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## EMBRACING THE “NATION”\*

**ABSTRACT.** The idea of the “nation” has played only a small role in modern political philosophy because of its apparent irrationalism and amorality. David Miller, however, sets out to show that these charges can be overcome: nationality is a rational element of one’s cultural identity, and nations are genuinely ethical communities. In this paper I argue that his project fails. The defence against the charge of irrationalism fails because Miller works within a framework of ethical particularism which leads to a position of metaethical relativism. A consequence of this relativism is that a community’s moral principles and boundaries of exclusion cannot be rationally justified to those constructed as “outsiders”. The defence against the charge of amorality fails because Miller does not so much provide an argument to show that nations are ethical communities as assume they are; we are therefore left without resources to discriminate between ethical and unethical nations. I apply these problems to Miller’s treatment of the question of immigration, arguing that it shows that his version of “liberal” nationalism has a tendency to collapse towards a conservative position on such issues. This should not give us any great confidence that the nation, as Miller presents it, should be embraced by modern political philosophy.

**KEY WORDS:** communitarianism, immigration, liberalism, nationalism, particularism, universalism

### INTRODUCTION

The idea of the “nation” has, until recently, figured little in modern political philosophy, especially within liberal theory. Resistance to it can be understood against its apparent violation of two of the central principles of liberalism, both of which express liberalism’s claim to universalism: the principle of the moral equality of persons – that all human agents are entitled to equal respect and concern; and the principle of rationality – that public political institutions and practices must be capable of justification to all rational agents. The idea of the nation seems to conflict with these

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principles in that it implies special moral duties towards co-nationals which do not apply to “outsiders”, a form of moral partiality; and it is taken to be an idea that defies rational justification – at the very least, one group’s self-conception as a nation cannot be rationally justified to outsiders.

However, political philosophers have begun to acknowledge that to make no reference at all to such a major force in human affairs is to detach their work from reality to an unacceptable extent. The question, then, is how to respond to the nation? There seem to be three possible responses. The first is to be heroic and to reject the idea of the nation in totality, and to continue as before. The second is toleration, to acknowledge that nations remain a major force in political activity despite their amorality and irrationalism, and try to construct a political philosophy that can at least co-exist with them. The third and most radical response is accommodation: to find a way of making sense of the nation such that it becomes acceptable to the sensibilities of modern political philosophy, even within the context of liberal theory. This involves demonstrating that since the nation can be a genuinely ethical community, and one’s nationality a rationally defensible component of one’s cultural identity, the charges of amorality and irrationalism can be rejected.

David Miller pursues the third option, of accommodation, and develops a theory that can be described as liberal nationalism.<sup>1</sup> His strategy is to demonstrate that “nationality” can be both rational and ethical: we can bring the idea of the nation into political philosophy through the idea of nationality. However, I believe there are serious problems with Miller’s project and that his defences against the charges of irrationalism and amorality ultimately fail, a failure I shall analyse through his comments concerning immigration. It is certainly true that political philosophers have overlooked the question of the boundaries of membership and have tackled issues such as social justice from a purely internal perspective, taking membership as given. But the current work on “nation” and “nationality” suffers from much the same shortcoming. The main focus has been on settling the question of membership internally, on seeing how a sense of shared nationality can bring solidarity and cohesion to a political community. What has been more or less overlooked is the external question of membership: how “insiders” and “outsiders” and the bound-

<sup>1</sup> D. Miller, *On Nationality* (Oxford: Clarendon Press, 1995). My discussion focusses on this book. Miller’s other publications on nationality are “The Ethical Significance of Nationality”, *Ethics* 98 (1988), 647–62; “In Defence of Nationality”, *Journal of Applied Philosophy* 10 (1993), 3–16; “The Nation-State: a Modest Defence”, in C. Brown, ed., *Political Restructuring in Europe* (London: Routledge, 1994), 137–62. He himself never directly applies the term to his own position: see *On Nationality*, 192. I justify the use of the description later in this paper.

aries between them are constructed. What is taken as given here is the insider/outsider distinction itself. While these writers are undoubtedly aware that the question of membership is a two-sided process of both inclusion and exclusion, the latter is underplayed. Thus, while we do find some remarks about immigration control and naturalisation law, these are typically thin and underdeveloped.<sup>2</sup> A focus on immigration, then, reveals some fundamental problems with the strategy of embracing the nation. At the very least, it provides an example where an avowedly liberal nationalism leads to worryingly conservative conclusions.

In this paper I examine Miller's appeal to what he describes as ethical particularism over ethical universalism, and I argue that this entails a form of relativism which I call "moral communitarianism". I outline his argument that nations are ethical communities, and show how he provides only "internal" justifications of such communities. I then examine and contrast what he describes as "conservative nationalism" with his own version of what I have called "liberal nationalism". Finally, I present his comments on immigration and his criticism of conservative nationalism on this issue, and argue that his own position on immigration has a tendency to collapse towards conservative nationalism.

#### MORAL COMMUNITARIANISM

Miller's project is to establish that nations are genuine ethical communities, by presenting a moral framework he describes as ethical particularism and which he argues is needed if his claim is to make sense. He contrasts ethical particularism with ethical universalism. According to ethical universalism, "...only general facts about other individuals can serve to determine my duties towards them".<sup>3</sup> "Relational" facts do not enter our moral reasoning, except at a lower level where they can be justified in terms of the general principles – but they can never be basic or intrinsic reasons for action. In contrast, ethical particularism makes these relational facts basic:

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<sup>2</sup> See my "The Limits of Inclusion: Western Political Theory and Immigration", in *Soundings* 10 (1998), 134–44; and my "Communitarianism and Immigration: Walzer on 'Members and Strangers'", in E. Garrett, H. Miller, J. Shannon and G. Calder, eds., *Liberalism and Social Justice: International Perspectives* (Aldershot: Ashgate, forthcoming 2000).

<sup>3</sup> *On Nationality*, op. cit., 50.

...agents are already encumbered with a variety of ties and commitments to particular other agents, or to groups or collectivities, and *they begin their ethical reasoning from these commitments*. (my emphasis)<sup>4</sup>

The problem with particularism is that it “appears as the capitulation of reason before sentiment, prejudice, convention, and other such rationally dubious factors”; it could lead to uncritical acceptance of tradition, and to incoherence as the complexity of relational facts pulls us in contradictory directions. On the other hand, universalism “relies upon an implausible picture of moral agency...”,<sup>5</sup> with a picture of moral reasoning which is too abstract and artificial.

National relations will have *intrinsic* value only from the particularist perspective, argues Miller. While universalism *can* make sense of them, they have to be seen as derivative, not basic. There are two ways to derive them: seeing them as voluntary creations or as useful fictions. The first method argues that it is “valuable from a universal point of view for people to have the moral power to bind themselves into special relationships with ethical content”.<sup>6</sup> This, however, will not work when it comes to nations, because they are not voluntary in the right sense and are on too large a scale for the model to be applied to them. The second method sees national relations as simply conventions that happen to be useful for delivering what our universal moral principles demand. But, says Miller, it is very difficult to justify national relations in this way, as there are obviously more rational arrangements available than nation-states with their vastly unequal powers and resources. Miller concludes that “attempts to justify the principle of nationality from the perspective of ethical universalism are doomed to failure”. From the universalist perspective,

[N]ationality should be looked upon as a *sentiment* that may have certain uses in the short term ... but which, in the long term, should be transcended in the name of humanity.<sup>7</sup>

The only choice is “to adopt a more heroic version of universalism, which attaches no intrinsic significance to national boundaries, or else to embrace ethical particularism...”.<sup>8</sup> Miller takes the latter option.

Before looking at how Miller claims to show that nations are ethical communities, I want to examine three puzzles that arise from the way he distinguishes between ethical universalism and particularism. As we have seen, ethical universalism is an approach to moral issues that derives moral

<sup>4</sup> Ibid.

<sup>5</sup> Op. cit., 56–7.

<sup>6</sup> Op. cit., 53.

<sup>7</sup> Op. cit., 64.

<sup>8</sup> Op. cit., 64–5.

principles purely from general facts about humanity, although it is possible to derive particular duties from those general facts. Ethical particularism, in contrast, holds that moral principles arise from the relations people find themselves in, although, again, it is possible to derive universal duties from these relational facts. The puzzles are as follows.

First, Miller argues that ethical universalism can make no sense of *purely* local moral principles: any local principles must be ultimately derived from general principles. This means that an ethical universalist approach has problems accounting for those particular moral principles which cannot be derived from generalities in this way – and that includes the principle of nationality. One response to this would be, of course, to say so much the worse for the principle of nationality, but Miller argues that we cannot do this degree of violence to such strong moral intuitions. But we can reverse this argument: ethical particularism can make no sense of *purely* general principles – and yet we have strong moral intuitions that we owe fundamental duties to humanity in general. If universalism is not permitted to set aside strong moral intuitions, there is no reason to suppose that particularism should be allowed to. However, whereas universalism can make no sense of the principle of nationality, and cannot derive it from general principles, Miller believes that particularism *can* make sense of universal human rights. To be consistent, of course, these universal rights must be derived, not from general facts about humanity, but from relational facts, which is precisely how Miller proceeds: “[T]here is nothing in particularism which prevents me from recognizing that I stand in *some* relationship to all other human beings by virtue of our common humanity and our sharing of a single world”.<sup>9</sup> There is, therefore, a global relationship which gives rise to global rights and duties. However, a problem arises about how we are to derive the content of these universal rights when we begin from the particular perspectives provided by our national relationships. Even if we agree that universal rights are in some sense basic, Miller acknowledges that our different relational perspectives may well give rise to different conceptions of what is basic.<sup>10</sup> However, he argues, the problem is solved because at some *fundamentally* basic level there will be convergence, and thus agreement on a set of basic human rights that apply globally. Those concerned with universal human rights may not be content with this, however, especially when Miller argues that this convergence takes place at the level of protection from death by starvation: such a basis for universal human rights may not match up at all to our moral intuitions concerning our duties towards humanity in general. In addition,

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<sup>9</sup> Op. cit., 53.

<sup>10</sup> Op. cit., 75.

to derive the content of universal rights from the particularist perspective I would have to work through my relationship to humanity in general, rather than work simply from a set of general facts about humanity. But here the particularist option looks impossibly complex – my actual relationship with the rest of humanity, in a modern capitalist world economy, is not something I can begin to make sense of. And so the particularist position looks no better than the universalist here: while the universalist can make no sense of the principle of nationality, the particularist can make no sense of the principle of humanity.<sup>11</sup>

Second, we should notice that the principle of nationality itself has a level of generality. Although it establishes that people owe specific duties towards particular people – members of the nation – it aims to establish that *all* people owe duties to their co-nationals. In a sense, then, this is a universal principle. The question is, how are we to arrive at this level of generality? According to particularism, we begin our moral reasoning from the relationships we find ourselves in – but in this case I have to reason my way from my specific relationship with my co-nationals, and the rights and duties it gives rise to, to the principle of nationality, which holds that *all other people* in relevantly similar relationships have relevantly similar rights and duties. This is a principle, then, that seems to transcend particular relationships; but if ethical particularism is correct, it must have its source in a particular relationship. If there is a genuine puzzle here, it is worrying for Miller because it is a puzzle about the status of the principle of nationality itself, and about everything he says concerning international relations: that our obligations to non-nationals are limited because we are entitled to expect their co-nationals to meet their needs.<sup>12</sup> We are entitled to expect this only if we are entitled to expect them to recognize the moral force of the principle of nationality<sup>13</sup> – but what could give us *this* entitlement? There is a suspicion here that the principle of nationality gets its generality from a piece of universalist ethical reasoning concerning general facts about humanity. If so, it means that the principle of nationality itself has to be derived from universalist ethical reasoning, something Miller has ruled out as incoherent.

<sup>11</sup> In fact, whether the particularist or universalist is in the least worst position will depend upon whether one believes the principle of humanity or the principle of nationality to be more fundamental.

<sup>12</sup> See *On Nationality*, op. cit., 75, 79–80.

<sup>13</sup> We should note here that Miller does *not* believe that each nation will arrive at the same set of rights and duties (ibid., 69, and see below). While we are entitled to expect all peoples to recognize the moral force of the principle of nationality, we are not entitled to expect it to have any specific content. If things are this relativistic, Miller seems to have little basis upon which to say much concerning international relations.

Third, from the ethical particularist perspective, we begin our moral reasoning from the ties and commitments we find ourselves in: from relational facts about ourselves and others. Our rights and duties emerge from these relational ties. This gives rise to moral principles that have two important features. The first is that they are autonomous, that is to say they are not deduced or derived from any higher moral principles. This gives the moral agents within those relationships an important degree of self-determination: "outsiders" cannot impose rights and duties upon them from an external perspective. In an important sense, there is no external perspective here. This is crucial for what Miller goes on to say about nations as ethical communities: an important feature of our understanding of nations is that they are autonomous and self-determining, and there can be no legitimate external authority that can impose rights and duties upon them, unless they have given their consent to such an authority. The second feature of particularist moral principles is that they have boundaries of exclusion: those who are not in the relationship are excluded from the rights and responsibilities that arise from it. Just as there is no external authority that has to legitimate the relationship, so there are no external rights and obligations. All rights and obligations arise from *within* a relationship; as we have already seen, any moral obligation I have to humanity in general has to arise from *within* some relationship I have with humanity in general. One over-simplistic and mistaken contrast between particularism and universalism here might be to suggest that particularist principles have boundaries of exclusion whereas universalist principles do not. However, at one level the claim that moral principles have to be bounded has never been controversial, and even the most universalist of moral theorists have seen the scope of their principles as limited to a particular group. For example, the boundary might be drawn between those who have the capacity to be moral agents and those that do not, or those with the capacity for rationality, or sentience, and those without. Universalist moral principles therefore have borders and those borders are contested.<sup>14</sup> The difference between universalist and particularist principles cannot, then, be that the latter have boundaries while the former are somehow borderless – the difference must lie in the nature of the border.

Now, the border of exclusion around a moral principle can be constituted in a number of ways and can lie in a range of places. First there is the boundary of distribution – the limit of the distribution of rights or duties or goods. Second, there is the boundary of legitimation – the limit of justification. What I have in mind here is inclusion in or exclusion from the process of the rational and ethical justification of a moral principle:

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<sup>14</sup> See my "Problems with 'Persons' ", *Res Publica*, III (1997), 165–83.

quite simply, those who are included within this boundary do not have to justify the moral principle to those who are excluded in this sense. One can therefore be excluded from a moral principle in two ways: from its distribution; and from its legitimation. In many ways the latter type of exclusion is more serious than the former, in that one can always see the legitimacy of being excluded from a particular distribution, and therefore accept that distribution as rationally and morally justified. This shows that the two boundaries, of distribution and legitimation, do not need to fall in the same place; and where one is excluded from the distribution, what is important is that one has been included in the legitimation process. Indeed, what matters most from the universalist perspective is not that moral principles include all humanity in their distribution of goods, but that they include them in their legitimation – any moral principle has to be capable of being accepted as rationally and ethically legitimate by any moral agent.

For the universalist, these two boundaries may coincide, but only in special cases. One possibility is that the good being distributed by the principle is of no value to those excluded from its distribution – there is therefore no *need* to justify their exclusion. The second possibility is that those excluded are not capable of comprehending the legitimation process – they are in some sense not moral or rational agents and so it is not *possible* to include them within the boundary of legitimation.<sup>15</sup> However, these two possibilities are exceptions, and what remains important for the universalist is that the boundary of legitimation includes, except for these possible exceptions, all moral agents, and is therefore much wider than most boundaries of distribution.

We can now see what is distinctive about particularist moral principles: their boundaries of distribution and legitimation *converge*. The two features we identified above mean that these two boundaries cannot come apart. There is no need to include those outside the ethical relationship within its distribution of rights and responsibilities, and those outside have no authority over its content. There are, if you like, two forms of legitimation for a moral principle, external and internal: while from the universalist perspective moral principles have to be legitimated externally, from the particularist perspective they need be legitimated only internally – there is, from the particularist position, no legitimate external viewpoint. Now, an important question arises here: how to make sense of this convergence of the two boundaries? We saw that from a universalist perspective there are two possibilities for the legitimate convergence of boundaries. But does either possibility hold for the particularist? If we look at nationalist

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<sup>15</sup> This in itself is not necessarily a *ground* for excluding them from the boundary of distribution – it simply removes the duty to justify their exclusion to them.

principles of exclusion, which are the clearest examples of coincidence between boundaries of distribution and legitimation, then we would have to argue either that those excluded are incapable of benefiting from the goods being distributed within the nation, or that they are incapable of comprehending our processes of legitimation. If we take the first possibility, it may be that there are *some* goods that are distributed within a nation where this argument works, but they are going to be too rare to justify the principle of nationality as such. Anyway, the most crucial kinds of goods, such as welfare goods, are clearly not like this – and indeed the principle of nationality only has any ethical work to do when it covers goods that *can* be enjoyed by outsiders. The only way forward for the particularist nationalist is to opt for the second possibility, that outsiders cannot comprehend our processes of legitimation, and so it is not *possible* to include them in that process. Now this is, of course, a very strong claim to make about outsiders. It amounts to what we might call “moral communitarianism” – a form of moral relativism which claims that certain kinds of groups, moral communities, can generate moral principles that are purely internal. They are intrinsic and autonomous, independent of any universal perspective, and can be fully comprehended only by members of the moral community.<sup>16</sup> The third possibility for the particularist, avoiding this moral communitarianism, is simply to claim that the boundaries of distribution and legitimation just *do* coincide, or at least that they do in the case of nationalist principles. But this claim is incomprehensible unless placed in the context of moral communitarianism.

To review this argument: it is crucial from the particularist viewpoint, especially if we are going to use particularism to move to an ethical nation-

<sup>16</sup> I am not concerned to argue that Miller is a “communitarian” as that term is understood in modern political theory, nor that communitarianism necessarily entails moral relativism. However, having said this, on the former question I am inclined to see his arguments as falling within what we might call the communitarian tradition. He observes that “... liberalism v. nationalism may be a specific instance of what is frequently now regarded as a more general contest between liberals and communitarians” (*On Nationality*, op. cit., 193). One suspects that his version of nationalism is based on what he describes as “Liberalism-on-communitarian-foundations” (*ibid.*). On the latter issue, there is some suspicion among commentators that communitarianism *does* entail a moral relativism. See Elizabeth Frazer, “Communitarianism”, in A. Lent, ed., *New Political Thought: an Introduction* (London: Lawrence and Wishart, 1998), 112–25, p. 116; S. Avineri and A. de-Shalit, eds., *Communitarianism and Individualism* (Oxford: Oxford University Press, 1992), where they observe that “... it has been argued that some of the consequences of the metaethical premisses of communitarianism may tend towards moral relativism” (4); and A. Buchanan, who notes that communitarianism is in danger of “lapsing into an extreme ethical relativism...” – “Community and Communitarianism”, in E. Craig, ed., *Routledge Encyclopedia of Philosophy* (London and New York: Routledge, 1998), 464–71, p. 465.

alism, that the boundaries of distribution and legitimation coincide, that goods need not be distributed to outsiders, and that this limit does not have to be justified to outsiders. What is incomprehensible from the universalist view, however, is the ethical justification of excluding people from a distribution of goods they can benefit from, unless they have consented to it. Miller's particularist solves this puzzle by removing the need for that justification. The concern I have raised here is that they can remove the need for justification only by assuming its impossibility – and this represents a type of moral relativism.

Whether Miller would embrace this moral communitarianism is questionable, as it carries a cost for his thesis. We can assess this cost if we follow Jeff McMahan in distinguishing between particularist nationalism and universalist nationalism. For him, particularist nationalism holds that “[A] morality . . . is a communal product whose range of application is properly restricted to the community in which it evolved.” The implication is that we “should neither condemn nor endorse the nationalism of others”.<sup>17</sup> When it comes to moral principles,

... whatever the local morality determines to be the appropriate degree of partiality within the community is authoritative for the members of the community. There is no neutral, external standpoint from which the local morality's determinations can be challenged or overruled.<sup>18</sup>

Universalist nationalism holds that “. . . all people are morally entitled to value their own nation, to seek to ensure its self-determining character, and to show partiality to its members”.<sup>19</sup> This partiality still depends on relational facts, but according to this position there must be something objectively valuable about the relationship in order for the partiality to be justified – otherwise “racist or other pernicious forms of partiality could be readily defended”.<sup>20</sup> Miller would, of course, want to close off such a possibility. Equally, as we have seen, the principle of nationality itself has an important level of generality – *all* people are morally entitled to value their nation and its members over outsiders. If Miller's is a genuinely particularist nationalism – rather than a universalist nationalism in disguise – and if I am right that particularist nationalism can make its boundaries comprehensible only in the context of moral communitarianism, then Miller must surrender these international aspirations for his principle of nationality, and proceed to talk in terms only of what nation-

<sup>17</sup> J. McMahan, “The Limits of National Partiality”, in R. McKim and J. McMahan, eds., *The Morality of Nationalism* (Oxford: Oxford University Press, 1997), 107–38, p. 108.

<sup>18</sup> *Ibid.*, 110.

<sup>19</sup> *Ibid.*, 108.

<sup>20</sup> *Ibid.*, 113.

ality means to a specific political community of which he is a member, without assuming that nationality will be, or ought to be, valued by other political communities.

#### THE NATION AS ETHICAL COMMUNITY

Miller goes on to argue, in the context of ethical particularism, that nations are genuinely ethical communities; but that the boundary of national partiality is not justified to those excluded from it. He begins his argument with "the assumption that memberships and attachments in general have ethical significance". This means that

[B]ecause I identify with my family, my college, or my local community, I properly acknowledge obligations to members of these groups that are distinct from the obligations I owe to people generally. Seeing myself as a member, I feel a loyalty to the group, and this expresses itself, among other things, in my giving special weight to the interests of fellow members.<sup>21</sup>

Identification by itself is, of course, not sufficient: for a genuine community to be in place, the felt loyalties and obligations have to be reciprocal. Miller uses his college as an example of a community, arguing that the obligations he has as a member depend on its "general ethos". So as a member of the college, giving academic advice to students will be near the core of that ethos. Miller does acknowledge that his "collegial obligations extend to general human interests . . .", but even here membership comes into play. If two students need help to go to hospital and he can take only one, Miller decides he "ought to give priority to the one who belongs to my college, taking the other only if his need is considerably more urgent".<sup>22</sup>

The argument so far has proceeded on the assumption of the moral value of membership, and Miller applies this assumption at the level of nationality. The only problem with this application, for Miller, is the abstract nature of the nation: it is easier to determine rights and duties in face-to-face communities, but nations are not like this. The gap, for Miller, is filled by the "public culture", that is, "a set of ideas about the character of the community which . . . helps to fix responsibilities".<sup>23</sup> The rights and duties of the nation depend on its particular public culture, and therefore "we cannot derive the obligations of nationality simply from reflection on what it means for a group of people to constitute a nation in the first

<sup>21</sup> *On Nationality*, op. cit., 65.

<sup>22</sup> *Ibid.*, 66.

<sup>23</sup> *Ibid.*, 68.

place . . .”. Instead, “. . . these obligations in their particular content are an artefact of the public culture of that nation”.<sup>24</sup>

In the end, we can ask if Miller has provided any argument that nations are ethical communities. He sets out to do so by placing nationality within the framework of ethical particularism; however, this is a theoretical framework in which Miller believes the argument for nationality can make sense, but it is not itself the argument. As we have seen, Miller starts with “the assumption that memberships and attachments in general have ethical significance”,<sup>25</sup> and that is where he ends up – nations are made into ethically significant communities by the assumption that membership as such is ethically significant. To the extent that there is an argument here, it runs something like this: nations are ethical communities because nations are, by definition, communities, and communities are, by definition, ethical; communities are ethical because they involve relations of reciprocity and loyalty, and such relations are by their nature ethical. The concern is, as Simon Caney puts it, that this argument is “insufficiently discerning . . .”.<sup>26</sup>

The discernment we are seeking is, I suggest, between groups or communities which have moral significance or value and those which do not; but as Caney observes, Miller has left us with no resources to tell such a difference. Miller’s point, of course, is that *any* group or community gives rise to reciprocal obligations simply by *being* a community, and these obligations themselves just *are* ethical responsibilities that fall upon members. But we may still want to assess how seriously these *internal* relations have to be taken by making some *external* judgment about the moral value of the group as a whole. When it comes to a racist group, we might concede that its members *feel* loyalty and therefore experience moral obligations towards each other to the exclusion of others – but we would also want to say, from an external perspective, that this group has no moral value or significance, and that therefore there is no reason why we should accept their felt moral obligations to each other as *any* justification for what they do. What is disturbing about Miller’s approach is that it seems to provide no resources for this kind of external moral judgment. Jeff McMahan observes that “. . . the fact that a relation elicits partiality is no guarantee that it is a legitimate basis for partiality”.<sup>27</sup> To assess that legitimacy, we have to be in a position to judge the “objective moral signifi-

<sup>24</sup> Ibid., 69.

<sup>25</sup> Ibid., 65.

<sup>26</sup> S. Caney, “Nationality, Distributive Justice and the Use of Force”, *Journal of Applied Philosophy*, 16 (1999), 123–38, p. 127.

<sup>27</sup> McMahan, op. cit., 125.

cance of the relations that obtain . . .".<sup>28</sup> In Miller's scheme, we cannot be in such a position. Returning to Miller's two injured students: he bases his choice on which one to assist on the grounds that one is a member of his college – but this choice acts as a justification only if membership of the college is *morally significant* rather than arbitrary. Again, in Miller's scheme the loyalty he feels to his student is not open to external assessment and therefore this judgment cannot be made: but how he can defend this exclusion, and at the same time condemn someone who bases exclusion on race?

Miller of course explicitly condemns racist exclusion. But the point is that it is not clear how he can. He argues that it is a mistake to claim that the shared characteristics that are taken to constitute a nation are "based on biological descent, that our fellow-nationals must be our 'kith and kin' ", and that this is a view that "leads directly to racism".<sup>29</sup> But this is merely to observe that an exclusion based on biological descent is wrong because it is racist – it is not to say what is wrong with a racist exclusion. What is the difference between restricting one's primary moral concerns to those one perceives or imagines as members of one's race, and restricting one's primary moral concerns to those one perceives or imagines as members of one's nation? Miller's answer is that, because the first preference is based on perceived shared biology while the second is based on perceived shared culture, the former is a racist exclusion and the latter is not.

But even if we set aside the question of cultural racism,<sup>30</sup> this is not enough to settle the moral difference between the two exclusions: we need to know what makes a racist exclusion morally unacceptable before we can be sure that the cultural exclusion does not commit the same ethical mistake. We could argue that racist exclusion is morally wrong because it divides ethical concern on the basis of an arbitrary factor; but there are two problems with this move. First, it would help only if we could argue that shared public culture is not arbitrary in the same way, and it is not obvious how to do this. Second, what features are morally arbitrary surely depends on the group's judgment – and how can a particularist be in a position to say they have made a mistake? Daniel Weinstock may be correct when he observes that

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<sup>28</sup> Ibid., 114.

<sup>29</sup> *On Nationality*, op. cit., 25.

<sup>30</sup> See D. T. Goldberg, *Racist Culture* (Oxford: Blackwell, 1993), 70–4; and his *Racial Subjects: Writing on Race in America* (London: Routledge, 1997), chapter 10.

...a particularist can only prevent nationalist sentiment from giving rise to the kinds of policies he wants to disavow by recourse to purely *ad hoc* grounds, or by tacitly presupposing universalist, non-culture specific concepts and modes of moral reasoning.<sup>31</sup>

And so the overriding concern here is that Miller simply *makes* national membership based on a shared public culture morally significant, and in doing so re-opens the door for those who want to make membership based on shared race morally significant.

#### CONSERVATIVE VERSUS LIBERAL NATIONALISM

Miller identifies “conservative nationalism” as the view that national identity must take priority over any subnational identities that are at odds with it. It entails “the idea that national identity integrally involves allegiance to authority”. In identifying one’s self as belonging to a nation, one “is *ipso facto* to acknowledge the authority of the institutions such as the monarchy which form the substance of national life”.<sup>32</sup> What is needed from the conservative viewpoint is “piety” – the acceptance of authority as legitimate even though it has not arisen through consent. The nation needs to be like a family in the sense that parental authority is acknowledged despite lack of consent. What seems essential to this notion of piety is that one ought not to demand rational justification for authority. Rather one must simply accept its legitimacy as given.

Miller outlines three consequences of conservative nationalism. First, the state derives its authority partly through the nation by formally recognizing institutions that are taken to express nationhood – for example an established religion. Second, the nation has to be protected from rational criticism to ensure that “national myths are preserved”, even if this means overriding freedom of expression.<sup>33</sup> And third, it leads to a “discouraging if not prohibitive attitude towards would-be immigrants who do not already share the national culture”; the danger is that,

if you regard a common national identity as essential to political stability, and also think that national identity involves an allegiance to customary institutions and practices, you cannot help but regard an influx of people not imbued with a suitable reverence for these institutions and practices as destabilizing.<sup>34</sup>

<sup>31</sup> D. M. Weinstock, “Is There a Moral Case for Nationalism?” *Journal of Applied Philosophy*, 13 (1996), 87–100, p. 91.

<sup>32</sup> *On Nationality*, op. cit., 124.

<sup>33</sup> *Ibid.*, 125.

<sup>34</sup> *Ibid.*, 126.

For Miller, this involves a level of incoherence, in that the modern conservative is well aware that nationality is constantly changing and consists of fictions and recent inventions, but "has to recommend an attitude of deference to 'traditions' which, by his own admission, cannot claim the authority that that label implies".<sup>35</sup>

While Miller does identify "liberal nationalism",<sup>36</sup> he does not directly apply it to his own position. However, if we look at his proposed content of nationality, we can see that he is offering a version of nationalism that is distinctively liberal. For Miller, "a national identity requires that the people who share it should have something in common . . .". This is provided by the "common public culture",<sup>37</sup> which need not be "monolithic and all-embracing". We may see it as "a set of understandings about how a group of people is to conduct its life together". How far this extends can vary – it includes political principles, but Miller allows that it can have other elements such as language and religion. However, it should not intrude into private cultures: for example, food, dress and music "are not normally part of the public culture that defines nationality".<sup>38</sup> We should simply note at this stage that this public/private distinction has a distinctly liberal flavour.

While Miller acknowledges that certain elements of a nationality will be fictional, mythical or recent inventions, the distinction that matters is not between true or false national histories, but between "national identities that emerge through open processes of debate and discussion to which everyone is potentially a contributor, and identities that are authoritatively imposed by oppression and indoctrination".<sup>39</sup> It is not so much the content of the national identity that matters as the process through which it is formed through the common public culture:

[T]o the extent that the process involves inputs from all sections of the community, with groups openly competing to imprint the common identity with their own particular image, we may justifiably regard the identity that emerges as an authentic one.<sup>40</sup>

This serves to contrast his position with conservative nationalism. Here, national identity is not authoritative and is open to critical assessment – it can change over time:

[I]deally, the process of change should consist in a collective conversation in which many voices can join. No voice has a privileged status: those who seek to defend traditional

<sup>35</sup> Ibid., 127.

<sup>36</sup> See *ibid.*, 192.

<sup>37</sup> Ibid., 25.

<sup>38</sup> Ibid., 26.

<sup>39</sup> Ibid., 39.

<sup>40</sup> Ibid., 40.

interpretations enter the conversation on an equal footing with those who want to propose changes.<sup>41</sup>

For this conversation to take place, liberal freedoms are required: “[W]ithout freedom of conscience and expression, one cannot explore different interpretations of national identity, something that takes place not only in political forums, but in the various associations that make up civil society.”<sup>42</sup> This is the sense in which Miller is describing a liberal nationalism: it is a conception of nationality for which liberal institutions must be in place – without them, an acceptably authentic national identity cannot arise. Miller concludes that

[T]his idea of nationality is liberal in the sense that the freedoms and rights defended by liberals are valued here as the means whereby individuals can develop and express their ethnic and other group identities, while at the same time taking part in an ongoing collective debate about what it means to be a member of this nation.<sup>43</sup>

#### MILLER ON IMMIGRATION

For Miller, this liberal nationalism gives a very different perspective on immigration compared with its conservative counterpart: “[W]hy should immigrants pose a threat to national identity once it is recognized that that identity is always in flux, and is moulded by the various sub-cultures that exist within the national society?”<sup>44</sup> However, Miller identifies two residual problems. First, the rate of immigration must not be so high that the mutual adjustment needed in the public culture cannot take place. This means “limiting its rate according to the absorptive capacities of the society in question”. Second, when the “immigrant group is strong and cohesive enough to constitute itself as an independent nation”, then the receiving state must be able to “guard itself against being turned into a bi-national society, particularly when it foresees deep conflicts between the two peoples”. Both these problems suggest “setting upper bounds to immigration, not a policy of preserving existing identities by refusing to admit those who do not already share them”.<sup>45</sup>

Here Miller offers what we might call a ‘numbers’ strategy for immigration control, and on the face of it arguments about numbers have a

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<sup>41</sup> Ibid., 127.

<sup>42</sup> Ibid., 128.

<sup>43</sup> Ibid., 153.

<sup>44</sup> Ibid., 128.

<sup>45</sup> Ibid., 129.

liberal flavour to them. But the liberal numbers argument goes something like this: we cannot admit more than a certain number because we shall reach a point at which the goods to be distributed among members break down. Miller's version of the numbers argument is crucially different. In the liberal version, cultural difference is not an issue, but for Miller it is central. Both the cases he cites involve identifying a group whose cultural difference is such that they will cause problems for the receiving state if more than a certain number is admitted. In the first case the prospective immigrant group is so culturally different from the range of identities within the receiving nation that "cultural accommodation"<sup>46</sup> is going to be problematic unless numbers are controlled. In the second case, the group has such a strong cultural identity that it could constitute itself as a separate nation, unless numbers are capped.

This means that the gap between the conservative and the liberal nationalist may not be as great as Miller suggests. He characterizes the conservative position as blocking immigration from groups which do not share the national culture, while his own position calls for *controlled* immigration from certain groups whose cultural difference is problematic. While there have been cases where immigration from specific groups has been blocked entirely,<sup>47</sup> the more common strategy for the modern conservative has been that which Miller suggests – control over the rate of immigration from groups considered to be problematic.<sup>48</sup> At the level of theory, there seems to be no distance between the liberal nationalist and the conservative here. They are both applying the same formula: control over the rate of immigration from 'problematic' groups. Of course, one trusts that there would be a considerable gap in practice, with the liberal nationalist offering a far more open interpretation of what counts as problematic and a fair rate of immigration. However, the judgment being made remains the same: some groups are so culturally different that their ability to 'fit' is questionable. The liberal may be hoping for a gap in theory between themselves and the conservative, rather than simply a distance in practice.

It could be replied that there *is*, after all, a gap at the level of theory. The conservative nationalist will not countenance any change in cultural practices and values, while Miller makes it clear that for the liberal nationalist

<sup>46</sup> Ibid., 128.

<sup>47</sup> The most obvious examples would be the White Australia policy enacted in 1901, and the exclusionary laws established in the United States of America in the 1880s to keep out Chinese and Asians. See S. Castles and M. J. Miller, *The Age of Migration: International Population Movements in the Modern World* (London: Macmillan, 1998), 56–7.

<sup>48</sup> For example, the United Kingdom has had conservative immigration policies but has never attempted to block immigration of certain kinds of cultural or ethnic groups altogether: see Castles and Miller, *op. cit.*, 213.

little is sacred. The concern is that change take place in a way and at a rate that does not give rise to conflict. However, from a liberal viewpoint, it is individuals who apply for membership, not groups, and here a group is being judged as potentially troublesome. While no group as such is prevented from entry, individual members of these groups are excluded from membership, and they are excluded not because of any judgment about their *individual* suitability, but purely because of their membership of a cultural group, something over which they have no control.<sup>49</sup> So while we can allow that there is *some* distance between Miller's position and conservative views on immigration, the formula he is offering is, on the face of it, non-liberal, and indeed potentially illiberal.

There is a third limit on immigration for Miller: prospective members must be willing to accept current *political* practices; they must be willing to be liberal citizens. The liberal nationalist state can demand of immigrants that they show "a willingness to accept current political structures and to engage in dialogue with the host community so that a new common identity can be forged".<sup>50</sup> They must be willing to enter the liberal conversation. On the face of it, this seems to demand only a commitment to a liberal constitution. But then Miller goes significantly further when he presents, in a footnote, the view of H. Van Gunsteren:

[T]he prospective citizen must be capable and willing to be a member of this particular historical community, its past and future, its forms of life and institutions within which its members think and act. In a community that values autonomy and judgment, this is obviously not a requirement of pure conformity. But it is a requirement of knowledge of the language and the culture and of acknowledgement of those institutions that foster the reproduction of citizens who are capable of autonomous and responsible judgment.<sup>51</sup>

This goes far beyond a commitment to the constitution – it also demands a commitment to a history, to forms of life, to language and culture.<sup>52</sup>

Putting aside this problem of the additional cultural baggage the prospective member must exhibit at the border, what is clear here is that while, for Miller, national identity is open to change, there is a core that is non-negotiable. Therefore prospective members have to show "a willingness to accept current political structures", or, in Van Gunsteren's terms, have to make an "acknowledgment of those institutions". For groups who

<sup>49</sup> And this is to assume that it will be obvious when an individual is a member of a 'problematic' group.

<sup>50</sup> *On Nationality*, op. cit., 129–30.

<sup>51</sup> H. Van Gunsteren, "Admission to Citizenship", *Ethics* 98 (1987–88), 736; Miller, op. cit., 130, n. 15.

<sup>52</sup> Y. Tamir, *Liberal Nationalism* (Princeton: Princeton University Press, 1993), 129: immigration to liberal states must be restricted to those who possess "the competence to act as a member of *this* society". See also Weinstock, op. cit., 95–8.

are non-liberal – simply unfamiliar with liberal institutions and practices – we have to ask what this acceptance or acknowledgment amounts to. All we can demand of such immigrants is something that looks suspiciously like conservative piety. They are, to paraphrase Miller's conservative nationalist, "to acknowledge the authority of institutions which form the substance of national life". The liberal nationalist, of course, demands piety for liberal institutions rather than for the traditional institutions the conservative sees as crucial. But once more, whatever the distance in practice, the theoretical formula looks the same – and once more the liberal might have hoped for more than just a distance in practice. What liberals want to show, of course, is that these institutions are rationally and ethically legitimate, and that it is this process of justification that distinguishes them from the conservative for whom traditional institutions just *are* legitimate. So for liberals there is some sort of trade-off: the receiving state has to be in a position to demonstrate that its political institutions are legitimate, and the prospective member has to be in a position to demonstrate a commitment to those institutions. For Miller's liberal nationalist there seems to be no such trade-off – liberal institutions just are legitimate.

This position is consistent with the version of ethical particularism discussed above. I characterized it as a form of ethical relativism which we can call moral communitarianism, where moral principles are generated from within particular moral communities. The legitimacy of those principles cannot be demonstrated to outsiders, because they cannot comprehend the internal processes of justification. This rules out the possibility of external justification of a community's principles – only internal justification, to those who are already members, is possible. In this context, our political institutions cannot be shown to potential immigrants to be rationally or morally preferable. We can justify these institutions to ourselves in terms of our community's principles and values, but all we can say to outsiders is that this is the way we do things here. In that case all we can do is demand of potential immigrants a form of liberal piety. The most serious implication of this approach is that those who *are* excluded from membership are not entitled to a justification of their exclusion – they remain outsiders, and, according to liberal nationalism, outsiders cannot demand a justification of the principles agreed to by insiders, and (according to *particularist* liberal nationalism) even if they did we could not supply one which they could comprehend.

## CONCLUSION

In the introduction, I claimed that the major reasons why the “nation” has played such a minor role in modern political philosophy have been its apparent irrationalism and amorality. Miller’s project of accommodation has to be judged on whether it has overcome those charges, so that the nation can be embraced rather than merely tolerated or rejected altogether. I have drawn attention to a number of features of Miller’s treatment of the nationality principle which I believe to be problematic.

The first is that his version of ethical particularism leads to a kind of metaethical relativism which I characterised as moral communitarianism: the view that certain types of association – communities – can generate autonomous and intrinsic moral principles that apply and are justified only within their boundaries. The consequence of this relativism is that these principles and their boundaries of exclusion cannot be demonstrated as reasonable to those who are excluded, even though they are substantively affected – through their exclusion – by the principles. It is hard to see how the charge of irrationalism can be avoided.

Following from this, we end up with a purely internal perspective on whether a group and its internal relations are morally significant – a group is an ethical community if it considers itself to be so. There is no position available from which to judge which sort of groups are genuinely ethical communities. Miller does not so much argue that nations are ethical communities as assume that they are – a nation is an ethical community *just because* it is a community, and any community, in Miller’s scheme, is, by definition, ethical, because it entails rights and responsibilities among members. While Miller asserts that what makes a nation is a perceived or imagined shared public *culture*, he is not in a position to criticize those who assert that what makes them a nation is a perceived or imagined shared *race*. Nations just are ethical communities, and we cannot make a distinction between ethical and unethical nations, however much Miller outlines the content of an acceptable national identity. The charge of amorality still seems to carry a great deal of weight.

Finally, on the question of immigration, we have seen that Miller condemns conservative nationalism for demanding piety rather than consent from its members, and for discriminating against would-be immigrants it considers too ‘alien’ to fit the current national identity. But Miller considers discrimination against such groups to be legitimate, and the absence of any external perspective means that this discrimination cannot be rationally justified to those excluded. Those who gain entry can be told of the liberal institutions that govern them only that ‘this is how we do things’ – liberal piety is demanded of them. And so, on the question

of immigration, Miller's version of liberal nationalism has a tendency to collapse towards a conservative position. This should not give us any great confidence that the nation, as Miller presents it, should be embraced by modern political philosophy. The only hope for those who wish to continue the project of accommodation is that Miller is mistaken in his critique of the universalist argument for liberal nationality.

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