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PRACTISING A-TONAL ETHICS
A Feminist Ethics of Alterity

Being a thesis submitted to the University of Dublin
For the degree of Doctor of Philosophy

By
Celia Grace Kenny

ISE TCD 2013
DECLARATION

I certify that this dissertation, submitted for the degree of Ph.D. has not been submitted for a degree at any other university, and that it is entirely my own work. I agree that the library may lend or copy the dissertation upon request.

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Practising A-tonal Ethics:

*a feminist ethics of alterity*

Celia Grace Kenny

ABSTRACT

In this dissertation, the focus is on the formation of the contemporary feminist ethical subject; specifically, in relation to the way that women’s agency is played out through new forms of reflexivity in the context of pluralizing late modernity. I suggest that agency is best conceptualized as a series of adaptations and accommodations, where innovative sources of authority vie with traditional narratives for a claim on the moral sensibility of the individual. While the ‘loss of foundations’ has become a common trope in debates around culture, ethics and politics, I work out of different perspective, arguing that many individuals in contemporary democratic societies are aware of the freedom to identify with a diverse range of social norms and multiple jurisdictions, a position which I refer to as a-tonality. The problem may be regarded as foundational overload, and it is capable of producing the experience of cognitive dissonance, akin to the Foucauldian idea of epistemological rupture. In the practice of a-tonal ethics, feminist subjectivity is honed dialogically, as individuals negotiate the existing multiplicity of norms (political, cultural, parochial and international) and multiple jurisdictions (religious laws, civil law and international human rights instruments). My argument is that, central to a-tonal ethics, what is required is a modulated epistemology which acknowledges the historicity and contingency of its premises, and the revisionary nature of its norm-setting agenda. This is decidedly not a relativist position. In practising a-tonal ethics, the feminist subject, even if reticent about her capability to say the final word, need not be at all reticent about the contribution which her values can make within the overlapping social fields in which she operates.
Acknowledgments

It is a great privilege to have the time and the opportunity to read, to think and to write. I am very grateful to the people who help to make that possible. My first thanks go to my family, who know the value of personal space, and who share my enthusiasm for conversation. Moving into the academy, I would like to record my thanks to various members of the staff of the Irish School of Ecumenics: Slaine, librarian and ‘fixer extraordinaire’; Aideen, Christine and Mary, in Bea House, for their administrative help and friendliness; and Helen in the Graduate Studies Office of Trinity College Dublin, who has an encyclopaedic knowledge of the things that matter to students. Helen’s door, it seems, is never closed. Finally, my thanks go to my dissertation supervisor, Linda Hogan. If supervision were a painting, then Linda’s would be a water colour: delicate, understated, suggestive, with layers of depth that reveal themselves through careful attention. Many thanks.
Table of Contents

Introduction

1 Sustaining Cultural Difference
   1.2 Regarding the Other
   1.3 Difference in contemporary societies
   1.4 The ideal of the homogeneous nation-state
   1.5 Multiculturalism and the multicultural state
   1.6 Dissonance and backlash
   1.7 Pluralism and law

2 The Growth of Rights Culture
   2.1 Introductory remarks
   2.2 Pragmatism or an expansion of the moral imagination?
   2.3 The feminist legal subject
   2.4 Feminist responses to the undifferentiated legal subject
   2.5 Feminism and legal theory

3 Composing the Feminist Subject
   3.1 Introductory remarks
   3.2 Agency/structure: a first look
   3.3 'Recognition' in the work of Taylor, Honneth and McNay
   3.4 Refining the idea of recognition
   3.5 Relocating self-expression: from abstract to concrete
   3.6 Recognition, a caveat
Women in Culture; Culture in women

4.1 Introductory remarks
4.2 Cultural fluidity as a marker of late-modernity
4.3 Moving through structuralism to poststructuralism
4.4 Language, Discourse and Michel Foucault
4.5 The art of not being governed too much
4.6 Structure/agency: a second look
4.7 Pierre Bourdieu and situated embodiment
4.8 The subject, her field, and her perception of her field

Intermezzo: Between Composed and Improvised

5.1 Introductory remarks
5.2 Women who go with the flow
5.3 Improvising the subject

Deflating Truth; Inflating Practice

6.1 Introductory remarks
6.2 Resisting ambiguity
6.3 Embracing ambiguity
6.4 Rorty and the residue of religious thought
6.5 Epistemological behaviourism
6.6 The ontological priority of the social
6.7 Objectivity 'lite'
6.8 Modulated epistemology
<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>7</td>
<td><strong>Women Inhabiting the Public Space</strong></td>
<td>191</td>
</tr>
<tr>
<td>7.1</td>
<td>Introductory remarks</td>
<td>191</td>
</tr>
<tr>
<td>7.2</td>
<td>The veil as a complex signal of agency</td>
<td>195</td>
</tr>
<tr>
<td>7.3</td>
<td>Veiled statements</td>
<td>198</td>
</tr>
<tr>
<td>7.4</td>
<td>Clever ambiguity</td>
<td>199</td>
</tr>
<tr>
<td>7.5</td>
<td>Ambivalent resistance</td>
<td>203</td>
</tr>
<tr>
<td>7.6</td>
<td>Narrating female virtue</td>
<td>205</td>
</tr>
<tr>
<td>7.7</td>
<td>Female visibility in Afghanistan</td>
<td>209</td>
</tr>
<tr>
<td>7.8</td>
<td>Veiling and recognition</td>
<td>212</td>
</tr>
<tr>
<td>7.9</td>
<td>Manifesting belief</td>
<td>217</td>
</tr>
<tr>
<td>7.10</td>
<td>The private/public distinction revisited</td>
<td>220</td>
</tr>
<tr>
<td>7.11</td>
<td>Symbolizing the liminal</td>
<td>222</td>
</tr>
<tr>
<td></td>
<td><strong>Coda</strong></td>
<td>227</td>
</tr>
<tr>
<td></td>
<td><strong>Bibliography</strong></td>
<td>235</td>
</tr>
</tbody>
</table>
Introduction

Pardon him, Theoditus: he is a barbarian, and thinks that the customs of his tribe and island are the laws of nature.

George Bernard Shaw

Humanity is only itself when it is a sign of what is other...what is the cost of affirming that in a world that will continue to deny it...that is a question which is at once literary, theological and political and unmistakably contemporary.

Rowan Williams.

Introduction

This dissertation is concerned with the nexus: culture, identity and difference, as they interact in the ethics of alterity. My focus is on the formation of the feminist ethical subject in late modernity; specifically, in relation to the way that women’s agency is played out through new forms of reflexivity in an age of hyper-communication. Central to the enquiry is the extent to which pluralism, as a political matrix, has ambiguous ramifications. On the one hand, it is associated with a generative negotiation of difference, and increased openness to the cultural/religious other, in what William Connolly calls “the conventional pluralist celebration of diversity.” ¹ On the other hand, the pluralist milieu can be said to account for a range of fundamentalisms which include: “ethnic cleansing; enforced heterosexuality; racialization of crime and punishment; redogmatization of divinity, nature, and reason; and

intensification of state border controls.\textsuperscript{2} Contrasting and contested responses to pluralism raise issues of authority, and, in particular, the desire for ‘final’ authority. It has been suggested that the confluence of pluralization and fundamentalization is not accidental,

\ldots for each conditions the other: each drive to pluralization is countered by a fundamentalism that claims to be authorized by a god or by nature...[t]hese struggles, in turn, churn up old dyspeptic debates over the role of divinity, nature, tradition, and reason in moral and political life.\textsuperscript{5}

Experientially, we know that diversity is written into the facticity of human life. What is not self-evident, however, is how to deal humanely with difference, either at the individual, or social policy, level. The dilemma is heightened, in multi-cultural societies, through the engagement with beliefs and practices which challenge core values: that is, those “…reasons, evaluations, or grounds stemming from the conception of the world or of the good adopted by individuals.”\textsuperscript{4} Put otherwise, we are experiencing “the contingency, porosity, and uncertainty in territorial boundaries and national identities...[which presently accompany] the acceleration of population flows, the globalization of economic life...and the return of the colonial repressed.”\textsuperscript{5}

The globalization of information, and the instantaneous dissemination of world news is contributing to a type of reflexivity which was never possible in the past, making it impossible to insulate parochial belief-systems fully. In addition, social, technological, and media innovations (such as the faux intimacy of Facebook, or the shrinking of global space through Twitter) have ushered in modes of communication (both embodied and disembodied), unprecedented in their potential to transform the social order. Innovative sources of authority vie with traditional sources for a claim on moral sensibility, disrupting

\textsuperscript{2} Connolly, 2004, xii.
\textsuperscript{3} Connolly, 2004, xii.
\textsuperscript{5} Connolly, 2004, xi.
expectations of privacy, and leaving multiple channels open for a range of effects, some of which are life-enhancing; others, death-dealing. These include: the mixing of religious, political and economic discourses; the collapse of the distinctions between local and global, public and private; the grooming of children for sexual gratification; and the practice of cyber-bullying. Writing about communication through the internet, John Urry portrays it as “a metaphor for social life that is fluid...in which quasi-subjects and quasi-objects mix together in new hybrid forms...Such a fluid space is a world of mixtures.”

The attempt to capture the depth and speed of contemporary social transformation has produced what Anthony Giddens calls, “a dazzling variety of terms.” Some of the predicates used convey the idea of ‘posting’, as in Jameson’s ‘late capitalism’. Others, more immediately convey the transformation of time/space, as in Castells’ ‘network society’. Metaphors of liquidity and of ‘boundarylessness’ can be interpreted as both loss and hope. So, for Bauman:

What is a truly novel feature of this social world, and makes it sensible to call the current kind of modernity “liquid” in opposition to the other, earlier known forms of modern world is the continuous and irreparable fluidity of things which modernity in its initial shape was bent on solidifying and fixing.

For Beck, the ‘cosmopolitan outlook’ can be said to be:

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Global sense, a sense of boundarylessness. An everyday, historically alert, reflexive awareness of ambivalences in a milieu of blurring differentiations and cultural contradictions. It reveals not just ‘anguish’ but also the possibility of shaping one’s life and social relations under conditions of cultural mixture. It is simultaneously a skeptical, disillusioned, self-critical outlook.  

The speed and the radical nature of contemporary change has ushered in a new degree of reflexivity in the contemporary subject of ethical, religious, and political deliberations, in the wake of the virtual and physical fluidity of twenty first century lives. Zygmunt Bauman associates it with a break in the co-ordination between physical and social/cognitive proximity.

Through a large part of human history, physical and social proximity did overlap, or were, at least, closely correlated...[and] what distinguished the neighbor from the rest was not therefore sympathy felt towards him, but the fact that he had always been within sight, always leaning towards the intimacy pole, always a potential partner of intercourse and biography sharing.

As Bauman puts it, “the problem of modern society is not how to eliminate strangers, but how to live in their constant company.” The contemporary reflexive subject, living in the company of strangers, is exposed to, and, in many cases, interacts with, a broad ‘menu’ of norms. Far from having no foundations, there is widespread awareness, in pluralist democratic societies, of a new freedom to identify with a diverse range of social norms and multiple jurisdictions (mediated through religious laws, civil law and international human rights instruments). Bauman writes of the

Pluralism of rules...moral choices [which] appear to us intrinsically and irreparably ambivalent. Ours is a time of strongly felt ambiguity. These times offer us freedom of

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12 The question of the integration of minorities will be discussed in chapter one, and, on the broad question of mobility, see Anthony Elliot and John Urry, Mobile Lives (Abingdon, UK: Routledge, 2010), where Elliot and Urry point out that “The security of states increasingly involves complex control systems of recording, measuring and assessing populations that are intermittently moving...” Elliot and Urry, 2010, 18.
14 Bauman, 1993, 159.
choice never before enjoyed, but they also cast us into a state of uncertainty never before so agonizing.\textsuperscript{15}

What Bauman poses as agonizing ambiguity might also be described as a type of cognitive dissonance, reminiscent of Foucault’s ‘epistemological ruptures...[which] suspend the continuous accumulation of knowledge, interrupt its slow development, and force it to enter a new time, cut off from its empirical origin and its original motivations, cleanse it of its imaginary complicities.’\textsuperscript{16} Put differently, cognitive dissonance refers to the anxiety which can result from having to hold together a set of values and beliefs where the overlapping norms do not correlate, but cut across the familiar religious and cultural narrative lines associated with our identity.\textsuperscript{17} Axel Honneth, with reference to the work of Laurent Thevenot and Luc Boltansky, writes, “...individuals can only become conscious of the models of order they use to co-ordinate their aims in so-called ‘unnatural’ situations that interrupt the flow of their lifeworld practices.”\textsuperscript{18} Honneth goes on to claim that, in order to study structures of social integration, what is necessary is a close study of these ‘moments of crisis’, which he describes as “hinges of social reproduction [which] make explicit what was once implicit in the flow of routine...partners in communication are forced to offer arguments and arguments against.”

15 Bauman, 1993, 20,21, and note the comment of Lemert, to the effect that Bauman, in common with Giddens, Beck, Castells, and others, “all take Sociology to be a science not just of social structures but of structures always ready to break into crisis.” Charles Lemert, Sociology After the Crisis, second edition (London and Boulder: Paradigm Publishing, 2004), 216.
17 See the work of L. Festinger, in A Theory of Cognitive Dissonance (Evanston, Illinois: Row and Peterson, 1957). Cognitive dissonance has been raised as a factor in the emergence of a so-called ‘underclass’, where redistributive policies do not meet the complex needs of people living in extreme poverty, since such needs include, not only pecuniary rewards, but also what might be called signs of recognition of their humanity. Robert. J. Oxoby, “Cognitive Dissonance, Status and the Growth of the Underclass,” The Economic Journal 114 (2004): 727-749. In chapter four, I will make a link between cognitive dissonance and Bourdieu’s concept of misrecognition, and symbolic violence. In the same chapter, I will conjoin the idea of cognitive dissonance with the Foucauldian critique of history when it is conceptualized as a progressive revealing of essences, and the refusal to confront the past when it does not confirm our present beliefs.
justification for why a problematic segment of their lifeworld should be solved within the horizon of one model of order rather than another.° Honneth thus provides another perspective, in the conceptualization of what I refer to as cognitive dissonance, confirming it as a carrier of social change with the potential for peace or its opposite. He notes that, when the social order is broken, "there is always the alternative of a violent solution...the party with the most power can interrupt the discursive argument and impose its own conception of order on the other party."²

In contemporary multicultural societies, the social actor who justifies values and beliefs by attempting to trace a single and continuous line through a cultural history or religious tradition is likely to find her reasoning deeply challenged by the range of competing claims to authority which are operative in the contemporary construction of a plural 'world'. One of the questions which is confronted in the dissertation, therefore, is the nature of objectivity and the place of 'truth' in the process through which we do ethics, and understand the relationship between morality and law. This is a question which affects both the premises and the methods by which we proceed. Cass Sunstein, in a defence of judicial minimalism, puts it thus:

Those who favor passive virtues, narrow decisions, and incompletely theorized agreements tend to be humble about their own capacities. They are not by any means skeptics; but with respect to questions of both substance and method, they are not too sure that they are right.²¹

The condition of being not too sure that we are right need not lead to a negatively relativistic position, but to what I am inclined to call a modulated epistemology: a type of knowing

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¹⁹ Honneth, 2012, 100.
²¹ Sunstein, 2001, 40.
²² Modulate: regulate, adjust, temper, attune...vary some characteristic of an electromagnetic wave in accordance with the variations of a second signal. In music, to modulate is to pass from one key to
which, being responsive to many other voices, is constantly thrown back on itself. This appears to me as a kind of reflexive strength made possible through socio/political structures when they acknowledge the beliefs and practices of minority groups, especially those which run counter to traditional norms.

One of the key metaphors, introduced in the title of this dissertation, is the term, atonality, commonly applied to musical compositions which are not constructed on the tonal system most closely associated with classical music at one particular period in European culture. It does not signify the absence of tonality, but to the arrangements of sounds which may be less familiar to ears which have been acculturized into western, European musical styles. A sequence of tones will be apprehended as being either harmonious or dissonant, resolved or pending, according to the milieu in which they are encountered. Importing the metaphor to ethics, my suggestion is that, in the pursuit of moral patterns which can hold up in the a-tonal context of contemporary pluralist societies, what is necessary is to acknowledge a type of modulated epistemology, in which the participants in the dialogical process learn to live with the dissonance of pending solutions in order to allow the conversation to continue. As I will go on to show, this is not a form of relativism in the pejorative sense. It is the continuous attempt (broken, yet sustained) to evaluate moral positions in their contexts, while refraining from imposing a universalist narrative which flattens out the concrete circumstances in which patterns of belief and practices arise. Continuing the allusion to tonality, it is interesting to note that, in the vocabulary of western music, the key voices are predicated in relational terms: tonic, dominant, and sub-dominant, where the tonic is another, which is a musical equivalent of saying something in a new way. The idea of a modulated epistemology, which will be explicated more fully in chapter six.

23 Both Max Weber (The Rational and Social Foundations of Music) and novelist, E.M. Forster (A Passage to India) have written about the link between cultural imperialism in India, and the naturalization of the European musical system of tonality.
perceived as a fulcrum, with the dominant and the sub-dominant as counter-balancing weights.

I work with the idea of ‘conversational philosophy’. Contemporary ethics, according to Selya Benhabib, calls for “the construction of the ‘moral point of view’ along the model of a moral conversation, exercising the art of ‘enlarged thinking.’” Benhabib’s point is that ethical dialogue, in a pluralist ethos, should not aim for unanimity, but for “the anticipated communication with others with whom I know I must finally come to some agreement.” At a later stage in the dissertation, I will return to the question of ‘enlarged thinking’, in terms of what I call modulated epistemology. For the moment, let me point out that I am not at all sure that we have to “finally come to some agreement” with all the participants of contemporary moral exchanges, since that suggests that there are no limits to the acceptance of diverse expressions of the human good.

The suggestion is that, in the metaphoric re-descriptions of ‘reality’, the dialogical method offers a kind of transcendence; albeit that this comes with the caveat that transcendence is not meant to invoke the metaphysical notion of extricating oneself from all the limitations of planetary existence. Lois McNay, on the implications of Michel Foucault’s work for feminist theory, writes of transcendence as, “...overcoming the

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24 The idea of conversational philosophy will be explored in chapter six, with reference to the work of neo-pragmatists, Richard Rorty and Robert Brandom.
27 Note, that the re-descriptions of social relations (or of the relation of the present to the past) are always accompanied by concrete, historical shifts in the global conditions. Discursive innovation both precedes and follows material change.
limitations of present social conditions – whilst, at the same time, disconnecting it from a theory of universal reason..."28

There are, currently, good and pressing reasons to engage with the subject matter of this dissertation. The level of migration has irreversibly changed the cultural landscape in towns, cities and particular neighbourhoods, making deep inroads into the religious and ethnic make-up of populations. One of the results of these demographic shifts is that issues which have long been associated with western democratic freedom are now being challenged by the beliefs and practices of immigrants. As Paul Scheffer puts it,

Today's migration cannot simply be described as making receiving societies more open, since as a result of the traditional beliefs many migrants bring with them, old questions about the position of women have suddenly resurfaced and freedom of expression has become controversial. People have started to talk about blasphemy again, even apostasy.29

The up-beat side of cultural diversity is routinely celebrated and marketed from Aberdeen to Zanzibar as the ever-expanding range of visual complexity, eclectic music and culinary fusion which have come to be the familiar signs of the benign face of cosmopolitanism. Simultaneously, however, cultural diversity is manifest in religious and ethnic practices and beliefs, taboos, dress and bodily habits which symbolize, for many people, irreconcilable differences that threaten world peace. One of the issues which will run through this dissertation, therefore, is how the feminist ethical subject balances her attachment to community (Gemeinschaft) with her political responsibility towards society Gesellschaft).

28 Lois McNay, Foucault and Feminism (Cambridge: Polity Press, 2007), 91. Following McNay's line of thought here, the critique of universal reason includes the need to interrogate representations of reason and autonomy which, claimed to be impartial, are, in fact, "historically situated and contingent terms, often extrapolations of masculine characteristics and values that serve to legitimate a dominantly masculine culture." McNay, 2007, 91.
In multicultural contexts, such a balance requires the expansion of the pluralist moral imagination: an enhanced ability to identify (in varying degrees of intensity) with a multiplicity of social environments and actors as they are encountered over time and space. William Connolly understands the pluralist imagination to be linked to the pushing out of boundaries, and the will to desist from setting *a priori* limits to the possible. As he puts it, “Once you acknowledge the difficulty of defining in advance precisely when, where, and how, democratic exclusions must be enforced, the foremost challenge today becomes to multiply boundaries in imperfect correspondence with one another...”  

He adds that, “we pluralists need to rework, and to render ourselves available to reworkings of, the pluralist imagination: so that it comes to terms with paradoxical relations of conflict and interdependence between identity and difference.”  

This is reminiscent of Martha Nussbaum’s call to cultivate an ‘inner eye’, since, “Good political principles and consistent arguments work well only against the background of morally informed perceptions, and these perceptions need the imagination.”

At the level of social policy, the politics of alterity entails governments and state representatives in the construction and implementation of legal and quasi-legal instruments which are designed to construct the public space in such a way that the expression of diverse religious and cultural values can be debated and accommodated, aiming to put in place policies which address the question of social inclusion/exclusion. Examples of such legal and quasi-legal measures will be discussed in chapters one and two, as I analyze the doctrine of human rights and the ideology of multiculturalism.

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31 Connolly, 2004, xix.  
I will show how contemporary political and social instruments, designed to deal with equality (the instruments of human rights) and alterity (multiculturalism) can be interpreted as examples of the way that power struggles are played out through the construction of the ideal legal subject and the reification of culture. One of the negative effects of this has been to reductively misrepresent the internal diversity of groups, suggesting an insularity and boundedness, often for the purposes of defending traditional values and practices from critique. According to Appiah, “There is simply no decent way to sustain those communities of difference that will not survive without the free allegiance of their members.” More positively, and to quote Lois McNay, “individual difference is better protected in a social environment based on tolerance and certain collective standards, rather than a laissez-faire individualism.”

Feminist critique is central to the logic and the substance of the thesis for a number of reasons. First, the process of naturalizing cultural differences commonly involves the construction of genders and sexualities in which models of ideal womanhood play an important part. In the words of Nira Yuval-Davis, “the construction of womanhood has a property of ‘otherness’. Strict cultural codes of what it is to be a ‘proper woman’ are often developed in inferior power positions [which then become] ‘common sense’ notions which are used to exclude, inferiorize and subjugate ‘others’.” Second, gender, race and ethnic ideologies are deeply intertwined, disseminated through global images which limit the way in which both men and women imagine themselves. Third, feminist critique, as it attempts to re-symbolize the feminine while holding on to the diversity of female embodiment, provides

us with powerful models to deconstruct the symbolic codes through which binary hierarchies and the idea of the dangerous other are constructed.  

What is common to all these elements of feminist critique is that they expose the centrality of the linguistic/metaphoric in the constitution of the subject. Everyday modes of behavior and traditional patterns of morality take on their significance by being ascribed meaning and distinguished through the logic of opposing binaries, such as acceptable/unacceptable; pure/impure; good/bad; central/peripheral. On this interpretation of the connection between language and the subject, it follows that social change is accompanied by innovative re-descriptions of existing moral patterns and human relationships. Two things should be noted here: the first, is that I understand the process of linguistic re-description to be non-teleological and multi-directional, capable of working either to improve or to hinder peaceful human co-existence; the second, is that I hold linguistic competence to be conceptually inextricable from the effects of social positioning. In this, I follow McNay, in her reading of Bourdieu:

Language is a form of symbolic power...[linguistic] capacities and propensities...are not abstract potentials...they are inseparable from the position that an individual occupies within a social formation; in other words, linguistic capacities are shaped by class, gender and race relations.

The role of feminist critique has been central to the re-description of moral patterns and human relationships. As Drucilla Cornell puts it:

Feminism presents this kind of endless challenge to the ethical imagination. Feminists are continually calling on all of us to re-imagine our forms of life. We demand that harms that were traditionally understood as part of the inevitable behavior of “boys will be boys,” such as date rape and sexual harassment, be recognized as serious wrongs to women...feminists struggle to make us “see” the...

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37 At a later point in the dissertation, I will discuss the issue of female embodiment, in the light of Lois McNay’s reading of Bourdieu.
38 McNay, 2008, 73.
world differently...[necessarily involving] an appeal to expand our moral sensibility.\textsuperscript{39}

Grounding the differences among feminist thinkers is a political will to redress the balance of inequitable social relationships, with a particular focus on gender inequalities, where gender is an embedded category, inextricable from its association with age, ability, educational skills, global positioning and history. I approach feminism, therefore, as a multi-faceted critique, which functions both as a political vision, and a hermeneutic of culture in its exposure of the power-relations operative in the dynamics of minority/majority social relations (including, but also going beyond, those manifest in traditional male/female roles and identities).

Within the logic of this dissertation, two feminists concerns are of particular relevance, as is the link between them. The first turns around the question of female embodiment, since, to quote McNay, "It is not possible...to explain the dialectic of freedom and constraint that is generative of agency without adopting some phenomenal perspective on the intentionality of embodied existence."\textsuperscript{40} The second concerns the relationship between specific instanciations of women's agency, and the contextual constraints experienced through social structures. The link between these two areas of feminist enquiry is the assumption that subjectivity is "relational, situated and practical."\textsuperscript{41} Embodiment, and the relationship between agency and structure will, therefore, inform the trajectory of the dissertation, approached from the bases of sociology, philosophy and jurisprudence; and


\textsuperscript{40} Lois McNay, \textit{Against Recognition} (Cambridge: Polity Press, 2008), 5.

\textsuperscript{41} McNay, 2008, 13.
working from the assumption that feminist insights can shed light on many of the broader questions which arise in the construction of an ethics of alterity.  

In the globalizing 21st century, the ambivalence towards diversity presents us with a \textit{kairos} moment. Selya Benhabib takes up the Greek distinction between \textit{kronos} and \textit{kairos}, to posit the view that,

> The many “postisms, like posthumanism, post-structuralism, postmodernism, post-Fordism, post-Keynesianism, and post-histoire, circulating in our intellectual and cultural lives, are, at one level only the expressions of a deeply shared sense that certain aspects of our social, symbolic and political universe have been profoundly and most likely irretrievably transformed.”

The metaphor of dissonance informs my approach to three major themes of the dissertation. These themes can be expressed in pairs, where the relationship of each part, while in tension with the other, is, nevertheless a constitutive element in the logic of the other. The pairs are: 1) pluralism/pluralization; 2) discursive formation/agency; and 3) truth/relativism. The first pair distinguishes between pluralism as “the ethical condensation of previous settlement...” and a critical pluralization, which “...honors politics as the multifaceted medium through which the multiple dissonance within it are exposed and negotiated.” The second pair, discursive formation/agency, will form a substantial part of chapter three, where the springboard will be the politics of representation, and the notion of agency through the eyes of Lois McNay, Michel Foucault and Pierre Bourdieu. The third pair, truth/relativism, will be considered in depth in chapter six, approached through neo-pragmatist insights. All three

\begin{itemize}
  \item \textsuperscript{42} In chapter six, I will closely analyze the Islamic practice of veiling, as a contemporary example of a multivalent practice which can only be evaluated in any depth if it is understood in its relation, situated and practical expressions.
  \item Selya Benhabib, 2007), 1.
  \item Connolly, 2004, 195. As Judith Butler puts it (with reference to Connolly), “…plurality cannot be only \textit{internally} differentiated, since that would raise the question of what bounds this plurality…”
  \item Connolly, 2004, 198.
\end{itemize}
thematic themes will be brought together in chapter seven, in relation to the conjunction of Islamic veiling and women’s agency.

In chapters one and two, my intention is to trace some of the developments which have contributed to the pluralization of the contemporary social and political background. I approach this through an analysis of ways in which the doctrine of human rights and the ideology of multiculturalism can be said to work symbiotically; the liberal, universal drive of the former being tempered by the politics of recognition central to the latter. I discuss the concept of moral monism, by which I mean the tendency to universalize historical, local conceptions of the good life, and present examples of current assimilationist and exclusionary examples of a trajectory towards monism. The distinction is made in the first two chapters, between the term, multicultural (as a demographic characteristic) and multiculturalist, which is a conscious striving towards the positive recognition of diversity, instigated, at the political level, through social policy. Chapter one alludes to new threats to pluralism in Europe, observable in strategies for enforced integration, and the rise of fundamentalisms. By contrast, I introduce Ayelet Shachar’s proposal for the accommodation of minority norms into civil law, and her notion of differentiated citizenship and transformative accommodation. Shachar’s theory raises the question of the agency of women in pluralist societies, a theme which will be carried right through the dissertation.

Chapter two continues by looking at the treatment of minorities in Europe since the end of World War One, in order to explicate the difference between a multicultural society and one that is self-consciously multiculturalist. I chart the rise of the Human Rights movement, with its underlying assumption that, by guaranteeing civil and political rights to all individuals, no further provision need be made for group-specific rights. In this chapter, the point is made that the increasingly pluralist characteristic of states is now a matter of international concern; no longer considered merely a matter of the internal order of states.
Chapter two introduces the feminist, critical legal subject, and the deconstruction of the undifferentiated legal person. A number of developments within human rights law are discussed, including The *Convention On The Elimination of All Forms of Discrimination Against Women*, which set out to redress the tendency of early human rights instruments to be gender-blind. Chapter two concludes with a comparison of several feminist approaches to the legal subject, focusing on one particular current project which has been designed to promote an inter-disciplinary approach to the practice of law, and to judicial proceedings. The overall aim of the first two chapters is to make the point that, in states where there are political structures, and legal instruments which aim for the safe expression of a plurality of life-styles and moral choices, diversity is more likely to be debated through democratic and peaceful means.

The intention, in chapter three, is to show that the complexity and fluidity of contemporary structures can be interpreted to be both constraining and enabling in terms of ethical agency. The chapter will take, as its point of reference, the response of Lois McNay to the politics of representation put forward by Charles Taylor. I open with reference to Anthony Giddens’ theory of structuration, in order to convey a conceptualization of social structures as being both constraining and enabling, and to break with a baldly dualistic understanding of structure in relation to agency. I introduce a feminist critique of Giddens, in the warning that, for a feminist politics, it is arguable that social structures need to be granted analytical distinction for the purpose of political change.

In the main body of chapter three, I turn to Lois McNay’s nuanced interpretation of the politics of recognition, which goes beyond the opposition between material and cultural analysis. McNay affirms a dialogical conceptualization of subjectivity; but, pushing for a further refinement of this through a socio-structural account of power, McNay offers a Bourdieusian reading of subject-formation, where self-expression is understood to be
characterized (that is, both constrained and enabled) by its grounding in contextual categories such as gender and class. This provides me with a useful pivot in the dissertation, in terms of its focus on the concrete details of embodied subjectivity. The overall aim, in chapter three, is to focus on women’s agency in the pluralist milieu; both in the way that it is experienced as power, or the lack of power, and as it is evaluated through the eye of the other.

In chapter four, I discuss the discursive formation of culture. The body of the chapter is devoted to a discussion of the ways in which culture is constructed (through language, discursive formation which emanates from powerful institutions, and the dissemination of values through the media). I show that the work of Michel Foucault and Pierre Bourdieu, read through feminists insights, particularly those of Lois McNay, contribute to the theory of agency which informs the dissertation. Within the overall thread of the thesis, the aim of chapter four is to promote the idea of cultural fields as overlapping sites of struggle, in which religious and aetiological narratives are advanced to establish social and political hierarchies.

I have given chapter five the title, ‘Intermezzo’, which I intend in a Deleuzian way, where, to paraphrase Deleuze and Guattari, cultural change cannot be said to have a beginning or an end, but to be rhizomatic (like a widely spreading tree root), always ‘intermezzo’: only identifiable within a holistic understanding of a larger spectrum, and retrospectively. Intermezzo was one of the metaphors which Deleuze used in the attempt to describe “sets of relations in which each element relates to every other, without any hierarchical, functional or centralized order being imposed on these relations.” Rosi Braidotti, whose work is deeply influenced by Deleuze, provides the philosophical background for the chapter, and a number of her images help me to conceptualize the contemporary feminist ethical subject. Braidotti calls for a non-dualistic redefinition of

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alterity, insisting on the ethical imperative to resist the overturning of existing dualities, where power would simply be channelled into new sets of master/slave dynamics. She eschews the idea that feminist political projects should entail the notion of a teleological process; working, by contrast, with the idea that contemporary subjectivity will be ‘nomadic’; as she, also, insists on the centrality of the body as the site where the physical, the sociological and the symbolic overlap. Braidotti challenges us to think outside the habits of linearity and objectivity, to think through the flows. Braidotti is an important contribution to the dissertation as a whole, not only because the substance of her ideas resonate with the overall thread of my argument, but also because the power of her writing resides in the poetic/prophetic way that her metaphors expand the imagination, and help in the depiction of the contemporary feminist ethical subject, who moves between the structural constraints of composition, to the improvisation which can be said to be at the heart of agency.

The aim of chapter six is to provide a philosophical argument to uphold my premise that, in the evaluation of cultural beliefs and practices, it is possible to construct objective arguments which do not depend on what Selya Benhabib calls, “metaphysical props and historical conceits.”\(^4\) I appeal to the work of Richard Rorty and Robert Brandom, introducing a number of pragmatist themes. These include the idea that philosophy became edifying (or therapeutic) rather than constructive, in the later work of Wittgenstein, Heidegger and Dewey. According to Rorty, as they moved away from the attempt to make philosophy foundational in the Kantian sense, each of these thinkers abandoned the epistemological dictum that knowledge equals accurate representation. In its place, they invited the possibility that self-awareness of the social motives behind particular

\(^{47}\) Benhabib, 2007, 3.
philosophical positions is the closest we can come to understanding.\textsuperscript{48}

I present a-tonal ethics in the mode of a multi-layered and continuing conversation, rather than as the quest for a moral endpoint, in line with the focus which neo-pragmatists uphold. Here, dialogue enables the shaping of new vocabularies, which accompany innovations in patterns of morality. In other words, linguistic innovation, including the development and popular use of new metaphors, brings about an expansion in the moral imaginary. Illustrated by the work of Richard Rorty and Robert Brandom, I set out the concept of epistemological behaviourism, which suggests that epistemic authority depends on understanding the rules of language games. Rhetorical authority is interpreted as our ability to persuade others of the coherence and attractiveness of our arguments and actions. Our assertions will either find confirmation through social interaction, or not; just as we will assent, or not, to the assertions of others. For some participants in the conversation, there may be no necessity to invoke a transcendent authority.\textsuperscript{49} Note that I have stressed the importance of social interaction. In other words, the coherence between arguments and actions is not intended to be confined to the intellectual realm. Moral authority is often recognized in ordinary acts which are not necessarily accompanied by rhetorical flourish.

I go into a consideration of Robert Brandom’s inferentialism and the ontological priority of the social. The point here is to deepen the claim (which runs right through the dissertation) that there is no essential meaning of things, or essential nature of human beings which exists outside of the context in which they are encountered and interpreted. Brandom’s


\textsuperscript{49} If the context is a domain which is characterized by a shared religious vocabulary, then the idea of a transcendent authority will be properly internal to the language game. The debate will then turn around the way that this term of reference (God) might be predicated and linked to values and action.
The concept of semantic holism will be used to draw out the importance of context and narrative in the project of human communication.

In term of the overall thesis, the aim of chapter six is to provide a philosophical grounding for the distinction between: truth, as a metaphysical end-point; and objectivity as an ethical stance, open to revision, and justified through the exchange of reasons. An explication of the concept of modulated epistemology will be central to this section, allowing me to conclude that it is possible to construct sound arguments for the rightness or wrongness of specific actions within particular fields without making an appeal to transcendental credentials; and further, that this can be done without a slide into relativism.

In chapter seven, my aim is to apply the framework of thought which I have built up throughout the dissertation, analyzing one particular contemporary example of an issue which brings together politics, ethics, religion, jurisprudence and feminist critique. The issue is the Islamic practice of women veiling. I believe that this choice of focus is timely, the ‘veiled woman’ having become a synecdoche for Islam itself. Fatema Mernissi, rights activist and author of one of the early, and now revised, classics on the subject, writes that “...the unimaginable event thirty years ago was that the veil has become a fixation of our twenty-first-century, secular, Western man.”\(^5\) I will go on to show in chapter seven, however, that the phenomenon known as ‘the new veiling’ also presents a current challenge to twenty-first-century feminists, who are deeply divided on how to interpret its apparent fusion of traditionalism and political resistance.

Chapter seven will refer to the growing body of high-profile legal cases involving the Islamic headscarf. I will argue that recent jurisprudential approaches to the manifestation of religious symbols usher in a fresh set of debates concerning the use of religious rhetoric and

symbols in the public arena. Consistent with the feminist hermeneutic which runs through this dissertation, I will posit the veiled woman as a contemporary example of the fact that feminism challenges, simultaneously: political systems which promote binary social hierarchies; and the social imaginary through which we construct the discourses of otherness. Veiling opens up a complex range of issues which include religion, culture and social history. This section will introduce some aspects of the implementation of Article 9, European Convention Human Rights, focusing on the dualism, *forum internum/forum externum* as this is being currently employed in the depoliticization of matters not considered to be the subject of public debate.

The dissertation closes with a coda section, in which, having recapitulated the elements of the thesis, I affirm the view that, eschewing the temptation of a final authority (in nature, God or politics), and believing that the moral life of humans must be constantly negotiated, ethical subjectivity will be wrought through a process of constant re-invention. It is in the patterns of human interaction, as we find creative ways through which to redefine our relationships, that we will re-compose the dynamic between self and other; among states; and between what we are now, and what we might become.
1

Sustaining Cultural Difference

Become elastic,

Enjoy the solo sound as well as harmony.

Enjoy the fall—Don’t expect ground.

Pat Boran

1.1 Introductory remarks

Throughout the dissertation, I work with a conceptualization of culture as being discursively constructed through the establishment of markers which constitute the symbolic code; and I present the idea that human practices, repeated, ritualized, and expressed through language, contribute to the sense of self and the desire to identify with others in a continuous process of becoming. If history can be read as the inter-weaving of many small stories, it is clear that some interpretations of the meaning of existence are fought over, other interpretations fall away as they are deemed to be less useful or less wholesome, and novel interpretations of what is valuable gain popular acceptance as developments in living techniques make that possible.¹ Moreover, there are particular stories which are misheard, or ignored, because their linguistic, or extra-linguistic expression runs counter to the master vocabulary within their fields of operation.

In this continuous process of becoming, the struggle for power and authority finds expression through the manipulation of the signs and symbols which constitute human identity. On this view, culture might be said to be the sum total of all the projects,

¹ As I will go on to show, this non-teleological view of the history of human culture can be read as the history of the metaphor, which entails that we drop the idea that the purpose of language is to bring us closer to supposed essences of things.
productions and theories which manifest the process. The individual who is culturally embedded in her own process of becoming, and who is also aware of others, is capable of a certain level of reflection upon the facticity of her contingency and historicity. Woven through the dissertation is the question of the extent to which an individual is capable of rising above the particular cultural milieu with which she most closely associates; and related questions concerning the type of social, legal and political conditions which might be most helpful in this regard.

Feminism, in its many modes, has been crucial to the development of 20th century ethical, political and legal theories and practices for two reasons. The first is methodological: feminists have employed liberation techniques which encourage dissent by calling into question the loci of all authority (including the authority of feminist women) and deconstructing what has passed for received wisdom. The second reason is more overtly political: feminists have encouraged each other to expose and change many of the particular ways in which women have been assigned their place in the hierarchical and patriarchal ordering of societies. Thus, through a hermeneutic of suspicion and by the application of theory to the practice of social change, feminists have highlighted the constructed aspects of culture. As I will show, my work is influenced by both these aspects of feminism. Women, particularly during the second half of the twentieth century, have constructed a multi-faceted politics of recognition and a commitment to greater and greater inclusiveness in terms of the

2 The question of the subject’s ability to transcend her context through reflection and resistance is developed in chapter three, with reference to the intellectual phases in the work of Michel Foucault and his increasingly overt turn to the Nietzschean idea that life is a work of art in which we make and unmake ourselves. (contra the hippies of my generation, who sought to ‘find’ themselves).

3 A hermeneutic of suspicion is intent on shedding light on the origins of what passes as knowledge and understanding. ‘Suspicion’ is especially focused on ideological positions, in order to expose which elements of the status quo they might be designed to maintain. Marxists, for example, focus on free market ideology to uncover the conditions of oppression for workers. A feminist hermeneutics of suspicion is particularly concerned to deconstruct social relations in order to uncover the way that the category of gender is used to maintain patriarchal power. In chapter three, I refer to the point made by Axel Honneth, that the politics of recognition must engage with the suspicion that ‘recognition’ is accorded to certain groups in order to foster quietism and to avoid resistance to prevailing relationships of social inequality.
right to inhabit public space. In terms of epistemology and hermeneutics, feminist critique has cut across traditional ways of interpreting experience and re-conceptualized the relationship between culture and identity. Through a combination of feminist political projects and arguments for different ‘ways of knowing’, feminists have altered the cultural landscape and deconstructed many of the binary hierarchies which have, historically, circumscribed the lives of both men and women.

One of the central pillars of my thesis is that the potential for transcending the limitations of inherited or dominant cultural norms will be enhanced to the extent that political discourse, articulated through legal instruments, supports the acceptance of diversity among citizens. My focus, therefore, in chapter one, will be on aspects of the contemporary political context against which new patterns of morality are emerging, since I would contend that the political structures which are in place in any given society, as they filter down to the level of popular opinion, will either prevent, or more fully enable, the acceptance of diversity and strangeness.

In order to illustrate this position, I will analyze two contemporary political approaches to the question of human diversity. The first is the implementation of multiculturalist policies; the second is the doctrine of human rights. Let me clarify my view of the connections between these two social visions. In the case of multiculturalism, its logic unfolds out of the recognition that individuals are culturally embedded. In the case of the doctrine of human rights, one of the most pressing current tasks is to hold together the articulation of a set of shared moral universals based on the idea of common humanity with

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4 This is not intended to suggest that feminism began in the second half of the 20th century. It is an acknowledgment of the fact that, with special reference to women in Europe and USA, social and political configurations after the Second World War provided women with more opportunities for different kinds of freedom, not the least of which was linked to sexuality and reproduction, thus paving the way for women from different class and economic backgrounds to take more control over their educational and working lives.
openness towards the plurality of moral positions which is increasingly evident in globalizing late modernity. Thus, the doctrine of rights and the ideology of multiculturalism can be interpreted to be developing in symbiosis, as attempts to hold together the liberal ideal of equality with the politics of recognition. Against this contemporary social and political background, while there are signs of an increased level of public acceptance of diversity, there are also signs of illiberal politics and ‘cultural’ practices which are often justified by reference to tradition or religion. It is in this tension that a-tonal ethics must work; the dissonance which it provokes, while potentially generative of new moral patterns, has also been expressed in the toxicity of terrorism, and a range of fundamentalist positions.

One further point about the focus of chapter one: both the doctrine of human rights and the multiculturalist ideal can be read as being responsive to the experience of dissonance in the sense that each arose out of the need to resolve a rupture in the idea of social progress. In the case of the rise of the rights culture after 1945, the loss of hope in moral progress led to the search for a resolution that might reinstate the dignity and worth of every person. The multiculturalist ideal arose in response to another form of dissonance. In the wake of the post-Cold War shifting of physical and symbolic boundaries, the loss of clear lines of demarcation among types of European citizens, and the increasingly pluriform nature of nation-states, demanded to be resolved by the implementation of social, legal and political strategies designed to accommodate the diversity among citizens and would-be citizens.

1.2 Regarding the other

Ethics is concerned with questions of how we might live, and at the heart of human moral deliberation is the question of what constitutes the good life. The good life, in substance and in performance, however, is not self-evident. This has given rise to a plethora of religious and
cultural assumptions about what is valuable and what should be eschewed; what is right and what is wrong; and, above all, who or what authorizes the distinction between bad and good. Clearly, far from being a new question, issues around cultural diversity have inspired the work of philosophy, theology, anthropology, ethics, law and politics for centuries.

The work of Bhikhu Parekh provides a contemporary starting-point from which to survey the issue of diversity and some of the distinctive philosophical, theological and political positions taken up in response. Parekh opens his discussion about multiculturalism by offering some key examples of moral monism, drawing from the work of Isaiah Berlin to give this definition: “Moral monism refers to the view that only one way of life is fully human, true, or the best and that all others are defective to the extent that they fall short of it.”

Historically, the human desire to understand the meaning and telos of life has been expressed as the view that, despite the outward signs of difference which humans exhibit, there is a shared, underlying ‘nature’. The variety of ways in which men and women express their nature has been explained in terms of culture, history, location, social opportunity, religious affiliation, natural law and so on. For the monist, neither the range nor the degree of observable human differences is allowed to detract from a core belief that similarity is ontologically prior to difference. Often, this is accompanied by a conviction that humans are designed according to a fundamentally shared blue-print which is capable of providing the basis for a rational approach to the good life. As Parekh puts it, “For the monist the content of the good life is determined in the light of the central truths about human nature, not merely

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5 Bhikhu Parekh, *Rethinking Multiculturalism: Cultural Diversity and Political Theory* (Basingstoke, Hampshire: Palgrave Macmillan, 2006). Note, at the outset, that there are many incarnations of multiculturalism, and stages in its development. Parekh’s writings indicate a move into what is called reflexive or critical multiculturalism. What runs through his work, however, is the useful way in which he contextualizes the multicultural vision in the history of western ideas concerning insider/outside.

6 Parekh, 2006, 16.
because 'ought' implies 'can' but because the good lacks an ontological basis and remains purely subjective unless it is grounded in human nature.” 7

Parekh presents a schematic account of three major forms of monism, the first of which can be traced back to Plato and the Greeks. Of Plato, he says,

[Plato argued that], although human beings shared a common nature and possessed all three faculties [of reason, spirit and desire], they did so in different degrees and were unequally equipped to lead the highest form of life...the bios theoretikos, the way of life devoted to the contemplation and pursuit of theoretical knowledge... 8

Second, Parekh refers to Christian moral monism which, “differed from the Greek ideal...theologically grounded [on] the belief that Christianity represented the ‘one and true’ religion.” 9 In other words, the Greek philosophical claims regarding one particular way of life as being the highest fed into and were transformed by the Christian religious claim, which, even when it was bolstered by appeals to rationality, still rested on an act of faith in the person of Jesus Christ.

Third, Parekh cites the forms of monism which emanated from classical liberalism, closely linking liberal ideology with the rise of the modern state.

As liberalism gained intellectual and political ascendancy, it gave the state its modern character. It emphasized and institutionalized such ideas as the rule of law, equality of citizens, individuals as bearers of rights and obligations, and the direct and unmediated relationship between the citizen and the state. 10

As questions about the diversity of human life and human desire were debated, some foundational assumptions emerged. On my interpretation, the assumptions can be

7 Parekh, 2006, 18.
8 Parekh, 2006, 20.
9 Parekh, 2006, 24.
10 Parekh, 2006, 35. Liberalism, in common with every other ideology, promotes a particular vision of the good life. Within the logic of this dissertation, the crucial characteristic of liberal thought is that it supports laws and institutions which protect a diverse range of versions of democratic freedom.
schematized. First, there is the ontological factor: the positing of reason as a faculty inherent in human nature, present as a kind of mental tool which, when educated and used properly, can lead to a clear apprehension of what is good, beautiful and true. Second, there is the agency factor: a tendency to conceptualize human life and human action as if they can be apprehended outside of cultural systems. Third, the epistemological factor: the belief that there is a clear path to knowledge of the true and the good, unaffected by historical or cultural specificity. Finally, there is the chauvinist factor: a truncated understanding and presentation of the ideas/culture/religion of the other as either deviant or internally monolithic or both.\footnote{Throughout the dissertation, I will discuss each of these core assumptions more fully.}

Parekh’s presentation of moral monism makes it clear that it has had a long history in the ethical deliberation of classical and religious thought.

Moral monism...views differences as deviations, as expressions of moral pathology. For Plato and Aristotle non-contemplative and non-Greek ways of life had little to recommend themselves. For Augustine and Aquinas, non-Christians and even those Christians who disagreed with the official interpretations of their central doctrines were all wrong and had nothing of value to contribute. For many liberals, non-liberal ways of life are irrational, tribal or obscurantist; and for Marxist religious, traditional and national ways of life are worthy of destruction.\footnote{Parekh, 2006, 49.}

In the context of this thesis, it is important to stress that I am using the idea of moral monism to refer to values and principles from which any discussion about culture is an extension. In other words, for the monist, the ultimate ethical goal is to resolve the conflict which arises from specific differences as they are manifest in the lives of others in a judgmental gaze which is directed at patterns of living abstracted from their socio/cultural context. As such, it fails to acknowledge the embeddedness of human agency in religious and cultural structures,
and the plurality within societies which constitutes a complex framework against which individuals make moral judgments. As Parekh points out,

Modern societies are characterized by deep disagreements on such matters as ideals of human excellence, the best way to lead the good life, the structure of the family, and legitimate forms of sexual expression.

Monism, as I am using the term, does not signify any particular ideological expression. It is a recognizable stance towards the diversity of human values: a range of philosophical, epistemological, legal and political responses to complexity and moral pluralism which have in common a belief in foundations and a desire for clarity and unity.

During the 20th century, types of monism have been articulated through assimilationist and exclusionary models which have grounded many social policies which, as they are implemented and institutionalized, result in an increasingly uniform representation of the good society. I will look more closely at some of these in the next section. My intention is to indicate the social and political context in which the late modern ethical agent constructs values.

1.3 Difference in contemporary societies.

Diversity is an inescapable feature of human societies...a large part of human history reflects the implications of coming to terms with this diversity...where the

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13 As Linda Hogan puts it in a discussion about Rawl’s conception of the individual, “...in decent and healthy societies deliberation [about essentials] ought to be conducted by individuals who are recognized to be irreducibly encumbered by their attachment to person, places, and practices.” Linda Hogan, “The Global Politics of Human Rights,” in Nigel Biggar and Linda Hogan, eds., Religious Voices in Public Places (Oxford: Oxford University Press, 2009), 224.


15 The universal vision of the doctrine of human rights has been criticized on this basis: that it has worked on the assumption of an undifferentiated model of the legal subject. Throughout the dissertation, I show how this has been challenged by feminist, religious, and cultural critiques which aim to focus closely on the inner diversity of groups and the importance of attending to contextual difference.
intermingling of diverse cultural, religious and ethnic mores renews and/or unsettles established social and political configurations.\textsuperscript{16}

What is under discussion here, however, is not simply the empirically demonstrable fact of the plural, multicultural state we are in, but the contemporary contestations over how to set norms and legislate for relationships between minority and majority values, practices and beliefs. The distinction being made here is between multicultural and multiculturalist; and the first does not necessarily lead to the second. The quantifiable degree to which the population of any given state is made up of people of different religious traditions, ethnic origin, or culturally-informed habits, does not necessarily qualify that state as multiculturalist, nor does it lead, in all cases, to a uniformity of multiculturalist policies. Plurality is an empirical characteristic of the demography within prescribed borders; the second is a conscious ethical/political choice concerning the good society which manifests in state policies and programmes. A further distinction to be made is between multiculturalism as ideology (which may remain at the level of rhetoric); and as practice (which is the when the expressed norms of social inclusivity and respect for minority cultures issues in structural changes at state level). Multiculturalism is also multi-faceted.

As public policy, multiculturalism is concerned with the management of cultural differences...[an] apparently innocuous objective...simultaneously a discourse of pacification and emancipation; of control and participation; of the legitimation of the existing order and of innovation...[a]s such, multiculturalism is a power relationship, and has something of the intrinsic ambivalence of power that Hegel demonstrated in his analysis of the master-slave relationship.\textsuperscript{17}

A number of models by which to incorporate the 'outsider' have been debated and put into practice, some being committed to a more pluralist view than others. One of the most persistent ways of dealing with alterity is to advocate some degree of assimilation to the


\textsuperscript{17} Ellie Vasta and Stephen Castles, eds., The Teeth Are Smiling: The Persistence of Racism in Multicultural Australia (Sydney, Allen & Unwin, 1996), 48.
prevailing norms of the most dominant groups in society, by putting into place policies and public practices which aim for the elimination of such signs of diversity as are considered to threaten the unity of the community/nation/state.

Semantically, the term assimilate comes through the Latin *assimilare* which means to make similar or to imitate. As a metaphor, referring to a particular policy model in multi-ethnic or multi-cultural societies, it is linked to the vocabulary of the sciences, specifically from biology. Augie Fleras, writing about models of governance in the context of multicultural societies, defines the term thus:

> Used in this specific and organic sense, assimilation implies absorption by dissolving something into a substance of its own nature...[m]igrants and minorities were expected to be absorbed into a monocultural mainstream to ensure moral and cultural uniformity.  

Fleras points out, however, that assimilation policies were conceived as being enlightened in comparison with instances of other, more radically exclusionary policies such as genocide and segregation, and he offers the following clarifications and distinctions with regard to a number of types of multicultural governance.

First, on the question of genocide, which, according to Fleras, “does not necessarily erupt because of primeval urges, tribal hatreds or dormant hostilities...[but] is often a ruthless and orchestrated strategy to defend a sacred ideal” it is associated with large-scale violence which is institutionalized (or at least condoned) at state level, where the means include use of military, deliberate spread of disease, the removal of a minority’s means of livelihood, or the enforced sterilization of an entire generation. In relation to the more general notion of ‘crimes

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19 Fleras, 2009, 40,41.
against humanity' genocide manifests a more systematic approach to the expulsion of a
people.\textsuperscript{20}

A second type of multicultural governance is expressed through segregationist
policies, which, as the name suggests, are designed to confine perceived non-assimilable
types in order to reduce the likelihood of contact between dominant and sub-dominant
groups. The case of apartheid in South Africa provides one of the clearest examples, in terms
of the ideology and also the consequences of segregationist policies. The dominant group
defines the meaning of the geographic space and asserts the moral inferiority of the sub­
dominant group. Segregation policies are commonly justified on grounds of maintaining a
peaceful society, often using religious rhetoric. It is important to make a distinction between
segregation from below (initiated by groups whose choice to live separately represents a
rejection of mainstream values, as is the case with the Amish);\textsuperscript{21} and segregation which is
imposed by a dominant societal group who have the physical, economic or social power to
expel religious, ethnic or racial groups who are perceived to threaten their imagined purity or
disrupt their hegemony.

A third response to societal diversity is to advocate integration. According to Fleras,
"The concept [of integration] remains poorly defined or under-theorized, with the result that
terms like acculturation, accommodation, incorporation, and adaptation are randomly

\textsuperscript{20} If it strikes the reader that genocide is out of place in this discussion about minority values and
identity, then let me support its inclusion by quoting Geoffrey Robertson, "The right to exist derives
from the Genocide Convention...although it remains a protection only against \emph{deliberate} steps taken
by the State to 'destroy in whole or in part' a national, ethnic, racial or religious group." Geoffrey
Robertson QC, \textit{Crimes Against Humanity: The Struggle for Global Justice}, 2nd edition (London:
Penguin Books, 2002), 153. Robertson goes on to point out that the act does not protect peoples from
the destruction of their environment, against their livelihoods or by creating conditions which force
the dissolution of the group. Further, genocide can be interpreted to be at the extreme end of the
spectrum of practices aimed at the expulsion of a minority when it is stressed that the defining factor
in the relationship between minority and majority is power and not numerics.

\textsuperscript{21} With the \\textit{caveat} that communities who choose to insulate themselves from the fluidity of external
social and political norms run the risk of imposing a rigidity of internal values and beliefs which will
institutionalize internal inequalities.
interspersed with integration.” Fleras’ analysis is useful, however, to distinguish between integrationist and assimilationist policies. First, in terms of culture, the idea of the melting pot:

Whereas assimilation endorses a one-way process of absorption in which minority identities are collapsed into the mainstream, integration upholds a two-way system of synthesis that proposes full and equal participation without forgoing cultural identity as the price of admission.

Second, in terms of socioeconomics, integrationist policies rely on the public institutionalization of societal values through the legal, fiscal and educational systems which are designed to ensure a degree of uniformity and equal treatment. In this way, all members of society are, ideally, encouraged to pursue their idiosyncratic cultural, religious, and ethnic difference in their private lives, while committing to the public ordering of what is deemed to be the core values and practices of statehood and/or national identity. As I will indicate in later chapters, the dualism: private/public, a common response to religious and cultural difference, can be interpreted as a quietist strategy: a reductive approach to the centrality of religion and culture in the formation of human identity.

1.4 The ideal of the homogeneous nation-state

The boundaries of thought, in terms of contemporary models of political integration, is the nation-state.

...advocated by Conservatives, nationalists, some communitarians and proponents of comprehensive liberalism...who believe that no polity can be stable and cohesive

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22 Fleras, 2009, 44.
23 Fleras, 2009, 45.
24 This point will be further elaborated upon, in chapter seven, in terms of the legal conceptualization of the dualism, *forum internum/forum externum*.
unless its members share a common national culture, including common values, ideals of excellence, moral beliefs and social practices.  

The rationale for integration can be expressed ontologically (that human beings have a basic instinct to consort with those with whom they most closely identify); or it can be expressed pragmatically (that some modicum of compromise on the question of cultural differences must be reached for the stability of a society). Either way, the desire to flatten out certain differences among the values and practices of citizens imagines nation-building as involving the struggle to root out what does not contribute to homogeneity and unity. Minority groups and the culture which they embody, on this reading of social cohesion, represent a ‘problem’ and the solutions are imagined along a trajectory which ranges from the less overtly violent (integration, assimilation, accommodation) to the ultimate solution (expulsion by death). To quote Will Kymlicka,

> Until recently, most states around the world have aspired to be ‘nation-states’. In this model, the state was implicitly (and sometimes explicitly) seen as the possession of a dominant national group, which used the state to privilege its identity, language, history, culture, literature, myths, religion and so on, and which defined the state as the expression of its nationhood... anyone who did not belong to this dominant national group was subject either to assimilation or exclusion.

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25 Parekh, 2006, 197.
26 The following is for the purpose of clarity: when I use the terms, ‘group’ and ‘group identity’, I intend to suggest a collective which is bound by the fact that its members identify with a core narrative, which may be religious, cultural/traditional, or a contemporary ethical/political narrative. The important point, in terms of this dissertation, is that to stress that groups are always internally plural, since the members will identify with many different narratives, continually weighing up their importance. In addition, what is crucial is to deconstruct the dynamics of power at work when social groups are assigned their place in relation to their cultural capital, or their members are stereotyped. Groups often form precisely on the basis of this experience of exclusion from the centres of ethical and political decision-making.
27 Will Kymlicka, Multicultural Odysseys: Navigating the New International Politics of Diversity (Oxford: Oxford University Press, 2009), 61,62; and see Kymlicka’s list of policy types which work to exclude those who do not belong to the dominant group. They include official language laws, a single educational curriculum, centralized power, state symbols which alienate the history of minority groups, the abolition of minority or historical legal systems, examinations for citizenship which give preference to the language of the dominant group, and the seizure of lands as ‘national’ resources, often entailing the expulsion of indigenous peoples.
It is important to remember that, quite apart from the economic cost to states as they are called upon to grant rights and privileges to minority groups, resistance to cultural innovation and diversity is also experienced at the symbolic level. Thus, when narratives of self-identity and aetiological myths are challenged from within a nation/state by representatives of groups which are considered to be peripheral to the centre, it is quite common to find a resurgence of interest in the history, imagined core values, folk memories, etc. of the dominant group. The actual nation then measures itself over the transcendentalized nation in projects which involve cultural power struggles.  

We should not be misled by a curious, but understandable paradox: modern nations and all their impedimenta generally claim to be the opposite of novel, namely rooted in antiquity, and the opposite of constructed, namely human communities so ‘natural’ as to require no definition other than self-assertion.  

At the benign end of the spectrum, the vision of sameness is commonly articulated as a pragmatic desire to construct a workable unity from the diversity of the citizens in a multicultural state. I would argue that, to the extent that state policies aim at the assimilation of difference among citizens, the results will run counter to the democratic ideal which aims to include every citizen in the articulation of the good life. On the one hand, the values of dominant groups will be normalized and made to seem ‘natural’. By extension, the values of the minority groups will lack representative authority. One response to the increasing diversity of values and practices in a multicultural environment is the ideology of multiculturalism.

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28 I recall, here, Max Weber’s definition of a nation as a ‘community of sentiment’; and it strikes me that one way of articulating the problem of discordant groups within the multicultural nation-states of late modernity is to say that, quite apart from the necessity of sharing an imagined political destiny, the citizens of a healthy nation also require to share sentiments (as points of view on a wide range of subjects).

1.5 Multiculturalism and the multicultural state

A state may, however, acknowledge the quantifiable evidence which shows that a sizeable percentage of its population is made up of ethnic (and other) minorities, while still maintaining a myth of cultural homogeneity. The political and popular right in Britain, for instance, has been highly resistant to the idea that the traditional culture should now be regarded as one set of values and practices among many others. In France, the situation is more rigid, based upon a conception of citizenship which requires every individual to accept French culture as a condition of citizenship.

Kymlicka is helpful in elucidating the term multiculturalism, not least because, by aligning the word itself within a broader terminology, he focuses on the field of interest and takes the strain off this particular word (and the pejorative associations which have accrued around it). As he puts it,

I am using multiculturalism as an umbrella term to cover a wide range of policies designed to provide some level of public recognition, support or accommodation to non-dominant ethnocultural groups...those who dislike the term, and who prefer another one, such as ‘minority rights’, ‘diversity policies’, ‘interculturalism’, ‘cultural rights’, or ‘differentiated citizenship’, feel free to substitute [since] nothing important rests on the label.

This is why a conceptual distinction should be maintained between the two predicates: multicultural (which indicates the historical plurality of states and nations); and multiculturalist (which is more helpfully reserved for the construction and implementation of policies which enable the expression of diversity).

The Islamic practice of veiling (which will be dealt with more fully in chapter seven) has come to represent a test of the secular state in France, provoking emotional debates about notions of citizenship, separation of church and state, and laicite. Chirac is on record as saying that he finds “something aggressive” in the wearing of the Muslim veil, and an open letter to Elle magazine stated one strand of feminist view to be that “The Islamic veil sends us all - Muslims and non-Muslims back to a discrimination against women that is intolerable. Sarkozy, on the other hand, in his capacity as interior minister, opposed a legal ban on veiling in schools, perceiving it to be a form of secular fundamentalism. For a fuller treatment of this issue, in relation to human rights law, see Henry J. Steiner, Philip Alston, and Ryan Goodman, *International Human Rights in Context: Law Politics, Morals*, 2nd edition (Oxford: Oxford University Press, 2007), 622 and following.

See, Fleras, 2009, where, in the introduction, he speaks of the vitriol or controversy which has been triggered by the concept of multiculturalism and of the growing concerns over its role in eroding a sense of belonging that ensures minority attachment and loyalty.

Kymlicka, 2009, 18.

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33 Kymlicka, 2009, 18.
Throughout his work, Kymlicka presents a distinctly liberal multiculturalism, by which he means that:

not only that these [multiculturalist] norms operate within the constraints of human rights standards - that no-one may invoke cultural diversity to infringe upon human rights guaranteed by international law...but also that these norms are inspired by underlying liberal values of freedom, equality, and democracy.  

Elsewhere, Kymlicka, asserting that the endorsement of group-differentiated rights for ethnic groups and minorities should always be conditional and qualified, expands on this idea,

A liberal conception of minority rights will not justify (except in extreme circumstances) ‘internal restrictions’- that is, the demand by a minority culture to restrict basic civil or political liberties of its own members...a liberal view requires freedom within the minority group and equality between the minority and majority groups...

A liberal multiculturalism is also one which “is committed to both liberalism and multiculturalism, privileges neither, and moderates the logic of one by that of the other...[appreciating] that individuals are culturally embedded...its fundamental commitment [is] to the culture and morality of dialogue...” In Fleras, who focuses on governance, it is possible to find similar emphasis:

The challenge of multicultural governance...[is] how to reconcile the seemingly opposing dynamics of liberal universalism with ethnic particularism within a framework that balances the social (reward) with the cultural (recognition) without

34 Kymlicka, 2009, 18. Note that the Universal Declaration of Human Rights states, in Article 29, that human rights may not trump all other considerations since they must be implemented in such a way that they meet ‘the just requirements of morality, public order and the general welfare in a democratic society.’


reneging on the national (unity)...[as it] strives to comply with the Universal Declaration of Human Rights. 37

On these readings, the ideology of multiculturalism and the practice of human rights are perceived both to promote and to constrain one another. On the one hand, the promotion of differentiated minority rights can be interpreted as “a local adaptation of civil rights liberalism, and hence as a new stage in the unfolding of the human rights revolution”38 On the other hand, the increasing density of rights-protected mechanisms (including constitutional courts) make it less and less likely that the freedom of individuals can be infringed in the name of cultural values. The shift in understanding of the ethical agent which is involved here is described by Jeremy Waldron,

We are not self-made atoms of liberal fantasy, certainly, but neither are we exclusively products or artefacts of single national or ethnic communities. We are made of our languages, our literature, our cultures, our science, our religions, our civilization – and these are human entities that go far beyond national boundaries and exist, if they exist anywhere, simply in the world. 39

If we interpret this as a shift in sensibilities towards the justice of minority rights in the context of a human rights culture, it can be observed on two fronts: “First, there is the global diffusion of the political discourse of multiculturalism...[and]...second, there is the codification of multiculturalism in certain international legal (or quasi-legal) norms, embodied in declarations of minority rights.” 40

Liberal multiculturalism can also be understood in the light of its re-arrangement, if not its rejection, of the idea that the unitary, homogeneous nation-state should signify the

37 Fleras, 2009, 52,53. And see Geoffrey Roberston who, writing about the right to be different, stresses that, when minority rights conflict with basic human rights, the argument from minority culture cannot be supported. Robertson, 2002, 155.
38 Kymlicka, 2009, 91.
boundaries within which the ethical agent must evaluate patterns of morality. In other words, through contemporary political discourse and the implementation of legal instruments designed to ensure that the minority voice can be heard, the context in which new patterns of morality emerge enables a more generous apprehension of cultural novelty. The way is opened to new forms of subjectivity and agency in which the moral imagination is less likely to be circumscribed by values associated with an imagined national homogeneity.

Despite the fact that very few states in the world are actually mono-national, the myth of nation and shared national characteristics has played a large part in the construction of ideas and policies which are intended to strengthen the state. The rhetoric which is used often turns around the notion of citizenship, especially as the concept is contextualized in terms of globalization and the fragmentation of nation-states since the end of the Cold War. Antje Wiener, writing about citizenship in the context of the European Union, points out that there are three constitutive elements of citizenship: the individual, the polity and the relationship between the two,

The relationship between citizens and the polity has, for a long time, been intrinsically linked to modern state building: that is, the way that individuals saw themselves as linked to the central institutions of political authority, together with struggles over citizenship rights, tended to support the emergence of a particular type of state...it sets the rules about who belongs to a community and who does not.

Wiener goes on to discuss the expansion of citizenship rights as being two-dimensional: the first, involving the expansion of the right to participation in what might be called the goods of the state (the right to vote, to move about freely, to be educated and to receive welfare); the second dimension of modern citizenship concerns identity (that is, the conferring of the right to belong to a particular national community).

Wiener writes in the context of the construction of the European Union; she raises points which highlight some of the most important issues in the question of the identity of those who reside within the geographical and political borders of a state. As Wiener puts it, "Europeanization and globalization present significant challenges to modern state-citizenship relations...once individuals began to enjoy different types of rights in a new world that reflected flexibility and mobility, it became increasingly difficult to define citizenship practice as based solely on nationality." 42

Where traces of ethnicity, colour, religion, gender or cultural practices run counter to the imagined community, the dominant cultural group appoints gatekeepers who institutionalize norms of inclusion/exclusion. In an Irish example, the 2004 Constitutional Amendment removed birthright citizenship (that is, the right to be considered a natural citizen of Ireland) from any child born to immigrants. Dr. Neville Cox, of Trinity Law School, pointed out,

[this] tells people in the starkest terms...that we do not wish them to know a sense of belonging [in and to Ireland]. It says that...genetic connection to the pure Irish race is a necessary prerequisite of Irishness. 43

Following the constructivist logic of this thesis, citizenship is conceptualized as a practice which is played out at the social/ political level in the adoption and acting out of legal mechanisms, and in the development and rejection of norms and values. As such, citizenship is deeply involved in the construction of the symbolic world. The globalizing process has brought to light a growing tension between the formal recognition of citizens' rights, and the existential reality of living as the citizen whose particular cultural affiliations do not fit the norm. Despite the implementation of legal instruments to ensure that every human being

should have equal recognition there is a further step to be taken, which is to acknowledge the extent to which individuals are culturally embedded. The feminist ethical subject is connected to others synchronically (increasingly so, in a globalizing world) and diachronically (in relation to inherited patterns of behavior).

One of the central questions of this dissertation concerns the possibility of transcending local mores and inherited norms which set parameters on a positive evaluation of difference. In this opening chapter, my intention is to sketch the contemporary political context against which patterns of morality are being played out, with particular reference to the construction and implementation of legal and quasi-legal instruments designed to enable the expression of diverse religious and cultural values. I have made a contrast between the idea of moral monism (as that can be said to represent the human tendency to crave sameness and to fear strangeness); and multiculturalism (as a range of policies which are designed to deal with the differences among groups of citizens in multicultural states).

The value of social inclusion, when it is promulgated by a liberal multiculturalism, must wrestle with the task of balancing the core values of democracy and the rule of law with respect for the freedom of the individual to live out a particularistic version of the good life, often tied to cultural and/or religious precepts. By definition, pluralist societies are those in which values conflict. Democratic principles demand that values which come to be associated, or even to represent, state values, need to be constantly re-negotiated; to be defended and re-articulated in the face of changing sensibilities, cultural diversity and the emergence of innovative ways to describe both the familiar and the strange. As Gianni Vattimo put it, with reference to Heidegger, "...we don't agree because we have found the very essence of reality, but we say that we have found the very essence of reality when we
agree." The speed of change, in contemporary pluralist democracies, means that consensus is most likely to be partial and provisional. In a discussion about the characteristics of deliberative democracy, Amy Gutman and Dennis Thompson stress the importance of provisionality, "A theory is morally provisional if its principles invite revision in response to new moral insights or empirical discoveries." On this dynamic view, the ethical process can be interpreted to be a continuing conversation, where moral principles are historical points of consensus; strong enough to be foundational for social action; flexible in the acknowledgment that all values are context-dependent. I am not suggesting, therefore, that multicultural policies lead to a unity of moral purpose. My point is that, in states in which there are political structures in place to allow for the safe and legal practice for the expression of a plurality of life-styles and moral choices, religious and cultural differences are more likely to be debated through democratic and peaceful means, than imposed through totalitarian means.

In chapter two, I will show that the ideals of equality (through the doctrine of human rights) has worked in symbiosis with a politics of recognition (the changing face of multiculturalism), to construct a public space which, increasingly characterized by policies and legal instruments aimed at inclusiveness and diversity, holds the focus on the dignity and freedom of human persons. While there is, in the conjunction of these two trajectories, the potential for a just pluralism, there is also (as recent history has shown), the potential for backlash and a retreat into the politics of assimilation. There are, in other words, dissonant voices which cut across the liberal notion of freedom.

1.6 Dissonance and backlash

The multicultural vision of pluralism, as I have also shown, does not play out as a seamless trajectory. Reporting on the findings of the EMILIE research project, Tariq Modood writes of the "presumed crisis of multiculturalism in Europe," providing empirical evidence for the view that the goal of partial assimilation is once again in the ascendency in many European states, heightened by the perceived threat of Islam since 9/11. According to Modood, this is often expressed as an objective to "limit the comprehensiveness of assimilation to the public sphere...[not preventing minorities] from retaining their diversity at the level of family and of some parts of civil society." Quoting Kostakopolou, strategies for the enforcement of integration are observable in:

Policies for ‘social cohesion’, ‘integration’ and ‘assimilation’, including the official promotion of national identity, official lists of national values, language [and clothing] prohibitions in public transport, schools, universities and hospitals, compulsory language courses and tests for migrants, naturalization ceremonies and oaths of loyalty.

It is equally important, however, to acknowledge that the push for assimilation has not gone unchallenged. Modood, conceptualizing the model of the plural state, writes of the mediating voices of NGO’s, trade unions, churches, neighbourhoods, immigrant associations and

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46 The EMILIE research project (A European Approach to Multicultural Citizenship. Legal, Political and Educational Challenges) was funded by the European Commission Research Directorate (6th Framework Programme, Socio-Economic Sciences and Humanities) between 2006 and 2009.
47 Modood, 2012, 1, adding that the retreat thesis is “far from established...and already has been shown to be a more complicated and mixed affair.” Modood, 2012, 11.
48 Modood reports that “The governments of several ‘old’ immigration hosts, such as France, the Netherlands or Denmark, have turned to civic assimilation approaches as the way forward” and quotes Angela Merkel David Cameron as having declared that multiculturalism has failed. For full report, see Modood et al, 2012, chapter s 1 & 2.
forums for political discussion, some of which may be represented formally in the state.51 “For many...assimilation as a policy is regarded as impractical if not also unjust.”52 Citizens have a “sense of shaping and being shaped by a public space that goes beyond law and politics.”53

Ruby Gropias and Anna Triandafyllidou show that multicultural and intercultural education in Europe has addressed the needs of ethnic minority groups, with the aim of “improving relations between any society’s population groups...and providing the younger generation with the necessary foundations for intercultural competence.”54 The empirical countries studies of the EMILIE project was concerned with the way that ethnic/cultural diversity is represented through educational models, with particular emphasis on the potential for educational policies to promote, or hinder, social cohesion. The studies confirmed that

...the broad objectives of multicultural/intercultural education across Europe are rather similar...[aiming] at improving relations between any given society’s different population groups...both the EU and the Council of Europe have developed extensive initiatives and programmes in the field of education and cultural policy aimed at increasing tolerance for diversity and awareness of the growing unity between European peoples.55

In the same volume, Ricard Zapata-Barrero and Ruby Gropias, writing of the ways in which contemporary multicultural democracy is being constructed, and noting the rise in anti-immigration rhetoric across Europe, comment that,

Over the past fifteen years, advocacy groups, intellectuals and proponents of a multicultural demos have been arguing for the need to revisit and redefine sustainable

51 See Modood, 2012, 4 & 5.
52 Modood, 2012, 52.
55 Ibid, 151, where they cite the website of DG Education and Culture of the European Commission: http://ec.europa.eu/dgs/education_culture/index_en.htm and the website of the Council of Europe on Cultural Cooperation: www.coe.int/T/E/Cultural_Co-operation/education/
democratic forms of citizenship that are able to integrate and address the needs of minority groups and new collective identities.  

Zapato-Barrero and Gropias also point out that, over the past fifteen years, there has been a growth in the activity of advocacy groups whose intent is to redefine citizenship on the principles of political equality, human rights and respect for diversity. Crucially, new forms of “consultation with public authorities have been set up...allowing these groups to express their political expectations outside the traditional channel of the vote.”While, therefore, the recent history of multiculturalism can be read as one of competing narratives, there remains what Modood calls, “the resilience of the multicultural framework” and evidence that, in pluralist contexts, “ethno-religious separatism is regarded as the most undesirable outcome.”

1.7 Pluralism and law

Ayelet Shachar is concerned with the question of the legal relationship between majority and minority groups. Her thesis was given prominence, cited by Rowan Williams when, as Archbishop of Canterbury, he addressed the Royal Courts of Justice. Shachar is particularly concerned with the potentially harmful consequences for women, should the legal recognition of minority group rights undercut existing human rights legislation, established to protect the most vulnerable members in European states. She focuses on the idea of ‘privatized

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57 Ibid, 186,187.
58 Modood et al, 2102, 49.
60 For a full text of Rowan William’s address, see, Rex Ahdar & Nicholas Aroney, eds., Shari’a in the West (Oxford: Oxford University Press, 2010), Appendix I, 293-308.
61 In this regard, Shachar upholds the distinction between ‘strong’ and ‘weak’ models of multiculturalism. The former fails do justice to the complexity of individual, group and state
diversity', which she defines as "increased demands by members of religious minorities to rely on private law mechanisms...to 'import' religious norms into dispute resolution between consenting parties occurring under the jurisdiction of the secular state." 62 Citing family law cases from Europe and Canada, Shachar calls attention to the growing number of instances in which powerful representatives of religious minorities claim that "respect for religious freedom or cultural integrity does not require inclusion in the public sphere, but exclusion from it." 63 Shachar advocates a new jurisprudential approach which, as she puts it, "seeks to align the benefits of enhancing justice between groups with reducing injustice within them." 64

For my purpose, the importance of Shachar's theories is that she looks at the broad question concerning the evaluation of diverse cultural practices, in focused, legal perspective, to ask how cultural diversity can be lived out within the legislative systems of multicultural states. As she puts it,

The hope is that...we can explore ways in which state law can be rendered sufficiently pluralistic, allowing different communities to be governed by their own institutions and traditions...[m]ulticultural accommodation in its various legal manifestations generally aims to provide identity groups with the option to maintain their unique cultural and legal understanding of the world, or their nomos. 65

Shachar develops the question of differentiated citizenship, introducing the more practical issue of how it might be played out through systems of authority, specifically through the relationships. Weak multiculturalism recognizes group identity without losing sight of the inner diversity of all groups.

63 Ahdar & Aroney, 2010, 119
65 Shachar attributes the use of the Greek term, nomos, to Robert Cover, applying it to the phenomenon whereby group-sanctioned norms of behavior often differ from those encoded in state law. Shachar uses the term, nomoi groups, by extension, to refer to religiously defined groups who share a comprehensive world view. See Ayelet Shachar, Multicultural Jurisdictions: Cultural Differences and Women's Rights (Cambridge: Cambridge University Press, 2001), 2, note 5,
realm of civil law. She articulates a number of variations on the theme of 'transformative accommodation', asserting that it entails a paradigmatic shift in the understanding of "situational complexity, as experienced by individuals culturally and jurisdictionally tied to multiple communities." In essence, Shachar calls for the establishment of overlapping jurisdictions which would extend a type of margin of appreciation at religious community level, where consenting individuals could take their cases to non-state tribunals while retaining the protective oversight of the state as the guardian of national and international rights-based norms and laws. This would be a type of joint governance in cases where the contemporary legal subject often find herself balancing multiple and competing religious, cultural and legal norms. The dissonance experienced is likely to be more acute among what she calls 'nomoi groups where the members are dispersed, so that the idea of group representation becomes problematic. One of the strengths of Shachar's proposal for a type of joint governance is that it "does not require a territorial basis for the nomoi group to acquire a degree of jurisdictional autonomy."  

Shachar writes of the lurking danger of absolutism in the evaluation of culture. In a critique of current legal stances towards nomoi groups, she demonstrates that, whether in the secularist or religious guise, the absolutist stance ultimately "erodes nomoi groups' power to preserve their cultural or religious distinctiveness through formal and autonomous

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66 In this regard, Shachar’s work can be interpreted to move forward from Kymlicka’s theories of multicultural citizenship, where his chief focus is the accommodation of group-differentiated rights within liberal theory.
68 The phrase margin of appreciation alludes to the jurisprudential practice through which the European Court of Human Rights, recognizing the sovereignty of states, grants a degree of autonomy in specified areas. The principle rests on the acknowledgment of the importance of contextuality to legal reasoning.
69 A detailed example of such a case will be given in chapter seven.
70 Shachar, 2001, 126. The important point here is that the jurisdictional autonomy Shachar advocates would only apply to certain specified areas of legislation, eg., family law. It is not a step towards territorial self-government.
demarcation of their membership boundaries." The secular absolutist model works out of the assumption that religion should have only private validity; and the religious particularist model has the capacity to impose severe internal costs, by preserving customary relations which can prevent the most vulnerable members of the group (often the women) from having access to external norms, such as human rights law. Shachar's intention is to embrace the recognition "that group members are both culture-bearers and rights-bearers, who must exercise their connections to, and choices between, more than one source of authority in order to re-negotiate their position from within the group." This will be seen to resonate with the material of chapter seven, concerning a critical pluralist approach to legal cases involving minority patterns of morality.

What is important for my purpose is to suggest the relevance of her theories in relation to subjectivity, or to the question of the agency of women, in relation to pluralist contexts. Shachar strengthens the idea that agency, in terms of the contemporary citizen, is a balancing act which cannot simply be reduced to the dualism: your culture or your rights. Second, Shachar calls for a shift away from the idea that cultural difference must be viewed through special lenses. This resonates with the premise that the subject is formed through a process of dialogue in which ethics, law and religion are inextricable. The process is mutually constitutive: the subject is both constructed by, and contributes to the construction of, the law, politics, and morals.

71 Shachar, 2001, 73.
72 This important point will be taken up in chapter six, where I will engage with a live debate on the subject of Article 9, ECHR, and the concept of forum internum: a false (and unworkable) bifurcation of the right to freedom of religion, which, arguably, depoliticizes the issues involved by denying certain practices access to the public space.
73 Shachar, 2001, 148
74 "Joint governance... also heralds a new opportunity for individuals within minority groups to consciously employ (or refrain from employing) their rights as citizens in ways that increase their agency as participants in the internal reproduction—or transformation—of their culture." Shachar, 2001, 90.
The concept of the rule of law is not fixed for all time. Some countries do not subscribe to it fully, and some subscribe only in name, if that... but, in a world divided by differences of nationality, race, colour, religion and wealth it is one of the greatest unifying factors, perhaps the greatest, the nearest we are likely to approach to a universal secular religion.

Tom Bingham

2.1 Introductory remarks

Although there is a fairly lengthy history of treaties designed to protect minorities, the issue took on a new urgency from the period following the First World War, as maps were redrawn and new states formed after the break-up of the Austro-Hungarian and Ottoman Empires. "From concepts like 'self-determination' and out of the legacy of nineteenth-century liberal nationalism that saw the development of nation-states like Germany and Italy, the principles of nationalities took on new force." ¹

After the First World War, the League of Nations, recognizing the impossibility of maintaining the idea of ethnically homogeneous states and, faced with the presence of minorities who were thought to present a continuing de-stabilizing presence, sought to establish bi-lateral treaties to address the situation. The 1919 Minorities Treaty between the Principal Allied and Associated Powers and Poland is regarded as a model for later treaties. It provided for,

Protection of life and liberty and religious freedom for all 'inhabitants of Poland'. All Polish nationals (citizens) were guaranteed equality before the law and the right to use their own language in private life and judicial proceedings. Members of racial,

¹ Steiner, Alston and Goodman, 2007, 97.
religious or linguistic minorities were guaranteed 'same treatment and security in law and in fact' as in other Polish Nationals, and the right to establish and control at their expense their own religious, social and educational institutions. In areas of Poland where a 'considerable proportion' of Polish nationals belonged to minorities, an 'equitable share' of public funds would go to such minority groups for educational or religious purposes. In view of the particular history of oppression and violence, there were specific guarantees for Jews.  

After World War II, however, the treaty system of minority protection was discredited. There were a number of reasons for this, and, as Kymlicka puts it, they were “not primarily the result of moral idealism or a sincere desire to find an alternative means of protecting minorities.” In the second half of the 20th century, the international desire to construct new foundations for peace and the vision of granting universal rights appeared to offer an alternative solution to some of the problems which minority groups faced. The question of minority rights began to be subsumed under the banner of Human Rights. Kymlicka quotes Inis Claude,

> The doctrine of human rights has been put forward as a substitute for the concept of minority rights, with the strong implication that minorities whose members enjoy individual equality of treatment cannot legitimately demand facilities for the maintenance of their ethnic particularism.”

Thus, by the middle of the 20th century, the down-grading of the idea of minority rights in favour of the recognition of universal human rights was a response to the threat of destabilization which was perceived to reside in the minorities which had newly come into focus: (eg. ethnic Hungarians in the Transylvanian region of Romania, or Germans in Poland). One striking result was that, despite a certain amount of support during discussion at the time, there is no reference to minority rights in either the Charter of the United Nations or the Declaration of Human Rights, 1948. Evidence of similar lacunae can also be found in

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3 Kymlicka, 2009, 30.  
4 Kymlicka, 2009, 29.

One exception to the post-war desire to avoid the issue of minority rights is important for the clarity with which it conveys the assimilation model. Convention 107 of the International Labour Organization, on the ‘Protection and Integration of Indigenous and Tribal Populations’, adopted in 1957, states that the social, economic and cultural conditions of indigenous and tribal populations would be protected as long as the measures taken were not seen as a means of creating or prolonging a state of segregation. This view was underscored by two other misconceptions: the first, was that the development of indigenous peoples was a matter to be handled by professionals, technocrats and economic planners who represented state interests; and the second, was that there was no acknowledgment that the interests of indigenous peoples might differ from, or even conflict with, the interests of the state. The goal was to ensure that indigenous groups would adapt to the norms, values and practices of the nation-state in which they found themselves. When the ILO redrafted the 1957 Convention (Convention 169, adopted in 1989), it expressly stated the intention to move away from the assimilationist model in terms of land claims, language rights and customary law.

This example, while intended to deal with the specific question of indigenous peoples, calls attention to more widespread changes in attitude towards minorities in general. At the European level, this shift was codified, led by the Organization for Security and Co-operation in Europe (OSCE), in its Copenhagen Document, 1990, Geneva Document, 1991, and in the

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6 While this Convention is widely regarded as an early example of early multiculturalism, it must also be noted that the ideology of ‘indigenism’ should not be confused with more general theories of ‘multiculturalism’ (see Kymlicka, 2009, 34.)
establishment of a High Commissioner on National Minorities in 1993, along with recommendations which related to minority rights regarding education (1996), language (1998), effective participation (1999) and broadcasting (2003). Crucially, in terms of Europe, the European Union made the important declaration in 1993, that respect for minority rights would be one of the accession criteria for countries wishing to join the Union. Indeed, the General Secretary of the Council of Europe equated respect for minorities with ‘moral progress’, although Kymlicka points out that many of the pro-minority policies adopted by post-communist countries were only implemented as a result of the threat of being refused entry into the European Union or NATO.

Changes in attitude and practice towards the recognition and rights of minorities were replicated internationally, with Declarations on the Rights of Indigenous Peoples being drafted in the Americas (1997), in Asia (1998) and in Africa (2003). It is important to make the distinction between the acknowledgment of indigenous rights and the more general recognition of the right of minorities to the liberty to enjoy their culture. Kymlicka indicates that this distinction has been upheld through the work of the UN to the extent that it is appropriate to speak of two tracks: one for indigenous peoples and the other for minorities in

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7 The work of Milada Anna Vachudova is an interesting illustration of the effectiveness of the EU’s demands regarding treatment of minorities. Vachudova, in interviews with opposition party members in Bulgaria, Romania and Slovakia, was told that they had been influenced to move away from concentrated political power and the scapegoating of minorities because it was ‘not European’. She concluded that this was an indication that material incentives alone do not fully account for the tremendous influence of international actors on domestic policies in post-communist states. Milana Anna Vachudova, *Europe Undivided: Democracy, Leverage, & Integration After Communism* (Oxford: Oxford University Press, 2005).


9 It is important to note, however, that, in terms of Europe and the treatment of national minorities, only the countries seeking accession to the European Union were required to be inspected regarding the implementation of minority policies. By contrast, the countries which were part of the Union had to meet no such requirement.
general. He adds, however, that, "in both tracks, there is increasing acceptance of the need for some provisions aimed specifically at the needs and aspirations of ethnocultural groups." 10

Within the logic of this thesis, it is also important to maintain the nuanced distinctions which arise when minority status, the politics of recognition, and discrimination are debated in the context of multiculturalism.

There has been a discussion about whether groups [other than as defined by Caportorti], for example group identity based on sexual preference or disability, ought to come within this definition...While the principle of minority rights law can and should be extended to other groups that are similarly vulnerable, these groups do not fall within the soubriquet of 'minorities' in international human rights law. 11

Here is the definition of a minority, used in a UN study (1979), given by Francesco Caportorti:

A group, numerically inferior to the rest of the population of State, in a non-dominant position, whose members-being nationals of the State-possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and who, if only implicitly, maintain a sense of solidarity, directed towards preserving their culture, traditions, religion or language. 12

First, note that Caportorti’s definition assumes that, to have rights, minorities must be citizens of a state, with the implication that their protection will be a matter for the state; and it accepts the state’s right to distinguish between nationals and non-nationals in terms of rights which are non-fundamental. 13 Let me now add, by way of opening up the defining characteristics of a minority:

10 Kymlicka, 2009, 36.
12 Smith & den Anker, 260.
13 For a fuller discussion of these points, see Smith & Anker, 2005, 260.
Minority indicates, in the first place, a state of events, that is, the situation of a group which, no matter how large, is excluded from the majority, or else included but as a fraction subordinated to a standard of measurement which the makes the law and fixes the majority. In this sense, it may be said that women, children, the southern hemisphere, The Third World, and so, are minorities regardless of their number.

According to the second definition, it is not simple numerics which denote minority status, but the location of its members in relation to the balance of power within their society.

2.2 Pragmatism or an expansion of the moral imagination?

From the last decade of the 20th century, the increasingly multicultural nature of states has attracted international concern, with many of the issues being regarded as outwith the exclusive competence of internal state laws. Moreover, as I have already indicated,

In contemporary international discourse, the idea of a centralized, unitary, and homogenous state is increasingly described as an anachronism...pluralistic, multilingual, and multilevel states with complex internal structures for recognizing and empowering regions and minorities are increasingly seen as representing the more truly 'modern' (or even 'post-modern') approach.

In other words, there is a growing awareness of the complexity and diversity within states as well as among states; and an acknowledgment of the present strength of international bodies which regulate relationships among diverse groups of citizens. The move towards the accommodation of religious and ethnic diversity is now commonly regarded as a stage in the developmental process of democracy, the logical outcome of liberal ideals, and a necessary precondition for the establishment of national and international order. The acknowledgment of the internal plurality of ethnic and religious groups is being addressed at the level of

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16 Kymlicka, 2009, 42.
international laws which are designed to manage religious freedom in multicultural states; and raising new possibilities for the accommodation of minority religious and cultural practices.\textsuperscript{17}

In the period immediately following World War II, the question of minorities was subsumed, for a period, under the promotion of the human rights initiative, with the assumption being that, by guaranteeing civil and political rights to all individuals, no further provision need be made for group-specific claims. As Kymlicka points out “With the adoption of the Universal Declaration of Human Rights (UDHR) in 1948, the international order decisively repudiated older ideas of a racial or ethnic hierarchy, according to which some people were superior to others, and thereby had a right to rule over them.”\textsuperscript{18}

The question continues to be debated as to relationship between the universalist implication in the very idea that all humans have rights, and the implementation of rights in contexts which are culturally and religiously diverse. Despite the implication in the terminology of the central instrument (the Universal Declaration of Human Rights) and the Covenants which state that ‘everyone has a right to liberty’, ‘all persons’ are entitled to equal protection, ‘no-one’ shall be subjected to torture, the relativist argument is that moral codes are human constructs and must be judged against the historical and cultural contexts in which they are held to be meaningful.\textsuperscript{19} A fairly straightforward assertion of the relativist position might be to state that the world is made up of a diverse range of opinion about right and

\textsuperscript{17} The term, ‘accommodation’ is not meant to suggest assimilation by the back door. It is intended to resonate with current debates concerning the inclusion, in civil law, of patterns of morality based on religious laws, such as Shari’a. The idea of ‘transformative accommodation’, which has been promulgated by Ayelet Shachar and taken up by Rowan Williams, will be enlarged upon at a later point in this chapter.

\textsuperscript{18} Kymlicka, 2009, 89.

\textsuperscript{19} Linda Hogan notes that, in its focus on the autonomous individual as the bearer of rights, the UN declaration seems only to be tangentially concerned with the communities and traditions which these individuals inhabit. Biggar & Hogan, 2009, 227, note 28. The author goes on to argue, however, that debates about the situatedness of the legal subject of the doctrine of rights both preceded and followed the UN document.
wrong, truth and error. While the foregoing can be interpreted as a simple statement of fact, and one that can be demonstrated empirically, a stronger relativist position concludes from the operative diversity of cultural and moral codes that,

there is no transcendent or transcultural ideas of right[to be] agreed on, and hence that no culture or state (whether or not in the guise of enforcing international human rights) is justified in attempting to impose on other cultures or states what must be understood to be ideas associated particularly with it.  

As I have already indicated, a general question hangs over the human rights agenda, concerning the necessity for the special protection of minorities given the rights norms already in place. In other words, since the doctrine of rights is based on the humanity of each person regardless of their religious, cultural, ethnic or gender differences, why should there be a further necessity to establish marks of group distinction? One response is to draw attention to the distinction between two concepts: equality and equity. The principle of equality, on which the idea of human rights was originally constructed, is founded on the idea of similarity, rather than difference: the concept of ‘humanity’, predicated as the most fundamental characteristic shared by individuals. Equity, however, begins from the premise that, for the implementation of rights, the individual should be understood contextually: that is, in relation to positioning within the power dynamics operative both locally and globally. Equity entails a consideration of the historical discrimination which has left its mark on the members of certain groups, still affecting current levels of education, housing conditions, and the extent to which members of minority groups have access to, or even any knowledge of, the mechanisms of potential change provided through human rights instruments.  

20 Steiner, Alston & Goodman, 2007, 518.  
21 Historically, the principle of equity has been enshrined in law in order to correct or supplement laws under particular circumstances. Notable historical examples can be found in the origin of the English Courts of Chancery, and Roman Catholic Canon law (cc. 19, 221, 1752), designed to govern the application of norms to concrete cases. The principle of equity can also be interpreted through
2.3 The feminist legal subject

When human rights norms are challenged on the grounds that they do not carry universal validity, the reasons given include the following: that they conflict with religious commands (as these are understood to be clear and unambiguous to the particular believer); and/or that they threaten to dismantle traditional beliefs and practices which are considered to be necessary for the survival of a culture. The reasons tend to cluster around the more generic criticism that the instruments of the doctrine of human rights are directed at the human individual as an undifferentiated legal subject: one who is abstracted from culture, religion, or other group-defining structural allegiances which, on a constructivist reading, constitute human identity. Debates around the universal/culturally relative characteristic of human rights have resulted, on the one hand, to the revision of some traditional practices; and, on the other hand, to the accusation that rights discourse, rooted in 19th century ideas of absolute sovereignty over property which often do not allow for competing considerations, represent a Western cultural imperialism under a new guise.22

Feminist critiques of the doctrine of human rights cluster around the following points:
1) the focus on an undifferentiated legal subject obscures not only the specific ways in which women are oppressed, but also the differences in how they have historically responded;23 2) human rights, as I have indicated previously, can be interpreted to operate from an

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22 This point is often articulated in terms of the history of colonial and missionary expansionist projects which promoted the idea of the ‘white man’s burden’: the responsibility, on the part of the representatives of western ‘progress’ to root out instances of perceived cultural ‘inferiority’. See the work of Carol Gilligan, In A Different Voice (Cambridge, Massachusetts & London: Harvard University Press, 1998). The idea of the undifferentiated legal subject will be addressed in chapter six, with special reference to recent judicial thinking observed in cases which involve women from minority religious groups. From a pluralist legal perspective, the work of Ayelet Shachar is currently influential and has been mentioned above.

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essentializing notion of human ‘nature’, ignoring the significant differences which arise as a result of diverse social contexts; 3) human rights instruments, reflecting the liberal distinction between public and private spheres, tend to be directed at the public level.\textsuperscript{24} 4) rights discourse is strong on what is known as the ‘negative conception of freedom’, or the freedom from interference from the state. Feminists have expressed concern (for instance, with regards to pornography) that the effect of this negative freedom of speech can result in symbolic violence to women.\textsuperscript{25} To quote from the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW): “Of the several blind spots in the early development of the human rights movement, none is as striking as that movement’s failure to give violations of women’s (human) rights the attention, and in some respects the priority, that they required.”\textsuperscript{26}

The failure to attend to the specificities of women’s needs resulted in an initially gender-blind approach to the inter-relationship between civil-political and economic rights as these are implicated in traditional female roles. The feminist response, however, has proved to be a complex and multi-layered one, as attempts have been made to balance: a) the need to hold on to universal standards in terms of the rights of women, as a way of focusing feminist projects and unifying around a common understanding of women’s needs; with b) the acknowledgment that cultural and religious diversity shape the way that both men and women imagine their identities and envision their concepts of the good life.

...the move to expand universal human rights to include those rights central to women’s condition and the move towards a relativist view of human rights are

\textsuperscript{24} See, for instance, the US Bill of Rights and the European Convention on Human Rights. Note, also, the point made by Hilary Charlesworth, that what is considered private in one society may well be regarded as a public matter in another society. Crucially, she added that “whether a matter is considered public or private, it is the women’s domain that is consistently devalued.” Rebecca J. Cook, ed., quoting Charlesworth, in \textit{Human Rights of Women: National and International Perspectives} (Philadelphia: University of Pennsylvania Press, 1994), 6.


\textsuperscript{26} “Women’s Rights and CEDAW”, in Steiner, Alston & Goodman, 2007, 175.
consistent with and informed by feminist theory. Indeed, the tension between them reflects the tension within feminism itself, between describing women’s experience collectively as a basis for political action and respecting differences among women.

The influence of the universalist/relativist divide on the politics of human rights is perhaps nowhere more evident than in debates over women’s rights as human rights. Cultural relativists have targeted feminism itself as a product of Western ideology and global feminism as a form of Western imperialism.  

The drawing-up of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), in 1979, represented a significant step towards the provision of a legal instrument through which the freedom, dignity and protection of women might be secured. In its sixteen articles, CEDAW addresses the rights of women, globally, in terms of politics, society, cultural norms, fiscal matters, access to medical treatment and legal instruments. Articles 2(e) and 5(a) of CEDAW call on State Parties to the Convention,

2(e). To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women.

5(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.  

More specifically, with regard to so-called cultural practices, in 1995, The Office of the High Commission for Human Rights issued Fact Sheet no.23 regarding the modification or elimination of certain cultural practices considered to be harmful. The document focuses on practices which are deemed to result in physical harm: female genital mutilation (in its various degrees), son preference; female infanticide; early marriage and dowry; early

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pregnancy; nutritional taboos and practices related to child delivery. It is noted that such practices often reflect values and beliefs which span many generations and, as a consequence, they are liable to be endorsed by the State.

Despite their harmful nature...such practices persist because they are not questioned and take on an aura of morality in the eyes of those practising them...female sexual control by men...perpetuates the inferior status of women and inhibit structural and attitudinal changes necessary to eliminate gender equality.  

The fact sheet goes on to indicate the appointment of Radhika Coomeraswamy as Special Rapporteur. The following excerpts were reported under the heading of 'historically unequal power relations' and 'cultural ideology':

57. In the context of the historical power relations between men and women, women must confront the problem that men control the knowledge systems of the world...(w)omen have been excluded from the enterprise of creating symbolic systems or interpreting historical experience...

64. The ideologies which justify the use of violence against women base their discussion on a particular construction of sexual identity...(t)he construction of femininity in these ideologies often require women to be passive and submissive...(i)n addition, standards of beauty, defined by men, often require women to mutilate themselves or damage their health, whether regard to foot binding, anorexia nervosa and bulimia. It is important to reinvent creatively these categories of masculinity and femininity, devoid of the use of force and ensuring the full development of the human potential.

It is noteworthy that, while some of these practices may easily be dismissed in the Western mind as the practices of others who may be regarded as ‘exotic’, anorexia and bulimia are practices which, it can be argued, the West exported.  

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30 It is worthy of note that Coomaraswamy is on record as warning that both feminists from Asia and those in the West must guard against the Orientalist trap of accepting an oversimplified bifurcation between the ‘progressive’ West and the ‘barbaric’ East. (Cook, 1994, 7.)
Yakin Erturk, Special Rapporteur of the UN Commission on Human Rights on Violence against Women further challenges the ‘cultural’ argument:

...CEDAW draws attention to the contradictions that may arise in the intersectionality of collective rights and the human rights of women..."Is control over the regulation of women the only means by which cultural specificity and tradition be sustained?...Is it culture or authoritarian patriarchal coercion and the interest of hegemonic masculinity that violates the human rights of women everywhere?" 31

Erturk goes on to quote UN Doc.A/48/629, Art.4, which calls on States to ensure that they “should not invoke any customs, tradition or religious consideration to avoid their obligations with respect to [the elimination of violence against women].” A similar point is made by Radhika Coomeraswamy, who speaks of recorded practices which have escaped national and international scrutiny on account of the fact that they are judged to belong within cultural norms which deserve tolerance and respect. Coomeraswamy goes on to point out the complexity of evaluating such practices when the women who are affected, identifying with their culture, resist the interference of outsiders. I would add that the evaluation of all practices which are presently justified by a reified notion of culture, or un-deconstructed reference to historical traditions and history, require ethical and political scrutiny.

In practice, the argument from cultural specificity often turns on the fact that women are expected to signify, through their bodies, a group’s self image. As Nira Yuval-Davis puts it, “Women, in their ‘proper’ behaviour, their ‘proper’ clothing, embody the line which signifies the collectivity’s boundaries.” 32 The irony is, as Yuval Davis points out, that, even while women are thought to symbolize the imagined unity and honour of their collective (and, indeed, to be its intergenerational reproducers), they are often simultaneously alienated

31 Steiner, Alston & Goodman, 2007, 564.
32 Nira Yuval-Davis, 2004, 46. Yuval-Davis quotes Claudia Koontz, who researched the different slogans which boys and girls were given under the Hitler Youth Movement. For girls, the motto was “Be faithful; be pure; be German.” For boys it was “Live faithfully; fight bravely; die laughing.” Yuval-Davis, 2004, 45.
from the centre of the public sphere and the body politic. In terms of the defence of both human rights and traditional practices, the category of gender is typically criss-crossed with religious belief. This is particularly so when it comes to the regulation of female sexuality and the tolerance of violence perpetrated by male heads of households, where justification is offered by models of masculinity which are claimed to come from cultural norms through holy texts. In such debates, religion often becomes the vocabulary which articulates group boundaries and from which is drawn ideal models of masculinity, femininity, bodily integrity and family role-models. This point will be enlarged upon in chapter seven, where I will analyze the Islamic practice of women veiling.

2.4 Feminist responses to the undifferentiated legal subject

CEDAW draws attention to the fact that the human individual who is imagined to be the matter around which human rights law turns is abstracted from humanity in general, to the extent that sex and gender have not appeared to have much significance in the relationship between the subject and the law. Feminists have pointed out, however, that a close reading of human rights texts reveals both implicit and explicit ‘sexing’ of the legal subject. Susanne Baer explains that,

Explicit sexing is what lawyers know as direct discrimination: the verbal reference in a body of law to men and women...Implicit sexing consists of references to neutral situations or subjects in law which in fact constitute a reference to men and women, or

33 A pertinent contemporary example of this can be seen in certain interpretations of Qur'anic verses which have the effect of reinforcing cultural practices which subordinate women, where such interpretation ignores the fact that Shari'a law has been deeply affected by the patriarchal context of the 8th and 9th centuries. Since Islam closes up the divide between religion and the legal system, the notion of divine inspiration becomes a particularly powerful argument in the maintenance of traditional values and practices.
Baer gives examples of stereotyping such as the assumption that labour law does not cover housework, that legal systems assume that men are born to fight and can, therefore, be drafted to war, and that, until recently, violence against women was not recognized as a war crime. She then goes on to analyse the European Convention on Human Rights in terms of the sexed subject, pointing out that the German version (to date) is fully masculine (apart from the reference to marry, a point which reinforces its heteronormativity), it prioritizes the public over the private (thereby failing to protect the realm in which most women operate), it implicitly assumes a subject who is fully rational with a reading capacity, and whose culture permits public assembly and self-expression. Baer concludes that "in the historically informed search for implicit and explicit sexing, and for charged metaphors behind it, [the European Convention depicts the citizen as] male, resourceful, orderly, behaved, and serving the general good." She questions whether this can be said to be an inclusively representative picture of the citizen.

Feminists, as they have analyzed more and more closely the way that the citizen or the legal subject is conceptualized, have expanded the category of gender, so that it is criss-crossed with age, ethnicity, colour, ability and sexual preference. The result is a more nuanced understanding of who is being addressed in the instruments of international law. One practical result of this development is to uncover the fact that political priorities reflect geopolitical contexts. "[F]eminist progress in reshaping the scope of the international human rights agenda stands an important example of the power of organizing around assumptions of

commonality." In exposing the supposedly benignly gender-neutral vocabulary of human
rights instruments, a feminist reading of the idea of rights has the effect of moving the
conception of the legal subject from the undifferentiated human being, to one who is
embedded in the effects of gender, age, social positioning, and historical factors. In addition,
it exposes the fact that the construction of the symbolic world is shot through with power
dynamics: historical ideas of the good are articulated through the will of the most powerful in
any society. This point turns around subsequent practice of treaties, where regional
circumstances add to the sum of understanding of the basis of the treaty in ways which were
unimaginable at the time it was drafted.37

With regards to international law in general, and human rights law in particular,
feminist critique does not represent a monolithic approach. Feminisms of the liberal, cultural,
radical, third world and post-modern persuasions have adopted a diversity of stances towards
the analysis of the relationships between women and international law and the instruments of
the human rights movement. These categories overlap, which is to be expected; moreover,
they are not internally monolithic. Given this caveat, and for the purposes of clarification, I
will broadly outline some of the major differences in approach.

36 Tracy Higgins, in Steiner, Alston & Goodman, 2007, 542. In terms of the scope and the tenor of
human rights documents, Linda Hogan writes that even in the decades between 1918 and 1948,
human rights politics was “divesting itself of its traditional foundationalist liberalism, of its
commitment to the unencumbered individual, and, concomitantly, of its neglect of comprehensive
doctrines.” Biggar & Hogan, 2009, 227. It is in this context, therefore, that the feminist criticism
should be understood, grounding an existing trajectory in the logic of rights and moving its original
failure to imagine the embodied legal subject.

37 For a fuller discussion on the idea of ‘subsequent practice’, see Cook, 1994. In addition, see the
work of Nira Yuval-Davis on the idea of ‘transversalism’ in N. Yuval-Davis, "Women, ethnicity and
empowerment," in A. Oakley and J. Mitchell, eds., Who's Afraid of Feminism? Seeing Through the
2.5 Feminism and legal theory

In one form or other, the right to equality is a leitmotif in every major human rights instrument. However foundational it is to constitutional principle, however, it has proved to be an elusive term to explicate and put into practice. Feminist deliberations around the terminology of equality manifest a diversity of political and philosophical interpretations. One strand of feminist critique clusters around the liberal ideals of equality and equal representation. It proceeds on the core assumption that there are no essential differences between men and women which warrant different treatment in the public arena. Hilary Charlesworth points out that CEDAW reinforces a male-centred view of equality by focusing on, “public life, the economy, the law, education, and its very limited recognition that oppression within the private sphere, that of domestic and family worlds, contributes to women’s equality.” The most obvious criticism of the liberal approach is, perhaps, that it operates within the structures which it critiques, with a faith in the legal system as being rational and impartial. It might be said that the liberal feminist aims to gain access to the system; not, fundamentally, to dismantle the system.

A second strand of feminist critique, influenced by the work of Carol Gilligan, stresses that the knowledge gained from the experience of subjugation (either their own, or through identification with others) has had substantive and procedural effects on the way that women make decisions and evaluate human behaviour. In terms of international and human

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38 For a contemporary discussion about the legal interpretations of the idea of equality, see Colm O’Cinneide, “Aspirations Unfulfilled: The Equality Right in Irish Law,” in Donncha O’Connell, ed., Irish Human Rights, Law Review 2010, (Dublin: Clarus Press, 2010), 41-81. O’Cinneide provides the helpful distinction between approaches which treat the equality principle as satisfied if rational justification exists for any distinctions that are made between persons in similar situations (in other words, anti-discrimination); and the ‘substantive’ approach which, being concerned with social practices, is more likely to acknowledge the structural conditions which might result in exclusion or other disadvantage for individuals qua group members.


40 This point will be enlarged upon in chapter seven, where the focus will be on current developments in jurisprudence.
rights law, this strand of critique has shed light on the adversarial method which is standard practice in courtrooms. What is argued is the tendency of women to conceptualize through narrative and contextuality rather than abstract rationality, a difference which can disadvantage the way in which women's legal cases are heard and judged.41

The work of Catherine MacKinnon represents a third feminist strand of legal critique (often called radical feminism), which focuses on the historical domination of women by men. Contrary to the claims of those cultural feminists who hold to an essential distinctiveness about the ethical reasoning of women, MacKinnon puts forward a counter argument. Women, she claims, have had very limited choice in the matter of whether or not they adopt caring roles. Cultural demands and economic structures have been the driving force, bolstered by prevailing models of womanhood. If women have developed models of ethical reasoning which appear to be different from the kind of rationality associated with the male, this should not be taken as an essential, natural or God-given difference between the sexes. It is, rather, a sign that women, responding to ideal models of womanhood which have been constructed and maintained through actual or residual patriarchal norms, have learned to adapt. MacKinnon puts the point pithily in a critique of Gilligan's work:

Women may have an approach to moral reasoning, but it is an approach made of both what is and what is not allowed to be...Women are said to value care. Perhaps women value care because men valued women according to the care they give. 42

Furthermore, as McKinnon points out, the legal process and the preponderance of men in the top echelons of legal institutions work to reinforce a system in which the sphere in which

41 This applies, not only to theories about the type of vocabulary which women may or may not have been socialized to use but also to a range of key areas which determine the way that women are treated in courtrooms. These include: the value to society which is placed on the home-making role; the way that marital abuse is conceptualized; the material effect on women who have been out of the work-force for a decade or more.
women are judged is primarily a domestic one; and their behaviour evaluated, accordingly, as it conforms, or not, to psychological/cultural/national images of the female and the idealized feminine.

The work of *The Feminist Judgments Project* provides a contemporary study in this area, creatively setting out to suggest "alternative feminist judgments in significant legal cases." While the aim of the project is to ensure that women can have confidence in the justice process and their specific interests might be protected, the project has wider political implications, since it draws attention to the fact that,

Despite changes over the last 20 years in the profile of the legal profession in England and Wales [notably the implementation of The Judicial Appointments Commission], the appellate judiciary remains overwhelmingly white, male and middle/upper middle class. The project is also concerned to promote an inter-disciplinary approach to the practice of law, calling for a change in the profile of those who are called to judicial office, so that the perspective of academics, notably in the field of sociology and feminist critique might contribute to the understanding of majority/minority social dynamics. This is a decidedly political approach to contemporary legal practice:

...a political intervention which seeks to challenge the on-going exclusion of women from legal subjectivity, whether as the authors of legal decisions and doctrines, or as the subjects whose knowledge, experience, activities and concerns law is founded.

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Turning their attention to a number of cases which involve parenting, property, criminal law, public law and equality issues, Rosemary Hunter, Clara McGlynn and Erika Rackley work out of a jurisprudential assumption that,

the law is at least to some extent indeterminate, and appellate judges [in particular] therefore have considerable scope to make choices between competing interpretations of the law...feminist consciousness or philosophy may legitimately come into play.\textsuperscript{46}

One of the critical challenges which the project poses is to the establishment view, here articulated by Lord Bingham of Cornhill, that "...the judicial role precludes decisions which are motivated...by any personal agenda of the judge, whether conservative, liberal, feminist, libertarian or whatever." \textsuperscript{47} If what Lord Bingham has in mind is that personal views, religious convictions, or political motivations constitute an agenda through which members of the judiciary might feel empowered to \textit{disregard} due process, then I would concur. Baroness Hale, however, presents a more nuanced understanding of the place of ‘personal views’, in her assertion that, "an important project of feminist jurisprudence has been to explode the myth of the disinterested, disengaged, and distant judge." \textsuperscript{48} In other words, the suggestion that adjudication could possibly take place from a \textit{tabula rasa} position ignores the complex relationship operating between: social positioning, educational achievement, gender, ethnicity, political persuasion, and the jurisprudential question of what law is. Once it is established that no judge operates without a view-point, the crucial issue then turns on whose viewpoints might be left out, in any particular adjudication.

Within the logic of the dissertation, two important points can be made on the basis of the Feminist Judgments Project. The first concerns the lurking danger of essentialism in the

\textsuperscript{46} Hunter et al, 2010, 5.
question of whether a female judge would ‘make a difference’. Essentialist arguments might run on the basis that women would be likely to understand, or empathize more closely with, the experiences of women. Or, citing Gilligan, it might be expected that a female judge might be more attuned to an ethic of care, and understand more clearly the task of adjudication where a complex range of interests were present. While these points appear to be reasonable, they do not constitute a convincing rationale to support the view that female judges are different, or better, than males. The point at issue is the need for feminist judges; that is, those men or women who are attuned to the way that the law constructs social categories (including gender), as it also constructs categories of persons, including the criminal. The feminist legal critical voice calls into question the traditional assumption that the language of legal instruments should be neutral, objective and dispassionate; equally important, this line of thought moves towards mediation and conciliation as ways of avoiding litigation. As legal critique, these points, made by feminists, have important wider implications for the way that all minorities might be able to defend their values and customs.

The importance of variability of cultural, racial, and gender perspectives; of context, contingency and change are neither discussed in classrooms nor in courtrooms. Another reason is the courts themselves. Until recently, the judicial arm of government has been loath to accept any culpability with regard to the disadvantaged status of women or other minority groups. The idea that courts could be acting in a manner prejudicial to a specific groups in society is generally rejected outright.

The approaches to legal reasoning, as outlined above, call into question the belief that the law, even when it clearly arises from specific historical sources and is expressed in a variety of languages, can be regarded as operating in a purely rational or objective realm. Consequently, narrativity and overtly value-laden vocabularies have had no place in the articulation of legal reasoning, or, at the very least, they have been looked upon dubiously.

49 This point will be discussed more fully in chapter seven.
By questioning the myth of objectivity which surrounds legal and quasi-legal instruments, what has been exposed is the degree to which the members of all minority cultures are disadvantaged by an institutional refusal to admit into debate and defence, a variety of modes of ethical reasoning. Amartya Sen makes this point in terms of positionality:

The reach of public reasoning may be limited in practice by the way people read the world in which they live. And if the powerful influence of positionality has an obscuring role in that social understanding, then that is indeed a subject that calls for special attention in appreciating the challenging difficulties that have to be faced in the assessment of justice and injustice.  

My aim is to show that human rights discourse, which has become foundational in global discussions about justice, has developed in conjunction with the various forms of identity politics which constitute the multiculturalist ideal. New patterns of morality are being forged in the context of a pluralist public sphere in which legal and political discourse increasingly encourages the acceptance of difference among citizens. The individual, choosing among a range of cultural goods, is more likely to accept social strangeness and novelty than her forebears if the public space is characterized by a political will to foster inclusiveness and diversity. Following the constructivist tone of this thesis, it is important to note that, while I interpret these changes to be representative of a trajectory towards greater inclusiveness of religious, cultural and social difference, it is not based on the idea of a mutation in the ‘nature’ of what it is to be human, but in the way that new patterns of morality are constructed, pragmatically, to deal with scientific and technological advances in the management of living conditions. What is under analysis is the way that innovations in moral

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52 The Council of the European Union, in 2004, agreed on eleven basic principles for immigration policy in the Union. These principles focus on the necessity of integration as being a two-way process, involving mutual accommodation. Stress is paced on the responsibility of the ‘receiving society’ to create opportunities for full economic, social, cultural and political participation. (Council of the European Union 2004:19)
patterns bring about changes in social relationships, social policies, legal instruments, and political discourses. One of the major current shifts is the re-positioning of the majoritarian voice as one voice among many others. Hence, it is possible to say that, through the pragmatic exercise of democracy and the rule of law, the moral imagination is expanded, and the symbolic world through which individuals and communities measure their identities mutates.

In the UK, anti-discrimination policies have been implemented since the 1960’s, and, particularly in terms of religion, see the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief.

Frauke Miera offers an interesting example of what is called here ‘the expansion of the moral imagination’. With reference to France, she writes of “a slow change in the paradigm of anti-discrimination” through the gradual replacement of the term ‘diversity’ for the outworn trope of ‘integration’ (understood, in France, to mean assimilation). Once again, the change is being made on pragmatic grounds, as an economic argument in which, “the concept of diversity and discrimination is more prevalent in the human resources side of business.” The familiar embeddedness of the metaphor of diversity in the field of economics appears to have eased its transposition into social ethics discourse. Frauke Miere, “Integration as a Concept and As A Policy,” in Modood, 2012, 206,207.
Composing the feminist subject

Contemporary feminism is not only a political movement that is akin to other emancipatory movements but also an intellectual process for theorizing the situation of wo/men in kyriarchal societies and religions.

Elizabeth Schussler Fiorenza

There has been a revolution in the consciousness of women, minorities and marginals so powerful as to affect mainstream thinking worldwide.

Edward Said

3.1 Introductory remarks

The purpose of chapter three, within an overall consideration of the formation of contemporary feminist subjectivity, is to hone in on the question of women’s agency in the pluralist milieu. With reference to the work of Charles Taylor, Lois McNay and Axel Honneth, I will show how the politics of recognition remains central to the question of the power dynamics which pertain in majority/minority relationships, and to feminist accounts of gender-blind social structures. I offer a triad of reasons for the relevance of a discussion of the idea of recognition to a feminist account of women’s agency.

First, the politics of recognition takes up the overlapping, and sometimes conflicting, trajectories of multiculturalism and universal human rights (as interpreted throughout chapters one and two). The difference of emphasis, however, is important. Where multiculturalism has tended to focus on the dignity and integrity of groups, with a consequent concern for group rights, the following analysis is intended to bring to light the way that
recognition functions in the development of individual identity, and, particularly for my own purpose, in the formation of feminist subjectivity. As I will go on to show, with attention to the work of Taylor, Honneth, and McNay, recognition can be conceptualized as being integral to the view that the identity of individuals emerges inter-subjectively; such that recognition withheld, or misrecognition, thwarts the individual’s experience of self-esteem and respect, in “a form of oppression, imprisoning someone in a false, distorted, and reduced mode of being.”¹ What is especially significant is that, through the recognition of particular human characteristics, social binaries are constructed in terms of the ‘proper’ expression of sexuality, gender, ethnicity, culture and bodily comportment. The consequence is the social umbration, or even the political exclusion, of individuals or groups who are deemed not to meet the prevailing standards for recognition within delineated social fields. For example, and as I have already indicated, the spectre of the ‘proper woman’ disrupts the freedom of women who step outside of, or re-negotiate, the various cultural and religious codes through which moral patterns are set.²

Second, the idea of recognition raises the conjoined issues of epistemic privilege and authority: in other words, when any given individual or group representative confers recognition upon others, it is based upon an implicit perspectival stance suggestive of either neutral standards of evaluation, or standards which transcend the inter-relationship of the parties involved. Thus, for the feminist, there is always a need for a critical analysis of: the material effects of distinguishing between particular expressions of women’s agency (as representing ‘good’ or ‘bad’ examples of female comportment); and the positioning of those who are in the authorial position of conferring recognition (who is telling whom what to

² In general, this point has been alluded to with reference to the work of Nira Yuval-Davis. More particularly, chapter seven will discuss the agency of women who veil, in order to develop a nuanced contemporary conceptualization of agency in relation to cultural and historical structures within specific fields.
believe?3 I enlarge on both of these questions in chapter seven, with a particular focus on legal dualisms, such as private/public, and forum *internum/forum externum*, which can be interpreted as technologies to control whose values and practices have the right of exercise in the public arena.

Finally, the politics of recognition works with an underlying doubt that it is ever possible to recognize, fully, the beliefs, values and practices of others.4 If this point is conceded, then the difficulty will be seen to rest, not simply on epistemology, posited as present inadequacies of understanding; but it will be acknowledged as an ontological problem, arising out of the fact that diversity is written in to the fabric of human existence. On the one hand, this poses the danger that, in ‘lifting up’ the other through a recognition of their difference from us, we will represent them through the prism of our own values, or through the perspectives of the field which best mirrors our sense of identity. On the other hand, an acknowledgment of the fact that there is an ultimately un-knowable aspect of the other can be interpreted to be a *primal* form of recognition, and an ethical starting-point for the type of dialogue which declines to silence or objectify the other.

What pulls together this triad of reasons is the notion that recognition is a generative process; that is, through the conferring or withholding of respect for the values and practices of others, we contribute to their identity, and to the social value accorded to their own expression of their identity. This cuts to the heart of the question of women’s agency, and to feminist evaluations of particular instanciations of agency. I turn therefore to a consideration of an analysis of agency and structure in light of the politics of recognition.

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In many ways, the terminology of ‘structure’ is misleadingly concrete, giving the impression of something which is ‘out there’, in what Charles Lemert refers to as “…the original modernist formula, namely: Subjects work against objective realities.” Anthony Giddens counters this:

To say that structure is a ‘virtual order’ of transformative relations means that social systems, as reproduced social practices, do not have ‘structures’ but rather exhibit ‘structural properties’ and that structure exists, as time-space presence, only in its instantiations in such practices and as memory traces orienting the conduct of knowledgeable human agents. 

…the idea of society, where this means a bounded system, should be replaced by a starting point that concentrates upon analyzing how social life is ordered across time and space – the problem of time-space distanciation.

For Giddens, structure is not external to the agent (in the manner of a dualism), such that we should imagine two entities, one of which represents social systems, religious belief-systems, bodies of legislation, and so on; the other side of the duality representing the individual, who apprehends the structural elements in the manner of the Cartesian observer. In addition, for Giddens, “Structure is not to be equated with constraint but is always both constraining and enabling.” Put otherwise, Giddens’ aim is to move beyond the bifurcation of subject and object, and such reifying conceptualizations of social structures as make it difficult to explain agency.

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5 Lemert goes on to state that there was more of a sense of urgency to move beyond the bifurcation of subject/object in Europe than in America, because “Europeans were forced, in a sense, to redefine themselves as subjects in a field where most of the cultural and material objects lay in ruins.” Charles Lemert, Sociology After the Crisis, second edition (Boulder and London: Paradigm Publishers, 2004), 219, 220.


7 Giddens, 2010, 64.

8 Giddens, 1984, 25.
In the 1990s, Giddens focused on the question of agency from the point of view of the speed of change which characterizes modernity, using the image of harnessing a juggernaut. Several features of the age provide a focus. There is the separation of time and space, in which “different areas of the earth are drawn into interconnection with one another, waves of social transformation crash virtually across the whole earth’s surface.” These are the mechanisms of disembedding, through which social activity is de-localized, with the consequence that relationships survive the separation of distance. There is intensification of reflexivity, in a constant examination of social life, which disturbs the stability of traditional knowledge, ensuring that “to sanction a practice because it is traditional will not do; tradition can be justified but only in the light of knowledge which is itself not authenticated by tradition.” Giddens describes a radical loss of trust in the face of the unpredictability of high modern life; and a corresponding increase in the level of reflexivity at all levels of society.

While it is true that all forms of social life, across cultures and throughout history have been the focus of examination (and reformation on the basis of reflection), what Giddens stresses is that,

Only in the era of modernity is the revision of convention radicalized to apply (in principle) to all aspects of human life…[w]hat is characteristic of modernity is not an embracing of the new for its own sake, but the presumption of wholesale reflexivity—which of course includes reflection upon the nature of reflection itself.

Giddens developed a theory of structuration, based on the idea of a constant flow through the constraints of social structures and concrete instances of agency enacted by the individual.

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9 Giddens, 2010, 151.
10 Giddens, 2010, 6. With regard to his comparison between co-present and distanciated relations, Giddens has been criticized for reducing the difference between the two. Lemert points out that “…due, perhaps, to [Giddens] prior commitment to global realities as no more than transformations, or stretches, of societal ones, Giddens does not go quite far enough either in his theory of distances or in examining the implications such a theory must have for the consideration of social differences.” Lemert, 2004, 224.
12 Giddens, 2010, 38,39.
opposing a dualistic reading of the individual agent and the structures of society, Giddens shifts the focus on to the minute and constantly changing practices which, while often experienced as constants, can be interpreted otherwise, as a constantly evolving flow of social life. Similarly, he posits individual action as a flow, rather than a series of discrete events, on the basis that there is no action which is not preceded, accompanied or followed, by motivations, intentions, or reasons; all of which constitutes a type of knowing that Giddens refers to as “Practical consciousness...[through which] actors know tacitly about how to ‘go on’ in the contents of social life without being able to give them direct discursive expression.”

In the face of the norms or rules encountered in daily life (unwritten, unspoken, perhaps, but enacted through the process of socialization), the individual learns to adapt to social practices in ways which have the potential to bring about revolutions in the way that things are thought of or done. It follows that, for Giddens, overarching ideologies, such as Marxism, do not adequately explain the breakaway creativity of individual agents or the fact that they can step outside of the constraints of the structuring properties of their social context, ether in analytical or politically revolutionary terms. While such constraints will always be a factor to be negotiated, Giddens, following the linguistic turn in social theory,\(^\text{14}\) emphasizes the capacity of agents to re-produce, through language, the elements of structure, such as legal rules, social norms, or cultural codes.

Despite his warnings about the damaging consequences of modernity, there is, running through the work of Giddens, what can be read as an overly optimistic refusal to confront structural constraints in their concreteness and particularity. Feminist critique has picked up on this strain. Lynn Jamieson, responding to Giddens’ concept of the ‘pure

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\(^{13}\) Giddens, 1984, xxii).

\(^{14}\) See chapter four.
relationship', points out that empirical studies, contra Giddens, paint a picture of contemporary modes of intimacy as being less idealistic, more complex, and, not so much 'transformative' as pragmatically adjusting to contemporary forms of structural inequalities:

Gendered struggles with the gap between cultural ideals and structural inequalities result in a range of creative identity and relationship-saving strategies...moreover, the rhetoric of 'the pure relationship' may point people in the wrong direction both personally and politically. It feeds on and into a therapeutic discourse that individualises personal problems and down-grades sociological explanations.

From a feminist point of view, it is arguable that social structures (law, the church, the medical profession) need to be granted analytical distinction, in order to address the sources of power which have contributed to the recent stalling of feminist gains, or, in some cases, to their 'undoing'. According to Angela McRobbie,

...this undoing, which can be perceived in the broad cultural field, is compounded, unexpectedly perhaps, in those sociological theories, including the work of Giddens and Beck, which address themselves to aspects of gender and social change...as though feminist thought and years of women's struggle had no role to play in these transformations.

McRobbie goes on to write that both Giddens and Beck are quite inattentive to the regulative dimensions of the popular discourses of personal choice and self-improvement...[by which means ] new lines and demarcations are drawn between those subjects who are judged responsive to the regime of personal responsibility, and those who fail miserably.

McRobbie, drawing on the work of Pierre Bourdieu, calls attention to the relations of power which operate in specific social fields, and which require to be critiqued within a holistic

understanding of the relationship between the agent and the value-system operative in her field. It is within such an analytical framework that it becomes possible to speak meaningfully of recognition, misrecognition and symbolic violence. "Bourdieu’s writing allows us to re-cast symbolic violence as a process of social reproduction this time through a particular (post-feminist) spatial and temporal framing of female individualization, the body, and the world of cultural objects." 19

Lois McNay critiques Giddens theory of reflexive self-transformation both for its failure to follow through on gender differences, and for its reliance on a cultural model which disconnects questions of identity, recognition and misrecognition from forms of social capital.20 McNay is concerned to go beyond the opposition between material and cultural analysis,21 and to expose the economic and cultural power dynamics which operate in the micro-politics of lived social relations. As McNay points out, agency cannot be deduced from abstractions about social structure, since we are always left with the question of “why individuals act in some circumstances rather than others.”22 What is needed, she adds, is for a hermeneutic analysis of experience which does not reduce gender to a discursively generated social position, or to circumscribe an account of agency by seeing it as an effect of discourse.23 It should be noted, at this point, that, in conjoining the categories of experience and feminism, McNay is well aware of the danger of essentialism.24 Consistent with her interpretation of the politics of recognition, however, she nuances the idea of experience by

21 On the debate between Nancy Fraser and Iris Marion Young on redistribution/recognition, McNay comments that “Both theorists agree that symbolic and material power relations are intertwined yet irreducible to each other, but neither develops the categories through which it is possible to map these imbrications.” Lois McNay, “Agency and experience: gender as a lived relation,” in Adkins and Skeggs, 2004), 177.
23 "It is important to think about women’s agency...in socio-centric terms if if their social existence is not to be reduced to a single aspect of social existence, such as sexuality." McNay, 2008, 195.
refusing to equate it with epistemological privilege. Following Bourdieu, she posits experience as a relative, rather than an absolute category, where “The recuperation of an experiential perspective is not an end in itself, but is an heuristic tool that yields certain insights into embodied subjectivity and agency.”

The move is away from an overly personalistic account of the action or reflection of individuals, towards an understanding of the way that embodied practice can be understood to relate to the structural inequalities within which it is expressed and to which it answers back. According to McNay, the concern “to integrate a fuller account of gender and other social differences into a concept of subjectivity...has partly led many thinkers to develop the dialogical idea of recognition.”

It is to this idea, therefore, that I now turn, with reference to some tensions in the work of Charles Taylor, Axel Honneth, and Lois McNay.

3.3 ‘Recognition’ in the work of Taylor, Honneth and McNay

I will refer, first, to Charles Taylor’s 1994 essay, *The Politics of Recognition*, based upon his Inaugural Lecture for the University Centre for Human Values at Princeton University.

Taylor opens the essay by noting that the demand for recognition, “comes to the fore in a number of ways in today’s politics, on behalf of minority or “subaltern” groups, in some forms of feminism and in what is today called the politics of “multiculturalism”. Indeed, Taylor’s essay is situated in a volume which focuses on the demands for public recognition by particular groups, and the question as to whether their multiculturalist or nationalist rationale runs counter to the liberal ideal of equality. As stated by Amy Gutmann:

Apart from ceding each of us the same rights as all other citizens, should our identities as men or women, African-Americans, Asian-Americans, or Native Americans, Christians, Jews, or Muslims, English or French Canadians publicly matter?  

Taylor’s concern is with the relationship between recognition and identity, since identity is partly shaped by “the misrecognition of others, and so a person or a group 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.” With reference to the Hegelian notion of inter-subjectivity, Taylor, moving away from the monological subject of Cartesian, western thought, focuses on the intersubjective process through which individuals come to consciousness of being a ‘self’. Taylor is not suggesting that the need for recognition, or the acknowledgment of dependence upon others, is a completely novel human experience, but that, “In premodern times, people didn’t speak of “identity” and “recognition”…because these were then too unproblematic to be thematized as such.” In late modernity, by contrast, “…contemporary feminism…race relations and discussions of multiculturalism are undergirded by the premise that the withholding of recognition can be a form of oppression.” The shift has come about through the collapse of social hierarchies and the increasing call for recognition of the equality of citizens in relation to the public sphere.

Axel Honneth also draws on Hegel in his conceptualization of the intersubjective constitution of identity, and of the centrality of recognition and linguistic expression as

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29 Gutmann, in Gutmann, 1994, 4.
32 Taylor, in Gutman, 1984, 35.
33 Taylor, in Gutmann, 1984, 36.
enabling factors in the emergence of an autonomous self. With the addition of the work of Mead and Winnicott, Honneth develops a triadic theory of recognition, in which the individual responds to three distinct modes: love, rights and solidarity. On love: "[As] acts of partiality...love constitutes a form of intersubjective relationship in which the persons involved are entitled to a degree of reciprocal benevolence greater than that which can be expressed in the observance of the Kantian requirement of respect." On 'rights': they "provide a space...through which individual subjects have to be able to lay claim to the principles of universal justice whenever they see themselves no longer recognized with the dignity of a legal person." On solidarity: here, the type of intersubjective relations which Honneth calls 'solidarity' relates to the need of individuals for recognition of the traits, gifts, and which mark them out as different. As Honneth puts it, “Love, legal respect and esteem thus accentuate and display various attitudes of the basic attitude we generally understand as recognition.”

As far as the social integration of a society is concerned...we might say that it is important that the qualities shared by all its members receive mutual recognition. For the social integration of a community in the strict sense, on the other hand, it is important that its members mutually value one another for the qualities and capacities appropriate to them as particular individuals or groups.

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34 For a detailed account of Honneth’s analysis of Hegel’s transcendentalized view of recognition, see Axel Honneth, The I In We (Cambridge: Polity Press, 2012), chapter 1. Honneth points out that, while “…we can conclude, along with Hegel, that the possibility of self-consciousness requires a kind of proto-morality, because only in the moral self-restriction of the other can we recognize the activity by which our own self instantaneously effects a permanent change in the world and even produces a new reality.” Honneth, 2012, 16.


36 Honneth, 2008, 156.

37 Honneth, 2012, 80.

38 Honneth, 2008, 256.
To quote McNay, what these three orders share is, “a long-term trajectory towards the provision of greater opportunities for the positive expression of individuality.” Honneth’s triadic model also engages with the affective aspect of the motivation to act, or to change things; and Honneth writes of the “feelings of injustice that accompany structural forms of disrespect [which] represent a pre-theoretical fact, on the basis of which a critique of the relations of recognition can identify its own theoretical perspective in social reality.” (italics mine). This resonates with McNay’s point that, “Suffering can generate moral insights which, in turn, can take the form of political resistance.”

There is a tension at play in the politics of recognition which Taylor usefully brings out. The call for recognition which emphasizes the equal dignity of all citizens can be further refined, in a call for recognition of the “unique identity of this individual or group, their distinctness from everyone else.” (italics mine). In other words, what is being demanded, in the latter, is recognition for that which is not universally shared, “…an acknowledgment of specificity.” The desire for equal respect for all citizens is, therefore, capable of being split into seemingly dissonant approaches: on the one hand, the call for non-discriminatory legislation and social policy which purports to be ‘difference-blind’; and, on the other hand, a politics bent on disclosing forms of discrimination which promote ‘universal’ standards that actually work out of the values of particular cultures. Taylor’s conclusion is that, while individual rights must always be safeguarded, there must be additional provision for the preservation of group rights, particularly where the aim is to ensure the recognition and survival of cultural goods. In the relationship between self and other, when Taylor emphasizes the role which is played by language, that is, for Taylor, “language in a broad

[43] Taylor in Gutmann, 1984, 39. This can be seen to resonate with Honneth’s call for ‘solidarity’, as indicated above.
sense, covering not only the words we speak, but also other modes of expression whereby we define ourselves, including the languages of art, of gesture, of love, and the like.

3.4 Refining the idea of recognition

According to Lois McNay, Taylor's 1994 essay "[gave] the struggle for recognition renewed currency as an interpretative trope for explaining the centrality of identity claims to so many significant social and political struggles." It has also given rise to criticism. What is important, for my purpose, is Taylor's focus on recognition in the formation of the Hegelian dialogical subject, and the feminist refinement of that in the work of Lois McNay. While McNay affirms the importance of understanding the subject dialogically, her critique nuances the idea of recognition, and highlights the need to set it in in the context of a socio-structural account of power. In this, she allows for a conceptualization of agency which is better able to explain the differences in the way that individuals manipulate the concrete conditions of their 'freedom' and 'oppression'. In chapter seven, I will illustrate this nuanced understanding of agency through a detailed analysis of the Islamic practice of veiling.

For many reasons, the struggle for recognition, and the destructive psychological effects of misrecognition, provides the starting point for contemporary conceptions of subjectivity; moreso, as "a way of denoting the increasingly central role played by identity

44 Taylor, in Gutmann, 1984, 32.
45 McNay, 2008, 2.
46 See Susan Wolf, in Gutmann, 1994, 75-85; Anthony Appiah, in Gutmann, 1994, where he claims that Taylor too tightly scripts the personal narratives which people use to shape their lives.
47 There are important differences between materialist and cultural feminists, and the consequent positioning of the idea of recognition within each of these, in the work, for instance, of Nancy Fraser and Iris Marion Young. I read McNay as de-polarising these issues, and as taking up, and going beyond, aspects of both material and cultural feminism on the question of agency. As she puts it "I argue for the importance of an understanding of gender as a lived social relation in mediating the impasse [between cultural and materialist feminist critique]." Lois McNay, "Agency and Experience: gender as a lived relation," in Adkins and Skeggs, (2004), 176. See McNay, 2008, chapter five.
claims in social and political conflict. As McNay puts it, despite the title of her book (*Against Recognition*), she is not “against recognition...[as the notion has contributed] to the crucial insights into the dialogical and non-rational nature of subjectivity...” and she notes, on the positive side, that dialogical subjectivity acknowledges embodied situatedness, which denotes that “our sense of self, our understanding of what is good and what is just, are not trans-historical, universal phenomena but are inseparable from specific cultural and social concerns.” Embodied subjectivity is “neither fully willed nor fully determined...” Thus, as McNay would grant, ‘recognition’ resonates with “feminist attempts to conceptualize subjectivity and agency beyond the well-known analytical and normative limitations of poststructural and liberal thought.”

What I wish to draw out from McNay’s re-working of the politics of recognition, however, is her insistence that “emotions and other aspects of embodied subjectivity are mediated through social relations of power.” For the logical thread of this chapter, and its focus on women’s agency in the pluralist milieu, the discussion will be confined to McNay’s response to what she refers to as, “Taylor’s ontology of recognition [which is based on] a problematic abstraction that sets up expression as the primal function of language antecedent to social relations.” This will allow me to move, in chapter four, further into a consideration of Bourdieu’s concept of habitus, and a late-Foucauldian turn towards a subject not fully circumscribed by discourse.

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50 McNay, 2008, 4,5.
52 McNay, 2008, 8.
54 McNay, 2008, 72.
3.5 Relocating self-expression: from abstract to concrete

Following the line of McNay's argument, let me turn to the way that Taylor understands the role that language plays in social relations; and, more specifically, the model of linguistic expression which underpins Taylor's thinking. Taylor operates with a view of linguistic expression as analytically discrete from the power-dynamics out of which it arises and into which it speaks. In other words, language is abstracted from the context in which particular vocabularies either have social clout or not. To my mind, there is an odd lacuna in the observations of Taylor which bear substantially on McNay's argument; it concerns his use of the phrase 'significant others'. As he points out, we are "introduced to the languages needed for self-definition...through interaction with others who matter to us...we define our identity always in dialogue with, sometimes in struggle against, the things our significant others want to see in us."55 I would want to point out, however, that the others who are significant, often go beyond the self-referential field of family and friends, and, in many cases, will extend to those who operate in an entirely different social field from the one in which we can confidently express ourselves. The effect, then, of their being 'significant others' (in ways which go beyond intimacy, to business, or the academic field, for instance), will be cross-cut by misrecognition, and the politicization of the differences between us and them. What Taylor leaves out is the fact that linguistic competence is formed, first, within the dynamic of family (which has particular implications for the identity of females, given the persistence of traditional male/female roles promoted through the 'ideal' family model). It is then refined in terms of the various, overlapping fields which constitute 'the world', and 'place' our mode of self-expression, by assigning meanings to our clothes, our sporting activities, and our homes. In educational establishments, the work-place, at parent-teacher meetings, and in sexual encounters, both linguistic, and non-linguistic forms of self-expression will intersect with the

55 Taylor, in Gutmann, 1994, 32, 33.
power dynamics which play around the categories of class, age, ability, ethnicity and gender. While Taylor acknowledges many obstacles to the formation of a ‘self’, he regards these as “extrinsic to rather than inherent in linguistic expression...detached from an account of power...Taylor’s exhortation that an authentic life should assume a coherent narrative structure rests on a normative view of language as basically an untrammelled medium of self-expression.”^56 In terms of women’s agency, this conceptualization ignores the possibility that gender inequalities, either at the level of family or generated through social structures and cultural norms, might disrupt the freedom of women to say what they mean or mean what they say.

According to McNay, while a focus on the dialogical nature of subject-formation heralds an important shift in the understanding of structure and agency, it, nevertheless “presumes that agency derives its shape from identity action itself being constitutive of identity...[thus simplifying] the relation between individual and collective identities, most especially blurring the differences between types of identity that are chosen and types that are imposed.”^57 She points the way towards a closer study of the micro-political realm in which underlying power relations significantly shape the individual’s capability to express herself linguistically, and to command respect in her chosen fields of operation. In McNay’s view, Taylor fails to acknowledge the inextricability of social positioning and language use. She warns that “Taylor’s formulation of the struggle for recognition as one of expression in language is a metaphysical fiction.”^58 She goes on to add that, since linguistic encounters are always socially situated, relations of power are never free from the danger of symbolic domination. In Bourdeusian terms, McNay explains:

^56 McNay, 2008, 74, 75.
^57 McNay, 2008, 164.
^58 McNay, 2008, 76.
Subjectivity ...is a fundamentally relational phenomenon in that it is constituted through incarnate social interaction. Its relational nature is inseparable from its situation, that is to say, the subject's physical and psychological dispositions are the internalized effects of specific social context - the 'field'.

In other words, agency will always be constrained or enabled, not only by an individual's linguistic ability, but also by the way that her comportment (as an amalgam of speech and other acts) is evaluated through social categories such as class and educational achievement. "In short, the study of embodied reality must not remain at the level of phenomenal immediacy but must be integrated into a relational analysis of power relations."

3.6 Recognition, a caveat

On the one hand, the idea of recognition can be associated with a type of positive regard: an acceptance of difference in the other which goes beyond tolerance in its affirmation that each human being is "equally entitled to autonomy and equally capable of achievement..." On the other hand, there are forms of social recognition which can be interpreted as technologies of quietism, implemented to bolster the existing dominant order and to quell resistance in certain sections of society, in what Honneth describes as the "crystallizations of patterns of recognition" conveyed by institutionalized routines. For example, the various modes of persuading women that they have a 'natural' predisposition for the roles of nurture and care can be linked to ideological techniques through which to limit the autonomy of women in both public and private realms. The recognition of 'feminine attributes', while purporting to

61 Honneth, 2012, 86.
62 Honneth, 2012, 84.
be productive, can actually work to repress those attributes of women which are perceived to disrupt prevailing gender power dynamics.

The suspicion that recognition is a potential carrier of social control and the conservation of hegemonic power provides further evidence that all expressions of social worth (as potential technologies of structural control) should be interrogated closely in relation to the relevant fields of operation, and as they are implicated in material changes in the existential conditions of those who are the 'subjects' of recognition. Put differently, the 'darker' side of recognition can be regarded as elemental in social structures which set out to channel the forms which women's agency will take. As Honneth puts it,

The emotional appeal to the 'good' mother and housewife made by churches, parliaments or the mass media over the centuries caused women to remain trapped within a self-image that most effectively accommodated the gender-specific division of labour.63

The politics of recognition, in relation to women's agency and the formation of feminist subjectivity, entails a continuous process of weighing up the benefits and the costs of the various attributes and which are recognized as being the 'right' ones for women to aspire to. A hermeneutic of suspicion continues to be relevant, in order to establish who, within her field of operation, actually benefits from prevailing constructions of the 'good woman', or the 'iconic feminine'. In the pluralist milieu, this becomes an even more complex matter, as women respond to multiple sources of authority, and according to diverse cultural and religious patterns of morality; disrupting, in the process, the idea that feminist agency is reducible to western modes of self-expression.64

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64 In chapter seven I will enlarge on this point in relation to the Islamic practice of women veiling in order to show that women's response to social instability and change, through the veil, is creative, ambiguous and disruptive of simplistic evaluations of women's agency.
In the foregoing analysis of the idea of recognition, I have adumbrated two related issues. The first is that a starting-point of respect for the embodied difference in others is central in an ethic of alterity which aims to create social relations which are free from symbolic domination. The second is the acknowledgment that the evaluation of agency should be done in the fullest possible understanding of both the field of operation and the self-understanding of the individual agent. I have also introduced the notion that there is an ultimately unknowable element to each ‘other’ which should command our primary respect; one that entails an ethical responsibility to desist from the objectification of the other.65

In the construction of the other, and the process of establishing majority/minority power dynamics, one effective technology is the reification of culture, and the associated denial of the internal diversity of cultural fields. In addition, culture is often employed in the rationalization of models of femininity which serve patriarchal interests. In chapter four, therefore, I go into an analysis of culture, with a particular focus on the feminist subject, as she is constructed by, and contributes to the construction of, the overlapping cultural fields in her social context.

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65 In chapter six, I will suggest that one ethical response to the unknowability of the other is to work out of a modulated epistemology: a type of knowing which is strong enough to underscore a pattern of morality, but weak enough to acknowledge its historical contingency.
4 Women in culture; culture in women

*Culture is a sort of theatre*

*where various political and ideological causes engage with one another.*

Edward Said

4.1 Introductory remarks

As discussed in chapter three, theorizing the dialogical nature of subject-formation entails an important shift in the understanding of structure and agency. What comes into focus is the process through which we confer or withhold respect for the values and practices of others, thereby contributing to their identity, and also to the construction of cultural fields in which some identities flourish to the detriment and downgrading of others. In the following chapter, my aim is to present the feminist subject as inscribed in, but not fully circumscribed by, a complex weaving of religious, cultural, and legal discourses which set the tone in her field: an encumbered self who, nevertheless, cannot be reduced to a mere discursive effect. This is intended to contribute to the understanding of the contemporary feminist subject who is engaged in a politics that is intent on making a difference without flattening out the tonal range of the pluralist field; one who is contributing, thereby, to the re-conceptualization of what is signified by agency; taking the idea of autonomy beyond a simplistic dichotomy between power and coercion.

In contemporary usage, the term, culture, is made to stand for a range of ideas, often most unhelpfully conflated and all linked by the fact that we live in an age which has become self-consciously culturized. Sally Engle Merry, pointing out that the global-local interface is
often conceptualized as the opposition between rights and culture, sheds some light on the multiple uses of the term (with special reference to the rights of women). First, Merry stresses the need for conceptual clarification, pointing up the view that culture is not a static entity, but an organic process of continual change. "a repertoire of ideas that are not homogenous (sic)...typically [incorporating] contested values and practices. In addition, culture, which is commonly imagined to have borders, is better thought of as being "open to new ideas and permeable to influences from other cultural systems." ¹

Merry goes on to present two of the most common ways in which culture is essentialized. The first is when it is presented as a synonym for tradition. As such, culture is imagined as evolving from the primitive to the civilized, with so-called traditional societies being conceptualized as less evolved than modern ones; and some cultures being judged as good, over against others which, in their badness, exhibit features which are more likely to be harmful (to women, gays, the aged or infirm). Merry adds that the human rights process "seeks to replace cultural practices that are discriminatory with other cultural practices rooted in modern ideas of gender equality [in order to] move ethnically defined subjects into the realm of rights-bearing modernity." ²

A second common reification of culture turns around the idea of culture as a bearer of national identity. Pointing out that this notion grows out of the 19th century German romantic tradition, in which the concept of kultur was used to refer to an imagined spiritual essence, Merry adds that "Culture as national essence is fundamental to claims to indigenous sovereignty and ethnonationalism, often in resistance to human rights." ³ As Merry points

² ibid, 526.
³ ibid, 527.
out, this global-local divide commonly pits rights against culture, where culture is used to signify the stable markers of a group’s traditions. She offers these examples:

...male lineage heads in the rural New Territories of Hong Kong claimed that giving women rights to inherit land would destroy social fabric...[T]hese arguments depend on a very narrow understanding of culture and the political misuse of this concept...

...in Uruguay’s country report to the committee monitoring the Women’s Convention, the government expressed regret that more women were not involved in politics but blamed cultural traditions, women’s involvement in domestic tasks, and the difference in wages by gender. In contrast, facing the same absence of women politicians, Denmark offered funds to offset babysitting expenses when women attended meetings...The first model sees culture as fixed; the second assumes that the meanings of gender will change as institutional and legal arrangements change. 4

These two contrasting examples expose the constructedness of the idea of culture, as well as the potential for the cultural practice argument to be used in power-brokering. As Merry puts it, “This view of culture emphasizes that culture is hybrid and porous and the pervasive struggles over cultural values within local communities are competitions for power.” 5 She raises the possibility that the universalist/relativist argument may, in fact, be part of the ongoing process and re-negotiation of global and local norms, not a challenge which demands an either/or final response. In this chapter, my aim is to present culture as being discursively constructed through the establishment of cultural codes which work to assign meaning and value to the various elements which constitute the understanding of cultural identity; and, as an idea which functions as one element in the social imaginary.

4 ibid, 524.
5 ibid, 525.
4.2 Cultural fluidity as a marker of late-modernity

Under the influence of poststructuralist and feminist critique, conceptualizations of culture have moved away from its reification as a fixed entity which moves through time substantially unchanged. Such an opaque and bounded view of culture ignores the signs of syncretism and hybridity in the arts, life-styles, vocabulary, religion and in the fusion of cuisines; as it ignores the increasing prevalence of contemporary group loyalties which are borne out of a pragmatic politics where the individuals consciously associate with others across a spectrum of age, ethnic, and educational profiles (feminist projects being an example). As Anne Phillips puts it,

> These tendencies – reserving the term cultural group for quasi-legal entities, thinking of the problem of culture as intrinsically bound up with the status of minority groups, and associating cultural belonging with potentially exclusionary loyalties – [while] they reflect the political theorist’s awareness of inequality and conflict...[may also convey] an overly solid representation of the cultural group.\(^6\)

Closely connected to the rejection of culture as a fixed and opaque entity is the rejection that cultures can be reduced and summarized as to their core values. The essentialization of group culture (and, by extension, the stereo-typing of the members of groups) fails to acknowledge signs of inner diversity and dissent in order to preserve an imagined cultural ideal (such as purity, shared destiny or being chosen by God). Aetiological myths of origin, often used in support of group cohesion, can be interpreted as ideological tools to manage the internal power dynamics of cultural groups and to jostle for political power at the international level.

Culture, then, in the general sense, is a constantly shifting, constantly accumulating body of ideas, art-forms, vocabularies, life-styles, political programmes, social hopes, and

patterns of morality. It emanates from the human need for order, security and resistance to the perceived chaos of existence; and it is aestheticized through the human desire to transcend physical needs (in a process which has often been linked to the idea of civilization).

Cultures, in the particular application of the word, are the result of the self-conscious attempt to link a range of local, historical, oft-repeated practices and oft-related beliefs with a group of people who form a community and build their identity on the basis of such practices and beliefs. Groups who have historically identified themselves along cultural lines have always been open to new ideas for purposes of material survival, or method in warfare, or through religious syncretism. This is clearly manifest in late modernity, since, for most of the inhabitants of the planet, it is virtually impossible not to be aware of moral, legal, medical and technological innovation.

I offer, therefore, the following interim comments on the idea of culture in late modernity. First, it is not useful to reify the idea of culture, so that it is suggestive of an opaque and substantially monolithic influence on individuals or groups. Second, when we are aware of the fact that cultural values have, historically, been modified by alternative world-views, it is easier to acknowledge the constructedness of so-called cultural values and to resist the notion that they reflect timeless or transcendental sources. Third, the strength of social systems is in correspondence to the social and political channels for the expression of diversity and contestation of cultural values, which includes religion and other convictional stances on the question of meaning and ultimacy. According to Anne Phillips, what is needed is:

...a dilution in the notion of culture: not so much that we should deny the existence or relevance of cultural difference, but that we should be far more wary about promoting the notion of people as products of their culture. This way of thinking about culture
makes it too solid an entity, far more definitive of each individual's horizon than is likely to be the case.⁷

Language is fundamental to the construction of culture. As vocabularies develop and change over time, the human imagination is expanded and the previously unthinkable becomes available to public reason. For the purposes of this thesis, a major focus will be the way that systems of morality, which are always shot through with the residue of cultural and religious layers, are constantly open to new perspectives through the re-articulation of key terms. Examples of this phenomenon reside with poets, prophetic philosophers/theologians and sundry men and women who find linguistic modes to bring to speech the experiences of those who have hitherto been persuaded that their bodies, their desires and their life-styles are abnormal or even freakish. As Richard Rorty puts it,

Once, for example, it would have sounded crazy to describe homosexual sodomy as a touching expression of devotion or to describe a woman manipulating the elements of the Eucharist as a figuration of the relation of the Virgin to her Son...[equally] at most times, it sounds crazy to describe the degradation and extirpation of helpless minorities as a purification of the moral and spiritual life of Europe. But at certain periods and places-under the Inquisition, during the Wars of Religion, under the Nazis-it did not.⁸

Metaphoric re-description is certainly not confined to its expression among professional poets. It is also evident in the reclamation of words which are regarded as ugly or embarrassing, so that they can be re-invested with political meaning. I recall, from my own work in Romania among disabled activists, their insistence on resurrecting the word 'cripple' and their satisfaction when they observed its shocking effectiveness in certain contexts. During the national and international conferences which were set up, many members of the

⁷ Anne Phillips, Gender and Culture (Cambridge: Polity Press, 2010), 66
day-centre where I worked as chaplain, became politically active in their home city of Cluj-Napoca as a result of discussions which ranged from human rights to the way that the body is regarded in the Book of Leviticus. They read the work of disabled activists, including Simi Linton, and explored the growing body of literature on disability theology.

Seamus Heaney, speaking more particularly about the poem, calls this a kind of redress: "the poem...offers a clarification, a fleeting glimpse of a potential order of things 'beyond confusion', a glimpse that has to be its own reward". If it strikes the reader as being counter-intuitive to associate the professional activity of the poet with the political activist's insistence that he is a cripple (and not either 'confined to a wheelchair' or 'handicapped'), then consider these words of Heaney's:

In considering poetry's possible service to programmes of cultural and political realignment...[poetry] as the self-bracing entity within the general flux and flex of language...I want to profess the surprise of poetry...the way it enters our field of vision and animates our physical and intelligent being.

In order to broaden the discussion about culture and imagination, I will look closely at the effectiveness of major discursive fields, such as television, popular literature and advertising, as they persuade us that our identity is reflected in the modes which we 'choose' to enact and embody. This is culture as constructed through the power of representation: a kind of style

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12 Heaney, 1995, 15.
management which has become an international pursuit, ubiquitous and inescapable. Of particular interest, on the question of style, is the work of Pierre Bourdieu, as he reminds us that, through the power of image-management, most of the products which we consume are never intended by the designers to be simply useful. Rather, style is perceived to be a major indicator of superiority / inferiority; as such, in the process of embodying our choices, we imagine our identities and assume authority within the fields in which we operate. Bourdieu speaks of this kind of authority as the acquisition of cultural capital and examples range from the ability to speak about literature, music or art, to the seemingly prosaic choice of jeans.

My aim, in analyzing the idea of culture, is two-fold: to strengthen an understanding of the subject as being embedded in a range of cultural norms which impinge upon, but do not fully circumscribe, her moral choices; and to conceptualize culture as the sum of all concrete and particular attempts to gain power and authority through the manipulation of the signs and symbols which constitute our identities.

4.3 Moving through structuralism to poststructuralism

The focus of this chapter is the study of culture as it has been influenced by poststructuralist theories. It is important to highlight a number of themes which emerged as cultural studies responded to the development from the predominance of structuralism to key elements of poststructuralism. One important shift in this process was the rejection of ideology as a totalizing phenomenon (as exemplified by Marxism). It is not necessary to elaborate on the thinking of Karl Marx. What is important, however, is to register the shift in understanding of the way that the subject is discursively constructed; that is, away from the determinism which
is implied in historical materialism, and its various interpretations in the work of Western Marxists and the Frankfurt School.

Antonio Gramsci, who lived through the rise of Fascism in his native Italy, was concerned to address the failure of Marx to analyse the role of culture in social change. Gramsci worked with an understanding of ideology as an organizing principle of society, a set of ideas presented, through education, the media, the law, etc. with such consistent force that they come to function as if they represent ‘common sense’. Chris Barker quotes Gramsci thus:

Every philosophical current leaves behind it a sediment of common sense’; this is the document of its historical effectiveness. Common sense is not rigid and immobile but is continually transforming itself, enriching itself with scientific ideas and with philosophical opinions which have entered ordinary life. Common sense creates folklore of the future, that is as a relatively rigid phase of popular knowledge at a given place and time.  

The insights of Gramsci have been influential in the study of culture, particularly in the application of his notion of hegemony in the study of the impact of popular culture and advertising on the construction of the consumer society. The concept of hegemony is an attractive explanation for the way that power works, not through brute force, but by the dissemination of ideas and values which win popular consent and, thereby, unify the people in their behaviour and acceptance of social mores. However, Gramscian hegemony signifies a chain of power which runs, metaphorically, from the top level down to those who are subordinate. As such, Gramsci provides an interesting contrast with Michel Foucault, for whom power is conceived both vertically and horizontally, and dispersed in micro-spaces, less politically visible.

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Finally, in terms of ideology, the fundamental problem with its application in the analysis of culture is the spectre of representationalism which haunts it. To speak of ideological discourse (and it is commonly predicated as false) is to suggest that there is a ‘true’ state of affairs which language can mirror and politics can aspire to put into place. This view is antithetical to the tenets of my argument, as I will explicate more fully in chapter five, with particular reference to the work of Richard Rorty and Robert Brandom.

The field of poststructuralist thought includes a range of thinkers who, while exhibiting some common concerns, is better regarded as representing a plurality of theories. Some of the major players in the field (including Michel Foucault) moved through stages of structuralism to poststructuralism as they responded to changes in their social and political context. Poststructuralism can be understood as multiple trajectories following existing lines of thought to innovative conclusions.

In the study of culture, a number of elements associated with the turn to poststructuralist trajectory deserve to be highlighted. First, there was a move away from the notion of the detached, scientific observation model with regards to the apprehension of culture and cultures. Second, as the deconstructive theories of postmodernism filtered through the literature on culture, it brought a rejection of ideological determinism (in particular, Marxism) as a monolithic and final explanation for the way that power is distributed throughout society. Third, there was a re-appraisal of the human subject, with

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14 The work of Jeffrey T. Nealon is interesting in this regard. Nealon locates Foucault’s *The Archaeology of Knowledge* and *Discipline and Punish* (1969 to 1975) as representative of his move from a totalizing version of the neostructuralist concept of discursive formation. Rather than interpret these moves as signals of failure, however, Nealon reads them as a series of intensifications which respond to the intensifications of postindustrial or postmodern capitalism. Nealon goes on to develop what he calls “a post-Foucaultian reading of Foucault and a post-Marxist reading of recent economic history”. Jeffrey T. Nealon, *Foucault: Power and Its Intensifications since 1984* (Stanford, California: Stanford University Press, 2008), 6.

15 This point is exemplified clearly through the epistemological stance of Michel Foucault, who moved away from a search for structures with universal applicability to an investigation of the historical technologies which have constituted the subject and contributed to a sense of identity.
more emphasis placed on agency and resistance. Fourth, in terms of the philosophy of history, there was a new focus on phenomena such as disruption and particularity. The distinction being made is that the historian began to be less inclined to impose teleological order on events. Finally, the conjunction of post-structuralist theories with feminist critique worked to deconstruct the gender imbalances in hierarchical and essentialist dualisms and turned the focus on to the body as a site of cultural struggle. I turn to the interaction of language and culture in the generation of meaning and value.

4.4 Language, Discourse and Michel Foucault

Worlds are made and unmade through the art of communication, and the ability to use a variety of signs, symbols and languages in order to connect with, and have power over, other human beings. Through the process of communication, things happen, hierarchies are formed and reformed and change is brought about. One of the most important effects of human communication is that we come to know ourselves in the way that others respond to us. In addition, through language, we establish the meaning and the value of things. As we consciously develop and intensify the process of communication, we construct systems of meaning which constitute knowledge. This latter, complex use of signs, symbols and vocabularies, or discourse, is at the heart of the politics of representation.

The theory of representation which informs this thesis is that language is a social activity, a communicative tool with which to assign meaning to things which exist and, by linguistic and symbolic innovation, to bring to light new things. This theory rests on a constructivist philosophical paradigm and, as such, it can be contrasted with two other important theories of language: the mimetic, which understands words and symbols to be mirrors, more or less accurate, of things which exist in-themselves; and the intentional, which
holds that nothing comes with a fixed meaning and that each individual names the elements of her world in ways which might, at some level, be thought of as unique and private. The mimetic theory works out of ontological essentialism. The intentional approach regards all meaning to be relative and, ultimately, never fully communicable.

Language, can be seen as a communicative tool through which we bring about a number of things: we assign meaning to existent entities; we place people and things in hierarchical order according to the value which is symbolized in our speech and our actions; and, using imaginative and complex linguistic techniques, we synthesize ideas in order to bring about the conditions in which change and innovation will be accepted. Through the same process, as we use language to construct concepts in relation to the key themes such as gender, race, age, sexuality and ethnicity, human identity is formed, informed and reformed.

...culture depends on giving things meaning by assigning them to different positions within a classificatory system...symbolic boundaries are central to all culture. Marking 'difference' leads us, symbolically, to close ranks, shore up culture and to stigmatize anything which is defined as impure, abnormal.  

I turn to a consideration of the work of Michel Foucault to deepen an understanding of the interaction between cultural norms and identity; and discourse, in relation to the production of knowledge. I will highlight points of connection between Foucauldian theories and feminist critique. While Foucault’s work showed no signs of direct interest in feminist projects, it does provide important theories and concepts which women have found useful, in conjunction with other post-structural insights.

The oft-quoted ‘Foucauldian toolbox’ opens the way to deconstruct and de-mystify the metaphysical, to break open some of the over-arching theories which have functioned to normalize and centralize particular systems and positions, and to question theories which rest

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on evolutionary or essentialist foundations. My intention is to focus on the development of Foucault’s work to the point where it took a distinctive turn towards the question of subjectivity: the point at which his view of human potential expanded, allowing a Foucauldian ontology that moves beyond what Nealon calls "a dead-end, a totalizing cage, an omnipresent panopticon with no possibility for any subjective or collective resistance."

The following line is evident: first, in his early, archaeological work, Foucault’s central concern is the possibility of knowledge. In this, while he can be read as situating himself within the Kantian epistemological project, Foucault re-stated the idea of the transcendental by displacing the subject from its traditional (western) point of departure. As Beatrice Han puts it, Foucault’s concern was to articulate a “non-originary version of the historical a priori – that is, to look for a transcendental without a subject.” Foucault’s intention was to historicize as much as possible in order to leave the least possible space for the transcendental.

In what is known as the genealogical phase of his work, Foucault could be said to move the context of his conversation from Kantian deliberations about the possibility of knowledge and of truth to a more overtly political arena, where he becomes concerned with the possibility of understanding contemporaneity. This takes him beyond the question of knowledge in general, to study the discursive process in which some branches of knowledge are accepted as being authoritative, while other fields of interest are relegated or

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17 Nealon, 2008, 3.
18 Beatrice Han, Foucault’s Critical Project: Between the Transcendental and the Historical, Edward Pile, trans. (Stanford: Stanford University Press, 2002), 6. Han’s thesis is that the later Foucauldian theories never really overcome his early insistence on the deterministic power of the discursively circumscribed subject. As I indicated in this chapter, an alternative reading, through the eyes of Lois McNay, suggests otherwise.
19 In The Archaeology of Knowledge, Foucault makes an interesting comparison between the traditional historian, who memorized the monuments of the past transforming them into documents; and the historian who is concerned with the intrinsic description of the monument (The latter exemplifying his genealogical method). This resonates with me as a feminist reader whose aim is to interpret, from the materiality of bodies, houses, and bounded spaces, the ethical preconceptions which contribute to their production and to their acceptance as the norm.
marginalized; and, in consequence, the focus of his study then becomes the correspondence between power and truth. As these ideas and theories notions develop, Foucault clarifies the act of interpretation, insisting that it is not the project whereby we uncover the origin if things; rather, it is a technique by which we reveal that all truth-claims are perspectivist statements of the will to power, often masked by reference to transcendental authority figures.

Indeed, truth is no doubt a form of power... instead of trying to find out what truth, as opposed to error, is, it might be more interesting to take up the problem posed by Nietzsche: how is it that, in our societies, "the truth" has been given this value, thus placing us absolutely under its thrall?  

As his work developed, a number of motifs emerged: the first is his focus on discourse, as opposed to language; the second is the distinction which he makes between meaning and knowledge (and, as a consequence, the relationship between knowledge and power); the third is his insistence that historical investigation should never be regarded as a return to origins. As to this last project, Foucault, following Nietzsche, sought to undercut traditional historical methodology by raising up the importance of the small story (as opposed to the grand narrative); the local story (as opposed to universal history); the common, everyday story (as opposed to the scientific expert's interpretation). As he put it, "criticism performs its work...through the reappearance of...naïve knowledges, located low down on the hierarchy,

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20 The most satisfactory definition of the Foucauldian idea of discursive formation which I have found is that given by Gilles Deleuze, who, in his book on Foucault, wrote, "[a statement]...which does not refer back to any cogito or transcendent subject that might render it possible...accumulates into a specific object which then becomes preserved, transmitted or repeated...in this way it replaces notions of origin and return to origins: like Bergsonian memory, a statement preserves itself within its own space and continues to exist while this space endures or is reconstituted." Gilles Deleuze, *Foucault* (London & New York: Continuum, 2006), 5,6

21 Lawrence D. Kritzman, ed, *Michel Foucault: Politics, Philosophy, Culture, Interviews and Other Writings* (New York & London: Routledge, 1990), 107. Note that a discussion on the idea of truth will be developed more fully in chapter five, with reference to Richard Rorty and Robert Brandom.

22 This focus on the ordinary as the locus of history is reminiscent of feminist history writing, although Foucault showed no interest in the subject of gender.
beneath the required level of cognition or scientificity...local popular knowledges. In terms of the ethic which I am pursuing in this dissertation, the importance of Foucault’s focus on subjugated knowledge is two-fold: first, it raises up individuals and members of groups whose social standing has been marginalized for reasons which include gender-bias, ableism, ageism, classism, or religious/cultural discrimination; second, as hermeneutical strategy, the search for local, popular knowledge contributes to the evaluation of all religious, political and religious technologies as to their effects. As historical methodology, critical genealogy attempts to counter-balance narratives of progress with piece-meal accounts of struggle and resistance. As I have already indicated, this is a familiar feminist strategy.

A Foucauldian critical perspective on traditional history-writing is closely tied to his understanding of the way that discourse works to shape and control historical subjects. One way to understand this is to bear in mind that Foucault was attempting to de-stabilize the traditional reading of history (as uni-linear, progressive and universal) by posing a different set of questions. Foucault’s genealogical method seeks out the line of historical continuity but, rather, the play of disruptions, local insurrections, instances of naïve knowledge which have escaped, or been ignored by, the expert gaze of the great story-choosers who have given us what they perceived to be universal truth. It is important to note that Foucault’s aim was not to suggest that one or other historical methodology was more or less capable of uncovering transcendent historical truth. On the contrary, his intention was to demonstrate that all readings of the past are, by their very nature, contingent, partial and subject to the


24 The ‘disruptions’ of which Foucault writes are not meant to suggest that periods in history have beginnings and endings, other than through interpretation.
constraints of the matrix out of which they arise. The concept of transcendent historical truth is a red herring; or, a question which need not be raised at all.²⁵ He goes so far as to say,

I am well aware that I have never written anything but fictions. I do not mean to say, however, that truth is therefore absent. It seems to me that the possibility exists for fiction²⁶ to function as truth, for a fictional discourse to induce effects of truth...²⁷

In these respects, Foucauldian methodology bears a great affinity with certain stances within feminist critique; and, in particular, with the way in which feminists attempt to re-represent the history of women, without suggesting that there is any possibility of giving a ‘true’ account, either of their own or of another’s past. As Sue Morgan puts it, one of the tasks of the contemporary feminist historian is to “disrupt the linear narratives of women’s progress and advance...in favour of histories of contradiction and ambiguity.”²⁸

Foucault’s genealogical historical methodology is not the search for the origin of things. Its concern is to bring to light the way that established institutions and taken-for-granted practices become accepted, at specific points in history, on account of the powerful forces which manipulate them almost invisibly. Foucault sought to bring to light,

Small-scale techniques of co-ordination [which] organized relations on the “capillary” level: in factories and hospitals, in prisons and schools, in state welfare agencies and in private households, in the formal associations of civil society and in informal daily interaction. ²⁹

The aim is to demonstrate that there is no essence, no core thing-ness which lies waiting to be articulated. That is why Foucault’s work is much concerned with the way that practices

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²⁵ For a developed discussion of this point, see chapter five, where I refer to the work of Richard Rorty and Robert Brandom to distinguish between a pragmatic and a metaphysical application of the idea of truth.
²⁶ The idea of ‘fiction’ is central to the politics of identity, related to the way that we construct ourselves and the cultural other.
overlap with each other and with the way that the meanings which are discursively attached to institutions give rise to the patterns of meaning and value which affect societal relationships within any given historical period. Randomness, contingency and historical ruptures are the stuff out of which Foucault wishes to trace his historical narratives; and, in the process, following Nietzsche, he rules out any suggestion of teleology.

As Susan Bordo puts it, both Foucault and feminism are concerned to assert that, "ideas neither descend from a timeless heaven nor are grounded in the necessities of 'nature', but develop out of the imaginations and intellects of historical human beings." Bordo goes on to remind us that historicism has had a liberating effect, opening the way for the demystification of truths which have been posited as a-historical and universal. In terms of the core question, this is crucial to any evaluation of beliefs and practices, since, once it is acknowledged that cultural goods have a socially constructed history (and not a transcendental one), the way is open for dialogue and conversation which focuses on the effects of cultural practices, and on their earliest expression insofar as this might shed light on the will to power of the all-too-human originator.

In terms of his work on language, the immediate philosophical background against which Michel Foucault worked was the semiotic approach of figures such as Saussure and Barthes, and their concerns with the relationship between the underlying rules of language and cultural practices. In the sense in which semiotics claimed to be a science of language, it carried over the positivistic notion that understanding involves some measure of closure; as, indeed, it also underestimated the fact that interpretation is a process of continual deferral. However, where Foucault departed most clearly from the work of Saussure and Barthes was in his focus on the loci and relations of power. He sought to explain the way that power is

30 Susan Bordo, “Feminism, Foucault and the Politics of the Body,” in Caroline Ramazanoglu, ed., Up Against Foucault: Explorations of Some Tensions Between Foucault and Feminism (London and New York: Routledge, 1993), 179,180. This point is strongly connected to the work of Richard Rorty (social progress as the linguistic re-interpretation of reality) and Robert Brandom (the ontological priority of the social). These ideas will be explored at length in chapter five.
established and maintained through the representation of things and people by the use of specialized vocabularies, many of which are regarded as the provenance of specific social institutions.

Note, also, that Foucault alerts us to the way that power is ubiquitous: it is ever-flowing, multi-directional, as the struggle goes on, at every level of society, to maintain personal and group equilibrium. In a 1978 interview with Pierre Boncenne, Foucault spoke of the questions which surround the exercise of social power in Western societies: question which concern the programming of movements and activities, the design of towns and cities which prevent people from living and working in the same place, and the complex chain of command which makes it difficult to know who is actually exercising power and over whom. He says, “For me, power is everywhere...[and] what I also try to bring out is that, from the eighteenth century onwards, there has been a specific reflection on the way that power over individuals could be extended, generalized, and improved.”31

The distinction which Foucault made between language and discourse is a move from a concern with the meaning of words to the deconstruction of contextual systems of linguistic practice, in order to expose the locations in which particular areas of knowledge, associated with the idea of expertise, have, effectively created categories of the human subject, and have designated appropriate fields of operation. As examples, statements about sanity, sexual impurity, or deviation are only meaningful within a complex cultural system which assigns the knowledge of such things to authoritative groups who are regarded as the gatekeepers of what is permissible. The discourse which emanates from the gatekeepers will construct the symbolic world within which people imagine themselves; as it will also become enshrined in rules books and concretized in disciplinary practices which will control the way that bodies can inhabit the public space. Foucault’s focus on disciplinary technique is of immense

31 Kritzman, 1990, 105
importance in the deconstruction of the processes through which social life is ordered. For feminists, Foucault’s exposure of the constructedness of the binaries: madness/sanity; and sexual normality/sexual deviation, provide grids through which to shed light on the regulation of female minds and bodies. In a more general sense, his theories are also useful in establishing the discursive and existential processes through which the social and symbolic order is regulated along the lines of centre/periphery and self/other. This has obvious implications for social policy; especially those policies which are designed to deal with ‘the problem’ of minority religious and cultural groups in multicultural societies.

The historical moment of the disciplines was the moment when an art of the human body was born...a policy of coercions that act upon the body, a calculated manipulation of its elements, its gestures, its behavior...a “political anatomy”, which was also a “mechanics of power”... According to Foucault, much of what we come to regard as normal or natural emerges through the productive effect of discursive formation. In his earlier work, in particular, he was concerned to stress that the imagining of our selves, and our place in the social scheme is limited by the range of powerful discourses, which, institutionalized through law, religion, education, medicine, take on the aura of truth. Beatrice Han, exploring the Foucauldian tension between the transcendental and the historical, claims that

It is, therefore, the fundamental idea of a connection between subjectivation and truth, not the analysis of sexuality per se, which constitutes, in Kantian terms, the “keystone” of Foucault’s work, as it alone allows a bridging of the gap between the archeo-genealogical study of the conditions of truth and the role that truth plays in the constitution of the self.  

Foucault is also remembered, however, for having insisted that,

32 Bordo, in Ramazanoglu, 1993, 148
33 Han, 2002, 158. Note Han’s use of the phrase ‘per se’ which carries overtones of essentialism and which, in my view, runs counter to Foucault’s intention to expose the historical constructedness of the idea of sexuality.
As soon as there is a power relation, there is a possibility of resistance. We can never be ensnared by power: we can always modify its grip in determinate conditions and according to a precise strategy. 34

I interpret Foucault to mean by this that we are never fully ensnared by power and that resistance, being the form which power takes in particular situations, is conceptually inextricable from the field in which it is exercised. A Foucauldian conceptualization of power, as omni-present, working through the micro-relationships of domination and submission, and operating at every social level, can also offer a perspective on the idea of cognitive dissonance. I would put it as follows: dissonance, like resistance, is ubiquitous: it is written into the warp and woof of social relationships, commonly experienced as the fragmentary, fluid quality of subjectivity in relation to cultural, religious or political claims about the ‘nature’ of reality. At critical points, however, there occurs a lack of fit between subjective experience and the most powerful representations of reality (the precursors of social change, political revolution, or religious reformation). At such points, cognitive dissonance can become the motivator for change, up-rooting moral patterns from their taken-for-granted origins and, as Foucault put it, “[cleansing knowledge] of its imaginary complicities.” 35

4.5 The art of not being governed too much

It is now widely recognized that Foucault’s early work presents the subject as being so fully circumscribed by discourse that it leaves open the question of how resistance is ever actually

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34 Kritzman, 1988, 123.
35 Foucault, 1972, 4.
possible. Foucault modified his position on the question of freedom in response to changes in his personal life and in the prevailing political context. For my purpose, an important development in Foucauldian theorizing is his increased focus on the emergence of the ethical subject or, to put it another way, the possibility of becoming critical enough to avoid being totally circumscribed by the discursive limitations which he had, in the early work, insisted to be constitutive in the formation of human identity.

I see a connection between Foucault’s focus on the emergence of the subject, and Richard Rorty’s deconstruction of the concept of truth, about which more will be said in chapter six. The connecting line is the rise of critical consciousness, both at popular and academic level, which took place through post-structural and feminist critiques of epistemology and ontology. As Foucault puts it, critique is an art: the art of not being governed too much:

Critique is the movement by which the subject gives himself the right to question truth on its effects on power and power on its discourses of truth....voluntary insubordination, that of reflected intractability. Critique would essentially insure the desubjugation of the subject in the context of what we could call, in a word, the politics of truth. 37

The last phase of Foucault’s life and work coincided with a shift in the relationship between philosophy and politics, in the sense that their mutual interplay was being exposed through the rise of critical studies in philosophy, theology, history, science and law. In a

36 As early as 1991, feminist writers noted that the Foucauldian emphasis on discursive formation could not fully explain the prevalence of feminist standpoint theory or the rise in the articulation of distinctive minority identities, See, for instance, Jana Sawicki, Disciplining Foucault: Feminism, Power, and the Body (New York & London: Routledge, 1991). However, by contrast, see the work of Judith Butler, who asserts that a feminist politics without a feminist subject is a valid project in postmodernity, arguing that identity politics has no need for a pre-discursive “I”. Judith Butler, Gender Trouble: Feminism and the Subversion of Identity (New York & London: Routledge, 2007). The work of Deleuze is interesting since, although consistent in his indebtedness to Foucault’s influence, Deleuze states that he believes we have gone beyond the disciplinary society. (Gilles Deleuze, “Postscript on Control Societies,” in Negotiations: 1972-1990 (New York: Columbia University Press), 177-182.

37 Silvere Lotringer, ed., The Politics of Truth: Michel Foucault (Semiotext (E) Foreign Agent Series, 2007), 47.
sense, the inner workings of formerly discrete zones of knowledge became part of the understanding of them, and questions arose as to the social context from which philosophers and theologians pronounced on truth and falsity; historians adumbrated one chain of events and ignored others; scientists were credited as being indifferent to the outcome of experiments; and legislation addressed an undifferentiated legal subject.38

During this time, Foucault’s wrote *The Care of the Self*, in which he researches the long tradition of wisdom associated with caring for the self. What he finds to be common to many cultural expression of this project (Platonic, Hellenistic or early Christian) is the fact that its goal is not truth *per se*, but the creation of a subject position, based on knowledge of the self.39 In the pursuit of self-knowledge, the subject is required to stay vigilant with regard to the forces (the institutions and discourses) which go against the grain of self-creation. So, in a sense, self-creation is the continuous work of attempting to stand out from and stand clear of ideology, religion and all political attempts to homogenize. It is intimately connected with the ability to critique, a notion which Foucault focused on in a number of interviews and lectures towards the end of his life.

There has been in the modern Western world....a certain way of thinking, speaking and acting, a certain relationship to what exists, to what one knows, to what one does, a relationship to society, to culture and also a relationship to others that we could call, let’s say, the critical attitude.40

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38 It is interesting to note that the development of their internal critique coincided with the secularization process. Central to the shift was the popular demise of the transcendent as the necessary, or final, authority on questions of truth and error; and, in its place, a re-location of the importance of religion in the formation of patterns of morality. See: Charles Taylor, *A Secular Age* (Cambridge, Mass & London: The Belknap Press of Harvard University Press, 2007); Richard Rorty, J.B. Schneewind and Quentin Skinner, eds., *Philosophy in History* (Cambridge: Cambridge University Press, 1998); Sue Morgan, ed., *The Feminist History Reader* (New York & London: Routledge, 2006); Robin West, *Normative Jurisprudence* (Cambridge: Cambridge University Press, 2011) and the extensive work of feminist legal scholars, including Catharine A. Mackinnon and Ayelet Shachar; Kate Nash, *Contemporary Political Sociology: Globalization, Politics and Power* (Oxford: Wiley-Blackwell, 2010).

39 [Among the Greeks] “It is in Epictetus no doubt that one finds the highest philosophical development of this theme. Man is defined in the Discourses as the being who was destined to care for himself.” Michel Foucault, *The Care of the Self: The History of Sexuality*, Volume Three (London: Penguin Books, 1986), 47.

40 Lotringer, 2007, 42.
In his explication of this idea of the critical subject, Foucault puts forward two proposals which are of the greatest importance in terms of the line of my thesis. In the quotation above, he makes it plain that, in speaking about critique his intention is to go beyond any particular or historic example of polemics (conceding that there is, indeed, one sense in which critique does exist relationally and instrumentally). The attitude of critique, however, which he claims is ‘akin to virtue’ emerged as a general characteristic in Europe during the 15th and 16th in the wake of the growing number of methods which were put in place to govern. So:

> The proliferation of this art of governing into a variety of areas – how to govern children, how to govern the poor and beggars, how to govern a family, a house, how to govern armies, different groups, cities, States and also how to govern one’s own body and mind....it seems that one could approximately locate therein what we would call the critical attitude..a kind of general cultural form, both a political and moral attitude...  

In his late, ethical / aesthetic phase, Foucault’s work builds on other thematic strands, such as discourse, power and the degree to which culture is linguistically constructed. To quote Todd May, he “reveals a philosophical approach that concerns itself not with conditions of truth but with forms of living”. Michel Foucault, as his own death approached, began to speak of life, itself, as the ultimate work of art.

4.6 Structure/agency: a second look

To contextualize the work of Michel Foucault within the overall line of this dissertation, let me summarize some of the points, with particular reference to language, power and the culturally embedded subject. First, a Foucauldian conceptualization of power acknowledges the complex interweaving of dynamic relationships which exist at every level of society.

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41 Lotringer, 2007, 44.
43 I take this to be a significant move and one which is also linked to the idea of cognitive dissonance. Living ethically in a plural environment entails the necessity to live in the tension of competing and unfinished narratives. In the absence of narrative closure, and the continuous encounter with new strange new voices, the artists, unlike the traditional historian, must be content with the confines of his frame.
When it is acknowledged that power is diffuse, the way is open to uncouple the idea of culture from the idea of a single, hegemonic, overarching structure (as in Marxism); and it then becomes possible to posit the view that culture denotes an amalgam of narratives and visions of the good life which are discursively generated at diverse societal levels, and instituted through a variety of instruments such as religion, law and community practice (which, over time, become traditions).

Second, in terms of history, Foucault worked through a number of so-called phases; each, however, rested on a non-deterministic, non-teleological view. This allows a move away from the idea that history ‘moves’ in a linear way, from a fixed point towards a goal. As I have shown, Foucault was concerned to stress the ruptures and discontinuities through which events stand out; and, equally, to enquire about the small, everyday ordinary occurrences which tend to obscure many of the subjects of history. In other words, the style of history-writing which is underpinned by a set of grand narratives is replaced by the project of uncovering the disjointed, unfinished accounts of lives and events which, even when they reveal short-term purpose, need not be interpreted as if they point to a universal tale of human progress. In terms of culture, this view of history allows for the uncoupling of the idea of culture from the search for origins, or the construction of aetiological narratives. Foucauldian historicism paves the way for a rejection of the reification of culture. The way is open to undermine so-called transcendental origins of particular cultural practices, and to expose aetiological narratives as ideological instruments for control, often using religion as the vocabulary. In addition, Foucault’s subject puts “historico-critical reflection to the test of concrete practices...[a task which requires] a patient labor giving form to or impatience for liberty.”

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44 Lotringer, 2007, 119
who, although culturally embedded, is more politically aware than her forebears of the competing values and moral practices in the public square.

There remains, however, a question of the extent to which poststructuralist thought, as exemplified by the main body of Foucault’s work, cuts across the idea of creative political intervention. In other words, if the subject is reduced to a discursive effect, then how can we explain instances of resistance and power which run contrary to prevailing norms? To quote Nancy Hartsock, “...we need to engage in the historical, political, and theoretical process of constituting ourselves as subjects as well as objects if history...we need a theory of power that recognizes that our practical daily activity contains an understanding of the world.”

Lois McNay adds that, despite the contributions of Foucauldian theory to feminism, his theory of the relationship between power and the body can be read to suggest a reduction of social agency and autonomy. What McNay proposes, as a counterbalance, is a fresh reading of Foucault’s The Use of Pleasure, The Care of the Self. In this late work McNay sees a move, away from the ‘docile bodies’ of his early work, and pointing towards “a significant methodological shift in Foucault’s understanding of the way that power relations influence the behavior of individuals.” She points out that his move into an ethics with an emancipatory vision is a surprising development for an ‘anti-Enlightenment’ thinker.

McNay interprets Foucault’s ‘practices of the self’ (which disrupt a simple understanding of the relationship between structure and agency) as a way of bringing into focus the woman who, despite the concrete effects of domination, expresses her own power; and who, through a combination of acceptance and refusal, contributes to changes and

developments in her cultural milieu. Through this reading of Foucault’s late work, it is possible to posit the notion of an autonomous subject without the suggestion of an authentic, natural self. In terms of the structure/agency relationship,

The introduction of the notion of the self represents, then, an attempt by Foucault to integrate more thoroughly into his historical studies the theoretical idea of a necessary non-correspondence, but mutually determining relation, between the individual and society.

Foucault’s notion of the radical interrogation of the identity converges with the internal feminist critique of essentialism while, at the same time, it retains a notion of agency upon which a politics of resistance could be articulated.

Central to her appraisal of Foucault’s last work, McNay notes that, through his comparison between ancient and modern sexual practices (and, crucially, the meanings attributed to practices), he “de-naturalizes the contemporary idea that one’s sexual identity provides the innermost truth about the individual.” This is a crucial point, to which McNay returns again and again: that there is a need for a wider understanding of agency than tying it, or, in some cases, reducing it, to sexuality, as in what she calls, “…the particular language of a Western middle-class feminism…”

While sexuality is an important part of our embodied identities...it has fluctuating significance in a more general understanding of our embodied selves as citizens, workers, mothers, consumers, etc. The failure to integrate an account of sexuality with other aspects of embodied existence leads to a narrowly sexualized view of agency...

Despite suggesting, however, that Foucault’s ethics of the self might contribute to a contemporary politics of difference, McNay concedes that, ultimately, what Foucault never

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48 In Foucauldian terms, “the subject is constituted through practices of subjection, or, in a more autonomous way, through practices of liberation...” quoted in McNay, 2007, 61.
51 McNay, 2007, 73.
52 McNay, 2007, 190.
53 McNay, 2008, 15. I will return to this point in term of an analysis of the Islamic practice of women veiling.
fully confronts is an over-emphasis on social structure, coloured by a pessimism in which "The social realm is seen as invariably antipathetic to individual interest, rather than...as a realm of contestation and struggle." According to McNay, however, an affinity between Foucault and feminism remains, in his 'lesson' to move the debate about difference beyond dichotomized options, and to,

Examine the exegetical clichés that normativity inevitably leads to normativism, and generalizations constitute a theoretical totalitarianism, in order to show that a clear statement of one's political aims and moral values need not necessarily conflict with the respect for individual difference.

4.7 Pierre Bourdieu and situated embodiment

In order to address the propensity to "isolate the expressive function of language as its primal modus operandi," and to understand agency through "a more differentiated and flexible model of power other than discourse," McNay turns to the idea of language as a mode of symbolic domination, and a conceptualization of agency which includes both discursive formation and embodied existence. In other words, she is concerned to elucidate a materialist conceptualization of the formation of the subject which can bring to light the operative power-dynamics in any particular agent/field context. One way to do this is to read embodied agency through the idea of habitus, as developed in the work of Pierre Bourdieu.

The positing of an intrinsic, rather an extrinsic [secondary to the process] connection between subjectivity and power delivers a firmer grounding for understanding aspects of embodied agency in the context of the construction of social inequalities, especially gender.

54 McNay, 2007, 190.  
55 McNay, 2008, 156.  
56 McNay, 2008, 69, in a comment on the work of Taylor.  
57 McNay, 2008, 163.  
58 This, despite criticisms of Bourdieu from some quarters on account of what is perceived as an overly determined view of agency. See, McNay, 2008, note 1, Introduction.  
59 McNay, 2008. 11.
There are two aspects of Bourdieu’s thinking which are crucial for the purposes of my own thesis: the first is that Bourdieu refused to be boxed in by the traditional boundaries of any particular academic discipline. This is an important freedom for feminists to acknowledge, since very few women were involved in setting the historical parameters through which specialist fields of knowledge were constructed and protected. The second important aspect of Bourdieu’s work is his concern about the practical applications of all theory. Taken together, this allows Bourdieu to be aligned with the feminist theoretical position which will run right through this thesis, which is that the compartmentalization of specialized areas of knowledge often functions to occlude minority or dissenting voices; and the idea of disinterested reflection is disingenuous at best, and politically cynical at worst.

In common with Michel Foucault, Bourdieu was concerned with the ways in which individuals and populations are regulated. He developed a number of deconstructive tools with which to approach the disciplinary technologies through which human identities and societal roles are assimilated. First, on the question of agency, in relation to Bourdieu’s notions of habitus, field, misrecognition and symbolic violence:

The agent engaged in practice knows the world...too well...takes it for granted...inhabits it like a garment...feels at home in the world because the world is also ready in him (sic), in the form of habitus.\(^{60}\)

The condition of ‘knowing the world too well’, obscures its constructedness, its contingency and its historicity, with the result that particular experiences of oppression may come to be ‘misrecognized’; that is, the individual will reconfigure the experience of violence, or inferiority, or hate-speech within what she perceives to be the natural (or pre-ordained) order of things. In this, a type of symbolic violence is at play.

The term habitus, as used by Bourdieu, signifies the process through which an individual becomes her self. It refers to the repetition of small, ordinary, taken-for-granted physical and mental habits which, over time, construct the boundaries of this imaginary self. As the subject aligns herself with the way that she perceives the world to be, there is a forgetting of the prosaic origins of cultural practices. Consequently, the subject comes to ‘know’ her place in the contexts with which she most closely identifies and she will, therefore, come to judge her worth on the basis of this placing in the grand scheme of things. What she may never see clearly is the fact that has been little need for explicit social restraint in order to bring her to this or that particular identity. For, as Bourdieu has suggested, the subject inhabits the world like a garment and she assimilates the major discourses of her cultural field as a child assimilates the value of its primary carers; not by the stick, but by osmosis.

If it is so that the habitus, as the individual’s schema of practices, limits and gives shape to the subject’s cultural universe, then, according to Bourdieu, the process is intensified by the fact that, for each person, only a limited number of social contexts actually matter. Systems of meaning, and the way in which value is assigned to practices and to people, take place within particular cultural fields. The cultural field is constructed through a set of discourses which are invested with authority by the conventions, laws, and institutions of a given society. Even allowing for the fact that such fields of meaning and power change and develop diachronically, it is only within acknowledged fields of reference that representatives are conferred with authority, that moral codes are able to be enforced, or that the understanding of things constitutes knowledge which can be touted as the truth.

61 McNay refers to this as “the incorporation of the body into the social” Lois McNay, “Gender, Habitus and the Field: Pierre Bourdieu and the Limits of Reflexivity” Theory, Culture and Society 16(1): 95-117.
By osmosis, also, the subject commonly accepts the oppression of a subordinated social place, sometimes even refusing to believe that oppression is involved. This phenomenon Bourdieu calls misrecognition (on the part of the subject) and symbolic violence (on the part of the oppressor). It is important to note, at this point, that Bourdieu frequently understands the individual who may be bearing the impact of symbolic violence as being representative of a social group. An example should clarify this point.

In 2002, a book called *What Not to Wear* reached number one in the Christmas sales. The idea behind the book was the brainchild of Trinny Woodall and Susannah Constantine, whose television series of the same name had already made a huge impact on both male and female viewers. The two women invited female participants onto the show, where, before the cameras, their life-styles were scrutinised. Their hair, make-up, outer-clothes and underwear were criticized and then altered to correspond to the model of femininity which the style gurus advocated. Angela McRobbie analyzed the programme, applying Bourdieu’s theories. As a result, she proclaimed the participants to be victims of symbolic violence. She claimed that, while they considered themselves to be taking part as individuals, they were, in fact, being judged as representatives of the social class which the viewers were encouraged to associate them with. In the guise of popular entertainment, the programme established authority figures who did not simply offer a range of aesthetic options. Through the media, and by the power inherent in their own ‘salvific’ style, the pair reinforced hierarchical relations of difference in terms of class, gender and models of femininity. The women who took part in the show were competing for social capital and believed in the power of Woodall and Constantine to save them from sartorial limbo. McRobbie highlights the extent to which cultural norms are constructed and reinforced through the popular media. In the particular case in point, there is an interesting confluence of gender, class, age and ethnic norms.

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involved. Constantine and Woodall function as cultural intermediaries: representatives of a type regarded as the epitome of good taste, solidly located in terms of class hierarchy (white, middle class, educated, and socially well-connected). Their work is to educate others in the bodily techniques which will bring them from margin to centre.

Individual bodies are marked by their assimilation or failure to assimilate the normal range of bodily practices; styles of walking, dressing, greeting, decorating the body are embodied practices which carry symbolic power within particular cultural fields. What is significant is that the reading of embodied culture is highly contextual (that is, in Bourdieusian terms, it is a reading of others within particular social fields); as it is also important to note that the hermeneutical grids through which we read each other's bodies are constantly in flux. They are influenced by re-descriptions of reality, social and political programmes, and the expansion of moral imagination which accompanies these shifts. Far from being simply the accessorization of the body, the manner in which an individual faces the world is read by others as indicators which symbolize human worth. Thus, the sum total of a person's clothes, accent, range of vocabulary and bodily movements form an amalgam of signs through which others 'place' her. When there is perceived to be an asymmetric fit between social capital and the individual's perception of her own worth, that is a form of misrecognition, and a source of dissonance.

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63 On questions of reflexivity and agency, it is important to note that media images are decoded contextually, according to a number of social variables. See the work done on the reception of television images by T. Liebes and E. Katz, *The Export of Meaning* (Oxford: Oxford University Press, 1991). Analysing the responses of cross-cultural groups including Arabs, Americans, members of an Israeli kibbutz, and Japanese, they found that viewers differed in the level of critical awareness which they brought to the programmes. Arab groups were sensitized to the perceived dangers of western culture; and all audiences under survey decoded the meaning of what they viewed through the dominant values of their ethnic identity.
4.8 The subject, her field, and her perception of her field

McNay’s understanding of the generativity (her word) of Bourdieu’s concept of habitus is based on the fact that it “grounds an analysis of subjectivity and agency in the possibilities and constraints of embodied existence.” What distinguishes Bourdieu from Taylor, with regards to the inter-relational formation of subjectivity, is his strong focus on “the inequalities of power [which] permeate the most intimate of interactions.” She goes on to point out that Bourdieu does not equate embodied existence with a necessary epistemological privilege, nor with authenticity; as he also notes that reflexive autonomy should not be taken to indicate full self-awareness.

Interestingly, McNay points out that her comparison of Taylor’s ontology of recognition was inspired by the fact that Taylor, himself, saw an affinity between the idea of dialogical action and the process of habitus. He saw, in both, an anti-individualist account of subjectivity and agency. The distinction which McNay is intent on bringing out however, concerns collective norms, which for Bourdieu, are more than resources which are available equally to individuals. Rather, collective norms signify disciplinary techniques (in the Foucauldian sense) which cut across the capacity of individuals for self-expression, thereby reproducing the conditions for class and gender inequalities. Bourdieu’s conceptualization of language, in terms of linguistic habitus, brings to light the fact that the capacity for self-expression should not be thought of in the abstract. Linguistic expression is inextricably bound up with modes of speech, bodily habits, dress codes and gender inflections which are, in turn, associated with power or its lack, in relation to the field. In the Bourdieusian sense,

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64 McNay, 2008, 13. It is important to note that McNay, while acknowledging the influence of Nancy Fraser and Iris Marion Young, distances herself from important aspects of their approach to the question of power and social inequality. In Fraser’s case, McNay departs from the bifurcation of recognition and redistribution; her criticism of Young is that she does not have a developed theory of agency; and, in both cases, McNay claims that “[they] accept on face value that the notion of identity is irretrievably subjectivist.” McNay, 2008, 158.

self-expression (which is wider than linguistic competence) constitutes a range of body
techniques through which one’s place in the world is established.

I set out, in chapter four, to conceptualize culture as the sum of all concrete and
particular attempts to resist, or to gain, power and authority through the manipulation of the
signs and symbols which constitute our identities. I have argued against the reification of
culture, since the denial of the internal diversity of cultural fields leaves the way open for the
construction of models of femininity which serve patriarchal interests; and the establishing
and maintaining of majority/minority power dynamics. The contemporary feminist who is
engaged in a politics that is intent on making a difference without flattening out the tonal
range of the debate, contributes to the re-conceptualization of what is meant by agency. A
sense of autonomy, and the exercise of agency, need not involve the establishment of
hierarchies of power; it can be embodied through relations of reciprocity and mutual
dependency, which, in the words of Honneth, “always require the cooperation of other
subjects.” In the pluralist milieu, feminist cooperation can be understood to mean a
sustained attempt to bridge the divide between the liberal notion of the self-constituting
citizen, and the postcolonial deconstruction of the “stable world of public meanings and
symbols [which] often presumes a settled public-private distinction.” A postcolonial
reconceptualization of agency will include the idea that autonomy is not simply conferred on
the citizen through the politics of rights; for, in addition, autonomy can be said to be a
process of conscious identification with particular values among the plurality of social goods
to hand. What is needed, therefore, is an evaluation of particular instanciations of women’s
agency (self-defined as either liberal or otherwise) in the concrete historical and cultural
contexts in which they are embodied, examples of which are provided in chapter seven.

66 Honneth, 2012, 41.
67 Mookherjee, 33.
I stated, in the introduction, that the feminist logic which drives the thesis raises the linked issues of female embodiment and attention to the specific enactment of women’s agency in relation to prevailing social structures; the link being that subjectivity is as McNay puts it, “relational, situated and practical.”\(^{68}\) Rosi Braidotti writes of her desire to map the way in which “feminism has put into question the corporeal nature, and above all, the sexuation of the subject.”\(^{69}\) Further, and with reference to Deleuze (and the Foucauldian notion of the positivity and productivity of power) Braidotti writes of the relationship between the individual agent, and the structures of society in terms of “machination…dynamic interaction…reciprocal production.” The following chapter is focused on Braidotti’s work, in order to strengthen the claim that feminist critique is always linked to the radical shaking of the epistemological and ontological foundations on which hierarchical binaries are based; that is, the structures which continue to oppress women and other minorities.

\(^{68}\) McNay, 2008, 13.

Intermezzo: between composed and improvised

A rhizome has no beginning or end;
it is always in the middle, between things, interbeing, intermezzo.

Music has always sent out lines of flight,
like so many "transformational multiplicities,"
even overturning the very codes that structure or arborify it.

Deleuze and Guattari

5.1 Introductory remarks

In the disruption of hierarchical binaries, one of the tasks of feminist critique is to steer a path between Scylla and Charybdis: on the one hand, the reductionism of suggesting that the diversity of women can be expressed as 'essence of woman'; and, on the other hand, a fear of being labeled essentialist which renders a distinctively feminist politics untenable. In the face of these opposing positions, a pragmatic essentialism owns up to its particularity and short-term, bounded usefulness, where members of a collectivity are able to define specific aims and objectives and express a self-conscious desire to carry out political/ethical/religious reform, while recognizing the fragility, fluidity and hybridity of the ties that bind them.

As Diana Fuss puts it, "It could be said that the tension produced by the essentialist/constructionist debate is responsible for some of feminist theory's greatest
insights, that is, the very tension is constitutive of the field of feminist theory."¹ Fuss makes the helpful distinction between essentialism as an ontological statement and the search for commonalities among women for pragmatic purposes. As she puts it,

There is an important distinction to be made, I would submit, between 'deploying' or 'activating' essentialism and 'falling into' or 'lapsing into' essentialism...[which is] inherently reactionary...[T]he radicality or conservatism of essentialism depends, to a significant degree, on who is utilizing it, how it is deployed, and where its effects are concentrated. ²

The patriarchal ordering of the history, social life and the symbolic order, operative through cultural, political and religious practices, continues to have leave its mark both literally and metaphorically on the bodies of women and girls, setting limitations on the way in which women imagine their subjectivity. Patriarchy, however, cannot be reduced to a singular metanarrative; nor should it be held to account for all particular instances of female oppression. In her insightful introduction to The Feminist History Reader, Sue Morgan reminds us that, as far back as 1979, Sheila Rowbotham,

expressed disquiet with the ahistorical presentation of patriarchy as the single determining cause of female subordination [suggestive of] a permanent oppositional relationships between the sexes that left little analytical room for more positive, supportive female encounters [and] no space for the complexities of women's defiance. ³

5.2 Women who go with the flow

As it has already been noted, in the speed of communication and the ubiquity of market images, new forms of subjectivity have been described as fluid and less bounded by geographic or cultural norms. The late modern self is variously predicated; terms such as

cosmopolitan, hybrid, multiple, or globalized are used, whether in celebration or nostalgia, to signify the acknowledgment of de-territorialization:

"cultural experience is ‘lifted’ out of its traditional anchoring in particular localities...we may live in places that retain a high degree of distinctiveness, but this particularity is no longer - as it may have been in the past - the most important determinant of our cultural experience."  

In UK terms, many of these developments took place against the backdrop of the rise in the new right during the 1980s, which, deeply associated with the promises of New Labour under Tony Blair, resonated with a celebratory kind of feminism which was manifest in the world of chick-lit, fashion, the beauty industry and the exaggerated and set-piece presentation of sexual freedom as seen in Bridget Jones' Diary.  

There was a dark side to this premature celebration of jouissance. To quote Angela McRobbie,

In some ways, the character of Bridget Jones...so closely corresponded with Anthony Giddens’s sociological analysis of social transformations in late modernity, and the production of new kinds of selves, that he could have almost written the column, the book and then the film-script himself.

McRobbie intends to debunk the notion that second wave feminism brought about a shift in the cultural landscape which might plausibly be interpreted as “a linear narrative of generationally-led progress”. She does point us, however, towards a significant strand of affirmative feminist theory which, she claims, avoids the reification of female agency and does not assume a unity in the category ‘woman’. She cites Rosi Braidotti as the best-known feminist philosopher of affirmation, quoting her here:

5 Based on the book by Helen Fielding.
6 McRobbie, 2009, 43.
7 McRobbie, 2009, 158
Post-feminist neo-liberalism is pro-capitalist and hence it considers financial success in the world as the sole indicator of the status of women...social democratic principles of solidarity are misconstrued as old-fashioned welfare support, and dismissed accordingly...The pernicious part of this syndrome is that it fosters a new sense of isolation among women and hence new forms of vulnerability. (Braidotti 2006:45) 

It is in this tension, between trying to find things which connect women and the acknowledgment of the radical diversity of all women, that feminist critique must work, if it is to offers novel construals of female subjectivity which might resonate across cultural difference.

5.3 Improvising the subject

Rosi Braidotti writes of the necessity for women to find a new relation to the void which has been left by the crisis of the master’s discourse (and she cites Foucault, for whom the void is the lacuna left after the disappearance of man (sic), which, he claims, is not a deficiency but the very contemporary condition under which it is once more possible to think). Braidotti goes on,

I shall call it: dissonance, for what interests me is the play of irreducibility...women and philosophy – patterns of dissonance, a polyphonic play, a game of multiplicities that may collapse into cacophony and even shock some sensitive ears...[t]hat which, in me, is the other’s voice marks that inner dissonance that I take both as evidence of the non-unity of the subject and also as guarantee against the formulation of new falsely dogmatic or pseudo-universal discourses. 

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8 McRobbie, 2009, 159.
9 Braidotti’s use of the idea of dissonance has inspired me. In applying this metaphor, and connecting it to the idea of tonality/a-tonality, I hope I have provided a novel linkage in terms of ethics.
10 Braidotti, 1996, 14, 15.
For the potential to be actualized, she stresses, there is a need to free up new forms of rationality which could be put at the service of resistance rather than power: in other words, a way of “expressing the feminine through a non-dualistic redefinition of alterity.”\textsuperscript{11} In what follows, I hold these words in mind and also this from Braidotti, “the only changes worthy of serious consideration on the ethical plane are not those that reproduce quantitative pluralities, but rather that far rarer phenomenon which induces a qualitative multiplicity”\textsuperscript{12} Despite the opaqueness of the terminology, this gets to the heart of the minoritarian ethic which Braidotti proposes. It, therefore, deserves to be expanded upon, and contextualized in the idea of a-tonality.

I understand Braidotti’s ‘non-dualistic redefinition of alterity’ to entail: first, an acknowledgment of the radical otherness which is embodied in each person; and, second, the ethical imperative to resist the impulse simply to invert existing hierarchies of power in order to construct new master/slave dualisms. My interpretation of Braidotti’s ideas of transversality and qualitative multiplicities is that, in the political project to overturn existing dualistic, oppressive regimes and relationships, the feminist ethical subject will not imagine herself to be either unfolding her essential self, nor contributing to a larger “teleologically ordained process leading to the establishment of a supervising agency”.\textsuperscript{13} As such, contemporary subjectivity will be somewhat homeless (‘nomadic’, as Braidotti puts it; experiencing the loss of a familiar tonal centre, as I have put it). A-tonality, however, is not necessarily the last word. The subject becomes a ‘floating subject’\textsuperscript{14}, who, despite the potential for cognitive dissonance, need not lose the ability to be affected by others. “What is

\textsuperscript{11} Braidotti, 1996, 119.
\textsuperscript{12} Rosi Braidotti, Transpositions: On Nomadic Ethics (Cambridge, Polity Press, 2006), 143.
\textsuperscript{13} Braidotti, 2006, 145
\textsuperscript{14} Braidotti, 2006, 145
lost in the sense of fixed origins, is gained in the increased desire to belong...which transcends the classical binary identity formation.\textsuperscript{15} As bel hooks puts it,

Radical postmodernism calls attention to those shared sensibilities which cross the boundaries of class, gender, race, etc. that could be fertile ground for the construction of empathy - ties that would promote recognition of common commitments, and serve

Rosi Braidotti’s work elucidates a subject position which, finding new languages for conceptual creativity, is expressed as “a subject-in-process, a mutant, the other of the Other.”\textsuperscript{16} Braidotti uses the term nomadism to signify qualities of the outsider: the ambulant, non-static, consciously refusing to recreate state apparatus.

Braidotti, through her theory of nomadic subjectivity, offers an improvised sort of subject position: an ethical balancing act which is prepared to tight-rope walk between the neo-liberal attempts to recreate visions of unitary selves and the utter fragmentation and dispersal of relativism. The ethics and the epistemology of nomadic subjectivity rest on the practice of ‘as-if’, through which Braidotti intends strategies for dealing with the loss of fixed or metaphysical categories. Loss, itself, becomes a major focus (which corresponds to my idea of cognitive dissonance); and the fluidity of new boundaries presents, for the nomadic subject, both political edginess and ethical opportunity. In terms of practice, what might this actually entail? First, Braidotti’s ‘as-if’ is suggestive to me of the strategic politics through which groups cohere, fully aware that they are a community of the imagination, and that their ‘essence’ is an abstraction for the purposes of a particular project. As I will show in chapter seven, with reference to the practice of veiling, there are many Muslim women who perceive the veil to be a unifying symbol in terms of its power to distance them from dominant models

\textsuperscript{15} Braidotti, 2006, 84
of western femininity, while they simultaneously acknowledge that the reasons for veiling are
diverse as to their religious, cultural and political intentions. Second, Braidotti follows classic
feminism in her insistence on the centrality of the body as the site where the physical,
sociological and the symbolic overlap.

We are situated subjects [and] embodied subjectivity is thus a paradox that
rests simultaneously on the historical decline of the mind/body distinctions and the
proliferation of discourses about the body. 17

Braidotti, on the postmodern condition, comes back again and again to the leitmotifs of
complexity and change. She stresses that there is no possibility of feeling at home in the 21st
century without an appetite for change and her keywords include transformation,
metamorphoses, mutations, recomposition, decentering and hybridity. Consequently, her
starting-point for ethics and politics (and, in common with all the other thinkers who
influence my own position, there is no finishing point) is the idea of processes rather than
concepts. As she points out, “Since the mental habits of linearity and objectivity
persists...[t]hinking through flows and interconnections remains a difficult challenge.” 18
Influenced by the work of Gilles Deleuze, Braidotti connects the ideas of human subjectivity,
the process of becoming and the idea of becoming nomadic (which I interpret as a linkage of
epistemology, ontology and politics). As Braidotti puts it,

Just being a minority...it is only the starting-point. What is crucial to becoming-
Nomad is undoing the oppositional dualism of majority/minority and arousing an
affirmative passion for and desire for the transformative flows that destabilize all
identities. 19

17 www.let.uu.nl/womens-studies/rosi/cyberfem.htm
18 Braidotti, 2005, 1,2.
19 Braidotti, 2005, 84
The refusal simply to invert prevailing hierarchies of social and symbolic power is central to a just politics of alterity. Deleuze, in *Anti-Oedipus*, writing about the dynamics of revolutionary groups, makes a similar distinction:

A revolutionary group at the preconscious level remains a subjugated group, even in seizing power, as long as this power itself refers to a form of force that continues to enslave and crush desiring-production...a subject-group, on the contrary, is a group whose libidinal investments are themselves revolutionary...it opposes real coefficients of transversality to the symbolic determinations of subjugation, coefficients without a hierarchy or a group superego.²⁰

Braidotti, quoting Deleuze, offers this as an introduction to his thoughts on the creative possibility inherent in the concept of becoming minoritarian, “The problem is never in gaining the majority, or even putting in place a new constant. There is no becoming a majority, majority is not a becoming.” ²¹ In the processes of becoming minoritarian, Braidotti envisages a subject that is not “predicated on a stable, centralized Self who supervises their unfolding.” ²² She speaks of the subjects being pushed to their limits by encounters with the strangeness of others and, in a remark which emphasizes the ‘transversality’ of which Deleuze writes, Braidotti gives us:

The nomadic subject thus engages with his or her external others in a constructive, ‘symbiotic’ (Pearson,1999) block of becoming, which bypasses dialectical interaction. [As I have argued] ‘becoming’ is a persistent challenge and an opposition to Molar,²⁴

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²² Braidotti, 2005, 118.
²³ As I am using the idea of strangeness, I intend it to signify the fear, uncertainty, and lack of stability which is so often implied in contemporary rhetoric about the cultural practices and artifacts to which we have been ‘exposed’ in the process of the our societies ‘becoming multicultural’.
²⁴ The distinction which Deleuze makes between ‘molar’ and ‘molecular’ is an attempt to break out of representational schemes which are tied to the duality of female/male. Braidotti, following Deleuze and Guatarri, takes up their suggestion that all processes of ‘becoming’ are molecular, since they do not presuppose the dynamic of subject identification. I hold it necessary for women, and other minorities, however, to pursue a ‘molar politics’ when they are cosciously understood to be forms of strategic essentialism.
steady identities: it functions on an anti-Hegelian, anti-developmental, anti-teleological model.  

What is important, in the context under discussion, is to appreciate that Braidotti’s work on ‘becoming minoritarian’ and ‘becoming woman’ follow the same logic; a fact which she stresses as she calls for the widening of the traditional feminist agenda from an original focus on women’s rights to issues which may appear to have very little direct reference to women: “That is precisely the point: the co-existence of feminine specificity with larger, less sex-specific concerns. Nomadic feminism is about tracing a zigzagging path between them.”  

Nomadic subjects can be any of the following: “gays in Cuba, blacks in South Africa, a Palestinian in Israel, an illegal immigrant in the EU...a housewife alone in any neighbourhood in any city, in any country, a single woman on the metro at 10.00pm...”  

Improvisation is central to Braidotti’s nomadic subject as its way of being/becoming. She does not, however, romanticize the notion of rootlessness (which is too close to the reality of homelessness for a romantic reading) and she suggests that identity politics, for certain groups (women, blacks, youths, post-colonial subjects, migrants, exiles and homeless), should be looked upon as a viable, interim strategy, with the caveat, “What matters here is to keep the process of becoming-minoritarian and not stop at the dialectical role-reversal that usually sees the former slaves in the position of the new masters...”  

Ethics is related to the physics and the biology of bodies...[which] implies also an equation between ethical virtue, empowerment, joy and the understanding...such an act of understanding, however, is not the mere cognitive acquisition of certain ideas. It rather coincides with a bodily process, his or her potential.
In a passage which echoes many of my concerns, Braidotti speaks of the collapse of the dualities centre-periphery, same-other, particular-universal, as a result of which, the bodies of others now present us with, "simultaneously disposable commodities and also decisive agents for political and ethical transformation." 30 She warns that post-industrial societies have exploited 'differences' for the purpose of profit and reinterpreted multiculturalism as a marketing strategy. A crucial point which she makes here is that, even in the wake of this highly constructed and orchestrated proliferation of 'differences', what remains unscathed is "the centuries-old forms of sexism, racism and anthropocentric arrogance that have marked our culture." 31 The subject of feminism, then, is recognizable as Braidotti’s subject-in-process: the other of the other who is constantly faced with the task of improvising positions of resistance. As I continue to argue, the ramifications of this feminist insight go far beyond the deconstruction of cultural power through the category of gender, since the focus is on the need to be constantly vigilant for any and all signs of ontological, ethical and political closure. I interpret this to be the creative tension in the distinction between pluralism and pluralization.  

When speaking of ethics, Braidotti works with the idea of 'cartographies of power', 32 a mapping of the web-like and poly-centred processes through which glocal power is dispersed. We cannot, for instance, locate the centre of the globalization process yet we experience it as a hegemonic power. Even with a heightened sense of the local, we are aware of a great sense of mobility; and, despite, or because of, the vast array of choices for the privileged consumer, structural inequality remains. Braidotti calls for a move from the linear thinking of modernity to a way of doing ethics which will be able to hold together the simultaneity of opposites. This resonates, for me, with the idea of a-tonality.

30 Braidotti, 2006, 44  
31 Braidotti, 2006, 44  
32 Critical theory is predicated by Braidotti as a ‘cartographic practice’, Braidotti, 2005, 172
The work of Braidotti contributes to the construction of a useful ethic for the subjects of multicultural societies for a number of reasons, not least for her stress on the concept of flow as a fundamental characteristic of human identity in late modernity. For Braidotti, the acknowledgment of flow as the life principle moves us from the question of what we are (the traditional, Western, ontological quest) to the work of becoming which, as she puts it, "shifts...the boundaries of subjectivity [and] makes the subjects into transversal and interconnecting entities...intelligent matter, activated by shared affectivity."

Here we have a rich example of the way that feminist critique, as it has been expressed plurivocally during the last fifty years, holds in tension the rational language of traditional, Western philosophy and the less constricted vocabulary of the poet/satirist/re-wreaver of metaphors in order to bring about change at the political and the symbolic levels. See how Braidotti plays with the tools of the great male thinkers (and I am well aware of ironic language here). In terms of its reference to existence, the idea of flow has the obvious potential to convey a number of characteristics, or leitmotifs, of identity in the late modern period: the speed of change, the interpenetration of ideas through the internet, the movement of capital in ways which are impossible for the ordinary person to keep track of, and so on. However, the word flow, read otherwise, has always signified the perceived danger that women embody: the messiness of menstruation and birth, which were so often interpreted, not simply as physical signs of life-giving, but as symbolic of the impurity which was imputed to the female principle.\(^{33}\) I offer, then, a double-take on the concept of flow: a tongue-in-cheek signifier for the difference between Being (rational, static, ground of all reality); and becoming (embodied, unpredictable, shifting materiality which constantly creates new realities).

\(^{33}\) Both metaphorically and literally, flow also resonates with the danger which is associated with groups such as the Dalits of India, who are rendered 'untouchable' by the work which they are assigned in their cultural domain.
While, for the poststructuralist feminist, identity is a key concept, recent scholarship has produced many, and often conflicting, theories. Feminist projects must balance the need for some form of identity politics (albeit interim and strategic) while avoiding a slide into essentialism. This applies to a concern for social and political recognition of group identity, for women or for any other group who share political concerns without wishing to suggest that they represent homogeneity. I am concerned to differentiate between: the process of subjectivity (as a messy business which slips in and out of consciousness); and the imposition of identity on the subject through the discourses and ideologies which colonize and reduce the freedom of individuals and groups to mutate. In this regard, the notion of identity belongs in the family of words which refer to the fictions which are constructed to reduce the complex modes of attachment that characterize human existence. It follows that the subject of feminism is antecedent and constituted by its projects, ethics and politics. As Judith Butler puts it,

The feminist “we” is always and only a phantasmic construction, one that has its purposes, but which denies the internal complexity and indeterminacy of the term...[However], the radical instability of the category sets into question the foundational restrictions on feminist political theorizing and opens up other configurations, not only of genders and bodies, but of politics itself.  

So, let me stress that, in my use of the terms, feminist and feminisms, my intention is to indicate a constantly mutating politics which still consciously works in liminal spaces, through a subversive politics which has the potential to alter, radically, an understanding of the way that culture and human identity relate.

The embodied subjectivity of late modern feminism might be thought of in the manner of a *myse-en-abyme*: an endless chain of signifiers, suggestive of the unfinished

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34 Judith Butler, 2006, 194.
35 Placement at the centre of an escutcheon of a smaller copy of the same escutcheon: containment of an entity within another identical entity: image of an image, *Merriam Webster Dictionary*. 

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process of constituting self in relation to the other. This French phrase, *mise-en-abyme*, associated with the identity-making language of heraldry, has semantic links with infinity and abyss. So, here is a fine link with Braidotti's subject-in-process (infinitely changing) and the idea of contingency (which entails the subject in an endless confrontation with the abyss). It emphasizes, moreover, the pointlessness of searching for an originary moment or aetiological explanation to rationalize our sense of identity. The *myse-en-abyse*, visualizing an endless chain of images, is also a powerful reminder that process does not necessarily indicate teleology.

I suggest that the feminist turn away from disembodied theory belongs in a wider epistemological shift from transcendence to immanence; more particularly, it is manifest in the current relinquishing of traditional notions of transcendence and the feminist eschewing of disembodied theory to focus on particularity and lived experience. Here is Rosi Braidotti, mining the work of Gilles Deleuze and Homi Bhabha:

*Philosophy today can only be the creation of concepts, i.e. creativity, not truth, is the issue at stake. It is the humble, patient, concrete and pragmatic pursuit of the singular, in all its complexity and diversity...Philosophy is the construction of immanent singular subjects and of perceptions, concepts and figurations that would do justice to their complexity.*  

*We need to ‘secularize’ the public sphere so that, paradoxically, we may be free to follow our strange gods or pursue our much-maligned monsters, as part of a collective and collaborative ethics.*

The turn to immanence is a crucial element in the formulation of an ethic of alterity that is motivated, not only to acknowledge the ultimately irreducible quality of the other, but also to resist the dualistic logic by which we simply reverse social binaries. As Braidotti puts it,

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36 I refer, here, to the turn away from overarching explanatory theories for the meaning of human existence and the nature of human life. This theme will be explored further in chapter six, with reference to Richard Rorty and Robert Brandom.
37 Braidotti, 2006, 20, quoting Gilles Deleuze.
38 Braidotti, 2006, 257, quoting Homi Bhabha.
The dislocations and re-assemblages of intersecting subject positions are not only negative expressions of devalued otherness... The process of becoming does not amount to the reversal of this dialectical scheme which would turn the former 'others' into the Same, but rather a radical disruption of the scheme altogether.  

Braidotti has written, with special reference to Europe, about the sense of diasporic, hybrid and nomadic identity which might offer the possibility of being translated into the notion of flexible citizenship. She says,

A double de-linking could be implemented so as to disengage citizenship from nationality and national identity (i.e., not space-bound) and from permanence, so that it could be extended to temporary residence (i.e., not time-bound).

Arguing that such measures would make way for complex allegiances and multiple forms of cultural belonging, Braidotti promotes what she calls a central idea: the end of our imagining that we or others need, or should desire, pure and steady identities. The creolization and hybridization which would follow, she claims, could lead to a new kind of politics, not bound by the idea of the nation-state, nor driven by nostalgia for an 'imagined' Europe. Braidotti warns that "a global multiculturalism does not guarantee the end of racist class stratification, nor does cultural diversity protect us from growing racism [in fact] this proliferation of multiple identities...challenges the equation of culture with the idea of belonging to a common identity".  

What is needed in the late-modern period, according to Braidotti, is not a search for universals, but a new articulation of the notion of pan-humanity. I believe this to be a crucial point, although a word needs to be said about the terminology. On my interpretation, pan-humanity should be distinguished from universalization. The ethical reference of 'pan-humanity' signifies moral patterns which will arise out of dialogue and exchange which,

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39 Braidotti, 2006, 132, 133.  
40 Braidotti, 2006, 92.
potentially, involves all members of humanity, although their terms may have to be modified if they are to apply to all members of humanity. In other words, there are values which may be strong enough to cross cultures and survive historical change, but, I have already suggested, such core values, as in the case of human rights, will always require to be re-articulated, defended and contextualized. That is the price to be paid for eschewing both relativism and totalitarianism. As Judith Butler puts it,

...the elaboration of rights, especially the right of cohabitation on the earth, emerges as a universal that governs a social ontology that cannot be homogenized. Such a universalizing right has to break up into its nonuniversal conditions; otherwise it fails to be grounded in plurality.41

In terms of ethics, Braidotti makes a distinction between: the application of moral rules and protocols; and the process of becoming ethical. According to Braidotti, the former is 'self'-protecting and the latter entails nothing less than the creation of a new social imaginary, won through, and despite, the pain of dis-identification. Feminism, she adds, is a great example of this kind of transformative political project: feminists are those subjects who have taken their distance from the dominant social institutions of femininity and masculinity, relating them to other crucial variables, such as ethnicity, race and class.42

Central to a Braidottian ethics is the insistence that the project of becoming-ethical involves going beyond the dialectical logic which establishes and maintains all hierarchically organized binary oppositions. ‘Becoming-minoritarian’, as I have indicated, is Braidotti’s code name for this existential process, central to which are two things: the first is that, to ‘become minoritarian’ does not, necessarily, require membership in an empirical minority community (although Braidotti claims that the experience of being part of a minority group provides a privileged epistemological starting-point); the second is that the pursuit of

42 Braidotti, 2006, 85.
contemporary emancipatory, ‘nomadic’ politics does not proceed by linear thinking, but by the “dynamic transversal interaction or movement among the heterogeneous and diverse sites and strategies [which are required for] conceptual and ethical creativity.” 43 She warns, in a particularly rich metaphor, of the ‘ethical vertigo’ which is likely to be one of the dangers of transversality, as ethical agents embody the velocity and depth of existential change.

Third, and particularly pertinent for the purposes of this thesis, Braidotti, referring to the work of Francisco Varela, writes that we must redesign a post-anthropocentric and anti-Cartesian ethics of co-determinaton between self and other, where “the notion of co-dependence replaces that of recognition, much as the ethics of sustainability replaces the moral philosophy of rights.” 44 I read this as the work of finding meaningful ways to live through the shift from a self-centred acknowledgment that others exist (tolerance) to the vulnerability of recognising the ontological incompleteness of every human being (transformative affectivity). 45 Linda Hogan, writing about the effect of globalization on the apprehension of human rights, echoes Braidotti’s focus on co-dependence and sustainability:

It is striking that as diverse communities worldwide have appropriated human rights discourse they have also, all the while, been embracing identity politics. Indeed this pattern suggests that in among the plurality of thick, located, and culturally embedded moral traditions, these varied communities are identifying principles that they agree are indispensable for our (global) social well-being. 46

43 Braidotti, 2006, 134. The multi-layered projects of deliberative democracy spring to mind here.
44 Braidotti, 2006, 123.
45 Arguably, the ‘age of tolerance’ ended with the age of human rights. The piecemeal toleration associated with the acts of the 17th and 18th century, designed to protect dissenters under carefully specified circumstances, is being replaced by the positive conferral of rights instruments aimed at convicational freedom. For a contemporary discussion of this point, see Lorenzo Zucca, A Secular Europe: Law and Religion in the European Constitutional Landscape (Oxford: Oxford University Press, 2012). Zucca writes that toleration entrenched “…official truth about right beliefs [and created] a trichotomy between right, wrong, and tolerable beliefs that is not easy for the state to police without major inconsistencies.” Zucca, 2012, 21.
One of the central concerns of this dissertation is to explore the possibility that the feminist ethical subject is capable of resisting the constraining elements of her culture, to be able to accept the perceived strangeness which is embodied in the cultural other. In previous chapters, I have explored some of the ways in which the unfamiliar, embodied in the 'cultural other' has been 'managed' politically, through social policy and law. The discussion takes the reader into the idea of culture, as the term has been used to explain and justify the imagined field in which the subject finds reference for what is believed to be historically justified and good in practice. Central to the evaluation of diverse cultures, and the values and practices which are associated with them, is the spectre of truth, and the question of the putative correspondence between particular beliefs and a transcendent realm which is thought to be beyond the messiness of dialogue, argument and the political need for compromise. In chapter six, my intention is to explore the notions of truth and objectivity, as I work towards an ethic of alterity which does not depend upon a transcendental justification for its claims to value, goodness or truth.
An age becomes an age, all else beside
When sensuous poets in their pride invent
Emblems for the soul's consent
that speak the meanings men will never know
but man-imagined images can show;
It perishes when those images, though seen
No longer mean.
Archibald MacLeish

We must not begin by talking of pure ideas, -
vagabond thoughts that tramp the public roads without any human habitation, -
but must begin with men and their conversation.
Charles Pierce

6.1 Introductory remarks

One of the central concerns of the dissertation is the propensity of individuals and groups to construct patterns of morality in adaptive ways in response to the perceived danger which otherness presents. Politically, I have traced examples of such adaptation in assimilationist, integrationist and multiculturalist policies in which there have been attempts to move from types of moral monism to some form of pluralist way of living. In the process of the various attempts to construct a politics of alterity, there have been changes in the moral landscape which include: the raised awareness of the unsustainability of an imperialistic approach to
global diversity (a pragmatic change); the codification of legal norms designed to protect those whose ways of life and patterns of morality are most at risk of being silenced (changes at the level of policy and political rhetoric); and a greater acknowledgment on the part of the individuals of the contingency and situatedness of all values and mores (epistemological changes). In terms of international politics, there has been a corresponding deconstruction of the myth of the internally monolithic state, with an accompanying erosion of the idea of sovereignty. As quoted above, "In contemporary international discourse, the idea of a centralized, unitary, and homogenous state is increasingly described as an anachronism." 1 Throughout, I work with an idea of culture which does not reduce its effects by fixing it as an entity: a "falsely homogenising reification...[which] exaggerates the internal unity of cultures, solidifies differences which are currently more fluid and makes people from other cultures seem more exotic and distinct than they really are." 2 I have presented an interpretation of culture that sees it as an amalgam of unbounded, fluid, and linguistically constructed human projects. This allows me to speak of identity as a process of aligning the sense of self in relation to both dominant, and sub-dominant voices which purport to represent ideal or imagined cultural values and practices.

In practice, members of minority groups represent those most likely to have to defend their values and practices from being obliterated or brought into line with the desires of the dominant representatives in society. This can be seen as a power struggle, conducted through language, for control over the social imaginary, with the winners dictating what is central and what is peripheral, as they also decide whose morality should prevail. I have emphasized, however, that shifts in the dynamics of social power are better understood in the Foucauldian sense: that is, not only or necessarily as top-down impositions, negotiated consciously by agents who represent the traditional loci of institutionalized power; but through the

1 See Kymlicka, 2009, 42.
“infinitesimal mechanisms, which each have their own history, their own trajectory, their own tactics…”

Chapter six is intended as a philosophical grounding, in which the building-blocks are: 1) a conceptualization of truth in a way which does not elevate the idea from its application in the immanent frame by suggesting that what is true and good is a reflection of some world-external reality; 2) a defence of the pragmatist claim that it is rationally sound to attempt to persuade others of the goodness of the things we value though without claiming that our moral positions have objective or final status; 3) an insistence that it is possible to eschew the ideas of absolute or transcendent truth without embracing a full-blown relativism; 4) an analysis of the distinction between objectivity and justification, illustrated through the work of Richard Rorty, Robert Brandom and Cheryl Misak. I take for granted that there are many things ‘out there’ which exist quite independently of our seeing or our remarking. That, as far as I am concerned, is a common-sense observation. What is crucial in terms of ethics, however, is the human propensity to organize all encounters (with the land, the plants, the animals, with other human beings and their ideas) by grouping each thing, and naming each group, and then conceptualizing nature, destiny, and the good life on the basis of these human inventories. Rorty and Brandom, with their assertions of the ontological priority of the social, have the capacity to lead us into a new appreciation of the possibility of justifying our values without the need to assert their objective or transcendental credentials. In terms of epistemological authority, they encourage us to shift the focus from a transcendent ground or purpose, posited as external to human knowing and acting, to the immanent field of social relations and human desires. The ethical task can then be envisaged as a justificatory

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2 This is consistent with Charles Taylor’s understanding of modern secularity as a form of humanism which does not entail the idea goals or principles beyond those which encourage human flourishing. Taylor, 2007, introduction.
process, through conversational interaction, giving and receiving reasons which, to quote Jeffrey Stout, "are not premised on a single authority on questions of truth and falsity."  

6.2 Resisting ambiguity

In the process of moral deliberation, the family of words which relate to the idea of truth carry weight in terms of authority and the validation of our beliefs and actions. Since they are commonly used to imply that there is a way in which things ‘are in reality’ to which our words and actions either correspond or do not correspond, this is a group of words which has implications at the level of epistemology, in terms of what we believe; at the level of practice, in terms of what how we justify our actions; and for the way that authority is conferred upon those who set the norms for cultural and political ordering.  

In addition, and central to the concerns of my thesis, is the fact that it is fundamental to a sense of ‘self’ that the subject is able to identify with a personal narrative which is held to have truth value. As Michel Foucault puts it, “...one of the main moral obligations for any subject is to know oneself, to tell the truth about oneself, and to constitute oneself as an object of knowledge both for other people and for oneself.”

A number of reasons contribute to the current academic and popular scepticism around the idea and the application of words like true and truth. On the experiential level, the extent of the lies and corruption which has recently been exposed within political, banking

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6 The ‘beauty’ of the correspondence theory of truth is that it satisfies a deep human need for order and it somewhat allays a common existential human fear of chaos and unpredictability.

7 Lotringer, 2007, 151

8 In a dark, cynical version of the ‘little white lie’, John Humphrey’s writes from his own experience as a foreign correspondent that, “…of course, politicians and military commanders don’t tell the truth in time of war...[if Churchill] had told people the truth in 1941, we’d probably have lost the war.” John Humphrys, in *Conversations on Truth*, Mick Gordon and Chris Wilkinson, eds. (London & New York: Continuum, 2009), 103. Nick Davies, Guardian journalist and author of *Flat Earth News*-an investigation of falsehood and distortion in the media, provides a comment which can be taken as
and religious institutions have caused seismic shifts in the public’s ability to trust. The existential reality of living in a world which appears to run on the basis of institutionalized deception is further compromised by some of the current philosophical strands which inform education and popular literature. I would include certain versions of postmodern relativism and the salmagundi of religious and cultural snapshots, now marketed globally, where the appeal lies in the dissolution of borders, authoritative full-stops and dogmatic restrictions on thought.

There are pressing political and social reasons to deflate the idea of a single truth, not least when the notion of final authority is touted through fundamentalism. William Connolly defines fundamentalism as,

a general imperative to assert an absolute, singular ground of authority; to ground your own identity and allegiances in this questionable source; to define political issues in a vocabulary of god, morality, or nature that invokes such a certain, authoritative source; to condemn tolerance, abortion, pluralism, radicalism, homosexuality, secular humanism, welfarism, and internationalism (among other things) by imputing moral weakness, selfishness, or corruption to them.\(^9\)

Fundamentalism...converts stresses and strains in [doctrine or identity] into evidence of deviation and immorality in the other [concealing] the political dynamic of this strategy of self-protection by enclosing it in a vocabulary...above the possibility of critical reflection.\(^10\)

Connolly’s ‘stresses and strains in doctrine and identity’, otherwise construed as cognitive dissonance or epistemic ruptures, commonly result in the construction of opposing pairs (good/bad; truth/falsity; natural/unnatural), intended to short-circuit the necessity to sift all ethical, religious or political positions through a diversity of viewpoints; and to relieve the explanatory: “[we journalists are] structurally likely to produce falsehoods and distortion and propaganda...I think that story of the weapons of mass destruction is a very important one for us-it’s the defining story of our era...we are structurally vulnerable to being manipulated by the PR industry into serving particular commercial or political interests.” Gordon and Wilkinson, eds., 2009, 50.

\(^9\) It is noteworthy that, in the English language, the words ‘true’ and ‘trust’ share etymological roots.

\(^10\) Connolly, 2004, 105.

\(^11\) Connolly, 2004, 106.
tension of trying to balance complexity and ambiguity. It is crucial to note that Connolly does not confine fundamentalists to the ‘usual suspects’, but stretches its signification thus:

While every doctrine, culture, faith, identity, theory, and perspective rests upon fundamentals more or less protected from internal interrogation, fundamentalism is a set of political strategies to protect those fundamentals by defining every carrier of critique or destabilization as an enemy…

A most influential and contested contemporary example of religious fundamentalism is manifest in the resurgence of ‘new natural law’ as the basis for an exclusive type of Roman Catholic morality. New natural law is associated with the name of John Finnis, and was first promulgated by Germain Grisez’ reading of Thomas Aquinas. One of the distinctive characteristics of the Grisez school is the proponents’ insistence that the conservative views which they hold have their foundations in secular, not doctrinal, reasoning. What is important to note, in this thesis, concerned as it is with the power of rhetoric and discourse, is that new natural lawyers have exercised their influence beyond the academy and the church, “and have sought to influence the outcome of important constitutional cases in the United States by submitting closely argued amicus briefs.” Nicholas Bamforth and David Richards describe new natural law as a late modern defence of the patriarchal structure of Roman Catholic authority, in general, and the conservatism of the last two papacies in particular.

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At a practical level, its proponents argue in favor of nuclear disarmament and against contraception, abortion, and any sexual activity outside of marriage (and many common practices within it) – including all lesbian and gay activities.\(^\text{15}\)

Bamforth and Richards contend that “new natural law defends...a sectarian religious view that, because of internal and external flaws, constitutes neither a consistent nor an appealing approach to law and individual rights in a modern constitutional democracy.”\(^\text{16}\) The writers further argue that the new natural lawyers’ basic principles of human flourishing, while being touted as intuitive and universal, are, in fact, only defensible within the framework of a prior commitment to religious belief as that is understood within current doctrinal papal statements. Importantly, they point out that these doctrinal positions,

...devalue the role of women and divide them into the idealized (and asexual) and denigrated (and sexual), and which are associated with and enforced by the patriarchal hierarchy of the celibate male priesthood, now seeming increasingly dubious or even willfully irrational.\(^\text{17}\)

New natural law exhibits two of the central characteristics of fundamentalism, as indicated above, with reference to Connolly. The first is a tendency to be persuaded that deviation and immorality (notably sexual immorality) is embodied in others, disseminated through their convictions and their life-styles. The second is the adoption of dogmatic religious, cultural and moral political positions which are then presented in vocabularies intended to confer, upon ancient narratives, an aura of originality and timelessness. The leitmotif of such narratives is often the idea that there exists a final truth; an all-embracing narrative of the meaning and purpose of human life which transcends the immanent frame of historical inter-subjectivity. Truth, in other words, which is available as an instrument of power.\(^\text{18}\) I turn

\(^{15}\) Bamforth and Richards, 2010, 1.

\(^{16}\) Bamforth and Richards, 2010, 3,4.

\(^{17}\) Bamforth and Richards, 2010, 332.

\(^{18}\) Foucault, in an interview with Pierre Boncenne, said “Philosophers...intellectuals...justify and mark out their identity by trying to establish an almost uncrossable line between the domain of knowledge,
therefore, to the work of neo-pragmatists, Richard Rorty, Robert Brandom and Cheryl Misak, and their deliberations on truth and objectivity.

6.3 Embracing ambiguity

There are two reasons for the importance of the work of Rorty in the present political and social climate, in addition to his relevance to the logic of my own work. The first is that he continually sought to bring to light the “residue of religious thought which is hidden deep down within ordinary ways of thinking, a residue which philosophy has unwittingly helped to perpetuate.” 19 As for the second, I will quote Michael Williams, from the introduction to The Mirror of Nature, where he refutes the common charge levelled against Rorty that he is a relativist: “Rorty is not an epistemological skeptic but rather a skeptic about epistemology [which he believes] aims at a wholesale justification of our beliefs about the world (with a resultant downgrading of beliefs that resist appropriate grounding).” 20 This distinction is particularly vital in a contemporary, pluralist milieu. It should be added here that, for Rorty, the chief culprit in the suggestion that ‘wholesale justification of beliefs’ is either possible or desirable is the academic pursuit of philosophy. It is not thought, in itself, which is the problem; it is the elevation of certain kinds of vocabularies for the expression of thought. “Philosophy as a discipline thus sees itself as the attempt to underwrite or debunk claims to

seen as truth and freedom, and the domain of the exercise of power. What struck me, in observing the human sciences, was that the development of all these branches of knowledge can in no way be disassociated from the exercise of power.” Kritzman, 1990, 106.

19 James Tartaglia, Rorty and the Mirror of Nature (London and New York: Routledge, 2007), 6. Most commentators whose concern is with the trajectory of world politics during the late 20th and early 21st centuries would be inclined to say that there is more than a ‘residue’ of religious thought at work. Rorty’s aim, however, is to bring to light the fact that, even among committed secularists, there is a desire to justify patterns of morality by reference to sources of authority which ‘transcend’ the local, the historical and the particular.

20 Tartaglia, 2007, xxvii. Ths is one of the great strengths of Rorty’s ethical position, that he is able to slough off the compulsion for universal foundations, yet still claim that it is rational to defend humane ideals. He is able to hold that balance because his chief concern is with the practical outcome of epistemological positions.
knowledge made by science, morality, art, or religion.”  A discursive line through Locke and Kant, according to Rorty, has made it difficult for thinkers to shake off the belief that philosophy, as a structured mode of rational reflection, is capable of functioning as the “tribunal of pure reason, upholding or denying the claims of the rest of culture...a foundational discipline which “grounds” knowledge-claims...a substitute for religion.”  Rorty refutes the idea that any mode of philosophical method should place ultimate parameters on what might be said or done or imagined. “...a desire to find “foundations” to which one might cling, frameworks beyond which one must not stray, objects which impose themselves, representations which cannot be gainsaid.”

The notion that there could be such a thing as “foundations of knowledge” (all knowledge—in every field, past present, and future) or a “theory of representation” (all representation, in familiar vocabularies and those not yet dreamed of) depends on the assumption that there is some such a priori constraint [such as] the Cartesian claim that by turning inward we can find ineluctable truth, and the Kantian claim that this truth imposes limits on the possible results of empirical enquiry.”

After Kant, the philosophical concern to find a language for what is universal and not limited by materiality shifted to a search for the conditions of possibility for knowledge itself and, as Rorty puts it, “Philosophy became “primary” no longer in the sense of “highest” but in the sense of underlying.” In addition, since Kant, philosophers have spent a great deal of energy on the question of how it is possible “to support intuitions concerning the subjective-objective distinction—either attempts to show that nothing outside of natural science counts as “objective” or attempts to apply this honorific term to morals, politics, or poems.”

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22 See, Rorty, 2009, 137, where he writes of the way in which Locke made the Cartesian mind into a science of man: moral philosophy as opposed to natural philosophy. In the process, Locke “provided a field within which certainty, as opposed to mere opinion, was possible.”
24 Rorty, 2009, 315.
The link which I want to make between Rorty’s work (particularly in *Philosophy and the Mirror of Nature*) and the type of ethic which I propose is hinted at in Rorty’s delightful plea that “the cultural space left by the demise of epistemology will not be filled - that our culture should become one in which the demand for constraint and confrontation is no longer felt” As Robert Brandom put it, “Rorty’s biggest idea is that the next progressive step in the development of things and ourselves is to do for epistemology what the first phase of the Enlightenment did for religion.” In what follows, I will flesh out Rorty’s hope for an ethical zone in which the foundations can be shared at the level of democratic interaction through a vocabulary which does justice to the complexity of human desire.

6.4 Rorty and the residue of religious thought

Rorty, as a consummate intellectual (who described himself as a-social and quite inept at the game of what he calls ‘small talk’), was rather afraid that his passion for the rarified atmosphere of books and ideas needed to be supplemented by some kind of political involvement which might make a difference to the world. In his early work, he tried to find...
the overarching theme which would reconcile his Trotskyian drive for social justice with whatever it was that was represented by his esoteric fascination with rare orchids: a desire for unity which he expressed in the words of Yeats, to “hold reality and justice in a single vision.”

What is important here is the contribution which the work of Rorty can make from the time when he ceased his search for the unity of seemingly irreconcilable differences. Having read Hegel’s *Phenomenology of Spirit* and Proust’s *Remembrance of Things Past*, Rorty commented that what they had in common was that they shared a “cheerful commitment to irreducible temporality...the specifically anti-Platonic element in their work – that seemed so wonderful.” Thereafter, having experienced what he described as a small epiphany, Rorty published *Philosophy and the Mirror of Nature*, in which, according to Ramberg, he posed a “large-scale, frontal assault on representationalist epistemology and metaphysics.”

To return, then, to Rorty’s preoccupation with the residue of religious thought as he articulates that in *The Mirror of Nature*. He writes that each of the three most important philosophers of our century-Wittgenstein, Heidegger, and Dewey tried, in his early years, to make philosophy foundational: to find a new way of formulating an ultimate context for thought. The new foundations to which Rorty refers were perceived to be necessary in order to fill the space left by the enlightenment secularization of culture. Rorty makes the crucial point that, although the authority of the church was undermined by revolutions in the political arena and God less invoked to legitimize belief, what has stubbornly remained is the

*and Vision* (Oxford: Rowman & Littlefield Publishers, Inc., 2006), 20. That might explain why Rorty felt that the philosopher must speak a useful word into social conditions beyond the ivory tower.

31 Richard Rorty, 1999, 7
34 With a reminder, at this point, that what is at stake here, for my purposes, is the persistence of the idea that there are things to be known and values to be apprehended which reside outside of us and that the purpose of language is to grasp these things so that we can put them into practice.
35 Rorty, 2009, in the introduction.
idea of objective truth: that is, the kind of necessary truth which grips with an immediacy that dispenses with the need for argument, justification or discussion: as in (to quote Rorty’s characteristic prose) “the command of Zeus shaking the lightning, or of Helen beckoning to her bed” 36 To speak of loving Truth, or to imagine a single account of reality as the narrative in which all human needs can be commensurated, is, according to Rorty, a secular version of the traditional religious hope in something non-human and all-powerful; some entity, in other words, to which all piecemeal and partial attempts at truth ultimately point.

Rorty is drawn to the later work of Wittgenstein, Heidegger and Dewey because, as they moved away from the preoccupation with foundations, their work, as he puts it, became “therapeutic 37 rather than constructive, edifying rather than systematic 38, designed to make the reader question his motives for philosophizing rather than to supply him with a new philosophical program.” 39 Edifying philosophy, as Rorty points out “aims at continuing conversation rather than at discovering truth, 40 by making out of it a reply to the familiar charge of “relativism” leveled at the subordination of truth to edification.” 41 Philosophy in the role of edification can be thought of as the work of freeing us from the idea that we will know ourselves as we come to the knowledge of a set of objective (true) facts. Rorty

36 Rorty, 2009, 158. Rorty retains, however, a sense in which the predicate ‘objective’ is useful, which he calls an existentialist view of objectivity: that is, when it refers to conformity to the norms of justification we find about us (in the immanent sense). The idea of objectivity, he goes on, becomes problematic when it is used to suggest access to some form of transcendent grounding which is justified by simply being invoked.

37 Therapeutic, in the sense of freeing the thinker from the “obsession with evaluating particular substantive issues’ according to traditional standards of correctness.”, Alan Malachowski, Richard Rorty (Buckinghamshire: Acumen Publishing Ltd., 2002). 18.

38 One of Rorty’s attacks on the idea of metaphysical systems and constructions is that they are based on problems which only appear to be such because they are intrinsically connected to specialized vocabularies (such as the vocabularies of analytic philosophers) and these, as ways of communicating, are what he would call, purely optional.


40 Bourdieu is interesting on this point, that the academic habitus is characterized by the intention of the disinterested pursuit of truth for its own sake. See Pascalian Meditations, 2000

41 Rorty, 2009, 373.
compares the distinction between conversational philosophy and metaphysical inquiry into the nature of reality with Sartre’s categories of self as ’pour-soi’ and en-soi’.

The notion of continuing conversation is particularly rich one in terms of ethics. In a reply to Santiago Zabala, Rorty clarifies and defends his idea of conversational philosophy, as he refers to Robert Brandom’s commentary on Hegel’s Phenomenology, “One of the fundamental thoughts in that book is that the best translation of Geist, in the sense in which Hegel uses that word, is conversation.” Rorty’s goes on to say that analytic philosophers who regard conversation as something weak by comparison to scientific enquiry commit the error of imagining that science reaches out to a goal which transcends non-scientific human culture, in “…the last gasp of the onto-theological tradition.” Rorty metaphorically yawns in the face of much that passes as metaphysical musings,

[if I am asked to comment on the proposition] that truth is an intrinsic good...the question seems to be undiscussable. I do not have the faintest idea how to go about determining which goods are the intrinsic ones and which are the instrumental ones...the philosophical distinction between justification and truth seems not to have practical consequences. That is why pragmatists think it is not worth pondering.

Such a response may appear to be laconic, given that generations of philosophers have focused on the truth as a concept central to the pursuit of epistemology. For my purpose, however, Rorty is usefully iconoclastic in this regard as he follows Wittgenstein in aspiring to condense the cloudy notions of truth by clarifying its grammatical usage. He refers to ‘pragmatic Wittgensteinians’ as those who replace Kantian debates about thought with

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42 It is worth noting that the term conversation is semantically linked with ideas of ‘keeping company’, ‘changing’, ‘living with’. We might contrast this with the term dialogue, which carries the more formal suggestion of speaking across some kind of divide, and ‘to speak alternately’. See Chambers Dictionary of Etymology, 1988.
43 Zabala, 2004, 68. Note, also, the following comment from Robert Brandom: “...metaphysics...aims at sculpting a vocabulary adequate to what can be said in every possible vocabulary.” Robert B. Brandom, ed., 2008, 180.
44 Zabala, 2004, 68.
discussions about linguistic expression; interpreting the later works of Wittgenstein as foreshadowing that of pragmatists such as Quine, Davidson and Brandom. "Wittgenstein’s importance lies in his having helped wrench us out of our Cartesian-Lockean mind set. He helped us to overcome the temptation to ask "Which pieces of our language lock on to reality and which do not?" On the question of the residue of religious thought, consider this from the same piece of writing:

It is certainly true that the desire to get in touch with something that stays the same despite being described in many different ways keeps turning up in philosophy...The need to shove language aside and get at reality “directly” reinforces the idea that demonstratives mark the location of hitching-posts, the places where language locks on to the world: “This is what we mean by red!”

“Philosophy” became, for the intellectuals, a substitute for religion. It was the area of culture where one touched bottom, where one found the vocabulary and the convictions which permitted one to explain and justify one’s activity as an intellectual, and this to discover the significance of one’s life.

The suggestion here is that this desire to apprehend something that stays the same represents a consistent human need for knowledge to relate to objective standards. Anti-religionists or post-religionists who replace the name of God with an authority such as Reason or Truth still remain within a metaphysical mindset when they debate the intrinsic nature of reality, or the essential core of what it is to be human. Rorty does not dispute the fact that this kind of debate may be deeply satisfying in intellectual terms, but his suggestion is that contemporary philosophers might more usefully serve the planet were they to turn their attention from ontology to cultural politics. He regrets that, “The urge to say that assertions and actions must not only cohere with other assertions and actions but “correspond” to something apart from

what people are saying and doing has some claim to be the philosophical urge.” This is the same urge, he goes on, which “drove Plato to say that Socrates’ words and deeds, failing as they did to cohere with current theory and practice, nonetheless corresponded to something which the Athenians could barely glimpse.” Rorty questions the effects of such debates on human behaviour: “I do not see why the separation of the notion of “truth” from that of “reality in itself” should produce either insincerity or a willingness to be deluded.” Nor, indeed, did Rorty believe that, the deflation of the idea of truth necessarily leads to relativism. He did not advocate a cultural relativism in the sense in which, every moral view is as good as every other...[i]t is one things to say, falsely, that here is nothing to choose between us and the Nazis. It is another thing to say, correctly, that there is no neutral, common ground to which an experienced Nazi philosopher and I can repair in order to argue out our differences. That Nazi and I will always strike one another as begging all the crucial questions, arguing in circles.

Rorty also wrote, that “a belief can still regulate action, can still be thought worth dying for, among people who are quite aware that this belief is caused by nothing more than historical circumstance.” I agree with the basic point which Rorty makes here, that a belief stands or falls by the action which it engenders, not by being predicated as ‘true’, but it seems to me that he misleads his readers by his use of the phrase ‘nothing more than’ in relation to historical circumstances. In contemporary pluralist societies, many people are aware of the contingency of the fact that they were born into a specific cultural milieu. Although this awareness is likely to trigger some degree of reflection in terms of the beliefs which regulate their actions, I imagine it would be a rare person who would sit so lightly with family,

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49 Richard Rorty, 2009, 179.
50 Rorty, 1979, 179.
51 Savidan, ed., 2007), 43.
52 Richard Bernstein and Christopher J. Voparil, eds., The Rorty Reader (Oxford: Blackwell Publishing Ltd., 2010), 507
community or national values that they would regard their association with these as *nothing more than* historical fluke.\(^{54}\)

In terms of the seemingly irrepressible human drive to discover foundations and the ethical desire to ground values and action in demonstrable ontological characteristics, Rorty offers the counter suggestion, crucial to the logic of this dissertation, that "there is no permanent neutral matrix within which the dramas of inquiry and history are enacted [with the corollary that] criticism of one's culture can only be piecemeal and partial – never, as he puts it, "by reference to eternal standards."\(^{55}\)

If the assumption is that the chief characteristic of the really real is that it is 'out there' in some form, in a realm external to the immanent frame of human existence, then it is quite consistent to envisage that the pressing epistemological task for humans is to strive hopefully (through rational understanding, intuition or religious inspiration) to attain an objective view of things; the ethical implication being that, when we have reached the point at which we no longer see through a glass darkly, we might discern the difference between good and bad starkly and simply, since the 'eternal standards' will be revealed. That is one way to aspire to justify moral positions. I am interested in another, less definitive, less permanent way.

### 6.5 Epistemological behaviourism

The indicators interim, strategic and partial, in relation to ethical enquiry, are central to the present argument, and intended to signify the historicity of all human values and beliefs and the contextual limitations of all ethics and politics. One of the central pillars of Rorty's

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\(^{54}\) The point here is that the correspondence between an individual and the religio/cultural context into which they are born is not a seamless link. In contemporary pluralist societies, that correspondence is challenged by the competing beliefs and values of others, and disrupted by the internal plurality of the cultural group with which we most closely associate. Out of this comes both defence and dissonance.

\(^{55}\) Rorty, 1979, 179.
approach to understanding and action is his notion of epistemological behaviourism. Rorty puts forward the idea that epistemic authority is best thought of by reference to what society lets us say. In other words, within our field of operations, the things we assert will either find confirmation through our social interaction with others, or they will be contradicted, deemed to be mad, or castigated as being bad. Rorty calls this epistemological behaviourism by which he means that, “if we understand the rules of a language-game, we understand all that there is to understand about why moves in that language-game are made...it will not occur to us to invoke either of the traditional Kantian distinctions.” 56 Having expressed the reasons for our actions, and gained the approval of our conversation-partners, we will not require further shoring up of our assertions by reference to a transcendent authority. Put another way, the process through which we give and receive justifications for moral positions, if it is to be received as authority, should ‘speak for itself’. In its quality of duration, the act of becoming ethical is played out through human interaction and the exchange of justificatory reasons for values; the on-going conversation between and among sapient beings. For an epistemological behaviourist, the enduring conversation (and the acquiescence of her peers, to use a phrase of Rorty’s) will be the important - and possibly the only - signal of the efficacy of her persuasiveness, since she will not wish to claim that anything ‘lies behind’ her assertions. 57 

The power of rhetoric, always carries the danger of imposing the will of the majority, or of the most articulate, educated members of society. The moreso, I suggest, where the spectre of a singular truth accompanies the conversation.

Epistemological behaviourism does not answer questions about the analyses of knowledge-claims.58 As Rorty puts it, “The question is not whether necessary and sufficient

57 Rorty, 2009, 173.
58 This point is important for the thesis at the core of my dissertation. My concern, when approaching moral issues, is not to establish them as either absolutely right or wrong, but to engage with the process by which we converse with one another from different view-points.
behavioural conditions for “S knows p” can be offered...[the] behaviourist is not to offer reductionist analyses, but to refuse to attempt a certain sort of explanation.” So, for Rorty, to say that truth and knowledge is relative to the enquirers is not to lose hope in the potential nobility of human moral behaviour, nor is it to take a relativistic stance towards diverse ethical codes. It is to say, rather, that “nothing counts as justification unless by reference to what we already accept, and that there is no way to get outside our beliefs and our language so as to find some test other than coherence.”

I will return to the question of objectivity and correspondence, as these are interpreted by Rorty and others. First, let me introduce some ideas and terms from the work of Robert Brandom, whose work Rorty regards as,

the best weapons for defending my version of James’ pragmatism...his work follows out the line of thought that leads from Kant to Hegel...his construal of assertions as the assumption of responsibilities to other members of society, rather than to “the world” or “the truth”, brings him into alignment with James.

6.6 The ontological priority of the social

One of the ramifications of moving away from a representational view of language is that the idea of ‘conceptual clarity’, as a philosophical goal, becomes problematic. If the content of our linguistic utterances vary as they are interpreted, then the concepts which we attempt to express are, to quote Rorty, “like persons-never quite the same twice, always developing, always maturing. You can change a concept by changing usage, but you cannot get a concept right, once and for all.”

59 Rorty, 2009, 176.
60 Rorty, 2009, 178.
62 Rorty, 2007, 123.
I am quite willing to give up the goal of getting things right, and to substitute that of enlarging our repertoire of individual and cultural self-descriptions. The point of philosophy, on this view, is not to find out what anything is “really” like, but to help us grow up-to make us happier, freer, more flexible. The maturation of our concepts, and the increasing richness of our conceptual repertoire, constitutes cultural progress.\(^63\)

In a conference paper delivered in 1984, to mark the two hundredth anniversary of the Virginia Statute of Religious Freedom, Rorty made the point that, “If one feels a need for [extra-political legitimation for general principles], one will want either a religious or a philosophical preface to politics.” His point is that the debate should go in quite the opposite direction, with democracy taking precedence over philosophy. He adds that “…the increase in literacy, the proliferation of artistic genres, and the insouciant pluralism of contemporary culture…helps makes the world’s inhabitants more pragmatic, more tolerant, more liberal, more receptive to the appeal of instrumental rationality.”\(^64\) The emphasis here is on the ontological priority of the social, and the idea that social ‘progress’ should not be thought of as the incremental implementation of values which originate outside of the realm of human acting. When this is accepted, the process of ethical enquiry needs to be recast as a series of disjointed conversations which are conducted in a self-consciously modulated voice, where the basis for normative assertions remains within the arena of human practices, acknowledging the imprint of history, contingency, and uncertainty of outcomes which accompanies all practice.

I go into a consideration of Robert Brandom’s treatment of inferentialism and the pragmatic insistence of the ontological priority of the social, holding together my interpretation of the following elements from the work of Rorty: 1) the suggestion that a commitment to irreducible temporality, in the acknowledgment of the historical situatedness

\(^63\) Richard Rorty, 2007, 124.
\(^64\) Richard Rorty, Objectivity, Relativism and Truth: Philosophical Papers (Cambridge: Cambridge University Press, 2008), 183, 184
of all moral positions, is a good thing, and cheerful; 2) his anti-Platonic stance, in the refusal to imagine human identity in terms of essences; and 3) his refusal to "circumvent the democratic process of achieving consensus about how to maximize happiness".65

Here is Brandom, as he writes of Rorty’s response to the volume, *Articulating Reasons*: "My teacher, Richard Rorty has described the enterprise...[as making possible] a further transition from a kantian to a hegelian approach to thought and action."66 Brandom goes on to write of Rorty’s characterization by referring to two aspects of Hegel’s work. First is the concern which Brandom shares with Hegel around the concept of *Geist*, "the peculiar constellation of conceptually articulated comportments...[in which] cultural products and activities become explicit as such only by the use of normative vocabulary that is in principle not reducible to the vocabulary of the natural sciences."67 The second aspect of the work of Hegel which Brandom claims to share is illustrated by a comparison between Kant and Hegel in terms of their respective notions of concepts. While Kant linked concepts to the process of judging and acting which determine what we become (through the positing of norms and sense of responsibility), he remained concerned to move beyond the immanent realm of social exchange in his bifurcation of the *noumenal* and the *phenomenal*. Hegel, on the other hand, earthed these issues, concluding that the normative is constituted through social practice.

In chasing the thoughts of the philosophers, my consistent aim is to argue for the usefulness of core ethical terms (such as true and good) without suggesting that they represent a reality which is external to the world which we construct through language. In this

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65 Rorty, 2007, 35.
67 Brandom, 2003, 33. I consider that this point about the irreducibility of certain vocabularies is of the utmost importance when we consider the way that moral imagination works. The expression of sympathy, empathy, horror or joy requires a vocabulary which is often resistant to translation.
regard, the work of Robert Brandom, on the concept of inferentialism, is helpful in clarifying the importance of the contextual framing of linguistic communication. Before I turn to Brandom in his own words, let me make another link between his work and that of Rorty’s. In an essay entitled, *Holism and historicism* 68, Rorty proposes that philosophers of the analytic tradition present as either atomists or holists:

Atomists prefer to think of philosophy as a quasi-scientific, problem-solving discipline [finding out] the capabilities of the human organism – facts that can be studied without reference to history....[whereas] if, like the holists, you think of rationality in social-practice terms, you will try instead to explain how certain organisms managed to become rational by telling stories about how various different practices came into being.

Collectively, aetiological stories about how human practices became established constitute, as Brandom puts it, the move from sentience to sapience: 69 a process through which humans developed from the stage at which mere survival was the chief aim; to the point at which desire and curiosity resulted in the evolution of human culture with all its artifacts, narratives and future-oriented projects. Brandom, like Rorty, is concerned, not with questions about what we, as contemporary subjects, might share with our ancestors; but with the way that, through language, we and they continually reinterpret the conditions of the world which we find ourselves in, thereby expanding the moral imagination. This is a non-teleological understanding of human progress, conceptualized as a series of imaginative leaps. If this is accepted, then the task of the ethicist is transformed from the quest for a universal, overarching theory of the good, to the hermeneutical task of identifying good and useful interpretations of the world as they relate to its parts. The discipline of philosophy will move from questions of ontology to the practice of cultural politics. Brandom’s work finds its place

68 Richard Rorty, 2007), 176-183.
69 As Robert Brandom puts it, sapients act as though reasons matter to them; both in justifying their own beliefs and practices and in evaluating those of others.
alongside Rorty’s in this cultural turn and in his alignment with pragmatism.\textsuperscript{70} Regarding Brandom’s doctrine of the ontological priority of the social, Rorty quotes Brandom: “all matters of authority or privilege, in particular epistemic authority, are matters of social practice, and not objective matters of fact.” \textsuperscript{71} There is a vital distinction here, in terms of the subject in late modernity. Brandom’s doctrine rules out the possibility of a single, final and transcendent justification for any moral position; and, since neither he nor Rorty suggest that all moral positions are relative, ethical deliberation will be conceptualized along the lines of a conversation in which more and more voices are included, rather than a search for a set of philosophical propositions. This has implications, not only for the substantive content of ethical debate, but also for a conceptualization of ethical responsibility, and more will be said of this in the final section.

One of the leitmotifs of this dissertation is the question of what we think we are doing when, having defined or described the world in which we find ourselves, we go on to imaginatively articulate the world as we would like it to be. As Robert Brandom puts it, “If we should think of vocabularies instrumentally, as tools, what should we think of them as tools for doing?” \textsuperscript{72} One possible answer, according to Brandom, is that we deploy a range of vocabularies in the quest for survival, adaptation and reproduction. In this, he presumably has in mind a range of projects from the simplest encounter with our physical environment to the most sophisticated means through which both male and female of the human species have secured sexual fulfilment and the continuance of their blood-line. These would represent

\textsuperscript{70} Rorty: “I read Sellars and Brandom as pragmatists, because I treat psychological nominalism as a version of the pragmatist doctrine that truth is a matter of the utility of a belief rather than of a relation between pieces of the world and pieces of language.” Richard Rorty, 1999, 127.

\textsuperscript{71} Robert Brandom, “Heidegger’s Categories in Being and Time,” \textit{The Monist} 66 (1983): 389-90. For the purpose of consistency, Rorty nicely points out that, in putting forward an argument for the ontological priority of the social (which is, in fact, a quasi-ontological argument), Brandom is not claiming to have made an empirical discovery or to have revealed a truth. He is, according to Rorty’s interpretation, defending a cultural-political stance on the basis of the social advantage of this type of account of authority. See Rorty, 2007, 8.

\textsuperscript{72} Robert Brandom, ed., 2008, 168.
fairly straightforward examples to illustrate the argument that the language of humans has adapted with their evolution. Brandom introduces the distinction, however, between: language which is instrumentally deployed to gain some control over our environment (as we encounter it and to the extent that we assume it to be a given); and "the role of vocabularies in changing what we want, and even what we need...for engendering new purposes." 73 As with Rorty, so it is with Brandom, that there is this insistence on the socially constructive power of language. Once again, the point is made that vocabularies do not develop as they more closely mirror some transcendent order; but that, through innovative ways to re-describe the things which are encountered, the nature of human relationships is made and unmade. Crucially, as Brandom points out, purposes are not read off from a pre-existent moral pattern; human purpose is invented through narratives of desire and pragmatism.

For Brandom, concept use is at the heart of the distinction between the sentience (such as is found in non-human creatures) and sapience which, associated with the discursive use of vocabulary, proceeds by giving, accepting and expecting reasons to be given for values and actions. 74 Inferentialism, understood within the context of semantic holism, requires, for the purposes of comprehension, that public reasoning is conducted through a game of giving and asking for reasons because, as Brandom puts it, even if "you and I may be bound by the same linguistic and conceptual norms [we may still be able, however,] to make different claims and inferential moves." 75 According to Brandom, inferential articulation is a practice of conferring authority on whatever it is that we choose to make explicit. In other words, concepts, understood as having inferential force, function as an invitation to others to infer a

74 As Cheryl Misak puts it, "Assertion, belief, truth, and objectivity...are not private matters. What it is to have a belief is to be committed to giving reasons for that belief. And if there is a truth of the matter, I expect my reasons to be persuasive to others." Cheryl Misak, Truth, Politics, Morality: Pragmatism and Deliberation (London and New York: Routledge, 2000), 102.
75 Brandom, 2003, 29. This point, which I consider to be of the utmost importance in terms of cross-cultural conversation, will be expanded in the final chapter.
range of things (not necessarily expressed) which they might associate with our assertions as a holistic range. I interpret this to mean that our assertions have meaning, not as single utterances, but as they can be recognized as parts of a narrative in which we make our intentions explicit. Inferentialism, as committed to some sort of semantic holism, means that our use of concepts, taken as a range or field of ideas, will set parameters, in terms of comprehensibility and reception, on all future assertions through which we might hope to assume authority.

Now, there is, as Brandom points out, two ways of accounting for the possibility of shared understanding between concept-users. On a Platonist account of the conceptual, the emphasis is on the efficacy of concepts to "identify the content typically expressed by declarative sentences and possessed by beliefs with sets of possible worlds, or with truth conditions otherwise specified." 76 The second, which Brandom calls a form of conceptual pragmatism, accounts for knowledge or belief inferentially, by approaching "the contents of explicit propositions or principles from the direction of what is implicit in practices of using expressions and acquiring and deploying beliefs." 77 On this account of concept use, we should drop the dualistic notion that language is merely an instrument through which we articulate the wordless judgments which exist, prior to their linguistic expression, in the realm of mind. 78 In terms of an ethic of alterity, the distinction here is between conversation which proceeds by invoking transcendent authority figures (God, nature, or scientific rationalism as final); and conversation which engages through terms of reference from what I might call the immanent frame (such as democratically agreed laws from within states, the considerable body of international law which has found agreement among states, specialized medical

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76 Brandom, 2003, 4.
77 Brandom, 2003, 4.
78 See Brandom, 2003, 16, where he writes that "the image of conceptualizing the unconceptualized is a familiar focus of philosophical attention, and it has given rise to a panoply of philosophical pathologies."
knowledge, and patterns of morality which, although diversely acculturized, share certain values which may be regarded as fundamental).

In common with Rorty, Brandom is posing an interpretation of the concept of language usage as a process of vocabulary development and change in which, by inventing new applications for familiar sets of words, or by introducing new terms to describe existing relationships among things, concepts are invested with content. Concepts, on this understanding, are not signifiers of what is out there waiting to be described. The suggestion, conversely, is that conceptual novelty comes through innovative application of existing vocabularies from which changes in behaviour follow. For examples, consider the following from Rorty:

[N]obody knew what redness was before some early hominids began talking about the differences in colors of things, just as nobody knew what gravity was before Newton began describing an occult force that helped account both for ballistic trajectories and for planetary orbits.  

Brandom distinguishes between the human capacities of sentience and sapience: the former, an awareness of physical surroundings, is shared with other creatures; the latter, sentience, goes beyond awareness, in the sense that humans are capable of having intentional states for which they are able to give reasons. We are, to paraphrase Brandom, rational agents who are able to make our behaviour intelligible to others and to make practical inferences in order to get what we need or desire. In addition, we are able to make theoretical inferences regarding what might follow from our own and others' assertions. The back and forward process among concept-users of grasping the propositional content of what is being asserted is what Brandom calls, “a certain kind of inferentially articulated doing.”  

As we speak or write, the

80 Brandom, 2003, 63. The term ‘doing’ is important here; and it is consistent with the theory that the process of innovative vocabularies and ways of re-describing reality brings things into being.
clarity of our thought will be in relation to the extent to which we understand the connections between the concepts we use and the commitments which others are entitled to expect from us.\footnote{Brandom, 2003, 70.} Brandom makes this important point:

> ...against thought debased by prejudice and propaganda, the first rule is that potentially controversial material inferential commitments should be made explicit as claims, exposing them both as vulnerable to reasoned challenge and as need of reasoned defense. They must not be allowed to remain curled up inside loaded phrases such as ‘enemy of the people’ or ‘law and order’.\footnote{Brandom, 2003, 70.}

What this might entail, for purposes of exposing the loadedness of certain terms, is to refuse to admit into our vocabulary an idiom if we have observed that, in common usage, its judgmental expressiveness closes down debate or incites hatred. By way of illustration of this point, Brandom offers a story concerning Oscar Wilde. In the middle of Wilde’s trial, the prosecutor having read out what he considered to be provocative passages from \textit{The Importance of Being Earnest}, challenged Wilde: “I put it to you, Mr. Wilde, that this is blasphemy. Is it or is it not?” Wilde replied, “Sir, ‘blasphemy’ is not one of my words.”\footnote{Brandom, 2003, 70.} Endorsement and agency, then, are at the heart of rationality. Critical thinking, following this logic, involves an ethical dimension: the honing of the moral imagination in order to be able to weigh up what Brandom calls “the possible material inferential transitions implicit in concepts.”\footnote{Brandom, 2003, 70.}

In situating the work of Brandom in the logic of my own work, I keep in mind his intention to explore the divide between nature and culture; in particular, and as he put it, “the consequences of a particular sort of principle of demarcation for the realm of culture, so
understood.” He identifies the cultural realm “with activities that either consist in the application of concepts in judgment and action or that presuppose such capacities.” For Brandom, then, what is distinctively human is the activity of asking and giving reasons for our actions and assertions. As sapients, we bring about change and innovation as we self-consciously project ourselves through the cultural activity of giving and asking for reasons, investing our concepts with innovative content. Ethical discourse includes conversation which takes, as its content, the exchange of reasons to defend, or reject, concepts and actions. Central to the exchange of reasons which make up ethical discourse is the implication that the assertions which we make will signify to others our commitment to the values which we espouse. In other words, our conversation-partners are entitled to infer, from the value-distinctions which we demonstrate, that we intend a commitment to act out the patterns of morality evident through our reasoning.

This is what is meant by the ontological priority of the social: that, as the practices of naming things change over time, epistemic authority is conferred upon (or removed from) the representatives of this or that institution, ruling state or powerful community. Through such social practice, the web of disparate elements of human existence are continually re-named and given a new place in the hierarchy of social values so that, taken together, they come to be regarded as: in a thin sense, the way that existential reality is encountered as facticity; and,

86 Brandom, 2003, 33.
87 Brandom points out two ways in which claim-makers justify their entitlement to assert the truth or falsity of a proposition. The first is by giving reasons for it, in a chain of premises and conclusions which are intended to persuade their interlocutors of their sequential validity. The second way is to appeal to an authority figure (religious, political, or someone recognized to have expertise in the field under debate). What is interesting, for my purpose, is that Brandom goes on to point out that “entitlements to claims can be inherited by the consumers of an assertion from its producer. In this way, the authority of an assertional performance consists in part in making available a new way in which those to whom it is communicated can discharge their responsibility for demonstrating entitlement to commitments they undertake.” Brandom, 2003, 175. In terms of religious and cultural conflict, this is helpful in distinguishing between different dialogical styles, since the first (the exchange of reasons) allows the conversation to go on; the second (invoking a higher authority intended to trump the argument) is what Brandom calls “a special way of discharging...responsibility to demonstrate...entitlement to [the claim].” Brandom, 2003, 174
in a thicker sense, the way that the world is in itself (ontologically, teleologically and as it imagined to be available to us epistemologically.)

6.7 Objectivity ‘lite’

In a 2007 essay, Rorty clarifies the distinction between two forms of justification. Writing of the ways in which human beings give sense to their lives, Rorty notes that they have recourse to two different courts of appeal: the first, is that they imagine themselves to be a constitutive part of a community with which they identify (either an actual, historically situated group or a community of their imagination); the second is by claiming to stand in immediate relation to a non-human reality. Rorty comments, “I shall say that stories of the former kind exemplify the desire for solidarity, and that stories of the latter kind exemplify the desire for objectivity.”

These two positions are clearly not mutually exclusive. In fact, many of those who claim to identify with a transcendent authority are moved, precisely by this conviction, to seek all means by which they can establish, and contribute towards, the well-being of a particular community. Rorty’s distinction, however, throws into relief “The idea of truth as something to be pursued for its own sake, not because it is good for oneself, or for one’s real or imagined community.”

Rorty down-scales objectivity to solidarity, and, in a comment which is particularly important for my work, he claims that those who focus on solidarity, rather than objectivity,
are not necessarily cultural relativist. The fact that they do not imagine that there is any necessity to establish trans-cultural positions from which to mount their critique of culture is not a characteristic which, by definition, renders an individual incapable of political, cultural or religious critique. Differences among cultural practices are measured, by ‘solidarity people’, on a scale which measures the actual good and the possible better (and, presumably, the ‘bad’); a scale, in other words, which makes sense in terms of imagining potential improvements in the social conditions currently operative, where the referential significance remains within the immanent frame.

Rorty’s project, as I have already shown, aims to free us from the preoccupation with some a-historical point of reference against which we might measure human nature, truth or the rightness/wrongness of the moral stances which we take up, and to replace the myth of “a relation between the human soul and moral truth [with]...ways of seeing human beings as historical all the way through.”\(^91\) Rorty, moving away from the Kantian project of establishing what distinguishes meta-cultural foundations for our assertions, and working from the premise of the ontological priority of the social, is able to assert that Freedom, and not Truth, should be the proper goal.\(^92\) As he is also moved to assert, quoting Isaiah Berlin, that we need to give up, “the conviction that all the positive values in which men have believed must, in the end, be compatible, and perhaps even entail each other.”\(^93\)

Up to this point of the chapter, I have discussed philosophical approaches to the concept of truth, aimed at a deflation of the idea, particularly where truth and true have been used with metaphysical referents, as a predicate for God or to indicate a realm in which such

\(^91\) Rorty, 2008, 176
\(^92\) See the interviews in Mendieta, 2006.
\(^93\) Richard Rorty, 1999), 45, where he quotes from Isaiah Berlin, *Four Essays on Liberty* (Oxford: Oxford University Press, 1969), 167. This, to my mind, highlights the point that, as soon as we get past the most general terms of agreement on moral matters, we are likely to experience the breadth and depth of cultural diversity. A desire for compatibility runs the risk of masking the intention to assimilate the strangeness of weaker groups into social models promoted by the dominant groups.
knowledge exists which can be said to transcend human experience. The thinkers with whom I have engaged, working with ideas which are associated with pragmatism, evaluate the truth of assertions, actions and beliefs by their efficacy. Consistent with this approach, philosophers in the pragmatic camp tend to rate the significance of philosophical questions according to their potential to yield some kind of resolution; and the probability that ethical positions which arise as a result of conversation, debate and dialogue will have the power to bring about change or improvement in the social fabric. ‘Significant’ and ‘useful’, are important terms for Rorty, illustrated by his remarks in an essay on cultural politics and God, where the discussion revolves around the appropriate role for religion in contemporary society. Rorty makes it plain that he is not advocating that theology should be dropped from public discussion, nor does he wish to deny the individual a right to express religious beliefs (even in cases where such beliefs are not publicly justified to others). Rorty insists, however, that the significant questions which accrue around religious belief are not the ones which debate the existence/non-existence of God. To quote, “We shall dismiss natural theology if we see the undiscussability of God’s existence not as a testimony to his superior status but as a consequence of the attempt to give him that status...” The point which Rorty is making here concerns the appropriate framing of the questions which are raised by core beliefs, since it is vital to clarify the thrust of our assertions by being transparent about the epistemic framing of our personal moral and religious convictions. Robert Brandom offers the helpful category of ‘canonical designators’, Rorty quotes Brandom,

94 This is resolution in the non-final sense which I believe that Seamus Heaney intends his remark that a poem is a temporary stay against confusion.
96 Cheryl Misak, quoting Joseph Raz, writes, “Governments, political candidates and their campaign managers, policy makers, and judges must practice epistemic abstinence [by keeping their moral and religious convictions] out of public life.” Cheryl Misak, Truth, Politics Morality: Pragmatism and Deliberation (London: Routledge, 2000), 23. I disagree. What I am advocating is the ethical responsibility to clarify the epistemic framing of our moral assertions, and to be prepared to defend
The change Brandom is urging parallels the change from a theistic to a humanistic world-view....instead of asking whether God exists, people have started asking whether it is a good idea for us to continue talking about Him, and which human purposes might be served by doing so – asking, in short, what use the concept of God might be to human beings. 96

The works of thinkers with whom I have engaged contribute to an understanding of discursive power and the way in which historical descriptions of belief, values and practices have functioned to construct categories of the human, on the basis that language temporarily fixes the meaning of things through a continual process of excluding what it does not signify.

[If we] see knowing not as having an essence, to be described by scientists and philosophers, but rather as a right, by current standards, to believe, then we are well on the way to seeing conversation as the ultimate context within which knowledge is to be understood. Our focus shifts from the relation between human beings and the object of their enquiry to the relation between alternative standards of justification, and from there to the actual changes in those standards which make up intellectual history. 99

Having asserted that it is through the discursive power of language that values are made and unmade, and having eschewed relativism, how is it possible to defend some values over against others? As Cheryl Misak puts it, in a critique of Rorty’s position, “But how…can he assert that democracy, liberalism, and unforced agreement are best, if what is best is simply what is taken by some group to be best?” 100 How in other words, can the ethical agent marshal an argument against views which she find abhorrent? Misak proposes that, “What she can say is that torture or gratuitous cruelty to children is something which she has been brought up to react against. But her reasons for so reacting will be reasons which can only be

religious premises through the exchange of reasons which might resonate with both religious and non-religious vocabularies.
97 For transparency in conversation, it is necessary to clarify the genre, or epistemic framework of our assertions. Without such clarity of intention, dialogue partners cannot be expected to infer ethical commitments from claims and counter-claims.
98 Rorty, 2007, 16.
100 Misak, 2000, 13
local to her and those brought up like her." She departs from Rorty in his insistence that "the notion of objectivity must be reinterpreted to mean intersubjectivity or 'solidarity'."

Misak is insistent that Rorty’s type of pragmatism leaves us without adequate ground from which to express rational judgments concerning the moral problems which “arise naturally in our lives as deliberators, actors, and deciders.” Yet she also asserts that the point of pragmatism,

...is to put forward some modestly justified criteria, never pretending that they are neutral or that they mirror a reality which is utterly independent...a different way of looking at truth and objectivity...[replacing] the old dichotomy between neutral standards and no-standards-at-all with a substantive, low profile, conception of truth and objectivity, a conception which can guide us in enquiry.

The ethicist, claims Misak, ought not to give up on the idea of objectivity, and she makes the following point:

...philosophical theory must keep in touch with the practical business of enquiry. In the moral and political domain the connection is between deliberation, agreement, debate, and reflection, on the one hand, and, on the other, the reasonableness and truth of our judgments and the legitimacy of law, government, and policies."

I recognize, and agree with, the circularity of purpose in this statement, reminiscent of liberation projects such as feminism. It is based on the idea that values and beliefs must be continually subjected to the kind of critique which arises from the experience of those in whose lives the beliefs and values have a material effect. Ethical enquiry then begins to look like a continuing spiral of action and reflection in which the distinctive characteristic of the

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101 Misak, 2000, 12
102 Misak, 2000, 13. Misak is quoting here from a philosophical paper of Rorty’s, in which he clearly states that he has no intention of making “a metaphysical claim that the objects of the world contain no intrinsically action-guiding properties, nor of an epistemological claim that we lack a faculty of moral sense, nor of a semantical claim that truth is reducible to justification.” Rorty, 1991, 33. In addition, I would point out that intersubjectivity and solidarity carry different political connotations.
103 Misak, 2000, 2
104 Misak, 2000, 5
conversation is that it is not simply conducted at an élite level, but attempts to become more and more inclusive.

One of the marks of Misak's notion of objectivity is when the beliefs which we wish to defend can be shown to be sensitive to something in particular, or responsive to a concrete set of circumstances, objectivity being when "...the practice of moral deliberation is responsive to experience, reason, argument, and thought experiments where we, for instance, place ourselves in another's shoes." 105 Moral enquiry, in other words, proceeds by a methodology which requires "that we take our beliefs to be responsive to new arguments and sensibilities about what is good, cruel, kind, oppressive, worthwhile, or just." 106 The methodology which Misak argues for is one in which beliefs are exposed to different reasons, perspectives and types of argument, and a commitment to debate and deliberation: a conversational ethics which I would predicate as a-tonal since it is intent on responding to multiple sources of knowledge and authority, not confining itself to an ur-text, or a single, transcendent reference point.

By her reference to 'placing ourselves in another's shoes', Misak, in common with Rorty, 107 conceptualizes ethics as an imaginative art, rather than a purely scientific form of reasoning. In this I also agree. It is often the personal narrative which moves us to empathy rather than the reasoned argument, and I recall a novel by Azar Nafisi, in which she offers a

105 Misak, 2000, 52
106 Misak, 2000, 104
107 In conversation with Gianni Vattimo, Rorty said, "The males have recently been more willing to put themselves in the shoes of the females. Still another example is the greater willingness of heterosexuals to put themselves in the shoes of homosexuals, to imagine what it must be like to be told that the love they feel for another person is a disgusting perversion." Richard Rorty, An Ethics for Today: Finding Common Ground between Philosophy and Religion (New York: Columbia Press, 2011), 16. Rorty's words are taken from the recording of a public lecture, Turin, September, 2005.
perspective on the lives of veiled women in Iran. The central character of the novel implores us, “I need you, the reader, to imagine us, for we don’t really exist unless you do.”

Misak asserts that what she calls ‘genuine’ belief entails a process of democratic enquiry, in which the participants are committed to exposing themselves to “the tug of reasons and if we are to really justify our beliefs, we must hear the reasons of all.” I would add that the what is required is to learn to live with the cognitive dissonance which is likely to accompany ‘the tug of reasons’, and the dissonance of not being able to know, fully, what ‘genuine’ means in relation to belief. While Misak openly states that she, like Rorty, wants to make the anti-foundationalist move, she still feels compelled to add that she does not want “to scoff at the project of trying to show that this or that belief is objectively justified and is likely to be true.”

Misak and Rorty differ in the extent to which they are willing to renounce the classic terminology of truth and objectivity. This contrast helps to define the locus of my own enquiry, which is the apparently empty space which is left when the perceived certainty associated with objectivity and truth have been radically undercut. I believe, as I have stated repeatedly, that the starting point for doing pluralist ethics is precisely the epistemological dissonance which Misak refuses to embrace fully, and I return to Misak’s important challenge, when she asks how it is possible to assert that any value (such as democracy, liberalism, and unforced agreement) is best, while simultaneously acknowledging the cultural

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109 Misak, 2000, 125
110 Misak, 2000, 2
111 Misak puts forward a strong argument for the conversationalist ethics and endless deliberation which, as a pragmatist, she endorses in place of foundationalism in the metaphysical sense. She intersperses her rhetoric, however, with phrases such as ‘genuine belief’, which she defines as ‘beliefs which aim at truth’; as she offers a model of deliberation in which she imagines that the ideal participant to be committed to “wanting beliefs which will not be overturned by subsequent experience and reason.” Misak, 2000, 106,107.
specificity of all beliefs? When, in other words, can we claim what Rorty calls, 'the right to believe'?

The answer, as far as this dissertation is concerned, lies in the anti-foundational epistemological framework which has been put forward in the body of this chapter, promulgated through pragmatists of various stripes and their attempts to avoid the twin pitfalls of a metaphysical conception of normativity, and a relativism that would make ethical decision-making redundant. That is, we confer upon certain beliefs and values, a status in relation to our widest understanding of how such beliefs and values function, both in discourse and in social relations. When we claim the right or entitlement to further compliment the status of our value-system with the predicates, 'objective' or 'true', we are making statements which are best understood as being relative to a particular cultural context or epistemic genre. It is axiomatic to the practice of a-tonal ethics that the cultural specificity of our norms should be clearly articulated alongside the substantial content of our moral patterns. First, so as to avoid the type of ethno-centrism which imagines that values can be traced to an a-historical foundation; and second, because, in a pluralist environment, the public deliberation of moral patterns and political projects is a necessary pillar of social stability.

What is required, in my view, is what I have called, with levity, 'objectivity lite', by which I mean to signify an a-tonal ethics, which, acknowledging the discursive power of multiple sources of authority, works out of an epistemological framework continually modulated to hear the voices of others. In the remainder of chapter six, I will offer an

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112 This applies also to values which are associated with liberalism, democracy and human rights, as I have already indicated. Liberalism, even with its central tenets of freedom and equality, should not be thought of as a single line of moral and political thought but as a commitment to a mimimal set of principles, capable of being implemented and institutionalized through a diverse range of contextual routes. The concrete instances of the implementation of liberal ideas require to be constantly interrogated as to their moral status.
explication of modulated epistemology: a type of understanding which has the potential to move us towards the ‘right to believe’, and allows the space for others to do the same. I will then go on, in chapter seven, to analyze one of the ethical challenges of our age in the light of this framework.

6.8 Modulated epistemology

One of the results of living in a pluralist environment is the erosion of epistemological certainty. Throughout this dissertation, I have stressed that this need not lead to a relativist position, as I have also suggested that the experience of dissonance, in the complexity of late modern pluralism, is both dangerous (issuing in a range of fundamentalisms, and acts of political and religious extremism), and also, potentially, liberating (issuing in social policies, local projects, and legal visions which are designed to construct a public space in which difference can survive, or even flourish.) I have used the metaphor of a-tonality, to signify the loss of a single, tonal centre which can provide a point of resonance for all voices on the human spectrum. I have, further, used another musical metaphor, the idea of modulation, to suggest that, what is needed, to respond to the multiplying sources of authority in contemporary pluralism, is to tone down the voices which exude certainty. Paul Horwitz, writing about law, religion and the constitution, defines what he calls a “new agnosticism”. Horwitz celebrates this far from wishy-washy middle ground: a religious, political and ethical position (“an adamant position of its own”) from which the new agnostic, who may desist from the habit of drawing final conclusions, may, nevertheless, exhibit essential qualities of good judgment and citizenship. The new agnosticism, according to Horwitz,

114 Horwitz, 2011, xxi.
denotes the ability to occupy, as fully and empathetically as possible, the varied worldviews of our citizens, even at those moments when their worldviews come into the sharpest conflict with each other and with our own perspectives.\textsuperscript{115}

The type of ethical engagement which I have, for present purposes, called a-tonal, does not rest on a metaphysical epistemology, but on the acknowledgment that all values are constructed, and that they are, inevitably tied to the historical, cultural and religious context in which they are framed. Even moral judgments which do not claim transcendent authority, however, (whether religious, ideological, rational, or in the sense of an essentializing conception of human nature), need not eschew the belief that certain conceptions of the good can be practised in ways which might resonate beyond the local and the historical; and that they can claim to be normative. I believe that there are values and beliefs which have epistemological significance and moral weight, although I am perfectly aware that such values require to be constantly re-invested with substantial content and re-expressed in terms of changing planetary circumstances. The doctrine of human rights, for example, rests on the idea that there are social goods which ought to be recognized universally, but the vision does not depend, for its normative authority, on metaphysical grounds. The vision, the modifications and the implementation of human rights instruments arise from immanent fields of practice through reflection on the ‘clash’ of human experiences (the plural being vital here). Feminist political projects can be interpreted thus, when they work out of a type of anti-foundational normativity, taking, as their starting point, a strategic essentialism: a politically-inspired solidarity intent on finding points of commonality in full acknowledgment that what binds us today may loose us tomorrow. In a modulated epistemological approach, the values which are espoused are not imagined to be solely the content of revelation, but in a

\textsuperscript{115} Horwitz, 2011, xxii.
reasoning process which is grounded in material effects.\textsuperscript{116} That brings, in its wake, the awareness that our ‘knowing’ needs to be modulated.\textsuperscript{117} Our judging, deciding and evaluating, cut loose from traditional sources of authority, require to be tempered and retuned to the sound of other voices. Modulated epistemology signifies that understanding has moved into another register in response to modifying factors from the experience of living in a multicultural democratic environment. A modulated epistemology still allows us to grasp the nettle of ethical evaluation, while refraining from suggesting that the foundations on which we build our judgments are a-historical and a-cultural. In a paper to the Institute of International Integration Studies, Trinity College Dublin, Fabrizio Trifiro argues the distinction between \textit{universal grounds for} and \textit{universal scope of} normativity. He adds that, anti-foundationalism is particularly suited for a liberal democratic culture because by denying that any particular practice has an absolute privileged authority over all the others, and reminding us of the contingency of our convictions and practices and that every consensus reached is only a temporary resting point prone to turn into an oppressive status quo.\textsuperscript{118}

There are echoes, here, of the distinction between pluralism (when it refuses to go beyond the bounds of its internal differentiation) and pluralization (awareness of the contingency and, therefore, the incompleteness, of all epistemological stances). As Connolly puts it,

The most fragile and indispensable element in a pluralizing democracy is an ethos of critical responsiveness to new social movements [applying] new pressures to existing constellations of identity/difference by shaking the cultural ground in which they are rooted.\textsuperscript{119}

\textsuperscript{116} Note that I have not dismissed the possibility that, for many people, the content of revelation or of a deductive reasoning process will be consonant with, and strengthened by, their experience. This, as far as I am concerned, is fully consonant with the idea of modulated epistemology, since it implies that religious experience, scientific methodology, or any other route to understanding, remains reflectively open to experience and reflection.

\textsuperscript{117} In musical terms, to modulate is to pass from one key to another, so expressing something familiar in a new way.


\textsuperscript{119} Connolly, 2004, 180.
Crucially, Connolly goes on to suggest that, through such pressure for change, the effect upon hegemonic identities cannot simply be expressed in terms of 'overcoming prejudice' or 'promoting tolerance', since this very vocabulary takes its meaning from existing majority/minority power dynamics.

While it follows from this that there is no single way to pronounce, outside of specific cases, how the individual will, or should, engage with conflicting values, a modulated epistemological approach will most likely include some procedural aspects which have already been rehearsed in this dissertation. Note that, in practice, the elements of a pluralist ethic are thoroughly intertwined. For instance, the increasing openness to diversity in religion and morals which is associated with pluralist societies might be ascribed to the consciousness-raising work and brave new dialogue practice of certain groups and individuals. Political activists, however, would be condemned to silence or secrecy without a measure of democratic freedom. It is a question of working within the constantly shifting relationship between political structures and ethical agency.

As I have stressed throughout, pluralism begins with the acknowledgment that diversity is an ontological characteristic of human life, present in the increasingly multi-religious and multi-cultural nature of most contemporary states. Conflicts in beliefs, values and practices flow from this, not as temporary aberrations, but written in to the fabric of social interaction in free societies. As I have already shown, however, the mere fact of acknowledging plurality does not necessarily entail a commitment to pluralism, or a positive engagement with diversity. The acceptance of difference needs to become a political issue, through social policies for education, health, the 'management' of religion, and the arrangement of social space, since it is only within societal structures which allow for the expression of diverse ways of being that individuals and groups are able to risk articulating
new ways of describing the relationships among things. A-tonal ethics includes the discipline of learning to live with the dissonance of linguistic innovation, where discipline signifies moral progress brought about by adversity. Pluralism, on my understanding, is both a process and an intentional mid-point, which will involve, among other things, a multi-level process of public debate on matters of morals, the place of religion in public discourse, and a continual re-working of both the content of liberal values and the methods by which they might be put into practice. This, as I indicated in the introduction, is the distinction between pluralist and pluralizing. Connolly warns of the paradox that “the culture of pluralism also engenders obstacles to new drives to pluralization…” Counter-intuitive as this may seem, the point which Connolly is making here concerns the potential for the pluralist imagination to align itself with conservative forces which set limits to acceptable expressions of diversity, in a refusal to move beyond “the congealed results of past struggles as if they constituted the essential standard of reasonableness or justice itself.” Into this disjuncture, Connolly proposes the construction of “an ethos of critical responsiveness never entirely reducible to a code.” And, in a note which I interpret to resonate with the task facing the contemporary feminist ethical subject, Connolly writes that, “A pluralizing culture pluralizes sources of ethics as well as models of what is ethical: several parties to this ethical pluralism then engage each other across relations of agonistic respect and selective collaboration.” Judith Butler, acknowledging Connolly’s use of the notion of pluralization, makes the crucial point that pluralization is not equivalent to universalization, since “equality is not a principle that

120 By this phrase, I intend to signify: human relationships; hierarchical systems of power; and ecological sensibility, which is also a kind of relationship. In addition, I would add that a mark of pluralist societies is the freedom of each person to imagine and articulate her ultimate concerns, which entails an understanding of the relationship between human and God.
121 Connolly, 2004, xiv.
122 Connolly, 2004, xv.
123 Connolly, 2004, xvi.
homogenizes those to whom it applies." As Butler reminds us, a political commitment to equality is meaningless without an accompanying affirmation of diversity. Pluralizing structures are, as she puts it, "universalizing and differentiating...at once and without contradiction."  

If politics is a learned activity, then the art of being politically inclusive must become part of the educational agenda, a process of life-long learning. The citizen in a multicultural and fluid environment needs to become cognizant of the mechanics of the political process; learning the different effects of procedural and deliberative democracy; knowing enough about the power of ideologies to distinguish among them and practice some resistance to them; understanding the historical events as they have contributed to dominant cultural and religious modes of operation. All of these represent pedagogical steps towards effective political agency, as they also represent substantial elements in the practice of a-tonal ethics and conversational philosophy. In addition, contemporary patterns of morality in late modernity intersect at such a complex level that it is not helpful to proceed from theory to practice. Central to the idea of a-tonal ethics is a focus on moral patterns in their particularity: in their historical roots, their present political expressions, and the social impact which specific beliefs and practices have on those most closely affected by them.

I will conclude this section by explicating the idea of modulated epistemology with reference to the work of Braidotti, Rorty, Foucault and Brandom. In 1972, Foucault wrote that "...in analyzing discourses themselves, one sees the loosening of the embrace, apparently so tight, of words and things, and the emergence of a group of rules proper to discursive practice." Foucault invites us to acknowledge the danger of classification, through which

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126 Ibid, 85.
127 Foucault, 1972, 49. Rorty, also concerned with breaking ties between words and thing, writes of what he calls privileged representations. "...justification is not a matter of a special relation between
human discourse, by setting things side-by-side, reduces the difference between them, and creates categories which, although existing purely in the realm of imagination, take on the force of the ‘real’. First, then, I intend, by the concept of modulated epistemology, a way of knowing which rests on the assumption that there is no necessary connection between words and things. There is nothing in our understanding of the thing apprehended which can possibly stand outside of our relationship with the thing apprehended; nothing which would allow us to claim a correspondence between our way of predicating ‘reality’ and a realm beyond the limitations of social interaction. Human beings are epistemological taxonomists, socialized to encounter all things through imaginative categories. Categories of the imagination, however, will always be circumscribed by the contextual parameters of a particular history and culture. A modulated epistemology, therefore, having sundered the necessary connection between words and things, will also work on the assumption that human vocabulary is an attempt to signify the constant displacement of things. That is a definition of modulation.

Second, when it is acknowledged that human communication attempts to communicate the constant displacement of things, there are implications for the way that the knowing subject is understood. As Rosi Braidotti puts it,

Processes, flows, in-between status have to be taken into serious account, that is, into conceptual representation. Continuities and discontinuities alike need to be accepted in the order of our thought. To live up to these complexities, we need conceptual creativity and a healthy, non-nostalgic detachment from traditional beliefs about what counts as the ‘knowing subject’.

The knowing subject, in other words, should be wrested away from Cartesian notions of ideas (or words) and objects, but of conversation, of social practice...[[The crucial premise of this argument is that we understand knowledge when we understand the social justification of belief, and thus have no need to view it as accuracy or representation.” Rorty, 2009, 170. Once again, given the emphasis on the social, dialogical aspect of the justification of belief, epistemology is disassociated from notions of certainty and truth, to function in the modulated sense of a conscious choice to choose some reasons over others, and living with the tension of so doing.]]
disinterested observation from a fixed point, and re-imagined in terms of a web of power-
relations, acknowledging instability in the experience of self. I would put it this way: post-
Cartesian knowledge of the ‘other’ is premised on contiguity, where the primary significance
of contiguous is to be touched by something or someone; to be changed by the imprint of the
other person or thing. That is another definition of modulation.

The loosening of the embrace of words and things; and the detachment from the
traditional notion of the knowing subject: these can be interpreted to signify a move away
from the idea of truth as a metaphysical end-point, and a disruption of the view that parochial
patterns of morality necessarily bear universal ethical significance. Recent shifts in human
sensibility are manifest in the culture of human rights, the ideology of multiculturalism, and
feminist critique. Inextricably linked, each of these ethical trajectories constructs a mode of
‘seeing’ which calls into question the mystique of single-sourced authority, including
over-arching narratives of the meaning of human life and human nature. One of the results is
that the contemporary feminist ethical subject, responding to the multiplicity of foundational
roots/routes to knowledge, becomes aware of her responsibility to deconstruct and reconstruct
patterns of morality, through interaction with others. This is close-up ethical work, in
which the form of practice will vary from situation to situation. Crucially, the point is not to
arrive at a new overarching theory, but to situate whatever knowledge and understanding is
generated by the process (of dialogue, listening, of consciousness-raising) within existing

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128 My use of the visual metaphor here is intended to emphasize the difference between: a Cartesian
notion of understanding as detached observer; and the idea, promulgated in this dissertation, of the
knowing subject as being aware of having to choose among a diverse range of vantage-points.
129 As Robert Brandom concludes, “Discursive practice is understood in terms of reasoning and
representing, but above all in terms of expressing – the activity of making it explicit…this expressive
account of language, mind, and logic is an account of who we are.” Brandom points out that the
theoretical attempt to track the normative dimension of human discourse always leads us back to the
commitments which can be inferred from our practices, and from the conversational exchange of
reasons which accompany practice.
theories, in order to re-contextualize old answers and generate new questions. This is a definition of a-tonal ethics.
when we seek to comprehend the desires of others,
our relation to them is governed by the norms of equity and complementary reciprocity:
each is entitled to expect and to assume from the other
forms of behaviour through which the other is recognized and confirmed
as a concrete, individual being
with specific needs, talents and abilities.

The concreteness of the other cannot be known in the absence of the voice of the other.

Selya Benhabib

7.1 Introductory remarks

The dissertation turns around the nexus: culture, identity and difference, where the strangeness of the other is perceived to reside in idiosyncratic assertions of belief, quaint expressions of the meaning of life, the enactment of sacred rituals which are not meaningful beyond a particular community, or patterns of morality which conflict, often involving majority/minority groups. I focus on the feminist ethical subject; and, in particular, on ways in which women’s agency is both exercised, and evaluated, in the pluralist milieu. This is a crucial time to engage with the issues raised here, since, in late modernity, the level of human movement around the globe, and migration in particular has wrought the unsettling of old allegiances, thereby necessitating new approaches to the ethics of alterity.

In the opening chapters, I drew attention to some of the social and political instruments which have been established to enable the accommodation of diversity in multicultural states, arguing that the doctrine of human rights, together with the multicultural
ideal, especially as their discourses influence one another, contribute to the moral formation of the contemporary ethical agent, and to the increasing acceptance that values and practices, even those which conflict, should be matters for public debate. Throughout the dissertation, I have worked out of a feminist hermeneutic, and sought to highlight the ways in which, through feminist politics, women have called into question many of the cultural beliefs and practices which constrain the ways in which both men and women are able to situate themselves imaginatively in their cultures.

In chapter six, I outlined a philosophical framework which eschews ideas of a final or transcendent truth without embracing a full-blown relativism. I proposed the view that it is through language and social practice that we continually deconstruct, and reconstruct the characteristics of our world, putting in place material and other conditions which contribute both to the flourishing and the perishing of human beings. I have stressed that, given the level of diversity in late modern societies, when we choose to justify our values, practices and beliefs through conversation and dialogue, the reasons we offer are likely both to resonate and to conflict, as they interact in a plurality of contexts. Outside of totalitarian coercion, or colonial expansion, the ethical challenge is to continue the conversation, deepen the dialogue, and become more and more reflexive with regards to the bias in our own questions and assumptions.

I have distinguished between: objectivity, in the sense of justificatory reasoning which offers immanent sources of authoritative criteria (we might think of this as contextual truth); and, by contrast, principles of judgment which claim to be based on transcendent verification (Truth with a capital T, which, laying claims to universality, may be in religious or political language). In a pluralist environment, it is a challenging task to establish coherent and persuasive patterns of morality which resonate beyond the culturally specific tenor of our inherited modes of thought; and this is likely to entail the acceptance of interim points of
moral consensus, analogous to the work of the poem which, according to Seamus Heaney, "offers a fleeting glimpse of a potential order of things ‘beyond confusion’, a glimpse that has to be its own reward." In terms of the perceived loss of epistemological foundations, Cheryl Misak puts it thus:

It is almost a philosophical commonplace these days to reject the idea that we might find a foundation for our principles of right belief and of right action in some infallible source – from God, from some special faculty of intuition, or from what is given to us with certainty by experience. But once this anti-foundationalist move is made, it might seem that the source for, and the status of, our judgments, theories, and principles is altogether human and therefore arbitrary.

The notion of truth has fallen from grace...even amongst those not especially inclined towards such anti-objectivist positions, one often senses an anxiety about talking of truth and morals in the same breath. For it can appear that truth-talk encourages zeal, proselytising, and other dangerous attitudes.

As I have indicated in previous chapters, religion is commonly used to justify moral positions and cultural practices which, on cross-cultural evidence, can argued to be physically, psychologically, or emotionally harmful. It is important to retain a sense of the importance of the continuing, effective and affective centrality of religion in the formation of human identity, particularly in the current global resurgence of religious rhetoric in the public sphere. The important contrast, as I see it, is between religion as a conversation-stopper (as Rorty put it, but later revised it); and religion as a significant and operative element among other cultural elements in the formation the moral imagination. With regards to the former, I

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1 Seamus Heaney, *The Redress of Poetry: Oxford Lectures* (London & Boston: Faber & Faber, 1995), xv. It is interesting to note that Heaney is alluding to Robert Frost’s definition of the poem as a momentary stay against confusion, in which Frost goes on to say that the poem does not offer the type of great clarification which sects and cults are founded on. I will go on to contrast a metaphysical epistemology with the temporary stay against complexity which a modulated epistemology might offer.

2 It is interesting that so many ethicists and theologians describe contemporary epistemology as the loss of foundations, when the real challenge, to my mind, is to accept that our ethical decisions must be made in awareness of the plurality of foundations which currently engage the imagination of the individual, in relation to the various groups to which she feels attached. As I see it, this can only be perceived as loss if the idea of foundations is tied to the singular, to unity and universal application.

3 Cheryl Misak, 2000, 2

4 Misak, 2000, 1
refer to religious rhetoric which, by positing a transcendental authority as final, intends to trump all other arguments brought to the conversation. What I have in mind, as regards the latter position, is a range of historical events, cultural accretions, aesthetic expressions of religious narratives, and cultic practices around which communities have developed. The latter aspects of religiosity are irreducible to other cultural phenomena; as such, they are potentially rich sources of moral insight. On the one hand, the public realm would be very much the poorer without the classic and enduring poetic narratives which have formed the basis of major world religions, and contributed to the content and the style of art, music and literature. On the other hand, religious arguments have, historically, been employed to rationalize a range of harms, from the curtailment of women’s moral autonomy, through the censorship of freedom of speech, to the violence of terrorism and war.

In previous chapters, I discussed political and philosophical theories which contribute to the formation of contemporary feminist subjectivity, and to the potential, for individuals and members of both minority and majority groups, to become more reflexive with regards to parochial patterns of morality. In this chapter, my aim is to analyze the Islamic practice of women veiling through the framework of a-tonal ethics.

The dissemination of media images has ensured that ‘the veiled woman’ has entered the popular imagination, becoming an iconic focus for debate and discussion about religion, social policy, the balance of minority/majority culture, human rights, feminism, and the future of traditional morality. In the process, the woman who veils has become a synecdoche for Islam, thereby reducing the complexity of her relationship with her religion, her culture and her social positioning, especially if she belongs to a minority group in a multicultural society. The phenomenon of veiling, as the object of hermeneutics, is a multiplicity, since

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5 For comparative studies of the way that particular images function in so-called western contexts, see the work of Kenny, 2009 where the focus is on a comparison of western beauty practices and the
the veiled body cannot be analysed in any depth if it is posited as a unitary construction, or traceable to a single elemental root. The range of issues which accrues around the practice of veiling has tended to disrupt reductive notions of feminism, ushering in a range of new questions concerning women’s freedom to inhabit the public space. For all of these reasons, the veiled woman presents a double-edged challenge: she is an existential challenge as she embodies otherness in a most visible way; and she is a challenge to the social imaginary, the symbolic world through which notions of self and other are constructed. Finally, a growing body of high-profile legal cases involving the right to wear the headscarf currently contributes to the re-formation of the contemporary ethical/legal subject, whose habits of thought and moral imagination are increasingly being influenced by the culture of human rights and a growing cosmopolitan imagination. As a complex and multivalent form of practice, therefore, veiling presents a compelling study, involving the formation of the contemporary feminist subject; creative expressions of agency in the context of traditional norms; and the evaluation of minority beliefs and practices in multicultural societies. A study, in other words, for a-tonal ethics.

7.2 The veil as a complex signal of agency

The Islamic practice of veiling is most associated with the seclusion of bodies or specific parts of bodies. Although often referred to as ‘the headscarf issue’, it involves a range of different garments, which include: the hijab (a headscarf); the jilbab (a long garment which covers the entire body except for the hands and face); the niqab (a garment which covers the face); the burqa (which can be worn in addition to the niqab and the hijab); and the shalwar


6 There is no direct English translation for this word. In the Qur’an, hijab refers to a curtain which provides privacy.
kameez (a loose, pyjama-like trouser with tunic top). Veiling is interpreted differently, depending upon the religious, political and cultural contexts in which it is encountered, and also upon prevailing social policies. In addition, it can be argued that there is a correspondence between the way that veiling is evaluated at popular level in multicultural societies and the extent to which the culture of human rights has impressed itself positively on members of both minority and majority groups.

In recent times, the veiled woman has come to be interpreted in a number of ways, which include: the manifestation of religious belief; a visible reminder of the more extreme forms of Muslim religiosity and culture; and a threat to the imagined homogeneity of European states, often linked to the Judeo-Christian idea of Europe. Many feminists have regarded the veil as a sign that Muslim women are oppressed under the patriarchal weight of Islam and the sexism of which operates in their social field. Recently, the veiling of women

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7 There are also regional variations on the use of the terms as, for example, in Afghanistan, where women refer to the outer robe as a chadari. Such signs of differentiation tend to be overlooked in news reporting; a fact which further reduces the humanity of the Muslim woman.

8 The manifestation of religious belief has become an important aspect of the freedom of religion which is guaranteed under Article 9 of the European Convention on Human Rights. In Article 9, manifesting a belief is differentiated from holding a belief, in terms of the freedom of self-expression.

9 This link has made with more force since the terrorist acts of September 2011, with American Muslims reporting increased discrimination on account of their traditional dress, and a sharp rise in hate crimes directed, particularly, at Muslims and Sikhs, on account of the head-wear. For a detailed, ten-year study of Islamophobia and Muslim hate-crime, see Robert Lambert and Jonathan Githens-Mazer, Islamophobia and Anti-Muslim Hate Crime, UK Case Studies: An Introduction to a Ten-year Europe-Wide Research Project, 2nd edition, (London: European Muslim Research Centre, University of Exeter, 2011).

10 In Europe, the discourse of otherness has been closely tied to a Europe of the imagination, central to which is the belief in a supposedly unifying culture inherited through religious, moral and aesthetic figures from the Christian religion. Despite secularization, and in the face of the increasing plurality of European states, the residue of Christianity influences popular values and opinions, seen very clearly in debates about further expansion of the European Union. As Grace Davies points out, this is borne out by both quantitative (European Values Study) and qualitative research (including her own). Grace Davie, Religion in Modern Europe: A Memory Mutates (Oxford: Oxford University Press, 2000), 1.

11 It is important to note that a negative feminist reaction to the veil cannot simply be dismissed as a western reaction, since some of the strongest and most durable critiques come from Muslim women. Fatema Mernissi has recently re-iterated her argument that the problem can be traced to the Muslim male elite class, who have the power to enforce oppressive gender relations which they defend by conservative religious discourse. Mernissi, 2011

196
has been linked to the question of justice, as academics and members of the legal profession have debated the right of women to cover their bodies in court.\textsuperscript{12}

What should also be emphasized is that the women who choose to wear the veil do so with a number of diverse intentions in mind: as expressions of religious and political agency. Historically, these have included: colonial resistance in Algeria and Egypt; \textsuperscript{13} as a sign of social standing and the carrier of urbane values; \textsuperscript{14} as embodied protest in opposition to the Shah's pro-Western policies in Iran; \textsuperscript{15} and, in multicultural Europe, to symbolize the rejection of western values.\textsuperscript{16} Clearly, veiling is open to a wide range of interpretations, both for the observer and the wearer. To read it as a sign of gender oppression, alone, is reductive, as it is equally mistaken when western minds regard the veil as the archetypal symbol of a monolithic Islam.\textsuperscript{17} The complexity of veiling, therefore, both regarding intention and perception, raises the question of women's agency.

According to Caroline Pedwell, Muslim intellectuals first publicly debated the veil as a political issue in the context of the westernization which was taking place under British colonial rule during the late 19\textsuperscript{th} century. In pursuit of the social and cultural advancement of

\textsuperscript{12} "The key question for lawyers concerns the extent to which open justice can accommodate agents who cover their faces, whether witnesses, litigants, lawyers, court staff or even judges...common law is founded upon orality...face covering [alters] the way they interact with others", Barbara Hewson, "Let us See Your Faces," \textit{Counsel}, (June 2007): 12.

\textsuperscript{13} Leila Ahmed points out that, "In Egypt under British rule or in Algeria under French domination, foreign political elites used the veil as a symbol of women's oppression to justify colonial enterprise. Veiling, under such circumstances, turned into an act of resistance against the modernizing elite co-opted by the colonial establishment". Leila Ahmed, \textit{Women and Gender in Islam} (Newhaven, London: Yale University Press, 1992), 152.

\textsuperscript{14} Mernissi writes reports that, in rural Morocco, many rural women associate the seclusion of women with the privilege enjoyed by women who are married to rich men. Mernissi, 1992.

\textsuperscript{15} The veil was banned in Iran in 1936, in moves which were widely perceived to be 'modernizing' or 'westernizing'. Following the Islamic Revolution of 1979, many women returned to veiling, in a mixture of choice and social/religious pressure to support Ayatollah Khomeini.

\textsuperscript{16} The veil cannot be seen to represent an outright rejection of western values, since many women currently wear the veil while simultaneously, cutting and decorating their bodies in what I have called a 'fusion of technologies'. Kenny, 2009.

Egypt in particular, the subjugation of Muslim women was understood to be an obstacle to reform. Pedwell quotes Qasim Amin (who was widely regarded in his time as the 'father' of Egyptian feminism): “the veil as we know it is a great hindrance to women’s progress and indeed to a country’s progress.”

7.3 Veiled statements

During the last quarter of the 20th century, studies of Islamic veiling began to focus on the prevalence of a seemingly voluntary form of the practice which started in the Middle East and was then taken up in diverse national contexts, including many states in which Muslims are in the minority. New veiling offers an interesting focus for the application of theories which I have already touched on, since it opens up contemporary questions around agency, autonomy and choice in relation to religious and cultural fields of operation.

What is of particular interest, for my purpose, is that new veiling has been analyzed using what is called ‘the social predicament’ model, where predicament is defined as the result of “…painful social situations or circumstances, complex, unstable, morally charged and varying in their import in time and place.” The social predicament model, in other words, has affinities with the idea of cognitive dissonance. In the following section, I will discuss a number of feminist analyses of veiling, drawn from different political settings, in order to strengthen the argument that veiling is a multivalent practice, open to a wide range of interpretations. What will become clear is that women’s response to social instability and

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change, through the veil, is creative and ambiguous, such that the practice can be said to disrupt simplistic evaluations of women’s agency.

7.4 Clever ambiguity

From 1983 through 1988, Arlene Elowe MacLeod, a political scientist, researched the lives of lower middle-class women in Cairo. Her focus was Egyptian women who were choosing to call themselves the *muhaggabat*: the covered women. For this particular group, the choice of wearing the veil appeared to be paradoxical. As MacLeod explains, most of them were the grand-daughters of poor, uneducated village people. They were able to avail of the benefits of political reform under Abdel Nasser in the 1960’s, which included free education for both women and men. One of the effects of these reforms was increased social mobility and the opportunity to work in government offices. The significance of this was that women could take up paid employment which was respected enough not to degrade family status (which often implied the husband’s status). Judged by the recent history of western social trajectories, the women in question should have moved smoothly along a path characterized by increasing autonomy and the embrace of the secular ideals of material and intellectual self-expression. As MacLeod put it, “why would women who are already on the path to modernized life choose to resurrect a symbol which seems to portray and encourage their subordination?”

The paradox is further highlighted by the reminder that Egyptian women have been sensitized to feminist issues since the 19th century. At the time of MacLeod’s research, she was able to report that Egypt had put in place legislation which provides for the right of

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21 MacLeod, 1991, 4.
22 The name of Qasim Amin has already been mentioned in this chapter, and MacLeod draws attention to the founder of the Egyptian Feminist Union, Huda Shaarawi.
women to work to have equal pay, and to be hired on an equal basis with men to government jobs. Child-care centres had been established in large work-places, along with a curtailment on the amount of night work which working mothers should be expected to do. In addition, since 1985, the Personal Status Laws had been put in place to protect women’s rights in cases of marriage and divorce.\textsuperscript{23} The changes, however, despite bringing pronounced enhancements in material conditions and educational possibilities, had come about with a speed which was bewildering, especially for those who perceived the modernizing process to be a threat to traditional customs, images and practices.\textsuperscript{24} In her research, MacLeod came to a number of conclusions regarding the significance of veiling in the particular context of rapid social change in Egypt. I will focus on the points she makes which I deem to be relevant here.

MacLeod’s work is a reminder that the category of gender is always criss-crossed by other social markers, such as class, age, economics and level of education. The following examples illustrate this point. First, MacLeod noted that the women who had recently migrated from village to city life perceived themselves to be backward compared to their urban counterparts; where ‘backward’ beliefs included the views that women should not work, or should wear a complete version of the \textit{hijab},\textsuperscript{25} and that they should be accompanied by a male when they walk in the city. She notes that some of the Egyptian women who were recent migrants understood themselves as \textit{fellahin} (peasants), a term which distinguished them socially and educationally from other women who had made the shift from a rural background into the lower middle class. MacLeod points out that “This phenomenological

\textsuperscript{23} With regards to the Personal Status Laws in Egypt, the 1979 code, which had been opposed for many years, was brought in by presidential decree during a Parliamentary recess. It suffered from being associated with Sadat’s unpopular wife, Jihan. Theologically, it was opposed by fundamentalists and debated as to its fidelity to the \textit{shari’a}. It was repealed in 1985, then revised and re-instated later that year, in large measure due to pressure from women’s groups.

\textsuperscript{24} MacLeod points out that this is not confined to Egypt; and she cites the persistence of the practice of sati in parts of India, and the revival of shrines in rural China.

\textsuperscript{25} MacLeod used the transliteration ‘\textit{higab}’ throughout her work, to remain faithful to the local use of the hard ‘g’. Unless it is a direct quote, I will use ‘\textit{hijab}’ for consistency.
perspective contributes strongly to their class identification and therefore to decisions they make regarding where to live, the household goods to buy, the clothes to wear, or the level of education to give to their children."26 This is reminiscent of McNay’s insistence that women’s agency should be analyzed through a Bourdieusian “socio-centric understanding of embodied existence...in a more general understanding of our embodied selves as citizens, workers, mothers, consumers, etc.” 27

Second, MacLeod’s observations of veiled women in Cairo led her to consider the theological context (or, more accurately, the faith context) in which their beliefs and values took shape. Unsurprisingly, she notes, in connection with the version of Islam that shaped the women’s lives, “local variations of interpretation combines with customs to alter ideals into a diverse set of religious practices and beliefs.”28 As an example, the women in MacLeod’s study group tended not to read the Qur’an for themselves, but to accept the interpretations which were disseminated through the local mosque. One of the implications of this was that the group’s beliefs, values and practices were largely shaped by predominant theological and cultural discourses. As MacLeod points out, these could emanate from a variety of sources: from the state, the Egyptian religious hierarchy, members of the Muslim brotherhood, or even the neighbour down the street; all of these sources most likely to be articulated in a male register. As such, what passed for received wisdom, or theological orthodoxy, or correct interpretation of the Qur’an varied from region to region, leaving the women uneducated about developments in doctrinal developments, and unaware of the practices in other Muslim countries.

26 MacLeod, 1991, 36, 37.
28 MacLeod, 1991, 38.
Following her analysis of the research among Egyptian women, and noting, particularly, the effect of the constraint of social positioning, MacLeod interprets their choice to wear the veil as:

a compelling and powerful form of symbolic action...[simultaneously expressing] women's feelings of confusion and conflict...[their] loss of identity...[bridging the gap] between traditional and modern values and behaviour...[and creating]...in symbolic fashion a new way to be a women in a changing Cairo. 29

She perceives in the women's activism, a "clever ambiguity...which allows women to express protest and acquiescence in one symbolic message" 30 Ultimately, however, this may represent a dangerous tactic, limited, as MacLeod puts it, by its own ambivalence and reliant upon "the accompanying creation of an alternative discourse of gender (and class) that could reinforce resistance rather than undermine it." 31

MacLeod's research focused on the voluntary act of veiling among lower middle-class women in Egypt, at a particular period of social history which was characterized by rapid social mobility and a new range of opportunities for women. The significance of her research, however, goes beyond its historical and parochial setting, since the questions which she raises, and the explanatory paradigms which she offers, touch on issues which remain central in the understanding of the feminist ethical subject in late modernity, with a particular focus on the question of agency in relation to inherited religious/cultural structural constraints. MacLeod's contextualized work resists the application of abstract conceptualizations of autonomy, allowing the women at the centre of her study to express their own understandings of their actions and their beliefs in relation to particular aspects of their tradition and their religion. In such a way, MacLeod opens up a dialogical space in which it becomes possible to conceptualize agency in relation to multiple affiliations; and

29 MacLeod, 1991, 97.
30 MacLeod, 1991, 158.
31 MacLeod, 1991, 159.
women's sense of autonomy as being linked to a conscious negotiation of multiple and competing goods. This moves the evaluation of women's agency beyond the reductionist oppositional terms of either 'having' power or being coerced. In other words, while it is never possible to be fully free from the constraints of social structures, nor should our beliefs, values and actions be evaluated as mere discursive effects. The following examples of female veiled embodiment allows a conceptualization of agency, not as a simple equivalent to resistance, but rather as diverse expressions of autonomy which are particularly attuned to the power dynamics operative within a given social field.

7.5 Ambivalent resistance

Mervat Nasser, commenting on MacLeod's work with Egyptian women, writes of the systems of messages which women convey through their body. In an attempt to decode these messages, Nasser employs a set of binary opposites through which to read the signs of ambivalence which the women appear to have towards the conflicting pressures in their social milieu. She notes the conjunction between rebellion and conformity. Like MacLeod, Nasser questions the apparent signs of re-traditionalization and religious conservatism in certain groups of Muslim women; and, like MacLeod, she notes the important fact that the phenomenon of women returning to the veil (or choosing the practice as young adults) has acquired global perspective. Arguably, the choice to veil is even more paradoxical when it is rationalized as an example of women's agency in states characterized by democratic freedom, multiculturalist policies and the implementation of human rights legislation.

Nasser analyzes the phenomenon of veiling applying a Foucauldian hermeneutic, focusing on the way that women have often reacted to the material conditions of their lives by generating subversive power through what Foucault called "...infinitesimal mechanisms
which each have their own history, their own trajectory, their own tactics..." She argues that women, experiencing distress in the face of the break-down of traditional boundaries between public and private realms, assume a variety of modes through which to control their bodies (as sites of dissent which straddle both private and public spheres). Like MacLeod, Nasser observes that women, faced with large-scale social change, prefer to respond through individualized tactics of resistance, rather than overly confrontational ones. In general, Nasser’s response to MacLeod is to concur with the latter’s analysis that veiling is a complex social response to religious and cultural values when these are experienced in times of social upheaval. She notes the centrality of contradiction and conflict in the sense of identity among women who appear to desire to hold the tension between inherited values and new patterns of morality. Nasser expresses the confusion as, “inner conflict...distress, symbolic struggle that looks like resignation, rebellion that takes the form of conformity and resistance that is dressed in complicity.”

Nasser also highlights the constructedness of the ‘feminine’. Recalling the Lacanian metaphor of masquerading (to signify the evolution of femaleness into femininity), Nasser notes that “the struggle to become a woman in a psychological sense, requires either hiding or camouflaging, aimed at covering the anatomical femaleness...” Nasser’s allusion to the feminine is a useful reminder that a feminist interpretation of veiling will be concerned to weigh up its contextual practice within prevailing, dominant models of femininity, since that

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32 Foucault, 1980, 99. The work of Foucault, whose critique was not intended to be feminist, is more important, in the context of this dissertation, to understand subaltern resistance in general. With regards to this particular citation, notice that Foucault went on to stress that the micro-levels of relational power which he describes as infinitesimal mechanisms often go on to be “invested, colonized, utilized, involuted, transformed, displaced, extended, etc., by even more general mechanisms and by forms of global domination”.

33 As I go on to show, at a later stage in this chapter, this has become a point of contestation in terms of freedom to manifest religion, under Article 9, ECHR.


is likely to provide an indicator of the mode of resistance/compliance which is being aimed at.

For the purpose of my argument, the most important aspect of Nasser’s comparative methodology can be inferred from her criticism of those studies of the anorexic syndrome which, “have failed to see that the changing meaning of the anorexic presentation, whether religious, political or medical is purely determined by the changing nature of the socio-cultural perceptions.” By analogy, the suggestion is that, in order to understand voluntary veiling (which, according to Nasser, is an equivalent), the practice of veiling should be analyzed against the micro-details of the socio-cultural substrata in which it occurs. Nasser opens the way to understand the new veiling as a form of social activism which will take particular form and intention in response to multiple, inter-locking layers of legal, religious and cultural prevailing narratives.

7.6 Narrating female virtue

I turn to a study of Islamic veiling in Canada, undertaken by Yildiz Atasoy, whose research was also concerned with the question of whether the veil is a symbol of women's subordination or a means of emancipation from an oppressive tradition. Given the social construction model which informs this dissertation, Atasoy provides a useful perspective, since she is concerned with the way that women actually appropriate the symbolic meaning

36 Nasser, 1999, 407. Nasser tends to use adverbs such as ‘purely’ and ‘clearly’ which carry dangerous overtones of reductionism. 37 The point is not whether I agree with Nasser in her analysis of these phenomena as equivalents. (I don’t, since I consider this to conflate a medical model with a social model). What is important here is the logic through which she insists that the meaning of subaltern practices should be decoded within the particularities of the context in which they occur. 38 Yildiz Atasoy, “Governing Women’s Morality: A study of Islamic veiling in Canada” in European Journal of Cultural Studies (London, Thousand Oaks and New Delhi: Sage Publications, 2006), 203-221.
of their bodies and their attire. Atasoy explains her methodology, which was to examine published written materials collected from the Islamic Society of North America (ISNA) and Muslim Students Association (MSA) in order to demonstrate that these organizations configure normative standards of women’s virtue within which voluntary veiling might be explained. Atasoy went on to interview eighteen veiled women in order to establish the extent to which ISNA and MSA norms, in relation to ‘the virtuous woman’ influenced the women’s decision to veil. The information was gathered through personal interviews, in which women were asked to speak about the influence of the MSA and ISNA in relation to: politics; the parameters of women social freedom; male/female relationships in the context of a multicultural state; sexual morality, the association of the virtuous woman with domesticity; and the veil in relation to all of these things.

Atasoy contextualizes her analysis with reference to the work of feminist and post-colonial writers, to clarify her own perspective. In common with MacLeod, Memissi, Ahmed, et al, Atasoy eschews the idea that the veil is a unitary, a-historical signifier, or that it is necessarily inimical to women’s freedom. Atasoy expresses concern that some recent post-colonial studies of veiled women, by over-generalizing the political concerns of Muslim women,

risk reproducing the cultural essentialism attributed to Islam...[thereby reducing] Muslim women to a uniform category who autonomously articulate a liberation discourse for themselves from within anti-colonial independence movements by uncritically adopting Muslim cultural practices.

With regards to the agency/structure binary and related question of autonomy, Atasoy (like MacLeod) draws attention to the complex process through which women, while appearing to embrace aspects of their culture, demonstrate, by what they do (or refuse to do) a political

39 The material from MSA and ISNA included periodicals, newsletters published by and distributed by these organizations. In addition, the journals *Islamic Horizons* and *Muslim Voice* (1994-2000) were consulted.
consciousness not aimed at maintaining the religious or cultural status quo. This is both a reminder of the fluidity/multiplicity of identity and the danger of reading any group as if its self-understanding or its praxis reflects internal unity, or equidistance from a single, idealized cultural narrative.

Atasoy, begins by establishing the stance taken by the ISNA and MSA, in relation to the contemporary meanings which are being attributed to the veil in the Canadian context. She lists the socio/cultural concerns of both organizations as: the articulation of the distinctiveness of Muslim identity over against the majority culture; the social and political empowerment of Muslims who live in predominantly non-Muslim societies; the promotion of the idea that Muslim communities are unified entities, with shared values and a shared social and political vision; and the appeal to all members of Muslim communities to exhibit, publicly, their commitment to a 'true' faith. Atasoy points out that, although the Islamic belief in the ultimate sovereignty of God is conducive to the equality of women and men, the ISNA works from a model of family within which relations are gendered and that "a man's sphere of activity is in the public realm of paid work, providing for women and children." With regards to the ideals of femininity, Atasoy's reports that both the MSA and ISNA are critical of the feminist ideal of gender equality, since this is perceived to have a detrimental effect on the Islamic principle of female modesty. The interviewees also reported that the

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40 Atasoy's observations can equally be applied to other 'minority' cultures, as post-colonial studies have shown. As Gayatri Spivak puts it, "There are many subject positions which one must inhabit; one is not just one thing. That is when political consciousness come in." Spivak goes on to suggest that it is important to develop a certain degree of rage "against the history has written such an abject script that you are silenced." Gayatri Chakravorty Spivak, The Post-Colonial Critic: Interviews, Strategies, Dialogues (New York and London: Routledge, 1990), 62,63.
41 Atasoy, 2006, 208.
42 According to Atasoy, female students are marginalized by the MSA and ISNA, which are operated by men, where "...women are excluded from the decision-making and planning process...restricted to fund-raising through food, T-shirt and poster sales and organizing seminars, conferences, fairs and social activities on university campuses." Atasoy, 2006, 209.
MSA actively encouraged the veil as a means of making student life more congruent with religious observance.

According to Atasoy, it is against this general pattern of gender norms that Muslim women in Canada position themselves, which she bears in mind as she goes on to analyze, more particularly, the personal reflections on veiling, as reported by eighteen women who include university students and highly-educated professionals from diverse ethnic backgrounds. Her aim is to establish the extent to which the discursive power of the ISNA and MSA inform the women's morality, especially as that relates to the reasons which they give in support of their choice to veil.

A number of Atasoy’s findings concur with the views already cited in relation to voluntary veiling. First, the participants shared the sense that the veil was a mechanism which afforded them control; central to the idea of discipline for these women was the idea that the female body, as a site of sexual danger, requires to be controlled for the sake of self-esteem and identity as members of a cultural minority. Second, the women’s stories indicated their existential struggle, as they were caught between inherited ideals of modesty and domesticity and the exhibition of sexual freedom and women’s liberation evident in the wider society. Third, Atasoy stresses the diversity of personal meanings which wearers attribute to the veil; and the fact that these meanings are only comprehensible within the micro-dynamics of personal history, family and traditional patterns of morality, and the narratives of acceptance/rejection which are often played out over human sexuality. Fourth, the layered and context-specific narratives of the women who choose to veil, run counter to any simple feminist reading of the subjugated woman. As Atasoy put it,
Within this context, women’s narratives diffuse the rigid boundary between empowerment and subordination which is assumed in much of feminist theory about the role of Muslim women’s embodied attachment to Islamic veiling practices.  

Finally, Atasoy’s evidence also runs counter to a unitary, a-historical meaning, inherent in the Islamic veil. As Atasoy puts it, the veil should not be seen as “a frozen embodiment of a particular culture or its subversion...” (italics mine) She adds that, “[The choice to veil] is anchored in the complex intersection of a claim for cultural adherence to an Islamic moral code of modesty and the quest for self-assertion.” Atasoy’s point, that the women did not perceive the veil to be a frozen embodiment of Islamic culture is made even clearer as she contextualizes it within the social/political vision of the MSA/ISNA. The veil, for the women in question, is not a timeless symbol of a monolithic Islam, but, “becomes anchored in the ISNA-MSA regulation of religious sensibilities around the issue of Muslim separation and consolidation.”

7.7 Female visibility in Afghanistan

In a piece of research conducted in Afghanistan during the years, 2003 to 2007, Julie Billaud, a social anthropologist, focused on what she called “the modalities of women’s re-entry to the public sphere...in the re-ordering of gendered dynamics in the new Islamic Republic.” At the outset of her report, Billaud points out that the Western press persisted in using the term burqa for the all-enveloping Islamic robe which the Afghan women actually refer to as chadari. I consider this to be a significant reminder of the importance, in the evaluation of
religious and cultural diversity, of attending carefully to the way that others choose to
describe themselves, their practices and their beliefs. It is often through small distinctions in
language that self and group identity is established.

First, Billaud notes that, following the overthrow of the Taliban regime in
Afghanistan, the chadari came to signify, for western audiences, Afghan women’s continued
oppression. According to Billaud, the fact that the women of Kabul continued to veil,
“challenged the scenario that had been designed prior to military intervention [in which]
women, once liberated, would naturally throw away their ‘mobile prisons’ and enjoy their
newly acquired freedom...”48 Through a combination of ethnography, field work, interviews,
and observations made in the company of feminist activists, Billaud’s aim was to go beyond a
reductive interpretation of the Muslim veil. As she put it, “As it would be erroneous to reduce
the veil to its instrumental functions, it is also inappropriate to see in it a pure religious
expression.”49

What I wish to bring out from Billaud’s work is her creative use of the
Foucaudian/Benthamite focus on visibility as a means of control, and for the way that she
inverts and plays with that idea to interpret the Afghan women’s ambivalent use of the veil. It
is worth considering the following points. First, Billaud notes that, “In the West, visibility
and power have been defined as synonymous terms rather than as historically related
positions.”50 Second, social scientists who are influenced by a liberal cultural politic, tend to
analyze gender relations in non-western societies “through the prism of the public/domestic
divide and to explain the ‘universal subordination of women’ through women’s relegation to
the domestic domain and their ‘invisibility’ in the public realm.”51 In addition, the

48 Billaud, 2009, 121.
49 Billaud, 2006, 133.
50 Billaud, 2006, 121.
51 Billaud, 2006, 121.
bifurcation of social space has also been promoted, through liberal and secularizing narratives, with the suggestion that religious belief, and the manifestations of religious belonging, should be confined to the private sphere. Billaud suggests, therefore, that western observers are likely to be somewhat blinkered in their reading of the veiled woman by: a culturally specific association of power with visibility; a failure to understand that subordination must always be analyzed in context (it is not useful to speak of ‘universal subordination’); and a misrepresentation of the place of religion in Afghan social life, where religion remains more pervasive than in secularizing democracies.

In her analysis of veiled women in post-Taliban Afghanistan, Billaud uses the terms, ‘dissimulation’ and ‘performance’ to designate strategies through which “women are attempting to become legitimate actors in the public sphere.” Simulation is a pretence of what is not; dissimulation is a pretence of what is. There is, in the idea of dissimulation, hints of mendacity, secrecy, concealment and control. Billaud explores all these significations in her analysis of Afghan culture. First, with regards to honour:

Afghan society, like many other honour-based societies, distinguishes between dakhali (the private sphere, the household, what should remain hidden) and biruni (the street, literally, the ‘outside’). Men’s honour (namus) is maintained through their capacity to control women and restrict their movements outside of the household.

Within Pashtunawali: the tribal code of honour of the Pashtuns, the function of the chadari assumes central significance, operating as a ‘mobile home’ or ‘portable seclusion’, to maintain the required space between men and women and the dignity of women, upon which

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52 This point will be discussed more fully at a later stage in this chapter, in relation to the legal concept, forum internum.
53 Billaud, 2006, 121.
54 Dissimulation is the English translation of the Arabic taqiyya: a practice, derived from the Qur’an, in which, under certain circumstances, it is acceptable to hide one’s beliefs. It is associated with verse 16:106 of the Qur’an, and has been regarded positively by both Sunni and Shi’a jurists. Billaud uses the idea of dissimulation in a more general sense.
55 Billaud, 2006, 123.
family honour depends. According to Billaud, the culture of concealment and privacy extends into the architecture of the physical home. Like the *chadari*, the traditional Afghan dwelling is designed as an undistinguished exterior in which the secret life of the family goes on. As Billaud puts it, “The traditional architectural ideas promote the hidden nature of the intimate to the outside world.”

Against traditional Afghan codes of honour and privacy, Billaud analyzes contemporary instances of veiling, using the metaphors of dissimulation and performance. She writes of the *chadari* as a paradoxical expression of some kind of freedom while simultaneously recognizing the discipline of enclosure (reminiscent of Nasser’s binary: moral discipline/moral quest). In January, 2008, 600 women conducted a protest rally in Kandahar, over the kidnapping of an American aid worker, wearing the *chadari* and, as Billaud notes, “Protected from external gazes, able to see without being seen, women could feel safe to occupy the public arena and make their voices heard...the disciplinary monotony of the chadari enabled women to step in spaces reserved to men.” There are echoes, here, of Nasser’s notion of ‘rebellion through conformity’, as there is of Macleod’s ‘accommodating protest’. I find it particularly helpful to consider Billaud’s inversion of the Foucauldian panopticon metaphor, where power resides in the pansophical observer. By contrast, the protesting women of Kandahar could be interpreted as embodying the panopticon.

### 7.8 Veiling and recognition

The foregoing analyses of the veil elucidate the conceptualizations of feminist subjectivity and women’s agency which underpin my thesis. Subjectivity is formed inter-relationally and contextually, in a continuing dynamic between: the beliefs and values with which the

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56 Billaud, 2006, 124.
57 Billaud, 2006, 129.
individual identifies; and the experience of honing these values in relation to others (expressed either as acceptance, compromise, or rejection). Monica Mookherjee, discussing postcolonialism and the politics of recognition, puts it thus:

...young Muslim women define their identities through their families, their religion, their nationality and, perhaps, a transnational community of women. In postcolonial conditions, the presumption of a citizen's multiple affiliations unsettles both the majority and the minority's preconceived distinctions between 'identity' and 'difference', and between 'insider' and 'outsider'.

Mookherjee calls for an account of recognition that, bracketing conclusions about the justice of specific practices, includes a full analysis of the ethical and cultural systems on which such practices are based. This is fully in accord with the feminist analyses discussed above, as it also resonates with an account of women's agency which interrogates the micro-politics which operate in particular social fields. In Mookherjee's words, there is always a need to attend to the "cultural-specific ways in which women exercise their agency...they frequently do so not by rejecting, but by redefining and regenerating, their inherited discourse." Mookherjee is also helpful in nuancing the idea of dialogue; noting (as I have also done, following McNay) that linguistic competence should be evaluated in association with class, education and social positioning. As she points out, what is needed, in order to challenge the perception that there is a "stable world of meanings...[is to pluralize] the permissible languages of public reason-giving." In a phrase which is resonant with the argument through chapters one and two, Mookherjee, with reference to Honneth, writes of the need for inclusive public strategies which might offset the misrecognition of minority values, adding that public discourse should not presume "homogeneity in group-members' opinions on all

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59 Mookherjee, 2005, 35.
60 Mookherjee, 2005, 37.
concrete issues." Mookherjee cites recent empirical evidence which points to the view that "modes of positive cultural representation [foster] an individual’s sense of control over her life and her future adaptability to rapidly changing circumstances," where cultural representation might include joint governance, and a veto power for groups on policies which are likely to affect their lives directly.

Crucially, Mookherjee makes the point that, "The deep rationale for valuing the overlap between different communities lies in the intersubjective value that citizens should logically place on individuals’ discursive autonomy." Her concern is to enable the competence of all citizens to steer their way through the multiple, and often competing norms which they encounter. Mookherjee’s view is that the Islamic practice of women veiling is an illustration of just such a competence, as instanciations of a “contemporary reworking of the different discourses in which they find themselves embedded.”

Mookherjee posits three postcolonial concerns in relation to veiling: “representation, communication and the cultivation of the individual’s aptitude for renegotiating inherited meanings.” I will expand on this triad of concerns. First, on representation and the distinction between pluralism and pluralization, a reminder that the terminology of pluralizing pluralism signifies a chain of representations which renders visible the multiplicity of human difference. To quote Connolly, “a pluralizing culture...[enacts]...a politics of disturbance through which sedimented identities and moralities are rendered more alert to the deleterious effects of their naturalizations upon differences...[pluralizing] the modes through which we recognize and mobilize the political today.” I have stressed the

61 Mookherjee, 2005, 38.
62 Mookherjee, 2006, 38
63 Mookherjee, 2005, 41.
64 Mookherjee, 2005, 41.
65 Mookherjee, 2005, 44.
66 Connolly, 2004, xxi.
view that the veil is a multivalent practice, enacted for a variety of reasons which span the theological, the ethical, the social and the political. A reductive evaluation (often disseminated in the name of a liberal feminism) is intent on associating the veil with male domination, refusing to accept that women who veil do so for reasons which include "free belief, self-protection against male pressure," or even freedom against secular parents." By contrast, the analyses of veiling, in the feminists whom I have cited, pluralize the type of reason-giving and vocabularies through which veiled women might speak into the public domain; as they also foreground the concrete details of the contextual value-systems in which veiling is both enacted and assigned meaning. Pluralization resists the stagnation of pluralism, in its prophetic distinction between inter-group difference and intra-group diversity. The pluralizer (going beyond the inherent conservatism of any particular, established pluralist regime) is concerned with continually multiplying the representation of human difference. I understand this to be a constant modulation in our understanding and expression of the symbolic world.

Mookherjee recognizes the ambiguous way that all discourses function with the potential either to constrain or to liberate, writing of discursive agency to signify the individual (here, the veiled individual) whose concern is not, necessarily, to disassociate herself from inherited values. She may be an individual who, conscious of cultural embeddedness, understands the formation of her 'self', "at the nexus of religion, nation, transnational culture and feminist practice." This point will remain hidden for as long as the public communication of the values embedded in particular cultures is filtered through "a

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67 Note that this is not the equivalent of domination by fathers, brothers or partners since, as the studies quoted above indicate, some Muslim women feel that the 'pressure' is actually exerted by western models of male/female sexual relations, experienced through the unsolicited gaze of male peers.

68 Mookherjee, 2005, 34.

69 Mookherjee, 2005, 43.
stable world of public symbols. This leads directly into Mookherjee’s third concern, which is the cultivation of the individual’s aptitude for renegotiating inherited meanings; a project which, for the feminist, cannot be disassociated from the question of agency in relation to the formation of subjectivity.

Mookherjee’s ‘renegotiation of inherited meanings’ (as I put it in chapter one, the transcending of local mores and beliefs which might set parameters on a positive evaluation of difference) is a central component of a modulated epistemology. This is so, since, if it is conceded that subjectivity is honed dialogically, then it follows that all pattern of morality, whether recognized as minoritarian or majoritarian, will be constantly open to new influences, and novel construals of the good and the true. In the face of the complexity (or even the fear) of multiple choice morality, one response, as already noted, is the assumption of fundamentalist positions, designed to keep intact, ‘inherited meanings’, which are then touted as inviolable truth and supported by some form of transcendent authority.

In what I have called a modulated epistemology, however, the moral agent renegotiates inherited patterns of morality, along the lines indicated above, where, for instance, it is shown that women who choose to seclude their bodies have done so in the name of colonial resistance, the dissemination of urbane values, as political protest, or to symbolize the rejection of western values. Consequently, and as detailed above, feminists have recognized these enactments of agency as clever and conscious ambiguity, as a type of masquerading femininity, as a quest for self-assertion, and as the inversion of the male gaze.

What is crucial, at this point, is to make it clear that, for the consistency of a pluralizing logic, the renegotiation of inherited values must not be thought of as belonging only to minority groups, or to traditional ways of life. Once veiling is shown to be a

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70 Mookherjee, 2005, 39.
multivalent practice; and when it is associated with a complex reception of discourses on the part of the women who veil, then a feminist evaluation of agency is wrenched from its roots in a liberal conception of autonomy. What follows is that the ethical subject whose feminist sensibilities have been honed in a western, liberal context must also renegotiate her own inherited values, in order to cultivate, as Mookherjee puts it, “the capacity to see that one’s justificatory thresholds increase one becomes conscious of one’s embeddedness in different discourses, and of one’s existence at the nexus of religion, nation, transnational culture and feminist practice.”  

7.9 Manifesting Belief

In the last decade, there has been a challenge to the agency of veiled women arising from the legal discourse around Article 9, European Convention on Human Rights, and the freedom to manifest religion in public places. Dominic McGoldrick, in a classic analysis of Islamic veiling, stresses the connection between the freedom to express religious belief, autonomy and identity. As he puts it, “Freedom of expression can be framed as the right to identify publicly with any group, community or philosophy by choice of speech, dress or symbols.”  

While a detailed discussion of particular cases is outwith the remit of this dissertation, recent studies in jurisprudence draw attention to the need for a multi-disciplinary approach to cases which involve religious or cultural minority groups. This involves critical legal

71 Mookherjee, 2005, 43.
73 Key cases include: R (Begum) v Headteacher and Governors of Denbigh High School [2006]; Sahin v Turkey (2005) 41 EHR 8; Dahlab v Switzerland Application 42393/98 (15 February 2001).
74 This point was clearly made by Baroness Hale, in Begum, para 96, where she introduced feminist sociological studies into her legal reasoning. Citing Nira Yuval-Davis, she asserted the right of a woman to freely choose or adopt a way of life for herself. Going on to quote Judge Tulkens, in Sahin v Turkey (Sahin, para 46), she draws the analogy with freedom of speech, pointing out that the European Court of Human Rights has never accepted that interference with the right of freedom of expression is justified by the fact that the ideas expressed may offend someone. Crucially, she noted
pluralism, which takes up many of the elements of what I call a-tonal ethics: the willingness to include insights from many disciplines into ethico/legal reasoning; an acknowledgment of the multiple sources of authority within which individuals operate; and the complexity within groups which prevents a monolithic reading of their interests or their aspirations. I wish, therefore, to draw attention to one current jurisprudential debate which contributes to the misrepresentation of women who veil. The debate turns around the right to manifest religion, and involves what I consider to be a fallacious dualistic philosophical construct, designed to distinguish between two realms of belief: *forum internum* and *forum externum.* This is an important element in any analysis of the way that the agency of veiled women is discursively circumscribed; and, equally important, it is indicative of the way that legal constructions of the veiled woman influence the politics of alterity, through constructing types of legal subject whose core beliefs are presented as being either good for the state or dangerous to the cohesion of the state.

that, while the sight of a woman in full purdah may offend those western feminists who believe that it is a symbol of her oppression, that could not be a good reason for prohibiting her from wearing it. What is disappointing, however, is that Baroness Hale, while admirably informed as to feminist insights on female embodiment, nevertheless went on to reduce the complexity of veiling, by her phraseology, “The question is whether patriarchal family control should be allowed to result in girls being socialised according to the implications of veiling while still attending public educational institutions...” Begum, para 97. Thus, having opened up the discussion of veiling to inter-disciplinary analysis, B. Hale concluded that the ‘implications of veiling’ are self-evident.

Critical legal pluralism is concerned with the construction of meaning in law, and with the interaction of law and other norms which govern social behavior. For an overview, see Ian Ward, *Introduction to Critical Legal Theory* (Abingdon, UK and New York: Routledge, 2006). Consistent with this thesis, critical legal studies aims to dispel the notion of a single truth. As a jurisprudential movement, critical legal scholars have taken up insights from feminism, economics, politics, sociology and philosophy (notably neo-pragmatism and Foucauldian theories on power), to expose the extent to which the law structures hierarchical binaries. The central aims of critical legal pluralism includes: to question the type of legal formalism which analytically separates law from other areas of social control; to disrupt the notion of the autonomous individual who is thought to be the subject of law; and, in the case of feminist critics, to expose the “male judicial ‘pretence’ of neutrality and objectivity in legal reasoning...[concealed] within the concept of the reasonable man.” Mark Tebbit, *Philosophy of Law: an introduction*, second edition (Abingdon, UK and New York: Routledge, 2011), 149.

The European Court of Human Rights now regards religious dress and other religious symbols as manifestations of religious belief, protected under Article 9(1) ECHR. Limits are imposed, however, on the exercise of this right, under Article 9(2): “Freedom to manifest one’s religion is subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public health or morals, or for the protection of the rights and freedoms of others.” The intention of Article 9, ECHR, taken as a whole, is to protect every individual’s right to hold inner convictions (and it is important to note two things here: the first, is that, according to the ECHR, such convictions need not be religious; and the second is that everyone has the right to change beliefs). Holding and/or changing personal convictions, as currently protected by national and international laws, represent one of the major moral shifts of our time.

The distinction remains, however, between the absolute right to hold a religion or belief, and the qualified right to manifest the beliefs involved. Moreover, the European Convention works from what is a list of acceptable forms of manifestation which includes worship, teaching, practice and observance. Two questions present themselves. First, who is to decide whether a form of action can be said to be a manifestation of a particular belief system? Second, in terms of religious symbols, how can it be established whether a form of clothing is being worn for religious reasons, as opposed to social conformity, fashion, or even as anti-religious protest? As Samantha Knights points out, “…religion is far more than a set of beliefs and the manifestation of those beliefs through ritual and practice. It provides a link

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77 Article 9 (2) ECHR. For a historical overview of the drawing up of Article 9, see Malcolm D. Evans, Religious Liberty and International Law in Europe (Cambridge: Cambridge University Press, 2008), chapter 10.
between thought and action and thereby has a direct impact on the social sphere.” Knights goes on to comment that, in terms of religion, it is necessary to understand the relationship between belief and the symbolic expression of that belief, since “the importance of religion or of a particular religion and its manifestation will be implicit in the balancing exercise between the interests of religion, the state and individuals in a given case.”

7.10 The private/public distinction revisited

In the debate which turns around the right to manifest religion, a distinction is made between two putative realms of freedom: forum internum and forum externum. The European Commission, adjudicating on the case of C v. United Kingdom, asserted that:

Article 9 primarily protects...the forum internum. In addition, it protects acts which are intimately linked to these attitudes, such as worship and devotion...in a generally recognized form...However...Article 9 does not always guarantee the right to behave in the public sphere in a way which is dictated by such a belief.

The problem, of course, is the difficulty in delineating the parameters of forum internum, and how the law is able to identify the moment when the private world of thought crosses over into the locus which is now commonly called ‘public space’? Peter Petkoff makes the point that,

the minefield that forum externum/forum internum dichotomy has introduced into the human rights discourse...reduces the freedom of religion or belief to something

79 Knights, 2011, 9, section 1.21.
80 Knights, 2011, 8, section 1.19.
82 ibid, at 147.
The allusion to the existence of a mystical level is deepened in the language of Donna Gomien, in the 3rd edition of the *Short Guide to the European Convention on Human Rights*, where she asserts that, “The rights to freedom of thought, conscience and religion are largely exercised inside an individual’s heart and mind. It is only when one manifests one’s thoughts or beliefs that the state will become aware of their existence or character.” In addition to the dualistic spatiality in the choice of words here (inside/manifest), Gomein’s language suggests a region of the mind in which ideas exist quite independently of, and antecedent to, any form of linguistic, or otherwise interactive, expression. I suggest that the fallacy of the dualism, *forum internum/forum externum*, arises precisely out of this misconception of the way that the human imagination works.

Robert Brandom, in an investigation into language and the process of reasoning, makes the point: “a distinction becomes a dualism when its components are distinguished in terms that makes their characteristic relations to one another ultimately unintelligible.” Brandom has in mind the Kantian dualism, “the understanding mind and a world that is the source of their content or matter...[where] concepts...function as epistemological intermediaries.” On this view, language is merely an instrument through which we articulate our originally wordless judgments which are posited to exist, prior to their

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84 Donna Gomien, *Short Guide to the European Convention on Human Rights*, 3rd edition (Council of Europe Publishing, 2005). Note, also, Laws L.J., in *MacFarlane v Relate Avon Ltd* [2009] UKEAT 0106 09 3011, para 23, ...“religious faith is necessarily subjective, being incommunicable by any kind of proof or evidence...it lies only in the heart of the believer, who alone is bound by it.”
linguistic expression, in *forum internum*. I would argue that this Kantian split, far from guaranteeing a locus of religious autonomy, is an inadequate model though which to understand the multi-directional flow through which concepts, language and action function in human understanding, identity-formation and communication. Discursive practice includes both reasoning and representing; language and practice are inseparable.

### 7.11 Symbolizing the liminal

In the attempt to distinguish a liminal area where belief ceases to be a matter confined to the privacy of mind, and crosses over into the observable locus regarded as public space, the danger remains that there will be a failure to acknowledge an individual's subjective understanding of the connection between personal religious belief and responsible social action. Furthermore, in pluralist societies, the question of whose belief can be manifest in the public space, and whose should be confined to the interior realm of thought (and, presumably, the privately shared world of those who have similar beliefs) takes us to the heart of majority/minority power dynamics.

Malcolm Evans remarks that "Different beliefs require different 'practices' of their adherents." 87 This is a vital point. Put thus, however, it can be read to suggest that religions are internally monolithic. In practice, belief systems are subject to variety and dissent among members, and to cultural and historical changes. In evaluating the expression of convictional beliefs, therefore, two problematic areas emerge. The first is a matter of hermeneutics, arising from the fact that faith groups consist of individuals who differ as to their interpretation of the central tenets of their religion. As such, their patterns of morality are also likely to differ,

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87 Evans, 2008, 313.
even when these are claimed to originate from a received version of their religion. The second concerns the means which adherents of social/religious/political convictions consider necessary to attain their goals; means which include proselytizing, inter-religious dialogue, pacifist refusal to bear arms, self-harm, terrorism, and the wearing of religious symbols in the public arena. The mixture of things to be considered, therefore, consists of: subjective interpretations of particular convictional stances (including, but not confined to, religious belief); and the expression of these subjective accounts of 'reality' (including, but not confined to, verbal propositions of what is held to be 'true'). Furthermore, it is vital to acknowledge that interpretations of religious and political 'truths' are in constant flux in response to social changes at the micro and macro levels, with the result that religious and cultural injunctions are commonly experienced as overlapping norms. Such complexity in the relationship between thought and action makes it highly difficult to sustain the idea that there is a distinct dividing line between forum internum and forum externum; and this bears directly on the related difficulty, which, as Evans puts it, "concerns who is to decide whether a form of action is to be understood, in a prima facie sense, as a manifestation of a religion or a belief at all."

The contested conceptualization of the dualism, forum internum/forum externum, can be interpreted to be a legal disciplinary technology to distinguish between acceptable and non-acceptable public expressions of an individual's ultimate concerns. In a discussion on Judaism and Zionism, Judith Butler asks, "if the implicit question of our enquiry presupposes that religion belongs to the private sphere, we have first to ask which religion has been

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88 An example of this point can be observed in the Republic of Ireland, in conflicting interpretations of Christian ethics, invoked to support opposite sides of the debate over present abortion laws in the State.

89 For a current legal discussion of the internal diversity of beliefs within a religious field, see the blogs: http://www.lawandreligionuk.com/2012.06/15doctrinal-disputes-don't-go-there/; http://www.lawandreligionuk.com/2012/07/19/not-doing-religion/

relegated to the private sphere, and which religions, if any circulate without question in the public sphere."^91 Crucially, within the logic of this dissertation, the construction of the imaginary realm of legally protected internal space can be interpreted to be a re-working of the private/public cultural trope through which the discipline and control of women’s embodied agency is rationalized. The assumption that freedom can be said to exist in a putative realm, confined to the mind, is to curtail the flow from conviction to its expression through freedom of comportment, which I take to signify the right to live in one’s body in a manner which is consonant with one’s deepest understandings of human embodiment. In the wake of the analyses of veiling which have already been rehearsed, freedom of comportment is seen to be integral to the agency of women who choose to veil. In addition, the dualism, *forum internum/forum externum* can be argued to bring to light the banal discrimination which, to quote Judith Butler, “differentiates between legitimate and illegitimate religions...[and regulates] the distinction between the public and the private."^92

As I have shown, feminist analyses indicate, among veiled women, a plurality of historical differences and a range of contemporary experiences and intentions which are closely linked to their religious and political contexts. In addition, the evidence shows a range of interpretations with regards to the significance of veiling. There is, in other words, nothing in the practice of veiling which can be traced, unambiguously, to some ultimate truth with regards to Islam, some final interpretation of the Qur’an, or some definitive way to be a woman. Once it is established that a practice, a belief, or a value system is multi-faceted and open to interpretation, then the ethical task becomes a matter of hermeneutics, with a strong reminder that, in the words of Rorty, “[Since] there is no permanent neutral matrix within which the dramas of enquiry and history are enacted...[we have no recourse] to eternal

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standards."

I have consistently suggested that these are the very conditions, in late modernity, which provide potential ground for an ethics of alterity: that is, the acceptance that impermanence carries its own validity; the acknowledgment that the idea of neutrality is a political ruse; and the insistence that ‘eternal standards’ are always articulated historically.

The feminist ethical subject is honed in a process of revision, dialogically, and in relation to the differences met in others who, although they may share a political commitment, will often express that through terms which are strange, or even counter-intuitive. That is not new with late modernity. What is new was stated at the outset as the enforced mixing of cultural diversity which has come about through hyper-communication technology, the speed of travel, and a heightened sense of the reality of other lives through the vision of human rights. The encounter between the various incarnations of western liberal feminism and varieties of postcolonial feminism is producing new conceptualizations of the notions of autonomy and agency; as well as narratives of freedom which are often contradictory (a-tonal). In the context of pluralizing modernity, agency is best thought of as the conscious evaluation of conflicting accounts of truth and goodness; choosing, from among multiple sources of authority, a justificatory narrative which can ground an ethics that is deemed to bring about a specified, and democratically agreed upon, material change (albeit with an acknowledgment that the outcome cannot be predicted). Honneth, writing of the moments when we are forced to re-examine our previously accepted conception of order, calls them, “stations of discursive justification [which] make explicit what was once implicit in the flow of routine life-world interactions...[among] partners in communication.”

I might, otherwise, speak of cadences: interim points in a forward-moving chain of voices which temporarily halt the flow, but which, by the nature of art and of life, always prove, in retrospect, to be unfinished.

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93 Rorty, 1979, 179
94 Honneth, 2012, 100.
Coda

The foreigner's speech can bank only on its bare rhetorical strength, and the inherent desires he or she has invested in it. But it is deprived of any support in outside reality, since the foreigner is precisely kept out of it. Under such conditions, if it does not founder into silence, it becomes absolute in its formalism, excessive in its sophistication - rhetoric is dominant, the foreigner is a baroque person.

Julia Kristeva

Coda: musically, the coda is associated with the end-piece in, for instance, a sonata or a symphony, where aspects of the foregoing work are recapitulated. Its aim is to bring a sense of balance to the whole. Coda, in its original Italian, literally means the tail of an animal. I am amused by the idea that my concluding remarks might be regarded as a flexible appendage.

In the beginning, I set out to explore the nexus: culture, identity and difference, as they interact in the ethics and politics of alterity, with particular focus on the formation of feminist subjectivity in the contemporary pluralist milieu. In the first two chapters, I discuss elements of the contemporary legal/political background which prove to be both constraining and enabling for the feminist agent, as she is both constructed by, and implicated in the construction of, the law, patterns of morality, and the political landscape. I posit the view that, in the pluralizing impetus of multiculturalism and the vision of human rights, the result is a process of contestation and change which has the potential to expand the moral imagination, and to reframe the symbolic world against which individuals and communities measure themselves.

I noted that pluralism has given rise to a 'celebratory' type of diversity, and also to a range of fundamentalist responses to the contingency, porosity and
uncertainty of identities (to paraphrase William Connolly) of contemporary social life. One of the results of the boundarylessness (Bauman's word) of late modern existence is a Foucauldian rupture in our knowing and believing; a cognitive dissonance which forces the subject to reappraise the foundations of her inherited patterns of morality. In attending to vocal plurality in a multicultural society, there is a pressing need to interrupt the voices which justify their authority definitively by reference to transcendental sources, commonly expressed in terms of religious myths of origin, or teleological narratives which are intended to bring singular order out of multiple realities. One response is the adoption of a consciously modulated epistemology, and, in chapter six, with reference to the neo-pragmatists, I define this in a conceptualization of objectivity which, while not relying on metaphysical foundations, is robust enough to justify normative positions within clearly defined fields of operation.

Throughout, I have acknowledged some of the feminist voices which have shaped my imagination. I believe that when feminists hold the tension between the particular and the universal (as in interim strategies which construct a non-essentializing commonality), they embody the energy and forward movement that is characteristic of dissonance. The research process led me into a consideration of the way that women's agency is played out through strategies of resistance which include: the re-working of inherited practices; the redefining of religious and cultural symbols; and the inversion of the western patriarchal assumption that power and visibility are necessarily coterminous.

In chapter seven, I analyzed the process through which the phenomenon of new veiling is evaluated. Studies of veiled women, despite the diversity of
geographical settings, indicate the complexity of the practice, and the view that, both for the observer and the observed, cultural symbols cannot be read as having clear and unambiguous religious or political meaning. This point is of immense importance in current human rights discourse. In cases concerning religious symbols, one stumbling block is the dualistic concept, internum/externum, which is used to suggest that it is possible to distinguish clearly between a person's inner religious convictions and their outward manifestation. Cultural symbols, whether they take the form of cathedrals, the ringing of the angelus bell, the nun's habit, or the turban of the Sikh, are only meaningful within a complex string of codes which straddle time and place. When this is accepted, one of the first tenets of an ethic of alterity is to acknowledge that the meaning of cultural practices can only be inferred from the holistic web in which the practices are embedded. As I showed in chapter six, Robert Brandom is helpful in this regard, in his emphasis on the importance of epistemic framing and semantic holism, by which he means that we ought to interpret the words and actions of others, not as single utterances/events, but as part of a narrative which is on-going. The narrative, while never completed (never rounded off as a whole) needs to be interpreted holistically, as the sum of a person's acts, the justifications for their acts, the consistency, or lack of consistency, in their reasoning, and the authority which is conferred upon them in their own field. This holistic approach becomes clear through an evaluation of veiling, attending to historical and political context, operative categories of gender and class, and an acknowledgment of the inner diversity of communities so as to avoid a false holism imputed to groups. Peter Petkoff makes a Brandomian point, in relation to the idea of the internum/externum debate, when he

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writes that, "religious symbols [should be understood] as part of a person's multiple identity, within parallel normative systems..." ² The veil, therefore, is a most important, contemporary, multivalent signifier which challenges majority/minority relations, and control of the public space. Significantly, the veil is also proving to be a challenge to reductive notions of feminism; and to some western conceptualizations of women's agency. The feminist analyses and reference to jurisprudence, which form the body of chapter seven, provide illustrations to support the view that notions of 'subordination' and 'agency' should always be analyzed in relation to the micro-politics in their field of operation, alongside the accounts of the women themselves, and their own interpretations of embodied, strategic resistance.

I have discussed the view that moral agency is always both constrained and enabled, in relation to history, cultural context, personality traits, gender positioning, class, age, etc. The assumption is that difference is irreducible, and diversity is the underlying characteristic of human life. An ethic of alterity, however, is inconceivable unless we can find, from within the plurality of human embodiment and experience, common strands upon which ethical and political solidarity can be built. In other words, ontologically, difference may be the first word; but, epistemologically, it cannot be the last word, or shared meaning would be impossible. It remains for me to bring some balance to the whole, in a recapitulation of the dissertation's main themes, in the light of the my chosen title: Practising A-Tonal Ethics.

The idea of practising is central to my thesis. Above all, I have stressed that ethics is a doing word, intimately linked to language usage, and community relations. As we predicate, so we relate; as we interpellate each other, so we contribute to the constitution of another person or a group, and, in the process, we form our 'selves'. I

² Petkoff. 2010, 298.
have worked on the assumption that identities are constituted relationally, stressing
the view that the apprehension of the ‘other’ cannot be separated from the
acknowledgment of our own shifting and unstable understanding of our ‘selves’.
When this is accepted, it follows that cultural practices should not be evaluated in a
scientific, Cartesian mode of operation, as a bifurcation between observer and
observed. As I noted, feminists work with diversity, assuming a foundational
commensurability, not of essences, but of effects. Further, however, I assume that the
complicities upon which feminists might construct a strategic politics will resonate
beyond the parochial, providing relational models, not only for women, but for other
groups who live under the dynamic of minority/majority power relations.

Note that ‘practising’ is a verb in the continuous present. There is no end to
the process through which we weigh up each other, or come to know ourselves.
Historical attempts at rounding off the process have resulted in the objectification of
those who are not in a position to keep the religious/political/ethical conversation
going; either because they use the wrong vocabulary, or because they are the wrong
gender, or skin-colour, or because they have been silenced in the ultimate solution to
diversity. The temptation to round off the diversity of human narratives, or to close
down complex moral problems, is a perennial danger in the story of human relations.
Contemporary religious and political fundamentalist projects are testimony to that, in
the disruption of international dialogue and diplomacy; and in the disenfranchising
strategy of substituting, for democratic exchange and the rule of law, the myth of an
external authority (in nature, God or politics); deus ex machina, wheeled out to
obscure the tragic, but inescapable fact that the moral life of humans must be
constantly negotiated.
The idea of *a-tonality* is at the centre of the title and of the thesis, as a metaphor to indicate the loss of one single direction in an era in which epistemological foundations have been thoroughly shaken. I have already noted that contemporary moral patterns and the search for sources of authority are characterized, not by the *loss* of foundations, but by their multiplication. It is into this mixture of choice and uncertainty that I have posited the metaphor of dissonance to signify what Rosi Braidotti calls ethical vertigo. Importing the metaphor of a-tonality into a consideration of ethics offers me a different perspective from which to approach the evaluation of contemporary patterns of morality. Musically, a-tonality does not signify the *absence* of tonality; generally, it refers to compositions which do not conform to the tonal hierarchies associated with European classical music from the 17th century to the early 19th century. In other words, the idea of tonality is historically and culturally specific. In addition, within the tonal structures of musical compositions, we will hear dissonance or harmony according to the way that our ears have been attuned to listen, and according to the ways we have been acculturized to evaluate the worth of diverse modes of expression. 3

A-tonal ethics signifies the contemporary task of constructing patterns of morality based on multiple sources of authority; as it also entails evaluating the practice of others in whatever strange forms they are encountered. The multiplicity of norms (political, cultural, parochial and international) and multiple jurisdictions (religious laws, civil law and international human rights instruments) need to be

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3 It is worth pondering that, during the 1960's, which is generally regarded as an era in which the distinction between high and low culture became blurred, the Beatles, returning from their sojourn in India, brought the music of Ravi Shankar to the attention of the West, and incorporated some of the chords into their own work. In the sliding chromaticism of the sitar, sounds began to be picked up which very few western ears had previously been attuned to hear. A new kind of musical sensibility was made possible. This, also, can be taken as a metaphor for the syncretism, hybridity and fluidity of culture exchange.
negotiated and weighed up in relation to the construction of personal ethics and public morality.

In the absence of fixed points of reference, practising a-tonal ethics is decidedly not a form of moral relativism. In chapter six, I put in place a philosophical structure through which to approach the question of truth as an absolute. Rorty, as I indicated, was not a relativist in the most common, pejorative use of the term. It is crucial to make the distinction between: on the one hand, being sceptical about the possibility of establishing ultimate foundations for our beliefs; and, on the other, the inability, or refusal, to offer any justification for the values which we hold dear. As I have noted elsewhere, and following Rorty's train of thought, it is reasonable to ground a political movement or a social ethic on an explicitly stated value-system, while simultaneously acknowledging that these values are contingent upon history and cultural specificity, and open to revision should conditions change.

My concern is with the nexus: culture, identity and difference, as they interact in the ethics and politics of alterity. I have offered an analysis of the contemporary political context in which feminist agency is honed in relation to the beliefs and practices of others. I have argued against the idea that culture is a discrete and bounded entity; suggesting, instead, that cultures are fields of the imagination, experienced as the arena of contestation for the power to appropriate key symbols and effective vocabulary. Finally, I have proposed an epistemological model, a modulated understanding of what it means 'to know', which, in the context of the contemporary

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4 Rorty made it clear that he does not consider himself to be a relativist in the sense that every belief is as good as every other (which, as he points out is self-refuting); or that 'true' is an equivocal term which has as many meanings as there are procedures of justification (which he called eccentric). Rorty, 2008, 23.
a-tonality of moral patterns, might be a better way to evaluate strangeness when that is what we encounter.

It is crucial to remember that the practice of a-tonal ethics is not a process of discovery of something which already exists in a realm beyond social interaction. It is, rather, a route taken alongside others in which worlds are made and unmade; a route, not to some authentic or pre-ordained version of human identity, but to a constant re-invention of the patterns of human interaction. In the words of Rowan Williams, “confronted with what seeks to close down exchange or conflict, we discover we can always say more.” To be just in the face of one another in a pluralist society, it will be necessary to find a vocabulary for the on-going conversation which will be, simultaneously: religious, ethical and jurisprudential. Thus, might justice be extended.

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237


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