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Nation-state citizenship is more meaningful. Now the objects of toleration are individuals conceived both as citizens and as members of a particular minority. They are tolerated, so to speak, under their generic names. But membership in the genus (in contrast to citizenship in the state) is not required of these individuals; their groups exercise no coercive authority over them, and the state will intervene aggressively to protect them against any effort at coercion. Hence new options are made available: loose affiliation with the group, nonaffiliation with any group, or assimilation to the majority. In immigrant societies, these options are widened. Individuals are tolerated specifically as individuals under their proper names, and their choices are understood in personal rather than stereotypical terms. Now there arise personalized versions of group life, many different ways of being this or that, which other members of the group have to tolerate if only because they are tolerated by the society as a whole. Fundamentalist orthodoxy distinguishes itself by its refusal to take this general toleration as a reason for a more latitudinarian view of its own religious culture. Sometimes, its protagonists oppose the immigrant society's regime of toleration as a whole.

## Complicated Cases

### CHAPTER THREE

Every case is unique, as any one whose case it is knows well. But I want to look now at three countries where the lack of fit with the categories developed in Chapter 2 is especially obvious. All three involve socially or constitutionally mixed regimes that are doubly or triply divided and thus require the simultaneous exercise of different kinds of toleration; they reflect the ordinary complexity of "real life" from which my categories are necessarily abstracted. I will then turn briefly to the European Community, which is altogether new not so much in its mixing of regimes as in its incorporation of them into a still-developing constitutional structure.

#### France

France makes for an especially useful case study because it is the classic nation-state and, at the same time, Europe's leading immigrant society; indeed, it is one of the world's leading immigrant societies. The extent of its immigration has been obscured by the extraordinary assimilative powers of

the French nation — so that one imagines France as a homogeneous society with a highly distinctive and singular culture. Until very recently, the large numbers of immigrants from the East and South (Poles, Russians, Jews, Italians, and North Africans) never constituted themselves as organized national minorities. They produced communal organizations of various sorts — publishing houses, a foreign language press, and so on — but (except for small groups of political refugees who did not plan to stay) they came together only for mutual comfort and support in the context of a highly pressured and very rapid assimilation into French politics and culture. Far more than any other European country, France has been a society of immigrants.<sup>1</sup> And yet it isn't a pluralist society — or at least it doesn't think of itself, and it isn't thought of, as a pluralist society.

The most likely explanation for this anomaly — the physical presence and conceptual absence of cultural difference — lies in modern French history, above all in the revolutionary construction of a republican nation-state. The nationalism that was created in the course of a political struggle against the Church and the ancien régime was political and populist in character; it exalted the people as a body of citizens committed to a cause. Though the cause was French as well as republican, this was not a Frenchness that could be defined religiously, ethnically, or historically. One became French in this new sense of the word by becoming republican; at the height of the revolution, foreigners were welcomed, as they have been at least intermittently over the years since — so long as they learned the French language, committed themselves to the republic, sent their children to state schools, and celebrated Bastille Day.<sup>2</sup>

What immigrants were not supposed to do was to organize any sort of ethnic community alongside (and potentially

in conflict with) the community of citizens. The French hostility to strong secondary associations that differentiate and divide the citizens is anticipated in Rousseau's political theory and was first expressed, with absolute clarity, in the Legislative Assembly's debate (in 1791) over the emancipation of the Jews. Clermont-Tonnerre, a deputy of the center, spoke for the majority (which favored emancipation) when he declared: "One must refuse everything to the Jews as a nation, and give everything to the Jews as individuals."<sup>3</sup> Writing in 1944, Jean-Paul Sartre argued that this was still the position of the typical French "democrat." "His defense of the Jew saves the latter as a man and annihilates him as a Jew . . . leave[s] nothing in him . . . but the abstract subject of the rights of man and the rights of the citizen."<sup>4</sup> Individuals could be naturalized and assimilated; Frenchness was in this sense an expansive identity. But France as a republican nation-state could not tolerate — so Clermont-Tonnerre had insisted — "a nation within a nation."

The revolution thus established the French attitude toward all immigrant groups. It was of a piece with the early and consistent denial that Normans, Bretons, or Occitaneans constituted a genuine national minority. And it has to be said that French republicans, over the years, were remarkably successful in maintaining the unitary ideal of the revolution. Certainly, the immigrants assimilated more or less willingly and were happy to be able to call themselves French citizens. They aimed to be tolerated only as individuals — men and women who attended a synagogue, say, or spoke Polish at home, or read Russian poetry. They had, or they admitted, to, no public ambitions as members of a separate minority.

This was the situation until the collapse of the overseas empire and the arrival in France of large numbers of North African Jews and much larger numbers of Muslim Arabs.

*(This is his the nation with  
republicans)*

in part because of their size, and in part because of their ideological climate, began to test and challenge the republican ideal. They have cultures of their own that they want to preserve and reproduce; they do not want to surrender their identity to the schools devoted to Frenchification (unlike the United States, "no such word is actually in use, so unless it is used in the process of being formed, it cannot be recognized as a word").<sup>5</sup> They want to be recognized as a distinct group to be allowed to act out their group identity. They do not want to be French citizens while living, as it is the case with the French, and many of them are actively rejecting French culture. They want to allow Jews or Arabs who aim at an old-style republicanism to themselves or their children.

The immediate result is an uneasy standoff between the assimilationists (represented by the government, the left and the right, the teachers' union, and the new immigrant groups (represented by appointed leaders and militants). The republicans want to maintain a universal and uniform community of citizens. They are tolerant of religious and ethnic diversity, but they insist that it be maintained in private or familial settings, not in the public life of the nation-state. The new immigrants, however, seek some version of multiculturalism, but they are mostly not ready for the American version, which is itself diversely constituted and intermingled. Perhaps what they are really looking for is not the millet system—the overseas empire re-

Israel

is a more complex case than France, for it incorporates elements of the four domestic regimes—and the fourth

was once proposed for it. A faction of the Zionist movement in the 1930s and 1940s argued for an Arab-Jewish consociation, a binational state. This plan proved impossible in practice because the central issue in dispute between Jews and Arabs was immigration policy. It was not a question of how to organize a regime of toleration (Within what structures might Jews and Arabs most readily tolerate each other?) but of who should be the participants in the regime (How many Jews and Arabs were there going to be?). With regard to this latter question, the two groups could not find a common answer. The immigration issue was particularly urgent for the Jews during the 1930s and 1940s, and it provided the chief motive for the establishment of an independent Jewish state.

That state is obviously not a consociation. But it is a deeply divided nonethnocratic state, and it is divided in three different ways. First, contemporary Israel is a nation-state that was established by a classic nineteenth-century nationalist movement and that incorporates a substantial "national minority," the Palestinian Arabs. Members of the minority are citizens of the state, but they do not find their history or culture mirrored in its public life. Second, Israel is one of the successor states of the Ottoman empire (the succession mediated by the British empire), and it has retained the millet system for its various religious communities—Jewish, Muslim, and Christian—allowing them to run their own courts (for family law) and providing a partially differentiated set of educational programs. And, third, Israel's Jewish majority is a society of immigrants who are drawn from every part of a widely scattered diaspora—an "ingathering" of men and women who have in fact, despite their common Jewishness (which is itself sometimes subject to dispute), very different histories and cultures. The differences are sometimes ethnic, sometimes religious. They make for a segmented majority

that draws together only in the face of minority militance—and not always then. Zionism is a strong nationalizing force, but it has not had the assimilative powers of French republicanism.

Each of these brief descriptions is, as it were, standard for the type; each regime—nation-state, empire, and immigrant society—looks roughly the way it looks when it exists independently. But in practice, the three press upon one another in complex ways and make for tensions and conflicts beyond those inherent in each one separately.<sup>6</sup> The millet system, for example, locks individuals into their religious communities, but these are not the natural or singular communities of all the citizens—and especially not of Jewish immigrants from Western Europe, the Americas, and the former Soviet Union, many of whom are radically secularized or religious in their own fashion. They experience the rabbinic courts as intolerant and oppressive, relics of some ancien régime they never knew.

Somewhat similarly, the Arab minority experiences the Jewish immigrants as an affront and a threat—not only because they reinforce its minority status, but also because they dominate the political struggle for recognition and equal treatment. In contrast to the Arabs, these immigrants expect to find their history and culture mirrored in the public life of the Jewish state, but in fact many of them don't. Given their own diversity, they are led to demand a version of the state neutrality or multiculturalism characteristic of immigrant societies—which was not what the Zionist founders had in mind. But though these arrangements in principle include the Arabs, in practice they often do not—or they include them only in a formal sense, so that Arab schools, for example, do not receive their just proportion of state funds.<sup>7</sup>

The effort to make mutual toleration work in the immigrant (or Jewish) context takes precedence over the effort to make the Jewish state fully tolerant of its Arab minority. Of course, this precedence is reinforced by the international conflict between Israel and its Arab neighbors, but it also reflects the difficult coexistence of the different regimes.

Toleration is made harder in these circumstances by an uncertainty about its proper object: individuals or communities? And if the latter, should these communities be religious, national, or ethnic? Presumably the answers must be inclusive: all of the above. Were the international conflict to be resolved, toleration in this triply divided society might prove easier than in many cases of singular division—because it would move, as it were, in different directions and be mediated through different institutional structures. But this mediation presupposes a gradual revision of the structures, an adjustment of each to the others. What would this process require? Perhaps a multiplication of religious courts so as to reflect the actual divisions in the three communities. Perhaps some kind of local autonomy for Arab towns and villages. Perhaps a unified “civics” curriculum, which would teach the values of democracy, pluralism, and toleration and be imposed on all the different state-run schools—Arab and Jewish, secular and religious. The first of these suggestions would adjust the millet system to the immigrant society; the second would modify the nation-state in the interests of its national minority; the third would assert the claims of that same state in the style of the immigrant society—that is, in political or moral rather than national, religious, or ethnic terms. But it is equally easy to imagine Israel experiencing reiterated crises in each of its regimes—and also along the “borders” where they interact.

## Canada

Canada is an immigrant society with several national minorities—the Aboriginal peoples and the French—that are also conquered nations. These minorities are not dispersed the way the immigrants are, and they have a very different history. Individual arrival doesn't figure in their collective memory; they tell a story, instead, of long-standing communal life. They aspire to sustain that life, and they fear that it is unsustainable in the loosely organized, highly mobile, individualist society of the immigrants. Even strong multiculturalist policies are not likely to help minorities of this sort, for all such policies encourage only "hyphenated" identities—that is, fragmented identities, with each individual negotiating the hyphen, constructing some sort of unity for him or herself. What these minorities want, by contrast, is an identity that is collectively negotiated. And for that they need a collective agent with substantial political authority.

For the Québécois, what is most important is to live in French—to sustain the language that is now their chief distinguishing mark. Their everyday life is not significantly different from that of other Canadians. The Aboriginal nations still possess their own distinctive culture—which extends across the whole range of social activities—as well as their own languages. Both these groups probably need some degree of autonomy within Canada (or independence from Canada) if they are to maintain themselves in their present form. Does toleration require that they be permitted to do that, or try to do that, by exercising political authority and using the coercive powers that the project would require? Why shouldn't they be asked to adapt themselves to the model of an immigrant society?

But neither the Aboriginals nor the Québécois are im-

migrants. They never accepted the cultural risks and losses that immigration entails. The French came as colonists; the Aboriginals are what their name implies, indigenous peoples, which is to say, colonists from an earlier age. Both the Aboriginals and the French were conquered in wars we would probably regard as unjust (though the French-British wars may have been unjust on both sides, because what was at issue was who would dominate the "Indians"). Given a history of this kind, some sort of autonomy seems entirely justified. It is not easy to work out, however, because doing so would require a constitutional arrangement that treats different people differently and establishes different regimes in different parts of the same country—in a country committed to the liberal principle of equality before the law.

The refusal of Canadians (so far) to provide a constitutionally secure "special status" for Quebec—the chief cause of secessionist politics in the province—derives from this commitment. Why should this province be treated differently from all the others? Why should its government be granted powers denied the others? I have already suggested a historical answer to these questions, an answer that is indeed confirmed by the terms of the capitulation of the French in 1760 and by the Quebec Act of 1776, which incorporated Quebec into the British empire. The incorporation followed the standard pattern of imperial multinationalism: it "guaranteed that the Roman Catholic religion, French language, seigneurial property system, and the customary laws and forms of government from the French period would continue until a legislature was established. The Quebec legislators could then alter these old forms as they saw fit."<sup>8</sup>

Can an arrangement like this be carried over into a liberal state and immigrant society, whose other constituent



## The European Community

I take the European Community as an example of a union of nation-states that isn't an empire or a consociation but something different from both and perhaps new in the world. Because it is still taking shape, its constitutional arrangements still disputed and uncertain, my account will be largely speculative. What forms might toleration take in the envisioned union?

The European Community is not an empire, despite the charges of imperial ambition leveled against its officials in Brussels, because its constituent states will surrender only a part of their sovereign powers. Whatever the extent of the surrender turns out to be, the powers states retain will reach far beyond autonomy. And it isn't a consociation because of the number of states involved and, again, because of their near-sovereignty. Why isn't the Community then simply an alliance of sovereign states for some limited purpose? The long history of alliance politics, however, shows nothing quite like the economic coordination that its members intend. And there is another reason why this model doesn't fit—the "Social Charter" to which the members have agreed. As it stands, the charter's stipulations are fairly weak, though they do decree, in addition to minimal standards for wages and the length of the work week, "equality between men and women with regard to labor market opportunities and treatment at work."<sup>10</sup> These stipulations differ from similar ones in the international bill of rights promulgated by the United Nations: they aren't merely hortatory, but are meant to be enforced, even if the enforcement mechanism is at this moment unclear.

In fact, there already exists a European convention on human rights, one that has been judicially enforceable since

the 1960s, and the Community's charter has now been added to that. Imagine the two combined and expanded to a full set of negative and positive rights (I won't speculate here on the precise contents of the set): there would then be—perhaps there are already—practices tolerated in the member states, features of their political culture or long-standing social or economic arrangements (like gender inequality), that would not be tolerated in the new Community. In some respects, as we will see, the European Community requires its members to be more tolerant, and tolerant in different ways, than they have been in the past. But the charter, as I have imagined it, would establish a set of limits, and because these limits would be expressed in the language of rights, they would presumably dominate over all other rules and practices. This dominance would have significant entailments: it would shift the focus of political debate from legislatures to courts and semi-judicial administrative agencies (as it has to some extent done in the United States); it would increase the amount of litigation; and, most important, it would enhance the relative power of individuals vis-à-vis the nation-states or the ethnic or religious groups to which they belong. Whereas the old empires tolerated different legal cultures, the new Community seems likely to establish (over time, and assuming its continued development) a single overarching law.

At the same time, however, every member state will be more heterogeneous than it ever was before, in two senses. First, the Community recognizes regions within states as legitimate objects of social and economic policy—and it is likely some day to recognize them as political subjects as well. This recognition will almost certainly enhance the position of territorially concentrated minorities like the Scots or the Basques (it has already raised their ambitions). But the long-term consequences of regionalism may well be

countered by the second source of new heterogeneity—immigration—which will tend to break up regional ethnic concentrations. Community “citizens” already move across state frontiers much more freely than they did in the past, and they carry with them not only whatever newly transportable rights they have been granted, but also their old cultures and religions. Majority nations will thus soon find themselves living with minorities to whom they are not accustomed; established national minorities will find themselves challenged by new groups with new ideas about the arrangements that toleration requires. The more people move around, the more the Community as a whole will come to resemble an immigrant society, with a large number of geographically dispersed minorities who have no strong connection to a particular piece of territory.

The member states, of course, will still be nation-states; no one expects the Dutch or the Danes, say, to take in so many immigrants that they become a minority, one group among many, in their own country. Nonetheless, the states will be bound to tolerate newcomers (who won't all be “Europeans,” because any immigrant naturalized in one member state is admissible to all the others), whom they have not chosen for admission. They will make their own peace with these newcomers and with their cultural and religious practices, family arrangements, and political values—subject, always, to the Social Charter (which may or may not produce a common regime of toleration, depending on its eventual extent and enforcement).

Similarly, the newcomers will make their own peace with the political culture of their new country. No doubt different groups will seek different arrangements; despite the individualizing pressures that are felt in all immigrant societies, some of them will certainly seek corporatist ar-

rangements. But these are unlikely to be acceptable to the host states, except in highly modified versions adjusted to the basic nation-state pattern of the voluntary association. Nor will the Community's officials in Brussels or its judges in Strasbourg intervene on behalf of corporatism; at most, they will enforce individual rights. The resulting pattern is uncertain: individuals will identify with ethnic or religious groups and claim some sort of state recognition, but the groups will be precarious, themselves subject to transformation as the immigrants adjust to their new environment, assimilate, intermarry, and so on. The European Community seems likely to bring to all its member states the advantages and strains of multiculturalism.

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