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The general will and immigration

The legitimacy of a liberal-democratic state depends on how well it protects individual rights and furthers the well-being of its citizens. Since the rule of law imposes limitations of individual freedom, the liberal commitment to individual autonomy also requires that the legitimacy of the state depend on whether the citizens in principle have a say in the formulation of the rules that govern them. Labor migrations, resettlements of refugees and asylum seekers and other immigration related phenomena challenge both components of legitimacy--the promotion of citizens' interests by their state and the authorship of laws by all governed by them.

There are different categories of individuals who reside within the borders of a state on a long-term basis: citizens, various groups of legal long-term (including permanent) residents and illegal immigrants. Non-citizens often enjoy a range of social but not political rights. As a general rule with few exceptions, they cannot vote and hold office. Whether it is legitimate to integrate long term residents of a country only socially but not politically is an important question for a liberal political theorist.¹ What rights illegal immigrants should have, and whether they should include the right to decent pay, to basic medical care and to labor protection comparable to that enjoyed by residents is another difficult set of issues. For the purpose of this paper I will concur with those who argue that long-term residents should be given political rights, such as the right to vote and hold office. Instead, I will discuss on what terms naturalized citizens should be involved in the political sphere of the receiving state and what degrees of integration and assimilation should be required of them. (Given the assumption above, the answers could be extended to non-citizen long term residents). The discussion of the inclusion of naturalized citizens into the host state requires a normative account that relates the two aspects of the liberal-democratic notion of the legitimacy of political institutions—the promotion of citizens' interests by the state and citizens' authorship of its laws—to changes in membership resulting from immigration. This paper provides such an account by placing the idea of the people as a group agent in the context of Rousseau's notion of legitimacy.

Rousseau's ideal of the general will, representing what is good for all, is a suitable standard for evaluating legitimacy of political decisions. For, if engendered, it allows for both the authorship of political decisions by the people and for the promotion of individual members' interests. It has been argued that Rousseau's model works only for small homogenous societies. If it can be shown that real societies can in principle approximate Rousseau's ideal of legitimacy under conditions of multiculturalism, this would provide normative guidelines for the accommodation of immigrants.

To adapt Rousseau's account of the general will to societies characterized by cultural, ethnic and religious pluralism, I employ a minimal definition of the people, or a nation, which I define as a group agent that requires the presence of a shared set of beliefs about the terms of membership and the relevant collective interests. These beliefs form a political culture based upon the group's goal of maintaining effective agency having to do with self-determination. Since this agency is tied to the beliefs of membership, there are, judged by how well they approximate Rousseau's ideal of legitimacy, better and worse ways for the group to mobilize on the basis of how the members of a national group agent understand the inclusion of immigrants.

In the next section I consider a range of views on immigrant's assimilation. Then I introduce Rousseau's view of the general will and discuss when it can lose its general character pertaining to legitimacy with respect to immigrant populations. Finally, I explain how the notion of the general will can be applied to pluralist societies based on my definition of a nation as a group agent associated with the political culture of self-determination.

I. Some views on immigration and their limitations

Liberal egalitarianism's support for moral equality of all human beings works well for settling claims to membership within a given set of boundaries. However, without additional principles, such as those of liberal nationalism, it offers no coherent defense of the existing boundaries and is better equipped to support open borders than to define the limitations on immigration. A liberal egalitarian view of legitimacy *within* a state does not permit that autonomous individuals be governed by the laws over which they have no control. Liberal egalitarianism supports that immigrants residing in a state's territory long enough should be enabled to participate politically to be treated equally and not ruled by other groups.

A contractarian can claim that the present occupants of each state are bound and protected by a form of social contract, and can limit membership based on the state's goal to protect the rights of each present associate. Thus, if the influx of a certain kind—or any—immigrants is likely to change the character of institutions to which the citizens have consented or drain resources presently jointly enjoyed by the citizens, they have a right to limit immigration.² Considering a social contract in an historical perspective, the ancestral consent cannot bind present citizens because it has not been authorized by them; however, regardless of whether the descendants have obligations to the original contract, they may opt for the enjoyment of the privileges passed onto them by their ancestors, including the right to exclude foreigners, which is a recognized international legal norm.

Even if this is true, this same right cannot be claimed against foreigners who are already on the territory of a liberal democratic state as guest workers, because they are under a contract with the people of the inviting state. If the state wants to uphold its egalitarian values, those who were invited to join its work force on a long-term basis and presently contribute to the economy may need a wider range of accommodation that includes political rights. The contractual framework that matters, then, has to do with the set of interactions the present set of individuals who are considered “the people” have with the outsiders now residing within their territory. Rousseau's view, considered below, provides options for the renegotiation of the contract for each successive generation and in accordance with the changes in membership to maximize the legitimacy of the state institutions.

Ronald Dworkin's account of integrity in law provides an important reflection of the dynamics of societal norms. A judge chooses among presently admissible precedents based on political morality, the norms of which justify what has gone before based on an overall story *worth telling now*.³ This approach of course needs to confront the moral disagreement concerning the norms of political morality. Dworkin's view, nevertheless, emphasizes that norms are grounded in the present associative practices of the community: the norms are lived and practiced.⁴ A properly conducted ongoing practice of interpretation of the community's principles considers the history of these principles in light of the changes in the societal dynamics, including those due to immigration.

Communitarians and liberal nationalists discussed at length the question of identifying norms worth preserving from a community's point of view. Their worry associated with multiculturalism is that the integration of immigrants that come from a culture sufficiently different from the host culture will threaten the character of the host community. They grant that a state has an obligation to accommodate immigrants it admits, but carefully calibrate the extent to which the adjustment ought to be mandated for each side—the immigrants and the receiving state.

David Miller accepts that the relationship between immigrants and the citizens of the receiving state is quasi-contractual. Each side claims certain rights and acknowledges certain obligations. Miller argues that a nation-state is the embodiment of a set of cultural values. The legitimacy of the modern state derives in part from its role as the protector and promoter of the national culture of its people—if there were no distinct culture to protect, there would be no reason for it to exist as an independent entity.⁵ According to his liberal nationalism, it is legitimate to limit immigration and require certain steps towards assimilation from the admitted immigrants to make sure they conform to a set of “national values.” I disagree with this conclusion because cultural values to be protected are the result of group agency that embodies the people in a territory at the present time and not the other way around. This group agency is always framed in some cultural terms, but not all cultural values matter for the group's preservation and especially its legitimacy across time with respect to its members. In the rest of the paper I defend the claim that the set of norms required for the effective functioning of the national group agent in relation to other such agents are a set of the basic norms pertaining to its political culture.⁶

Values are engendered by the beliefs and (interdependent) actions of those who participate in the culture in question. Consider a former Jewish area of the Plateau Mont-Royal district of Montreal presently populated by Portuguese immigrants. If we consider the population within the given geographical area, cultural values have changed. It is true that this kind of drastic change is what liberal nationalists are worried about, but it would be hard to argue that half way through the transition one of the groups had a right to demand that the other assimilates and shares its cultural practices. However, the relationship of the groups was mediated by a political culture of liberal democracy. Miller may object that there is a difference between a national group and the population of a geographical area. There is a lot to be said for upholding the analogy, however. Suppose a country relies on immigration for its economic production; at a certain moment in time it has about 30 per cent of immigrants who come from a different culture resulting in the multicultural mix within its geographic boundaries. Does the receiving citizenry have a right to demand that the immigrants adhere to its national values beyond those regulating the practice of, and interactions within, a shared political sphere based on liberal democratic values?

Samuel Scheffler argues that it is not unjust that the culture exerts a coercive pressure on its immigrants because it expects immigrants to obey the laws and support the institutions of their new society even when the character and content of those laws and institutions has been shaped in part by historical circumstances and traditions with which the immigrants have no antecedent identification.⁷ This is a valid claim, however, only to an extent. How does one identify cultural and historical values constitutive of the US “national values”? In different parts of the US territory, and at different historical times, various groups of immigrants were excluded from political participation or discriminated against in other ways.⁸ A non-offensive and inclusive set of values pertaining to history depends on the

present composition of the people and the recognition of past injustices. But we can still say that the basic set of political values expressed in the Constitution holds and ought to be accepted by the immigrants. The common values of membership beyond political minimum are to be worked out through proper interactions of various cultural groups in the political sphere. These values will need to accommodate all present in the territory of the state who qualify to have a say about its laws. Moreover, we cannot eliminate the problems with legitimacy by reference to the priority of membership assigned to the historically prior occupants. This is so because the legitimacy of occupation of the territory in question often depends on how long ago in history we are willing to go to trace the lineage of the present occupants. Thus the idea of the seniority of occupancy that ought to determine the set of national values to be privileged depends on contingencies of history and the corresponding boundary-drawing.

When certain behaviors are proscribed to immigrant citizens based on what is understood as the national norms and values by another group in the society without the consideration for, or consultation with, the immigrant group, the rules are not legitimate from the immigrants' standpoint because they had no input in their formulation. Even if the goods accepted as indispensable by the receiving community are freely and generously extended to the immigrant outsiders, the effort may not be appreciated by the immigrants if they have not participated in the process of selecting the goods actively and equally. For example, the attempt of the Norwegians to actively engage children of recent immigrants from Africa in the traditional national recreational winter activities such as skiing without soliciting proper input from the immigrant community seems to have encountered difficulties in implementation.⁹ In the end, the immigrants may want to share in the cultural norms of other groups, but they need to be doing this willingly. Reciprocal familiarization with cultural habits among different groups can alter their cultural intuitions and preferences to make them mutually admissible.

If we consider the people as including naturalized and born-in citizens acting in concert as a group agent, we can identify the set of shared norms required for the continuing and effective functioning of this group. A regulated integration of immigrants can take place by practicing a shared political culture. When everyone is included, the newcomers and present citizens can arrange for a set of accommodations that preserve the character of the group as a people based on the continuity of basic political norms. The newcomers' cultural traditions can be engaged both through recognition and carefully imposed restrictions. Admitting that the proper inclusion of immigrants does not require a one-way imposition of a set of cultural values of the host nation does not threaten the existing societal norms and habits. Precisely because the current citizens will be included and are likely to constitute a majority, they will have a say at each step of decision-making about the terms of inclusion. These terms ultimately need to be mutually acceptable to both them and newcomers, but while the receiving citizens cannot entirely dictate them, they are right to demand that the societal change allow for the continuing existence of their group agency. The features of the society to be maintained are the parameters of interaction in political sphere, such as the basic political norms protecting individual rights. Hence, to make sure that the conditions of legitimacy are preserved, the receiving society can ensure that the change be both gradual and to the satisfaction of all those involved. If political power operates on behalf of all members, the fear that increased immigration will entirely change the character of the state is unwarranted.

Of course we need to determine what limits can be imposed both on the process and on the outcomes if the society still wants to be liberal and democratic. There will inevitably be limitations on the accommodation offered to immigrants even if the receiving nation is committed only to the preservation of its *political* culture. The interaction of various cultural groups and the required mutual adjustments are another source of limitations on accommodation. Thus, Miller is right to inquire about what limitations are needed for an effective functioning of a national group agent and consequently its continuing existence, but the needed limitations are narrower than those claimed by him.

In what follows, I consider Rousseau's formulation of the problem of legitimacy, then discuss how it can be applied to societies characterized by pluralism based on immigration and apply the approach I put forward to some examples.

II. Framing the problem of legitimacy: Rousseau

How can political communities evaluate the legitimacy of their decisions given ethnic, religious and cultural pluralism among their members due to immigration?

Rousseau's criterion of legitimacy of political decisions is based on their correspondence to the general will. Each citizen, in voting, should determine what is good for all. For the general will to be well-articulated, it is important that citizens are not partial and that each of them make up his own mind.¹⁰ Rousseau distinguishes between the will of all, which considers private interest and is the sum of private interests, and the general will, which considers only the general interest.¹¹ The general will is not merely what is left after opposite wills cancel one another in one person-one vote fashion, but what is common to all individual wills, but not identical in all of them. " ...What makes the will general is not so much the number of votes as the common interest that unites them..."¹²

Rousseau would agree with what Robert Dahl calls the principle of strong equality: in democratic decision-making, everyone is qualified to decide what the general good is.¹³ The populace that is subjected to the laws ought to be their author¹⁴ and the social contract is to protect the person and the goods of each associate.¹⁵ Sovereignty, according to Rousseau, is the exercise of the general will, which represents what is good for all. The government exercises its executive power legitimately if it acts in accordance with the general will.

It is commonly emphasized that Rousseau's theory is applicable only to small homogenous communities, in part because, as W. T. Jones argues, the kind of public-minded thinking required of each individual to articulate the general good correctly is possible only in communities in which associates know one another.¹⁶ Nevertheless, Rousseau's view that decisions based on individual and group interests corrupt the general will can be applied to large pluralist societies. Rousseau points out that the body politic with the general will articulated for all members becomes one body and acts as such with respect to someone the members consider as a foreigner. What is important to note is that the general will of the people so united becomes, with respect to the foreigner, a private and not general will. The general will considers only the general interest and the foreigner is not included in the scope of this consideration.¹⁷ Accordingly, when a group of individuals are excluded from the beliefs of membership shared by the rest of society, the societal understanding of the general good is likely to exclude the perspective of this group. While immigrants may be asked to assimilate in the name of the preservation of national values, under what circumstances this

demand is made and how the immigrant group was included in the formulation of the requirements imposed on them are important for the legitimacy of the demand. If immigrants weren't consulted and the requirements were based on how their conception of the good had been perceived by the rest of the citizenry in relation to "national values," this move is unlikely to generate conditions for the genuine articulation of the general good. The demands and justifications for assimilation made under these circumstances are partial and cannot be legitimate because the law governing everyone within the territory has to be generated by all members.

Rousseau argues that the limitation on civil liberty by the general will is legitimate. The general will articulated by only a part of the society becomes a corporate or private will. The limitation of the liberty of long-term foreign residents does not seem to be legitimate if it is based on the corporate or private will of others. As Rousseau points out, the sovereign never has the right to lay more charges on one subject than on another, for in that case the matter becomes particular, no longer within the range of the sovereign's competence.¹⁸ When the sovereign decrees legitimately and correctly, the decree is general and applies equally to all.¹⁹ A perfect act of legislation ensures that in the outcome, the private will does not exist, the corporate will is subordinate, and the general will is ruling.²⁰ It is a matter of obligation, on behalf of the citizens of a state that accepts labor migrants and profits from their labor to maximize the chances of organizing the society in accordance with the general will in order to be able to claim their heritage of being a liberal democratic state. Hence, to maintain the legitimacy of liberal democracy, the mode of inclusion of immigrant citizens should ensure that they be treated as full members and the general good be defined so that to avoid degeneration of the general will into a set of private and corporate wills.²¹ For example, to be able to become truly publicly-minded the members ought to avoid a narrow (minorities excluded) understanding of membership, to inform themselves about the interests of others, familiarize themselves with their views and preferences, and engage them in the political sphere of the state. Rousseau also requires periodic assemblies of the people to prevent usurpation of the government by private or corporate wills. Thus, it is possible, if the government is ruling based on the will of only a part of the population to change this situation for the better through a periodic reassessment of the general good. The government is not legitimate, therefore, if it rules based on the contract which has not been renewed, via a proper procedure, to include immigrants. Rousseau's view seems to be capable of articulating the ideal a multicultural society has to approximate to be legitimate.

The two questions that remain to be clarified are how to define the general good for a pluralist society and what to do if a "corporate" good of a group conflicts with political values that underlie the general good.

The general good should be defined so as to include everyone in a multicultural state, and it is worth defining the minimal scope of the notion. The general good in a multicultural society includes at least a set of political values engendered in the functioning of a certain type of political group agency. The minimal common interest that unites all citizens is finding and maintaining a convergence on a set of conditions for individual and group inclusion that guide the interaction of various individual and "corporate" agents, with the general goal of the preservation of the national group agent. This group agent's efficient functioning requires self-determination, and thus publicly-minded individuals desire that a certain set of individuals be governed by conditions internally determined by the membership in the group and acceptable to all members, within certain geographical boundaries. It is

important to emphasize that the political culture is considered as practiced and not as a set of “national values” isolated from the individual and group agents that embody them.

The notion of the general good can tolerate some degree of disagreement on moral values so long as citizens share a certain type of political culture based on their beliefs of mutual belonging to the national group agent and a general commitment to legitimacy based on liberal democratic values. We routinely see moral disagreement when citizens vote for opposing political platforms. So long as citizens agree that they belong to the same primary political community and participate in a shared a political culture associated with the goal of effective functioning of this community, they do indeed share a conception of the general good.

One may argue that the notion of the general good “thinned out” to the mere political aspects of inclusion does not reflect the group agent’s defining characteristics. If the politically defined general good is substantial enough to support an ongoing political practice of the community, it is enough to define a national agent. I will clarify below how we can modify the idea of the people to make Rousseau’s idea of the general will applicable to large heterogeneous societies and will consider the second question that requires clarification and that concerns conflicts between the corporate notions of the good and the general good I defined.

III. What defines “the people” in a multicultural society?

a. My definition of “the people”

The maximally inclusive definition of the people that does not impede immigrant accommodation relies on the notion of political values and not specific social and cultural values. To this end, I define “the people” (or a nation) not in terms of culture but political culture, or set of beliefs and attitudes concerning politics. Nations are groups whose members share and identify with a particular kind of political culture. Basic to this political culture is, first, the belief that membership in the group defines the bounds within which political authority can originate meaningfully for those it governs. That is, political power exercised over the group is authoritative only if it derives from the group as a whole. Second, the members share the corresponding collective end of establishing or maintaining effective agency. Members perceive their national group as a primary political community: there is no larger or smaller political community to which they relate to as representative of their group agency. Thus, while they may be divided along religious and cultural lines, they consider even those they disagree with as members.

This gives us the goals to consider when working towards narrowing the rifts in societies with poorly integrated immigrants. Unless the notion of membership includes all, and unless all members are capable of considering the society as their primary political community, the conditions of legitimacy within the group are undermined. Thus, members of a religious community should consider the larger society to be their primary political community (this does not prevent them from holding another world community as another sphere of membership as it would happen with double citizenship).

Rousseau’s notion of the general will requires that political power originate in the agency on whose behalf the authority operates. The political culture of nationhood defines for co-nationals the conditions under which a political authority is capable of governing them

on the basis of dependent reasons—reasons that apply to them. If political power exercised over the group comes from outside of what the group members consider their own political community, the political power is not authoritative. This would be the case if a minority were excluded from political decision making, not by necessarily lacking a de facto voting power but by being discriminated against in other ways. For example, citizens of the receiving political community may draw the boundary of membership if not formally, but in public view, so as to exclude individuals with the traits that immigrant citizens display. Or, the conditions of participation in the public sphere may exclude those practices the recognition and institutional support of which immigrants need to maintain their culture. The general will is not likely to emerge in situations like these. (It may be that their practices need to be adjusted but cannot be outright prohibited without negotiation and public-minded consideration of the general good by all involved).

Shelley Wilcox contrasts civic national identity with the sense of belonging to a polity. The latter is characterized by the individual identification with major institutions in society. The individual feels at home with practices and associates the flourishing of her identity with the flourishing of institutions. “Belonging to a polity” excludes a rigid requirement of the identification with a historically defined set of liberal democratic values as opposed to the spirit of liberal democracy in general.²² I support this approach and I will consider how society can interact with individual immigrants given this more relaxed picture of national identity.

What can immigrants be reasonably expected to accept and what does the receiving society need to offer them? Scheffler thinks that in expecting immigrants to accept a civic and political culture that includes many contingent elements that are not requirements of justice, the society is in effect demanding that immigrants accommodate themselves to the commitments, traditions, and values of the preexisting population. He suggests that there is no right to culture on behalf of immigrants.²³ His notion of “culture” is a set of practices associated with the country of origin. However, immigrant culture is a set of cultural habits that are lived by them in the host country on a day-to-day basis. As we saw in the section on liberal nationalism, the question is precisely what kind of values and under what circumstances the immigrants are expected to accept. The corresponding procedure is important, too. Whether immigrants are to be recipients of cultural values to which they have to adjust on their own or participants in the articulation of the general good and the corresponding set of values shared by all makes a difference for how immigrants relate to the norms they are to observe. If political culture, which is narrower than national culture, is the basis of discerning the general good, the agreement on the shared set of norms is more likely. The active rather than passive acceptance of norms that govern citizens’ interaction is especially important when even so narrowly understood culture of a group agent clashes with cultural practices of immigrants. Their active participation in the discussion of the general good makes it more likely that they accept the norms emerging from the political process, which supports the norms’ legitimacy.

As Joseph Heath points out, cultural values furnish central legitimations for social institutions, because the internalization of values a culture carries provides individuals with their primary motivation for conforming to institutional expectations.²⁴ Will the norms of political culture have the same power as cultural norms? First, political norms are made into a kind of cultural norms for groups through their participation in the shared political culture (where they can also shape the norms to an extent). Second, if individuals are allowed to

enter political culture without bracketing their group identities, they will be able to practice the institutional norms political culture carries through the lens of their group culture. The shared political culture then will be accepted through one's group cultural practices in the public minded mode. In this case, it is more likely that individuals will identify with the larger society as their primary political community, the sphere that allows individuals to participate in the adjustment, reaffirmation and renegotiation of basic norms. As Hassan Bousetta and Dirk Jacobs argue, in relation to Muslim immigrants in England, immigrants cannot be an object of discourse produced by others and not participants.²⁵ They ought to be treated as part of plural "us" not as "them."

b. Rousseau's lessons

As we recall, Rousseau demands that there be no partial society and each citizen makes up his own mind in a public-minded way for a well articulated general will.²⁶ This much is clear from his description of legitimacy: the majority is not likely to vote in the name of the general good if it votes against minority when minority's interest is not considered and the minority did not have a chance to present its position to inform the notion of the general good. When a minority derives from guest workers, as in a large number of European states, they were invited by the host state and the adherence to liberal democratic values on behalf of the host state requires that it accommodate immigrants and that the policy in question be derived from everyone's public-minded participation in its formulation.

Certain modes of thinking about immigrants do not facilitate their integration. For example, considering the dynamic of relations with immigrants as that between the established members of society and the outsiders does not assist legitimate accommodation of those who have been contributing members of society for a long period of time.²⁷ The accepting country's understanding of the grounds for membership influences immigrants' access to citizenship, minority rights and public funds and, ultimately, the degree of cohesion in society.

It is true that it is not the privileged knowledge of the general will that shapes society but real life decisions. But Rousseau can help us work through certain impediments on thinking about the general good. For example, Rousseau's model will condemn the "othering" of immigrants, like those from Eastern Europe, a process described by Modood et al. which allows citizens of the host country to foster their national identity in opposition to the immigrants' identity. Treating immigrants as "the other" affirms "the unity and superiority of the in-group while it also allows and justifies exploitation of immigrant labor in conditions which would be unacceptable for fellow nationals."²⁸ Hence, not including immigrants in the definition of membership and perceiving them as "other," explicitly defining national character as positioned against immigrant values, formulating the majority's needs and desires in such a way that they cannot in principle be generalized in terms of political norms that include the immigrants, and other such practices prevent the notion of the general good from being articulated. Rousseau's condition of legitimacy allows one to be outvoted and still governed legitimately only when all those who are affected by the legislation voted in their public-minded state oriented toward the general good. Individuals, if they care about legitimacy, care about the truth of their ideal of the general good. Both minority and majority would need to responsibly question their views (and if they think they are still right they may work to change the opinion of others).²⁹ It seems that the best model for immigrant accommodation to follow is to make sure that decisions on the

character and dominant values of the public sphere are not based on “private” and “corporate” interests but allow all in this sphere to participate. Thus, immigrants need to be given a chance to become “one of us” through participation.

Let us consider the problem of accommodating Muslim immigrants. As reported by Modood et al., the question of successful integration of Muslim immigrant minorities in Europe has been complicated by the perception, by the citizens of many host states, that Muslim demands are culturally unreasonable and theologically alien. The successful integration of immigrants into their host societies will depend on how the public political sphere is managed by the corresponding political communities, which ought to include immigrants. Considering practicing Muslims as an un-liberal other in shaping state policy is unhelpful for fostering an effective group agency inclusive of all.³⁰ If a state continues to hold this view, it can try to guarantee the right of exit for members, but there still ought to be the parameters of inclusion in the host community for those who do not wish to exit. Modood, Triandafyllidou and Zapata-Barrero argue that Islam as one of the cultures in the territory of the EU pressures Europeans to rethink what they take for granted: their secularism. The process of integrating Muslims ought to include the realization by the citizens of the host states that they need to examine whether secularism really characterizes European societies given their present religious and ethnic makeup, and what versions of secularism are still viable.

While political unity connected to the ideal of maintaining effective group agency within the borders of the state is possible without extensive cultural unity, it is not possible without groups with different “corporate” cultural interests treating one another with respect. They need to learn about one another’s practices, listen to one another’s demands and try to persuade one another by reference to what they share--the goal of legitimacy. For example, Bhikhu Parekh argues that the British definitions of equality and racism for a long time weren’t adequate to include Muslim immigrants. He points out that Muslims in Britain weren’t properly protected and accommodated when considered as a racial and not a religious group.³¹

Offering inclusion into the public sphere on the terms immigrants consider unacceptable because they do not identify with the way their values are incorporated is not conducive to the generation of the notion of the general good capable of grounding the legitimacy of political decisions. Both receiving and immigrant citizens in this case simply fail to be “public-minded” in the right way. Moreover, the presence of a dominating type of citizenship has been known to lead to conflicts with immigrants. Modood et al. suggest that the discourse and policies of European societies are biased toward secularism: being European is not a universal civilization it needs to accommodate its Muslim citizens who did not participate in the history of the separation of state and church in their host countries, but who are now their established citizens and emerged in the public sphere of the West through the demand for recognition and institutional representation.³² On the other hand, if, in a secular society, certain groups of immigrants prefer to reason about political matters in religious terms, it may be hard, from the point of view of a secular citizen, to have a shared public discourse. What needs to be done for a chance to foster the general will, is to allow the secular citizen to consider the religion in question as a value shared by some fellow-citizens, just as secularism is by others, and entertain possibilities of mutual accommodation on the terms safeguarding the spirit of liberal democratic equal recognition.

Summing up, the question of accommodating immigrants from cultural heritages and religions distinct from the mainstream poses challenges to the notion of the moral foundations of a political organization and related social arrangements. Rousseau's notion of legitimacy based on the general will teaches us that if a moral foundation of a political order is to be found for a multicultural society, this society needs to pay attention to immigrants' cultural and religious sensibilities. Seeing migrants as objects of politics and not participants pitches an immigrant practice or culture against the body politic and turns the interests of the immigrant and the community into corporate or private interests. This withdraws the interaction from the sphere of the general will and thus undermines the moral grounding for legitimacy in a liberal democracy.³³ Considering the membership in a group agent as "plural 'us'" improves chances of the proper grounding of political institutions.

c. Cases of double allegiance

Providing basic equality of membership seems harder when we deal with double citizenship or with immigrants whose identity is tied to those group agents outside the borders of the state that are referred to as "enemy" in the public sphere and against whom the state undertakes belligerent actions.

What would be a just treatment of immigrants in this case in light of the international aspect of the host state's relation to their country of origin or a group with which they identify? For example, one complexity of Muslim immigrant identity based on their religion may be that they may have harder time integrating because of their allegiance to the universal *Ummah*.³⁴ Indeed, it is sometimes claimed that this allegiance may conflict with their citizenship inclusion in their host state. The question of allegiance to multiple group agents places individual identities in the international context: an additional dimension, the relationship between the corresponding groups agents, is introduced into the context of the individual inclusion into their host society. This complication shows that international standing and behavior of a people are important for the accommodation of its immigrant citizens.

Due to the very nature of self-determination as the ability to be entirely determined by the condition of the group's internal life, self-determining political agents, such as nation-states, tie the constitutive features of their internal organization to their relations with other international agents. They also define their membership and intentions in part in connection with the boundaries and intentions of other group agents, surrounding and distant. Thus, it would be only natural for a host state to explicitly define its internal policies towards immigrants' accommodation within the context of the mutual international standing and relations between the corresponding group agents. The intersection of internal and international domains is important for immigrants whose identity and values are tied to the country of origin or a cross-national group.

If individuals end up with politically or normatively conflicting group membership, there does not seem to be avoiding taking sides, but I believe that in such cases the general will can in principle be formed. The immigrants and their host society, in the enlarged view of politics, can formulate a view of the general good that incorporates the immigrants' present standing in the context of a just (even if hypothetical) international treatment of their group agent of origin. Thus the problem of conflicting political identities tied to multiple group membership receives a normative grounding for its resolution. Admittedly, this advances real-life solutions to such controversies only tentatively and partially, because the

general will does depend to a great extent, as Rousseau would admit, on the art of politics. However, acknowledging the importance of tying the immigrants' relation to their host states to the relations between the host state and the country of origin or a cross-national group with which the immigrant identifies provides ample ground for public deliberation and participatory inclusion of immigrants. The norm articulated on the basis of my approach is that if an immigrant citizen is not excluded in the political sphere of the receiving country, this country treats or aspires to treat the country or group of the immigrant's origin justly in the international arena. Moreover, what emerges as the general will of the receiving country will designate the right side in the conflict only if the behavior of the host group agent is internationally just.

Adding this international dimension to immigrants' inclusion into their host states does not condone disruptive behaviors on behalf of immigrants, both in terms of their affirmation of their identity regardless of the preferences of others and in terms of the disagreement with the policies of the host state towards their country of origin. There are limitations on what immigrants can claim as their entitlements in the public sphere because they, too, are governed by the notion of the general good and have to take into consideration the values of others. To protect the general good, the state can take action against disruptive members, provided the general good is articulated correctly. For example immigrants cannot demand that Islam should be a dominant religion in the country or that the freedom of expression should be abolished. Everyone has to adjust their demands on other parties in the process of their participation in the shared public political culture, formulating them so that they can in principle be accepted by other members in the same group agent of the larger state. Having a dominant religion or abolishing the freedom of speech are not the features the political culture of a liberal democratic state can countenance and still support a continuing existence of its national group agency. Or, the goal of destruction of the host group agent is not an acceptable value that can be accommodated in its political culture, except in cases of voluntary and peaceful dissolution of the state. My approach also does not suggest that a just peaceful treatment can always be found toward an unjust and oppressive state of origin. Moreover, an oppressive regime may not even unquestionably qualify as a group agent and thus a subject for fair treatment.

To conclude, Rousseau's view of legitimacy can inform immigrant inclusion in multicultural liberal democratic states if complemented with the account of group agency based on political culture practiced by all as the basis of national unity. We do not need to consider one's identification with the whole of culture as a condition of participation in the country's political life, simply because there may be no "whole of culture" in a pluralist society. The only inner affirmation Rousseau's approach would require for a sufficient approximation of legitimacy in the political space of a state is the commitment to the general good understood as the continuing effective existence of the group agent associated with self-determination within a given set of boundaries and conforming to liberal democratic tradition, but not to a historically rigid set of norms.

Notes

- ¹ Ruth Rubio-Marin, *Immigration as a Democratic Challenge: Citizenship and Inclusion in Germany and the United States* (Cambridge: Cambridge University Press, 2000).
- ² Stephen Kershner outlines a number of arguments for the limitation of immigration in “There is no moral right to immigrate to the United States,” *Public Affairs Quarterly*, Volume 14, Number 2, April 200, pp. 141-158.
- ³ Ronald Dworkin, *Law’s Empire* (Cambridge, MA: The Belknap Press, 1986), Ch. 7.
- ⁴ Richard Nordahl, “Rousseau in Dworkin: Judicial Rulings as Expressions of the General Will,” *Legal Theory*, 3 (1997), pp. 317-346 at p. 335.
- ⁵ David Miller, “Immigrants, Nations, and Citizenship,” *The Journal of Political Philosophy*, 2007, doi: 10.1111/j.1467-9760.2007.00295.x, p. 5.
- ⁶ The cultural transformation of Quebec after the quiet revolution is one good example of how a culture can undergo a radical change while the national group agent continues to exist.
- ⁷ Samuel Scheffler, “Immigration and the significance of culture,” *Philosophy and Public Affairs* 35, no. 2, Spring 2007, pp. 93-125, at p. 114.
- ⁸ See, for example, Shelley Wilcox, “American Neo-Nativism and Gendered Immigrant Exclusions,” in *Feminist Interventions: Feminist Ethics and Social Theory*, eds., Andrew, Keller and Schwartzman (Rowman and Littlefield, 2005), pp. 213-32.
- ⁹ This example is suggested by Hannah Weinstein, personal communication.
- ¹⁰ Jean-Jacques Rousseau, “On the social contract,” in *The Basic Political Writings* (Indianapolis: Hackett, 1987), Book II, Ch. 3, p. 156.
- ¹¹ *Ibid.*, p. 155.
- ¹² Rousseau, Book II, Ch. 4, p. 158.
- ¹³ Robert A. Dahl, *Democracy and Its Critics* (New Haven: Yale University Press, 1989), pp. 97-99.
- ¹⁴ Rousseau, Book II, Ch. 6, p. 162.
- ¹⁵ Rousseau, Book I, Ch. 6, p. 148.
- ¹⁶ W. T. Jones, “Rousseau’s General Will and the Problem of Consent,” *Journal of the History of Philosophy*, vol. 25, January 1987, pp. 105-130 at p. 122.
- ¹⁷ Rousseau, Book II, Ch. 3, p. 155.
- ¹⁸ *Ibid.*, Book II, Ch. 4, p. 158.
- ¹⁹ *Ibid.*, Book II, Ch. 11, p. 171.
- ²⁰ *Ibid.*, Book III, Ch. 2, p. 177.
- ²¹ *Ibid.*, Book I, Ch. 7, p. 149.
- ²² Shelley Wilcox, “Culture, National Identity, and Admission to Citizenship,” *Social Theory and Practice*, Vol. 30, No. 4 (October 2004), pp. 559-582.
- ²³ Scheffler, p. 112 and p. 115.
- ²⁴ Joseph Heath, “Immigration, Multiculturalism, and the Social Contract,” *Canadian Journal of Law and Jurisprudence* (1997) 10, pp. 343-361.
- ²⁵ Hassan Bousetta and Dirk Jacobs, “Multiculturalism, citizenship and Islam in problematic encounters in Belgium,” in Tariq Modood, Anna Triandafyllidou, Ricard Zapata-Barrero (eds.), *Multiculturalism, Muslims, and Citizenship* (London: Routledge, 2006), pp. 23-36 at p. 29.
- ²⁶ Rousseau, Book II, Ch. 5, p. 156.

²⁷ Werner Schiffauer, “enemies within the Gates: the debates about the citizenship of Muslims in Germany,” pp. 116 in Modood et al.

²⁸ Ibid., p. 12.

²⁹ The prevalence of prejudice is wrong, according to Rousseau, and he admits that when the people cannot discern the general good, the legislator should step in and bring a certain formulation of the law to the table.

³⁰ Per Mouritsen, “The particular universalism of a Nordic civic nation,” pp. 70-93 in Modood et al, at p. 87.

³¹ Ibid, p. 3.

³² Modood, Triandafyllidou and Zapata-Barrero, “European Challenges to multicultural citizenship: Muslism, secularism and beyond,” pp. 1-22 in Modood et al, at pp. 18-19.

³³ Shiffauer, p. 95.

³⁴ On Islam and nationalism see Ernest Gellner, *Nations and Nationalism* (Ithaca, NY: Cornell University Press, 1983), pp. 75-87.