal, Rabindranath Tagore—Sen’s favorite author who also exhibited and celebrated these two sides and who founded the special school in which Sen had his early education—Sen, like Tagore, rejoices in the shared humanity of the global world with its manifold diversity of cultures. In his Nobel biography Sen writes:

I remember being quite struck by Rabindranath Tagore's approach to cultural diversity in the world (well reflected in our curriculum), which he had expressed in a letter to a friend: “Whatever we understand and enjoy in human products instantly becomes ours, wherever they might have their origin... Let me feel with unalloyed gladness that all the great glories of man are mine.”

It is easy to understand why Sen’s contribution to the multiculturalism debate is such a special gift to liberalism.

Declaring that multiculturalism has failed in Britain, the British Prime Minister David Cameron announced in a speech to the annual Munich Security Conference of world leaders: “Frankly, we need a lot less of the passive tolerance of recent years and much more active, muscular liberalism.” What the Prime Minister failed to realize is that the real issue goes beyond both the “passive tolerance” of benign neglect and the “muscular liberalism” of confronting the illiberal other. Failure of assimilation is failure of liberalism itself due to its construal of a parochial, non-inclusive liberal justice. In contrast, Sen’s articulation of a pluralistic theory of liberal justice based on open-impartiality opens up a whole new dimension to the liberal debate on multiculturalism.

There are self-seeking extreme leaders within any group who may be beyond the pale of public reason in any meaningful manner. Accordingly, any effort at public engagement with them may be futile. The strategic move in these cases would be to avoid confronting them unduly; instead, the best course would be to make them irrelevant. A report in *The New York Times* on the mission of Dutch soldiers in Afghanistan, though operative in an entirely different domain, seems to typify this strategic approach. While the United States and British troops were conducting sweeps and raids, the Dutch-led task force had mostly shunned combat and confrontation. Instead, they were helping the locals to build bridges and set up schools for children. As the Dutch commander put it: "We're not here to fight the Taliban...We're here to make the Taliban irrelevant." This is also an effective way to win the hearts and minds of the moderate members of minority communities, getting them drawn into the mainstream culture through internal persuasion than by heavy handed confrontation in the name of “muscular” liberalism, which creates tension and alienation. May be this is what Allen had in mind when she observed, cited at the beginning of this article, that a liberal society's commitment to a secular, inclusive society can be far better expressed in a more substantive way, for instance, by creating opportunities for jobs, adequate housing, and good education for the minority youth than by legislating against “symbols of difference."

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Benhabib, 2010. See also, Benhabib, 2002, 2005, 2006; Bohman, 2000; Cohen, 1997; Deveaux, 2006; Swaine, 2006; and Young, 2002

Buchanan, 2004; Kuper, 2004; Pogge, 2002; Singer, 2002

Nickel, 2006, 2008; Shue, 1996. See also Steiner, 2000

Kymlicka, 1995, Miller, 1995; Tamir, 1993; Taylor, 1992; Walzer,1984; Young, 2000

Kymlicka (1995) is a good example of this.

Cf. Deveaux, 2006; Spinner-Halev, 2001; Swaine, 2006; Valadez, 2000

cf. Gould, 2004; Kuper, 2004; Shapiro, 2003

cf. Sen, 2004

cf. Sen, 1997

cf. Shue, 2004

cf. Green, 1994; Sen, 1997

Benhabib, 2010

Benhabib, 2005. See also Benhabib 2006

cf. Benhabib, 1994; Fishkin, 2006

Deveaux, 2006

Deveaux, 2006: 29

Valadez, 2003

Deveaux, 2006: 96 (italics in the original)

Benhabib, 2010

This is because Deveaux’s book was published several years earlier than Nussbaum’s publications containing her (Nussbaum’s) latest ideas on political liberalism.

Nussbaum, 2011

Nussbaum, 2009: 95

Nussbaum, 2009: 109

Nussbaum, 2009: 109

Nussbaum, 2009:109

Nussbaum, 2000; 2005

Nussbaum, 2007

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Deveaux, 2006:79

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Rawls, 1971

Rawls, 2001: 133-4, quoted by Sen, 2009

Sen, 2009:173

Sen, 2005

Sen, 2009:93

Sen’s dual and nuanced approach toward culture finds support in studies that show that culture need not be the political wedge it is thought to be in the culture-war hypothesis. Scholars note that cultural values don’t motivate or instigate mass political opinion, but like many other factors they do influence or orient mass opinion through complex social and cognitive mechanisms. Cf. Gastil, et al, 2006

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*The Times*, 2011

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