Pragmatism, Rights, and Democracy

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Reconciling Liberalism and Communitarianism

In debates in the area of political philosophy, we find discussions of the proper definition of the public good (individualism versus collectivism). Debates in social metaphysics moot the possibility of reducing society to the individuals which constitute it. . . . To posit a social being inevitably suggests a downgrading of the individual. Why is this?

—VINCENT DESCOMBES

The debate between individualism and collectivism in philosophy today is most often formulated as one between liberalism and communitarianism. What I hope to show in this chapter is that, on the one hand, society cannot be “reduce[d] . . . to the individuals which constitute it” and, on the other, that valuing community does not necessitate either “a downgrading of the individual” or a denial of the importance of individual rights. I also hope to show that placing a high value on individuals and their rights does not entail sacrificing the common good or the good of the community. While I see the two issues as related, I will be dealing with the liberalism/communitarianism controversy from the point of view of the conflict over individualism rather than that between the neutralist and communitarian approaches to the issue concerning conceptions of the good life.

“Liberalism,” as John Dewey points out, “has had a chequered career,” and in the United States today we see even more strongly than in Dewey’s day the “inner split” that he saw as having developed between “laissez-faire” liberals and proponents of what we call the “welfare state.” But, at least among political philosophers, the more important split is between liberal individualists and communitarians. There is considerable variety in each camp, however, and more and more writers are trying to show that ele-
ments of one are compatible with the other. One such mediator is Amy Gutman, who, in a paper on “Communitarian Critics of Liberalism,” asserts that “Communitarianism has the potential for helping us discover a politics that combines community with a commitment to basic liberal values.” Another is David Gauthier. Concerning the individualist presuppositions of liberalism, Gauthier, who identifies with liberalism, states, “In defending the normative priority of individual to community we imply nothing about the causal basis of individuality. . . . Individuation may be socially caused, so that persons are social products. . . .” There is, nevertheless, a conflict between the central commitment of liberalism to individual rights as the main criterion by which to evaluate social policies, and that of communitarianism to the protection of the community. I see this conflict as resting partly on a particular concept of rights that is shared by proponents of both views, and partly on divergent views of the nature of individual identity. I propose to bridge the gap between the two approaches by providing analyses of identity and of rights that show both to be inseparable from community. I shall also argue that communities as well as individuals can and should have rights, and that there is no necessary or inherent conflict between the two. Those conflicts that arise, like conflicts between individual rights themselves, are circumstantial.

Contrasting certain features of Adam Smith’s economic liberalism with the contractarian liberalism it succeeded, Dewey notes that “[t]he concern for liberty and for the individual, which was the basis of Lockeian liberalism, persisted; otherwise the newer theory would not have been liberalism” (LSA 9). And, as he reminds us, “The outstanding points of Locke’s version of liberalism are that governments are instituted to protect the rights that belong to individuals prior to political organization of social relations” (LSA 6–7). In most of its versions, the contemporary liberal ideal of justice retains this notion of antecedent rights and, as Michael Sandel notes, embodies the claim “that individual rights cannot be sacrificed for the sake of the common good.” Challenging the liberal view (and both traditional rationalist and empiricist concepts of the self), communitarians deny the assumption underlying the concept of antecedent rights, namely, that personal identity is independent of membership in society. Instead, they
see personal liberty as largely a function of membership in a community and, consequently, give moral as well as metaphysical priority to communities. In an important paper on "Atomism," the name he gives to the individualism of the contractarian tradition, Charles Taylor uses the communitarian theory of identity to turn the liberal concept of the priority of individual rights against itself: "[T]he free individual, the bearer of rights," he says, "can only assume this identity thanks to his relationship to a developed liberal civilization; . . . there is an absurdity in placing this subject in a state of nature where he could never attain this identity and hence never create by contract a society which respects it." Because this is the case, Taylor holds, "the free individual who affirms himself as such already has an obligation to complete, restore, or sustain the society within which this identity is possible." Nevertheless, as I shall show, Alasdair MacIntyre and other communitarian thinkers presuppose the traditional view of rights as belonging to individuals independently of their affiliation with any community and base their negative evaluation of individual rights upon this assumption.

The assertion of universal, individual human rights is often accompanied by a denial that groups or communities can or ought to have rights. Sometimes this is based on the metaphysical premise that groups are not real, that they are reducible to their individual members. To accommodate this and to deal with them as if they had rights, corporations and other collectivities are treated, in American legal practice, as "artificial persons." Not surprisingly, this individualism with regard to rights tends to be associated with the atomistic, presocial view of the self that Taylor criticizes. Sandel, in attributing it to John Rawls, refers to this as the concept of "the unencumbered self" (US 14). On this view, all humans are assumed to be independent possessors of the same universal human nature, and today's liberal version of "natural rights," like its predecessors, holds rights to be inherent traits of all beings who share in it. Developing their views in the struggles against oppressive governments, thinkers such as Locke and Thomas Jefferson further conceived rights in adversarial terms as being held by individuals against governments; their intellectual descendants construe them as being held against one another or against society. As Loren Lomasky puts it, to talk about rights
is to talk about "the justified claims of individuals against their
governments and against each other."" 9 Seemingly taking this indi-
vidualist and adversarial concept of rights to be the only one,
communitarians, if they do not reject the principle of individual
rights altogether, at least argue that rights should be subordinated
to the collective goals of traditional or cultural communities and
to policies designed for their survival. Identifying "human rights"
with "natural rights"— "rights attaching to human beings simply
*qua* human beings"—Alasdair MacIntyre denies them, contend-
ing that "such rights . . . are fictions." 10 Taylor, whom we can
class as a moderate communitarian despite his expressed discom­
fort with the label, 11 points out, regarding the Canadian Charter
of Rights and Freedoms of 1982,

> The new patriotism of the Charter has given an impetus to a philos­
> ophy of rights and of non-discrimination that is highly suspicious
> of collective goals. It can only countenance them if they are clearly
> subordinated to individual rights and to provisions of non-discrimi­
> nation. But for those who take these goals seriously, this subordina­
> tion is unacceptable. 12

There is a direct relation between the different attitudes toward
individual rights held by liberals and communitarians and their
different ways of conceiving personal identity and moral agency.
For the modern liberal, the rights-holder is an independent actor,
unconditioned by social status or cultural identity. As the sociolo-
gist Zygmunt Bauman points out, the framework of law in West­
ern, modern, capitalist society "names the individual human
being as the subject of rights, obligations and responsibilities; . . .
[it] holds the individual, and the individual alone, responsible for
his or her actions; . . . [it] defines the action as a kind of behavior
which has the intention of the actor as its ultimate cause and ex­
planation . . . [and] explains what has happened by the purpose
the actor set for himself." The practices that follow from this
individualism, he notes, reinforce our commonsense belief that
this is the case. 13 Speaking of this idea of the self as moral agent,
MacIntyre characterizes it as that of a "democratised self which
has no necessary social content and no necessary social identity"
and which "can then be anything, can assume any role or take
any point of view, because it *is* in and for itself nothing" (AV 30).
It would seem that, in the context of liberal thought, the atomic individual is reduced to a cipher.

Developing his own concept of “narrative identity,” MacIntyre says, first, that “personal identity is just that identity presupposed by the unity of the character which the unity of a narrative [which runs from one’s birth to one’s death] requires.” But this is only one dimension of identity; MacIntyre goes on to point out that there are others who enter into the narrative, and “I am part of their story, as they are part of mine” (AV 203).14 “[W]e all approach our own circumstances,” he says, “as bearers of a particular social identity” (AV 205). Taylor construes this social identity in terms of individuals’ conscious identification with what sociologists call a “reference group”; it is their self-definition as members of the group or community and their sense of this shared identity. Writing on the “politics of recognition,” Taylor notes that the term “identity,” in this context, “designates something like a person’s understanding of who they are, of their fundamental characteristics as a human being.”15 The reference is not to universal human characteristics; “identity” here refers to the characteristics in terms of which one identifies with the other members of a cultural group or segment of society (such as women) to which one belongs, and as a member of which one identifies oneself, that is, one’s sense of identity or belonging. But “identity,” for him, connotes more than this. In an article on nationalism, Taylor puts it this way:

The conception of identity is the view that outside the horizon provided by some master value or some allegiance or some community membership, I would be crucially crippled, . . . unable to function as a fully human subject. . . . The horizon necessary for me is not essential for human beings as such. . . . [T]he claim about identity is particularized. I may come to realize that belonging to a given culture is part of my identity because outside of the reference points of this culture I could not begin to put to myself, let alone answer, those questions of ultimate significance that are peculiarly in the repertory of the human subject. So this culture helps to identify me.16

Individual identity thus encompasses cultural identity. Equally important, Taylor takes identity, whether that of an individual, a
group, or a society, to be the product of dialogue. Using "language" in the broadest possible sense to include all modes of expression, he says, in "The Politics of Recognition," "People do not acquire the languages needed for self-definition on their own. Rather, we are introduced to them through interaction with others . . ." (PRec 32). Personal identity is, therefore, social in origin as well as content. And included in the social content is the "conception of the good life" proper to that person’s cultural community, the "definition of the good actually embedded in [its] practices" (DV 76).

I agree with Taylor regarding the largely social nature and origin of personal identity. And, using the term ‘perspective’ in a sense that is roughly equivalent to Taylor’s—and Gadamer’s—"horizon," I construe this identity in terms of the perspectives that individuals acquire, most of them, I agree, in dialogic interaction with others. I also agree with Taylor that the values embedded in a culture are important constituents of individual as well as cultural identity. But when I speak of identity I do not refer to individual or collective self-identification or to the sense of identity. Rather, by personal identity, I mean the identifiable character of the individual self as it is manifest in the behavior and judgments that emanate from and reflect that person’s perspective. Not only is an individual’s perspective largely shaped and conditioned by the culture of a society; it is analogous to such a culture. But we must remember that the individual is a member of indefinitely many communities of other sorts in addition to a cultural (or ethnic) community, and the perspectives of these communities are also constituents of individual identity. (Here, as elsewhere, I am using the term ‘community’ as a name for the genus of which groups, families, and societies—human collectivities of all sorts—are species.) If only because these differ from one person to another, even within a cultural community, I think we must attach greater significance to individuality than the communitarians seem to; in my view those features of an individual’s character or perspective that are shared are constituents of an identity that is irreducibly individual.

Part of the importance of the concept of perspective is that it is through sharing perspectives that individuals are enabled to communicate with one another. And it is through shared normative
perspectives, systems of social norms operative among them, that persons regulate their interpersonal and intercommunal relations. Only because of this sharing can either individuals or communities have rights. I claim that both can do so and, in addition, that persons can have rights collectively that they cannot have as individuals but that differ from the rights of communities as such. All three—individual rights, collective rights, and communal rights—play a role in human social existence; none precludes either of the others; and none is inherently more or less significant. Determinations regarding relative importance in particular situational contexts are decisions that must be arrived at by the persons and communities involved.

IDENTITY AND COMMUNITY

What I hope to do in what follows is to show in somewhat greater detail how individuality and community are related and demonstrate the consequences of this for rights and, hence, for the liberalism/communitarianism debate. Some of what I say will repeat what has been said in the previous section or in earlier parts of this book but is included in the interest of clarity. And in some cases, what will be said is an elaboration or amendment of an earlier statement.

A community in the broadest sense is a number of people (at least two) who share a common perspective, that is, who have the same attitude toward or way of responding to something or complex, whatever it may be. A good example of this is the community of all those who love babies. While it may seem trivial, community in this minimal sense is the first prerequisite of communication. Just imagine two people from utterly different cultures and speaking mutually incomprehensible languages watching a baby and exchanging smiles. The sort of community in which rights are operative, of course, is quite different from this merely perspectival community. It is what I call a ‘normative community’. This is a community whose unifying perspective is a set of social norms, principles or rules that are developed in the attempt to coordinate behavior and facilitate higher-level communication and that serve as standards or prescriptions for behav-
ior and practice. An example of such a community, although it is not an organized one, is the nearly worldwide community of those who understand and know we should obey the international road signs. This understanding is a shared normative perspective. In an organized community such as a team, a business firm, or an educational institution, all members or potential members are explicitly required to internalize the norms (or to have already done so) and, without good reasons for not doing so in particular circumstances, to govern themselves by them. But the expectation that its norms are operative among its members is an ingredient in the perspective of any normative community. An important feature of this expectation is that it is mutual: the nature of social norms is such that anyone who has internalized them not only expects all the others who are assumed to belong to the community to take the norms into account in determining how to behave, but also understands that she or he, too, is expected to do so.

Whether through purely personal experience or in interaction with others, every human being develops a characteristic personal perspective or general attitude: a complex of perspectives that condition the way she or he responds to particular things or situations. Among the constituent perspectives are some that are private or idiosyncratic. But many are shared and, of these, the most important are the normative perspectives that govern all but the most rudimentary social conduct, interaction, and communication. A personal perspective is complex, but its constituents are interrelated, even though not every one is related to every other; and even though many (or most) of its components are common to many persons, the fact that it is a unique constellation of perspectives distinguishes every personal perspective from all others. Moreover, while most of its constituents change, continuities and relations among them persist, as do memories, so that despite their differences, one’s perspective as a small child and one’s perspective as an adult belong to the same person. Shaping the way one behaves, responds, thinks, reasons, one’s perspective determines—in a significant sense it is—one’s character or identity as that particular individual. And in virtue of the continuities from one stage to another, one’s identity at any point in one’s develop-
ment is part of one’s identity as the same developing and changing individual.

The common perspective that unites diverse persons in any given community joins individuals whose personal perspectives differ in other respects. They share only selected perspectives, and each shared perspective is itself that of another community. Now consider a self-conscious individual—you yourself, for instance. The continuities among your diverse perspectives are comparable to the shared perspectives of different individuals. For example, you may view one and the same child both as your offspring and as a potential citizen, the two perspectives connected by your recognition of the youngster as a child. Each of these causes you to treat that child in distinctive ways, and your personal perspective encompasses both. As shared perspectives enable different individuals—members of that perspectival community—to communicate with one another, relations among your own perspectives enable you to communicate with yourself. At any given time you have or can adopt a perspective in the light of which to consider some element of your experience or memory, some idea or feeling to which that perspective is relevant; alternatively, you can shift from one perspective on the same complex to another or apply that same perspective to other things; and you can adopt or devise a perspective in which to compare the ways different things appear or the way the same thing appears in the different perspectives, as well as one that enables you to analyze, compare, or criticize those perspectives themselves. This is to say that you, too, have the defining trait of a community: a general perspective in which diverse perspectives intersect and which, by allowing you to adopt now one and now another of these, enables you to communicate, reflexively, with yourself. Thus, in addition to belonging to innumerable social communities, in an important sense, every human individual is a community—what Justus Buchler terms a “reflexive community.” Not only are community and individuality inseparable, but the identity of each is a function of the perspectival complex that conditions its behavior and thereby gives the person or the community its distinct, identifiable character. At the same time, just as the perspective of any community enters into and helps to shape the perspectives of its members, the perspective of a normative community is a product of their
communicative interaction. The community, that is, is not reducible to its members but is at one and the same time their creation and a condition of their personal identity.

**Rights**

That all humans are endowed with inalienable rights, either by a Creator God or because these rights are inherent in what it means to be human, is an ideal, not a statement of fact. Potent as this ideal may be, even if there are innate rights to life, liberty, and the pursuit of happiness, they are inoperative for large segments of humanity, and it is hard to see what it means for those persons to “have” them. Even if we are assumed to have “natural” or God-given rights, we need to understand what it means for them to be operative, and in developing my own view, when I speak of rights I always mean *operative* rights. But in either sense of the term, as the British philosopher Margaret MacDonald has pointed out, rights cannot be “endowments” or traits of human individuals or of human nature since they are prescriptive. To say someone “has” a right is not to describe a particular characteristic of that person or of human beings in general, but to say that others ought to behave in a certain way toward him or her. Rights, that is, are principles that can and ought to govern human conduct; where they are operative, these principles are established as social norms.

That this is a function of norms rather than of laws is an important stipulation, because there can be rights that are respected even though they are not written into law and rights that are prescribed by law but are not operative. Like all social norms, rights-norms exist and are operative in communities and in the conjoined lives of their members; they are elements in the normative perspective shared by those individuals. That is, no right can actually exist without being operative in some community: it must be acknowledged, whether explicitly or implicitly. For there to be universal human rights would be for there to be a universal normative community with established and operative rights-norms. While we can hope that there may someday be one, and
work for the realization of this ideal, it has yet to be actualized and may never be so.

As operative social norms, rights are social institutions. I am not the first or the only philosopher to see them in this way. As Rex Martin puts it, “a right is an established way of acting,” and “for there to be rights (for [these] ways of acting to be established) norms must be formulated. . . .”21 But what would these norms prescribe? Rights have been variously described. Hohfeld, upon whose work many contemporary rights theorists draw, identifies four categories of rights: liberties, powers, immunities, and claims.22 Others limit rights to one or more of these. But to be rights, liberties, powers, and immunities must be conferred, and respect for them required, by a community; and while we may claim rights, claims per se, even those we find to be valid or justified, are not rights unless they are established as such in and by a community.

With Virginia Held, I take rights to be entitlements, entitlements to act in certain ways or to have or receive specified things. But I do not define them, as she does, simply as entitlements yielded by valid rules or principles, even though such rules and principles might prompt the conclusion that there ought to be certain rights.23 Valid rules or principles do not themselves yield or give rise to operative rights; these require the establishment of social norms that prescribe the kind of behavior that rights entail. To be an entitlement that one has by right requires, moreover, that anyone in a position to do so be empowered to claim it and, second, that respect for it be obligatory, so that we can be compelled to enforce it. The first stipulation is what distinguishes a right from a privilege, a right being granted to all to whom it might ever apply, with no one antecedently excluded. (Since rights are operative among the members of a community, we must presuppose that they can apply only within the community. I shall discuss this issue subsequently.) Regarding the second point, if respect for it were not obligatory, mandated by the norms, an entitlement would not have the force of a right; the obligation to respect it is an intrinsic component of the right, correlative to and conferred jointly with the entitlement. While we speak of entitlements themselves as rights, technically, a right is a relation between the entitlement and the obligation—in prac-
tice, a relation between or among those in a position to exercise the entitlement and those in a position to show respect for it. Most important in the present context, since rights-entitlements and the obligation to respect them are correlative and inseparable, and since both are conferred upon every member of the community in which rights are operative, rights are mutual rather than adversarial relations among rights-holders. As such, individual rights are no threat to social cohesion. On the contrary, they promote it.

Not all entitlements, even those protected by social policy or law, are rights. However well justified, protected entitlements granted to selected subjects—such as the sort of “special rights” Will Kymlicka and others would grant to certain minorities—even if they are established and enforceable by law, are privileges, not rights. Rights and privileges are often confused: Taylor, for instance, speaks of rights as “privileges that are seen to belong to subjects” (NS 47). But privileges are the opposite of rights, and, as institutions, rights “belong” to the communities in which they are established as much as to the individuals who thereby participate in them.

Rights-Bearers

Who can and should have rights? To begin with, to actually have a right is at least to be a member of a community in which rights-norms are operative. Second, as I have defined it, a right has two reciprocal and inseparable components: a specified entitlement and an obligation to respect that entitlement, both conferred by the social norms. Thus, to have rights, to participate in this social institution, presupposes the ability not only to understand what it is to have an entitlement and to respect entitlements, but also to acknowledge the obligation to do so and hold others to be similarly obligated. Nonhuman animals, then, cannot have rights. And while infants must be treated as if they participate in this institution in order for them to learn what it means and to internalize the norms governing it, those who would ordinarily be expected to have these abilities but cannot develop them, or who have lost the capacity to govern themselves by the norms, must either be
granted comparable benefits or participate in the social relations involved in rights through being represented by others.

There is nothing in the nature or structure of rights that inherently limits rights to individuals. Communities, like individuals, can belong to more inclusive communities, and the norms of an inclusive community can include rights-norms, not only those applicable to individuals but norms that confer rights-entitlements on member communities. An example would be the right of religious organizations to exist in a community, free of discrimination and prejudice. As a right, this entitlement would have to be granted to all such organizations and is one that not only they, but all individuals and communities that are part of the wider community and thus bound by its norms, would be obligated to respect.

But for communities as such, as distinguished from their members, to exercise rights-entitlements and express respect for them, they must be able to act as communities, to function as unitary entities. Take, as an example, the right of each of the member states of the United Nations to have a say in the decisions of that body. This right can be implemented only because there is a mechanism enabling each state to act: each has a designated representative with the power to act in its name. Representation is not the only such mechanism. An act of Congress is an act of that body as a whole in virtue of the voting procedure and the principle of majority rule. There are other rights, however, that are exercised, not by communities as entities, but by their members jointly or collectively. Such a right would be the right of an ethnic or cultural community to pursue its own way of life. This right can be exercised only by its members jointly participating in their characteristic norm-governed practices—holding their traditional religious services, communicating with one another in their own language, and so on—and keeping those ways alive. The term ‘collective rights’, employed by some philosophers for all community rights, is more properly applied to those that are exercised by individuals collectively, and this is the way I use it. For the rights of communities as such, I use the name ‘communal rights’. The category of ‘community rights’ includes both. But for either communal or collective rights to be operative, they must be established within a wider community whose norms mandate
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respect for them by all its subcommunities and all their members, individually and collectively. The inclusive community itself may or may not share in a given rights-entitlement, but as the agent or representative of all its member communities, it must implement the obligation to respect it and, where necessary, take steps to enforce it. States' rights, for example, are not applicable to the United States as a whole, but the national government must see to it that they are respected. But consider the right to levy taxes, which, in the United States, is applicable to communities at several levels: the nation itself, the states that are subcommunities within it, the counties within the states, the cities and towns within the counties—all have the entitlement and all are obligated to respect one another's entitlement. Insofar as they do, this right is not merely legal, but is an operative right, an accepted social norm that is implemented in practice. However, in relation to the individuals (or organizations) who must pay taxes, the right to levy them must be classified as a power; individuals do not participate in the communal right.

FUNDAMENTAL RIGHTS

If rights are not features of universal human nature, are there rights that ought to be universal? An answer in the affirmative would seem to mean that there should be universally operative rights-norms. But while it would seem that common features of the human condition unite all humankind in a universal perspectival community, the possibility of a universal community of rights or, more generally, a universal normative community, is remote. However, I maintain that there are rights that ought to be generic, i.e., operative for all human beings in the sense of being operative in all normative communities. (For convenience, I speak of these as generic rights.) And I also argue that comparable rights ought to be operative for all communities.

While there is no universal normative community, there is no human being who does not belong to innumerable particular communities in which norms are operative. I contend that there are two rights that, because of the nature and the importance of normative community, ought to be operative in every one. In
addition to these two fundamental generic rights, I have identified a number of others that, because they are either presupposed by any exercise of the fundamental rights or entailed by them, should also be generic. These include rights such as those that entitle individuals to nutrition and health care, to education, to economic opportunity—access to the means of support—and the right of all to be treated as equals. Some of these can be implemented only in certain kinds of community: linguistic communities, such as the community of all speakers of English, cannot provide nutrition or health care. For such rights to be operative for all humans, the norms that govern them would have to be established in, and govern the relevant policies and institutions of, every community in which the entitlements involved can be satisfied.25

What are the fundamental generic rights and how are they justified? Human beings are distinguished from other animals in that humans cannot exist without culture in the broad sense, that is, without systems of interrelated social norms. I do not deny that rudimentary norms can and do evolve among groups of nonhuman animals, but an enduring system or structure of norms is not a precondition of the existence of an animal herd or band. There is no analogy among other animal species to the diverse normative communities that prevail among humans. But normative community is the necessary prerequisite of a distinctively human existence. The different societies that humans have evolved, the kind of communities with which communitarians such as MacIntyre and Taylor are concerned, and to which the term ‘culture’ is commonly confined, are normative communities and each encompasses a variety of normative subcommunities.

Norms evolve and come to be accepted in the course of joint purposive activity, as ways of organizing or directing that activity, whatever it may be. Passed on from generation to generation, operative norms may be consciously and deliberately maintained or revised. But they may also come to be habitual and can be perpetuated—or lapse into disuse and lose their normative force—unquestioningly and even without anyone’s noticing or calling attention to this. We are ordinarily unaware of many, if not most, of the norms to which we nevertheless conform. But conditions and circumstances change, calling for changes in our
accepted ways of doing things and the norms that these express. As Dewey says, when action is blocked, we have to reflect. We do not always do so in a methodic way, but the more deliberately and critically we reflect and consider what we ought to do and how, the more carefully we test the ways and means that seem to promise the results that we desire, the more likely it is that the new guidelines that emerge will prove satisfactory and will come to be accepted as normative. The more central the activity or institution is to our lives, the more important is this process of reconstructing the norms that govern it, and the more important it is that we all bring to it our powers of reflection, analysis, prediction, and critical evaluation. Think of the problems we are encountering today in the sphere of the family, where accepted norms seem to have lost their force and new principles have yet to win social acceptance.

As we reinforce or reconstruct the norms of any community, we perpetuate or reshape its characteristic culture, the shared perspective that George Herbert Mead calls “the attitude of the generalized other.” The material culture—the technology and the artifacts that may also characterize the community—both affects and is affected by changes in the norms. And as we shape and reshape the culture, we are helping to shape the character and attitude of those who internalize and live by its norms—the personal perspectives of the community’s members. The more widespread and pervasive the activities that they govern, the greater the role specific norms play in determining the social dimension of individual identity. For all these reasons—the indispensability of a normative structure, the ubiquity of normative breakdown and the need for revision, and the import of norms for both individual and community identity—we should consider the norms of the communities to which we belong to be always open to critical assessment and subject to change. There is another reason as well, analogous to the epistemological fallibilism adopted by Charles S. Peirce and other pragmatist philosophers, who hold that no judgment should ever be taken to be incorrigible. Praxical or practical fallibilism would hold that we can never be absolutely certain that our way of doing anything will not, in some situation, turn out to be inadequate or that it could not be improved upon.
On all these grounds, I would argue, first, that every member of every normative community should be entitled to participate in the determination, criticism, and revision of its norms—to participate on an equal footing with all the other members in whatever interaction or dialogue is involved in this process; and, second, that, as a participant, each should be entitled to exercise his or her own powers of judgment. To put this in the more formal language I have employed: every member of every actual or potential normative community should be accorded two rights, which I take to be the fundamental generic rights. These are a right of personal authority and a right of personal autonomy. Every member of the community who has the capacity to do so should be accepted as a legitimate and worthy participant in shaping the social norms and, in the course of these determinations, should be entitled to arrive at and put forth his or her own judgments. As with all rights, for each of these to be operative presupposes that every participant accord the same entitlement to all the others. The right of authority mandates that the judgments of each be taken seriously by the others, which means that the participants must be not only self-critical but also open to one another's criticisms. It may seem surprising that I say these rights should be accorded in every "potential" as well as "actual" normative community; but this is both possible and necessary because the very establishment of these (or any) rights among individuals who have not previously been united in a normative community serves so to unite them and to create such a community.

Authority is to be taken here, not as any power to command obedience, or in the sense of expertise, but in a sense closer to (though not synonymous with) authoritativeness. The right of authority is the entitlement to respectful attention, to be taken seriously as a presumptively competent participant in dialogic interaction. Autonomy, even more than other technical terms, has been used in diverse ways. The typical dictionary definition is self-government or self-determination. It has also been construed in Hobbesian fashion as liberty, in the negative sense of freedom from external constraints (presupposing the power of voluntary action). John Rawls states that "persons are acting autonomously [when] they are acting from principles that they would acknowledge under conditions that best express their nature as free and
equal rational beings.” Rawls rests his concept on the Kantian view of autonomy, of the individual as an independent, inherently rational, moral legislator, prescribing universal moral laws *a priori* and without regard for social or situational conditions. Autonomy has also been construed to mean living as a free person, having “an autonomous life,” as Joseph Raz puts it. He takes the essence of such a life to be the exercise of “free or deliberate choice of options” as “opposed to a life of coerced choices.” This is not simply a life of Hobbesian liberty but “an ideal of self-creation.” When I prescribe a right of personal autonomy, I do not mean any of these, although my concept incorporates elements of most of them. What I mean by autonomy can be said to be self-determination in a particular sense, namely, the exercise of one’s own judgment: one’s power to consider, reflect, reason, evaluate, take positions, arrive at decisions and act upon them, as well as assert and argue for one’s judgments, and to reconsider them. But an autonomous judgment, like an autonomous action, is not simply voluntary or self-determined. One may voluntarily submit to coercion (say, to avoid punishment), but an autonomous judgment is one that is not arrived at under coercion. At the same time, even autonomous judgment is not free of all constraints. All but the most rudimentary judgment presupposes and is conditioned by norms, those governing language and reasoning, for example; and dialogue with others presupposes, and may generate, additional norms governing the treatment of the subject at hand and the interaction of the participants.

In addition, we cannot judge without having or adopting a position or perspective toward whatever it is we are considering. Nevertheless, as creatures capable of reflection we can be critical and self-critical. We can adopt or devise perspectives by which to judge other judgments and other perspectives, including our own, and including those normative perspectives in terms of which we determine our own behavior. It is respect for the autonomy of persons understood to be capable of this kind of judgment (that is, all ordinary adults and even youngsters who show what we take to be “good judgment”) that, I contend, ought to be exercised wherever and whenever the members of a community must determine the ways in which their life together is to be conducted. The fact that we are continually revising our practices and
our shared assumptions implies that the right of autonomy, together with that of authority, should be operative in all the affairs of every normative community.

Having argued that the rights of autonomy and authority should be conferred on all individual members of all normative communities, I argue as well that there should also be analogous communal and collective rights. Let me briefly indicate the grounds for this contention. To begin with, communities that interact with one another need to develop ways of regulating their mutual relations. That is, they must develop social norms that will be operative among them, institutionalized in the inclusive communities to which they belong and understood to be binding on all the member communities. Unlike those governing individual behavior, such norms almost always have to be explicitly formulated. Second, the same requirement of voluntary acceptance holds for the norms that are to govern communities as holds for those relevant to individuals; if social norms are to be operative among communities, they must be jointly instituted (or modified) and collectively perpetuated by those communities. And, as with norms governing individual behavior, legislation is not sufficient unless the laws and regulations that are passed are taken to be binding and put into practice.

The right of communal authority is the entitlement of every community engaged in interaction with others (thus joined with them in a more inclusive community) to have a voice in determining the way their joint activities and interactions are to be governed—i.e., in determining the norms by which these are to be regulated—and to be accorded respect as a participant on an equal footing with all the others. Like that of personal autonomy, the concept of autonomy as it applies to communities needs clarification. It is not to be construed here as sovereignty or political independence. In the case of a political community or state, it does entail self-government in a political sense; but in the more general sense that I intend, it is analogous to personal autonomy. For a community to be autonomous is, first of all, for its members, collectively and without coercion, to determine and govern themselves by their own social norms. This is what I mean by collective autonomy, and the members of every (normative) community should have a collective right to autonomy in this sense.
Communal autonomy, that of a community as an entity, presupposes that the community has the ability to act as a body, which means, as noted earlier, that it has mechanisms whereby it can arrive at decisions and make commitments that are representative of it as an entity. That is, the community must have agential power, the power of self-determination. To exercise this power autonomously is to do so in the absence of external or internal coercion. (For any faction or subcommunity within the community to enforce its will in determining how that community is to act would be a case of internal coercion and would limit both the communal autonomy of the community and the collective autonomy of the rest of its members.) The right of communal autonomy, then, is the entitlement, extended by mutually accepted norms, to every agential community within an inclusive community, to exercise its power of self-determination without coercion. It is applicable to all the relations of the subcommunities to one another, but is especially important in connection with the shaping and reshaping of the norms by which their mutual interactions and relations are to be governed. In the end, both collective and communal autonomy rest on the input of the individual members of the communities involved, who should have comparable rights of autonomy and authority. But, in turn, these rights can be made operative only by the development, within each community, of norms defining them as such.

Implications

Contrary to the fears of communitarians, individual rights do not endanger the stability or integrity of communities. To begin with, both personal identity and individual rights are inseparably linked to membership in communities. Individuality and community are mutually constitutive, and the generation of social norms by persons in community with one another is the precondition and the source of all the rights that are actually operative in society. Furthermore, being reciprocal—consisting in mutually recognized entitlements and obligations to respect them—rights are not adversarial. They do not divide people from one another nor do they set them against governments or states. While there can be
situations in which one’s rights-entitlements are threatened or violated and it may be necessary to defend them, to claim or exercise an entitlement on the ground that it is a right is not to pit oneself against others; it is to say that they ought to respect it exactly as one does oneself and would also do were they to assert it. Nor are individual rights held against the community, even though the community or, in the case of a civic community, its government, can be called upon to protect them and to punish violators. Even political rights such as the right to vote, insofar as they are acknowledged and respected by the citizens—i.e., insofar as they are operative, rather than merely legislated—are entitlements defined (together with the correlative obligation to respect them) by the norms. This is to say that they are accorded by the citizens to one another, each standing both in the position of the community itself (as having the attitude of the generalized other) and in that of a member of that community. The function of government in relation to individual rights is an instrumental one. In the first place, it can have powers of adjudication as well as of enforcement delegated to it. In exercising the power to protect operative rights and to adjudicate conflicts involving those rights, a government or governmental agency is acting for the citizens themselves, individually and collectively. And, having the power to enact laws, it can also codify operative rights—norms, again performing an instrumental function and serving the community.

Beyond this, government can legislate that certain rights are to be the law of the land; but the enactment of such laws is not sufficient of itself to make those rights operative among the citizens, and enforcing them is not guaranteed to do so either. Even a government that is formally a democratic, representative one acting in the name of the citizens may pass legislation, including legislation establishing rights, that does not express, or even runs counter to, the norms and values of the community. But even were this not the case, neither the power of legislation nor any others among the legitimate powers of government over individual conduct are properly understood as rights against the citizens. They are not rights because they are not reciprocal; the citizens have no comparable entitlements or powers. And if they were rights, they would, by definition, be mutual, not adversarial, and so would not be held “against” anyone. Communities can have
rights, however. The rights that are operative for them are actually supported by the exercise of the individual rights of autonomy and authority, since for communal or collective rights to be operative, they must be so within an inclusive community, which requires that they be respected not only by all its subcommunities, but also by their individual members.

At least in principle, then, individual and community rights are compatible. However, we cannot ignore the fact that particular rights, whether those of communities or those of individuals, may come into conflict with one another, and it may happen that one and the same entitlement cannot be exercised by two parties at once. It is for this reason that rights cannot be taken to be absolute. Even when government steps in, definitive and lasting resolution of such conflicts—solutions which all the claimants not only accept but will be willing to abide by—are more likely to be achieved with the autonomous and authoritative participation of those concerned—the exercise of what I have termed ‘dialogic reciprocity’. It may be that a given right, whether in virtue of its content or because of social or cultural conditions, repeatedly or even inevitably conflicts with other rights that are considered important. Such a problematic right calls for change, again with the autonomous and authoritative participation of as many members of the community as possible. This applies whether the conflict is within a community of persons or between or among communities within a more inclusive community. But another sort of possible conflict is that between rights operative for individuals and those operative for communities, and it might be asked whether this does not have implications for the liberalism/communitarianism controversy. Should community rights take precedence over individual rights or vice versa? Are conflicts between them inherently conflicts between individual interests and the good of the community?

One problematic example of such a conflict is that which has occasionally arisen between the right to freedom of speech and expression operative for individuals in democratic countries and the right, also operative therein, of religious communities to perpetuate traditional practices and rules that prohibit—or are construed by some to prohibit—certain forms of free expression on the part of their members (who are also members of the wider
community). But these conflicts relate to particular norms and practices, and are products of specific conditions. Nothing in the nature of either community or personal identity, and nothing in the nature of rights, necessitates that communal and individual rights must conflict with one another. And, whether in dealing with particular cases or in shaping the norms of society, there is nothing that determines a priori or universally whether the interests of communities or those of their individual members or sub-communities should be accorded greater weight. But conflicts of the sort mentioned, like any conflicts of rights or of social norms in general, call for open and public discussion in which the personal rights of autonomy and authority are respected equally with those of the communities involved. While there is no guarantee that every conflict will be satisfactorily resolved, rational consideration of the sort that Dewey identifies with the method of democracy makes a workable solution more likely. And, even if they pose a threat to the integrity of a community, conflicts can also be stimuli to social change, to the modification or alteration of the relevant norms, and even, in this way, to enhancing the solidarity of a community.

Two further points are in order. The main concern of communitarians is with cultural communities in the narrow sense of this term: communities with their own languages and ways of life. The right to communal autonomy, for such a community, is its right to its own culture, a right that would also be a collective right for the community’s members. But, regarding every normative community, cultural communities not excepted, we must recognize that the exercise of autonomy and authority by its members may result in change. To affirm the fundamental individual rights of the members of a cultural community as well as their collective right to perpetuate their own social institutions is to accept this possibility, even as it is to affirm the community’s right to its own way of life. As with individual identity, it is continuity rather than sameness that marks the identity of a community or a culture over time; and while we can argue for the value of cultural traditions, languages, and ideals and for the importance of preserving them, this is not the same as making their survival an end in itself. To do so—as, for instance, Quebec’s Bill 101 (discussed by Taylor) does in requiring French-speaking parents to
send their children to those schools in which French, not English, is the language of instruction in order to ensure that French culture is perpetuated—would be to violate their collective as well as their personal autonomy in a way that simply ensuring the availability of such schools would not. In addition, cultural communities are not the only ones for which rights can and ought to be operative. To take but a single example: it is essential for political groups and organizations, which are also normative communities in the sense intended here, to have and to respect the fundamental rights of autonomy and authority—that is, the right of each to develop and express its own positions on issues and to be given a respectful hearing, and equally respectful criticism, in the public arena. (The corollary to this, of course, is the mutual obligation to discuss all such criticism seriously before deciding whether to accept or reject it.) It is equally important for the members of these groups to participate in the same fundamental rights within them as well as in the community at large. Together, these are the rights I take to be definitive of democracy; all ought to be established in every political community and subcommunity and protected by government and by the citizens.

NOTES


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11. Stating one of his reasons for this discomfort, Taylor says, “I’m unhappy with the term ‘communitarianism’. It sounds as though the critics of . . . liberalism wanted to substitute some other all-embracing principle, which would in some equal and opposite way exalt the life of the community over everything. Really the aim (as far as I’m concerned) is more modest . . .” (“Reply [to Daniel M. Weinstock],” in Philosophy in an Age of Pluralism: The Philosophy of Charles Taylor in Question, ed. Tully, p. 250).


14. What is central for MacIntyre, in this connection, is that these others can hold me accountable, and I can call them to account. Focally concerned with the self as moral agent, MacIntyre takes accountability and identity to be inseparable.


17. The fact that the sense of identity is formed in dialogue with others is the reason, Taylor holds, that people, both individually and collectively, find recognition, in the sense of respectful acknowledgment, to be so important. Misrecognition, by which I take him to mean contemptuous treatment and characterization, also affects one’s sense of identity: “a person or group of people can suffer real damage, real distortion, if the people or society around them mirror back to them a confining or demeaning or contemptible picture of themselves” (PREc 25).


25. This is a somewhat modified formulation of my original concept of generic rights as those that ought to be operative in all normative communities.


29. Ibid., pp. 370, 371.

30. I often use ‘judgment’ in the broad sense defined by Justus Buchler to encompass all the ways of making, saying, or doing. Cf. his Toward a General Theory, pp. 47–56. Here, my intent is somewhat narrower.
31. Cf. Chapter 8 above.

32. Quebec’s Bill 101 specifies that Francophone parents must send their children to French-language schools, in order, as Taylor says, “to ensure the flourishing and survival of [the] community.” While permitting Anglophone Canadians to send their children to English schools, the bill also requires immigrants to send their children to French schools, favoring French culture over English. But the point at issue here is whether Francophones (or the members of any cultural group) should be compelled to perpetuate their own language and culture rather than simply having the right to do so. Cf. “Shared and Divergent Values,” pp. 166, 165, 173, 176; cf. PRrec 52–61.