

# Illiberal practices of liberal regimes



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**Should liberal societies tolerate illiberal practices? Discuss with reference to Kukathas.**

Most liberal democracies would claim to be liberal societies with hardly any or no restriction on liberal practices such as freedom of speech, freedom of religious belief, or freedom of information. However, not all of the liberal societies have the same levels of illiberal practices potentially restricting the freedom of their citizens. Liberal societies need to consider whether they should tolerate illiberal practices for various pragmatic and theoretical reasons. Not all of the liberal societies are the same and therefore tolerate different levels of illiberal practices. The level of illiberal practices that liberal societies will tolerate can depend, as will be discussed, on whether there are threats to those societies than can justify illiberal practices being used to safeguard those liberal societies from greater damage. Alternatively, toleration of illiberal practices depends on whether any particular liberal society sees a need to intervene when other liberal societies would not. The following discussion, as to whether liberal societies should tolerate illiberal practices, is with reference to the arguments of Chandran Kukathas in the ‘ Liberal Archipelago’ and his other works. Kukathas and his work have aroused controversy especially with regard to whether minority groups should receive extra protection or special treatment in liberal societies, for instance being able to educate their children in separated schools.

Discussions of liberal societies have shifted in emphasis to pluralism and whether it should be promoted or not. That change of emphasis from past debates occurred due to a greater recognition of the increased diversity in multicultural societies and the increased social conflicts or disagreement that can entail.

No liberal society is free to operate without restraints, whether those are legal restraints or illiberal practices that have evolved over time or have been applied upon an ad hoc basis. Liberal societies have to find a balance between the greatest amount of freedom for every individual within those societies with the need to maintain stability plus law and order. Liberal democracies are regarded as the best form of state that allows liberal societies to flourish with the least number of illiberal practices (Comfort, 1993 p. 345). Kukathas himself contends that although not perfect in practice that 'democratic states have been kinder and gentler rulers' (Kukathas, 2003 p. 195). A problem with the toleration of illiberal practices is that people's definitions of illiberal practices differs widely and is entirely subjective. The illiberal practices of some people are the necessary and common sense measures advocated by others to maintain law and order. Liberalist measures do not even have to be introduced by liberal societies, for instance Russia, France, and Prussia in the 18<sup>th</sup> century or present day China have adopted economic liberalism without lessening the authoritarian grip of the state (Held, 1996 p. 70). The acceptable level of illiberal practices tolerated in liberal societies is dependent on how much interference from the state in the political, economic and social spheres of societies is considered justified. Liberalism as a political, economic and social concept had evolved and changed over the centuries. Liberalism has been subject to changes and trends just like the other ideologies such as socialism and conservatism. In its original guise liberalism called for the minimum amount of state interference as possible in social and economic affairs. Liberalism contends that states were only needed to ensure that people had basic legal rights and that the property of the wealthy or businesses was protected. This

classical liberalism was linked to the political ideas of John Locke and the economic liberalism of Adam Smith amongst others. Kukathas finds Locke's views appealing, as Locke was a strong supporter of religious toleration and freedom of conscience (Held, 1996 p. 70).

Classical liberalism stresses the freedom of individuals to do what they like, when they like and be free to use their money and their property as they like. New liberalism, which developed towards the end of the 19<sup>th</sup> century, stresses the importance of society and the role that the state has in providing welfare as well as promoting equality. Adherents of both types of liberalism claim that their form of liberalism is the true form, making the other redundant. Classical liberalism gives a greater scope for the acceptance of illiberal practices as it stresses minimum state intervention. On the other hand, new liberalism is more likely not to tolerate illiberal practices, particularly if those practices prevent welfare provision and social equality (Schumpeter, 1954 p. 394).

Aside from maintaining law and order plus preventing the poorest starving to death, no illiberal, or for that matter well-intentioned liberal practices, were to be tolerated, that was the belief at the centre of classical liberalism.

Liberal societies emerged at different times and at different rates. Economic liberalism often emerged before political and social liberalism. This would explain how illiberal societies could embrace economic liberalism without embracing political and social liberalism. From the 19<sup>th</sup> century a more proactive form of liberalism termed new liberalism emerged that intervened in societies to tackle social and economic problems such as basic levels of

welfare provision. As the 20<sup>th</sup> century progressed liberal societies embraced further interventions to ensure full employment and to counter social issues such as race and gender discrimination. The issues of diversity and multiculturalism have changed the debates over the illiberal practices that liberal societies should tolerate. These issues have added complexity as to how illiberal is defined and whether some groups should have their illiberal practices tolerated to further diversity or whether no illiberal practices should be tolerated from any group (Bellamy in Eatwell & Wright 2003 p. 33). The post-war consensus on high spending liberal democracies with ever expanding social and welfare provisions, with an increasing emphasis on the pluralist nature of liberal societies was challenged by neo-liberals such as Fredrich von Hayek and John Rawls. It was such views that had a strong influence upon Margaret Thatcher and Ronald Reagan (Bellamy in Eatwell & Wright, 2003 p. 39). Hayek and Rawls have also proved influential on Kukathas' ideas concerning liberal societies tolerating illiberal practices. Rawls believes that economic liberalism needs to be combined with social justice. It is Rawls later works that interested Kukathas the most as Rawls displays libertarian views that he shares with Kukathas. Rawls thought that distinct ethnic or religious groups should receive differing levels of toleration depending "on the extent to which they can be allowed an equal place within a just system of liberty" (Rawls, 1993).

Kukathas himself is an advocate of classical liberalism where state intervention is kept to the lowest possible minimum rather than later versions of liberalism in which the state intervenes more frequently to achieve set economic, social, and political aims. Kukathas has provoked

debate by stating in his works that the states of liberal societies should not even intervene to promote the interests of minority ethnic or religious groups, liberal societies should only permit the toleration of these groups. Kukathas believes that the toleration accorded to such groups should not be dependent on how liberal the internal practices of such groups are. Once groups have received toleration then they can run themselves as they please as long as they are not breaking any laws. If any individual members of these groups are unhappy then they should not look to liberal societies to help them, all they need to do is leave their particular group. Liberal societies should not promote the interests of any groups ahead of all the groups, or any particular sector within society no matter how well intended its motives are, also they should not make such treatment conditional. Toleration is beneficial to the whole of society; special treatment for individuals and groups is not. Discrimination in favour of certain groups does not benefit them in the long term and is harmful to society (Kukathas, 2003 p. 5). Kukathas regards all groups that form voluntarily to be enhancing liberal society, which includes those with illiberal practices. States are the main actors that threaten liberal society when they restrict such groups. The illiberal practices of these groups might not be illegal activities and whilst they remain within the law, no action should be taken against such groups. The motivations for such groups to form can be due to a sense of being different from the rest of society. If liberal societies are truly open and democratic, then they should accept that some people are opposed to the majority of the populations' beliefs and behaviours. For people that wish to safeguard their diversity forming separate groups is a means to live how they want to live. To such groups illiberal practices are a way of maintaining

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their distinctiveness from the rest of their society. Groups may also believe that their illiberal practices are not illiberal at all and can be justified as part of their culture and beliefs (Kukathas, 2003 p. 36).

There is one freedom that Kukathas believes that liberal societies should promote above all other freedoms and rights, which is freedom of conscience. Freedom of conscience is so important for the proper functioning of liberal societies that these societies should be prepared to tolerate illiberal practices to ensure that freedom of conscience is maintained for the maximum number of people and groups within each liberal society. Allowing freedom of conscience is perhaps the best way of achieving and maintaining a diverse and multicultural liberal society. Governments should not intervene in the internal matters of illiberal groups to remove their illiberal practices. If illiberal practices are based upon the freedom of conscience of individuals or groups then liberal societies should tolerate such practices. If individual members of such groups change their opinions and no longer accept the group's ideological or religious viewpoints then they can leave the group. As long as individual members are free to leave, then there are no reasons to end the illiberal practices of such groups (Kukathas, 2003 p. 36).

Kukathas does admit that some members of these groups may find it more difficult to leave than others could, for instance women and children. Women in such groups may face disadvantages such as being unable to support themselves outside of their groups through lack of education and skills. Groups may also be difficult to leave because they use propaganda to persuade doubters to remain or intimidate members into staying within the group. Kukathas again argues that liberal societies should tolerate those

illiberal practices if groups ultimately allow members to leave them. As soon as illiberal practices become life threatening to members that wish to leave then it is appropriate for liberal societies to stop tolerating illiberal practices. Therefore, state intrusion into the illiberal practices of groups should be a last resort rather than undertaken lightly or with little respect for their freedom of conscience and association (Kukathas, 2003 p. 107). Kukathas contends that there are two main types of religious or social groups. There are those groups that are a 'Union of Liberty' and those groups that are a 'Federation of Liberty'. States are less likely to intervene in the affairs of the Union of Liberty groups than they are to intervene with a Federation of Liberty group. Groups that are a Union of Liberty type are less likely to have illiberal practices, whilst members are more likely to be able to leave these groups without any obstructions. In contrast the groups which are Federation of Liberty type are more likely to have illiberal practices and are more likely to prevent members leaving their fold. The Union of Liberty groups are more likely to have a strategy over shared property rights and the rights of children to leave their membership, as the parents chose to join and the children did not (Kukathas, 2001 p. 43).

When liberal societies opt to tolerate social and political freedoms such as freedom of religion and conscience they are voluntarily restricting their rights to intervene in the internal affairs of political or religious groups. However, the rights of states to intervene to restrict such freedoms still remain. The rights to intervene and therefore no longer tolerate illiberal practices can be used if or when groups abuse their freedoms to abuse



others. Such views are put forward by those that disagree with Kukathas' willingness to tolerate more illiberal practices rather than less.

Kukathas' views on pluralism and multiculturalism plus whether illiberal practices should be tolerated have been criticised by many contemporary liberal writers and academics. Those that argue against Kukathas' views on tolerating illiberal practices most notably include Will Kymlicka. Kymlicka contends contrary to Kukathas that liberal societies are justified in denying toleration to ethnic or religious groups that have an illiberal or authoritarian hold over their members. Kymlicka sees that the majority of liberal societies tolerate illiberal practices not through choice but because of their benign negligence. Kymlicka views the tolerance of illiberal practices in liberal societies as being undesirable, especially when that the freedoms of individuals are subordinated to the freedoms of the illiberal groups that they belong to (Kymlicka, 1995 p. 239). Liberal societies should not have to tolerate illiberal practices especially when these societies have the ability to stop such illiberal practices at any point they wish to. Liberal societies should certainly end illiberal practices before the freedom and the safety of group members is at risk. Freedom of conscience should not be given priority over freedom of association or speech. At no point should liberal societies decide to place freedom of conscience above the personal safety of any of its citizens. Whilst the state in liberal societies should not have to decide on whether groups should allow their members to leave, the state does have a duty to uphold law and order or public safety or if they are under actual or potential threat. Kymlicka argues that illiberal practices are easily recognisable. Illiberal practices occur when groups “ simply assign particular

roles and duties to people, and prevent people from questioning or revising them” (Kymlicka, 1995 p. 94).

Brian Barry is another critic of the concept that liberal societies should accept or tolerate illiberal practices. Barry is arguing from a different viewpoint than Kymlicka when he criticises Kukathas for proposing that liberal societies should tolerate illiberal practices. Unlike Kymlicka, Barry is not a strong advocate of multiculturalism. In fact he argues that multiculturalism can introduce illiberal practices in to liberal societies that should not be tolerated. The basis of his arguments against the illiberal practices linked to multiculturalism are that minority ethnic and religious groups should not be allowed to exclusively educate their own children. For if these groups educate such children then they may not learn about equality and political moderation. If not monitored groups educating their own children can pass on religious and political extremism on to them. The governments of liberal societies have shown most concern over Islamic schools and the perception that they will increase illiberal practices. Muslims argue that their children are not catered for in non-Islamic schools. For instance, Britain has not provided public funding for Islamic schools, although it does for Christian and Jewish schools. In Northern Ireland, separate Roman Catholic and Protestant schools have arguably helped to maintain the sectarian divisions. By contrast, the French have kept their schools strictly secular since the revolution and will not tolerate Muslims (or any other religious group) trying to bring religious elements into schools. Education is a vital area to consider when it comes to deciding if liberal societies should tolerate illiberal practices. Therefore, deciding what should

or should not be permitted and taught in schools is a highly contentious area. In the wake of the 9/11 attacks there has been a closer scrutiny of the education that Muslims receive in schools and mosques and whether tolerating illiberal practices is good or bad for the security of liberal societies (Barry, 2001).

Therefore, to some extent liberal societies should tolerate illiberal practices with certain limitations to operate. Liberal societies have to maintain a balance between all the individuals and groups within them. A Liberal society usually attempts to give individuals and groups as much freedom as possible, which is what distinguishes liberal societies from illiberal societies. It should be remembered that illiberal practices are not necessarily illegal and that the state will not intervene if groups with illiberal practices keep their activities legal. Liberal societies tend to tolerate as much as they can. Toleration though has limits. Liberal societies will not tolerate illiberal practices that threaten the safety of individuals or that risk breaking down law and order or inciting violence between groups on racial, ethnic or religious grounds. There are political, social and philosophical arguments as to why illiberal practices should or should not be tolerated. Kukathas' strongest arguments in favour of tolerating illiberal practices is that allowing individuals or groups freedom of conscience is more important than the liberal or illiberal nature of their practices. For Kukathas toleration is the key to achieving a well- balanced diverse multicultural liberal society. Toleration is more important than making special provisions for minority groups, which are discriminatory and counter-productive. Critics of Kukathas counter his arguments by stating that liberal societies should not tolerate any illiberal

practices that restrict the freedom of individuals, especially if such illiberal practices place people in danger. Much of the debate between Kukathas and his critics hinges around the rights of individuals to leave groups with illiberal practices. The thorniest issue regarding individuals leaving groups is whether children have to remain in these groups even when they did not chose to join in the first place. Kukathas contends that groups should be tolerated as long as members are free to leave. Critics of Kukathas believe that groups with illiberal practices should change those illiberal practices or at least guarantee that members can leave whenever they want to before they are tolerated within liberal societies. Critics of groups with illiberal practices point to the problems that members of these groups can face, such as not been educated, being educated with extremist views, being physically and mentally abused or simply forced to stay in these groups. Governments should not stand by and let those things happen if they can be prevented. The arguments over the toleration of illiberal practices in liberal societies have been brought in to greater focus in relation to issues concerning religious and political extremism, particularly in relation to Islam. The dividing lines between promoting diversity and multiculturalism on the one hand or appeasing to illiberal and possibly illegal practices can be blurred.

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