

Multiculturalism and contextualism

How is context relevant for political theory?

Lægaard, Sune

Published in:
European Journal of Political Theory

DOI:
[10.1177/1474885114562975](https://doi.org/10.1177/1474885114562975)

Publication date:
2015

Document Version
Peer reviewed version

Citation for published version (APA):
Lægaard, S. (2015). Multiculturalism and contextualism: How is context relevant for political theory? *European Journal of Political Theory*, 14(3), 259-276. <https://doi.org/10.1177/1474885114562975>

General rights

Copyright and moral rights for the publications made accessible in the public portal are retained by the authors and/or other copyright owners and it is a condition of accessing publications that users recognise and abide by the legal requirements associated with these rights.

- Users may download and print one copy of any publication from the public portal for the purpose of private study or research.
- You may not further distribute the material or use it for any profit-making activity or commercial gain.
- You may freely distribute the URL identifying the publication in the public portal.

Take down policy

If you believe that this document breaches copyright please contact rucforsk@ruc.dk providing details, and we will remove access to the work immediately and investigate your claim.

Multiculturalism and Contextualism: How is Context Relevant for Political Theory?

Sune Lægaard, philosophy, Department of Culture and Identity, Roskilde University, Denmark

The official version of this paper has been published in the *European Journal of Political Theory*, Vol. 14, No. 3, pp. 259–276, 2015, <http://ept.sagepub.com/content/14/3/259.full.pdf+html>

Abstract

Many political theorists of multiculturalism (e.g. Joseph Carens, Bhikhu Parekh, James Tully) describe their theories as ‘contextualist’. But it is unclear what ‘contextualism’ means and what difference it makes for political theory. I use a specific prominent example of a multiculturalist discussion, namely Tariq Modood’s argument about ‘moderate secularism’, as a test-case and distinguish between different senses of contextualism. I discuss whether the claim that political theory is contextual in each sense is novel and interesting, and whether contextualism is a distinct feature of political theory of multiculturalism. I argue that the forms of contextualism which concern the scope and methodology of political theory are sensible, but not novel or distinctive of multiculturalism. I then discuss the more controversial forms of contextualism, which I call political and theoretical contextualism. Finally, I apply the distinctions to Modood’s argument. I argue that it is not a form of theoretical contextualism and that theoretical contextualism would in fact undermine arguments for multiculturalist policies of accommodation.

Many prominent proponents of multiculturalism, including Bhikhu Parekh, Joseph Carens and James Tully, describe their multicultural political theories as ‘contextualist’. Multiculturalism is concerned with particular kinds of cases (e.g. involving cultural diversity) characteristic of specific kinds of contexts (e.g. countries containing indigenous or national minorities or experiencing immigration). But it has also been suggested that the *way* in which multiculturalism is concerned with cases and their particular context is special (Levy, 2007; Murphy, 2012, chap. 9).

Proponents of contextualism often seem to suggest that contextualism makes a difference, both for how political theory is actually *done*, and for the *conclusions* arrived at. Unfortunately it is not clear exactly in what sense multicultural political theory is supposed to be contextualist and what difference this contextualism makes in practice or for the status of the resulting claims.

In this paper I therefore assess the claim that political theory should be contextualist. In the spirit of contextualism, I discuss this with reference to multiculturalism, and more specifically use a specific multiculturalist argument as a test-case. But the question is a specific version of a more general claim that is relevant for other parts of political theory.

I proceed by first sketching a particular multiculturalist argument, namely Tariq Modood’s argument about ‘moderate secularism’ and some of Modood’s claims about the contextualist nature of his manner of theorising. I then distinguish a number of senses in which political theory might be contextualist. Finally, I assess the significance of the distinctions in relation to Modood’s argument.

I argue that several of the senses in which the political theory of multiculturalism can be contextualist (what I call issue contextualism and methodological contextualism) are sensible, unproblematic and appropriate – but also neither novel nor distinctive of multiculturalism. The senses going beyond these (what I call political and theoretical contextualism) denote moves

beyond more traditional political theory, but might be problematic. In my discussion of Modood, I argue that his argument is not a form of political or narrow theoretical contextualism and that such forms of contextualism would in fact undermine the multiculturalist argument he is trying to make. In the following, the meaning of ‘context’ is crucial. But this is often what is unclear, and it might vary for different senses of contextualism. I assume that ‘context’ denotes descriptions of particular cases or their particular circumstances. Context then comprises case-specific facts at a less-than-universal level of generality. If context plays an important role in political theory, there will always be an issue of *delimiting* the context, since it then seems crucial to invoke the ‘right’ or ‘relevant’ contextual facts. I will not go into the issue of delimitation, however, since this can only be done given specific answers to the question about in what sense context should matter for political theory, which is what I focus on here.

1. Modood’s argument about moderate secularism

To see the practical significance of the discussion – in a sense, to contextualise it – let me illustrate and discuss it in relation to a particular debate about European multiculturalism: what should the relation be between state and organized religion in European states that are increasingly multicultural due to immigration? This is a central multicultural question in a European context because the diversity characteristic of European multiculturalism is increasingly religiously defined. In Europe, diversity and multiculturalism are now mainly about Muslims. Modood argues that discussions of multicultural accommodation therefore need to address the broader question of the relationship between politics and religion (Modood, 2007, see also Modood, 2005, 2010, 2012). Euro-multiculturalism re-opens the issue of secularism understood as the claim that politics and religion should be separated (Lægaard, 2012).

Modood further claims that secularism does not preclude accommodation of religious minorities, as some secularist critics of multiculturalism think. The secularist critique of multicultural accommodation and recognition of religious minorities is that, since religion and politics should be separated, the state should not engage in special treatment of, consultation with, support for or recognition of religious minorities. Modood's argument against this criticism has three steps:

First, the criticism is based on a 'radical' and 'ideological' conception of secularism, which is not the only conception of secularism. When secularist critics of multiculturalism claim that secularism precludes accommodation and recognition of religious minorities, they identify secularism in general with their particular radical conception of it, thereby suppressing other understandings of secularism.

Second, none of the existing forms of secularism in the European context take the form of absolute separation advocated by radical secularists. Actually existing forms of secularism in Europe are in fact 'moderate' forms of secularism which allow for much more in terms of links between politics and religion, and between state and organized religion.

Third, these forms of moderate secularism actually function very well. They handle relations between states and religious groups in ways that accommodate and recognize the latter without thereby undermining the political autonomy of states or the religious autonomy of religious groups. So moderate secularism is not only a genuine form of secularism, which is the actually existing one, it is also a better one.

Modood concludes by rejecting the radical secularist critique of accommodation and recognition of religious minorities; European states should, on grounds of multicultural equality, extend the types of state-church arrangements successfully developed for established Christian churches to newly arrived Muslim religious communities (e.g. extension of provisions against blasphemy to non-

Christian religious beliefs, official recognition and consultation measures, seats for representatives of other religious communities in the House of Lords, support for faith schools, possibilities for civil arbitration according to Islamic family law etc.).

In discussing this argument, Modood describes ‘the best multicultural political theory’, on which the argument draws, as ‘not a priori but contextualist’ (Modood, 2009: 76). Elsewhere he draws this contrast between contextualism and ‘Rawlsian’ political theory: the latter is characterised as ‘pure’, ‘abstract’ and as basing normative theory on a ‘moral objective standpoint’, whereas contextualism is ‘empirically sensitive’ and does normative theory by ‘read[ing] off... principles interpretatively’ from actually existing institutions (Favell and Modood, 2003).

The question is in exactly what way contextualism is supposed to be empirically sensitive and how context can be relevant to normative political theory? Furthermore, is the contrast between Rawlsian and contextualist political theory indeed as clear as suggested? I will discuss these questions by distinguishing between different ways in which context might matter. I will then return to Modood’s argument to see in what ways it is contextualist, and whether the invoked contrast holds.

2. Issue contextualism

Multiculturalism is contextual in the sense that it is concerned with a specific political *issue* - cultural, religious and ethnic diversity and how to accommodate this within nation-states - that only arises in some contexts. Call this *issue contextualism*. Contextualism here means that political theory discusses a *subject matter* that only arises under specific conditions, e.g. in multi-racial, multi-national, multi-ethnic or multi-religious societies. Insofar as not all societies are diverse in these ways, or political theory ignores the fact that they are, political theory need not be issue

contextual. So issue contextualism has to do with the *scope* of political arguments or theories; context is relevant in the sense that it determines the *kinds of cases* to which arguments or theories aim to apply.

The classic example of issue contextualism in multicultural political theory is Will Kymlicka's theory about why specific forms of diversity should be seen as normatively relevant given a specific type of liberal position (Kymlicka, 1995). But issue contextualism can go further. An example is Adrian Favell and Tariq Modood's criticism of Kymlicka (Favell and Modood, 2003; Modood, 2007: 30-35). They applaud Kymlicka's empirically informed, and in that sense contextual, form of multicultural political theory, but also criticize him in two ways. One is that they see his theory as a type of 'applied political philosophy'. I will return to this type of criticism below. Favell and Modood's other criticism is to emphasize the national, i.e. Canadian, specificity of the types of examples and the categories of diversity and multicultural policies that Kymlicka arrives at on this basis. That Kymlicka's multiculturalism is primarily suited to a Canadian context shows the degree of issue contextualism of his theory – a good thing according to Favell and Modood. But the specificity becomes a problem once Kymlicka's multicultural theory is *generalized* beyond Canada and exported to other contexts, e.g. to debates about immigrants in Europe, which differ in many ways from indigenous peoples in Canada.

This criticism of overgeneralization simply notes that context varies, e.g. between Canada and Europe, and that claims therefore have to be limited in scope to sets of cases delimited by relevantly similar features, e.g. particular types of diversity and other relevant contextual circumstances such as legacies of colonialism. So issue contextualism limits the *scope* of theories (Carens, 2013: 299), but does not say anything about how political theory should be done *within* this scope.

Issue contextualism then claims that multicultural political theory is concerned with empirically contingent facts of diversity and therefore should be aware of the different ways in which different societies are diverse. A multicultural political theory for Europe, with established nation-states without a longer history of immigration, but in some cases with an imperial history, and where diversity is due to recent immigration of especially religiously defined groups, must be very different from a Canadian multicultural theory focused on indigenous peoples.

Issue contextualism makes multicultural political theory distinct from some other forms of political theory, at least as these are sometimes understood. If political theory is a reflection on very basic concepts of or abstract ideals for political life, e.g. the concept of justice, then this activity might be purely philosophical and non-contextual. Jerry Cohen's claim that justice is fact-independent exemplifies such a Platonic conception of political theory (Cohen, 2008). Since issue contextualism means that specific objects of political theory only arise in certain contexts determined by certain contingent empirical facts, fact-insensitive political theory would not be issue contextualist.

Many people reject Cohen's idea of a fact-independent political theory. David Miller for instance juxtaposes what he terms contextualism to the universalism of Cohen's view. Contextualism in Miller's sense is the position that principles of justice are not universal but context specific (Miller, 2013: 42-43).¹ So Miller also defines contextualism as a question about scope – although of principles, whereas my definition of issue contextualism concerns the subject matter. Issue contextualism is a part of, but not necessarily the whole of, what Miller calls contextualism.

If Cohen is wrong, all political theory could be issue contextualist. But even if parts of political theory, e.g. the discussion of fundamental principles of justice, were fact-independent in Cohen's

¹ Cf. also the realist concern with specification of the scope of theories in Rossi (2012).

sense, much of political theory, including Rawlsian political theory, would not be, since concerns what Cohen calls ‘rules of regulation’, which are issue contextual – debates about religious toleration, free speech, the duty to obey the law and gender equality are for instance issues that arguably only arise in specific contexts (societies with religious pluralism, societies governed by states with the capacity to censure and punish citizens, societies with specific gendered divisions of labour etc.).

So issue contextualism does not distinguish multiculturalism from most other forms of political theory. In order for contextualism to do this, it must have something to do, not only with *facts about the object of discussion*, but *how* we should discuss this object. I will sketch two prominent versions of this claim that multicultural political theory needs to be contextual and discuss what senses of contextualism they involve. The first version is Joseph Carens’s, the second Bhikhu Parekh’s.

3. Methodological contextualism

According to Joe Carens, his approach to multiculturalism is contextual because it is ‘profoundly shaped by my sense of how much we learn as theorists by confronting the abstract with the concrete and by inquiring into the relationship between the theoretical views we espouse and actual problems, practices, and debates in political life.’ He adds that:

I seek at every point to consider theoretical claims about equality, freedom, and difference in relation to particular demands or practices in real cases. My basic strategy throughout is to move back and forth between theory and context, articulating intuitive judgements about cases in terms of theoretical principles and critically assessing theoretical formulations in light of their implications for particular cases.(Carens, 2000: 2)

Carens have subsequently given what he takes to be a better characterization of contextualism:

A contextual approach to political theory has five interrelated elements. First, it involves the use of examples to illustrate theoretical formulations. Second, it entails the normative exploration of actual cases where the fundamental concerns addressed by the theory are in play. Third, it leads theorists to pay attention to the question of whether their theoretical formulations are actually compatible with the normative positions that they themselves take on particular issues. Fourth, it includes a search for cases that are especially challenging to the theorist's own theoretical position. Fifth, it promotes consideration of a wide range of cases, and especially a search for cases that are unfamiliar and illuminating because of their unfamiliarity. (Carens, 2004: 118)

Both of these characterizations gesture at what we might call *methodological contextualism*.

Context here is relevant, not (only) in setting out the *kinds of cases* which political theory addresses, but also in the *formulation* and *critical testing* and *modification* of the theory. This is a sense in which political theory can be contextualist which goes beyond issue contextualism.

But methodological contextualism is not distinctive of the political theory of multiculturalism (or any other branch of political theory) (Kukathas, 2004: 218-219; Levy, 2007: 179). It is actually a version of the general method for doing political theory classically formulated by John Rawls under the label 'reflective equilibrium' (Rawls, 1999: 18-19, 42-45; cf. Carens, 2000: 4, and 2013: 194). Carens's contextual approach shares the central elements of Rawls's wide reflective equilibrium approach of comparing general principles with particular cases in order to see whether the implications of the principles square with considered judgments regarding a range of cases, as well as empirical facts about human behaviour or institutions, and to dialectically assess and modify principles in light of this (Daniels, 2013).

Reflective equilibrium methodology is in fact a kind of contextualism: it requires attention to what principles imply for particular cases and relies on our normative responses to such cases to modify principles. Since cases are specific and involve factual states of affairs, they are contextual in the sense I am using that word. So a methodology requiring attention to them and assigning them a crucial role in the discussion of principles is a form of contextualism. This way of using the word is not idiosyncratic; David Miller is a self-styled contextualist who explicitly accepts a broadly reflective equilibrium methodology (Miller, 2013: 41). Objections to my categorization of reflective equilibrium as a form of contextualism might therefore simply be due to a failure to distinguish Rawls's general justificatory methodology from his specific theory of justice, including the devices of the original position and veil of ignorance. The latter is precisely the kind of abstract political theory that many contextualists find problematic. But reflective equilibrium methodology in general is much broader than Rawls's specific theory of justice.

There might be differences in emphasis within general reflective equilibrium methodology. Carens underscores the bottom-up aspect, i.e. that practices and institutions often are more nuanced and incorporate forms of wisdom that abstract theories miss, and that theories therefore should pay more attention to them (Carens, 2000: 121-122, and 2013: 9). This is not a disagreement with reflective equilibrium methodology, but rather a (perhaps often warranted) criticism of the top-down way in which some political theories employ it. It is in the spirit of reflective equilibrium that theory should be just as informed by practice as judgements about cases should be derived from principles.

A further difference in emphasis between Carens's contextual approach and some varieties of reflective equilibrium lies in Carens's insistence on using 'real cases' (Carens, 2000: 120), which might be understood as an implicit repudiation of hypothetical thought examples. There is a debate about this question, which partly turns on the use of intuitions in general, partly concerns whether we can form reliable intuitions regarding so-called 'outlandish' thought examples (Appiah, 2008;

Singer, 2005; Elster, 2012). But this debate concerns which cases are relevant or reliable rather than a distinct view about the methodology of political theory.

4. The rejection of applicatory contextualism

Methodological contextualism is a meaningful and sensible form of contextualism, but it is neither novel nor distinctive of multiculturalism. In order to find out whether there is a further sense in which political theory about multiculturalism might be contextualist, I now move on to consider a prominent European multiculturalist and avowed contextualist, namely Bhikhu Parekh. His work includes a number of claims about the contextual nature of discussions of multiculturalism.

Regarding the discussion of Muslim headscarves he for instance writes that:

religious symbols cannot be defined and compared in the abstract, both because they rarely have exactly equivalent significance and because they acquire different meanings in different contexts and historical periods and might sometimes even cease to be religious in nature. We need to contextualize them and compare them not abstractly or ‘in themselves’ but in terms of the character and significance they might have acquired at a particular point in time (Parekh, 2006: 251-252).

This is a point about the contextual specificity of the *object* of discussion, i.e. a form of issue contextualism. Parekh’s sensible claim is that, if we discuss cases, we need to know the relevant facts about them.

The distinctive nature of Parekh’s contextualism begins to take shape when it comes to the normative evaluation of practices across cultures:

The case for intercultural equality should therefore not be made in such abstract and ahistorical terms that ignore genuine differences between and within communities involved or fails to address the deepest anxieties of the wider society. We should take a contextualized view of equality, identify what respects are relevant, and demand equal treatment of those shown to be equal in those respects (Parekh, 2006: 256).

The claim here might be that the *meaning* of equality as a normative standard is contextually specific. But the claim as such is underspecified. It is a truism that we should distinguish relevant from irrelevant features of a case and focus on the former. The question is: what makes features relevant, in this case from the point of view of equality? Parekh's claim seems to be that the answer to this question is provided, not by an abstract principle of equality, but by the context:

The movement from a general right to equality to the right to a specific treatment in a specific context... is not direct and deductive but contextually mediated (Parekh, 2006: 257).

This is still not entirely clear, however, and it could be understood in ways that would not make it a distinctive claim. It is uncontroversial that *application* of general principles to particular cases requires not only knowledge of the principle but also knowledge of the relevant facts about the case. Principles only have implications for cases when conjoined with descriptions of the cases.

According to this *application model of political theory*, context co-determines what implications general principles have for particular cases. The application model conceives of political theory as an argument, the conclusion of which is a normative judgement about a particular case. The premises consist of a) general normative principles (theory) and b) descriptions of the particular case with respect to the facts that are relevant according to the normative principles (empirical

facts). The ideal is to have deductively valid arguments so that prescriptive or evaluative conclusions regarding particular cases follow from the facts and principles.

In this model contextual facts are necessary for the derivation of implications for particular cases. Since context plays a necessary role, the application model is a kind of contextualism. Call this *applicatory contextualism*. But insofar as applicatory contextualism is a standard view of political theory, this kind of contextualism is also entirely uncontroversial.

On one view of political theory, the principles going in to the application model do not depend on the particular context for their content; principles are ‘pre-set’ independently of the context, and context only provides the ‘data’ required for applying these principles in order to find out what is required to achieve the pre-set goals in a specific case (Dees, 1994: 243; Levy, 2007: 181).

Parekh’s claim becomes distinctive if understood as a *rejection* of the application model, i.e. as a denial that normative evaluations and prescriptions regarding specific cases are derived from general context-independent normative principles conjoined with particular context-specific facts. This is how Favell and Modood understand him, since they advocate contextualism, of which they present Parekh as a prime exponent, as an alternative to ‘applied political philosophy’.² Although this is a mischaracterised dichotomy – since the application model is a type of contextualism – it is clear that a substantial difference concerns whether contextual facts are *only* relevant for the *application* of principles.

There are two ways in which one might reject the application model, which result in different conceptions of contextualism. The rejection can target a) the understanding of political theory as an

² This is parallel to political realism’s criticism of political theory as applied ethics, cf. Rossi (2012).

argument deriving implications from facts and principles (cf. Parekh's rejection of 'deduction' above), or b) the understanding of principles as *independent* of context. I consider these in turn.

5. Political contextualism

Parekh's positive claim is, first, that normative assessments and practical prescriptions must take place, not as deductions from theoretical principles, but in *political dialogue*. Secondly, unlike the claims of some theories of deliberation or public reason, the political dialogue is to be shaped by contextual facts about the specific culture of the society in question:

a dialogue is certainly necessary to resolve deep moral and cultural disagreements... However, it is unlikely to take us far in the abstract and contextless form... Unlike philosophical deliberation about politics, a political dialogue occurs within a particular society with a particular moral structure, history and traditions, and its participants are not abstract moral beings but constituted in a certain way... I suggest that there is no single principle in terms of which disputed practices can be evaluated. We start and cannot but start with what I shall call society's operative public values, which provide the context and point of orientation for all such discussions. (Parekh, 2006: 267)

Evaluating minority practices is necessarily contextual in the sense that it occurs within the context of a particular political community whose operative public values provide both its starting point and constant frame of reference. The values help distinguish morally indifferent from morally relevant practices and indicate why some of the latter are *prima facie* unacceptable. (Parekh, 2006: 292)

Parekh is right that political dialogue is often very different from philosophical argument and usually relates to the operative values in the society in question. This is a kind of contextualism, since it claims both that the scope, function and guiding standards of political dialogue depend on context. But as it stands this is a *factual* claim about *politics*, not about political *theory*.

Parekh's claims become a view about political *theory* if we add the claim that political theory simply *is*, or *should* be, a form of politics, or cannot be different from politics. Call this *political contextualism*, one form of which is advocated more explicitly and programmatically by James Tully under the label 'public philosophy'. Tully thinks political theory should be *part of* ordinary political deliberation and debate among citizens. Political theory is not elevated 'above' ordinary politics; public philosophy is not a theoretical enterprise, but a 'practical' contribution to politics for the purpose of criticism of and emancipation from existing ways of thinking about and practicing politics (Tully, 2008: 16). Tully's favoured kind of political theory is not different in kind from ordinary political reasoning, but is a 'methodological extension and critical clarification of the already reflective and problematized character of historically situated practices of practical reasoning' (Tully, 2008: 29). Tully's 'engaged' public philosophy is contextualist in many of the same ways as Parekh's multiculturalism – it is oriented towards contributing to ordinary political debates and rejects the theoretical conception of political theory in favour of dialogue.

Note two points about Tully's general programmatic statements:³ First, he is right that political theory is not 'above' politics in the sense that it is neither authoritative over nor disconnected from politics. Political theory is often inspired by politics and insofar as it pronounces evaluations or

³ Analogous remarks apply to the similar claims by Laden (2007: 200-201) and Owen and Tully (2007: 279-280).

prescriptions about politics, these are simply arguments that can be considered as any other argument – so political theory is neither better, nor worse, than any other kind of contribution to politics (Swift and White, 2008). As such political theory can indeed be both a methodological extension of ordinary political argumentation and engaged in ordinary politics.⁴

But, secondly, political theory is not the same as politics. Inspiration, extension and engagement are not tantamount to identity. Political theory is concerned with politics in different ways than ordinary political debates are. Political theory is concerned with finding the *better* arguments, not with rhetorical *effectiveness*. Where ordinary political debates aim at turning others to your point of view, which presupposes that you already *have* a point of view, political theory is concerned with *finding out what we should think* and tries to answer this question by logical argumentation and critical reflection. Political theory can sometimes contribute to political activism, but this does not mean that it *is* political activism. It is an extension of political debates insofar as they also include political argumentation. But political theory abstracts away from many other aspects of ordinary politics, so it is not just extension but also selective refinement focused on certain types of questions and certain ways of trying to answer them that are often secondary in actual politics.

So a strict political contextualism would amount to a rejection of the theoretical distinctiveness of political theory. This suggests that Parekh and Tully are probably not committed to strict political contextualism.

⁴ Cf. Freeman (2009) for a Rawlsian version of this view.

6. Theoretical contextualism

If contextualism is to be a conception of political *theory*, it can be understood as a form of the second kind of rejection of the application model. It then claims that political theory, although a type of argument, does not proceed by applying context-independent principles to particular cases.⁵ Since the claim then is that context determines the content of political theory, we can call this *theoretical contextualism*.

The question then is what theoretical contextualism amounts to in positive terms; how do principles depend on context? Favell and Modood suggest an answer, namely that multicultural political theory should conduct ‘comparative normative analysis of how actual existing liberal institutions have dealt with multiculturalism in the post-war period.’ (Favell and Modood, 2003: 492) But while they are surely right that this is interesting and important, and might require ‘the development of a new case-study-led theoretical methodology’, it is not clear, despite what they seem to think, that this would be a form of political theory addressing the same *normative questions* as political theorists usually have addressed. For how can one make *normative* judgements and prescriptions, which multiculturalists also want to make, on the basis of comparative empirical studies of how institutions *in fact* have dealt with specific groups? British and French models of integration are different, and comparative studies can reveal how, but this does not tell us how immigrants *should* be integrated or accommodated.

Normative premises are needed to justify such normative judgments. If judgements are not to be mere postulates about specific cases, their premises must be more general than the case in question. This is why normative political theory needs general normative principles.

⁵ This is equivalent to what Sangiovanni (2008), has termed ‘the practice-dependence thesis’.

Theoretical contextualism denies that these principles are given independently of the context to which they are applied, as in the application model as traditionally understood. How are they then arrived at and justified? Modood and Favell approvingly suggest that principles are ‘read off... interpretively from the... institutions we in fact inhabit’ (Favell and Modood, 2003: 491). Call this *narrow* theoretical contextualism, since Favell and Modood here seem to suggest that normative principles should be ‘read off’ *exclusively* from the particular institution in question.

Modood affirms a form of theoretical contextualism when he responds to a demand for specification of the conception of equality justifying his normative evaluations and prescriptions. Such a demand is misplaced, according to Modood, because:

we do not have access to independent ideals. Our normative criteria and judgements are developments out of the norms and ideals that we learn about in engaging with real cases and a variety of contexts. We need some knowledge to get started but we do not need a full theory. The theory will emerge in the debates and in addressing the problems but full specification may never be possible and we may have to be satisfied with a dialectical zigzagging: the theory emerges out of the practice, imperfectly, is clarified by some reflection and analysis and is subsequently used to guide practice, including modifying some initial steps, and so on. Hence it is not surprising that the best multicultural political theory is explicitly not a priori but contextualist. (Modood, 2009: 75-76)

While the meaning of ‘a priori’ is unclear here, Modood’s rejection of it might be interpreted as a form of theoretical contextualism, i.e. as a rejection of context-independent principles. But here Modood rather seems to affirm what might be called *wide* theoretical contextualism, since his claim that normative criteria and judgements are developed dialectically in engagement with real cases,

while implying that principles are not independent of context in general, suggests that they are also not determined by one *specific* context or institution.

But note that wide theoretical contextualism, while formulated as a rejection of a specific understanding of the application model, turn out to characterise political theory in a way resembling what I called methodological contextualism. This raises the question whether methodological contextualism implies or requires rejection of the application model? One might think so, since the application model starts from principles and then applies them to cases by adding the particular facts of the cases. Modood certainly seems to think so, since he labels calls for specification of the normative criteria as ‘a priori’, whereby he apparently means something that is posited as true independently of the noted dialectic.

But the assumed incompatibility is only apparent. In fact, not only can methodological contextualism and applicatory contextualism easily be combined – applicatory contextualism is actually an element of the method of reflective equilibrium, which requires us to derive implications of general principles for particular cases in order to compare these with our considered judgements about those cases. The application model only contradicts methodological contextualism if one assumes that the applied principles are given beforehand and not susceptible to dialectical testing, discussion and development. But this is exactly what reflective equilibrium methodology denies. It is therefore uncharitable to assume the opposite in order to mount a charge of a priori theory.

Modood’s case for wide theoretical contextualism therefore collapses into methodological contextualism, which is not as novel or revisionary a view about the methodology of political theory as most self-styled contextualists claim, who often hold Rawls out as the prime example of the kind of political theory they want to distance themselves from. To be sure, reflective equilibrium can be done in many different ways, and the issue contextualism that goes with the subject matter of

multiculturalism will shape it in ways different from traditional Rawlsian debates. But this is because issue contextualists ask more specific questions than traditional ‘abstract’ political theorists, not because of fundamental differences in methodology.

7. Modood’s argument revisited

Modood’s argument is clearly contextualist in several ways. It is *issue* contextualist in that it is an argument about the specific kind of diversity in Europe understood against specific European historical and institutional circumstances. The argument is not supposed to say how Muslims should be recognized in the US or how religious minorities should be accommodated globally. The question is whether it is a form of *theoretical* contextualism, as some of Modood’s claims suggest?

Some of Modood’s points seem to be forms of theoretical contextualism. His claims about the meaning of secularism as a political principle, and that the moderate conception of it is the better conception of secularism, are argued with reference to the *fact that in the particular European context this is the actually existing form of secularism and that it works well here*. So is the normative principle justifying Modood’s rejection of radical secularism and supporting his political prescriptions about new forms of accommodation, determined by or ‘read off’ from the context?

The first step of Modood’s argument (that there are different conceptions of secularism and that only some have the implications drawn by the radical secularist critics) is *a purely conceptual point* which does not depend on context. It might be inspired by attention to context, but this is, to use an old positivist distinction, a question about the ‘context of discovery’, not about the ‘context of justification’. The semantic content and validity of the distinction between different conceptions of secularism do not depend on context – one could make the same distinction even if all states

actually conformed to the absolute separation required by radical secularism, or even if religion had died out as a societal phenomenon leaving nothing to separate.

The second step of Modood's argument, that actually existing forms of secularism in Europe are moderate, clearly does invoke context. But this is *an empirical claim* about political-institutional realities in Europe. This step of the argument applies a conceptual distinction to an empirical context, i.e. a form of applicatory contextualism involving a classification of actual political-institutional arrangements within a conceptual framework. So this is not a form of theoretical contextualism either.

The third step of the argument is evaluative and normative; it claims that moderately secular arrangements are good and should be extended to Muslims. Narrow theoretical contextualism would claim that these judgements do not derive from context-independent principles or standards but are determined by or read off from the specific context.

Moderate secularist arrangements are good because they allow religious communities both to have autonomy protected by freedom of religion and to play a public role whereby their members are recognized and their activities get public support and standing. This is good from the point of view of religious people, and according to Modood there is no downside in terms of a religious contamination of the state, since religions in moderately secular regimes do not have special political power and states do not enforce religious rules or justify their authority on religious grounds.

This is a contextual claim since it concerns arrangements in particular societies.⁶ But the evaluative judgements about these arrangements invoke values that are not obviously determined by the specific context as narrow theoretical contextualism would have it. If the value involved in the positive assessment of moderate secularism is religious freedom, for instance, how is this contextually determined? It cannot be the case that the institutional arrangements are good *because* they secure religious freedom if religious freedom is *defined* as what the institutional arrangements secure. This would be problematic at least in three ways. First, we would not have been told anything, since the argument is circular and gives us no understanding of what religious freedom is. Second, it would not really provide a normative evaluation, since religious freedom would then be reduced to a factual description, thus leaving it an open question whether the arrangements are good at all.⁷ Thirdly, if the evaluation is nevertheless insisted upon, it would amount to a radical form of conservatism to the effect that ‘this is good because this is what we do here’.

So the evaluation of moderately secular arrangements must depend at least partly on standards that get their content and value independently of the specific context – as in the traditional application model. This does not mean, however, that value standards are ‘a priori’, as Modood seems to think (Modood, 2009: 76). Normative principles and evaluative standards get their justificatory force

⁶ Ironically, given Modood’s earlier criticism of Kymlicka for not being sufficiently sensitive to the differences between European and Canadian contexts, Kymlicka (2009) has subsequently questioned whether Modood’s argument for extension of institutional arrangements to Muslims is generalizable.

⁷ Interpretation must not only be a way of *formulating* what the principles are, but must *justify* the normative principles as appropriate for this specific context, cf. Miller (2013: 47-48), and the distinction between ‘descriptive’ and ‘critical’ interpretation in Sangiovanni (2008: 142).

from how they make sense of and explain considered judgements in a *broad range* of cases. According to reflective equilibrium methodology, principles are not a priori but part of on-going processes of critical discussion, testing and modification involving consideration of their implications for particular cases. This is a form of contextualism, since attention to context is crucial. But it is a wide, not a narrow, form of theoretical contextualism, both because the reflective equilibrium has to include a broad range of cases across several contexts, and because the values and principles are not merely determined by or read off from particular contexts or institutions but are developed in a continuous process that never assigns primacy to any particular context.

Modood's normative prescription that existing institutional arrangements and privileges should be extended to Muslims might seem to be a form of theoretical contextualism. The claim is that *because these principles for state-religion relations are already a part of the context in question* they should also be extended to Muslims. There is a contextual claim here, namely that there is already a moderate form of secularism in place. But this is a purely descriptive claim. It only becomes prescriptive given an additional normative premise, namely that Muslims should be treated equally (Lægaard, 2008). Modood presents his multiculturalism as an egalitarian position about equal citizenship, so what is doing the work here is an ideal of multicultural equality.

Is this a form of theoretical contextualism? If one adopts a purely case-study-led approach to institutions, the norms in question are those *embodied* in institutions and practices, which case-studies can then explicate. A standard of equality could be arrived at interpretatively in this way.⁸ It might further function as a premise for normative criticism if it can be shown that a given institution does not live up to its own principles – a university might profess meritocratic principles and nevertheless admit students on the basis of their ability to pay or allow skin colour or gender to

⁸ Sangiovanni (2008: 150) says more about how this could work than Modood does.

affect the assessment of students. Case studies can provide input to such *internal* criticism if they can show that some groups are not treated according to the standards that usually apply to their kinds of cases within the institution in question.

But this is not the type of situation Modood is talking about in relation to Muslims in Europe. Many actually existing European church-state arrangements are not based on professed principles of religious equality – in some cases quite the contrary (Lægaard, 2012). Hence Modood's case for extension of institutional privileges to Muslims cannot merely be an internal critique of European states for having failed to extend privileges granted in the name of religious equality to some religious groups. There are two reasons why not: a) most European states either do not have explicit or professed principles at all but merely an evolved practice in relation to particular long present churches,⁹ or b) they have explicit principles according to which religious privileges are reserved for specific religious communities. Modood's argument (as most multicultural arguments generally) cannot merely be an internal critique because it requires an *external* principle of equality.

This point is even clearer if the type of theoretical contextualism in question were to be based on the Wittgensteinian understanding of interpretation to which Modood at times appeals (Favell and Modood, 2003: 491). On a Wittgensteinian understanding the problem would not only be that there is no principle of *equality* to be read off from the context; it would be the even worse problem that *whatever* actually goes on in the context could be represented as being in accordance with a

⁹ This means that an interpretative principle of charity such as advocated by Sangiovanni (2008: 149), according to which interpretation of institutions must presuppose the existence of some unified aim or purpose of an institution, and that interpretation is only successful if it succeeds in making sense of institutions as having such unified meaning, is arguably too optimistic and assumes too high a degree of uniformity and coherence of institutions like the ones Modood is discussing.

principle, even one of equality. A Wittgensteinian conception of rule-following arguably is even less able to explain why *different* treatment of groups is *unequal* treatment – if the rules of equal treatment are ‘read off’ from the institutions, whatever the institutions do can be represented as ‘how we go on’ following the rule (Kripke, 1982). So Wittgenstein offers little help in retrieving the needed principle of equality.¹⁰

So if Modood were to stick to the narrow form of theoretical contextualism, he would have to renounce on the normative claims he wants to make. Alternatively, he can acknowledge the wide nature of his theoretical contextualism, but then the implied contrast to Rawlsian political philosophy and his charge of a priori theory are undercut.

8. Conclusion

Proponents of contextualism need to explain positively what a contextualist form of political theory amounts to if it is to be fundamentally different from the forms of political theory that contextualists distance themselves from. On some understandings the contextualist enterprise is indeed fundamentally different, but then it is no longer recognizable as a form of normative political theory, e.g. if contextualism identifies political theory with politics or insists so much on case-based descriptive facts that it reduces political theory to a descriptive and explanatory activity. If contextualism is to be an interesting account of a way of doing normative political theory it must retain both the normative and the theoretical aspects of political theory.

¹⁰ As Modood seems to acknowledge elsewhere, cf. Modood (2007: 97).

Normative political theory needs some kind of political principles in order to justify normative evaluations and prescriptions. So a theoretical contextualist must explain how to arrive at these normative principles. Here contextualists either fall back on methodological contextualism, which I have argued is not a novel or distinctive methodology, or simply announce that the needed principles can be ‘read off’ or derived interpretatively from the context, without explaining what this means and how it works in practice.

The challenge for theoretical contextualism is to explain how normative principles can be ‘read off’ or interpretatively derived from the specific context. There is a way of doing this that makes normative criticism possible, namely if theorists can show that institutions do not live up to their own principles. This allows for internal criticism. The problem is that a purely internal criticism will often not suffice. If political theorists want to mount more radical critiques and argue for institutional reforms, the required principles are often not readily available in the specific context. So if political theorists want to be able to prescribe institutional reforms, they need principles that narrow theoretical contextualism cannot provide.

This leaves us with wide theoretical contextualism, which is really just issue contextualism coupled with a combination of methodological contextualism and applicatory contextualism. This is all we need, for here we get a systematic way of formulating and justifying normative principles without, on the one hand, having to limit ourselves to the principles embedded in a particular context and, on the other hand, without having to claim any a priori access to or justification of our principles. So there is plenty of room for contextualism – only this is neither an especially novel form of political theory nor one distinctive of multiculturalism.

Acknowledgements

This paper was written for the *Facts and Norms in European Political Theory* conference, University of Copenhagen, August 2013, and subsequently presented at the Universities of Turku, Roskilde and Copenhagen. I thank Martin Marchman Andersen, Ayelet Banai, Emanuela Ceva, Eva Erman, David Estlund, Klemens Kappel, Annebelle Lever, Kasper Lippert-Rasmussen, Fabienne Peter, Thomas Søbirk Petersen, Juha Räikkä, Jesper Ryberg, Kai Spiekermann, Frej Klem Thomsen as well as the editors of EJPT and two anonymous reviewers for valuable comments.

References

- Appiah A (2008) *Experiments in Ethics*. Cambridge, MA.: Harvard University Press.
- Carens JH (2000) *Culture, Citizenship and Community: A Contextual Exploration of Justice as Evenhandedness*. Oxford: Oxford University Press.
- Carens JH (2004) A Contextual Approach to Political Theory. *Ethical Theory and Moral Practice* 7(2): 117–132.
- Carens JH (2013) *The Ethics of Immigration*. Oxford: Oxford University Press.
- Cohen GA (2008) *Rescuing Justice and Equality*. Cambridge, MA.: Harvard University Press.
- Daniels N (2013) Reflective Equilibrium. In: Zalta EN (ed) *The Stanford Encyclopedia of Philosophy* (Winter 2013 Edition).
- Dees R (1994) Living with Contextualism. *Canadian Journal of Philosophy* 24(2): 243-260

Elster J (2012) How Outlandish Can Imaginary Cases Be? *Journal of Applied Philosophy* 28(3): 241-258.

Favell A and Modood T (2003) Multiculturalism and the Theory and Practice of Normative Political Theory. In: Finlayson A (ed) *Contemporary Political Thought*. Edinburgh: Edinburgh University Press, pp. 484–495.

Freeman S (2009) Constructivism, Facts, and Moral Justification. In: Christiano T and Christman J (eds) *Contemporary Debates in Political Philosophy*. Chichester: Wiley-Blackwell, pp. 41-60.

Kripke S (1982) *Wittgenstein, Rules and Private Language*. Cambridge, MA: Harvard University Press.

Kukathas C (2004) Contextualism Reconsidered: Some Skeptical Considerations. *Ethical Theory and Moral Practice* 7(2): 215–225.

Kymlicka W (1995) *Multicultural Citizenship*. Oxford: Oxford University Press.

Kymlicka W (2009) The Governance of Religious Diversity: The Old and the New. In Bramadat P and Koenig M (eds) *International Migration and the Governance of Religious Diversity*. Montreal: McGill-Queen's University Press, pp. 323-334.

Laden AS (2007) Negotiation, deliberation, and the claims of politics. In: Laden AS and Owen D (eds) *Multiculturalism and Political Theory*. Cambridge: Cambridge University Press, pp. 198-217.

Levy J (2007) Contextualism, constitutionalism, and *modus vivendi*. In: Laden AS and Owen D (eds) *Multiculturalism and Political Theory*. Cambridge: Cambridge University Press, pp. 173-197.

Lægaard S (2008) Moderate Secularism and Multicultural Equality. *Politics* 28(3): 160–168.

Lægaard S (2012) Unequal recognition, misrecognition and injustice: The case of religious minorities in Denmark. *Ethnicities* 12(2): 197–214.

Miller D (2013) *Justice for Earthlings: Essays in Political Philosophy*. Cambridge: Cambridge University Press

Modood T (2005) *Multicultural Politics*. Edinburgh: Edinburgh University Press. Cambridge: Polity.

Modood T (2007) *Multiculturalism*. Cambridge: Polity.

Modood T (2009) Moderate Secularism and Multiculturalism. *Politics* 29(1): 71–76

Modood T (2010) Moderate secularism, religion as identity and respect for religion. *Political Quarterly* 81(1): 4–14.

Modood T (2012) Is There a Crisis of Secularism in Western Europe? *Sociology of Religion* 73(2): 130-149.

Murphy M (2012) *Multiculturalism: A Critical Introduction*. London: Routledge.

Owen D and Tully J (2007) Redistribution and Recognition: Two Approaches. In: Laden AS and Owen D (eds) *Multiculturalism and Political Theory*. Cambridge: Cambridge University Press, pp. 265–291.

Parekh B (2006) *Rethinking Multiculturalism: Cultural Diversity and Political Theory*, second edition. Basingstoke: Palgrave.

Rawls J (1999) *A Theory of Justice*, revised edition. Harvard: Harvard University Press.

Rossi E (2012) Justice, legitimacy and (normative) authority for political realists. *Critical Review of International Social and Political Philosophy* 15(2): 149-164.

Sangiovanni A (2008) Justice and the Priority of Politics to Morality. *Journal of Political Philosophy* 16(2): 137–164

Singer P (2005) Ethics and Intuitions. *The Journal of Ethics* 9(3-4): 331-352.

Swift A and White S (2008) Political Theory, Social Science, and Real Politics. In: Leopold D and Stears M (eds) *Political Theory: Methods and Approaches*. Oxford: Oxford University Press, pp. 49-69.

Tully J (2008) *Public Philosophy in a New Key. Volume I: Democracy and Civic Freedom*. Cambridge: Cambridge University Press