

"Looking at Law Through the Lens of Culture"

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Theoretical discussions of multiculturalism often begin with the question, "how can a liberal democracy accord equal respect to the autonomy of all individuals in a way that acknowledges and respects the formative significance of people's membership in sub-state communities?" Two currents run through the literature. One emphasizes the procedural aspect of citizenship, and promotes social and political participation of members of identity groups. The second current focuses on substantive content of multiculturalism – and uses particular case studies as a means of illustrating the operation of a particular normative framework, as well as the limits of multicultural accommodation.

Procedural accounts are not about conferring citizenship on non-citizens as such; rather, they are about acting upon the recognition that 'they' are already 'us' – that is to say, citizens entitled to equal recognition, and thereby entitled to join in making the rules that govern 'us'. However, when one moves to substantive accounts that explore specific cultural practices the question rapidly becomes some version 'should *we* tolerate what *they* do?', where we are the liberal majority and they are the encultured minority. The way in which the question is formulated necessarily reifies a rigid and homogenized us/them binary, with its attendant distribution of decision-making authority. This is the very sort of paradigm that a truly multicultural vision of citizenship would presumably repudiate. Thus, I believe it important to experiment with alternative ways of framing these issues. This paper attempts to do so by embarking on a 'micro-analysis' of three encounters between criminal law and culture that present different moments in the relationship between law and the encultured subject. Through unpacking my three case studies, I hope to offer another lens through which to understand the evolving interaction between law and the encultured subject under conditions of social flux.