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The Importance of Cultural Identity to Liberal Democracy

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Claremont McKenna College

The Importance of Cultural Identity to Liberal Democracy

submitted to

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and

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by

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Abstract

The challenge facing liberal theories of democracy is to describe an organization of state that both legitimates state power and protects individual liberty. In *Democratic Rights: The Substance of Self-Government*, Corey Brettschneider develops the value theory of democracy that resolves this tension. By locating the democratic ideal in a set of core values with both procedural and substantive implications, the value theory legitimates state coercion only when it protects citizens' rights. While the value theory guarantees both substantive and procedural rights, this thesis will show that Brettschneider fails to account for the necessity of a secure cultural context, without which members of a minority culture may not be able to enjoy the core values as Brettschneider intends. Yet, the value theory of democracy can maintain a commitment to equality and autonomy when amended to have specific ethnic and cultural identity protections. Ultimately, this thesis will argue that the amended value theory provides a framework for citizens to both evaluate laws and correct injustices based on whether or not the policies uphold the core values.

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Introduction

The slogan “the personal is political,” first used by second-wave feminists in the 1960s, emphasizes the connections between personal experiences and larger social and political structures. While cited to rally political organizing and to draw attention to personal issues, this phrase, also understood as “the political is personal,” underscores how government policies affect how different social groups form and act on their conception of the good. Ultimately, this feminist slogan shows that everything that happens in women’s personal lives are political issues. As second-wave feminists emphasized, politics are inherently about personal issues.

This thesis looks at ideas of identity and cultural security as they relate to state intervention. Exploring the intersection of democratic theory, liberalism, and justice, this thesis will place securing cultural boundaries for all members of society at the center of democracy. Without a secure cultural context, individuals are unable to freely pursue their conception of the good. Drawing on political theory, this thesis will show that issues of cultural identity are fundamental to an appropriate understanding of equality and autonomy, two core commitments of liberal democratic theory.

First, this thesis will look at Corey Brettschneider’s value theory as a comprehensive theory of democracy. In *Democratic Rights: The Substance of Self-Government*, Brettschneider effectively attends to the concern embodied by the 1960s feminists that there is more to politics than formal political rights. By locating the democratic ideal in a set of core values with both procedural and substantive implications, the value theory legitimates state coercion only when it protects citizens’

rights. The three core values of democracy – equality of interests, political autonomy, and reciprocity – ground both these substantive and procedural rights.

This thesis will critique Brettschneider's theory for not taking cultural identity seriously. While the value theory guarantees substantive and procedural rights for all citizens, these guarantees assume that citizens primarily value equal economic opportunity and political access. Christopher Lebron furthers this argument in *The Color of Our Shame: Race and Justice in Our Time*, claiming that the value theory does not adequately address identity and the claims that people have by virtue of their identity. Further, this thesis will argue that the value theory overlooks how a secure cultural context is required for all citizens to enjoy the core values. Although the value theory is fundamentally concerned with granting citizens the freedom and autonomy to pursue their own conceptions of the good life, Brettschneider does not address how a secure cultural context provides the framework for individuals to select a life plan from the range of options provided. As such, members of a minority culture can be disadvantaged with respect to the good of cultural membership if they have to expend additional resources to sustain their culture within a majority culture society. As a result, the value theory must be amended to properly uphold the core values for members of a minority culture.

This thesis will next draw on Will Kymlicka's argument in *Liberalism, Community, and Culture* to show that liberalism already has the tools to protect the rights of members of minority cultures. Further, this thesis will provide Tommie Shelby's argument in *Dark Ghettos: Injustice, Dissent, and Reform* to show that democracies do not always provide meaningful contexts for making life choices. To effectively remain

committed to the ideal of self-respect, liberal democracies must extend special citizenship status to members of a minority culture to protect their culture and guarantee their autonomy.

Ultimately, this thesis will apply Kymlicka's ideas to the value theory in order to show that the value theory already has the tools to respond to identity-based critiques. Drawing on Shelby's arguments for ghetto abolition as comprehensive social reform and Kymlicka's policy prescriptions in *Multicultural Citizenship*, this thesis will show that the amended value theory can accommodate policies that protect minority cultural identities. It will conclude that because the value theory grounds the core values of democracy in procedural and substantive rights, it provides the best democratic framework for adjudicating conflicting claims of identity.

Chapter 1: The Value Theory of Democracy

This chapter will evaluate Brettschneider's value theory of democracy. It will first explore democratic theories and their key tenets, concluding that epistemic and procedural models fail to protect procedural and substantive rights, respectively. This chapter will then present the value theory as an alternative to purely procedural and substantive democratic theories as an integration of the main commitments of each theory. The value theory of democracy grounds procedural and substantive rights in a core set of values, which he terms the core values of democracy. Ultimately, this chapter will critique Brettschneider's value theory for marginalizing the role of cultural identity as it relates to citizens' ability to enjoy the core values.

Democratic Theory

Political theory describes what the role of the state should be. Liberal theories of democracy argue that the state has legitimate power when individual liberty is protected. However, democratic theorists acknowledge the tension between protecting procedural and substantive rights. Affirmed substantive rights allow all individuals to pursue their own reasonable conception of the good life. Procedural rights allow citizens to participate in political procedures and lawmaking processes. The challenge within theories of democracy becomes how to protect individual rights while also recognizing when a state can legitimize its power as a sovereign representing the general will of the people.

This section will examine current debates in democratic theory to show how different theories of democracy explain legitimate power and account for the limits of democratic authority. It will evaluate procedural and epistemic theories of democracy as well as Brettschneider's account that situates democracy between these two extremes.

Procedural Democratic Theories

Procedural theories of democracy emphasize that the outcome of the government is just if it is reached through a fair procedure. Put simply, democratic rule is rooted in the democratic procedure itself. This is commonly recognized as majority rule wherein decisions of more than 50 percent of a polity must be binding for all (Brettschneider 2007, 13).

However, more sophisticated versions of procedural democracy can be understood as including ‘rights as preconditions’ to democracy.¹ For example, Jürgen Habermas develops a procedural theory that requires substantive limits on democratic procedures. He requires a democratic principle of legitimacy whereas “only those statutes may claim legitimacy that can meet with the assent of all citizens in a discursive process of legislation that in turn has been legally constituted” (Habermas 1992, 110). This procedural account bases democratic legitimacy on the ‘ideal speech’ conditions. Citizens are free to deliberate and reason with each other about policy. He focuses on citizens’ substantive rights to free speech and procedural rights of authors of the law. Thus, Habermas’ discursive theory maintains an emphasis on procedures to legitimate democratic outcomes, yet requires that this legitimacy is based on argumentative practices for such justification.

Critique of Procedural Democratic Theories

Procedural rights on their own do not guarantee that government is for the people. For example, Brettschneider explains that even though some imperial powers allowed

¹ For another example of a sophisticated procedural accounts, see *The Claims of Culture: Equality and Diversity in the Global Era* by Seyla Benhabib.

their colonists to maintain voting rights, colonial governments were undemocratic because they did not serve the legitimate interests of those they governed (Brettschneider 2007, 22). In addition, the majority could even vote to eliminate the voting rights for a certain group of citizens, essentially ensuring that the majority functions as an unconstrained ruling group. Specifically, substantive rights are disposable within procedural democracy (Brettschneider 2007, 13).

Further, even with some preconditions of liberty, more sophisticated procedural theories of democracy still locate the basis for democratic legitimacy in the procedure itself (Brettschneider 2007, 28). Habermas' discursive procedural theory of democracy still "subordinate[s] the normative concerns of citizens qua addressees to the process that citizens engage in as authors in the ideal procedure" (Brettschneider 2007, 30). Brettschneider argues that Habermas cannot account for a situation in which "the ideal procedure wished to alter the preconditions that Habermas believes define it" (Brettschneider 2007, 16). According to Habermas, rights are based within the procedures themselves. This narrow view ignores rights against illegitimate coercion that may persist within Habermas' democratic design (Brettschneider 2007, 31). In addition, Habermas cannot account for a situation in which "the ideal procedure wished to alter the preconditions that Habermas believes define it" (Brettschneider 16). Brettschneider foresees this potential situation whereas "for instance, participants in the ideal procedure unanimously decided to jettison welfare rights" (Brettschneider 2007, 16). Since rights within the democracy are grounded within the procedure, the procedure can exist in such a way that citizens can vote out rights. These theories do not understand or seek to judge democratic outcomes beyond the procedures themselves.

Yet, Habermas' discursive procedural theory of democracy implicitly acknowledges the problems within pure proceduralism. With an emphasis on deliberation, his theory is moving away from pure proceduralism and closer to an integrated theory of democracy with substantive restraints. Habermas emphasizes the compatibility of deliberative democracy with existing political institutions and claims that contestatory discourse will produce a just society. Yet, these outcomes have no authority to police the legislature's decisions that may restrict the rights of others. There are no checks in place to protect against systemic and often psychological inequalities that are based on identity.

Epistemic Democratic Theories

Other theories of democracy make epistemic appeals to substantive rights based on a procedure-independent standard of justice. These theories attempt to locate the basis for democracy within the substantive rights the state protects rather than in procedures. These theories grant substantive rights greater protection than do proceduralist theories; epistemic theories maintain that there can be no means to eliminate these inalienable rights. Epistemic theorists propose that democracy must be judged for its capacity to promote laws that satisfy or approach an independent standard of correctness.

In *Democratic Authority: A Philosophical Framework*, David Estlund develops epistemic proceduralism as a sophisticated epistemic theory of democracy. He believes that democracy is a superior form of governance because of its tendency to make good decisions based on discussions, interpersonal reasoning, and participation. He therefore argues that any claim to authority must comply with a "qualified acceptability requirement." This mandates that state power is legitimate "only if its coercive

enforcement of law can be justified on a basis that no possible qualified person could reject or on a basis to which there is no possible qualified objection” (Estlund 2007, 43). Estlund formulates epistemic proceduralism to appeal to individuals’ reason and rationality in order to legitimate state authority. He “links legitimacy and authority of a decision to its procedural source and not to its substantive correctness” (Estlund 2007, 116). Epistemic proceduralism is based on the epistemic value of the procedure. Decisions are legitimate and just when the procedure that produced them is democratic; democratic procedures have epistemic value. Citizens are given moral reasons to comply with and enforce the laws that come out of these procedures even if they think the results are misguided (Estlund 2007, 116).

Estlund posits that the epistemic value of the procedure comes from the degree to which the procedure itself can be accepted as just. He argues against an epistocracy where those who know will rule. An epistocrat cannot be accepted as knowing what is acceptable from all reasonable points of view. Instead, the best epistemic arrangement is where the laws and policies are authorized by the people subject to them. As such, democracy has political legitimacy because it can successfully track procedure-independent truth.

Critique of Epistemic Democratic Theories

However, the success of epistemic democracy relies on recognizing that epistemic appeals are the principal concern of the government and that the procedures are valuable insofar as they secure the substantive rights. This makes epistemic theories fall short of their ability to guarantee that democratic procedures protect rights more than other systems of government (Brettschneider 2007, 18-19).

Further, epistemic theories also require that there be an independent standard of correctness. However, they often fail to outline the criteria by which political decisions are deemed ‘correct.’ The epistemic theories of democracy may protect the fundamental rights of citizens but may do so in a way that makes democratic procedures disposable. By marginalizing the role of procedures for democratic legitimacy, epistemic theorists do not allow citizens to vote on how they believe the government should realize their rights. Instead, the universal conception of what is good is the only standard by which the government is compared, ultimately leaving democratic procedures to empirical evaluation.

Ultimately, sophisticated procedural and epistemic theories may include preconditions of liberty and procedures, respectively. By including constraints, these theories move closer to Brettschneider’s value theory of democracy that has both substantive and procedural rights guarantees.

The Value Theory

Brettschneider integrates key insights from procedural and epistemic theories into his value theory of democracy. He presents a democratic ideal that accounts for both procedural guarantees and the protection of basic rights. In the value theory of democracy, self-government is grounded in the three core values of democracy: equality of interests, political autonomy, and reciprocity (Brettschneider 2007, 19). The core values provide the foundation for democratic procedures because “they are implicit in commonly accepted democratic institutions [and] they also compose the key elements of an ideal democracy” (Brettschneider 2007, 19). Within the value theory of democracy, core values “have procedural implications while limiting what counts as a legitimate

democratic outcome” (Brettschneider 2007, 20). Brettschneider’s emphasis on values as the ‘core’ of the democracy does not deny that procedures are a necessary condition of legitimate democracy. The core values require the guarantee of substantive individual rights while *also* protecting the right to participate in the democratic procedures.

The Core Values of Democracy

The core values support the notion of citizens as free and equal rulers. Citizens have “sovereign status” and participate in political decision making (Brettschneider 2007, 20). They value theory of democracy respects citizens’ status in both rule *by* and *for* the people. Democratic authority comes directly from the people while also respecting their status as citizens. The core values of this theory explain how citizens are both members of the polity and its rulers.

The core values of democracy are equality of interests, political autonomy, and reciprocity. Brettschneider contends that these values are part of “the shared ideal of democratic citizenship” (Brettschneider 2007, 23). He argues that the core values could underlie a range of undemocratic political ideals. Understanding the core values together within the context of a democratic state shows that rights derive from the ideal of democracy *and* the shared ideal of democratic citizenship.

Brettschneider terms the first value “equality of interests.” This ideal contends that citizens’ interests must be weighted equally by the state. It serves as a democratic limit on the procedure by setting a standard for evaluating democratic procedures and outcomes based on the fact that they consider the interests of citizens with equal weight (Brettschneider 2007, 23). Brettschneider notes that equality of interests manifests as

one-person one-vote.² Each person's voting power ought to be equivalent to every other person's.

The second core value is political autonomy. This value links ideas about political participation to ideas about personal freedom. Citizens must be able to make their own autonomous decisions about politics. This gives citizens a role to decide, through democratic participation, how policy should be formulated. Yet, in order to make decisions for society, individuals must be able to make their own personal decisions. As part of this core value, Brettschneider outlines that individuals must be able to define and pursue their individual conceptions of the good life, so long as it respects the autonomy and freedom of others. With the freedom to make their own decisions about their lives, citizens are best positioned to make decisions for society (Brettschneider 2007, 24). As such, autonomy treats “citizens as individual rulers in a society characterized by collective self-rule” (Brettschneider 2007, 24).

The third value, reciprocity, “is a commitment to reason giving as a central obligation and entitlement of citizens in a legitimate democracy” (Brettschneider 2007, 25). Reciprocity is associated with deliberation. It requires that policies be defensible by reason through discussion or argument. Reciprocity may provide a framework for how to apply the other core values by focusing on providing reasons for rights or policies.

Together, the core values “are founded upon respect for the self-ruling status of the citizens who compose a democratic people” (Brettschneider 2007, 27). The core values do not provide an objective version of truth by which to base the procedures.

² The idea that equality of interests is expressed as one-person one-vote will be challenged later in Chapter One and discussed in detail in Chapter 3.

Rather, they outline a way for the democratic ideal to recognize the status of democratic citizens and to ensure that there is rule by and for the people.

Brettschneider argues that citizens' status as rulers in their democracy entitles them to claim rights based on the core values. Brettschneider looks to Habermas' theory of co-originality to discuss "two sovereign capacities" in which citizens are both authors and addressees of the law (Brettschneider 2007, 29). Citizens retain the right to political participation as "authors" who propose, deliberate about, and vote on legislation; "these participatory rights of authors ensure that rule is *by* citizens" (Brettschneider 2007, 29). Citizens use their right to political participation to define how the state legislates on other rights. Citizens are also addressees who are subject to the law. As addressees, citizens are subject to the laws they author, thus making laws generally applicable. Democratic institutions, therefore, ensure that the law is subject to the deliberation of citizens who both author the law and submit to it.³

Democratic Contractualism

Brettschneider describes democratic contractualism as a framework for state organization to uphold the core values. Democratic contractualism "draws from the concern to assure that the rights of individuals are protected because of their status as members of a sovereign people" (Brettschneider 2007, 57). It advances an idea of political justification based on state coercion and the rights of democratic citizens.

³ Brettschneider details a critique of Habermas' proceduralist approach. He notes that Habermas' defense of proceduralism still "subordinate[s] the normative concerns of citizens qua addressees to the process that citizens engage in as authors in the ideal procedure" (Brettschneider 2007, 30). He focuses on citizens' substantive rights of addressees and procedural rights of authors of the law. Thus, according to Habermas, rights are based within the procedures themselves. This narrow view ignores rights against illegitimate coercion that may persist within Habermas' democratic design (Brettschneider 2007, 31).

Democratic contractualism defines acceptable limits of state coercion for the enforcement laws based on the core values. It is composed of two principles.

The first is the principle of democracy's public reason. Within this principle, "democratically justifiable coercion must appeal to citizens' status as free and equal; however, coercion based on reasons that are either inconsistent with, or outwardly hostile to, these values is not democratically legitimate" (Brettschneider 2007, 61). Public reason is a standard for evaluating coercion separate from the way that citizens express their personal political beliefs. The principle of democracy's public reason suggests that certain substantive rights are necessary in order for state coercion to be legitimate. The coercion that is legitimate is to uphold those rights that are determined in terms of the core values.

Democracy's public reason allows Brettschneider to rule out three types of policy. The first is arguments that are "hostile to democratic values" (Brettschneider 2007, 63). These are laws that openly challenge the core values, such as slavery or denying voting rights to ethnic minority groups. Second, Brettschneider rejects laws that "formally cite the [core] values" but that are not reasonable interpretations of them (Brettschneider 2007, 63). For example, Jim Crow "separate but equal" laws appealed to ideas of equality but were, in fact, sustaining a racist order. The third category of arguments that would fail democracy's public reason include "those [laws] that rest on plausible, though undemocratic, interpretations of the core values" (Brettschneider 2007, 64). This category accounts for ruling out arguments that make religious appeals and interpreting equality to mean that people must subject themselves to God's judgment. These claims would not treat citizens as rulers. Thus, democracy's public reason "can serve as a guidepost for

polycymaking in legitimate democracies” by evaluating whether policies uphold or undermine the core values (Brettschneider 2007, 64).

The second principle of democratic contractualism is the inclusion principle. The inclusion principle “is a means of ensuring that the core values are respected for particular citizens” (Brettschneider 2007, 65). It is concerned with ensuring that state coercion is consistent with the core values by asking citizens, with the goal of universal agreement, what types of state coercion can a person reasonably accept if she embraces the core values of democracy. The inclusion principle has three features. First, “it evaluates coercion from the citizens’ individual ‘points of view,’ focusing on the interests of the coerced instead of the interests of society as coercer” (Brettschneider 2007, 65). Second, it asks citizens what they could reasonably accept if they embraced the core values and democracy’s public reason. Third, it assumes that citizens are motivated to reach unanimous agreement when engaging in this democratic deliberation (Brettschneider 2007, 66). The inclusion principle uses democracy itself as a condition to justify state coercion.

Democratic contractualism can also provide an account of the right to democratic privacy. Brettschneider argues that “the starting point for thinking about democratic privacy rights is the notion of freedom implicit in the requirement that coercion is justifiable to citizens” (Brettschneider 2007, 74). This presumption of freedom is based on ideas of decisional autonomy.

Brettschneider describes that citizens have the right to make decisions “free from state coercion and public scrutiny” (Brettschneider 2007, 71). In making this claim, he distinguishes between personal and private beliefs. Personal beliefs differ from private

beliefs because “reasons for restricting decisional autonomy that are most obviously irrelevant to democracy are those openly hostile to the values of political equality and autonomy” (Brettschneider 2007, 80). First, he defends restricting decisional autonomy when laws are inconsistent with the core values. For example, he describes laws banning so-called miscegenation. This is a clear violation of core values and these types of laws can be rejected at the level of democracy’s public reason (Brettschneider 2007, 81). The second category of reasons for restricting decisional autonomy come from a clear inconsistency with the core values at the levels of both democracy’s public reason and the inclusion principle (Brettschneider 2007, 82). This category would deem sodomy laws unjust. In these cases, even when some citizens make the case that homosexual relations are immoral or unjust, there is unjustified state intervention to bar consensual homosexual and heterosexual sex (Brettschneider 2007, 87). Thus, Brettschneider argues that “one need only show that the view is inappropriate to the democratic justification of state coercion, or that it fails to succeed as democratic justification” (Brettschneider 2007, 83). State coercion is *only* justified when the private beliefs undermine the “conditions necessary to treat citizens as free and equal” (Brettschneider 2007, 80).

Legitimate State Coercion

However, Brettschneider also presents cases and guidelines for environments when state coercion *is* reasonably acceptable. His framework of democratic contractualism outlines specific areas where coercion is consistent with the three core values of democracy. For example, the “easiest cases for justifying state action concern criminal laws prohibiting physical violence by one citizen against another, such as assault, rape, and murder” (Brettschneider 2007, 85). In these cases, democracy’s public

reason and inclusion principle both clearly rule out any form of justifiable violence (Brettschneider 2007, 86). Further, democracy's inclusion principle finds it reasonable to uphold laws that prohibit assault and other violent crimes. In these cases, state intervention exists to protect against private matters of assault and domestic violence.

Brettschneider also suggests that the state can avoid coercion in situations where behavior and beliefs are inconsistent with the core values by providing decisional autonomy for citizens, particularly for women. The state must provide sufficient exit opportunities for individuals who are in relationships where one individual's beliefs contrast the core values (Brettschneider 2007, 89). Specifically, he points to the state providing exit opportunities for women to walk away from an inegalitarian relationship if they choose. This state-sponsored support may include employment and housing options and guarantees (Brettschneider 2007, 90). Exit opportunities will allow people to leave inegalitarian relationships if they choose to do so. Overall, Brettschneider argues that the boundaries of privacy should be subject to democratic justification.⁴

Understanding that applying the value theory of democracy necessarily justifies some state coercion, Brettschneider discusses the relationship between private property and state coercion. He argues "contrary to its popular understanding, private ownership *does* involve state coercion and thus should be subject to democratic justification" (116). He considers private property to be a bundle of rights where "property owners can take

⁴ Brettschneider describes later in this chapter how legitimate coercion can be institutionalized and enforced. Specifically, he discusses democratic contractualism's approach to state punishment. First, he outlines cases where certain forms of punishment necessarily conflict with the core values no matter the crime. In Chapter Five, he discusses questions whereas democratic rights against certain forms of punishment may limit the methods by which laws legitimately can be enforced. However, this conversation is beyond the scope of this paper.

advantage of their property's fungibility, use the resource to produce more resources, or choose not to use it at all" (Brettschneider 2007, 117). Brettschneider adds to these 'vertical' rights of ownership a set of 'horizontal' rights that "concern the relationship between the owner and other citizens instead of the relationship between the owner and the thing owed" (Brettschneider 2007, 118). The right to exclude from personal property is a fundamental horizontal right (Brettschneider 2007, 117). This right to exclude prevents non-owners from intervening in the business of the owners and their property.

Brettschneider asks what aspects of the core values are compatible with the institution of private property. Specifically, he argues that:

Democratic contractualism's respect for autonomy requires respect for citizens' ability to develop and pursue their own conceptions of the good. Control over resources and the fungibility inherent in private ownership structure of private ownership give individuals the power to pursue and enact their life plans" (Brettschneider 2007, 119).

The right of decisional autonomy allows citizens to have the ability to make their own decisions regarding what constitutes a good life. He posits that "private ownership allows individual citizens to make a plethora" of decisions about the use of resources (Brettschneider 2007, 120). He positions the relationship between the core values of autonomy and private ownership as a fundamental relationship based on the inclusion principle.

Welfare Rights

Brettschneider acknowledges that welfare rights are necessary conditions for justifying the state's role in enforcing the right to exclude. As a result, Brettschneider advocates granting all citizens some level of welfare rights that "ensures them a basic level of ownership, defined by reasonable basic interests" (Brettschneider 2007, 124). By

providing all citizens with basic welfare, the value democratic state ensures that citizens will have the resources to pursue their particular conceptions of the good. The ability for citizens to pursue their own conception of the good life will make them more willing to respect someone else's property as related to this other person's life goals (Brettschneider 2007, 124). Thus, Brettschneider charges that welfare rights are necessary conditions for justifying a role for the state in enforcing this 'right to exclude,' which he argues is a fundamental element of private ownership.

Brettschneider outlines what basic set of welfare guarantees citizens are entitled to. Specifically, he mandates the right to a job, or the right to work for a just wage (Brettschneider 2007, 126). He establishes that these guarantees are in line with the core values because they "ask only that all citizens share the same opportunity to acquire resources, which would allow them to make autonomous decisions about the good life" (Brettschneider 2007, 127-128). The welfare guarantees include a provision for in-kind resources to meet citizens' basic needs. He argues that "before a person can live an autonomous life or regard herself as an equal citizen, her needs for shelter, food, and health care must be met" (Brettschneider 2007, 128). The state must provide for citizens who are unable to work because the right to a job as a way to provide welfare privileges able-bodied citizens. The distribution of in-kind benefits must thus be distributed to *all* people. Brettschneider argues that "citizens' right to be respected as free and equal derives directly from their status as members of democratic polities and should not be contingent upon their participation in the workforce" (Brettschneider 2007, 129). Further, guaranteed in-kind resources better accommodate particular individuals' reasons not to work, which may be a willingness to contribute to society in ways other than a paying

wage job (Brettschneider 2007, 129). Brettschneider also mandates a universal basic income.⁵ This guaranteed minimum income for all appeals directly to the core value of autonomy because it gives citizens more control over their economic resources.

Ultimately, the value theory of democracy constitutes “an independent standard against which actual democracies should be judged” (Brettschneider 2007, 161). This ideal for democracy is based on certain substantive democratic values, the core values, with procedural guarantees. The value theory justifies substantive constraints on procedures because they are essential to the democratic justification of the procedures themselves. A value democratic state recognizes the intrinsic value of both substantive and procedural rights. Since democracy is both a procedural and substantive ideal, Brettschneider builds in legitimate claims for the economically worst-off, justifies property rights and welfare guarantees, and sustains the rights of the punished. This basis of his theory comes from the idea that the state should allow citizens to pursue their individualized conceptions of the good.

Critiques of the Value Theory

This thesis identifies two identity-based critiques of the value theory. First, it will present Christopher Lebron’s racial critique of the value theory in *The Color of Our Shame*. He shows that Brettschneider’s theory may not adequately address racial injustice and that the value theory may actually require perfectionist policies to ensure a true commitment to the core values. Tommie Shelby’s argument in *Dark Ghettos: Injustice, Dissent, and Reform* furthers this discussion of minority identity, yet he looks at the

⁵ While Brettschneider acknowledges the challenges in distributing and deciding on the amounts of this guaranteed income, he ultimately leaves this issue to the individual state to deal with the issue surrounding how to implement the right to welfare (Brettschneider 2007, 131).

positive aspects and value of cultural identity valued as a primary good.⁶ The second critique will examine how an insecure cultural context may prohibit an individual's ability to effectively enjoy the core values and thus participate in the value democratic state. Ultimately, marginalizing claims to identity may demonstrate that the value theory does not uphold the core values for minority groups. These critiques underscore that the value theory cannot account for individual claims by virtue of identity or secure the basis for identity that is central to the sense of self.

Racial Critique

Lebron argues that Brettschneider's theory cannot take issues of identity seriously and provides a racial critique of Brettschneider's value theory of democracy. His own racial critique parallels traditional feminist critiques.⁷ Specifically, he emphasizes the fact that the private-public dichotomy sustains inequality because it allows inequality to persist in private settings.

Yet, Lebron acknowledges that Brettschneider's focus on citizens endorsing reasons for rights is a strength of the value theory (Lebron 2013, 137). The value theory focuses on justifying rights whereas "public reason, as a democratic political mechanism, must reach down into the self and elevate it to the level of moral excellence demanded by equality" (Lebron 2013, 138). As Lebron understands it, citizens within a value

⁶ According to Rawls, primary goods are social goods. These include "rights, liberties, opportunities, income and wealth" and the sense of one's own worth (Rawls 2009, 54).

⁷ Loren King provides a feminist critique of the value theory in "A democratic right to privacy: Political or perfectionist?" He argues that "intimate affairs often have important public consequences" (King, 31). These experiences become norms and are persistent and relevant to how people understand their own rights.

democratic state endorse reasons for rights as guided by the core values, in which there is a deep commitment to equality.

However, Lebron charges that this framework where citizens demand reasons for rights is not enough to combat – and he focuses on racial – inequality. Lebron argues that the de jure racial equality in the United States today exists in contrast to racial inequality because of histories of sociopolitical subordination that mask how systemic inequality actually operates in society. Thus, Lebron believes that a perfectionist stance⁸ is necessary to properly secure equality because Brettschneider’s reasons for rights can still allow racial inequality to exist, albeit invisibly.

Lebron articulates the problem of social value to explain why demanding reasons for rights is not sufficient to secure equality. He defines social value as “our social practices, as embedded within a liberal democratic framework, [that] are outwardly regulated by rules and principles meant to preempt categorical inequalities, but fail selectively — that is, in the face of race” (Lebron 2013, 139). According to Lebron, the problem of social value and the *reasons for race* are not seriously considered when society is confronted with what we see as legal equality. Instead, racial inequality is able to persist within our liberal democratic framework and “disrupt our ability to live up to commitments we affirm on our own account” (Lebron 2013, 139). Lebron argues that reasons for rights do not equip racial minorities with the tools to overcome the institutional oppression that color their reality. Even if these groups are given equal rights in society now, Brettschneider’s theory cannot account for how to guarantee that these

⁸ This thesis will discuss the differences between Lebron’s perfectionist stance and Brettschneider’s political ideal in Chapter Three.

ethnic minorities are able to maintain their identities. Specifically, the value theory cannot deal with the dilemma of justice for minorities who are discriminated against based on their group identity.⁹

Lebron's focus is on cases where racial prejudice and systemic identity-based injustice provide negative consequences for racial minorities. Yet, his critique that the value theory ignores the function of race in society still stands in scenarios where racial differences create positive consequences, such as the ghetto culture that Shelby discusses. In the case of the ghetto, the value theory may not require adequate protection of ghetto identity, which is fundamental to how ghetto residents see themselves as free and equal moral beings.

In *Dark Ghettos*, Shelby argues that there is an intrinsic value of ghetto culture, which he describes is a predominately black culture. Shelby defines ghettos as "metropolitan neighborhoods visibly marked by racial segregation and multiple forms of disadvantage" (Shelby 2016, 38). He also presents segregation as a morally neutral term to avoid attributing unjust causes to all forms of segregation (Shelby 2016, 39). He believes that ghettos may provide a secure cultural context for its inhabitants to secure self-esteem, self-respect, and dignity (Shelby 2016, 107). Yet, there may exist ghetto poverty, which is marked by racial stigma and involuntary segregation.

Ultimately, the crux of *Dark Ghettos* is a bold call for "ghetto abolition"¹⁰ (Shelby 2016, 275). Shelby believes that justice requires that we abolish ghettos. This does not

⁹ Lebron's proposed policy solutions presented in Chapter Three and critique regarding reasons for race extend beyond racial inequality to also explain how the value theory disregards systemic inequality as related to identity more generally.

¹⁰ His argument for ghetto abolition will be further evaluated in Chapter Four.

mean that we should eradicate or prevent the formation of black neighborhoods. Rather, abolishing the ghetto requires a dramatic change in the U.S. social structure as a whole, which includes more than fighting racism and reducing poverty. Shelby advocates ghetto abolition to protect the cultural context of the ghetto in order for ghetto residents truly to be free, equal, and autonomous citizens. The cultural context of the ghetto provides a secure backdrop for its members to choose meaningful life paths and define their conception of the good outside the mainstream and predominately white society.

In addition, Shelby argues against forced integration because it would remove ghetto residents from their valuable and secure cultural context and undermine their self-respect. The policies he proposes (see Chapter Four) may have instrumental value in ameliorating identity-based disadvantages. He charges that integrationist policies lack the moral standing to demand or even encourage conformity to mainstream values from ghetto residents by making welfare benefits conditional on conformity and promoting moral reform programs. In this sense, Shelby maintains that ghetto culture is inherently valuable to its residents and forcing them to move to predominately white neighborhoods would take away this valuable part of their identity.

Cultural Critique

More generally, the value theory fails to account for the value and security citizens' may place on their identity and culture. Even though the value theory mandates welfare rights to ensure that citizens are able to meet their basic needs, these welfare guarantees ignore the fact that citizens may rely on means beyond economic access. Brettschneider focuses on providing citizens with economic benefits to allow them to have a secure basis for active citizenship. He even explicitly addresses injustice in the

family — appealing to the core values and democratic contractualism — to guarantee individual protections and exit opportunities to protect against not only political or economic inequality, but also against psychological inequality.

Yet, Brettschneider ignores the fact that citizens may value identity itself as a primary good. The value theory does not account for identity protections for people whose identity itself is a good with intrinsic value. As such, identity is valuable because it is part of a person's sense of self and is useful in the pursuit of her conception of the good.

The core values may also be unattainable for members of minority cultural communities within the value theory. Providing equality of interests for all citizens may privilege the majority identity group in voting for policies regarding identity expression. First, following equality of interests, if each citizen gets one vote, then the members of the majority culture have greater voting power than the members of a minority culture. For example, the majority group may make choices that threaten the minority's identity such as forced assimilation to language, customs, or culture. The majority may drown out the equality of interests of the minority culture within the context of the majority culture. These restrictions would not violate citizens' ability to participate in the democracy or their claim to substantive rights, but it would take away value from a group insofar as their identity is central to their sense of self.

Further, members of a minority culture cannot be fully autonomous if they do not have a secure cultural context. Brettschneider emphasizes that citizens must be able to pursue their own conception of the good life, and thus communicate that will through political participation. However, culture is an important background condition for the

exercise of personal autonomy. Culture provides the context from which individuals' choices about how to live one's life can be made and defines the options from which the individual chooses and provides them with meaning. However, members of a minority culture may not have their cultural values and norms affirmed in mainstream culture. Thus, these citizens may not be choosing among meaningful options when defining and revising their conception of the good. As a result, they must be presented with a secure cultural context in which minority cultural norms and ways of life are shown to be valuable. Only in this case would choosing among options be a true exercise of autonomy, since the majority culture is not the only cultural context available.

Without specific cultural considerations, the value theory cannot secure real equality of interests if everyone within the society receives a single and equal vote. The only way to secure the core values is in some cases to provide semi-autonomous rights to minority groups. In a direct parallel to Lebron's perfectionist policies that attempt to break down the problematic social construction of racial identities, there must also be policies that attempt to sustain identities that may be marginalized and ignored within Brettschneider's value theory. While Lebron challenges Brettschneider's theory for marginalizing claims to black identity, he provides perfectionist policies as the response which is beyond the scope of what Brettschneider is comfortable with prescribing in order to uphold the core values. Under the value theory, all people have formal equal rights. However, these formal rights may not be enough to sustain minority group identities. In addition, the unattainability of equality and autonomy for members of a minority culture would undermine the value of reciprocity because reciprocity is a robust guarantee of the other two core values.

Thus, a sophisticated theory of democracy must look to how the state can protect the legitimate claim these citizens make to secure their identity. Brettschneider's theory fails to address claims that citizens may have to certain rights by virtue of having a minority identity. For example, citizens may need quasi-autonomous claims whereas there exist legitimate claims of minority cultures to preserve their identity.

Conclusion

The core and public values of citizenship require the private protection of the same values. Procedural and epistemic theories of democracy each fall short of the guaranteed protections of both core values and procedural rights; they marginalize the intrinsic value of democratic rights and procedures. A theory of democracy can protect the substantive and participatory rights of all citizens. It must explain how citizens come to understand their rights as related to their individual sense of identity; their legitimate political participation is grounded in their individual conception of rights that is revealed as political preferences.

Brettschneider's value theory of democracy protects individual rights better than do procedural and epistemic theories of democracy and provides the best framework for how to model a democratic state. The procedural and epistemic democratic theories most seriously considered are each constrained by substantive and proceduralist considerations, respectively. Thus, Brettschneider's improvement to each school of democratic theory marries the merits of each and is the best legitimate defense of democracy.

Even though Brettschneider best integrates procedural and epistemic theories by rooting democratic rights within the democratic procedures, his theory marginalizes the

role of identity and culture as it relates to securing the core values and the policies thus necessitated to do so. As Lebron argues, Brettschneider's theory does not adequately address minority identities. Applying Shelby's theory shows that more generally, the value theory ignores how the democratic institutions will operate to secure the basis for identity that is central to the sense of self. Further, no explicit protections for minority identities within the value theory may prevent minority citizens from completely enjoying the core values.

To see if there is a way for liberal theories of democracy to accommodate these identity-based critiques, the next chapter will present Will Kymlicka's liberal response to communitarianism. Kymlicka argues that liberal theories of democracy have the tools to protect the autonomy and equality of members of a minority culture in culturally pluralistic societies. He believes that these states must grant special citizenship status to members of a minority culture in order to guarantee that they are able to enjoy the liberties guaranteed by liberal theory.

Chapter 2: Liberalism and the Rights of Minority Cultures

The value theory of democracy is an ideal theory that grounds democracy in both substantive and procedural rights. However, as argued in Chapter One, it does not acknowledge cultural membership as a good that requires protection in order for citizens to fully secure and enjoy the core values. This chapter will explore two frameworks for understanding and justifying special political rights for members of a minority culture. First, Kymlicka's argument in *Liberalism, Community, and Culture* centers cultural membership within liberal theory. His defense of the rights of minority cultures shows that granting special citizenship status respects and secures minority identities in a manner that is consistent with liberal thought. Second, Shelby's examination of American ghetto communities, as introduced in Chapter One, leads him to argue against new integrationist and moral reform programs that effectively undermine the self-respect and autonomy of ghetto residents by disbanding or destroying their cultural context. Together, these sources provide a framework for reimagining and focusing ideas of cultural identity within liberal democratic theory.

Kymlicka's Liberal Theory of Identity

Kymlicka provides a liberal response to communitarian thinkers. Liberals, fundamentally concerned with the autonomy that people have as free and equal moral agents, charge that although we often find ourselves with different identities, we also have the option of discarding many such identities. Communitarians attempt to challenge the prevailing liberal idea that rights and liberties circumscribe actions that can be taken in the name of other identities. Communitarians believe that the identities that make up

our conception of the good are more fundamental than our rights and liberties as citizens. Thus, they argue that the good should instead circumscribe such rights and liberties.

Kymlicka responds to communitarian critiques of liberalism by using the example of Native Americans in order to show that liberal communities must provide special citizenship rights for minority cultures to allow them to pursue their conception of the good. He argues that not only is granting special citizenship status for members of minority cultural communities consistent with liberalism, it is also necessary to ensure that these citizens are able to have an equal opportunity to choose what is worth doing, achieving, and being—the autonomy that is fundamental to liberal thinking.

Liberal Response to Communitarianism

Kymlicka begins his liberal defense of minority rights by arguing that liberalism often prioritizes the relationship between the individual and the state over the relationship between the individual and culture. However, this dichotomy ignores that inherent in the state-individual interaction is a consideration of how the individual engages with his community.

Kymlicka provides a response to communitarian concerns by presenting a liberal account of community and culture and linking these ideals to the liberal view on individual rights and state neutrality. He asserts that the relationship between the individual and society is not ignored in liberal thinking as many communitarians believe. Instead, he argues, “the liberal view is sensitive to the way our individual lives and our moral deliberations are related to, and situated in, a shared social context” (Kymlicka 1991, 2). Kymlicka believes that liberal theory must account for an individual’s position in his society. While liberal theories may not explicitly address how an individual’s

community influences his choices about what is worth doing, achieving, and being, the liberal focus on autonomy addresses this concern. This conflict over the role of the community in shaping values forms the heart of the debate between liberals and communitarians. Liberals argue that individuals can choose their own conception of the good and can follow their own plan, the one that they believe to be the most valuable. Communitarians posit that people are situated in a particular community and find meaning, value, and character within that community. Communitarians claim that choices of identity are necessarily framed in the context of our community and thus individual identity comes from the community in which we are raised.

Before addressing communitarian critiques, Kymlicka defines his conception of liberalism. Liberalism is a broad field in normative political philosophy; there can be different interpretations of the same virtue by different scholars within the tradition (Kymlicka 1991, 9). For example, some liberals may understand tolerance to come from the belief about the subjectivity of value where there are no grounds on which to criticize another individual's choices or preferences (Kymlicka 1991, 10). Other liberals may endorse tolerance as a virtue because it "provides the best conditions under which people can make informed and rational judgments about the value of different pursuits" (Kymlicka 1991, 10). Liberals support a consistent platform of certain values but their reasons for endorsing these virtues may differ.

Within political philosophy, liberals are principally concerned with providing individuals with the tools to fulfill a good life. Kymlicka argues that individuals "lead our [lives] from the inside," meaning that we convert our values and ideas about what constitutes a good life into action (Kymlicka 1991, 13). He also believes that "individuals

must have the resources and liberties needed to live their lives in accordance with their beliefs about value” with the freedom and “cultural conditions conducive to acquiring an awareness of different views about the good life, and to acquiring an ability to intelligently examine and re-examine these views” (Kymlicka 1991, 13). Individuals must have both the freedom to act on their present desires and the ability to revise these desires.

Liberalism and the Self

Kymlicka presents the liberal account of the self to defend it against five prominent communitarian arguments. The first argument he examines is the charge that liberalism presents an empty view of the self. Charles Taylor, a communitarian philosopher, presents the emptiness argument. Taylor claims that “true freedom must be ‘situated’ since the [liberal] demand to be freely self-determining is indeterminate” (Kymlicka 1991, 47). He believes that citizens, in pursuit of self-determination, define goals and create plans to pursue those goals. An individual’s ‘situation’ sets these goals by defining what commitments have value. Taylor argues that only pursuing the ends that society deems valuable will allow us to have something worthwhile to pursue. Without certain commitments, “the quest for self-determination leads to Nietzschean nihilism, the rejection of all communal and cultural values as ultimately arbitrary” (Kymlicka 1991, 48). Thus, community obligations define value and frame our autonomy.

Kymlicka argues against this position, claiming that freedom within liberalism is the freedom to pursue those ends which individuals deem valuable; in this way, freedom of choice is not the thing of value (Kymlicka 1991, 48). He says that some liberals believe that freedom of choice is intrinsically valuable but qualifies that “a life with more

autonomous choices is not even *ceteris paribus* better than a life with fewer such choices” (Kymlicka 1991, 49). It is not about the number of choices one makes, but about the freedom to make those choices. More generally, liberalism claims that individuals as free and equal moral persons are not limited to or defined by their identities or their ‘situation.’ How people discover themselves as situated within a community is important, and they are free to cultivate and nurture those identities. However, liberals do not see those identities as defining an individual’s position as a free and equal agent. Individuals are free to reject identities they once found valuable without losing their status as free and equal persons. Ultimately, Kymlicka leaves the burden of proof with communitarians.

The second communitarian claim that Kymlicka evaluates is that the liberal view of identity violates our self-perceptions. According to this objection, the Rawlsian view of the ‘unencumbered self’ assumes that we have no ends that are constitutive of the self. Michael Sandel argues for this reading of Rawls, claiming that the self is constituted by its ends and that “our deepest self-perceptions always include some motivations, and this shows that some ends are constitutive of the self” (Kymlicka 1991, 52). Rawls conceives of the unencumbered self through his use of the veil of ignorance. Within this context, a person can evaluate their ends outside of their circumstance or identity. Thus, Rawls’ conception of the individual is not dependent on circumstance. So it follows that circumstances are not constitutive of the self. Sandel, however, argues that some ends are colored by one’s identity. He believes that one cannot evaluate one’s ends without an understanding of one’s circumstance. As such, Sandel argues that there is no unencumbered self and that identity is integral to a holistic understanding of the self.

However, Kymlicka claims that this argument mischaracterizes the liberal view. Liberals posit that “we understand ourselves to be prior to our ends, *in the sense that no end or goal is exempt from possible re-examination*” (Kymlicka 1991, 52). So long as we establish autonomy, we can reframe our ends within newly acquired encumbrances. As free and equal moral beings, people can choose their own ends, since no certain ends are required to have free and equal moral standing. As such, everyone maintains the right to pursue their own end as long as doing so does not interfere with the rights of someone else.

Sandel does admit that a person can re-examine her ends, but he presents this as a contrast to Rawls. He says that “the boundaries of the self, although constituted by its ends, are nonetheless flexible and can be redrawn, incorporating new ends and excluding others” (Kymlicka 1991, 55). However, this claim undermines Sandel’s previous argument. If a person can re-examine her ends, even the ends constitutive of self, then they are definitionally not constitutive. Thus, “both [Rawls and Sandel] accept that the *person is prior to her ends*” (Kymlicka 1991, 55). If you are able to re-examine your ends, then your ends are fluid and are therefore not constitutive of the self.

The third communitarian argument Kymlicka identifies against liberalism is that liberals ignore how people are embedded in communal practices that affect what identities they connect to. These societal aims and values define the boundaries by which members understand their identities. Further, these social categories lead people to feel a specific affinity for their community (or communities) and for their families. People feel the pressure of these social forces and ties without so choosing, and this then affects how they see themselves (Kymlicka 1991, 53). Thus, one’s sense of self comes by discovery

and not by choice. That is, people can interpret the meaning of their constitutive attachments and their conception of the good is becoming aware of the various attachments they “find” (Kymlicka 1991, 53).

Kymlicka shows that Sandel’s embeddedness argument marginalizes individuals’ agency to judge whether or not to accept or reject communal values. He states that Sandel’s focus on the community as defining members’ identities “violates our deepest self-understandings” (Kymlicka 1991, 53). The commitment to liberalism gives people rights as free and equal agents in order to decide how to lead their lives. Kymlicka argues that “the question of the good in my life can only be a question of how best to interpret [the] meaning [of my communal attachments.] It makes no sense to say that they have no value for me, since there is no ‘me’ standing behind them, no self ‘prior’ to these constitutive attachments” (Kymlicka 1991, 57). The social practices and traditions of a certain community may detail goals and values for its members, “but [they] may not like what [they] find” (Kymlicka 1991, 54). Liberalism provides individuals with the basis for critiquing existing practices. Since people are independent of their communal roles, liberalism posits that moral reasoning is a process of judgment and choice.

Next, Kymlicka evaluates communitarians’ fourth critique of liberalism, that liberals ignore the necessity for social confirmation of our individual judgments. The social confirmation argument claims that individuals need considerable social affirmation to be confident in their judgments of what has value (Kymlicka 1991, 61).

Communitarians claim that “liberalism...provides little concrete moral reassurance or guidance on worthy courses of action” (Kymlicka 1991, 61). Thinking of ourselves as morally sovereign, that is, making decisions freely and pursuing causes we individually

deem worthy, cannot truly lead to a good life since confirmation from others is needed for firm belief in the fact that what we have pursued and chosen to value is actually valuable (Kymlicka 1991, 62). Within this reasoning, the group defines what is valuable and therefore affirms or rejects members' behavior that deviates from these norms.

The liberal view, in contrast, holds that people will become confident in their own projects and values "by removing any impediments or distortions in the reasoning process involved in making judgments of value" (Kymlicka 1991, 62). The liberal view of an undistorted, transparent community maintains that the causes of our actions are the considerations we have recognized and affirmed as reasons for action. Liberals even maintain that people must have the resources to question the confirmation of their judgments. While we need the group to support, confirm, and endorse our live paths, the whole group can be profoundly unjust. Thus, liberalism requires standards for this confirmation: criteria to evaluate values and behavior.

Lastly, communitarians argue that liberals have an indefensible account of morality based on objectivity. Communitarian thinker Richard Rorty "accuses liberals of having an untenable account of morality as transcultural and ahistorical" (Kymlicka 1991, 63). Rorty's 'Hegelian' argument against what he believes are the Kantian notions involved in Rawls' and Dworkin's view of morality claims that judgments are relative to a language and a conceptual scheme. He charges that "there are no reasons [for behavior and identity] which aren't reasons internal to a historical tradition or interpretative community" (Kymlicka 1991, 65). Instead, he believes that people are so embedded in communal roles that they can respond to deviant behavior by claiming that "WE do not do this sort of thing" in their community, implying that morals vary by culture (Kymlicka

1991, 66). The ‘we’ in this case is the local community whose historical practices have developed into a particular set of values that are both local and unique. Ultimately, Rorty argues that liberals marginalize cultural variation as it relates to acceptable behavior.

Kymlicka responds to this critique by arguing that Rorty’s perception of moral assertions claims to know the limits of practical reasoning. Liberals do not disagree with the Hegelian view that “we *start* with the shared moral beliefs, and then describe an original position in accordance with those shared beliefs, in order to work out their fuller implications” (Kymlicka 1991, 68). To start in the middle as a way of discovering your commitments is to tease out these commitments from where you are. This uses historical processes as the starting point for understanding moral truth. Effectively, this process allows individuals to make informed moral judgments regardless of their cultural context. According to Kymlicka, this contrasts with Rorty who “claims to know that reasons will be only compelling to particular historical communities, before those reasons have been advanced” (Kymlicka 1991, 69). Rorty accounts for an arbitrary limit on who judges goods and behavior as valuable and overstates how much cultural variation limits an individual’s ability to judge the value or morality of a behavior. Language, history, and culture cannot set the limits on what is good even if they can expose prejudice.

Liberalism in Culturally Plural Societies

Kymlicka next distinguishes between two different conceptions of community — the political and the cultural communities — in order to show that in many modern nation-states, there is a discontinuity between the scopes of the different kinds of community. Within the political community, “individuals exercise the rights and responsibilities entailed by the framework of liberal justice” (Kymlicka 1991, 135).

Those within the same political community are citizens. The cultural community, by contrast, is the grouping in which “individuals form and revise their aims and ambitions” (Kymlicka 1991, 135). People within the same cultural community share customs, a language and history.

This is the case for the nation-state model that most political theory assumes. However, the two may not coincide. For example, as is the case with many modern nation-states, “the political community may contain two or more groups of people who have different cultures, speaking different languages, developing different cultural traditions” (Kymlicka 1991, 135).

Kymlicka suggests that the plurality in modern nation-states presents two options for ways in which individuals may be incorporated into a liberal state. First, individuals may be incorporated universally “so that each person is taken to stand in the same direct relation to the state” (Kymlicka 1991, 137). They may also be incorporated into the state consociationally, where “the nature of people’s rights, and the opportunities for exercising them, tend to vary with the particular cultural community into which they are incorporated” (Kymlicka 1991, 137). Specifically looking at the rights of the aboriginal populations in Canada and the United States, Kymlicka explains how consociational incorporation may include special citizenship status. In the United States, the American Indian population exists as a permanent and distinct minority culture. The system of reservations gives this community unusual rights and powers to protect their culture. The reservations “form special political jurisdictions over which Indian communities have certain guaranteed powers, and within which non-Indian Americans have restricted mobility, property, and voting rights” (Kymlicka 1991, 136). Similar measures of

political and cultural autonomy exist for minorities in the multicultural countries of Western Europe, such as in Belgium and Switzerland (Kymlicka 1991, 136). Kymlicka groups all measures of special citizenship status for members of these minority communities into the heading of “group rights” where “the justification for these measures focuses on their role in allowing minority cultures to develop their distinct cultural life, an ability insufficiently protected by ‘universal’ modes of incorporation” (Kymlicka 1991, 137). Kymlicka argues that ‘group rights’ are part of liberal thought because they are often necessary for freedom and equality.

However, liberalism is commonly understood to be hostile to policies that allow certain groups to claim special political rights. Kymlicka points out that “the accepted wisdom is that liberals must oppose any proposals for self-government which would limit individual rights in the name of collective rights” (Kymlicka 1991, 138). Liberals who endorse policies for groups to claim special rights would appear to “limit individual rights in the name of collective rights” (Kymlicka 1991, 138). Kymlicka argues that this way of conceptualizing liberalism is based on a flawed idea of group rights. According to Kymlicka, liberal theory can accommodate respect for persons as members of the shared political community and as a member of a particular cultural grouping (Kymlicka 1991, 140). Specifically, in these culturally plural states, the liberal commitment to respect for individuals as free and equal moral persons results in the need for special modes of incorporation to secure the cultural identity.

Kymlicka presents his main argument in two main steps. First, he shows that “cultural membership has a more important status in liberal thought than is explicitly recognized” by liberalism’s leading contemporary thinkers, John Rawls and Ronald

Dworkin (Kymlicka 1991, 162). Although liberals have failed to recognize it, cultural membership is a primary good and is thus a precondition for some to exercise their status as free and equal moral beings. Second, Kymlicka applies Rawls' and Dworkin's arguments for equal rights and resources for all members in a nation-state to show that compared to members of the dominant cultural groups, members of minority cultures may be differentially disadvantaged with respect to the good of cultural membership. Ultimately, Kymlicka argues that special citizenship status for minority cultures in a culturally plural state is needed to rectify this disadvantage (Kymlicka 1991, 162).

Before presenting Kymlicka's modifications to Rawls' theory, it is necessary to present the key elements of Rawls' own conception of justice.

Rawls' Theory of Justice

Rawls addresses the problem of distributive justice in *A Theory of Justice*. He describes a hypothetical "original position" where deliberators create an agreed-upon principle of justice behind a "veil of ignorance" (Rawls 2009, 11). The veil conceals social positions and natural talents to allow the deliberators to agree on fair principles of justice that cannot be tailored to the advantage of any class of citizens and are fair to all. Rawls argues that the deliberators would arrive at two serially ordered principles of justice. The first addresses maximizing individuals' equal liberties, and the second posits the arrangement of social and economic inequalities to be open to everyone and to be resolved in favor of those who are the least well-off (Rawls 2009, 57). The ambiguity of the phrases "everyone's advantage" and "equally open" in the second principle leads Rawls to analyze its multiple meanings in four potential systems. By advocating for a society governed by equality of opportunity and the difference principle, Rawls

prescribes a justice as fairness model consistent with the fourth system of democratic equality.

Rawls argues that a society governed by careers open to talents and the principle of efficiency permits obvious injustices. Because in this system there “is no effort to preserve an equality, or similarity in social conditions,” inequalities of effort or inequalities of chance influence the initial distribution of wealth (Rawls 2009, 62). The system selects an efficient distribution under the assumption of a competitive market economy, in which the distribution of goods meets a principle of efficiency (Rawls 2009, 62). The principle of efficiency holds that a system is efficient if it is not possible to improve the situation of some without diminishing the position of others. When combined with equality as careers open to talents, the principle of efficiency permits distributive shares to be “improperly influenced” by natural or social advantages “so arbitrary from a moral point of view” (Rawls 2009, 63).

The system of liberal equality better accounts for the failures of natural liberty by emphasizing equality as that of fair opportunity, in order to correct for the failures of equality as careers open to talents, but still allows injustices resulting from the principle of efficiency. Not only should careers be open to talents, but they should also account for the expectations of those able to attain them regardless of social class. The system of liberal equality seeks to mitigate the effects of “social contingencies and natural fortune” on distribution by imposing further conditions on the social system (Rawls 2009, 63). Equality of fair opportunity applies economic and social regulations to ensure that everyone has an equal chance to compete for a fair equality of opportunity. While preferable to the system of natural liberty, the system of liberal equality still permits

injustices by allowing outcomes and distributions to be accidents of birth. The system of liberal equality also allows for family and inheritance to unequally affect people's abilities to realize their expectations (Rawls 2009, 63-64).

Rawls's description of the second principle of justice as democratic equality definitively accounts for a consistent and correct interpretation of the second principle. Democratic equality describes equality of opportunity and the efficiency principle checked by the difference principle (Rawls 2009, 57). The difference principle improves upon the efficiency principle by "singling out a particular form which the social and economic inequalities of the basic structure are to be judged" (Rawls 2009, 65). It is an egalitarian concept, stating that unless there is a distribution that makes each representative person better off, an equal distribution is preferred (Rawls 2009, 65-66). This justifies inequalities in the distribution of goods if and only if the inequalities benefit the worst-off members of society (Rawls 2009, 67). This principle is a rational choice for the representatives of the original position because it would prohibit any arrangement that would make one person better off at the expense of the least well-off (Rawls 2009, 68). It also provides for a "chain connection," which links the inequalities favoring the least well-off to the success of all others (Rawls 2009, 70). Rawls emphasizes how the chain-connection makes everyone believe they have a stake in the fortunes of the least well-off (Rawls 2009, 70). Unaffected by natural attributes, democratic equality links the equal access to basic rights from the first principle of justice to an equal opportunity to achieve material wealth in the second.

Rawls's emphasis on the lexical ordering of the two principles presupposes equality in political liberties when addressing socioeconomic inequalities to more

effectively argue for an application of justice as fairness. By underscoring the serial priority of the principles of justice, Rawls argues that society's socioeconomic inequalities cannot undermine political liberties (Rawls 2009, 53). The difference principle can only be successful if equal liberties are guaranteed. Thus, Rawls allows for inequalities that result from choice, but not from circumstance.

Kymlicka explains that Rawls advocates equality under law—that is, a focus on treating people as free and equal moral members of the political community (Kymlicka 1991, 140). Rawls shows that this individual liberty is centered on people's freedom to form and revise their beliefs about value. When selecting a life plan, people do not start *de novo*, but instead select from a range of options that is determined by his cultural heritage “that have been developed and tested by innumerable individuals, sometimes for generations” (Rawls 2009, 494; Kymlicka 1991, 164). People are free to choose how to lead their lives and choose among the options based on what they believe to be the most valuable from the options that are available.

Yet, Kymlicka argues that cultural membership is crucial to the self-respect that Rawls defines as a precondition to carrying out one's life plan (Kymlicka 1991, 164). Kymlicka contends that Rawls understates the significance of the relationship between cultural membership and self-respect. According to Kymlicka, Rawls should include “cultural membership as one of the primary goods with which justice is concerned” (Kymlicka 1991, 166). Kymlicka argues that the loss of cultural membership would be a social condition that undermines self-respect, a virtue that Rawls advocates for all. Further, cultural membership “is a good in its capacity of providing meaningful options for us, and aiding our ability to judge for ourselves the value of our life plans” (Kymlicka

1991, 166). Thus, the cultural community, as a structure, must be understood as a context of choice since norms and values come from one's community. Kymlicka concludes that "this importance would have been recognized by the parties in Rawls's original position" and that "Rawls's own argument for the importance of liberty as a primary good is also an argument for the importance of cultural membership as a primary good" (Kymlicka 1991, 166). Because individual choices are restricted by what we see based on the cultures around us, liberal values require both individual freedom of choice and a secure cultural context from which individuals can make these choices.

Having established that Rawls' conception of justice marginalizes the role of culture, Kymlicka looks to evaluate Dworkin, assessing if Dworkin's envy test appropriately accommodates cultural security.

Dworkin's Envy Test

Dworkin develops the envy test as the criterion for just distribution. He asks readers to imagine a vessel that has shipwrecked on a desert island. The available social resources are to be auctioned amongst the passengers, who presumably are of the same culture (Kymlicka 1991, 187-188). People start with an equal endowment and bid on the goods they personally value. When all the goods have been distributed, "no one will prefer the bundle of resources held by another person over their own, since each person had an equal ability to bid for the various resources" (Kymlicka 1991, 188). The envy test examines whether inequality is due to choice, based on the resources someone chose, or circumstance, rooted in unequal conditions when choosing the initial endowment.

Yet, Kymlicka argues that this hypothetical assumes that those who are bidding are of the same culture. Consequently, he creates his own hypothetical. In his scenario,

there are two boats, one large and one small that shipwreck on the island. The auction “proceeds and it turns out that the passengers of the two ships are very similar in the distribution of different ways of life chosen” (Kymlicka 1991, 188). However, what had been obscured by the computer language that existed to ensure a smooth auction “was that the two ships are of different nationalities and the members of the minority culture are now in a very undesirable situation” (Kymlicka 1991, 188). What the minority culture envies is “the fact that the majority members possess and utilize their resources within a certain context, i.e. within their own cultural community” (Kymlicka 1991, 188). Members of the minority culture must incur additional costs if they want to secure the existence of their cultural community (Kymlicka 1991, 189). This example reveals a flaw in Dworkin’s hypothetical and with the envy test. In reality, some majority cultural groups may have control over the resources that are crucial to the survival of the minority cultural group.

Ultimately, Kymlicka argues that Rawls and Dworkin did not include cultural membership in their philosophies because they assumed cultural homogeneity. Like most post-war liberal theorists, “[they] work within a very simplified model of the nation-state, where the political community is co-terminous with one and only one cultural community. Of course, cultural membership is still a primary good in a culturally homogenous country” (Kymlicka 1991, 177). Kymlicka argues that both Dworkin and Rawls implicitly recognize the primary good of cultural membership. For example, Rawls claims that “we decide our life-plans not *de novo* but rather by examining the models and ways of life of those who have preceded us” (Kymlicka 1991, 177). Dworkin even “talks about the importance of one’s cultural structure in providing the conditions

necessary to make imaginative decisions about how to lead one's life" (Kymlicka 1991, 177). Within both these theories, cultural membership plays a central role for citizens to be autonomous and equal. As a result, Kymlicka argues that liberals should accord cultural membership an important role in their theories of justice.

Equality for Minority Cultures

Kymlicka argues that a liberal commitment to justice may require special rights to secure cultural membership. Kymlicka presents the liberal view of justice in which "the interests of each member of the [political] community matter, and matter equally" (Kymlicka 1991, 182). He situates his argument within the Rawlsian and Dworkinian conceptions of justice. He believes that these theorists share the view that "the interests of each citizen are given equal consideration in two social institutions or procedures: an economic market and a political process of majority government" (Kymlicka 1991, 585). Rawls' principles of justice and Dworkin's equality of resources schemes allow for inequality that arises as a result of personal choice but correct for inequality that arises due to circumstance.

Circumstantial Inequality

Liberalism describes that there must be corrections for circumstantial inequality, although not for inequality that results from personal choices. Individuals are taken to be responsible for the differences that arise because of their own choices. Individuals' social environment and natural endowments are taken to be arbitrary from a moral point of view, and thus "liberals favor compensating people who suffer from disadvantages in social environment or natural endowment" (Kymlicka 1991, 186). The differences that arise as a result of people's circumstances are fundamentally different from the

inequalities that arise from individual decisions. Kymlicka thus asks liberals “whether a request for special rights or resources is grounded in differential choices or unequal circumstances” (Kymlicka 1991, 186).

Special Citizenship Status

Ultimately, Kymlicka argues that certain cultural groups, such as aboriginals, may claim special protective rights for themselves because differences between the majority and their own minority cultural group is more a result of unequal circumstances than of different choices.

Aboriginal rights are a response, not to shared choices, but to unequal circumstances. Kymlicka posits that “the very existence of aboriginal cultural communities is vulnerable to the decisions of the non-aboriginal majority around them” (Kymlicka 1991, 187). As a cultural minority, the aboriginal community could be outbid or outvoted on projects directly related to the resources that are crucial to the survival of their communities. Kymlicka describes that this is “a possibility that members of the majority cultures simply do not face” (Kymlicka 1991, 187). This means that the aboriginal communities would have to “spend their resources on securing the cultural membership which makes sense of their lives, something which non-aboriginal people get for free” (Kymlicka 1991, 187). This vulnerability and additional cost are independent of the choices that aboriginal or non-aboriginal individuals make; it is instead the direct result of unequal circumstances.

Thus, Kymlicka argues that special political rights would rectify the disadvantages that aboriginal people face by having to pay to secure their cultural membership. The special citizenship status for minority cultural groups “can be seen as

analogous [to the] affirmation action to promote the position of disadvantaged groups” (Kymlicka 1991, 190). Both forms of special citizenship should be seen as ensuring the basic right to equality given the special circumstances of these disadvantaged groups.

Specifically, people must have their own culture protected because cultural membership is a primary good, and this membership is in a *particular* cultural community (Kymlicka 1991, 173). Distinct cultures are crucial for the personal agency and development of the people within that community. He cites “sociologists of language [who] note that our language is not just a neutral medium for identifying the content of certain activities, but ‘itself *is* content, a reference for loyalties and animosities’, a ‘marker of the societal goals, the large-scale value-laden arenas of interaction that typify every speech community’” (Kymlicka 1991, 175). The sense of belonging that comes from a specific cultural structure and shared history can be a form of “emotional security and personal strength” (Kymlicka 1991, 175). This specific attachment affects our sense of agency and autonomy.

Shelby’s Liberal Theory of Ghetto Identity

Tommie Shelby similarly investigates liberal theory as it relates to cultural and ethnic identity. Specifically, Shelby explores the moral and political outlooks undergirding American ghettos, which are predominantly black communities. He focuses on racial and economic injustices throughout his book, examining the relationships between structure and agency, collective responsibility and individual responsibility. His prescription for ghetto abolition effectively establishes a secure cultural context for ghetto residents.

Like Kymlicka, Shelby works within liberal democratic theory. Shelby examines current political policies and positions held by many politicians and members of the public that attempt to mitigate the negative effects of ghettos. These efforts maintain that ghetto communities are economically disadvantaged and as a result, ghetto residents are exposed to problematic realities that can be avoided if the backdrop to these conditions is eliminated. Shelby outlines many leading liberal defenses for integration, such as the social capital and culture of poverty arguments. He critiques these theories for not taking the causes of economic inequality seriously, and next examines cultural responses to the challenges of the ghetto, including moral reform programs. Ultimately, Shelby critiques these programs for effectively undermining the self-respect and autonomy of ghetto residents. As a result, Shelby advocates ghetto abolition as a fundamental social reform that focuses on ensuring true equality and liberty for all.

Against New Integrationists

Shelby distinguishes between integration and desegregation. He states that the Civil Rights Movement focused on desegregation; “the goal was to abolish the unjust legal exclusions and prohibitions of the segregation regime” (Shelby 2016, 62). Desegregationists attempted to dismantle the racist social system that granted whites privileges and advantages that black citizens were not entitled to. Further, this advocacy sought to expose the explicit racism within this social order. Desegregation seeks to end the conditional ties of needed resources and services available to the predominantly white communities. In contrast, integration often requires moving black families from poor and ‘dangerous’ neighborhoods to wealthier, white areas. In his book, Shelby targets “new integrationism.” Specifically, he argues against Elizabeth Anderson, whom he takes to be

the main representative of the integrationist approach. According to Shelby, the new integrationists “want to increase and foster interracial contact in neighborhoods, as they believe this is necessary to repair the damage done to the ghetto poor and to lift their unfair burdens” (Shelby 2016, 49). Shelby criticizes the new integrationists for their failure to highlight the structural social injustices that underlie ghetto disadvantages.

First, Shelby presents the limits of the social capital argument for integration. The social capital argument for integration charges that “black self-segregation...would deprive disadvantaged blacks of opportunities to acquire needed bridging social capital” (Shelby 2016, 68). This argument treats social relationships like a form of capital, “as a kind of resource to be used for approach to corrective justice advancement [and] as a resource governed by principles of distributive justice” (Shelby 2016, 68, 69). By viewing social relationships as transactional and assuming that these transactions can be regulated by the state, new integrationists use the social capital argument to support integration because integration would allow disadvantaged blacks to benefit from the socioeconomic benefits that are typically advanced under conditions of social capital.

However, Shelby argues that the social capital argument would likely perpetuate racial inequality. He believes that this approach to corrective justice “would reinforce the symbolic power that whites hold over blacks by encouraging whites to see their relationships with blacks [...] as an avenue for blacks to share in (not abolish) white privilege” (Shelby 2016, 69-70). On this account, residential integration is effectively the same as assimilation, since the black residents would be expected to take on the norms of the majority white community. Further, the forced residential integration may lead to greater racial conflict “which causes blacks to experience stress and alienation” (Shelby

2016, 73). Moving black citizens into white communities forces these individuals to live as minority citizens without their own community or culture among the white majority. In addition, integrationist policies do not guarantee that racial inequalities will be effectively addressed or eliminated (Shelby 2016, 72–73). Integration may expose former ghetto residents to the burden of various secondary injustices, such as “racial discrimination, hostility, harassment, and even violence” committed by their new neighbors (Shelby 2016, 73). Ultimately, Shelby charges that “even if there is no viable alternative to integration that would erase all unjust black disadvantages, as Anderson maintains, blacks don’t have a duty to accept the burdens of integration, nor is the state justified in imposing them” (Shelby 2016, 75). This move would take blacks out of their secure cultural context; effectively, integration forces black citizens to live in predominantly white neighborhoods with no affixed community. Instead, Shelby believes that “liberal egalitarians should naturally ask: ‘Instead of ‘integrating’ stratified social classes, why not reduce socioeconomic inequality?’” (Shelby 2016, 77).

As this question reveals, Shelby argues that the new integrationists are attempting to mitigate the effects of economic inequality, not address its causes. Shelby’s main disagreement with the new integrationists is his denial that residential and economic integration is a necessary or adequate “instrument of corrective justice” in dealing with unjust ghetto disadvantages (Shelby 2016, 63). As such, Shelby argues that we should “not [be] treating residential integration as a policy goal” because a true pursuit of justice must focus on a more complete economic, political, and social reform (Shelby 2016, 278).

Limits of the Social Capital Argument

Next, Shelby addresses the culture of poverty argument for integration separate from Anderson's new integrationist platform. This argument charges that there is a culture specific to poverty and that "because the segregated black urban poor have lived for so long under such miserable conditions, many come to develop attitudes, practices, and self-concepts that inhibit their ability to improve their life prospects" (Shelby 2016, 80). The geographic isolation of members of ghetto communities insulates these cultural traits. Further, this insulation maintains these norms and passes them among peers and across generations. The social scientists and many people in the broader public who subscribe to this view maintain that ghettos persist because of these destructive and self-defeating cultural patterns. Yet, Shelby shows that a number of social scientists have rejected this culture of poverty thesis. They argue that while there may be distinctive cultural patterns in ghetto neighborhoods, there is tremendous heterogeneity even within the same neighborhood (Shelby 2016, 80). As such, there is no such thing as a single ghetto culture that can be directly linked to norms associated with poverty. Even so, those who hold this view today maintain "that a significant segment of the ghetto poor diverge culturally from mainstream values and norms, and this divergence generally inhibits their upward mobility or escape from poverty" (Shelby 2016, 82). Shelby holds this 'cultural divergence thesis' to be sound, although not necessarily true. His principal concern is with the societal implications if this thesis is, in fact, true and how the policies premised on it would threaten the self-respect, self-esteem, and dignity of the ghetto poor.

Moral Reform

Shelby outlines the normative and practical implications of one type of cultural response. He designates this moral reform which “is a form of cultural rehabilitation that targets not only beliefs and skills but habits, values, and identities” (Shelby 2016, 94). In effect, moral reform in ghettos seeks to “break or limit adherence to suboptimal cultural traits and to instill or strengthen attachment to mainstream cultural traits” (Shelby 2016, 94). This form of cultural reform can be carried out by government agencies or by publicly funded but privately operated community-based organizations. For example, moral reform may include criminalizing what the state designates as “vices” (drug use, gambling, and prostitution) often associated with the ghetto lifestyle, or make the abandonment of such practices a condition for housing assistance or other public aid (Shelby 2016, 94). Moral reform may also involve residential integration, moving poor black people to low-poverty and often white neighborhoods with the expectation that black residents will come to absorb values and norms prevalent in these communities (Shelby 2016, 95). These programs are not “simply to modify behavior but *to restructure the soul*” (Shelby 2016, 95). As full correction processes, moral reforms essentially place a higher value on the norms and culture of the more privileged population, designed so that ghetto residents abandon their ‘problematic’ and ‘destructive’ culture of poverty in favor of these more ‘mainstream’ norms.

The Role of Self-Respect

Shelby argues that moral reform does not give proper weight to the importance of self-respect. Many social conservatives tend to view moral reform as the sole remedy for ghetto poverty since they generally believe that the basic structure of American society is

just (Shelby 2016, 95). Even if liberals supported moral reform, these programs would need to be only part of the remedy of ghetto poverty. There would need to be other efforts to make the opportunity structure fairer and the distribution of resources more equitable (Shelby 2016, 96). However, Shelby argues even against liberal support for moral reform because he believes it does not emphasize self-respect, as Rawls endorses in *A Theory of Justice*.

Shelby uses the phrase ‘self-esteem’ to reimagine what Rawls meant when he created the term self-respect. According to Rawls, self-respect is “a matter of recognizing oneself as a rational agent and a moral equal and expressed in the way one conducts oneself” (Shelby 2016, 98). It can be an element of a person’s self-worth. According to Shelby, self-esteem differs from self-respect because it is a “secure conviction that one’s fundamental purposes are worthwhile and confidence in one’s ability to realize these purposes” (Shelby 2016, 97). Self-esteem relates to the confidence in the value of one’s ambitions and confidence in one’s ability to realize these aims.

Shelby emphasizes the virtues of self-respect and self-esteem because of how moral reform policies may undermine these ideals. For example, Shelby notes that the oppression of poverty “can erode a person’s self of self-respect, causing one to doubt one’s claim to equal moral status” (Shelby 2016, 99). Shelby argues that “moral reform attacks the ghetto poor’s social bases of self-esteem and fails to honor their need to preserve their self-respect” (Shelby 2016, 100). He believes that moral reform is incompatible with respect for personal autonomy because it may make someone feel that they are morally inferior and therefore undeserving of the same treatment as others, particularly those of the mainstream (white) culture. Thus, even if the cultural divergence

thesis is sound, moral reform premised on this argument undermines the ghetto poor's bases of self-esteem and fails to honor their need to preserve their self-respect.

Shelby also looks at a third conception of "self-respect" which he calls dignity that is relevant to understanding and judging policy. Dignity is "the belief that, no matter one's circumstances, one should do whatever is within one's power to secure one's basic physical and psychological well-being and the will to act on this belief" (Shelby 2016, 108). The dignified person is resilient in the face of adversity, "not allowing hardships, even unjust ones, to make them feel so defeated that they effectively give up on life" (Shelby 2016, 108). Shelby argues that some living in ghettos have sunk to a level of degradation, constantly wallowing in self-pity and feelings of helplessness. Whether or not these people recognize it, they need help.

The Limits of Moral Reform

Next, Shelby looks at one potential method for moral reform, which he terms moral outreach. Moral outreach relies on moral exhortation, role models, counseling services, educational programs, or faith-based efforts to effect a change in cultural patterns (Shelby 2016, 100-101). The extent to which moral outreach is interventionist varies between programs. For example, some of these interventions may amount to no more than convincing some of the ghetto poor that their cultural ways are harmful to themselves and others. Other interventions might seek to make some residents of ghettos ashamed of their suboptimal customs, to encourage them to take pride in exemplifying mainstream values and identities, or both.

He outlines two practical limitations of moral outreach. The main challenge for moral outreach is getting its targets to listen to these appeals and to take advantage of

these programs. Shelby argues that moral outreach would seem to have the best chance of success with those “looking for *any* chance to escape from poverty” and would therefore be willing to embrace more mainstream cultural ways (Shelby 2016, 101). However, moral outreach would have limited success with those with “suboptimal ghetto identities *and* [for whom] the basic structure is unfairly stacked against them” (Shelby 2016, 101). These citizens would likely reject mainstream values and choose to maintain and embrace their ghetto identities. This sense of strong cultural divergence has allowed these members of the ghetto poor to develop “alternative sources of self-worth that do not depend on mainstream institutions for validation” (Shelby 2016, 102). Further, Shelby asks the question regarding who would actually do this moral outreach. He points out that this is not clear because those who would be interested in facilitating dialogue may be perceived as ‘outsiders’ and their recommendations may be rejected.

The second practical limitation of moral outreach is the persistence of ideological racism. Shelby notes that some of the cultural traits attributed to ghetto communities closely resemble well-known and long-standing racist stereotypes about blacks (Shelby 2016, 103). An implication of the cultural divergence thesis is that deeply disadvantaged ghettos have “produced a subgroup of blacks who, because of their cultural patterns, exhibit characteristics that racists have long maintained are ‘natural’ to the ‘black race’” (Shelby 2016, 103). Moral outreach suggests that “the ghetto poor are effectively incapable of altering these suboptimal traits on their own, as it calls for state intervention to change them” (Shelby 2016, 103). As such, moral reform efforts undermine the self-respect and self-esteem of members of the ghetto communities by implicitly and explicitly devaluing their culture and norms. By reimagining ghettos without ghetto

culture, moral reforms problematize ghetto culture, which is equating ghetto culture to black culture.

After exposing the flaws in moral reform, Shelby looks to moral paternalism as a more aggressive measure of moral reform. This form of moral reform may include “cultural rehabilitation through a system of rewards and sanctions” (Shelby 2016, 104). Shelby argues that “such paternalistic attitudes are fundamentally incompatible with the liberal value of respect for persons” (Shelby 2016, 107). This view undermines democratic ideals that treat individuals as free and equal because of this status. Instead, it assumes that representatives of the ‘mainstream’ culture are better equipped to define and shape the values and norms within the ghetto communities.

Ghetto Abolition

Ultimately, Shelby presents his own policy prescription, ghetto abolition, as a form of liberal egalitarianism (Shelby 2016, 109). He distinguishes this from two other positions that are rivals to liberal moral reform. One egalitarian response insists that the cultural lives of the ghetto poor do not actually diverge from the ‘mainstream’” (Shelby 2016, 111). This response charges that cultures and norms associated with the ghetto poor are also pervasive among the middle and affluent classes. Instead, it maintains that differences between community norms have to do with resources; the poor have far fewer resources than their more advantaged fellow citizens. As such, they are much less able to bear the costs of this lifestyle (Shelby 2016, 112). Another egalitarian response “acknowledges that cultural patterns in ghettos do diverge from the mainstream but insists that this divergence is not suboptimal” (Shelby 2016, 112). Group cultures are adaptive responses to a structural environment; the ghetto poor are simply responding

rationally to the constraints of the ghetto (Shelby 2016, 112). Thus, if we make the basic structure more just, we could thereby effect positive change.

Shelby outlines a different kind of egalitarian response to the cultural configurations found in ghetto neighborhoods. His liberal-egalitarian response upholds the normative commitments of liberal egalitarianism. He begins with the normative premise that:

To be reasonably just, a society must: take effective measures to defeat racism in all its forms; ensure that wrongful discrimination does not diminish persons' life chances; establish and maintain the conditions for fair equality of opportunity; and provide a guaranteed minimum income and adequate social services so that no one is forced to live in degrading forms of poverty (Shelby 2016, 113).

Shelby believes that "it almost certainly will take a social movement to realize liberal-egalitarian ideals" (Shelby 2016, 113). He emphasizes that there is currently strong resistance to such reform. As such, to build and sustain such a movement, which would require a large and diverse coalition, it will be necessary to enlist the active involvement of the ghetto poor.

The effort to build and sustain such a coalition faces a number of challenges. One such challenge comes from the cultural divergence thesis. A common attitude in the ghetto is widespread political cynicism or apathy. This general belief states that the social system is corrupt, and therefore meaningful structural change cannot be achieved through mainstream channels (Shelby 2016, 113). The difficulty is "how to effect cultural change without undermining the self-esteem, or calling into question the dignity of those who have been most burdened by the social injustices that call for rectification" (Shelby 2016, 114). Shelby argues that there would need to be propositions in favor of a change in their cultural ways that would be reasonable for the ghetto poor to accept. These proposals

would likely come from concerned private citizens and associations who would “convince the ghetto poor that active political resistance to the current social arrangement is not futile, that organizing, mobilizing, and putting political pressure on government officials can yield positive results” (Shelby 2016, 114).

To do this, Shelby suggests that these concerned private citizens and associations make an appeal, perhaps indirectly, to the self-respect of the ghetto poor. Since political resistance to injustice “expresses and potentially boosts self-respect,” the ghetto poor have reasons of self-respect to participate in a movement for this form of social change (Shelby 2016, 115). Those from outside the ghetto community can point to these as reasons that the ghetto poor can reasonably accept. Empowering the ghetto poor means increasing their political participation. Shelby argues that “engaging in a collective struggle for social justice with others similarly committed can restore or fortify the respect of the ghetto poor” (Shelby 2016, 115). Maintaining this robust sense of self-respect in the face of injustice can enhance self-esteem and uphold dignity.

Ultimately, Shelby argues that “there must be no race-based constraints on the use of public space, the receipt of public benefits, or access to social services” (Shelby 2016, 62). He believes that race cannot be an impediment to receiving due process or equal protection under the law. Government intervention, often through integration, makes needed resources and services available only on condition that poor black people join predominantly white communities. Instead, Shelby argues that we should acknowledge that “black self-segregation in neighborhoods need not violate blacks’ duty of justice, and thus justice cannot require neighborhood integration” (Shelby 2016, 59). Self-segregation - that is, black citizens choosing to live in the ghettos - does not mean that these citizens

are choosing to live in ‘the culture of poverty.’ Rather, Shelby argues that ghettos provide a cultural context and security for its residents that cannot be accessed through forced integration.

As a result, Shelby prescribes ghetto abolition. Ghetto abolition is not breaking up the ghetto neighborhoods. Rather, it refers to restructuring and reimagining the economic, political, and social realities its black members face as products of implicit and explicit racism. It is “an aggressive attempt at fundamental reform of the basic structure of our society” (Shelby 2016, 275). Ghetto abolition “attacks racism and class-based stratification in the name of equal and extensive liberty for all, from freedom of expression and association to the right to an unconditional social minimum and to participate as equals in collective self-governance” (Shelby 2016, 275). Since ghettos are symptoms of the systemic injustice within the United States, institutionalized as a product of racial discrimination, restructuring ghettos is restructuring society.

Comparison

Both Shelby and Kymlicka center ideas of cultural identity within liberal democratic theory. While Kymlicka more explicitly links minority cultural identity to democratic theory, Shelby’s focus on ghetto culture similarly shows where democracies fail to uphold democratic ideals for minority citizens. Kymlicka shows that minority rights need a space within democratic theory, since broad commitments to equality and liberty often fail to secure these values for members of a minority culture. Shelby takes

up these same ideas, proving that the self-respect of ghetto residents is undermined when they are forced to leave their communities within integrationist schemes.¹¹

Most notably, Shelby's prescription for ghetto abolition mirrors Kymlicka's advocacy for special political rights for members of a minority culture. Ghetto residents are almost uniformly black, a minority within the United States. As such, instituting policies to restructure and reimagine ghettos as neighborhoods with valuable culture and economic opportunity will give its residents a more meaningful framework for choosing whether or not to stay in these communities or to leave. Seeing through Shelby's vision would result in restructured ghettos not as economically disadvantaged or as sites targeted with racist policies, but as communities with thriving culture and economic opportunity. As a result, its residents will have the genuine choice to move, a choice independent of factors that are the result of racist public policies. Further, these decisions can be truly meaningful since they exist within a secure cultural context. This argument directly parallels the argument Kymlicka is making when he argues that special citizenship is necessary to ensure that all citizens are able to have an equal opportunity to choose what is worth doing, achieving, and being. Effectively, both theories focus on how current democratic societies may not actually protect the values they attempt to provide for all citizens. Thus, there must be policies in place to protect minority cultures to *ensure* that these citizens are able to enjoy the equality and liberty that many within these same democracies already enjoy.

¹¹ Chapter Four will take up the argument for the intrinsic value of communities in more detail in Chapter Four.

Conclusion

Kymlicka argues that his conception of liberalism not only identifies minority identities as a valuable good, but also claims liberal theorists would endorse special rights for members of a minority community in order to protect their identities. Specifically, Kymlicka believes that his conception of minority rights fits within Rawls' and Dworkin's theories of justice. Their theories implicitly understand culture as a valuable good and would therefore accommodate special rights to protect those identities. Shelby's theory similarly maintains a commitment to liberal ideals, focusing on how residents of ghetto communities in the United States today are not given a meaningful cultural context because of the inequality that plagues ghettos. As a result, he believes that only completely reimagining ghetto structures will allow these citizens to have a secure cultural context. Ultimately, Kymlicka and Shelby are both arguing that liberals must endorse and adopt measures that would protect culture since a secure and stable cultural community is an essential condition of the exercise of autonomy.

Further, Kymlicka's liberal theory supporting special citizenship rights as a way to provide equality for minority cultures may address some of the shortcomings identified in Chapter One of Brettschneider's value theory. Specifically, Kymlicka's argument that there is space in liberal theory for considerations of identity and cultural membership, as upheld by Shelby's argument, may show that the value theory can accommodate special citizenship rights to secure minority cultural contexts.

The next chapter will apply Kymlicka's framework to the value theory. It will show that making amendments to the value theory equips Brettschneider to respond to the identity-based critiques presented in Chapter One. Specifically, upholding the core

values for all citizens requires reimagining the value theory with specific cultural identity protections. By doing so, this thesis will show that granting special citizenship status to members of minority cultural communities would rectify the disadvantages they face as a result of their identities and would create a more just society in which all people would be able to enjoy the core values equally.

Chapter 3: The Value Theory Reimagined

With an understanding of Kymlicka's liberal defense of special citizenship status for members of minority cultures, this chapter will apply his theory to show that the arguments that Brettschneider gives for a value democratic grounded in the core values can be used to defend minority rights in a multinational state. Members of a minority culture can be disadvantaged with respect to the good of cultural membership and Brettschneider's value theory necessarily requires amendments to address this inequality and the claims to special citizenship required for minority citizens.

This chapter will review the value theory and the critiques identified in Chapter One. Next, it will show that Kymlicka's liberal argument for group rights has a place in Brettschneider's theory, specifically when looking at how to uphold the core values for minority citizens with respect to the relationship between individual freedom, cultural membership, and minority rights. It will conclude that understanding the complex relationship between liberalism - and in this case, the value theory of democracy - and minority rights shows that the value theory has the tools to defend minority rights in multinational states.

Review of Brettschneider's Core Values

Brettschneider argues that the democratic ideal is fundamentally rooted in a core set of values with both procedural and substantive implications. The three core values — political autonomy, equality of interests, and reciprocity — serve to ground democracy, providing the foundation for democratic procedures. The core values define democracy by requiring that the state respects all citizens as both authors and addressees of the law.

Brettschneider emphasizes that the core values of autonomy and equality provide the conditions of self-respect. This concept of self-respect figures prominently into the value theory, namely in Brettschneider's appeals to self-respect to justify state coercion necessary to uphold the core values. Brettschneider grounds self-respect in the core values in order to uphold justice and the liberal ideal of persons as free and equal moral citizens.

The core value of equality of interests requires that each citizen's interests must be equally respected within a democracy. Brettschneider argues that "all reasonable interests of citizens [must] be respected as having equal weight" to ensure that no one citizen's affairs are given greater importance over another's (Brettschneider 2007, 23). Further, equality of interests does not require equality of outcomes; it only necessitates one-person-one-vote (Brettschneider 2007, 24).

The second core value, political autonomy, respects that each individual is a self-ruler within a society based on collective self-rule (Brettschneider 2007, 24). Political autonomy requires that citizens are able to make decisions for themselves, effectively upholding citizens' *individual* autonomy. This allows citizens to develop their own conceptions of the good life and to be able to pursue those so long as doing so does not infringe on the rights of others who are pursuing their own good (Brettschneider 2007, 24). Autonomy also requires that citizens make their own decisions about politics based on these individually developed conceptions of the good life.

Lastly, reciprocity is a robust guarantee for equality of interests and political autonomy. It is an "organizing value [that] suggests how to apply the other two core values" (Brettschneider 2007, 25). Reciprocity creates an obligation for citizens to use

reason to justify policies. It requires that policies must be justified, through deliberation, by the other two core values.

Brettschneider identifies and seeks to mollify the effects of the apparent tension between respecting liberty and promoting equality. He maintains a deep commitment to autonomy and equality to allow people to make their own decisions about governance based on their own conceptions of the good life and to weight these decisions equally. According to the value theory, citizens must be treated as free and equal moral agents, requiring that the rights of all citizens must be equally respected. This focus on autonomy and equality comes from a profound commitment to self-respect, which Brettschneider believes comes directly from self-government. Without self-respect, people cannot self-govern.

However, as identified in Chapter One, the value theory, as originally articulated by Brettschneider, cannot uphold the ideals of self-respect, and therefore self-government, because it marginalizes the role of cultural membership in individual freedom. Namely, Brettschneider does not address how a secure cultural context provides the framework for individuals to select a life plan from the range of options provided. Members of a minority culture can be disadvantaged with respect to the good of cultural membership if they have to expend additional resources to sustain their culture within a majority culture society. Thus, the value theory does not function as Brettschneider intended.

Review of Kymlicka's Liberal Theory of Identity

Kymlicka presents the liberal view about the broader relationship between the individual and society that exists within the more familiar liberal account of the proper

relationship between the individual and the state. He argues that minority cultural communities have a legitimate interest in a secure and stable cultural context that accommodates cultural diversity. In order to have the same opportunity to preserve their culture as do members of the majority culture, members of cultural minority communities have a claim to justice against the larger society to special rights and citizenship status. He argues that the liberal ideals of justice and autonomy are only available for members of minority cultural communities if they have a secure cultural context to understand their self. Since individuals can only govern with a sense of self-respect and people can only secure a sense of self within an accommodating cultural context, liberal theories must accept special and legitimate rights to secure a cultural context for members of a minority culture. Kymlicka provides a liberal framework to accommodate special citizenship status for minority cultures as to protect their culture and to guarantee their autonomy.

Reimagining the Value Theory

Kymlicka's argument that liberalism can accommodate special citizenship for members of a minority culture derives from his argument that this citizenship status is necessary to uphold the ideals that Rawls and Dworkin originally provide for equality and autonomy in a liberal nation-state. This same argument can apply to Brettschneider's value theory to show that these legitimate claims to minority rights are necessary to uphold the core values.

Under equality of interests, each citizen gets an equal vote. This one-person-one-vote policy allows each person's political interests to be weighted equally so that each person's voting power is equivalent to another person's. Brettschneider intended for this value to allow each citizen to contribute to the policies that will govern them. If people

have to live under certain laws, they should be able to contribute to the shaping of those policies and have an equal voice relative to other citizens as to what those policies will be. Brettschneider views people as moral agents who would vote for what they think is best for themselves and for society. The idea behind equality of interests is that everyone gets an equal voice in the creation of government policies. This comes from the liberal value of equal rights within a nation-state where everyone, as free and equal moral agents, has the ability to help shape laws.

However, if each citizen gets one vote, then the members of the majority culture have greater voting power than the members of a minority culture. This mandate may lead the members of the majority culture to vote for policies that codify their cultural norms into law and undermine the minority's cultural context. For example, the English speaking majority may design a school system that operates exclusively in English. In reality, an English-only program may threaten the minority's claim to their culture by way of language. This effectively uneven voting system could drown out minority interests and result in policies that require the minority culture to expend more personal resources to protect their identity. Thus, society needs changes to the application of equality of interests to protect minority cultures.

Brettschneider's insistence on *equality* of interests seems to make the value theory incompatible with minority rights. Equality of interests would fundamentally contradict the concepts of equal voting rights and special citizenship status for minorities because "procedures that violate this value by counting one person's interests as intrinsically more valuable than another's are intuitively regarded as undemocratic" (Brettschneider 2007,

23). He mandates that equality of interests requires the interests of all citizens to be respected as having equal weight.

Only by granting special citizenship status can members of a minority culture actually enjoy equality. When cultural membership is not equal and there is a majority group, equal voting rights for all citizens, in practice, gives members of the majority culture an unfair and secure cultural context simply by means of being within this majority, a circumstance they did not choose. Further, this circumstantial difference would disadvantage members of a minority culture who would, as a result of the laws that reflect the majority culture, have to expend more energy and spend more resources in order to secure the cultural context that the majority culture enjoys vis-a-vis the law. Ultimately, members of a minority culture *need* unequal voting rights or other aspects of special citizenship status to guarantee them the equality that Brettschneider requires within the first core value. If cultural membership is to be valued equally by each person, regardless of whether or not they are a member of a majority or minority culture, the state must take measures to protect cultural membership. To protect equality of interests - that is, to make sure everyone is valued equally - a value democratic state must be willing to provide special citizenship status for minority cultures to make sure that their culture is protected.

As defined by Brettschneider, political autonomy respects citizens as authors and addressees of law. Brettschneider focuses on autonomy as a core value because it treats people as free and equal moral members of the political community. Brettschneider endorses this value because it protects people as self-governors, able to make their own decisions based on their own set of values. Respecting all citizens' political autonomy

necessitates protecting one's decisions within a political context. People must be free and autonomous to pursue the ends that they deem most valuable.

In looking at minority cultures through the lens of political autonomy, it is clear that members of a minority culture cannot be *fully* autonomous if they do not have a secure culture. Kymlicka examines autonomy, specifically the sources of beliefs about value. He argues that "the decision about how to lead our lives must ultimately be ours alone, but this decision is always a matter of selecting what we believe to be most valuable from the various options available" about different ways of life based on different value systems (Kymlicka 1991, 164). The range of available options is determined by cultural context, and these cultural structures allow people to "become aware of the options available to them" and examine their value (Kymlicka 1991, 165). It is not enough to provide citizens the ability to choose between available options; they must be presented with a secure cultural context in which even minority cultural values and ways of life are shown to be valuable. Only in this case would choosing among options be a true exercise of autonomy, since the majority culture is not the only cultural context available.

The same argument that Brettschneider makes for autonomy can be used to defend special status for minority cultures in a culturally plural state. Since culture is an essential condition of the exercise of autonomy, Brettschneider's theory needs special measures to protect minority culture. Citizens require a secure cultural context to *actually* be autonomous because there is a threat to autonomy if there is a threat to identity. They do not know how to vote or act if they do not have the ability to understand their goals and plans to pursue those goals. Because autonomy comes directly from the ideal of self-

respect, and an insecure cultural context threatens self-respect, an insecure cultural context would not allow citizens to make their own autonomous decisions about politics and they would thus be incapable of self-governance. Ultimately, how people exercise autonomy is defined by their culture.

Lastly, Brettschneider describes reciprocity as a core value that grounds democratic procedures in a substantive conception that asks citizens to defend their reasons for laws. Reciprocity requires citizens to mutually justify laws and policies and to ask what level of state coercion is reasonable to accept in order to uphold the values of equality and autonomy. Reciprocity is understood in terms of deliberation. Brettschneider argues that “the ideal of reciprocity...is associated with deliberative democracy, in particular with the formation of procedures of deliberation” (Brettschneider 2007, 25). Reciprocity, as an organizing principle for autonomy and equality, allows citizens to have the social conditions to intelligently justify what constitutes a just law and to use reason to get to this conclusion. Reciprocity necessarily needs an open deliberative space for citizens to be free to ask questions and adopt other beliefs without being deprived of their other liberties.

If an insecure cultural context prohibits members of a minority culture from being truly autonomous and equal, the same conditions would not allow for meaningful deliberation and a mutual justification for laws. Without taking into account a citizen’s particular social position, perspective, and point of view, Brettschneider’s conception of reciprocity would allow the majority interests to deliberate over the minority considerations. His focus on citizens as free and equal moral beings allows everyone to participate in the deliberation; however, it may lead the majority within the deliberation

to drown out minority voices by appealing to majority norms and values through a discursive process. This would justify laws and procedures in terms of the majority identity and marginalize the considerations of the minority group's claims to their own identity. If deliberation is to organize equality and autonomy, it again privileges the minority group whose culture is taken as the backdrop for the formation of procedures. Reciprocity as mutual justification may lead to laws that play into the problems identified when there is no secure cultural context for the exercise of equality and autonomy.

Special Political Rights in a Value Democratic State

Thus, the value democratic state must extend additional substantive rights to the citizens of minority cultures. Since reciprocity creates the obligation for citizens to use reason to justify policies, they would need to have protection for their rights in terms of how they reason. These additional rights would allow members of a minority culture to have their particular social position considered when engaging in the deliberative practice required of reciprocity. Giving a justification to each legal addressee must take into account a marginalized identity group to ensure that their interests are not drowned out in deliberation. Additional rights and a special citizenship status could rectify the disadvantages they face because of their minority cultural identity. There must be a secure cultural context where members of a minority culture have more weight in deliberation for laws and policies that affect their identity. To meaningfully carry out the core value of reciprocity as Brettschneider intended, there must be additional rights and status granted to members of a minority culture, allowing them to truly be autonomous and equal.

In articulating the core values, Brettschneider implicitly creates the conditions for meaningful self-respect as rooted in self-governance. However, he marginalizes the role of cultural membership as a condition for self-respect, and as a necessary component for people to be equal and autonomous. Yet, his theory still makes room for understanding cultural context to uphold the core values. As first put forth by Kymlicka, liberal theories based on ideals of autonomy and equality have the resources available within the liberal view of community and culture to afford special citizenship to members of a minority culture. As previously argued, the value theory has these same tools to accommodate cultural membership in understanding how *all* citizens are able to live as autonomous and equal. Cultural membership affects how people vote (equality of interests), how they make decisions about their own lives and priorities (political autonomy), and how they reasonably accept state policies as just (reciprocity). The notion of respect for persons *qua* members of cultures is based on the recognition of the importance of cultural membership as a context for decision-making and precondition for self-respect. This consideration is necessary to fully accept and apply Brettschneider's ideal value theory.

Addressing Identity-Based Critiques

The framework Kymlicka provides for a liberal conception of community and culture, as applied to the value theory, may provide Brettschneider the tools to respond to the two identity-based critiques presented in Chapter One. The first critique was Lebron's argument that the value theory marginalized considerations of unequal social value. In *The Color of Our Shame*, Lebron argues that society needs perfectionist policies to prevent racial inequality because people suffer from systemic inequality based on

unchosen features of their identity. He identifies this phenomenon as ‘social value’ whereas blacks are not afforded the same moral value as their white counterparts.

Lebron proposes three policy solutions that embody what he refers to as “moral-agency perfectionism” (Lebron 2013, 14). This form of perfectionism seeks to address the moral problem of racial injustice. First, he prescribes a law that would “prompt reflection over reasons for race by having persons revise a fuller set of beliefs that order their character in such a way that complexly grounded actions and attitudes regarding race can be challenged” (Lebron 2013, 145). This “Real” America Re-Education Act (RARA) seeks to justify reasons for race, as Brettschneider argues with reasons for rights, as a path for citizens to revise their moral character to understand why racial categories exist and what in society allows these problematic social categories to persist. Second, Lebron endorses the Just Trojan Horse, a form of “epistemic affirmative action” that requires media and news sources to monitor their programs to ensure fair racial portrayal. In this way, the Just Trojan Horse is a form of belief reconfiguration and reasonable propaganda (Lebron 2013, 146). Lastly, a fair society will institute the Boondocks Institutions to hold accountable certain institutions, such as law enforcement (Lebron 2013, 149). The perfectionist stance requires that the state coerce citizens to unlearn unequal social value and its effects on identity and cultural membership. Yet, Brettschneider’s theory already has the solutions that Lebron is seeking.

Lebron believes that these policies are necessary to guarantee that black citizens¹² are given true equality and autonomy in society and therefore able to pursue the good life

¹² Lebron focuses specifically on black citizens, but his argument and this thesis’ response may be applied to other racial and ethnic minority groups.

of their choosing. His perfectionist policy solutions attempt to give society a full educational shift to reverse problems of racial inequality with a “moral make-up” (Lebron 2013, 152). He argues that “attitudes and actions are motivated by beliefs and reasons” and some “Blacks [may] hold beliefs and reasons about the good of their lives that are counterproductive to achieving a truly good life” (Lebron 2013, 50). Institutionalized racism creates a vicious cycle of unequal social value because white culture has been given higher value in society. Namely, the majority white culture has been institutionalized, sustaining unequal social value that created tremendous economic inequality. Lebron argues that this inequality and white majority culture has affected how some black citizens see themselves, leading them to set goals that are counterproductive. Only by instituting perfectionist policies does Lebron think that this problem can be reversed.

The value theory, as accommodating cultural membership, can address Lebron’s critique without taking a perfectionist stance. Lebron, in describing that beliefs and reasons motivate behaviors and attitudes, implies that the cultural framework defines people’s goals and the plans they create to pursue those goals. As such, the changes to the core values to accommodate cultural membership would apply to black citizens. A secure cultural membership is necessary for citizens to define and choose their goals among available options. For Lebron, black citizens often make ‘counterproductive’ decisions about their behaviors because they choose among options curated by a white majority for how *all* society should behave, including for how black citizens should behave. Yet in making these decisions, they are either explicitly or implicitly prioritizing their own cultural considerations, specifically for how black citizens should behave (Lebron 2013,

50). Black citizens make these “rational decisions” about what life path to pursue “in the face of radical institutional unfairness” (Lebron 2013, 50). The special citizenship for members of a minority culture grants them rights to secure their cultural context, thereby allowing these citizens to not only make their own decisions but to make them in a context of institutional *fairness*. Giving black citizens and other members of minority cultures a secure cultural context will allow them to experience the “equality and freedom” that democratic institutions promise yet fail to provide for minorities (Lebron 2013, 151).

The revised value theory directly addresses the problem of social value because it attempts to rectify the power inequality that exists between citizens of majority and minority cultures. Special citizenship status for members of minority cultures attempts to reinstate a secure cultural context in which all citizens are able to internalize reasons and beliefs based on their culturally-specific conception of the good. This allows all citizens to reasonably pursue their good life, upheld by the value-state guarantee of equality and autonomy. The value democratic state will compensate for marginalized identity groups by increasing the weight of their interests in order to ensure that minority interests are included, not ignored, in policymaking.

Even so, when addressing cultural membership and a secure social context, Brettschneider’s theory can respond to the problems Lebron identifies without going as far as the perfectionist policy responses Lebron believes are necessary to unlearn unequal social value. Lebron defines perfectionism as “[generally] holding that the value of genuine freedom underwrites and justifies the actions of external agents to redeem fallibility by way of realizing potential” (Lebron 2013, 22). Perfectionist stances use

coercion to correct for human fallibility and limitations in order to secure true equality. In contrast, Brettschneider advances a political ideal based on limits of legitimate state coercion that uphold the core values (Brettschneider 2007, 87). The special citizenship status granted to members of minority cultures attempts to provide equity for all cultural groups, giving equal weight to cultural identities in shaping policy. The resulting laws will be those that secure the cultural context for all people and will develop a framework for evaluating policy based on the core values that equally value all peoples' claims to identity and culture. This special citizenship status will fundamentally change how citizens, particularly members of a minority culture, engage with their state and society because of the greater value placed on their cultural identity. In this sense, it will allow citizens to learn to appreciate the value of their identity in efforts to allow all citizens to see all cultures as valuable, including minority cultures. While this does not explicitly require unlearning unequal social value, it teaches and promotes cultural equality which, over time, may solve this problem.

In addition, the amended value theory can address Shelby's argument about the need to reclaim the value of ghetto culture. Shelby charges that ghettos are symptoms of the systemic injustice in the United States. Yet, he believes that ghetto communities are valuable cultural structures for its residents. Thus, protecting minority cultures, including black culture, will protect ghetto identities. Further, special citizenship rights for members of a minority culture would allow black citizens, who, as Shelby describes are the primary residents of the ghetto communities, to be involved in designing the policies that affect their communities.

The allowance for special citizenship rights for members of a minority cultural community can also address the second identity-based critique from Chapter One. This critique, based on Shelby's argument that ghettos may provide a cultural framework for members to set meaningful life goals, looks at cases where culture plays a positive role in setting guidelines for individuals' present and future desires. Ultimately, this argument revealed a hole in Brettschneider's argument: he does not address culture as a means for upholding the core values.

The reframed core values and amended value theory directly address Lebron's critique. Allowing for special citizenship status for members of a minority culture explicitly acknowledges that securing a cultural context is a necessary backdrop for citizens to be autonomous and equal. These additional rights seek to rectify the disadvantages members of a minority culture face by having to pay to secure their cultural membership. All people would be able to understand their culture and thus be able to accept or reject identities without having to expend additional resources.

Special political rights would allow people to live more meaningful lives. Minority identities are not only necessary to shape behaviors and goals, but the identity is also a valuable good in and of itself. Incorporating special citizenship status for members of a minority culture provides the community with the resources to preserve and nurture that identity. This would allow minority people to practice their language, customs, and culture at no additional cost. Without additional protections, the ability to practice this identity, and therefore the identity itself, may cease to exist.

Ultimately, the changes to Brettschneider's theory can diffuse the identity-based critiques presented in Chapter One. The resources available in the value theory

necessarily accommodate special citizenship and political rights for members of a cultural minority to allow those citizens true equality and autonomy. These special political rights allow members of a minority culture to defend their cultural interests in policy discussions without being drowned out by a majority. The resulting secure cultural context provides citizens with genuine choices for how to live their lives, how to model their behaviors, and what values to ascribe to.

Conclusion

The value theory, as first presented by Brettschneider effectively integrates the merits of substantive and procedural theories of democracy to guarantee citizens' rights, including their procedural rights, by justifying state power when it is used to secure these liberties. By grounding democracy in the core values, Brettschneider underscores the necessity of a theory of democracy to emphasize self-respect as a means to self-govern. Yet, his theory does not explicitly address culture as a precondition for self-respect and therefore for meaningful self-governance.

By using the resources that Kymlicka shows are available within the liberal view of community and culture in order to expand the bounds of the core values, the value theory can address the two identity-based critiques put forth in Chapter One. Lebron presents a racial critique wherein inequality results from an undervalued identity. Further, Shelby's argument shows how culture can provide a meaningful context for autonomy and self-respect. The amended value theory that accommodates special citizenship for members of a minority culture guarantees that all citizens are given the secure cultural context to be fully autonomous and equal moral agents.

The next chapter will look at how this new understanding of the value theory can provide a basis for evaluating public policy. It will utilize Brettschneider's argument that we should measure a loss or gain to democracy by the impact of each action on the core values by examining how securing a cultural context is a necessary consideration for measuring democratic change. This thesis will analyze Kymlicka's and Shelby's policy prescriptions for members of a minority culture as a model of how to make future laws and how to frame the legal apparatus to evaluate whether or not policies uphold the core values and secure minority cultural contexts. Ultimately, Chapter Four will evaluate whether the amended value theory is better than other theories, namely those of Kymlicka or Shelby, in providing a liberal account for how to address identity and to secure cultural context within a democracy.

Chapter 4: Policy in a Value Democratic State

In *Democratic Rights*, Brettschneider outlines a liberal theory of democracy. The value theory acts as a framework for determining whether or not a policy is just based on whether or not it upholds the core values. As previously argued, his theory requires amendments to guarantee that members of a minority culture can enjoy the core values. This chapter will apply nonideal theory to show how potential public policies meant to rectify identity-based social injustices fit within the reimagined value theory as a way of conceptualizing a value democratic state. It will ultimately show that the amended value theory has the tools for both evaluating and correcting societal injustice.

This chapter will first examine Kymlicka and Shelby's policy frameworks. First, it will outline Kymlicka's policy proposals as introduced in *Multicultural Citizenship*. These policies show how a multinational state can support and secure minority identities. This chapter will argue that this framework effectively defines categories for special political rights but does not provide any guidelines for how to approach this law-making process. Second, this chapter will present Shelby's argument in *Dark Ghettos* against forced integration of black Americans in favor of broad social reforms to abolish ghettos. This chapter will demonstrate that Shelby does not go as far as Kymlicka in showing why it is necessary to provide positive resources to help secure minority cultures. Overall, this section will show that Kymlicka's account brings to bear a policy range for Shelby's analysis. However, neither account provides insights into how to frame problems such as the one discussed by Shelby, or how to design and implement laws to address injustice.

This thesis will ultimately show that the amended value theory can provide a framework for both adjudicating laws, such as Shelby does with residential integration,

and for generating solutions, such as the group-differentiated rights outlined by Kymlicka. By grounding the core values in both substantive and procedural rights, the value theory provides the most meaningful way for creating laws; it involves citizens in the democratic process while still guaranteeing that their civil rights are protected. As amended to accommodate special citizenship, the value theory can effectively operate as a framework for understanding limits on policy as part of the democratic ideal.

Kymlicka's Policy Framework

As discussed in Chapters Two and Three, Kymlicka shows that special citizenship for minority citizens may be necessary to protect their culture. His book, *Multicultural Citizenship: A Liberal Theory of Minority Rights*, may be understood as a framework for designing policies based on the liberal conception of community he provides in *Liberalism, Community, and Culture*. In *Multicultural Citizenship*, Kymlicka argues that ethnic and national groups may require different sorts of minority rights, which he calls “collective rights,” in order to protect their own cultural customs and codes. Specifically, Kymlicka distinguishes among three different forms of collective rights: self-government rights, polyethnic rights, and special representation rights (Kymlicka 1995, 6-7).

Kymlicka differentiates between two forms of multiculturalism. First, he describes ethnic groups that have resulted from immigration. Kymlicka frames immigrant multiculturalism in terms of polyethnic rights. Immigrants are not nations and do not have homelands; they live in voluntary associations that reject complete assimilation (Kymlicka 1995, 10). In order to protect their distinct ethnic identities, immigrant communities may require special rights that are not seen as temporary but are instead intended to promote integration. These rights exempt them from laws that disadvantage

them. Second, national minorities are based on historical communities that occupy territory and share a distinct language and culture (Kymlicka 1995, 11). Kymlicka defines these minority groups in terms of culture,¹³ and argues that if these groups wish to retain their distinct culture, the state must recognize their identity as distinct from the majority cultural community. These collective rights are not temporary rights; they should be permanently recognized as inherent rights of the national minority community. (Kymlicka 1995, 113–115).

Collective Rights

The first form of group-differentiated rights is those of self-government. This form of special citizenship “devolve[s] powers to smaller political units, so that a national minority cannot be outvoted or outbid by the majority on decisions that are of particular importance to their culture” (Kymlicka 1995, 38). Kymlicka maintains that all peoples have the right to self-determination, according to the United Nations Charter (Kymlicka 1995, 27). In recognizing claims to self-government, states may create federal systems. Where national minorities are regionally concentrated, “federalism can provide extensive self-government for a national minority, guaranteeing its ability to make decisions in certain areas without being outvoted by the larger society” (Kymlicka 1995, 28). These special group rights adhere not just to minority or ethnic cultural groups, but may affect the rights of members of the majority culture. For example, Canada devolves extensive jurisdiction over the French culture to Quebec, which is 80 percent francophone. This system was created specifically to accommodate French Canadians. Similar systems of self-government exist, as with Catalans in Spain, and are being sought by many

¹³ As I will discuss later in this chapter, not all groups may fit neatly in these categories.

indigenous peoples. These claims are not a temporary measure. In fact, they are “often described as ‘inherent,’ and so permanent” (Kymlicka 1995, 30). Even though Kymlicka acknowledges that these rights pose a serious threat to the integrative function of citizenship, he believes that this devolution is necessary to protect the minority culture within the large state system (Kymlicka 1995, 188). Further, Kymlicka argues that a well-designed federal system can encourage minorities to reject secession, such as when these self-government rights are entrenched in the state’s constitution.

Second, Kymlicka describes polyethnic rights that provide financial support and legal protection for certain practices associated with particular ethnic or religious groups (Kymlicka 1995, 38). He argues that many immigrant communities wish to maintain many aspects of their ethnic heritage rather than completely assimilate to existing cultural norms and customs. Retention of some aspects of their native culture is especially important to them. Polyethnic rights include “positive steps...to root out discrimination and prejudice, particularly against visible minorities” (Kymlicka 1995, 30). Kymlicka notes that some ethnic groups and religious minorities have demanded some types of affirmative action, exemption from some rules which may violate religious practices, and public funding of cultural practices (Kymlicka 1995, 31). He believes that these actions underscore how necessary polyethnic rights are for these citizens’ self-respect. For example, many Sikhs have sought to be exempt from helmet laws. In some provinces in Canada, Sikhs wearing turbans are allowed to ride motorcycles without helmets. However, Kymlicka argues that some of these demands are controversial, including the exemptions many Jews and Muslims have requested from laws and regulations that disadvantage them given their religious practices (Kymlicka 1995, 31). In general,

polyethnic rights “are intended to help ethnic groups and religious minorities express their cultural particularity and pride without it hampering their success in the economic and political institutions of the dominant society” (Kymlicka 1995, 31). These rights are not seen as temporary, but are instead intended to promote integration into the larger society while still maintaining the integrity of their minority cultural practices.

Third, Kymlicka discusses special group representation rights. Both national minorities and ethnic groups have asked for special representation in state governments to protect their unique status or to protect them from the majority given their small size. This idea of proportional representation is “often defended as a response to some systemic disadvantage or barrier in the political process which makes it impossible for the group’s views and interests to be effectively represented” (Kymlicka 1995, 32). Kymlicka argues that “it would seem to be a corollary of self-government that the national minority be guaranteed representation on any body which can interpret or modify its powers of self-government” (Kymlicka 1995, 143). Within the political institutions of larger society, granting different additional representation to members of minority cultures will “make it less likely that a national or ethnic minority will be ignored on decisions that are made on a country-wide basis” (Kymlicka 1995, 37). This primarily includes demands for proportionate representation amongst political representatives of racial and ethnic minorities.

Further, in *Liberalism, Community, and Culture*, Kymlicka advocates additional voting rights for aboriginal peoples. Referring specifically to the special conditions in northern Canada where the richness of natural resources often brings in huge influxes of temporary resident workers, Kymlicka advocates restricting voting rights. He notes that

these temporary residents rarely stay for more than seven years. So that the aboriginal people will continue to constitute the majority of permanent residents, many aboriginal leaders proposed a three-to-ten-year residency requirement for voter eligibility (Kymlicka 1995, 147). This policy maintains that “if non-aboriginal transient workers were allowed to vote, they would probably decide to use public money to provide amenities for themselves [and] such a policy could force [aboriginal people] to move into localities dominated by whites, and to work and live in another culture, in a different language” (Kymlicka 1995, 147). Even though these aboriginal rights entail special costs for the non-aboriginal residents by restricting the rights and resources of non-aboriginal people, they are necessary to ensure that the minority aboriginal culture is protected.¹⁴

Kymlicka also discusses land rights, providing the case study of southern Canada. Since the population is high and the land is scarce in this region, “the stability of Indian communities is made possible by denying non-Indians the right to purchase or reside on Indian lands (unless given special permission)” (Kymlicka 1991, 146). This form of special citizenship protects Indians’ claims to their native lands and their indigenous communities. Kymlicka argues that “the viability of Indian communities depends on coercively restricting the mobility, residence, and political rights of both Indians and non-Indians” (Kymlicka 1991, 146). Treating all citizens equally under the law would actually undermine three values to which liberal democracies aspire: the self-respect, equality, and autonomy for members of a minority culture.

Ultimately, Kymlicka defines this special citizenship status for Indians. He outlines the three forms of group-differentiated rights in order to protect minority culture

¹⁴ Kymlicka also identifies affirmative action as another example of special representation rights.

because these rights, as part of the liberal conception of freedom, are directly related to membership in societal cultures. As he argued in *Liberalism, Community, and Culture*, freedom involves making choices amongst various options, and societal culture not only provides these options but also makes them meaningful to us. Thus, the state must take explicit measures to protect these identity cultures with special political rights in order to provide a secure cultural context for members of a minority culture.

These forms of special citizenship rights are created to guide future policy proposals. While Kymlicka provides examples of policies under the three policy headings, he does not prescribe specific policies because each culture and government is unique. As a result, he argues that blanket policies would be ineffective. In doing so, Kymlicka's theory has limited applicability beyond simply justifying special political rights and defining potential rights into categories. We must look to other theories to provide a more comprehensive framework for rectifying identity-based disadvantages.

Shelby's Policy Framework

Shelby also examines the role of public policy as it relates to minority cultural identities. By focusing on attempts to solve the problems associated with "ghetto," Shelby opposes forced integration and advocates ghetto abolition as a way of reimagining black communities without the effects of institutional racism.

Ghetto Abolition

As outlined in Chapter Two, Shelby advocates ghetto abolition as a way of restructuring society. He describes ghetto abolition as part of a "fundamental reform of the basic structure of society" (Shelby 2016, 275). In effect, ghetto abolition respects the ghetto residents as moral agents responding to injustice. He writes that "the ghetto is not

‘their’ problem but *ours*, privileged and disadvantaged alike” (Shelby 2016, 275).

Ghettos reflect a societal problem, uncovering structural injustices. Shelby puts their abolition at the center of societal reform, since doing so will result in a broader coalition committed to justice.

Implicit in Shelby’s analysis is his advocacy for a secure cultural context for black citizens living in ghetto neighborhoods. He argues that “blacks sometimes prefer neighborhoods with a black critical mass, not only because they want to avoid white hostility and interracial conflict, practice political solidarity, sustain black institutions, or experience a sense of community” but also so they can live in a community where their culture is the majority culture (Shelby 2016, 62). This thesis takes up this second point, that ghetto culture is inherently valuable to its residents. If given the choice, Shelby believes many black ghetto residents would prefer to live in their ghetto neighborhood because of its unique culture and community. The alternative to this self-segregation would be to spread the 13% of black Americans more evenly among white neighborhoods, essentially creating an integrationist scheme with no sense of black community. Further, where there are communities with a black ‘critical mass,’ black individuals would be able to “benefit from local organizations that cater to their distinctive tastes and needs” (Shelby 2016, 62). These specific organizations and institutions directly relate to cultural context. The ‘critical mass’ serves to preserve black ghetto culture by both having unique services available and by guaranteeing that those services will be used.

Shelby effectively challenges the dominant understanding of “ghettos” and their black residents by invoking arguments about autonomy and self-respect. Shelby opposes

forced integration because it would destroy the cultural security of ghetto communities. In this sense, Shelby's argument reveals that members of ghetto communities may make collective rights claims in order to protect their culture rather than lose this part of their identity through integration and assimilation.

Dark Ghettos can be understood as Shelby's reasons for answering the question of "is residential integration just?" with "no." He shows that forced residential integration undermines the self-respect and autonomy of the black ghetto poor, but does not go as far as outlining an alternative policy strategy. His only specification is the need to include the ghetto poor in these reform efforts. By including the black ghetto poor, the reforms will be based on justice and mutual respect. But without any fixed guidelines, Shelby's framework leaves the implications of his theory up to the reader's discretion.

This leaves the reader with additional questions about the implications of Shelby's argument. For example, how applicable is his theory to other racial minorities, and how can we judge the applicability? Does it matter that he focuses on the black ghetto poor, of whom many are descendants of slaves who have been brutally oppressed in the United States? Could his argument apply to a national majority who are a regional minority? Should the focus be on maintaining a "critical mass" or upon securing a majority? How would we decide? Are the rights that are necessary to correct this injustice temporary or permanent? What would these rights look like? Would these resources and rights be different for each group?

Kymlicka's Framework as a Policy Response

Kymlicka's framework can help map out a policy range to address some of these questions. Following his basic structure, one must first ask if the ghetto poor are an ethnic

or national group. Based on this answer, she must ask if the necessary state response is temporary or permanent. However, the answer to the first question is unclear. Are African Americans considered immigrants, even if it was a forced immigration? In addition, do African Americans qualify as a national minority? African Americans do not fit neatly into one of Kymlicka's categories in his policy framework. They are not an ethnic group that resulted from immigration, since they were forcibly removed from their homeland. Further, they are not a national minority, since they are not based on a single historical community with a single and distinct language. Yet, in the United States, over time African Americans have developed a distinct culture. Therefore, Kymlicka's second question cannot even be discussed. As a result, it is unclear what special group-differentiated rights would secure ghetto culture. For example, there might be self-government rights and special representation rights for residents of ghetto communities. This may include granting ghetto residents' proportional representation within government agencies that address land rights which would guarantee that they have a permanent voice within political conversations. Ghetto residents could also have special jurisdiction over their land, a form of self-government rights. These would attempt to secure ghetto identity within their specific communities. While these potential solutions fit within Kymlicka's three forms of minority rights, they may not be the only or obvious choices. There may be legal protections for ghetto communities or financial incentives such as low-interest loans to allow ghetto residents to compete effectively for housing in their neighborhoods rather than getting priced out during gentrification. In effect, carrying out Shelby's broad social reforms will lead to public policies that provide support for the black community, whether in the form of community investment or with

special political rights for these residents. However, Kymlicka's framework alone cannot answer the questions that come out of Shelby's analysis; it can only provide policy responses if the defined minority group fits within one of Kymlicka's categories.

Parameters for Good Policies

Both Kymlicka and Shelby evaluate policies based on whether or not they restrict or secure cultural contexts, thereby ensuring that all people have the conditions necessary to make meaningful life choices. Kymlicka's idea of collective rights – developed through his framework of self-government, polyethnic, and special representation rights – seeks to maintain and sustain the cultural diversity in multinational states. These three forms of group-differentiated rights explicitly invoke ideas of autonomy, giving members of a minority culture the freedom to choose from *meaningful* options when defining and revising their conception of the good. This autonomy is a hallmark of liberalism and individual freedom, and ultimately serves as a model for designing policy that is related to membership in societal cultures.

Shelby similarly emphasizes that cultural membership must be a central policy consideration. He argues against Anderson and other “new integrationists” who advocate policies that would force black Americans to live in predominantly white communities in order for them to participate in the privileges that some whites possess. Instead, Shelby prescribes ghetto abolition as a way to provide a meaningful context of choice for the ghetto poor. Ultimately, he believes that this solution will provide both economic justice and certain liberties for black Americans, including the freedom to choose the communities in which they want to live independent of considerations of economic

access. Forced residential integration, he believes, would strip black Americans of their race-specific culture.

As such, Kymlicka and Shelby both clearly judge laws based on whether or not they would secure a cultural context for minority citizens. While Kymlicka takes this idea further than Shelby by requiring positive rights and policies that secure culture whereas Shelby simply advocates against forced residential integration, they each note the importance of culture to autonomy and equality. They agree that it is not enough to provide equality of opportunity or grant all citizens equal rights, since these ideals disadvantage members of a minority culture. These purely egalitarian policies ignore that members of a minority culture need a secure cultural context in order to achieve the self-respect, self-government, and autonomy that are all fundamental pillars of liberalism. Thus, laws must include special measures to secure culture in order to protect the dignity and self-respect of *all* citizens.

Limits of Identity-Based Policy Frameworks

While Kymlicka and Shelby each provide a solid basis for evaluating policies that are related to cultural identity, we are left to ask whether or not their theories can provide a comprehensive model for designing laws.

Shelby's analysis only investigates issues of cultural security within ghettos. He emphasizes the positive aspects of black identity and the need to protect ghetto culture as a way to provide a secure cultural context for its residents. Yet, Shelby offers only specific policy critiques and no policy prescriptions. He argues that culture is a valuable part of identity that needs to be considered in public policy; lawmaking must give minority cultural groups a voice in creating the policies that affect them. Even a generous

read of *Dark Ghettos*, assuming that the next step of Shelby's argument would be advocating for state-sponsored rights to secure the valuable ghetto identity, does not provide a framework or guidelines for evaluating public policy. Further, he does not discuss how other ethnic and national minorities may need recognition and support for their cultural identities. His ideas uphold the normative commitments of liberal egalitarianism, but this framework alone cannot inform policy.

Even though Shelby prescribes local involvement in the reform process, he does not specify what form this participation will take. He does not describe *why* local input is necessary to design and model policy. Without this justification and reasoning, his theory marginalizes the role of procedures, specifically as they relate to upholding and securing the relevant rights and values.

In addition, Kymlicka's three forms of group-differentiated rights provide an outline for policies about identity but do not offer any framework for how to design these policies. Both *Multicultural Citizenship* and *Liberalism, Community, and Culture* are liberal theories of minority rights. These theories justify group rights within a liberal democratic state but do not tell us how to organize a state or what rights, beyond minority rights, a state must protect. Even though Kymlicka concedes that "no single formula can be applied to all groups," he does not attempt to develop a roadmap for policy design (Kymlicka 1995, 288).

Where Shelby discusses the need to include those affected by policies in the decision-making process, Kymlicka's account does not describe how group-differentiated rights would be determined. He includes no participatory rights guarantees; he only

focuses on voting and representational rights which marginalizes procedural commitments.

Moreover, both Kymlicka and Shelby's theories can both be understood as substantive theories, which, as Brettschneider shows us, casts aside the role of procedures. By narrowly focusing on cultural identity, these theories marginalize other democratic considerations. Kymlicka and Shelby are committed to liberal egalitarianism and are clear about the need to safeguard rights; specifically, they focus on cultural security as a means to protect these liberties for members of a minority culture. However, neither author explicitly describes the value of democratic procedures as necessary for citizens to realize these rights and liberties. Essentially, Shelby and Kymlicka maintain a Rawlsian view of procedural rights; participation in democratic procedures is valuable insofar as it secures substantive rights. Without explicit protections for or a central role granted to procedural rights, it may be understood that procedures are disposable within their conceptions of democracy.

These incomplete democratic theories do not provide citizens with the tools for both evaluating identity-based public policy and correcting unjust laws if these laws. Shelby rejects residential integration, but does not provide a more general model for judging the morality in laws. In this sense, his analysis reveals that asking the questions such as "is residential integration just?" raises other questions about how to implement better policies. Kymlicka's analysis attempts to justify and define these policies. Yet, neither account can provide the framework for asking the types of questions that Shelby's account raises and that Kymlicka's policy proposal seeks to address. For this, we must

look to a comprehensive democratic theory. This thesis will argue that implicit in the value theory is a framework for both asking and answering these sorts of questions.

Brettschneider's Policy Framework

Like Kymlicka and Shelby who focus on cultural integrity as a means to realizing autonomy and equality, Brettschneider limits policy outcomes that fail to recognize citizens' self-respect. As this thesis has shown, the value theory can only operate how Brettschneider intended by guaranteeing a secure cultural framework. This section will show that the amended value theory is best positioned to evaluate public policy from the standpoint of this new democratic ideal.

By framing these failures in terms of undermining the core values, the amended value theory provides the best framework for looking at cultural issues and societal issues more generally. The amended value theory can shape future policy and inform questions of cultural membership in terms of the relationship between the state, individual, and society. Brettschneider provides the best and most comprehensive way of thinking about identity and justice centering questions on the core values, with explicit protections of both procedural and substantive rights.

The amended value theory can provide insights about how to frame problems such as the one discussed by Shelby because it grounds democracy in the core values. These core values provide a framework for adjudicating laws. Specifically, Brettschneider describes democratic contractualism as a way for citizens to consider the justifiability of a law or policy. Under democratic contractualism, laws are judged based on whether or not they violate the core values and infringe on citizens' rights. If a law is found to undermine the core values, it can be rejected at the levels of both democracy's

public reason and the inclusion principle. The value theory considers laws from the perspective of the coerced, instead of from the perspective of the coercer. In this way, the value theory prioritizes the input of the people affected by the laws when judging and evaluating policies. In the case of forced residential integration, a value democratic state would not justify state coercion in enforcing this policy because it would undermine citizens' autonomy. Citizens would not have the option of whether or not to move. While Brettschneider does not mandate specific policies for what type of state involvement is necessary to make the core values accessible, he states that it is justified if it is to expand and protect rights and illegitimate when it restricts them.

In addition, the value theory is equipped with the tools for providing solutions to these sorts of problems because of the interaction between substantive and procedural rights. The value theory can provide a framework for designing policies that respond to injustice. As authors of the law, citizens in a value democratic state participate in creating the laws they live under. As addressees of the law, they live under the laws they create. Citizens are thus motivated to create just policies that protect and secure their autonomy and equality. The procedural rights grounded in the core values allow the citizens facing injustice to be directly involved in designing the specific policy responses to uphold the core values where they have been undermined. In this way, the value theory is consistent with Shelby's sole policy requirement that those affected by the policies are involved in the reform efforts. The citizens in a value democratic state are included in the lawmaking process, thereby translating their opinions into public policy. Especially for members of a minority culture who may have special voting rights, these procedural rights are necessary to ensure that the policies created best serve their community. In effect, the

interaction between procedural and substantive rights in a value democratic state may be understood as a way for individuals to retain their liberty and for the state to guarantee these substantive rights despite conflicting interests.

The value theory does not mandate specific laws and policies for a government to enact. Rather, Brettschneider provides a framework for institutional design with protected participatory and substantive rights. This framework exists to yield laws, whatever they be, that are grounded in the core values. The core values not only justify democratic procedures, but also can be used to evaluate the policy outcomes produced by these procedures from the standpoint of the democratic ideal. Brettschneider maintains that the value theory provides guarantees that the outcomes of the democratic processes will also respect citizens' fundamental liberties. As such, the value theory is both by *and* for the people. The laws in a legitimate democracy would ensure that all citizens are equally respected, including those of members of a minority culture. The value theory fundamentally justifies state coercion when it is used to secure its citizens' freedom and liberty.

Overall, the amended value theory, wherein procedural and substantive rights are both grounded in the core values of democracy, ensures that *all* policies *always* maintain a commitment to equality, autonomy, and reciprocity — not just when looking at culture in isolation. As amended to specifically address cultural identity, the value theory involves members of a minority culture in democratic procedures while also guaranteeing that their substantive rights are protected. This amendment allows the value theory not only to produce laws that will be consistent with what Kymlicka and Shelby would support to protect cultural contexts, but also be better positioned to maintain the same

commitment to autonomy and equality when formulating all forms of policies because of the theory's robust procedural and substantive guarantees. By grounding the core values in both procedural and substantive rights, the value theory maintains a democratic ideal that secures autonomy and equality for all people, including members of a minority culture.

Ultimately, the amended value theory is designed such that it can determine whether or not a law is just based on whether or not it upholds or undermines the core values. The dual role of citizens as authors and addressees of the law means that the value theory grounds citizens' rights and duties within the democracy, thereby linking upholding equality and autonomy of all people to individuals' own autonomy and equality. The value theory can show where laws fail or are necessary to secure the core values for all citizens.

As a result, the amended value theory provides the best design for a society of free and equal citizens. It grounds procedural and substantive rights in the core values, effectively upholding the sovereign and moral status of citizens. The core values serve to justify what citizens would reasonably support based on limits of policy outcomes that can be understood as part of the democratic ideal. Thus, the value theory describes an organization of state that both guarantees the protection of substantive rights and safeguards procedural involvement in ways that maintain committed to justice.

Conclusion

While Shelby and Kymlicka have similar conceptions of the need for a secure cultural context, Kymlicka goes further in his analysis; where Shelby only notes the importance of culture, Kymlicka requires state intervention to provide positive rights to

protect minority cultures. Thus, carrying out Shelby's ideas would require state intervention and support for ghetto communities. Implementing ghetto abolition and kick starting the 'fundamental reform of the basic structure of our society' necessarily relies on public policies to protect ghettos and provide the resources to address the systemic injustice that plagues these communities.

The policy recommendations put forth by Kymlicka and Shelby show us that laws should be judged based on whether or not they secure a cultural context for members of a minority culture. While these guidelines offer meaningful insights into how to evaluate public policy, neither provides a comprehensive model for designing a democracy committed to the liberal egalitarian policies they argue the state must uphold. Further, both authors focus on cultural identity as a way to safeguard the rights and liberties for all citizens. This substantive priority marginalizes the role and value of procedures within a democracy. In addition, Shelby provides only a rejection of residential integration and Kymlicka only addresses what policies may be necessary to correct for identity-based injustice. Neither author provides a meaningful framework for how to evaluate policies and injustices generally or a roadmap for developing a specific policy response.

The amended value theory of democracy can provide this framework and roadmap. Because the value theory is grounded in the core values, it provides insights into how to look at societal injustice. The value theory evaluates laws and policies based on whether or not they uphold the core values for all citizens. Thus, the value theory can ask whether or not a certain law, policy, or situation is just based on whether or not citizens are able to be fully autonomous and are treated equally. Further, the amended value theory includes citizens in the policymaking process, effectively asking citizens to

create the laws that they will have to live under. In this way, a value democratic state has the tools for creating and sustaining a just society.

Conclusion

This thesis looks to the value theory as a model for designing a liberal democratic state. By grounding the democratic ideal in the core values — autonomy, equality, and reciprocity — the value theory provides the best liberal political theory. A value democratic state protects citizens' substantive rights while also involving them in the democratic process. According to this notion of individual rights, the value theory recognizes the intrinsic value of both substantive and procedural rights.

Yet, as shown in Chapter One, the value theory does not adequately protect cultural identity. The core values, as Brettschneider originally presents them, result in an insecure cultural context for members of minority cultures. This fact makes the core values inaccessible for these citizens, thereby undermining the liberal egalitarianism to which Brettschneider is deeply committed.

This thesis has shown that, in order to adequately address claims of identity, Brettschneider must consider Kymlicka's argument for the rights of minority cultures and Shelby's discussion of the intrinsic value of ghetto culture. This amended value theory can accommodate special citizenship rights for members of a minority culture in order to truly uphold the core values for all citizens. Reimagining the core values with explicit cultural identity protections allows the value theory to fully uphold autonomy and equality for *all* people.

The amended value theory effectively handles the identity-based critiques lodged against Brettschneider. First, the reimagined value theory can respond to Lebron's critique that the value theory inadequately addresses the problem of uneven social value. With a secure cultural context for all citizens, not just for those of a majority culture, the

amended value theory allows citizens to develop and pursue their culturally-specific condition of the good; in this case, all cultures will be presented as equal and valuable such that the problem of social value will not be as significant. Lebron would still likely want to develop a more perfectionist response. The value democratic state must reject perfectionist policies, which are excessively interventionist, for infringing on the equal moral status of citizens as participants in the democratic process. Second, the amended value theory can directly address the original critiques presented in this thesis that point out that the core values are unattainable for members of a minority culture by reimagining the theory to do exactly this.

The amended value theory also provides a meaningful framework for designing policies committed to upholding the core values. Compared to Kymlicka and Shelby, who provide substantive liberal egalitarian theories, the value theory maintains a commitment to both substantive and procedural rights, thereby treating citizens as authors and addressees of the law. By locating the democratic ideal in the core values, the value theory rightfully and effectively connects the liberal ideals of self-respect, self-government, and equality.

Works Cited

- Brettschneider, Corey. *Democratic Rights: The Substance of Self-Government*. Princeton, NJ: Princeton University Press, 2007.
- Dworkin, Ronald. "What is Equality? Part 1: Equality of Resources." In *The Notion of Equality*, pp. 143-205. Routledge, 2018.
- Estlund, David M. *Democratic Authority: A Philosophical Framework*. Princeton University Press.
- Habermas, Jürgen. *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*. John Wiley & Sons, 2015.
- Kymlicka, Will. *Liberalism, Community, and Culture*. Oxford University Press, 1991.
- Kymlicka, Will. *Multicultural Citizenship: A Liberal Theory of Minority Rights*. Clarendon Press, 1995.
- Lebron, Christopher J. *The Color of Our Shame: Race and Justice in Our Time*. New York: Oxford University Press, 2013.
- Rawls, John. *A Theory of Justice*. Harvard University Press, 2009.
- Shelby, Tommie. *Dark Ghettos: Injustice, Dissent, and Reform*. Harvard University Press, 2016.