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Muslim immigrants to pass on their norms and values to others, including their children.

I think that this stance is wrong, both in the way it portrays Muslim migrants as a threat and in the way it fails to respect their legitimate concerns. While it is reasonable to ask questions about the kinds of cultural adaptation receiving states can expect of immigrants, any serious commitment to liberal democratic principles requires a much greater openness to Islam and to Muslim migrants than those allegedly concerned with defending Western civilization seem prepared to acknowledge. In particular, a commitment to the idea of justice as evenhandedness requires us to consider whether there are relevant similarities between Western cultural and religious practices that are generally regarded as morally permissible and Islamic practices that are widely seen as morally problematic. I will argue that these similarities are greater than is commonly thought.

I begin by considering the claim that the centrality of Islam in the lives of Muslims conflicts with the requirements of democratic citizenship. In the bulk of the chapter, I take up common critiques of Islamic practice and doctrine among would-be defenders of liberal democracy and gender equality and show how these critiques tend to mischaracterize the normative issues that particular practices raise, wrongly attribute objectionable practices to Islam as such, or employ a double standard by ignoring parallel issues within other religious traditions.

Islam as a Communal Identity in Liberal Society

One question that one encounters frequently, either implicitly or explicitly, is whether Muslims can be full members of liberal democratic societies given the strength of their communal identity. In the view of some democratic theorists, participation in the democratic process requires a capacity to distance oneself from one's identity, in order to put oneself in the position of another. On this view, this capacity for reflective distance from one's commitments is a prerequisite for genuine dialogue. But both Muslims and non-Muslims have argued that Islam constitutes, for many of its members, a communal identity which is, to borrow Sandel's term, thoroughly constitutive of their identity as individuals, something from which they cannot and do not wish to distance themselves (Sandel 1982). As Anne Phillips has articulated this concern in general terms:

Democracy surely does imply tolerance of difference . . . [yet] it is nonetheless hard to conceptualize without some means of distancing ourselves from those qualities we used to think of as most intrinsic. Somehow or other, we have to be able to stand back from the things that are peculiar to us . . . and try to think ourselves into another person's place. Part of the anxiety generated by fundamentalism—whether it is of a religious or

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Muslim Minorities in Contemporary Democracies: The Limitations of Liberal Toleration

In the previous chapter, I used Quebec's policies on the integration of immigrants to explore some questions about how liberal democracies should respond to cultural differences. In this chapter, I want to pursue further one of the issues raised in that discussion, namely, the question of how liberal democratic commitments constrain cultural differences, and more specifically, what sorts of cultural differences should not be tolerated.

The 'Clash of Civilizations'

In exploring this topic, I will focus on immigrants of Islamic faith. Muslims have featured prominently in a number of recent political conflicts in Western states. In Britain, there was the Salman Rushdie affair; in France, *l'affaire des foulards*; in Germany, the debate over the status of the descendants of the Turkish guestworkers. In all these cases and others, questions about the relation of Muslim immigrants to the states where they have settled have provoked public debates about the meaning of citizenship and the requirements of liberal democratic principles. Some people speak almost apocalyptically about a 'clash of civilisations' between Islam and the West (Huntington 1993).¹ Much of this alleged clash involves relations between states, but immigrants of Islamic faith are often constructed as a kind of fifth column in this struggle, because they live in the West yet (supposedly) carry with them these threatening values and alien ways of life. Thus, some people argue, it is particularly important to identify the conflicts between Islamic beliefs and practices and those that undergird the liberal democratic institutions of the West and to limit the capacity of

¹ For a review and critique of this view of Islam, see Esposito (1992).

political variety—is that it makes it impossible for its adherents to engage in this process, for even in principle they cannot treat their beliefs as detached (1991: 57).

Does this pose a problem for the position of Muslims in liberal democracies? In a related vein, Charles Taylor suggests that there is a fundamental conflict between Islamic conceptions of the relation between religion and politics and liberal conceptions:

For mainstream Islam, there is no question of separating politics and religion the way we have come to expect in Western liberal society. Liberalism is not a possible meeting ground for all cultures, but is the political expression of one range of cultures, and quite incompatible with other ranges. (Taylor 1994: 62)

In considering this challenge, we should first pay attention to the variability among Muslims. Muslims do not all fit a single mould. We should not suppose that they all have exactly the same understanding of Islamic doctrine and its implications for social life, the same unqualified and unambivalent commitment to Islam, and so on. In fact, there is enormous variability among Muslims as there is among Christians, Jews, and other religious groups, with respect to doctrine, practice, and ways of life. For some immigrants, Islam may be primarily a cultural marker, a symbolic locus of identity that has little bearing on the norms that guide their actions in public and private life. For others, the commitment to Islam is at the centre, guiding every activity and choice. For many, it is something in between.

Secondly, if we focus only on those Muslims who do have a powerful sense of communal identity as described, we have to consider whether the same questions would be raised about Christians or Jews with comparably strong senses of religious identification. Anyone who reads the anti-immigrant literature from the nineteenth and early twentieth centuries is bound to be struck by the similarity between the doubts and fears expressed with respect to Catholics and Jews then and the doubts and fears expressed with respect to Muslims now. One finds the same rhetoric about alien invasions, with Catholics and Jews portrayed as threatening and unassimilable because of their illiberal and undemocratic values.² Nobody today would defend those earlier views (or at least nobody should). Nobody today would question whether Christians or Jews could be full members of a liberal democratic society, whatever their religious beliefs, although many committed Jews and Christians would reject the idea that they are obliged to distance themselves from their own religious identities to engage in the democratic process. One of the recurring and largely justifiable complaints of Muslims is that the standards used to evaluate their behaviour and beliefs are different from those used to judge others. In other words, they complain of a lack of evenhandedness.

² For original sources see (Wilkins 1892) and the thirty entries in Buenker and Burckel (1977): 208–210. For scholarly discussion see Divine (1957); Garrard (1967); Galner (1972); Higham (1963) and 1975.)

Finally, we might ask whether the problem here lies not with the Muslims but with an understanding of democracy that would exclude or require fundamental changes from many other people as well as Muslims, at least if applied consistently. This model of deliberative democracy requires that people abstract themselves from their identities. But there is an alternative model of democracy that simply requires that people listen and engage with each other. To treat other people with respect—which is a requirement of deliberative democracy—does not necessarily require that one suspend one's own commitments or distance oneself from one's own identity. Indeed, conversations are often most fruitful when people speak from their deepest selves.

Someone might object that religious beliefs can have no standing in a pluralist society that must be committed to respect for all religions. But consider the case of Martin Luther King, Jr., whose effective leadership of the civil rights struggle in the United States, a struggle for democratic justice, was inextricably linked to his religious rhetoric. King's understanding of justice was rooted in his Christian convictions, and he could not have articulated it adequately without reference to them. Of course, other Christians were staunch defenders of segregation, while many of those who supported the civil rights struggle were not Christian. But that does not make King's method of communication inappropriate. To be sure, religious rhetoric can often be abused and manipulated. But so can a purely secular rhetoric. So, Muslims, too, should be free to bring their religious views to the democratic dialogue, recognizing, of course, that to be effective in persuading others they will have to find a way (as King did) to communicate their convictions in ways that resonate with people who do not share their religion.

Doubtless there comes a time when the claims of religious community become incommensurable with the claims of democratic citizenship. This seems especially likely to occur at the point at which religious communities seek to reshape the public sphere in their own image and at the expense of other religious or moral conceptions. An inquiry into the deeper question of what liberal democracies may in general claim of religious communities would take us far beyond the scope of this chapter.³ The point here is simply that it is wrong to make allowances for Christian and Jewish communities and to refuse to make them for Muslim communities.

Islam and Gender Equality

To acknowledge the right of Muslims to participate in the democratic dialogue without abandoning their fundamental convictions is not to say

³ Other theorists, however, have taken this question up directly for illuminating recent discussion, see Burtt (1994); Levinson (1990, 1992); and Macedo (1995).

how non-Muslims should respond to them. In the rest of this chapter, I will focus on one particular area where the beliefs and practices of Muslims are often alleged to be in fundamental conflict with the values and practices of liberal democratic societies: the issue of gender equality.

I begin by articulating views critical of Islam that I wish to challenge. According to the critics, Islamic practices and conceptions of women's role in society are incompatible with the liberal democratic commitment to equal citizenship. The critics say that Islam authorizes the genital mutilation of young girls, that it legitimates patriarchal authority and even wife-beating, that it permits polygamy, and that it requires women to dress in restrictive ways that limit their capacity to act in the public sphere. From the critics' perspective, rather than accommodating these practices as a way of respecting the cultural commitments of Muslim immigrants, liberal democratic states should challenge and constrain these practices as much as possible, prohibiting some of them and insisting on a legal regime and an educational system based on principles of gender equality.

In my view, the critics' account is mistaken both about Islam and about liberal democracy. Some of the practices mentioned above are deeply objectionable and should be prohibited, but it is wrong or at least deeply misleading to describe them as Islamic practices. Some of the practices are Islamic but are less in conflict with gender equality than the critics suppose. Finally, as the previous chapters have argued, liberal democracies do and must tolerate some departures from gender equality in the name of respect for religious freedom.

Let me begin with the last point. It is unreasonable to make demands of Muslims that are not made of adherents of other religions with comparable views and practices. The overall claim that women are subordinated within Islam is a claim that can also be made about Christianity and Judaism. Both Christianity and Judaism have deeply patriarchal elements in their religious traditions. Some versions of both religions, as they are understood and practiced today, have very negative views of female sexuality, teach that women's primary responsibilities are in the home, assert the authority of the husband within the household, and so on. Yet no reasonable person suggests that traditional Catholics or fundamentalist Protestants or orthodox Jews should be required to modify these religious beliefs and practices as a condition of full membership in liberal democratic societies.

Some might object that there is a tremendous range of theological views within Christianity and Judaism and that this deep patriarchalism is characteristic of only a small part of each. But there is great variability within Islam as well, both in practice and in theological interpretation. Muslim feminists argue that there is nothing in Islam properly understood that requires the subordination of women (Ahmed 1992; Mernissi 1987, 1991; Sa'dawi 1980; Wadud-Muhsin 1992). The question here, however, is how to respond to

those elements in a religious tradition—whether Islam or Christianity or Judaism—that see patriarchalism (in some form) as religiously mandated.

Why are patriarchal versions of Christianity and Judaism tolerated? Perhaps because the commitment to gender equality in liberal democratic states is not as deep in practice as is alleged when ideological contrasts are drawn between Islam and the West, but also because, even at the level of principle, the commitment to gender equality stands in some tension with other liberal democratic commitments. Liberal democratic principles entail a deep commitment to freedom of religion, of conscience, of thought, and of opinion. For that reason, a liberal democratic state cannot require intellectual or moral conformity, not even to its own ideals, although the state may legitimately try to inculcate key elements of the public democratic culture through the educational system and may establish a legal order that reflects its basic principles. Furthermore, a commitment to individual autonomy entails the recognition of some sort of private or personal sphere that the state may not regulate, including much of the activity within the family sphere. At a minimum then, any liberal democratic state will have to leave untouched some beliefs and practices that conflict with gender equality. From the perspective of justice as evenhandedness, it is unreasonable to demand more of Muslims in this respect than of the adherents of other faiths.

Genital Mutilation

How should we respond to the specific practices that critics claim are characteristic of Islam and in conflict with gender equality? Consider first the charge that Islam authorizes the genital mutilation of young girls. I have already argued in Chapter 2 for a general moral condemnation of genital mutilation regardless of its cultural or religious significance because it causes permanent, serious physical harm to children. Here I want to refine that argument by considering how our assessment of the practice would be affected if it were performed only upon consenting adults or were significantly modified in the way it was performed. I will also argue that it is misleading and harmful to claim that Islam authorizes the practice.

Let me begin with a brief restatement of the nature of the practice and the reasons for opposing it. In a number of countries in Africa, Asia, and South America—mainly in twenty countries in the middle belt of Africa—girls commonly undergo some form of ritual cutting of the genitalia. The procedure ranges from what is sometimes called 'circumcision proper' (incision or removal of the prepuce of the clitoris), to clitoridectomy or excision (removing part or all of the clitoris and often part or all of the labia minora as well), to infibulation (removing the clitoris, the labia minora, and part of the labia

majora and sewing together the two sides of the vulva, leaving only a small opening for menstrual blood and urine).⁴ Some people object to the use of the term female circumcision precisely because it suggests a procedure analogous to male circumcision and thus conceals the much more drastic character of infibulation or even of clitoridectomy. They insist on the term genital mutilation. (See, for example, Winter 1994: 941.) I use the term female circumcision at some points in the text because it is a broader term and includes both practices that might not be morally objectionable (as I argue later in the text) and ones that are. It is precisely because it enables one to make this distinction that I find the term useful.

The most common version of this practice appears to be some form of excision. In the mid-1980s, it was estimated that 75–80 million females in Africa were affected. This is an ancient practice whose origins are unclear. The (overlapping) reasons offered for continuing the practice are that it is traditional, that it is connected to cultural norms regarding sexuality and reproduction, that it is religiously required or at least encouraged, and that girls will not be accepted as eligible marriage partners and full members of the community unless they have been circumcised. These reasons continue to have weight for some immigrants who have their daughters circumcised either in the West (usually covertly) or in their countries of origin while visiting on vacation, although most immigrants from countries where female circumcision is common do not continue the practice after they have arrived in the West and some people leave their countries of origin (even seeking refugee status) precisely to avoid having their daughters subjected to circumcision.

It has been argued that female circumcision should be permitted in liberal democratic states because it is clearly an important social practice for some people and immigrants cannot reasonably be expected simply to abandon their pre-existing cultural and religious commitments.⁵ How should we respond to this argument?

⁴ For information on this topic I have drawn upon Dorkenoo and Elworthy (1992); Hosken (1983); UNCHR (1986); Koso-Thomas (1987); Toubia (1995); Aldeeb Abu-Saleh (1994); and Boddy (1998). There is some variation in terminology in the literature, with some people restricting the use of the term circumcision to the less radical procedures, though the broader usage (which I follow here) seems more common. The use of the term 'circumcision proper' for the mildest form of the procedure clearly takes male circumcision as the standard of reference. Some people refer to (removal of the prepuce) as 'sunna circumcision', an Islamic term whose significance in this context I discuss later in the text. Toubia says that, in her medical practice in Sudan, she has 'not found a single case of female circumcision in which only the skin surrounding the clitoris is removed, without damage to the clitoris itself' (1994: 712, cited in Boddy 1998).

⁵ This sort of argument has actually been advanced in public debates and in legal trials in France. See Winter (1994) for a review and discussion. The question of what it is appropriate to permit within the legal framework of a Western liberal democratic state is different from the question of whether it is appropriate for Westerners to intervene in some way against female circumcision in the states where it is traditionally practised. The latter question raises a host of complications that I do not attempt to address here. For a sensitive discussion of some aspects of the issue, see Boddy (1998). For a discussion of whether Westerners have any moral standing to comment on this practice in other societies, see the discussion of Walzer in Chapter 2 above.

My basic answer is this. The respect due to particular cultural and religious commitments must be assessed in the context of their implications for other fundamental human interests. Female circumcision as normally practised has horrific physical and psychological consequences that have been well documented. Even the mildest form of clitoridectomy is painful, permanent, debilitating, and devoid of health benefits. One crucial responsibility of any liberal democratic state is to protect the physical safety and bodily integrity of its inhabitants, including children. This responsibility obliges the state to set strict limits to the authority of parents over their children, regardless of the parents' motives (i.e. even if they believe themselves to be acting in the best interests of the child). Thus, it is proper for the state to restrict or prohibit cultural and religious practices that cause serious harm to children. Given the consequences of female circumcision, any liberal democratic state not only may but should regard the practice as genital mutilation and prohibit it from being performed upon young girls.⁶

This general line of argument is subject to two important qualifications, the first focusing on the involuntary nature of the procedure, the second on the degree of harm it causes. So far, I have described female circumcision as it is most widely practised, that is, upon girls who are usually not consulted and who are too young to consent even if they were. But suppose it were a question of an adult woman voluntarily undergoing circumcision? This is not a purely hypothetical or unimaginable example. Bhikhu Parekh told me in conversation that after giving a lecture in which he criticized the practice of female circumcision, he was challenged by a Nigerian woman who said that she had voluntarily undergone excision as an adult just before the birth of her first child as a way of reducing her sexual desires. She described this adult, pre-child-bearing circumcision as the normal practice of her community.⁷

Would it still be obligatory or even permissible for a liberal democratic state to ban the practice for adults? Every liberal regime must grant considerable latitude to individuals to lead their lives and even to treat their bodies however they choose. Liberal states permit women to undergo a wide variety of cosmetic surgeries (breast enlargement and reduction, liposuction, facelifts, and so on) and bodily alterations (tattooing, body piercing) in order to meet cultural norms regarding beauty and sexuality. On the one hand, feminists rightly criticize many of these practices for the ways in which they reflect, serve, and reinforce problematic ideals of the female body (Morgan 1991). These practices, too, could be described as forms of bodily mutilation. But feminists also insist on the rights of women to control their own bodies and

⁶ To say that genital mutilation should be legally prohibited is not necessarily to say that an aggressive criminal prosecution of those who continue the practice is the best strategy for eliminating it. In France, for example, the opponents of genital mutilation are divided among themselves about the best approach to the problem (Winter 1994).

⁷ For a general account of the practice in Nigeria, see Myers *et al.* (1985).

are way of granting state authorities the power to restrict women's choices. Criticism is one thing, prohibition and control another. Why should female circumcision be treated differently from these other forms of bodily mutilation?

One possible answer to this question would be that female circumcision has much more harmful consequences than the other forms of mutilation both in terms of health risks and in terms of normal bodily functioning even if it is performed under sound medical conditions.⁸ This answer carries some weight although it may underestimate the health risks of the other procedures which have become apparent with the public controversy over the consequences of breast implants. In any event, it points to what I think is the right principle here. There are some limits even to control over one's own body. People are not permitted to sell their organs, for example. Some forms of bodily alteration are so harmful that they should not be permitted even if the person consents.

Does female circumcision fall into this category? In my view, infibulation probably does, but as one moves in the direction of less radical forms of circumcision, the answer is much less clear. I find the practice of clitoridectomy abhorrent and would want to challenge anyone who would defend it. But should an adult woman like the one who confronted Parekh be legally prohibited from undergoing such a procedure in a licensed medical facility? I think not. My tentative view is that such a ban interferes too much with the right people ought to have to conduct their lives in accordance with their own convictions and cultural commitments.

What should we think of what has been called 'circumcision proper' (i.e. removal only of the prepuce of the clitoris)? Some discussions of female circumcision seem to dismiss altogether the cultural and religious dimensions of the practice, as though these should carry no weight at all, at least in deciding whether infants and children may be subjected to circumcision. But on such a view it seems hard to understand why the practice of male circumcision should be tolerated either, at least in the absence of evidence about its health benefits. Medical views of male circumcision have varied over the years, and I am not in a position to assess them. At a minimum, it seems safe to say that there have been times when the prevailing view was that there was

⁸ Many of the worst consequences of female circumcision stem from the fact that it is normally performed without anaesthesia and in unhygienic conditions. In recent years, people committed to having their daughters circumcised for cultural and religious reasons but concerned about the health consequences have sought to have the procedures performed in modern medical facilities when they could afford to do so. While this would doubtless reduce some of the negative health consequences of circumcision, the World Health Organization and other agencies concerned with the practice have consistently opposed this sort of effort and have urged professional medical personnel not to be involved in performing female circumcisions (WHO 1986). I think this is the right course. On the other hand, see the subsequent discussion in the text of why a much modified form of the practice should be permitted.

no medical justification for circumcising most male children.⁹ Nevertheless, so far as I know, no liberal democratic state in recent times has tried to prevent people from having their male children circumcised for cultural and religious reasons. (Male circumcision is traditionally practised by Muslims, Jews, and some Africans who are neither Muslim nor Jewish.) Some people have argued for the prohibition of male circumcision on the grounds that male circumcision involves cutting healthy tissue without medical reason, causes some pain, occasionally leads to serious complications, and so should be regarded as a form of child abuse (Aldeeb Abu-Salih 1994; Zwang 1978; and sources cited in Coleman 1998). These arguments have never prevailed politically even though in most jurisdictions male circumcision has religious or cultural significance only for a minority of the population. The conventional view seems to be that the minor pain and small risk associated with the practice are outweighed by the meaning attached to it by the child's parents and the cultural and religious community to which they belong and which the child will therefore join. I think that is a reasonable view. Physical well-being is essential but it is not the only human interest. It is entirely appropriate to give weight to the concerns people may have to maintain rituals and practices that have deep importance in a community.

If female circumcision were culturally important and caused no more harm than male circumcision, I think that it would be appropriate to permit it, too, even for children. Would 'circumcision proper' fall into this category? That requires information about its health consequences that I do not have. At the least though, I can say that it is possible to imagine a form of female circumcision in which the health risks would be small enough that it should be permitted for cultural or religious reasons. Suppose Muslim women who want their daughters to maintain the cultural ties and communal standing that come with passage through this rite of initiation into womanhood but do not want them to suffer the physical consequences of mutilation persuade the relevant actors in their community (themselves female) to accept a pinprick of blood from the clitoris as a satisfactory performance of the ritual. It may be objected that this is not the traditional practice, but traditions can evolve without disintegrating. If a particular community were to find that this sort of ritual played an important cultural role, it is hard to see why it should be prohibited.

Again, this is not merely a hypothetical possibility. Doriane Lambelet Coleman has written a richly detailed and nuanced account of an attempt by Somali immigrant women in the United States to have their daughters circumcised by having the doctors perform a symbolic *summa* that would have involved only a small incision or "nick" on the foreskin or prepuce (also

⁹ For a discussion of current medical views on male circumcision see Coleman. (1998: 757 n. 185).

called the hood) of the clitoris, just enough to draw blood' (Coleman 1998: 739). This procedure would have involved less physical harm than that caused by male circumcision. After considerable discussion and reflection, the doctors and the hospital agreed to perform this type of female circumcision, but they were forced to abandon that policy as a result of political pressure brought to bear by people who saw even this modified version of the practice as genital mutilation or at least as an implicit legitimization of genital mutilation.

In this case as in many others, critics of multiculturalism worry that any public accommodation of cultural practices of immigrants that seem at all problematic will put us on a slippery slope, implicitly legitimating radical departures from liberal norms and standards in the name of cultural difference. In some criminal cases, for example, defendants have appealed to their cultural heritages as a justification of (or at least excuse for) crimes of violence against women. Coleman argues, however, and I agree, that the proposed policy on female circumcision was an appropriate way of accommodating the cultural concerns of the Somali immigrants without compromising fundamental liberal principles. The cultural significance was great, the harm was small, and we already make accommodations for procedures that are very similar but culturally more familiar (i.e. male circumcision). Thus the proposed policy was a nice illustration of the application of the idea of even-handed justice. Coleman's position on this issue is particularly significant because she is the author of a well-known critique of use of the 'cultural defence' in criminal law (Coleman 1996). Thus her work illustrates the ways in which a contextually sensitive approach can distinguish between the merits of different sorts of claims for cultural recognition.

I have one disagreement with Coleman. In my view, she places too much weight on what is essentially a prudential argument and too little on the normative importance of cultural practices. The doctors who agreed to perform the modified form of female circumcision apparently were persuaded largely by the argument that if they did not perform this mild procedure in the hospital the parents would probably have much more radical forms of circumcision performed clandestinely either within the United States or abroad. The doctors also expressed the hope that this procedure could serve as a transitional mechanism of accommodation that would be unnecessary in subsequent generations. Coleman appears to agree with these views. In my opinion, both are inappropriate if not mistaken. As I observed above, the World Health Organization has rightly urged medical practitioners not to carry out the conventional forms of female circumcision, even though many of the health complications associated with female circumcision are the result of the procedure being performed under insanitary conditions or by insufficiently trained personnel, and the refusal to perform circumcisions in medical facilities leads many parents to have them performed in traditional ways. If

the World Health Organization's position is correct, as I think it is, claims about what the parents in the Seattle case would have done if the hospital did not cooperate should not have been given decisive weight. And it is clear that the Seattle doctors would not have agreed to perform any kind of genital mutilation. Medical personnel should not cause serious harm to people in order to prevent others from causing them even more serious harm. To do so is to yield to, and invite further forms of, blackmail. What made the proposed policy morally permissible was the fact that the physical harm was relatively minor and the cultural significance great, the same considerations that justify medical personnel in performing male circumcisions. For that reason, it seems as inappropriate to expect or hope that a modified form of female circumcision will fade away as it would be to expect or hope that male circumcision will fade away among those who attach religious significance to it.

Let us turn now to the question of the relation between Islam and female circumcision.¹⁰ Female circumcision is practised by Muslims in some countries, but it is not practised by Muslims in other countries including Saudi Arabia, Algeria, Iran, Iraq, Libya, Morocco, Tunisia, and Indonesia, and is little known in Pakistan or Bangladesh. All of these countries have predominantly Islamic populations. I have not been able to find any estimates of the overall percentage of Muslims who practise female circumcision, but judging from the relative populations of countries in which it is and is not practised, it would appear to be a minority practice within Islam. Furthermore, in those countries in Africa where female circumcision is most common, it is practised by Christians, animists, and others besides Muslims and it clearly predates Islam. Interviews with women who have been circumcised or have had their daughters circumcised cite a variety of reasons for continuing the practice, as noted above, with religious motivations playing some role but generally a less important one than tradition and social acceptance.

From a doctrinal perspective, the status of female circumcision within Islam appears to be contested, in contrast with the status of male circumcision which all Muslims agree is mandatory. The debate focuses mainly around the interpretation of the Prophet Muhammad's injunction to a traditional practitioner of circumcision not to go to extremes. Most Muslims take this as a criticism of the most severe forms of female circumcision such as infibulation, and in countries where Islamic revitalization movements have had success (as in Sudan) there have been religious pressures to modify traditional practices. What seems more in dispute is whether the statement by the Prophet implies some endorsement of the practice in a less severe form. Some argue that it does not and further claim that other Qu'ranic injunctions

¹⁰ My discussion of circumcision and Islam draws upon Dorkenoo and Elworthy (1992: 13–14); UNCHR (1986: 13, 23); Boddy (1989: 53); and Aldeeb Abu-Sahlieh (1994).

against bodily harm provide an Islamic basis for opposing the practice of female circumcision altogether. Others claim that the statement implies that female circumcision is '*sunna*' which is sometimes presented as meaning permissible and other times as recommended for those aspiring to be good Muslims. And among those who take the view that female circumcision is '*sunna*', there seems to be disagreement about whether this only applies to 'circumcision proper' or, on the one hand, to the more severe practices such as some forms of clitoridectomy or excision or, on the other hand to a milder, symbolic practice such as the one discussed above.

In sum, many Muslims do not practice female circumcision or see it as part of Islam, but some do. This makes it descriptively misleading, though not entirely inaccurate, to describe female circumcision as an Islamic practice. But how is this relevant to the question of how liberal democratic states should respond to Muslim immigrants? After all, it is not the business of political authorities in a liberal democratic state to pass judgement on what is authentically Islamic.¹¹

In one sense this objection is certainly correct. As I argued in Chapter 2, for the most part, it is appropriate for political authorities to take religious claims at face value. If some Muslim immigrants say that they feel they have a religious obligation to practise female circumcision, it is not the responsibility of state officials to challenge their interpretation of Islam, in the absence of evidence of deliberate deception. Some immigrants will undoubtedly defend the practice in this way, emphasizing their religious motivations (and downplaying other factors like tradition) because of the privileged status normally granted to religious practice in liberal states.¹²

The problem with characterizing female circumcision as an Islamic practice is not located primarily in the sphere of interactions between officials enforcing laws and immigrants advancing religious claims but rather in the sphere of public discourse in which this characterization contributes to the construction of a negative image of Islam and of Muslim immigrants. As Chapter 2 pointed out, discussions of female circumcision frequently have a political subtext, identifying its practitioners with barbarism and its opponents in the West with civilization. So, identifying female circumcision as an Islamic practice serves to discredit Islam. The headline of one recent article on the topic illustrates the point: 'Women are Being Abused, Even Mutilated . . . All in the Name of Islam' (Bardach 1994). The message is typical.

Imagine a comparable attempt to discredit Christianity. The people who engage in violent opposition to abortion (bombing abortion clinics, murdering doctors who perform abortions, and so on) frequently describe

¹¹ See my critique of Walzer on this point in Chapter 2.

¹² As I argued above, I think such an attempt to defend female circumcision on grounds of religious freedom should fail and that liberal states can and should prohibit the practice of most forms of female circumcision, even if sincerely motivated by religious beliefs.

themselves as acting out of a sense of Christian religious duty. In most cases, there is no reason to doubt the sincerity of these claims, and, in any event, state officials (such as judges in a criminal trial) should not try to assess the doctrinal merits of their beliefs, at least under normal circumstances. They need only conclude that such actions are not legally permissible, regardless of their religious foundations. But most Christians (even among those opposed to abortion) would object strenuously if such activities were described as Christian practices, because they do not engage in these activities themselves and do not wish to be associated with them. Similarly, most Muslim immigrants do not practise female circumcision and do not wish to be identified with the practice. Of course, the construction of public discourse is multi-sided, and Muslims can contribute to a dissociation between Islam and female circumcision by criticizing the practice publicly as unIslamic, just as, for example, some Catholic bishops in the United States recently criticized violence against abortion clinics as un-Christian.

Wife-Beating

Consider now, much more briefly, the claim that Islam legitimates patriarchal authority within the household, including the right of the husband to beat his wife under certain circumstances. Interpretations of religious traditions are always subject to contestation. Muslims disagree among themselves, to some extent, about the correct understanding of Islamic teaching on the family and relations between spouses. For example, one author develops a highly egalitarian reading of Islamic teaching and insists, among other things, that 'The Qur'an never orders a woman to obey her husband' (Wadud-Muhsin 1992: 77). Another, perhaps more common view asserts at least some duty on the part of a wife to obey her husband:

Because of his natural ability and his responsibility for providing for his family, the man is the head of the house and of the family. He is entitled to the obedience and cooperation of his wife, and accordingly it is not permissible for her to rebel against his authority, causing disruption (al-Qaradawi 1993: 205).

Of course, the same range of views can be found within other religious traditions such as Christianity and Judaism. Apart from physical violence, in addressing the issue of Islamic legitimation of patriarchal authority, we encounter the problem, discussed in previous chapters, that liberal democratic commitments to religious freedom and personal autonomy preclude any attempt to regulate directly the character of relationships between spouses or between parents and children, even where some cultural tradition

prescribes patterns of authority and deference within the household that are quite at odds with equality of the sexes.

Physical violence is, however, another matter. As I noted above, protection of physical security is a core task of any liberal democratic government. Cultural and religious commitments cannot provide a ground for exemptions from the general prohibitions on violence, including domestic violence. But is there any reason to believe that it is appropriate to identify Muslim immigrants as a special focus of concern in this regard? The actual record of Western states with respect to domestic violence provides no grounds for self-congratulation or complacent comparisons with non-Western cultures. The use of violence by men against their partners and children has deep cultural roots in the West, and until quite recently has been largely supported by the legal system. Even now when public norms have apparently begun to change, the amount of domestic violence is staggering. It might be instructive to compare the actual use of force by Muslim men within their own households (in Western societies) with the use of force by non-Muslims. What if the Muslim rate turned out to be lower than that of other groups? Would that have any bearing on the question of what sorts of cultural adaptation were required to meet the requirements of the Western commitment to gender equality?

I have not been able to find any empirical studies on the relation between culture or religion and domestic violence that would help us to address the questions I just posed. In the absence of such data, is there any reason to suppose that Islam legitimates wife-beating? Critics of Islam point to a passage in the Qur'an which allows a husband to strike his wife under certain circumstances. But Muslims insist, with good reason, that it is unfair to take the passage out of context. Some argue that the passage should be read as severely restricting the practices prevalent at the time rather than as granting ongoing permission for this sort of behaviour (Wadud-Muhsin 1992: 74–8). Even conservative Islamic scholars emphasize the steps that must be taken before the husband may use physical force and the drastic limits on the kind of physical force that may be employed (al-Qaradawi 1993: 205). I would want to challenge even this highly circumscribed legitimization of physical force in relations between spouses, but clearly this cannot be taken as a general legitimization of domestic violence. Spousal abuse is undoubtedly a problem among Muslim immigrants as it is among every group in Western societies, and it may be that some Muslim men seek to justify their actions by appealing to the Qur'an, but both their behaviour and their appeals are contrary to Islam as understood by most Muslims (Memon 1993).

In sum, my response to the issue of spousal abuse parallels the one given to female circumcision. The state can and should prohibit domestic violence, but it is deeply misleading and harmful to say that Islam legitimates wife-beating.

Polygamy

What about Islam's endorsement of polygamy? First, it should be noted that many authors have argued that there are resources within Islam for prohibiting polygamy, based on the Qur'anic injunction that a husband must treat each of his wives justly, and, if unable to treat more than one justly, should marry only one (Esposito 1991: 96). Furthermore, a legal prohibition of polygamy does not prevent a Muslim man from doing anything required by his religion (provided that he has not yet taken more than one wife) but only limits something that is permitted by Islam.

Polygamy is significantly different from female circumcision and wife-beating in one important respect, however. It is not obvious why it should be legally prohibited. Every Western liberal democratic state does forbid it, of course, but it is not clear how that fits with the general principle that adults should normally be able to enter into whatever contracts or personal relationships they choose. If the defence of the prohibition rests on a concern for the well-being of women and children in such relationships, it would seem appropriate to consider the effects of easy divorce as well. Muslim commentators rightly point out that the relative ease of divorce and remarriage in Western states creates a kind of *de facto* serial polygamy, and studies show that the economic position of women and children after the breakup of a marriage is usually greatly reduced for a significant period while that of men often improves (Weitzman 1985). If the issue is asymmetry between men and women, that would appear to be remedied by a legal regime that permitted women as well as men to have multiple spouses, even if, among Muslims, only men availed themselves of this opportunity (Gutmann 1993).

Hijab and L'Affaire des Foulards in France

Consider finally the issue of Islamic dress. This is a particularly puzzling issue. The right to dress as one chooses—subject only to standards of public decency (themselves highly contestable and often gender biased)—would seem the quintessential liberal right. Indeed, one of the objections against some Islamic regimes is that they require all women to conform to a narrow, publicly determined dress code, thus unduly restricting their personal liberty. So, why would anyone object if Muslim women choose to wear the *hijab* as a way of expressing their cultural identity or religious convictions?¹³

¹³ It is striking what passions this form of dress can arouse. A graduate student in my department whose strong feminist views were well known converted to Islam after years of study and reflection, and, after her conversion, began to wear the *hijab* out of conviction that this was the

In some contexts, there are norms of dress so that wearing the *hijab* would require an exemption from the norms that others are expected to follow. For example, in Montreal recently a judge expelled a Muslim woman for refusing to remove her head covering on the grounds that there was a prohibition against wearing anything on one's head in court. The judge's action was widely condemned in the press on the grounds that it was insensitive to the cultural and religious significance of the *hijab*. One Muslim critic wondered rhetorically whether the judge would have required a Catholic nun in a traditional habit to remove her head covering. In the Canadian context, with its institutionalized commitment to multiculturalism, it seems obvious that the judge was wrong. A Muslim woman shows no disrespect to the legal system by wearing her *hijab* in court. If the right to do so is considered a special right, it is precisely the sort of special right required by the deeper commitment to evenhanded justice. It does not privilege Muslim women over other people but merely ensures that their cultural and religious differences from the majority do not become unfair sources of disadvantage.

In France, the expulsion of three girls for wearing the *hijab* to a public school became the focal point for a national debate on special rights, the integration of immigrants, women's equality, and the principle of secularism in French public life (Feldblum 1993; Silverman 1992; Galeotti 1993; Moruzzi 1994; Gaspard and Khosrokhavar 1995). I cannot recapitulate all of the elements of that debate here, but I can perhaps use it to draw attention to one of the important complicating considerations in thinking about gender equality and Islam in liberal democratic states, namely, the range of legitimate variability among liberal democratic regimes.

As previous chapters have pointed out, every liberal democratic state must recognize certain principles such as freedom of speech, freedom of religion, majority rule, and so on, but there are many different ways of interpreting these principles and many different forms of practice among liberal democratic states. Now the mere fact that a practice exists in a state that we call liberal democratic does not make it morally legitimate. One need only mention the example of legally supported segregation in the United States prior to 1954 to make that clear. Yet it would be astonishing if someone argued that there was only one correct way to institutionalize liberal democratic principles. It seems far more plausible to suppose that there is a range of reasonable disagreement about what the principles of democratic justice require, and that within that range different states are free to adopt different institutional arrangements. But how wide is that range with respect to gender equality and the toleration of difference?

proper thing for her to do as a good Muslim. It is hard to imagine a more apt case for the Millian injunction about respecting the right of a mature adult to live her life in the way she sees fit and avoiding the tyrannical intrusions of public opinion. Yet she was subject to disapproval and even hostility from many of her peers.

One central element of the argument for prohibiting the wearing of the *hijab* in the French public schools emphasized the distinctiveness of the French political tradition, especially as compared with Anglo-Saxon traditions. France has a tradition of a strong state and an expansive public sphere. One French author writing about the challenge posed to the French by Muslim immigrants wrote that in the 1980s 'the state got the impression that it no longer had complete control over the norms of society' (Leveau 1992: 173). No American author could have written such a line about the United States, for it would never occur to an American that the state could or should have complete control over the norms of society. But does that mean that the French model is undemocratic and illegitimate?

The French political system has a history of strictly limiting the role of intermediate groups in public life, of confining religious matters to the private sphere, and of insisting on the strict secularism of the state. Again, all of these fundamental principles of the modern French state differ in various ways from the practices of Anglo-Saxon states. (For example, marriages in France must be performed before a civil authority to be legally binding, whereas other states delegate to religious officials the authorization to perform legally binding marriages). The French tradition of dealing with immigrants has strongly resisted the sort of ethnic group formation that developed in North America and has pursued a strategy of assimilating immigrants as individuals, relying heavily upon the public schools (and the army and the unions) to bring about the necessary cultural transformations.

One may object that these generalizations say more about the myths of French political traditions than about the realities of French political life. The objection has merit, but it would be exaggerated to claim that there are no significant differences along these lines between, say, France and the United States. In any event, many prominent intellectuals and public figures in France feared that what they regarded as deep and distinctive principles of the French state would be threatened by the wearing of the *hijab* in the public schools. This is, at the least, a more plausible claim in the French context than it would be in a North American context. Whether it is sufficient to warrant the requirement that girls not wear the *hijab* to school seems more doubtful, however.

The claim that the *hijab* as a religious symbol was incompatible with the secularism of the public sphere was weakened in the actual case by the fact that no such restrictions had been placed on the wearing of Christian religious symbols like crosses. Even if that inconsistency were tidied up, however, the question remains whether the French state could legitimately ban all religious symbols from a compulsory institution like public schools, as some of the defenders of secularism advocated. In my view, the answer is no. Here it is important to reassert the idea that the state should sometimes take a hands off approach to culture, and especially religion, as a way of respecting individual

choice. It should certainly count as a powerful argument against such a prohibition that, in some religious traditions (including some forms of Islam), the wearing of certain items is seen not merely as an admirable expression of faith but as obligatory. In such a context, the prohibition interferes with religious practice in a way that calls for a stronger justification than appeal to a political tradition of secularism.

The French *Conseil d'État* took a somewhat similar view, ruling that the mere wearing of religious signs could not be prohibited. The *Conseil* went on to assert that it was permissible to prohibit students from wearing religious signs in such an ostentatious way that it would pressure other students or amount to a form of proselytization or provocation and left it up to local administrators to decide when that was the case. Drawing upon this opening, some people have argued that, in the current context in France, wearing the *hijab* is not so much an expression of faith as a political challenge to French liberal democracy. They note that most of France's Muslim population is of North African origin or ancestry. They draw attention to the rise of Islamic fundamentalism in North Africa and the use of terror in some states there against females who do not wear the *hijab*. They note the experience in France itself of terrorist attacks in the name of these fundamentalist movements. They say that the fundamentalists see female separation from and subordination to males as an essential element in their project and thus view Muslim girls as a particularly important target for their efforts and public indicator of their success or failure. In all these circumstances, they argue it is appropriate to construe wearing the *hijab* in school as both a political provocation and as a threat or at least a form of undue pressure against Muslim girls who do not wear it. For all these reasons, they claim, it is legitimate to ban the *hijab* from French public schools (Badinter *et al.* 1989; Lacooste-Dujardin 1990; William 1991; Aulagnon 1994).

The view I have just described offers a contextual defence of the ban on *hijab*. In my view, the kinds of considerations it adduces on behalf of a restrictive policy in France are relevant, and, in that respect, it seems clear that a stronger case can be made for banning the *hijab* in French schools than could be made in most other liberal democratic states. Still, the mere fact that a contextual account is offered does not mean that we have to accept it. Here I do not think the case is strong enough. I would agree that what people wear often carries symbolic meaning and that the meaning depends in part on the social context. I would even stipulate, though some civil libertarians would disagree, that it might be permissible to restrict certain forms of dress in school because of their symbolic associations. For example, the wearing of Nazi insignia is banned in schools in a number of states. Some schools in Los Angeles have banned the wearing of colours associated with gangs. But the *hijab* cannot reasonably be equated with Nazi insignia or gang colours, even allowing for the differences in circumstances.

The *hijab* has long played a central role in the Western imagination, standing particularly as a symbol of the subordination of women within Islam and hence as a proof of the moral superiority of the West. Precisely for that reason, many women in the anti-colonial movement who had never worn the *hijab* began to put it on, using it as a symbol of their rejection of Western values. Doubtless the contemporary wearers of the *hijab* in France mean sometimes to evoke this rejection of French colonialism and to assert an alternative set of norms. Yet part of what they deny in doing so is that the *hijab* does stand for the subordination of women. Indeed, one could make a plausible case that French *haute couture*, by constructing female identity in terms of a woman's ability to dress in ways that are attractive to men, has contributed more to the subordination of women—think of short skirts and high heels—than the *hijab* ever did. But even if the *hijab* does stand for the subordination of women within Islam, why shouldn't Muslim girls be permitted to wear it if they choose to do so?

Some allege that the girls who first wore the *hijab* were pressured into doing so by their parents and were not acting out of religious conviction but were being used as tools by others for purposes of political mobilization (Monnet 1990). It is remarkable how this sort of construction treats all of the pressures within French society *not* to wear the *hijab* (including perhaps pressures from Muslim parents who want their daughters to conform more to the dominant French norms) as background conditions of free choice and only pressures from parents or others to wear the *hijab* as coercive. Of course, there are some sorts of pressures the state must intervene to prevent, notably the threat of bodily harm. And there are states such as Algeria and Iran where girls and women face physical threats for failing to conform to what some people regard as the norms of Islamic dress. But that is not the case in France today. If anything, the pressures for most Muslim girls are overwhelmingly in the other direction. Once again we are reminded that one's context of choice is shaped by many different factors, none of them neutral.

There may well be a good deal of truth to the claim that non-religious motives play a role for some of the girls who wear the *hijab*, but it can hardly be denied that the *hijab* has a deep and long-standing religious significance within Islam or that devout Muslims living in the West frequently wear the *hijab* without any political goals in view. In the end, I do not see why the potential of the *hijab* to serve multiple purposes, including political ones, should have any bearing on the right of the girls to wear this religiously important form of dress.

Conclusion

Over the past several years, I have been struck by the vehemence of anti-Muslim sentiment not only in Western societies generally, but particularly

within the academy. This was one of my principal motivations for using Islam as a focus in this chapter. I have argued here that liberal states are not obliged to tolerate every practice that some people claim is justified by Islam but that it is wrong to suggest that Muslims cannot be good citizens. The various examples of alleged conflicts between liberal commitments and the place of women in Islam that I have considered suggest that, in fact, liberal critiques of Islam often demand more of Muslims than of members of other religious communities. An understanding of justice as evenhandedness would seem to require more modifications of Western attitudes towards Muslim immigrants than of Muslim practices. I am well aware that I have only scratched the surface of this rich and challenging subject and that any complete account of the appropriate relationship between Muslim immigrants and their liberal democratic host countries must consult the voices of Muslims themselves. My goal here was simply to use a contextual analysis to unsettle some of the assumptions that critics of Islam often make.

7

Multiple Political Memberships, Overlapping National Identities, and the Dimensions of Citizenship

In the previous two chapters I have been considering some of the ways in which cultural commitments may stand in tension with liberal principles, thus raising questions about the meaning of equal citizenship. In this chapter, and the next two, I will continue to explore the meaning of equal citizenship, while examining cultural identities that raise questions about the meaning of citizenship itself.

In the modern world, talk about citizenship sometimes presupposes, as a background assumption, an idealized (and misleading) conception of the nation-state as an administratively centralized, culturally homogeneous form of political community in which citizenship is treated primarily as a legal status that is universal, equal, and democratic. In this idealized conception, the nation-state is the only locus of political community that really matters and citizenship just means membership in a nation-state. Everyone in the world is supposed to belong to one such state and only one. Although the state may delegate its authority to sub-units, it retains ultimate authority because it exercises a legitimate monopoly of violence over the territorially based society that it governs.¹

This picture of citizenship is inadequate in many respects. It is conceptually inadequate in the sense that it does not appreciate the multiple dimensions of citizenship and the complex relationships among these dimensions. It is empirically inadequate in the sense that it does not correspond to actual practices in Canada and in other states that embody a recognition of multiple forms of belonging and of overlapping citizenships. And it is theoretically inadequate in the sense that it fails to see the ways in which recognition of difference may be essential to fulfil the commitment to equality that is often expressed in the language of citizenship.

¹ For an instructive account of the conventional view and some of its limitations, see Brubaker (1989: 1–27). I argued in Chapter 3 that Kymlicka's conception of societal culture presupposes this conventional view despite his focus on multiculturalism.