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MULTICULTURALISM AND ACCOMMODATIVE LIBERALISM REVISITED

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In an earlier volume, I argued that state policies based on ethno-racial essentialism were undesirable and that *accommodative liberalism* provided a commendable alternative, enabling states to take seriously the need for ethnic groups to protect their cultural institutions and respective identities without resorting to essentialist assumptions. These arguments have since been subject to critical scrutiny by Lim Chin Leng in his essay, "Multicultural Constitutionalism." I respond to Lim's criticisms, arguing: (a) that accommodative liberalism takes group rights seriously and does not collapse into atomistic individualism; (b) that accommodative liberalism can protect group rights without resorting to essentialist assumptions; and (c) that despite its parochial origins in western political thought, accommodative liberalism does have something to contribute to the wider debate about multicultural policy, even in Southeast Asia. Accommodative liberalism, I argue, represents a plausible attempt to construct a "big tent"—a flexible approach to pluralism and tolerance in diverse societies.

I. INTRODUCTION

In an earlier volume of this journal, I reflected on the impact of the tragic events of September 11 on the trajectory of the legal-political landscape in Singapore and Malaysia, paying particular attention to its implications for ethnic relations and governance.[1] One of my main arguments was that policies based on ethno-racial essentialism, the idea that a person's ethnicity or race is a fundamental and "fixed" or inescapable aspect of one's identity,[2] were undesirable in these two ethnically diverse nations and that one strand of contemporary liberal thinking—accommodative liberalism—provided a commendable alternative, enabling states to take seriously the need for ethnic groups to protect their cultural institutions and respective identities without resorting to essentialist assumptions. Modern accommodative liberalism, I argued, "may well be attractive … as it adopts a steady course between community and individual autonomy, tradition and modernity, and particularism and universalism."[3] These arguments have since been subject to critical scrutiny by Lim Chin Leng in his essay, "Multicultural Constitutionalism."[4] Specifically, Lim argues that what he perceives (mistakenly) as my "colour-blind" approach

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1 Victor V. Ramraj, "The Post-September 11 Fallout in Singapore and Malaysia: Prospects for an Accommodative Liberalism" [2003] Sing. J.L.S. 459.

2 *Ibid*. at 464.

3 *Ibid*. at 475.

4 Lim Chin Leng, "Race, Multi-cultural Accommodation and the Constitutions of Singapore and Malaysia" [2004] Sing. J.L.S. 117.

to multiculturalism does not take seriously the constitutional histories of Singapore and Malaysia and their particular needs for group-based identity. And he questions whether "liberal axioms from on high"[5] are of any relevance to Singapore and Malaysia.

The first challenge in responding to Lim's article is separating his misunderstandings of my arguments from his legitimate criticisms of them. I therefore begin this essay by setting the record straight, for much of the disagreement here is more apparent than real. There is, nevertheless, a significant area of genuine disagreement between us concerning the ability of modern accommodative liberalism to provide an answer to the needs of diverse societies, and my second task is to answer Lim's criticisms in this regard. And so I shall chart what I take to be the essence of our disagreement, identifying and buttressing Lim's arguments, before seeking to rehabilitate accommodative liberalism as a compelling approach to constitutional law and governance in multicultural societies. Specifically, the essence of our disagreement is about: (a) whether accommodative liberalism takes group rights seriously (I argue that it does, and that it does not collapse into atomistic individualism); (b) whether accommodative liberalism can protect group rights without a very healthy doses of essentialism (again, I argue that with some work, it can); and (c) whether liberalism is a parochial theory, with little to contribute to a debate on multicultural policies in Singapore and Malaysia (I argue that it is not, despite its origins in western political thought). Although accommodative liberalism as a political theory is still evolving, its attempt to reconcile group identity and individual autonomy represents a plausible attempt to construct a "big tent"[6]—a flexible approach to pluralism and tolerance in diverse societies.

II. Some Important Clarifications

Broadly speaking, accommodative liberalism represents a body of scholarly writing (including, for instance, the writings of Will Kymlicka[7] and Ayelet Shachar[8]) and constitutional jurisprudence (in Canada and South Africa, for instance) that grapples with the applicability of liberal concepts to diverse societies. It is a strand of contemporary liberal thinking that seeks to reconcile the legitimate demands of cultural or religious groups for recognition and protection within a modern constitutional framework premised historically on individual constitutional rights. Against this backdrop, Lim charges that accommodative liberalism advocates a "colour-blind" and formalistic approach to "race" rooted in the American constitutional notion of strict scrutiny, which marginalizes the way in which individuals identify and perceive themselves as being part of the group. On all three of these counts, however, Lim has attributed to accommodative liberalism, and my account of it in particular, propositions which the theory neither endorses nor implies. In fact, his interpretation

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5 *Ibid*. at 132.

6 I borrow this image from H. Patrick Glenn, whose recent work on comparative law, as I shall explain later, is extremely instructive: see H. Patrick Glenn, *Legal Traditions of the World: Sustainable Diversity in Law* (New York: Oxford University Press, 2000) at 302, 331.

7 Will Kymlicka, *Multicultural Citizenship* (Oxford: Oxford University Press, 1995).

8 Ayelet Shachar, *Multicultural Jurisdictions: Cultural Differences and Women's Rights* (Cambridge: Cambridge University Press, 1995).

of what I have argued amounts in some cases to attributing to me arguments that are the converse of the arguments that I explicitly make.

A preliminary point about methodology is in order. Lim's approach is a self-constrained one which purports to "attend to the constitutional bounds of policy"[9] and to take the constitution and its interpretation as a given. He argues, for instance, that my approach must "square" with the specific provisions in the constitutions of Singapore and Malaysia respectively.[10] In so doing, he adopts a particular methodological approach—a *doctrinal* approach—that assumes that constitutions are more or less fixed and resistant to interpretation or change.[11] But my approach was and remains a *normative* one, aimed at articulating what the constitution ought to do (to articulate and implement an accommodative liberal approach), not how it is currently understood. While I acknowledge that socio-historical circumstances do, and in some circumstances should, constrain the interpretation of a constitution, this in itself is not an argument for essentialist thinking in constitutional law. So with this preliminary point aside, I return to three specific points of clarification.

A. *Accommodative Liberalism is Neither Colour-Blind nor Formalistic*

Lim says that my approach "involves assumptions of official neutrality that are akin to a discredited colour-blind formal neutrality in constitutional thought."[12] But the approach I defend is neither colour-blind nor formalistic and I agree that such an approach to rights can be deeply problematic. I have much sympathy for the concerns of critical legal scholarship and radical feminist writing that seek to show how facially neutral legal rules in practice tend to support the interests of and perpetuate the dominant position of the socio-economic elite or, argues Catherine MacKinnon, of men.[13] Similarly, Kymlicka, who defends a version of accommodative liberalism, is equally skeptical of the ability of the state to remain neutral and offers his multicultural theory in response.[14]

So contrary to Lim's reading of my article, I too am uncomfortable with liberal neutrality.[15] There is an important role for non-neutral policies catered to the social

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[9] *Supra* note 4 at 117.

[10] *Supra* note 4 at 120.

[11] Lim puts the point thus (*supra* note 4 at 121): "I do not want to say here that such constitutional terms are immutable, but it would be a grave neglect if greater attention were not paid to the actual and historical significance of this aspect of the Malaysian *Constitution* [concerning the special provisions relating to Malays], and the sensitivities therein involved."

[12] *Supra* note 4 at 118.

[13] See, for instance, Catherine A. MacKinnon, "Difference and Dominance" in *Feminism Unmodified* (Cambridge, MA: Harvard, 1987).

[14] *Supra* note 7.

[15] I concede that at one point in my discussion of liberal views of state support of cultural institutions (*supra* note 1 at 476), I might have put my point too strongly. There I suggested, referring to Kymlicka, that for liberals, state "support for cultural institutions must be provided to protect vulnerable cultural institutions in a non-evaluative way." This somewhat anomalous point can be contrasted with the balance on the discussion, where I argue that modern liberalism has moved away from *formal* neutrality and supports measures needed to reduce group vulnerability and promote *substantive* equality (at 476-78). As this paper argues, this latter point is the core of accommodative liberalism. However, as I shall suggest below, there remains an important role, *wherever possible*, for facially neutral policies that are nevertheless aimed at alleviating group-specific concerns as a means of avoiding the dangers of essentialism. So, for

and historical circumstances of particular nations. What I want to do, however, is to acknowledge the importance of group rights, while rejecting essentialism as far as possible; to think that the one (group rights) necessarily entails the other (essentialism) is to misunderstand and simplify the matter. It may well be true that "solutions requiring State intervention must be group-based,"[16] but this doesn't mean that they *must* contain essentialist premises. Lim himself alludes to the group-representation constituencies in Singapore, which seek to ensure a minimum level of political representation from minority communities, but which define minority representation in terms of "belonging to" and hence being accepted by the particular community (the Malay or Indian communities, for example) rather than in terms of race.[17] Providing for a minimum level of representation from minority communities represents a departure from liberal neutrality, but in a way that, by focusing on community acceptance rather than race, at least in this respect, largely avoids essentialism. But even where group-based policies do not avoid essentialist categories (as, for instance, in post-apartheid South Africa), such categories might be narrowly targeted and as permeable as possible, allowing individuals to opt out where benefits are conferred on the basis of, say, race.

B. *Accommodative Liberalism Rejects American Strict Scrutiny*

For reasons that elude me, Lim characterizes my approach as an American strict scrutiny approach and then proceeds to attack *that* approach to constitutional equality.[18] Under the strict scrutiny approach, the courts will "not accept every permissible governmental purpose as sufficient to support a classification" but will "independently determine the degree of relationship which the classification has to a constitutionally compelling end."[19] The way the Fourteenth Amendment has been interpreted, "laws that classify person on the basis of either their status as a member of a racial minority or on the basis of their national origin will be suspect and subject to this strict standard of review."[20] Lim seems to think that my criticism of Singapore's equality jurisprudence is that it does not automatically regard classifications based on race as "suspect" in the way that the strict scrutiny approach does. But this is not my argument at all.

My concern is rather that a formal approach to equality looks only at the rationality of the relationship between the governmental purpose and the classification in question without inquiring into the legitimacy of the governmental purpose in

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instance, measures aimed at reducing poverty in South Africa would mostly benefit black South Africans who, under apartheid, had suffered the most, though it might also benefit other groups. There is obviously more to be said on this point and I do not mean to say that group-specific measures are never required; my point is that we should not automatically rule out "facially neutral" measures as a means of addressing group-specific concerns.

[16] *Supra* note 4 at 145.

[17] The group-representation constituencies scheme is enshrined in *Constitution of the Republic of Singapore* (1999 Rev. Ed.), art. 39A(2)(a)(i) and (ii). See *supra* note 4 at 134 where Lim makes a slightly different point, namely that art. 39A does not conflate "Malay" with Muslim.

[18] *Supra* note 4 at 126*ff*.

[19] Ronald D. Rotunda and John E. Nowak, *Treatise on Constitutional Law: Substance and Procedure*, 2nd ed., vol. 3 (St. Paul: West Publishing, 1992) at 15.

[20] *Ibid*. at 16.

the first place. If anything, accommodative liberalism is closer to the substantive approach to discrimination articulated in the Canadian and South African jurisprudence, which takes a more purposive and contextual approach to equality,[21] acknowledging "the reality of present injustice, caused by past discrimination."[22] This approach acknowledges the socio-historical conditions under which systemic inequities develop and allows for policies aimed at the "amelioration of conditions of disadvantaged individuals or groups"[23] or, with the aim of promoting "the achievement of equality … measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination."[24]

Contrary to Lim's view, accommodative liberalism rejects American strict scrutiny with all of its formalistic conceptual baggage, and endorses instead a substantive approach to equality that takes systemic injustices seriously. But, again contrary to Lim's view, it does so while remaining deeply skeptical of essentialist policies amounting to an official imposition of identity on individuals or groups. How it attempts to do so is a matter that I return to below.

C. *Accommodative Liberalism Takes Group Self-Consciousness Seriously*

Lim thinks that I dismiss the significance of group self-perception and that I deny that personal identity is or can be bound up with the group. He refers to the social and political history of Malaysia to demonstrate that the Malay people perceive themselves as "one race, one blood, one descent and one religion"[25] and that this feeling of belongingness to the group may have well have factored in the original constitutional bargain in Malaysia, a bargain that must be taken seriously. I do not for a moment deny that *many*—perhaps even the vast majority—of Malays might think of themselves in this way. Accommodative liberalism does take group rights and group identity seriously. But I dispute Lim's assumptions as to the implications that this kind of group self-perception (which is not, of course, unique to Malays) has for essentialist thinking and essentialist definitions in a multicultural state. In my view, it is possible to acknowledge group rights and avoid a rigid essentialism without collapsing into atomistic individualism. In the next part I attempt to explain how.

III. Arguments and Responses

I do not mean to imply that Lim completely misunderstood my position and there are certainly some important criticisms in his article which call not for clarification

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[21] In the Canadian context, a claim of discrimination must be examined by the courts "in a purposive manner, taking into account the full social, political, and legal context of the claim": *Law v. Canada*, [1999] 1 S.C.R. 497, 170 D.L.R. (4th) 1 at 16, referring to *Andrews v. Law Society of British Columbia*, [1989] 1 S.C.R. 143, 56 D.L.R. (4th) 1. The Canadian jurisprudence is particularly sensitive to whether discrimination "in a substantive sense" is involved, taking into account the purpose of the s. 15(1) of the *Canadian Charter of Rights and Freedoms* equality guarantee in "remedying ills such as prejudice, stereotyping, and historical disadvantage" (*Law v. Canada* at 19).

[22] G.R. Devinish, *A Commentary on the South African Bill of Rights* (Durban: Butterworths, 1999) at 39.

[23] Section 15(2) of the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11.

[24] *Constitution of the Republic of South Africa 1996*, Act 108 of 1996.

[25] *Supra* note 4 at 124.

but for argument. Before I respond, however, I need first to reconstruct Lim's key arguments and objections and provide them with some more ammunition. Central to Lim's argument is his implicit claim that accommodative liberalism cannot deal with the complex nature of group identity because, in being anti-essentialist, it does not allow for formal recognition of the group. His argument brings together a number of inter-woven claims. First, he argues that according to accommodative liberalism, group rights are not inherently but only derivatively important. Accommodative liberalism thus collapses into orthodox, atomistic liberalism with all its attendant problems. Second, he argues that accommodative liberalism cannot protect group rights without (at the very least) a healthy dose of essentialism. Third, he regards accommodative liberalism as ultimately hegemonic (with its liberal axioms applied "from on high"[26]); it remains a parochial theory, with little to contribute to a debate on multicultural policies in Singapore and Malaysia. Now *these* are serious arguments which do seem to threaten the viability of an accommodative liberal theory. But they can be answered, and in this short essay I want to provide an outline of such an answer. I take each of the arguments in turn.

A. *A Middle Way between the Group and Individual?*

Lim's first argument is that accommodative liberalism has only a derivative theory of group rights and so collapses into orthodox, atomistic liberalism with all its attendant problems. Group rights, Lim argues, "are not simply to be tolerated by liberals because of the social ubiquity of group bonds, but group rights are interdependent upon individual rights not only in a derivative but fundamental way."[27] So the self-perception of the Malays, for instance, signifies something inherently significant in normative terms that cannot simply be accommodated under the rubric of liberal rights. For Lim, to "take the interdependence of individual and group rights seriously, or as being fundamentally important … is to accept that individual and group rights could genuinely conflict, and not that any conflict should simply be resolved by modified liberal axioms."[28]

Lim presents a stark choice: Choose the individual or choose the group. But why reject the possibility of a middle way? Indeed, a middle way is precisely what accommodative liberalism seeks. This effort is reflected in Kymlicka's approach to multicultural citizenship, which supports external protections—in the form of group-differentiated rights to, say, special group representation or some forms of self-government—intended to "reduce the vulnerability of minority groups to the economic pressures and political decisions of the larger society."[29] It is also reflected in Shachar's notion of joint governance, the idea that "both the state and minority groups have a legitimate interest in shaping the policies under which their citizens/group members operate."[30] For Shachar, political power is allocated as between the state and the cultural community in respect of a particular area, such as family law, in a

[26] *Supra* note 5.
[27] *Supra* note 4 at 131.
[28] *Supra* note 4 at 132.
[29] *Supra* note 7 at 38.
[30] *Supra* note 8 at 89.

non-exclusive way, opening "the door to newer, more complex, and more attractive possibilities for constructive dialogue between state and group."[31]

Yet Lim would presumably challenge both of these theories for their hidden individualist bias—for their "inability to account for [substantive justice concerns] without collapsing into the worship of individual moral self-authorship at the expense of societal group traits."[32] The answer to Lim's criticisms rests in the recognition that there are different ways of belonging and degrees of attachment to the group. While some might identify with the group as "one race, one blood, one descent and one religion,"[33] others might feel a weaker bond, feel ambivalent toward the group, or identify with more than one group in different ways and with differing intensities. So the problem with trying to force all of our policies neatly into individual-centric or group-based conceptual boxes is that they no longer reflect the complex reality of human experience.

Thus I contest Lim's assumption that we must either recognize group rights or protect individual rights. Accommodative liberalism can acknowledge the importance of "individual moral self-authorship"[34] without collapsing into atomistic individualism. Accommodative liberalism can, for instance, acknowledge the importance of group rights and substantive equality while maintaining a firm rights-oriented stand on matters of legal and political rights; it can advocate rights of exit or internal dissent for internal minorities while respecting and preserving group identity and group norms; and it can resist an individualistic understanding of rights while recognizing that strong legal and political rights are important to groups and individuals alike, as both have an interest in curbing the power of the state.

Of course, exit rights *are* controversial, particularly in Malaysia to the extent that they give rise to the sensitive question of whether apostasy should be enforced as a crime. Enforcing apostasy as a crime would sit uncomfortably with accommodative liberalism's recommendation to the extent that it seeks to protect the group while maintaining individual rights of exit. But where exit rights are lacking, there can still be considerable intra-group diversity and dissent as well, so to the extent that exit is impermissible, there may yet be considerable space for dissatisfied individuals or sub-groups or "internal minorities"[35] to develop in ways that diverge from the mainstream of the group.

B. *Accommodative Liberalism and Essentialism*

Let me return to my earlier point about the link between group rights and essentialism, for it is here that some of the key differences between Lim's view and my own begin to surface. Lim's second argument is that accommodative liberalism cannot protect group rights without resorting to essentialist policies. For Lim, there is a strong connection between group rights and essentialism; to address the systemic injustices

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[31] *Supra*, note 8 at 114.
[32] *Supra* note 4 at 148.
[33] *Supra* note 4 at 124.
[34] *Supra* note 4 at 148.
[35] See Leslie Green, "Internal Minorities and Their Rights" in Judith Baker, ed., *Group Rights* (Toronto: University of Toronto Press, 1994) at 101-117.

faced by groups, we must resort to essentialist categories:

> In a world where different groups are *generally* perceived to … do differently in life, possess equal strength, or where some groups could simply be in the minority, segregated from the mainstream, or marginalised in some other way, race-based policies may be required to structure preferences in favour of particular groups in order to rectify or prevent substantive injustice.[36]

Few, even traditional liberal theorists, would deny that some group-based policies (such as affirmative action) might be needed to correct past systemic injustices. Indeed, it is hard to imagine how a new South Africa could have emerged from decades of apartheid without the strategic use of some race-based policies to redistribute housing, education, and health care benefits. Yet even in such an extreme case of systemic injustice we might reasonably question how *deep* the essentialism should go before it begins to reify the very categories that contemporary South Africa struggled for so long to reverse.[37]

Lim seems to think that there is a necessary link between substantive equality and essentialism. As he puts it, "[p]rotecting disadvantaged groups may thus require resort to more-or-less essentialist definitions of race and violations of the associative rights of other groups."[38] But we need to tread cautiously here, since an all-embracing essentialism can be more damaging than it is ameliorative. To say that women, for instance, are essentially different from men, may be to affirm what women "have been *permitted* … as if it [were] women's, possessive."[39] To affirm and reify the characteristics of women under patriarchy is to affirm and reify the characteristics of the oppressed. The same goes for race. Essentialist definitions might be expedient in the short-term, but reified categories of race or gender (for instance) are not the only answer to distributive injustices in a diverse society. To the extent that non-essentialist policies are viable (using the criterion of poverty, for instance, to redistribute social benefits), they should be used.[40] But to the extent that we do use "more-or-less essentialist" policies, we must be sure that their strategic uses are apparent to all, that any extension of these categories is firmly and officially resisted, and that, in so far as possible, the categories themselves remain porous, with opportunities to opt out. It is one thing to have a narrowly-tailored affirmative-action type policy to address a particular concern, such as discrimination against particular groups in post-apartheid South Africa; it is quite another to have race used as part of a ubiquitous definition of persons or groups.

What I have the most difficulty with are not policies that recognize the importance of groups and the importance for many of being part of a group, but policies that try to homogenize and officially dictate identity—policies that attempt to deal with group differences by officially pigeon-holing individuals into pre-defined, homogenous groups with no exceptions, no internal diversity, and no flexibility. Groups are not homogeneous and the depth of individual attachment to groups varies

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[36] *Supra* note 4 at 145.

[37] I am grateful to Johan Geertsema for a stimulating discussion of the politics of identity and race in South Africa, which helped me to work through some of the arguments in this section.

[38] *Supra* note 4 at 145.

[39] Catherine A. MacKinnon, *Feminism Unmodified: Discourses on Life and Law* (Cambridge: Harvard University Press, 1987) at 39.

[40] See *supra* note 15.

immensely. And policies that assume otherwise are unfair and unstable—*unfair* because they suppress individuals and sub-groups or internal minorities within the largely minority group whose identity diverges from the dominant understanding; *unstable* because these individuals and sub-groups are coerced into conforming, thus breeding resentment and internal dissent.

So the dangers of essentialist definitions need to be acknowledged and addressed, even when they are used in a seemingly benign way, for reasons of expediency, to address pressing issues of distributive injustice. Accommodative liberalism acknowledges that group problems sometimes require group-based solutions, but the use of such solutions need not imply essentialism regarding race, gender, or otherwise. Even where policies are aimed not at correcting past injustices to groups, but at protecting cultural institutions or ensuring participation in public life, steps must be taken to ensure that any measures implemented in the name of the group avoid essentialist definitions as much as possible. As we have already seen, there is at least one example from Singapore of how this might be done, basing minority representation of a particular community on acceptance by a community rather than by race.[41]

C. *The Suspicious Pedigree of Accommodative Liberalism*

A third argument in Lim's article is that accommodative liberalism is not only hegemonic (with its liberal axioms applied "from on high"[42]) but parochial, with nothing significant to contribute to multicultural policy in Singapore and Malaysia. Lim is not entirely clear about this. For instance, at one point he seems to endorse C.V. Devan Nair's suggestion that in the face of declining traditional values, Singapore should inculcate "Singapore-centred humanistic values, drawing from the best and highest values of East and West,"[43] but elsewhere he stresses the "culturally-specific concerns"[44] of Singapore and Malaysia. In any case, whatever Lim's position might be, it is entirely reasonable to question whether a political theory with deep roots in Western political thought and legal traditions would have anything relevant to say about the diverse societies of Southeast Asia.

The answer to this important question lies, perhaps, in H. Patrick Glenn's treatise on legal traditions.[45] As with Lim, an important postmodernist theme in Glenn's work is the parochial nature of the western legal tradition. While "western thought has tended to the rational," Glenn wryly reminds us that "the rest of the world sees this as the leading characteristic of the western … *tradition*" and that others have "spoken, less charitably of a 'herd of independent minds'."[46] Does this mean,

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[41] *Supra* note 17 and accompanying text. Of course, this raises questions as to whether an ethnic community itself can be defined without reference to essentialist categories, but there are ways of defining the community in terms of, say, its objectives (e.g. promoting Chinese culture) other than by the racial composition of its members.

[42] *Supra* note 5.

[43] *Supra* note 4 at 140, referring to Nair's 1976 speech "Education for Survival" in his *Not by Wages Alone: Selected Speeches and Writings of C.V. Devan Nair, 1959-1981* (Singapore: Singapore National Trade Union Congress, 1982) at 282.

[44] *Supra* note 4 at 148.

[45] *Supra* note 6.

[46] *Supra* note 6 at 2 (emphasis added).

then, that accommodative liberalism, which traces it pedigree to parochial western thinking, has nothing to contribute to a discussion of multicultural policy elsewhere?

Glenn tells us that the major legal traditions have emerged precisely because they embrace a wide range of views, and in their "multivalent" complexity, he finds hope for peaceful co-existence:

> [The major legal traditions] are complex, not because they are tolerant, but because they build real bridges. They don't just tolerate, they accept, in spite of difference. They are genuinely multivalent in refusing to categorically condemn and exclude. They construct a middle ground for the tradition, one which allows ongoing reconciliation of its inconsistent poles, themselves taken as exclusive and categorical by those we designate as fundamentalists (of all traditions). The better notion seems to be one of interdependence, or of non-separation, and this emerges as the most fundamental idea in the existence of major, complex, legal traditions. It is the fundamental, underlying characteristic of multivalence… Complex traditions are therefore by their nature, and in their leading versions, non-universal and non-universalizing. They offer many grounds of accommodation with other complex traditions. The larger and more complex the tradition, the less dangerous it is for others. Fundamentalism is always, and necessarily, a limited phenomenon and a limited threat.[47]

Glenn is implicitly critical of western "universal rights" as "simply another form of universalizing the truths of a particular tradition" and describes it as "being illiberal about being liberal, forcing people to be free."[48] I suspect this criticism is not too far off the mark for Lim. And yet Lim's proposal is problematic from the opposite direction. In its defence of essentialism, it insists that they must identify with what in fact they might not, and with what they might expressly reject. Once again, accommodative liberalism seeks a middle way between the coercive liberalism Glenn describes and the essentialist thinking Lim defends.

Glenn may well balk at being associated with liberalism, even of the accommodative sort. But his postmodernist approach to legal pluralism, and those akin to it, are pulling western liberalism in a distinctly accommodative direction. As liberalism moves along this path, it will continue to be inspired by and even more intertwined with the other legal traditions of the world. Accommodative liberalism represents liberalism's consciousness of its parochial roots and at the same time, its aspiration to be part of a more inclusive, more tolerant legal tradition. As it evolves, it will find good company at the inclusive outer boundaries of other legal traditions: "A commonwealth of faiths must lead to diversity in law," Glenn tells us, "and hindu law has been diverse, apparently, from its origins."[49] So too with the Islamic tradition, which found "toleration of other courses of law … of fundamental importance in the territorial expansion of islamic law."[50] And "China and Asia are so large that almost everything can be discovered within them, thriving in one way or another."[51]

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[47] *Supra* note 6 at 328, 330.
[48] *Supra* note 6 at 245.
[49] *Supra* note 6 at 269.
[50] *Supra* note 6 at 185.
[51] *Supra* note 6 at 302.

So the lesson here may well be that at the accommodative outer boundaries of the legal traditions of the world we may find more similarity than we might initially expect—not surprisingly, on further reflection, since the very project of accommodation requires an openness to seemingly alien ideas and a willingness to bring them into the "big tent."[52] But if accommodative strands are present in most legal traditions, what more can the western legal tradition contribute? What it might bring afresh to a discussion of multicultural policies are the fruits of its contemporary and ongoing experiment to reconcile its historical commitment to individual moral-self authorship with its growing recognition of group-based conceptions of identity under the same, big tent.

IV. Conclusion: Accommodative Liberalism under the Big Tent

Societies confronting similar sorts of problems certainly have something to discuss with each other, if anyone is willing to listen. Singapore and Malaysia have a long tradition of pluralism, multicultural constitutional practices, and peaceful coexistence, and there is much that we can all learn from their experiences. What concerns me is not their attempt to accommodate diversity, which is very much in the spirit of accommodative liberalism, but the tendency described and defended by Lim toward essentialist policies that reify race (for example) and that apparently deny alternative individual *and group* perceptions of identity, making the quest for alternative forms of moral self-authorship that much more difficult to attain.

Lim wants us to believe that the multicultural tent in Singapore and Malaysia is not big enough for those whose sense of identity is not as strongly tied to the group—and that multicultural policy is fundamentally different in his corner of the world. As one whose roots are more deeply implanted in Southeast Asia than my own, he presumably knows better than I. And yet my fleeting seven-year glimpse of Lim's Southeast Asia reveals to me a diversity as broad as any that I've seen—including much self-identification by race, blood, descent, and religion[53] to be sure—but also including many "individual" moral self-authors with a profound ambivalence toward, and looser ties with, their deemed "racial" communities; individuals seeking to define themselves through other non-racial forms of loyalty and attachment; individuals committed to their families, friends, careers, causes, and projects. Lim's arguments make me wonder whether the multicultural tent in his corner of the world is big enough to accommodate them too.

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[52] *Supra* note 6. Glenn's description of Hinduism seems apposite here: "Loyalties are multidirectional and even the most affirmative forms of political direction and identity cannot eradicate the informal, boundary-dissolving, groupings. This is most evident in religion, where belonging to two religions, or moving back and forth between them, is seen as entirely normal, a reflection of the big tent of hinduism" (at 302).

[53] *Supra* note 4 at 124.