

CULTURE AND THE ABSTRACT INDIVIDUAL

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By

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Will Kymlicka's Defense of Minority Rights

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ABSTRACT

In this thesis I examine Will Kymlicka's argument in defense of minority rights within a liberal society. In the first chapter, I outline the basic tenets of his argument and extract some of the issues that prove especially problematic in later chapters. In the second chapter, I examine in depth Kymlicka's distinction between a culture's character and its structure. It is argued that this distinction cannot be sustained upon closer examination. I conclude the chapter, however, by suggesting that this distinction may not even be necessary to defend minority rights within a liberal framework. The third chapter of this thesis deals with the issue of moral agency. I make some distinctions within the notion of moral agency and suggest that a thick view of agency is compatible with the liberal principle of revisability. After an examination of the argument in which Kymlicka presents his criteria for determining which cultural communities are to be protected, I conclude that his criteria would be incompatible with revisability. In other words, I argue that the attempt to enhance the conditions for moral agency may result in undermining it.

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Introduction

Abstract individualism has traditionally been regarded as one of the distinguishing characteristics of liberal theory. To understand what abstract individualism means, we can consider separately its two basic elements. The term "abstract" suggests that we can, for political purposes, distinguish between an individual and her ends, goals, interests, life plans, and community relations. "Individualism" identifies who our primary moral unit will be in the political and social decision-making process. How an individual comes to possess common social goods such as rights and liberties will be determined independently of what she is doing with her life, what she plans to do, and her past and present associations. One result is a tendency for liberals to dismiss the political relevance of the groups and associations that an individual takes part in. While there are important liberal reasons for doing so, it is not obvious that fairness to individuals can always be secured without recognizing the claims of particular communities. In fact, political demands made by Canadian groups like Aboriginal- and French-Canadians indicate their belief that only through the protection of cultural group

membership will individuals be treated fairly. The question to be considered here is how we, as liberals, are to interpret the political significance of cultural groups and how we will meet these new demands.

Will Kymlicka¹, has presented a plausible case for the need to recognize cultural group rights within a liberal framework. Kymlicka argues that cultural identification and membership are preconditions for our ability, as individuals, to make important decisions about how to live our lives. The majority of Canadians can already identify salient life choices within a stable Canadian or North-American culture. For others, the options found within this culture are not appropriate, but their own culture, which would provide viable alternatives, faces deterioration. According to Kymlicka, this lack of appropriate and culturally relevant options for members of these groups undermines their sense of self-respect. He claims the contractors behind Rawls' veil of ignorance would regard cultural membership as a primary good due to its instrumental value in contributing to self-respect. Self-respect is first on Rawls' list of primary goods and the contractors would find it necessary to protect the social conditions that promote it. Thus, if Kymlicka can

¹ Kymlicka, W. Liberalism, Community and Culture. Oxford University Press, 1989.

demonstrate that culture is one such condition, then it will be possible to defend the protection of certain types of group or community rights based upon cultural membership within liberalism.

Initially, it would not appear that John Rawls' theory of justice² could easily accommodate such a position. In order to understand the tensions involved, it is necessary to situate the issue of cultural group rights within the context of Rawls' theory, prior to considering Kymlicka's argument in greater detail. The first difficulty arises from the implication that politically protected group rights will likely involve an unequal distribution of social resources. Aboriginal self-government in Canada, for instance, means that land disputes and other treaty obligations will have to be settled, and this may be detrimental to the interests of non-aboriginals. Rawls claims that when we distribute resources unequally in society, this distribution must benefit the least advantaged - the difference principle.³ It has yet to be determined, however, that Native-Canadians are actually in the worst possible social situation thereby warranting a redistribution of goods, possibly to the detriment of

² Rawls, J. A Theory of Justice. The Belknap Press of Harvard University Press, 1971.

³ Rawls, J. 1971, p.51.

others.


A second problem arises because culture is, in many ways, a conception of the good. What typically distinguishes one culture from another are things like customs, values, codes of morality, and views about what it means to live a good life. By protecting cultural groups, we seem to undermine the main condition that allowed the social contract to work in the first place, that of preventing social contingencies from biasing the reasoning process that occurs within the original position. Third, we can criticize cultural group rights from a liberal standpoint in that the group or the community replaces the individual as the basic moral unit of society. In the political sphere, group interests would be considered prior to individual ones.

Kymlicka deals with this last concern by centering his justification of minority rights around the legitimate interests of the individual. On his view, the individual remains the primary moral unit within a liberal society and it is because of the importance that cultural membership has for the individual that we, as liberals, can move forward and seriously consider protecting cultural communities. For his project, as I have said, Kymlicka draws upon Rawls' claim that self-respect is the most important of the primary goods. Without self-respect, nothing else in life will seem

worth while and for this reason we must strive to enhance the social conditions that contribute to it. According to Kymlicka, one such condition is one's cultural community, in which a person may find others who are like-minded and will affirm the worth of her activities,. Furthermore, the community provides a range of viable options to choose from in formulating a rational life plan. On Kymlicka's view, an individual is already situated within a social context and, in order to formulate a rational life plan she must draw upon her experiences within that context to make meaningful decisions. For Kymlicka, the community is there to benefit the individual, in a sense, by allowing her to make and evaluate choices in such a way that will be meaningful from the perspective of her social context.

In chapter one of this thesis, I will expand upon and explore some of the main points of Kymlicka's argument. One especially problematic issue that emerges in the first chapter is Kymlicka's attempt to deal with the second of the liberal concerns that I mentioned above. As I indicated, liberals would not be inclined to politically protect cultural communities simply because culture, on the surface, is a comprehensive conception of the good. It represents a set of norms, values, traditions, and views about what it means to live a good life. For Rawls, the competition between such conceptions of the good was one of the factors

that led to social turmoil and as a result, should be factored out of our reasoning about social justice. Kymlicka, however, argues that a distinction can be made between a culture's character and its structure. On this view, a culture's norms, values, and traditions can be distinguished from the cultural community itself, where the community or structure, is what liberals should seek to protect.

At the end of chapter one and in chapter two, I will explore this distinction in more detail. The distinction will be found problematic because, even though a community, without the influence of character might enhance self-respect, it is not clear that choices can be made meaningful and viable solely by the structure alone. Kymlicka  maintains that individuals cannot be transplanted from one culture to another without a serious loss occurring to one's capacity to make meaningful choices. It will be argued, however, that this non-transferability exists because of the influence that cultural character has upon our choices. It is the structure and the character of our cultural communities that make them important to us and create a sense of loss when assimilation occurs.

Another important concern that emerges in chapter one and is dealt with in more detail in chapter three is the issue of revisability. For liberals, the possibility of

revising one's ends is central to making the social contract work. From the perspective of the original position, one would not agree to a contract entailing inequality unless one could view one's ends as subject to change. Moreover, in order to even consider one's self in a variety of possible circumstance, as the veil of ignorance requires, an individual must regard her conception of the good as essentially revisable. As a liberal argument then, Kymlicka's defense of minority rights must be put to this test. Even though at the end of chapter two, I will suggest a way in which liberals may still accept Kymlicka's argument without the structure/character distinction, it seems that this defence still faces irreconcilable difference with liberal theory.

These differences will be explored within the framework of the notion of moral agency and the conditions under which we may describe a person as a moral agent. In claiming that cultural group membership is a necessary precondition for formulating a rational life plan, Kymlicka focusses upon the psychological conditions for moral agency. Moral agency, however, entails the notion of responsibility or accountability for one's choices and actions. For this reason, we must also consider the normative conditions for agency or the conditions under which we may negatively evaluate a person's responsibility for a past action.

Furthermore, due to the importance that liberals place upon the principle of revisability, it will be argued that there is also a thick or positive conception of moral agency that incorporates this principle. As a result, in order to claim that cultural communities must be protected on the grounds that they enhance the conditions for moral agency, it will be necessary to examine Kymlicka's argument to determine if he accounts for revisability. I will argue at the end of this thesis that he does not consider revisability in his argument and, in fact, one of the implications of his argument is that revisability may be detrimental to the particular cultural communities that he wishes to protect. On this basis, I will conclude that we cannot accept Kymlicka's defense of minority rights because the conception of a moral agent that must be accounted for is undermined by the criterion by which he distinguishes among the communities should be protected.

Chapter One

I. Introduction

The purpose of this first chapter will be to introduce Kymlicka's argument in defense of minority rights and raise some preliminary concerns about it. Basing his position on the liberalism of John Rawls in A Theory of Justice, Kymlicka argues that the contractors in the original position would be inclined to regard cultural group membership as a primary good. Kymlicka has two related lines of defense for this. First, cultural group membership is central to the notion self-respect, which itself is first on the list of primary goods. An individual's sense of self-respect is something that is enhanced by the existence and proximity of a community of people who share and affirm one's values, beliefs, and traditions. Second, cultural group membership, Kymlicka claims, is essential to an individual's ability to make meaningful choices and ultimately formulate a rational life plan. A cultural community creates "a context of choice" in which some options are made more salient and meaningful for the individual than others. In order to alleviate the liberal concern that protecting cultural groups involves protecting certain comprehensive conceptions of the good, Kymlicka

distinguishes between a culture's structure and its character. It is to a culture's structure that members refer for the meaning of their choices and their sense of self-respect. In this chapter, I will make an initial attempt to interpret the meaning and implications of this distinction.

II. Kymlicka's Argument

Kymlicka believes that a case can be made for the protection of certain cultural minority groups within a liberal framework despite what appear to be over-riding liberal objections. Making the case requires that we reconsider why basic liberties are important in the first place and this involves looking again at the liberal conception of the person.⁴

In liberalism, the individual is viewed as an agent who has the capacity to act in accordance with self-chosen goals and purposes that are defined in terms of what the agent believes to be worth while for her life plan. These beliefs make sense of and give meaning to a person's life.⁵ The liberties of citizenship are necessary first, to form these beliefs and goals, and second, to attain the goals as far as

⁴ Kymlicka, W. 1989, p.163.

⁵ Kymlicka, W. 1989, p.163.

possible. Basic liberties prevent certain types of political obstacles from standing in our way during this process; they are a form of protection that the individual has such that the state and other interested factions are prevented from interfering with this process of belief formation and revision. For example, a guaranteed freedom of belief leaves an individual free to pursue any religion she wishes; certain types of official intervention aimed at changing this person's religious convictions are prevented. Moreover, it is possible that we might find ourselves to be mistaken about what is in our best interest for pursuing the good life. Thus, liberty is required to allow us to reconsider and revise our beliefs. We need to be free, not only to act on our chosen beliefs, but also to question them and possibly to adopt other beliefs if we so choose. Liberty both facilitates this and prevents us from being deprived of our liberties and resources in the process of questioning and revising our beliefs.⁶ Since a liberal state allows for the existence of many religions, an individual has the freedom to choose a different one if she is no longer satisfied with her old set of beliefs. Because this is a basic liberty, she also cannot be deprived of

⁶ Kymlicka, W. 1989, pp.163-164.

communal resources when this belief revision takes place.⁷

Having a basic set of liberties is so important to our individual well-being that Rawls argues such a set would be chosen by the contractors in the original position as the first principle of justice;

"each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others."⁸

This principle is agreed to as being the most fair way of distributing the primary goods. Primary goods, according to Rawls, are the things that a rational person would always want regardless of anything else she might want in her life. These are the things that facilitate her ability to carry out her intentions, advance her ends, and facilitate her capacity to form and revise her beliefs and goals, as I mentioned above. According to Rawls, these goods include; self-respect, rights, liberties, opportunities, powers, income, and wealth.⁹ This is Rawls' thin theory of the good.¹⁰ Regardless of social contingencies, these primary

⁷ This loss of liberty and communal resources might, for example, take the form of imprisonment or denial of social services, or other forms of pressures intended to force an individual to conform to a state sanctioned religion.

⁸ Rawls, J. 1971, p.60.

⁹ Rawls, J. 1971, p.92.

¹⁰ As distinguished from a thick theory of the good - a social contingency, religion, race, social status, or anything that might unfairly bias the contract. For Rawls, these

goods remain as common elements that all individuals require to formulate rational life plans. It is also this feature of liberalism - this list of primary goods - that Kymlicka takes advantage of in developing his own argument about cultural group rights. His view turns on the notion that culture plays the same type of role in a person's life as these other primary goods. Culture is, he claims, so central to an individual's ability to develop a rational plan in life that it would be regarded as a primary good in the original position, rather than rejected as simply another competing conception of the good.¹¹

Kymlicka advances two related lines of argument in support of this view. The first relies upon what Rawls says about self-respect. Self-respect, Rawls claims, is viewed by the contractors in the original position as the most important of the primary goods. Why is this so? Without self-respect nothing in life will seem worth doing for a person, or if anything does, the person lacks the will to strive for it. Self-respect is, first, a sense of our own value and a sense that our conception of the good or plan of life is worth carrying out. Second, the notion of self-respect is regarded as the confidence in our own ability to

primary goods will bias the contract in a fair way.

¹¹ Kymlicka, W. 1989, p.166.

fulfill our intentions. Since this is basic to an individual's well-being, Rawls claims that the contractors in the original position would seek to avoid at all costs any social conditions that might undermine an individual's sense of her own self-worth.¹² It is this feature of liberalism, the primacy of self-respect, that Kymlicka takes advantage of to draw his first link with the value of culture. He claims that cultural membership is a central social condition contributing to the primary good of self-respect, and as a result, cultural membership itself would be recognized as a primary good in the original position as well.¹³

According to Rawls, having a sense of our own self-worth involves finding that our person and our activities are sanctioned, confirmed, and appreciated by other people who are "likewise esteemed and their association enjoyed".¹⁴ Not only must we have a rational plan of life and carry out activities that make use of our natural capacities, but also we need other people around us, whom we respect, who appreciate us as well.¹⁵ One obvious place

¹² Rawls, J. 1971, p.440.

¹³ Kymlicka, W. 1989, p.166.

¹⁴ Rawls, J. 1971, p.440.

¹⁵ Rawls, J. 1971, p.440.

for a person to find such individuals is within her own cultural community. Such communities have shared and mutually agreed upon practices, standards, and life patterns. When an individual takes part in culturally sanctioned activities, she is more likely to find that the value of these activities is appreciated and reinforced by members of her own cultural community. In this way, culture is likely to be a primary good for individuals because of the important role that it has in contributing to that individual's sense of self-respect.¹⁶

But this argument alone will not convince a liberal to protect minority cultures. Other communities exist that might equally provide the social affirmation of our activities that our cultural community does. A further argument is required to show that there is something about particular cultural communities that provides for the effective exercise of liberty. This link between the exercise of liberty and self-respect is crucial to understanding Kymlicka's argument. In his interpretation of Rawls, Kymlicka points out that;

"[s]elf-respect...isn't so much a part of any rational plan of life, but rather a precondition of it. If we thought that our goals in life weren't worth pursuing, then there would be no point of our activities. (Rawls 1971 p, 178) To ensure that we have

¹⁶ Kymlicka, W. 1989, p.166.

this self-respect, we need the freedom to examine our beliefs, to confirm their worth."¹⁷

In order to develop a rational plan in life, one must have a sense of self-respect. One must be able to decide that some things are worth pursuing and others are not, and this seems to involve some sense of confidence in one's own ability to make these types of decisions. To acquire this sense of self-confidence, however, one must have the initial freedom to examine one's beliefs and confirm their worth.¹⁸ Where does this process of examination and confirmation take place? According to Kymlicka, it occurs within one's cultural community because, in order to decide that some things are worth pursuing and others are not, these options must be meaningful for a person. His contention is that our own cultural community makes options meaningful to us in a particular way that other communities might not.

The further argument that Kymlicka provides emphasizes the role that culture has in creating a range of options for us when we are formulating our rational life plans. The idea that rational, self-determining agents formulate, assess, and revise their beliefs about the good presupposes

¹⁷ Kymlicka, W. 1989, p.164.

¹⁸ This connection is not well-developed by Kymlicka, however, I offer one interpretation of this now, and I will examine this further in chapter 2 of this thesis.

some sort of content or basis of belief upon which these agents are able to employ their rational powers. But where does this content come from? How does it originate? Where do we get our beliefs and how do they come to have value for us? Kymlicka believes that culture creates our conception of what is valuable for us. He claims that, while only we can choose to accept our beliefs, it is also important to recognize that our range of options from which to choose cannot, itself, be chosen by us individually.¹⁹ In making life choices, a person examines various beliefs and ideals that have already been developed and tested, possibly by many prior generations of people. The choices that a person makes must ultimately be hers alone but the making of these choices involves determining what is most valuable from a context of choice where this context is determined by her culture.²⁰

According to Kymlicka, various ways of life are not simply just different patterns of physical movements but rather physical movements, he says, are given meaning and significance through one's culture. A person's culture identifies patterns recognized as legitimate or acceptable ways of leading one's life. One way in which a person

¹⁹ Kymlicka, W. 1989, p.164.

²⁰ Kymlicka, W. 1989, pp.164-165.

learns about these is through stories about other lives, real or mythical, and these provide a person with potential models for their own life.²¹ We might consider here the example of fairy-tales. Fairy-tales do not simply provide children with entertainment. They also teach us about the personality traits and lifestyle options of the characters in the stories. We can choose to emulate the personality and character of the good king, the evil wizard, or the faithful princess. We can also choose to be like the brave prince who actively strives to protect his community from dragons or we can be like the docile villager who seeks protection from the other prince-like individuals. Stories such as these are cultural mechanisms that tell us what is available by legitimizing certain ways of life.²² And even when a person chooses an option that may not be considered culturally acceptable - emulating the evil wizard for example - this option is still shaped within a cultural context because it is defined in contrast to what is culturally sanctioned. Even when a person is rejecting culturally sanctioned options, we can still say that her choices are culturally influenced because culture determines

²¹ Kymlicka, 1989, W. p.165.

²² Kymlicka, W. 1989, p.165.

the content of those options.²³

What does it mean to say that culture determines our range of choice options? One interpretation could be that culture provides us with a number of different options to choose from. Could we say, for example, that we are free to choose whichever religion to follow but that we are limited in this choice by the number of religions available to us in our society? These indeed are traditional life patterns that have been tested by many generations prior to us. I do not think, however, that this is quite what Kymlicka means since choosing between several religions might amount to a choice made between cultures rather than a choice made within a culture. Rather, he is likely referring to choices

²³ While this discussion of stories and narratives may appear to be similar to communitarianism, Kymlicka's claims are fundamentally different in how a person comes to emulate people in such roles. According to Alasdair MacIntyre, we find ourselves situated as characters in societal narratives that are not necessarily of our own choosing. (MacIntyre, A. "The Virtues, the Unity of a Human Life and the Concept of a Tradition", in Liberalism and its Critics. ed. M. Sandel, New York University Press, 1987, p.135) Moreover, these characters or roles are thought by communitarians to provide us with ends that constitute our selves or our identity. (MacIntyre, p.139) According to Kymlicka, however, we can choose to take on these characters and become situated in certain narratives of our own. Any character in a narrative is a lifestyle option that we may adopt for ourselves from the range of other options provided by our cultural community. Similarly, we may reject these narratives as well without losing our identity or changing our self. In linking the value of cultural membership to liberalism, it is crucial for Kymlicka to preserve the notion that the self is distinct from its ends. This is salvaged by regarding culture as fundamental to the formation and revisability of one's ends.

made within a culture between several lifestyle options sanctioned by that culture. This is evident from the discussion of stories. Through stories, he says, we often learn that we are already participants in certain forms of life and that there are alternative models and roles available to us.²⁴ The idea that culture creates a context for choice does not mean numbers of options, per se, but rather that culture creates salient options.

Kymlicka's position is that culture plays a role for the individual in providing a context for one's choices and this makes a person's choices meaningful.²⁵ It is one thing to choose randomly between different possibilities from the range of options that are available, however, it is quite another thing for one's actual choice to be meaningful. There has to be some criterion based upon value that is used in assessing and evaluating the different options. What this means, it seems, is that culture does not simply provide a person with a range of options to choose from, but rather this range is created through culturally-based standards of value. The importance of cultural membership for individuals in a liberal society stems then from the fact that our range of options is

²⁴ Kymlicka, W. 1989, p.165.

²⁵ Kymlicka, W. 1989, p.166.

salient and viable for us. The importance of culture is not simply that it makes options available, but rather that it makes options significant for its members.²⁶

To be clear about Kymlicka's argument here, let us reconsider cultural stories and narratives. Through such mechanisms meaning and value are transmitted to us by our culture. In our own culture we learn from stories and narratives about the personality types, habits, and activities of evil witches and kings, for example, while simultaneously learning these things about the good characters as well. These personalities and activities are spoken of in such a way that we learn what is and is not sanctioned by our society; what is appropriate and inappropriate, and why. Culture does indicate what number and types of life options are available to an individual, but more importantly, it establishes what these options mean and how we are to understand them for ourselves. People learn about what "the good" is, what "good" means, and how to assess things to determine if they are "good" or "bad" through cultural practices like stories and narratives. What will count as a good person or a good mother, for example, or even what counts as a person or mother at all, are socially and culturally defined along with the duties

²⁶ Kymlicka, W. 1989, p.164.

and obligations attached to these roles. This value, or one's understanding of "good", becomes a cultural standard that the individual invokes in making decisions about how to lead her life.

So, the link between culture and self-respect lies not only in the existence of a community of people who confirm our choices and activities, but also in the way that this process of social confirmation makes our choices meaningful. Fairy-tales, stories, and narratives are simply examples designed to illustrate a social process in which people come to understand themselves and the world in terms of social responses. Stories are told in certain ways similar to the manner in which the people around us in our cultural community respond to our choices and actions. The role of a good mother is understood both through stories and through the social criticism and appraisal directed at our own parenting practices and those of others. Furthermore, these social responses and the way we interpret them are culturally specific, and become meaningful for us in ways that are unique to our being members of a certain culture. In this way, membership within our own culture is crucial to our sense of self-respect and we cannot be simply transplanted into another community without losing something central to our capacity to formulate and act upon a rational

life plan.²⁷

Kymlicka's argument for the importance of cultural membership retains some of the character of a liberal perspective. It seems to point out that these standards of value are preconditions, not only for making intelligent judgments about how to lead one's life but also for making judgments at all. In order for people to make meaningful choices, these choices must have content, and this content cannot arise in a vacuum. For Kymlicka, this vacuum is filled by culture and in this way the role that culture plays for individuals in a liberal society can be understood in terms of the liberal notion of abstract individualism. According to abstract individualism, the self is thought to be an atomic entity that chooses its own ends, evaluates them, and revises them if doing so is considered necessary. But even before we can talk about this process, we must say something about where these ends come from in the first place. Kymlicka's argument identifies the cultural community as the prime source for one's ends, while at the

²⁷ This is not to suggest that we can never be transplanted to another culture, because people often are and they survive quite well. Kymlicka primarily wants to make a case for the protection of Aboriginal cultures in North America. In order to be transplanted to another cultural community and make meaningful choices, one must already have a solid basis of self-respect which, as Kymlicka claims, is deteriorating for Aboriginal-Canadians (Kymlicka, W. 1989, p.170). This will be discussed in further detail in chapter 2 of this thesis.

same time, avoiding the implication that the self is wholly constructed of these ends.²⁸ Using a Canadian example, we might say that an aboriginal can move off the reserve, get a job or a higher education, change some of her beliefs, values, and goals and still be the same person. At the same time, however, these beliefs, values, and goals that are revised may be based upon her understanding of what is good and valuable as learned from her contact with the aboriginal community. Moreover, what she understands about value, as taught by the culture, may have general use for her even when not immersed in the Native culture. In this way, culture can be viewed as a good for individuals which, as Kymlicka claims, might be regarded as a primary good by the contractors in the original position.

III. Some Preliminary Objections

Even granting its liberal character, this argument may still be problematic from that same point of view. If Kymlicka claims that culture is important because it sanctions certain lifestyle choices, thus giving us a manageable set of clearly defined options, then it is not certain how he would deal with a situation where a person's set of options is so limited that no choice is provided at

²⁸ In other words, the communitarian conception of the embedded self is avoided.

all? How does Kymlicka respond to the liberal contention that a climate of liberal tolerance increases options by providing people with choices between cultures and hence provides people with alternatives to what are often narrow or limited cultural roles? One example of culturally defined limitations is provided by the role of women in many cultures. Often there are very few viable options available within particular cultural frameworks or it is the case that one's options limit a person's autonomy and her capacity to formulate a rational life plan - the type of individual that liberals assume will form the social contract. The traditional culture based upon the practices of the Greek Orthodox church, for instance, provides few life options for women; a daughter, wife, and mother who should be hard-working, docile, and obedient to her male "superiors". Often the only way that such choice patterns have been changed, for minority cultures at least, is through the exposure of a minority culture to a larger, pluralistic society where the role of traditional cultural norms, in general, are de-emphasized by this society. When this occurs, the autonomy of the individual is often furthered by the choices that can be made outside that culture rather than within.

And even if we accept Kymlicka's further claim that the cultural context provides not only a range of options but

also an understanding about the value of one's options and a sense of what "good" means in assessing these, it is still not clear that my criticism can be easily satisfied. Even in a situation where a person has more than one meaningful option, it may be the case that people are limited by their culture in pernicious ways. Again, the choices available for women provide a good example. In many cultures, what constitutes a meaningful choice, what makes an option meaningful for a person may also be something that reduces a person's ability to evaluate and revise her goals in the future. The choice to become a house wife is good example. There is nothing implicitly wrong with the choice to become a house wife. Such a choice is, in fact, a culturally sanctioned role for women in our society and it may, for this reason, be a meaningful choice for women to make. What is often entailed by this choice, however, is the reduction in a woman's ability to assess this choice and change it in the future. Women often forego higher education, reduce certain types and amounts of social exposure, have children, and become subject to their husbands' authority, all so that they can fulfill this life choice. These can all have important negative effects on a person's future ability to make choices even though she may have voluntarily chosen to get married and become a house wife in the first place. Moreover, the fact that marriage and being a housewife are

socially sanctioned as meaningful choices for women may be deterrents in making a further choice to leave the marriage. Leaving the marriage can, itself, represent a change in one's ends - a meaningful choice for the individual - which may be deterred by what the culture identifies should be meaningful for its members.

The point here is that the social basis of self-respect, as Kymlicka interprets it, may come into conflict with the liberal requirement of revisability. As Allen Buchanan points out, from the perspective of the original position, we will have to accept the possibility of revising our conceptions of the good. Behind the veil of ignorance, because we are not in possession of all of the relevant facts about our lives, it is necessary to leave open the possibility that we might change our minds sometime in the future about what is in our best interests for leading the good life. He argues;

"One will realize that conception-construction, like theory-construction, is a fallible enterprise. One will realize that one's life plan or conception of the good may eventually require serious modification, perhaps even abandonment, in the face of a successor-conception. No matter how unlikely one thinks it to be that one's conception of the good will turn out to be mistaken, one must nonetheless view one's conception as

revisable in principle."²⁹

Kymlicka himself made a similar argument with respect to the importance of liberty.³⁰ But it may be the case that within a cultural community, in order for a set of options to be meaningful and culturally relevant for its members, restrictions must be placed upon the process of rational assessment and revision, itself. Perhaps the meaning of a particular range of culturally-defined options is understood partly in terms of these restrictions themselves. Two further examples will serve to illustrate this point.

First, if we look again at stories and narratives, the way in which these teach about value, and the impact that this all has on a person, a pattern starts to emerge. Stories and other such mechanisms, as noted above, indicate what a person's viable options are within the context of their culture. In teaching what is viable or salient, they also teach a person what is good and bad, and what the meaning of good and bad are. If I recall my own stories as a child, a good woman was a wife and mother. She was demure, hard-working, obedient, unable to take care of herself, usually had to be rescued by a male, and only

²⁹ Buchanan, A. "Revisability and Rational Choice" in Canadian Journal of Philosophy. vol.5, no.3, Nov. 1975, pp.398-399.

³⁰ Kymlicka, W. 1989, p.163.

showed the occasional spark of courage when her children were in danger. The bad woman held opinions, tried to control others, disobeyed on a regular basis, and was usually associated with witchcraft. If qualities of obedience and dependency are valued in women, as being good in our society, then a culturally-sanctioned choice for women will be one that maximizes these qualities. These qualities, as well as the choices that are influenced by them (such as being a house wife), can diminish a woman's ability to choose from non-traditional options and to make meaningful choices in the future. Even though a culture provides standards of value that creates a context for meaningful choice, often the standards being taught defeat the purpose of regarding culture as a primary good in the first place - that of protecting the conditions for the effective exercise of liberty.

Secondly, it may be the case that for a certain culture to survive and continue to provide such a context it must restrict the ability of all of its members, and not just women, to evaluate and revise their ends in the future. Consider the Hutterites as an example. The Hutterite culture is shaped by fundamentalist Christian values and practices. An important part of this involves communal living, restricting member's contact with the rest of society, and absolute deference to religious authority.

Choices that are based upon such practices and beliefs are likely to be quite meaningful for Hutterite individuals. In order that the culture provide meaning and define value for its members in the particular way that the Hutterite culture does, members must be discouraged from questioning and revising their beliefs. In fact, the Hutterite culture is very strict and specific on this point and even defines unquestioned acceptance of one's Christian beliefs as valuable and good for its members. In such a case, one's concept of the good is very clearly and narrowly defined, and choices defined by this concept may be extremely meaningful for members. As I pointed out in the case of women, however, what makes these choices meaningful also restricts an individual's ability to examine and revise her beliefs, values, and ends in the future. In fact, the Hutterite culture is forced to do this so that it may continue to be a context for meaningful choice for its members in the future.

The point is that even though Kymlicka preserves the distinction between the self and its ends by locating the source of rational assessment within the community, his argument is still problematic from a liberal point of view. Even though we might accept that cultural communities provide the social basis of self-respect, it is not clear that liberals would wish to protect communities that can

only make choices meaningful by limiting revisability. As I pointed out in the two cases above, qualities of obedience and deference to authority are valued in women and Hutterites. But it seems that part of the meaning of these qualities, and the meaning of the choices that maximize these qualities, is that of surrendering personal control, self-determination, and the possibility that we might be mistaken about what is in our best interests in pursuing the good life in the future. As a result, we may lack the very freedom needed to examine our beliefs and determine their worth. Consequently, the notion that we are moral agents who possess the capacity to formulate and revise rational life plans is itself undermined by the community.

IV. Kymlicka's Response

How might Kymlicka respond to this difficulty? He may respond by applying his distinction between the character and structure of a culture.³¹ The problems I have mentioned, he might say, result from a common view that, in protecting culture, we must protect its character or its features, norms, and practices that are particular to it in a given place and time. Instead, he argues, when a liberal society decides to take special measures to protect certain

³¹ Kymlicka, W. 1989, pp.166-167.

cultures, it cannot identify specific things within those cultures to protect. We cannot say, for example, that the "raindance" is a defining feature of certain aboriginal cultures and therefore included in a set of minority rights will be a provision for protecting the raindance. Kymlicka believes that things like raindances, unquestioned acceptance of Hutterite Christianity, and the option for women to get married and become housewives are all part of a culture's character.³² Instead, it is the cultural community itself or the cultural structure that needs to be protected as a context for meaningful choice. According to Kymlicka, cultural communities continue to exist even after changes occur to their beliefs, norms and practices. Members may be free to change certain aspects of their cultural character - change the choices and options available to them - while retaining the sense that their culture is still making other options and choices meaningful for them. The community still exists even after significant changes, and it is the existence of this community - the structure - that must be protected by a liberal society.

Furthermore, it seems to be illiberal to protect a culture's character anyway. If cultural membership is to be viewed as a primary good due to its impact on one's ability

³² Kymlicka, W. 1989, p.166.

to make meaningful choices, then to preserve particular norms, values, and practices may place limitations on one's ability to make other choices.³³ This was the difficulty I noted in the culturally sanctioned options for women. It was the way particular cultural characteristics taught women about what is valuable and constitutive of a meaningful option that caused women to make choices that limited themselves as rational agents. Protecting cultural character may force, not only women, but all members into traditional roles that are not necessarily meaningful to them. The ability to choose will be limited rather than enhanced.³⁴ Furthermore, we cannot deny that cultures do change and evolve, and what typically changes is a culture's character. To preserve these features may stagnate the culture as a whole. What aboriginal leaders, for example, are looking to protect in native cultures is not the preservation of raindances or the hunting and fishing way of life. What they are demanding is the protection of something that is of fundamental importance to aboriginal people, something that is basic to their self-respect and ability to make meaningful choices, that will enable them to become equal participants in a liberal political community.

³³ Kymlicka, W. 1989, p.167.

³⁴ Kymlicka, W. 1989, p.167.

According to Kymlicka, this is cultural structure.

How are we to understand the idea of cultural structure within the context of Kymlicka's previous argument? If structure, or the very existence of a community, is the politically relevant feature of culture, then how are we to understand its role in making choices meaningful and providing the social basis of self-respect? One way of thinking about this is in terms of temporal continuity and identity.³⁵ This is based upon Kymlicka's discussion of the "Quiet Revolution" in Quebec. Significant changes were made to the character of the francophone culture as a result of non-traditional choices made by members of that culture. But, as Kymlicka points out,

"the existence of a French-Canadian cultural community itself was never in question, never threatened with unwanted extinction or assimilation"³⁶

That this phenomenon occurred, however, can only be recognized by the community's temporal continuity. While the character underwent significant changes, the community survived, and we can only identify its survival by examining

³⁵ This is not specifically Kymlicka's argument but rather my interpretation of it. One of the difficulties with Kymlicka's discussion on this point is that he implies that there is a distinction between character and structure through the use of examples, but is never quite explicit about what structure is.

³⁶ Kymlicka, W. 1989, p.167.

the culture at different points in time. To make this distinction clear, let us change the example slightly. We might say that Anglo-Canadians, for example, can claim to have a sense of cultural identity with perhaps 18th century British culture. There is very little similarity between the norms, practices, and institutions of the two cultures, but there is continuity between them. Anglo-Canadians may identify their culture with the British culture as part of or derived from it (in the same way that francophones might trace their culture back to 18th century France), but they are not the same cultures. What these examples point out is that a culture's character can change even beyond recognition, but the culture, itself, can survive through its structure and still provide a context for meaningful choice.

V. Further Objections

Does it follow from this distinction that liberals are now free to protect minority cultures without the fear of sanctioning certain options that limit revisability? For Kymlicka, this distinction has the effect of preserving some element of culture on the grounds that it forms the social basis of self-respect, without committing him to protecting a characteristic range of options. But there are two difficulties that arise with the distinction itself. First,

cultural structure it seems is not the same thing as identity or continuity. Rather, structure seems to be something that is continuous over time with which people can identify. We might ask then, what is this thing that is continuous over time with which we can identify as the source of meaning for our choices? There seems to be a sense of or intuitive conviction that something is transmitted over time that allows us to identify a particular culture, but it seems impossible to define what this thing is. This is especially problematic if we wish to maintain that this "thing" - this structure or community - is the element of culture that makes choices meaningful. In order that culturally-sanctioned choices be meaningful, we seem to require some information about what is mediated by the culture, rather than the medium itself or the fact that something is mediated. It is not clear from this distinction what it is about a cultural medium that makes choices meaningful such that we can justifiably preserve it within a liberal society.

This leads us to a second criticism in which we might question the validity of the claim that cultural structure is, in fact, the source of meaning for our choices. If structure continues over time and it is what provides this context, then it seems that an individual's choices within that same cultural context made at different periods of time

should still be meaningful for that person in the same way. For example, if I am somehow transported back in time to 18th century England where I will be expected to live and make choices with the context of that culture, the question arises, will my choices still be meaningful for me? The choices that I would have to make in order to live successfully within that culture likely will not be very meaningful for me. Chances are that I will not be able to continue my education, nor have a satisfying career, and I will probably have to get married and raise children. In examining the cultural structure, which is apparently continuous with the structure that I left behind in late 20th century Canada, I will find that these are the options available to me, but in choosing them, I will probably find that such life choices do not hold the same meaning for me as they would for the other women in this time period. If cultural structure provides a context for meaningful choice and it is what continues even after character changes, then choices made within that context, even if they are different choices, should still be meaningful regardless of where one locates the culture in time and space.

So, the question we might ask is whether culture makes choices meaningful in general, or meaningful in particular ways. My contention is that culture makes choices meaningful in particular ways and Kymlicka, himself, has a

stake in supporting this view if he wishes to justify protecting specific minority cultural groups. If he wishes to avoid the implication that individuals could be easily transplanted or assimilated into other cultures without a loss of viable options, then minority cultures must be able to make choices meaningful for members in ways that other cultures can not. But to accept the claim that cultures make choices meaningful in particular ways seems to require one of two possible interpretations. On one hand, we could say that a set of options will be meaningful in the same way for members of a culture regardless of where in time that same individual is making a choice. But clearly this cannot be the case, given my example of being transported back in time to 18th century England. The range of options available to me simply will not hold the same meaning that they do for other women in that time period.

On the other hand, if these options are not meaningful in the same way over time, then clearly meaning must change over time. It is difficult to understand how this can be possible however if, as Kymlicka argues, meaning is attached to cultural structure, which is not subject to change. Even if we can accept that there is a cultural structure that allows us to identify the community over time, it seems more reasonable to attach cultural meaning, which can change, to the elements of culture that do change - the beliefs, norms,

and values - the character. There seems to be no reason to accept Kymlicka's argument that an unchanging, static cultural structure could make our choices meaningful when the meaning of those choices is not static and, in fact, changes over time along with cultural character.

Does it follow from this that the character of our culture is the element that makes choices meaningful? This seems to be the case if we consider again the requirements for self-respect. If self-respect involves having other people around us who affirm and appreciate the things we do and the activities we engage in, then our actions most likely to receive social and cultural affirmation will be those that more closely conform to particular cultural practices. Conforming to the character of our culture will produce the types of social responses that increase a person's self-respect. For example, if marriage is a culturally-sanctioned choice for women - clearly a part of a culture's character - then women who make this choice will be subject to positive social responses, or at least not negative ones, and her sense of self-respect and confidence in the worth of her activities may increase. The importance of cultural character may also be seen in the ways in which culture provides a person with standards of value. It was mentioned that culture provides a basis of value upon which we can exercise our rational capacities to choose, evaluate,

and change our beliefs and ends. These beliefs and ends have, as their content, some understanding of what is valued by our culture. What is valued and what gives meaning to our choices depends upon how they conform to our culture's character. And even where a person's choices do not conform to current cultural practices, the meaning of these choices is defined in response to cultural norms, values, and practices, and not in response to the culture's structure.

VI. Conclusion

The purpose of this chapter was to provide an outline of Kymlicka's defense of minority rights, explain the context in which his argument is situated, and provide some preliminary objections. Although liberal theorists might initially regard cultural communities as competing conceptions of the good to be relegated to the private sphere, Kymlicka argues that cultural membership is central to an individual's sense of self-respect. Also, the cultural community creates a context in which an individual makes meaningful life choices. For these reasons, Kymlicka believes that the contractors in Rawls' original position would be inclined to regard cultural membership as a primary good. My purpose in the latter section of this chapter was to demonstrate that Kymlicka's attempt to identify the structure of a culture as the source of meaning for our

culturally-sanctioned options is dubious. Kymlicka makes a distinction between cultural character and structure to justify the protection of cultural group rights within a liberal society. Without it, we find ourselves freezing a culture in time, protecting a particular conception of the good, and preventing individuals from questioning and revising their rational life plans. But, as I have argued, even if the distinction can be made, and intuitively it seems that it can, we still must question the claim that meaning is attached to cultural structure. For meaning changes, along with cultural character, whereas cultural structure does not. If the protection of cultural groups within a liberal society rests upon the claim that culture creates a context for meaningful choice, and if this context is created by the character of a culture - its beliefs, norms, and values - then it seems to follow that we, as liberals, cannot be justified in politically protecting minority cultural groups. If we do, then, as I discussed in the earlier portion of this chapter, we may be forced to protect culturally-defined options that restrict rational assessment and revisability.

Chapter Two

I. Introduction

In this chapter, I will expand upon a theme from chapter one - Kymlicka's distinction between a culture's character and its structure. Although this distinction is a difficult one to make conceptually, it remains an important component of Kymlicka's defense of minority rights. I will begin by considering the possibility that we might understand cultural structure in terms of a culturally-defined, institutional framework that preserves and justifies the community's existence. My goal will be to collapse the distinction by pointing out that cultural structure - whether it be understood as institutions or otherwise - is insufficient for making choices meaningful without recognizing the importance of cultural character to this process, as well. Cultural structure cannot be protected on its own since it does not, in itself, form a social basis of self-respect or make choices meaningful. Even so, however, it does not follow from this that liberals can no longer defend minority rights. In the second part of this chapter, I will examine another criticism of Kymlicka, one that focuses upon the link between cultural community and moral agency. From this criticism, I will consider ways

in which liberalism may possess the conceptual tools to preserve certain cultural communities without resorting to an artificial distinction between structure and character.

II. The Structure/Character Distinction Revisited

Kymlicka's character/structure distinction is central to his attempt to defend minority rights on liberal grounds. He needs to make the distinction because, without it, a defense of minority rights becomes an argument for the privileged status of particular conceptions of the good - that which liberals are trying to avoid. Without this distinction, we can only understand what a culture is in terms of its particular norms, values, and practices - factors that Rawls thought unfairly biased the outcome of the social contract. To avoid this Kymlicka relies upon the idea that the structure side of the distinction alone may be adequate for meaningful choice³⁷. He argues that

"[c]oncern for the cultural structure as a context of choice...accords with, rather than conflicts with, the liberal concern for our ability and freedom to judge the value of our life-plans."³⁸

This suggests that we take, as our starting point, some conception of a moral agent who possesses the capacities to

³⁷ Kymlicka, p.167.

³⁸ Kymlicka, p.167.

make informed choices about her life and to evaluate these choices. The goal is to create the best possible conditions to bring about such an agent. Kymlicka contends that such conditions will be met by a cultural community, not through its established norms and traditions, but rather through the range of possibilities that it offers and the type of meanings that it gives to these possibilities.

A similar distinction is made by Joseph Magnet³⁹ between structural and symbolic ethnicity. Magnet makes this distinction in his discussion of the meaning and impact of multiculturalism on our interpretation of the Canadian Charter of Rights and Freedoms as a whole. Section 27 of the Charter states:

"This Charter shall be interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians."

How are we to understand the meaning of this directive?

Magnet suggests that its meaning will depend upon whether we interpret cultural heritage in terms of symbolic or structural ethnicity. Symbolic ethnicity, he claims, is the;

"voluntary psychological identification of the self with the traditions and history of a

³⁹ Magnet, J. "Interpreting Multiculturalism", in Multiculturalism and the Charter. The Carswell Company, Ltd., 1987, pp. 145-154.

particular identifiable group"⁴⁰

Culture, as symbolic ethnicity, focuses upon individuals and how the self is understood by the individual. Culture is seen as a psychological phenomenon that occurs when individuals take part in a voluntary relationship to a particular group. If we understand culture in this way, the Canadian commitment to multiculturalism is limited to ensuring that voluntary connections between culture and the self are not broken and are even minimally enhanced. As Magnet points out, this mainly leads us to promoting cultural diversity through the encouragement of "ethnic conferences, presses, festivals, and the like".⁴¹ What is required by Section 27 is the enhancement of Canadian cultural diversity so as to allow individuals to continue to psychologically identify with the symbolic elements of their culture. Furthermore, this interpretation of section 2 commits us to freedom from discrimination - "that is, to protect individual selves against prejudice resulting from the self's voluntary identification with a group."⁴² In other words, the self, as understood in terms of cultural group membership, must not be threatened by external factors

⁴⁰ Magnet, p.148.

⁴¹ Magnet, p.148.

⁴² Magnet, p.149.

that might cause it to devalue its own choice of composition.⁴³

Magnet further suggests that culture can be understood in terms of structural ethnicity. Structural ethnicity, he says;

"relates to the capacity of a group to perpetuate itself, control leakage, resist assimilation, and propagate its beliefs."⁴⁴

Culture in this sense has less to do with voluntary individual association and more with the development of what Magnet calls an "institutional infrastructure" that maintains and promotes the group's well-being and its self-justification.⁴⁵ Structural ethnicity is not necessarily voluntary for individuals, but rather it involves the development and maintenance of basic institutions that preserve and justify the group's existence. Understood in this way, although ethnic festivals and presses might still be promoted, more basic modes of cultural transmission would be required by Section 27; an education system, a legal system, and a government. Not only do these preserve the group but also they establish the group in such a way that

⁴³ In this sense, the conception of the self remains a liberal one because how we construct our selves is voluntary and open to choice.

⁴⁴ Magnet, p.148.

⁴⁵ Magnet, p.148.

justifies the culture itself. According to Magnet, this understanding of culture leads us to interpret Section 27 in terms of a right to group survival⁴⁶ rather than simply freedom from discrimination.

Initially, it appears that a liberal could only accept symbolic ethnicity, and furthermore, only as a social factor and not as a political influence. The idea of symbolic ethnicity seems to emphasize two important liberal concerns: (1) the notion of free voluntary associations between individuals and groups, and (2) a greater degree of social diversity and pluralism. On this first point, the idea of symbolic ethnicity allows for and may even encourage an individual's self-understanding in relation to a culture or group, but it does not impose it politically. On the latter point, if individuals require a broad range of options for the formulation of their rational life plans, then this may require some degree of enhancing and even advertizing the existence of different cultural options. In both cases, the Charter implications of the importance of culture is of a voluntary social nature and not a political one. Structural ethnicity, on the other hand, with its implications for the development of major institutions, seems to make culture an inescapable political and social force. Culture becomes

⁴⁶ Magnet, p.148.

rather a non-voluntary association for the individual by which the culture is maintained through a process of systematic socialization and indoctrination. On the surface, liberals would be inclined only to accept symbolic ethnicity to protect freedom from discrimination over the idea of structural ethnicity which is based upon a need for group survival.

Even though his own distinction appears to parallel Magnet's, we can see where Kymlicka, as a liberal himself, diverges from what seems reasonable for liberals to accept about the value of cultural membership. First, the contents of the notion of cultural character and symbolic ethnicity are similar. Both refer to the norms, values, practices, and traditions found within a particular culture. These can be represented in ethnic celebrations and projects, may be undertaken voluntarily without necessarily leaving the cultural community, and they can change over time. Moreover, these may represent different options that enhance social diversity. Secondly, there is an overlap in terms of the relationship that the individual regards herself as having to her culture. This relationship is a voluntary psychological one, articulated in terms of particular features currently possessed by the culture. This relationship may be manifested and reinforced by an individual's taking part in specific cultural activities -

the ethnic presses and festivals that Magnet mentions. This voluntary association with one's culture seems to be reinforced when an individual makes choices valued by the culture and respected of members within it. A person's self-concept may be understood in relation to these particular features of a culture. Using an earlier example, one's self-understanding as a "good" Hutterite woman is likely to be based upon choices made in accordance with Hutterite cultural norms, values and practices. By recognizing an individual's right to identify with her cultural norms, values, and practices, she seems to be protected from prejudice and discrimination when making choices.

But this interpretation of culture is insufficient, according to Kymlicka, as a good reason for protecting minority cultures. In fact, from a liberal perspective, it will not do at all. As I have said above, this notion of culture leads us either to protect particular conceptions of the good or to ignore the importance that culture has in making our choices meaningful. A conception of culture in terms of character or as symbolic ethnicity requires us to give up our liberal commitment to neutrality, should we choose to protect it. Should we choose not to protect it, however, we may be allowing important conditions for individual autonomy to simply wither away. As Kymlicka

points out, the demise of the community leads to the demise of its context for meaningful choice and social basis of self-respect, in spite of the members who continue to make choices from within that context.⁴⁷ Thus, it cannot be said that the community is simply an aggregate of individuals if it is possible to lose its context for choice even when the aggregate persists. There must be something else that creates the context, which makes respecting one's cultural community part of respecting the legitimate interests of members within that community.⁴⁸

For Kymlicka, what makes choices meaningful within a community is its cultural structure. Kymlicka's notion of cultural structure may thus be examined in terms of Magnet's notion of structural ethnicity. Kymlicka's discussion of structure focuses upon the existence of a viable cultural community that continues to exist even after significant changes have occurred. For Magnet, the idea of structural ethnicity relies on the development of an infrastructure, complete with culturally-based institutions that supports the culture and provides its self-justification. In relation to structure, the fact that a culture continues to exist and be identified over time may possibly be due to the

⁴⁷ Kymlicka, p.167.

⁴⁸ Kymlicka, p.168.

continuity of established and accepted institutions formed by that culture. For example, the survival of the French-Canadian culture after radical changes resulting from member's choices, may have been due to the continuity of the French school system, legal system, the provincial government, the language, and the Roman Catholic church. There existed an institutional infrastructure that continued to support and be an integral part of the francophone culture even when specific practices and values changed. In our attempt to understand what cultural structure is, such institutions seem to be the only secure reference points remaining that could possibly provide cultural meaning to an individual's choices after changes have occurred to the culture as a whole.

Although Kymlicka believes that the francophone culture persisted, nevertheless in his discussion of the "Quiet Revolution" in Quebec, he seems to be implicitly rejecting this interpretation of cultural structure. He points out that;

"[v]ery few of the institutions which traditionally characterized French-Canadian life...could be secure in the knowledge that they had the continuing allegiance of the broad majority of the members of the culture."⁴⁹

In light of my comparison between Kymlicka and Magnet, this

⁴⁹ Kymlicka, p.167.

statement leaves us wondering once again just what Kymlicka means by cultural structure. This problem is compounded by the demands of aboriginal leaders during the last round of Canadian constitutional talks - the Charlottetown Accord. Native groups at the time were demanding the constitutional entrenchment of Aboriginal self-government, something which would entail, not necessarily the protection of cultural character per se - particular norms, values, and practices - but rather the development of a native institutional infrastructure. Aboriginal self-government, as a general constitutional principle, would not necessarily lead to establishing regularly scheduled "raindances" and other norms and traditions, but rather would allow for the set up of a Native school system, legal system, administration, would protect language rights, and would require the settlement of land disputes. In other words, what Native leaders wanted and what Kymlicka is implicitly supporting is the capacity for the culture to maintain itself as a meaningful element in the lives of Native individuals. If the culture is not receiving the voluntary psychological associations indicated by symbolic ethnicity, and if we wish to protect culture on the grounds that it enhances meaningful choice, then it follows that culture must in some way become a non-voluntary association - a part of our lives that supports our choices even if the connection between the

culture and the self is not explicitly articulated by the individual. The only way that Kymlicka can establish this non-voluntary association within his argument is if the idea of cultural structure is understood in terms of continuous institutions.

III. Collapsing the Distinction.

It is still not clear then why Kymlicka claims that even francophone institutions were not secure during the "Quiet Revolution". This point seems to bring us around full circle to questioning the validity of the structure/character distinction itself once again. If we recognize that Kymlicka requires institutions to make his notion of cultural structure clear, and we separate this notion, as he does, from specific cultural practices, values and norms, then we have a picture emerging of aboriginal self-government where the particular characteristic features of the culture occur and function within the boundaries of a broader institutional framework. On this view, rainedances and the hunting and fishing way of life, as examples, might occur and be practiced within this larger framework but they would not really affect it in any significant way. It follows that to distinguish between the two elements of culture is also to reject the impact that character has upon structure and its ability to make choices meaningful.

Somehow, the culture's institutions will provide secure reference points for meaningful choices - qua culturally specific choices - without these choices deriving any part of their meaning from the culture's norms, values, and traditions. In other words, in order to accommodate the liberal requirement of neutrality, Kymlicka seems to be isolating the source of cultural meaning in our choices from our sense of value, history, and social situatedness by suggesting that these factors do not in any way contribute to this meaning.

But, in pointing out that the francophone institutions were at risk due to member's choices, Kymlicka himself seems to be recognizing a problem within his own distinction. Clearly institutions are not static entities and do indeed change over time to meet the changing needs of society. If non-traditional choices are made, out of character with the accepted modes of life that were sanctioned by a culture in the past, and these choices are what lead to changes and even to deterioration of the culture's institutions, then clearly cultural structure has some kind of relationship with cultural character. It does not just operate within the structure, but actually operates on it. Institutions cannot be regarded simply as a neutral framework untouched by a culture's character. If they were, then it is not clear why aboriginal self-government would be required in

the first place. To say that the institutions are culturally defined and culturally specific suggests something more than the mere fact of being set up by a Native community. Rather, the idea that institutions are culturally specific and defined by the community implies that they are organized around and understood in terms of the norms and values found within that cultural community. It implies that the meaning associated with those institutions is in part derivable from the community's sense of value and history. If it was not, then the constitutional entrenchment of Aboriginal self-government would not be necessary. In fact, there would be no demand for it because there would be no perceivable problem. The institutions that currently exist within Canadian culture would already be relevant and useful for Native individuals. What makes Native institutions relevant and useful for Native individuals, however, is the link that these institutions have with the culture's character.

This is clear if we consider again Magnet's definition of structural ethnicity. In order for a group to "perpetuate itself, control leakage, resist assimilation, and propagate its beliefs",⁵⁰ a group seems to require some degree of shared understandings, values, and beliefs,

⁵⁰ Magnet, p.148.

initially. Magnet refers to structural ethnicity as a capacity, however, it seems that even a capacity cannot occur or operate outside of a context. So, for example, for a culture to propagate its beliefs requires, not only a set of beliefs to pass down from one generation to the next, but also an understanding of what it means to propagate beliefs, what acceptable forms of belief transmission are, and why the process of belief transmission itself is important for members. These are not simply capacities that a culture has, nor are they strictly elements that allow the culture to be identified over time, but rather they are culturally-specific factors that determine how institutions will be set up and organized within a culture, such that we are able to identify it over time. What makes them culturally specific and identifiable as significant components of Native cultures is their particular interpretation and meaning derived from Native values, norms, traditions, and historical context.

This could be criticized on the grounds that part of this meaning is based upon the fact that Natives have traditionally held a lower status in Canadian society. The constitutional right to self-governance changes this status and legitimizes Native interests and concerns, thus affecting the meaning of the resulting infrastructure. Native institutions are meaningful simply by virtue of the

Native community finally being allowed to regulate itself, and this has little to do with traditional Native norms and values. But, even the lower status and ongoing struggle for legitimacy faced by the Native community, however, does constitute a historical and valuational context in which Aboriginal self-government is situated and understood. The point to be made is that the structure of a particular cultural community cannot be meaningful or give meaning to its members choices without reference to values and history. Perhaps Native values and norms have changed in response to these social circumstances or possibly these social circumstances are interpreted in terms of Native values and norms, or both. Either way, the culture's modern character persists in some degree of historical continuity with the culture's traditional character such that the structure can be meaningful for members and constitute a social basis of self-respect. As Magnet points out, the institutional infrastructure promotes the group's well-being and self-justification but it is my contention that this cannot occur unless that infrastructure is defined and understood in terms of the community's character or symbolic aspects.

Furthermore, the relationship between structure and character can be seen in the very fact that a community of individuals, bound by the ties of cultural understandings, even exists in the first place. As Magnet points out,

"symbolic ethnicity" refers to individual psychological associations with the culture and "structural ethnicity" relates to the culture's ability to control leakage and resist assimilation. Both, however, are necessary to reinforce one another. On one hand, a cultural community must have some way to discourage people from leaving. In order to set up culturally-specific institutions and to have a community in the first place, individuals must psychologically associate themselves and personally find the culture meaningful. The individual must minimally recognize her self as definable in relation to her culture. But doing so, however, requires that she find some meaning in particular values, practices and choices sanctioned by that culture. The individual must at least minimally, voluntarily associate herself with the culture before she can move throughout an institutional framework that will make future choices meaningful.⁵¹ On the other hand, in

⁵¹ This, however, does not seem to be the case for all cultures. This initial self-identification with one's culture only seems to be required in social circumstances where a contrast can be made between cultures - a culturally plural society - where it is possible to lose members to other cultures. The possibility of assimilation and cultural deterioration must exist, requiring the individual to make a choice between cultures. My point, however, has been that, if we understand cultural structure in terms of an infrastructure that allows us to identify a culture over time despite radical changes, we must recognize that structure is not wholly distinguishable from character. Character plays a significant role in forming and understanding a culture's structure, and if it did not, as I have said above, we could not make sense

order that cultural symbols continue to be meaningful and valuable for a person, a context of interpretation is needed which explains and reinforces the meaning of a culture's character. In other words, neither structure nor character are sufficient, in themselves, for creating the conditions of meaningful choice and self-respect. Intuitively, a distinction can be made between them, but for Kymlicka's purposes, the distinction must be collapsed.

IV. Another Challenge.

My purpose thus far has been to demonstrate that Kymlicka's distinction between a culture's character and its structure is somewhat dubious. In order for a cultural community to remain distinct from others and to command some degree of allegiance from its members, there must be some type of over-lap between structure and character. In other words, character itself must form part of the structure even if it is possible to separate out some of the more obvious traditional character-features like rain-dances, arranged marriages, and specific types of lifestyles. Some shared values and traditions must be in place in order to make the culture continuous and viable over time and to retain its membership. Without these, it is impossible to even

of the notion of Aboriginal self-government, nor of culturally-specific institutions.

consider that a cultural community could make choices meaningful or constitute a social basis of self-respect, since members could easily assimilate into another culture without any serious loss occurring to their capacities to formulate rational life plans. This is exactly what Kymlicka wishes to avoid, at least for certain groups, anyway. Assimilation for some groups like Native-Canadians is not a feasible option, according to Kymlicka. Even if we collapse the distinction between structure and character, in which the obvious implication is that culture is viewed as a comprehensive conception of the good, cultural loss constitutes a serious enough threat to Native moral agency that liberals would be inclined to explore other options for preserving these culture. The difficulty arise then over just this; reconciling liberalism with the protection of a comprehensive, intrinsically valuable conception of the good.

This difficulty is brought out by Don Lenihan's critical remarks. Lenihan challenges Kymlicka's theoretical basis for favouring a culture's protection over its assimilation and ultimately suggests that Kymlicka's final analysis may prove to have a communitarian basis rather than a liberal one. By maintaining a distinction between character and structure, Lenihan argues that Kymlicka has established only that one's membership in a culture is

required for an individual to make meaningful choices, but not necessarily that one should be a member of a particular culture. Lenihan is challenging Kymlicka's conclusion that, in comparing the French- and Native-Canadian cultures - communities which are both currently seeking special constitutional protection - only the Native community has a justified claim since their cultural structure is at greater risk of deterioration. Why, we might ask, should we protect Native culture when the assimilation of Natives into French- or English-Canadian society might equally provide a context for choice and a basis of self-respect? Might some other culture not provide this context equally well? In other words, even if we accept that culture provides a context for choice that promotes individual welfare, it is still not clear to Lenihan what makes the Native culture particularly better in this respect for Native individuals than some other community.

Lenihan argues that the only way Kymlicka can justify preserving the Native culture, as a context of choice for Native individuals, is if we accept that the character, not the structure of this culture - Native norms, values and practices - has some moral significance that must be respected by political practices and institutions. The bottom line, as Lenihan points out, in examining the role of cultural membership within liberalism, is that it promotes

individual welfare through a certain type of link to moral agency.⁵² Culture provides a context for choice through the creation of standards of value that emerge from particular historical and linguistic features of a given cultural community.⁵³ Meaningful choice is made possible for an individual within a particular culture because;

"people are bound, in an important way, to their own cultural community... . Someone's upbringing isn't something that can just be erased; it is, and will remain, a constitutive part of who that person is. Cultural membership affects our very sense of personal identity and capacity."⁵⁴

For this reason Kymlicka believes that culture's are not interchangeable. Moral agency, along with the ability to make meaningful choices, is enhanced through links to one's community and through references to the historical and linguistic features of that community. Transplanting individuals from one community to another would only serve to isolate a person from her identity-forming constituents.

Lenihan thinks, however, that Kymlicka's position on assimilation emphasizes the value of cultural character over

⁵² Lenihan, D. "Liberalism and the Problem of Cultural Membership: A Critical Study of Kymlicka" in Canadian Journal of Law and Jurisprudence. v.4, n.2, (July 1991) p.416. Kymlicka also refers specifically to a connection between culture and agency on p.175.

⁵³ Kymlicka, p.165.

⁵⁴ Kymlicka, p.175.

structure and serves to reinforce a communitarian argument rather than a liberal one. One's culture, as Lenihan interpreters Kymlicka's argument, no longer just facilitates choice but is now part of the very notion of moral agency itself. One cannot be assimilated or transplanted from one culture to another, and still be able to make meaningful choices because the particular features of one's cultural community, in a particular time and place, are a constitutive part of who a person is. The capacity to make choices and to be a moral agent, in other words, are contingent upon one's membership in a particular cultural community. According to Lenihan, cultural membership can be regarded as part of one's moral ontology and as an intrinsic good for the individual rather than an instrumental one. As a result, Lenihan claims that Kymlicka's interpretation of the value of cultural membership leads to a communitarian position rather than a liberal one, as Kymlicka had intended. As Lenihan points out, it is this connection between moral agency and the particular historical situation of a community that provides the basis of communitarian resistance to individualism.⁵⁵ We simply cannot think of people as agents of moral responsibility outside of their unique social context, argue the communitarians, and it is a

⁵⁵ Lenihan, p.417.

similar type of argument that appears to motivate Kymlicka to view community as a primary good.

V. Salvaging Kymlicka's Argument

Lenihan poses a difficult challenge. In order to assess the validity of this challenge and respond to it, it will be necessary to break Lenihan's argument down and determine at which point liberalism is thought to fail. Initially, we can say that Lenihan is correct in pointing out that the non-transferability of membership between culture's leads us to regard culture as part of one's moral ontology. With his emphasis upon culture's role in creating a context for meaningful choice, this does appear to be Kymlicka's motivation for claiming that membership is non-transferable. To transfer from one cultural community to another, it seems, would result in a serious loss of secure reference points for meaning. To link the community with the formulation of rational life plans, making meaningful choices, having standards of value, and distinguishing between good and bad, is to talk about a person as only being a moral agent within her particular social context. To change this context is to seriously change the agent or to render the context meaningless. But it does not follow from this that liberals can no longer defend minority rights. Liberals can still recognize the connection between

the community and the self without selling out liberalism. In fact, this seems to justify liberal neutrality itself. To politically favour and impose one conception of the good would be to deny this important ontological link between community and self for others. By maintaining a neutral stance, liberals allow individuals to develop their capacities as moral agents within whatever community best serves an agent's purpose. To deny this and favour one conception of the good destroys this link for all others and isolates the individual from her points of reference as a moral agent.

Thus, this cannot be the point at which liberalism breaks down in the argument for minority rights. If it does, then it must fail on the grounds that, as part of one's moral ontology, one's community is an intrinsic good rather than an instrumental one. If the community is an intrinsic good, then either we must regard it simply as another competing conception of the good and be politically neutral towards it (ie. not grant special protection) or we must defend minority rights on communitarian grounds. As Lenihan points out

"It [community] is a moral category which, far from being a simple means to some other end which explains and justifies its moral significance, is itself required to explain and justify certain features of, and intuitions about, moral life. In other words, it too must be seen as an intrinsic

good, something which somehow provides its own justification, rather than an instrumental one which is useful only insofar as it promotes some other fundamental good."⁵⁶

As an intrinsic good, the value and protection of the community would become self-justificatory. The community would replace the individual as the basic moral unit of society and become valuable in itself rather than as merely a means to some further purpose of the individual. In other words, Kymlicka's defense of minority rights ceases to have a liberal justification since the non-transferability of cultural protection purchases cultural protection at the cost of liberal individualism.

For a liberal, the primary goods are only defensible on instrumental, individualist grounds - for furthering the other legitimate interests of the persons in society and not groups or communities. If these goods come to be seen as valuable in themselves, without reference to particular individual goals and interests that we hold in common with other citizens, then such goods must be relegated to the private sphere. Politically, we must be neutral towards them. Nevertheless, a case might be made for taking some exceptions here, especially where a person's very capacity to become a moral agent is at risk. In particular, we might

⁵⁶ Lenihan, 1991, p.417.

re-consider the grounds for the liberal value of neutrality itself since this too is considered to be purely instrumental towards reducing social conflict. After all, Rawls' project begins with the fact of pluralism and raises the question "how can we live together in such a state?" His response is to distinguish between political rules and individual conceptions of the good and then subsequently leave the latter out of the political realm. In both his own writing and in that of J.S. Mill, there is an emphasis upon non-interference and the non-enforcement of norms and values upon an individual's private life. As I have suggested above, the ontological link between the individual and her community or conception of the good is a good reason for a liberal to adopt a neutral stance. For Rawls, non-neutrality interferes with justice as fairness and for Mill, it interferes with the pursuit of truth. In both cases, non-neutrality renders the individual unfree to pursue her own good according to her own standards. Furthermore, non-neutrality prevents the individual from even setting her own standards as understood in terms of her basic moral categories such as the community or the culture. Thus non-neutrality denies such ontological links between an individual and her community, culture, and her conception of the good.

Thus, for the most part, the ontological link between

the self and one's conception of the good does force the liberal into a neutral stance. For liberals the focus has changed in response to communitarian challenges. Instead of claiming that individual conceptions of the good must be relegated to the private sphere simply because they bias politics, we can say rather that the public/private distinction protects individual notions of value, and in effect, protect the individual. Understood in this way, political neutrality is justified, but not necessarily in all cases. This interpretation can also justify certain exceptions. There may be cases of individuals in a well-ordered society whose sense of self and moral agency is so radically undermined by a deteriorating community or conception of the good that liberals might be justified in making an exception with respect to their neutral stance. Some individuals may continue to pursue a particular conception of the good and make the ontological link between self and community, however moral agency and the ability to formulate rational, meaningful life plans continues to be undermined. In such cases, liberals would be required to give up their neutral stance towards this conception since the legitimate interests of self-respect and the capacity for meaningful choice would be threatened.

In particular, we can determine which cases this might apply to by incorporating Lenihan's own criticism of

Kymlicka. Kymlicka elevates cultural membership to the status of a primary good and claims that it is non-transferable. Lenihan suggests that this non-transferability implies that cultural membership is a basic moral category and an intrinsic good. If, however, agency and self-respect cannot be attained despite continued links to the cultural community and despite continued incorporation of the community's standards of value into an individual's own pursuit of the good, then it follows that such cultural communities are legitimate cases for which liberals may give up their neutral stance. That is, if cultural membership is a primary good, according to Kymlicka, and an intrinsically good, basic moral category, according to Lenihan, then we can agree that it is a fairly important component of agency. If liberals can justify removing all cultures from the public sphere in order to preserve them for individual agency, then they can also justify bringing culture back into this sphere in cases where agency is threatened in spite of one's continued allegiance to that culture's moral concepts and standards.

Furthermore, we can deal with Lenihan's criticism by simply pointing out that the fact that something possesses intrinsic value for an agent does not necessarily deny its instrumental value in political terms. Even if, as Lenihan says "the definition of a moral agent is inextricably bound

up with our particular, historical situation"⁵⁷, it does not follow from this that the contractors in the original position would fail to recognize the instrumental value of preserving that historical situation should moral agency be at risk. If agency is "bound up" with culture in such a way, then it is not inconceivable that the contractors would recognize cultural membership as an open, abstract category while still recognizing that agency depends not only upon membership but also upon how that membership is cashed out at the level of particulars. To illustrate, consider the primary goods of powers and opportunities. These are recognized as being important preconditions for formulating a rational life plan. Suppose I am raised in such a way that it is important for me to become a professional; eg. a lawyer, doctor or university professor. Non-professional career options will not be meaningful for me, thus I pursue the various life opportunities that allow me to become a professional. Now, these particular opportunities that I pursue are not specified within the original position, however, it does not follow from this that I can easily be transplanted from a professional career to a non-professional one and still have this option retain the same meaning for me. My context for making meaningful choices

⁵⁷ Lenihan, 1991, p.417.

may be lost and so will my sense of self respect. Such is the case it seems for cultural membership. One cannot simply be assimilated into another culture without a serious loss resulting for the agent. But it does not follow from this that the value of cultural membership ceases to be instrumental and fails to find a justification in liberalism.

VI. Conclusion

Thus, we can say that Kymlicka's distinction between the structure and character of a culture, between its norms, values and traditions, and the very existence of a community, simply will not work to satisfy the liberal requirement of neutrality towards competing conceptions of the good. Not only does the notion of structure alone fail to make one's choices meaningful in such a way that no other culture does, but also structure, however we define it as institutions or otherwise, simply cannot be understood without talking about a culture's character as well. The implication is that culture can only be regarded as another competing conception of the good subject to the restrictions of liberal neutrality. Where does this leave Kymlicka and the defense of minority rights? Even granting my above criticisms, it is not clear to me that Kymlicka is left at this point without a liberal "leg" to stand on. It may

still be the case that liberals can defend the protection of certain comprehensive conceptions of the good, cultural ones in particular, where moral agency is at risk due to their loss. Since liberal neutrality protects individuals from political factors that may serve to diminish their particular comprehensive conceptions of the good that contribute to one's capacity for moral agency, it follows that the requirements for moral agency would also demand that we give up this neutral stance in some extreme cases. Even though my criticisms in this chapter have suggested that culture is non-transferable, it is not clear that this conclusion forces us to give up liberal individualism. In the original position, the contractors may regard culture as an abstract, open category, necessary to fulfill the requirements of moral agency, while still maintaining that the particular way in which a given community fulfills these is not replaceable by some other community.

Chapter Three

I. Introduction.

This chapter will explore the notion of moral agency itself and attempt to determine some of its basic parameters. I will begin by making two types of distinctions. First, I will distinguish between two types of conditions for moral agency - psychological and normative conditions. Kymlicka's argument appears to focus upon the psychological conditions, that is, conditions which contribute to identity formation and self-respect. Second, I will distinguish between two conceptions of normative moral agency - thick and thin normative agency. I will argue that Kymlicka focuses his argument primarily upon the enhancement of the psychological conditions for moral agency, that is, enhancing a person's sense of self-respect and personal identity without much regard for the conditions for normative agency. It will be pointed out that there is a tension in Kymlicka's argument between the political enhancement of these psychological conditions and the liberal principle of revisability - an important condition for normative moral agency. It will be my contention in this chapter, and in this thesis as a whole, that even though liberalism may still provide some tools for

protecting minority cultures, some of the cultures that are most at risk and in the greatest need for such protection may fail to qualify within this political theory.

II. Some Preliminary Distinctions

The conclusion arrived at in the previous chapter, that some cultures may qualify for protection under liberal theory due to their important role in enhancing moral agency, requires us to begin this next chapter by exploring some of the parameters of moral agency itself. By the end of his chapter entitled "The Value of Cultural Membership", Kymlicka himself attributes the importance of culture to the enhancement of agency. He states;

"But this strategy only makes sense if one's sense of personal agency is tied to one's cultural heritage. Why else would telling an individual that her people had no history have the effect of giving the individual an image of herself as powerless?"⁵⁸

For Kymlicka, the protection of one's cultural community not only defines one's range of meaningful choices but also affects one's very capacity to make choices and pursue ends. As I suggested in chapter one of this thesis, the notion that culture creates a context for meaningful choice is somewhat ambiguous. To say that cultural communities simply

⁵⁸ Kymlicka, pp.175-176.

provide nothing more than a list of choices fails to capture just why particular communities should be protected rather than assimilated. What Kymlicka means then by saying that cultures create contexts for choice is that the process of defining what is important and salient for an individual is, itself, a process of defining the conditions under which a person is to be called a moral agent - a person who can be held praise- or blame-worthy for her actions and choices. The idea that some choices are more meaningful than others pre-supposes culturally-defined standards of evaluation and comparison that determine how a person examines her various options, weighs out her possibilities, considers the implications and consequences of her choices and actions, and then ultimately chooses. Thus, to protect a cultural community is to protect the conditions under which a person becomes capable of making choices and pursuing ends - the conditions for moral agency itself.

What then are these conditions that must be protected? On one hand, Kymlicka wishes to enhance factors that contribute to identity formation - options, values, knowledge, a sense of one's own worth, and so forth. These factors, it is clear, can be provided by a person's cultural community. These conditions make a person capable of choosing and acting by providing the background information necessary to do so and the range of possibilities that will

be available to choose from. They also provide evaluative standards against which an individual can make judgments about right and wrong, good and bad, appropriate and inappropriate behaviour. This is essentially Kymlicka's main argument. Before a person can make choices and act upon them, a range of meaningful options must be available to her - meaningful in the sense that these options are real possibilities for her life. Such conditions allow an individual to make culturally meaningful choices, which are reinforced by respected others, and therefore derive a sense of self-respect that is psychologically obvious and satisfying to her. Thus, by making a connection between moral agency and identity formation, Kymlicka emphasizes what I will call the psychological conditions for moral agency. These are the conditions that, when satisfied, enable a person to choose and to act in the future with some degree of confidence and certainty over the worth of her decisions. In other words, agency is enhanced by making the individual aware that her choices and ends are meaningful and valuable.

On the other hand, moral theory also links moral agency with the notions of responsibility or accountability, rather than just strictly the notion of having the capacity to act. Having the capacity to act and firmly believe that our actions are worth while are only minimum conditions for

being moral agents in the fullest sense. We seem to require other conditions in order to complete a description of what it means to be a moral agent. If we speak of agency strictly in terms of its psychological conditions, a computer, for example, could be regarded as a moral agent. A computer could be provided with prioritized background knowledge, a range of options to choose from, and even be programmed to evaluate its choices according to specified parameters. But clearly this is not all that is required for moral agency since we would agree that the computer is not responsible for the choices it makes. A computer can only evaluate its options within the limits of its specified parameters but it cannot question, evaluate, and judge the worth of those parameters, themselves. Thus, we must be able to consider agency in a normative sense, or in terms of having responsibility or being accountable for one's actions.

The question we can ask is whether the protection of cultural communities, in providing these psychological conditions, will sufficiently enhance or restrict the normative conditions for agency. The idea that culture creates evaluative standards seems to suggest some minimal conception of normative agency, but it is important to understand how the capacity for self-evaluation contributes to the concept of personal responsibility. Once this is

understood, we should be able to determine if the type of self-evaluation encouraged by a cultural community is sufficient for us to accept the claim that the protection of that community would be a pre-condition for its members to be fully accountable moral agents in the normative sense. It is clear that the issue of revisability will again become central to this discussion. As I argued in the first chapter, Kymlicka cannot, as a liberal, justify protecting a cultural community that places limitations on this. So the question now becomes one of where the limits of revisability will lie. Can we say that, unlike the computer, a human being must always be able to question and possibly revise her parameters for decision-making, in order to be called a fully accountable moral agent? Or will this requirement be too stringent since human beings will always have underlying assumptions that go unquestioned when engaged in the decision-making process?

What does it mean then to say that a person is a moral agent in the sense of being fully accountable for her choices and actions? In one sense, we can say that a person is praise- or blame-worthy for choices and actions that occurred in the past. This question can be formulated as such: "under what conditions can we be justified in saying that X is responsible for Y, where Y is a past action or crime?" To explore this question, I will draw from William

Frankena's discussion of responsibility in his book Ethics.⁵⁹ Frankena suggests that there are several necessary conditions for claiming that X is responsible for Y. First, it must be the case that X was able to do Y. If X was out of the country when a crime was committed, then X cannot be held responsible for that crime. Second, it must be the case that X did in fact do Y; X cause it voluntarily or intentionally. If X lights a match in a room which she is not aware to be filled with gas, then we cannot say that X is morally responsible for the resulting explosion. Third, the cause of X's actions must be internal. X must not be compelled by external factors such as force or blackmail to perform a specific action. Finally, X is responsible for Y if X could have chosen otherwise. For example, X may be held responsible for killing a person in self-defence if it was possible to deflect the threat by simply wounding this person.⁶⁰

The normative sense of moral agency refers to the minimum requirements under which an individual can be said to be held accountable for actions and choices. From this standpoint we can assess the actions of "X" and determine if she will be held morally accountable for them once these

⁵⁹ Frankena, W. Ethics. 2nd ed., Prentice-Hall, Inc., 1973.

⁶⁰ Frankena, W. *ibid*, pp.71-72.

actions are carried out. . Determinations of responsibility, in this sense of agency, are made negatively by asking whether any of the above conditions were absent at the time of the action to defeat the choice made. What is implied here is a set of skills that the agent may apply in evaluating specific situations and actions, and in subsequently making decisions. These skills refer simply to competency in making moral decisions, ie. the ability to examine the cause-effect relationship between various courses of action and their potential consequences, and then live with those consequences. In accommodating the normative conditions for agency, any culture should be able to provide its members with a minimum set of skills that allows them to make competent moral decisions in the course of everyday life.

But this is only a minimal notion of moral responsibility and it does not seem to fully capture what Kymlicka and other proponents of minority rights are referring to when a connection is drawn between culture and agency. As Kymlicka is arguing, culture enhances not just moral competency, but also the capacity to make larger decisions in formulating and evaluating a rational life plan. Thus, we may also consider another conception of normative moral agency - a positive or thick conception of moral agency to be contrasted with the thin conception

described above. A positive conception involves more than merely specifying the conditions under which the agent will be held praise- or blame-worthy for specific acts at specific times. Rather, it involves a notion of agency that regards the agent as one who stands back and thinks critically about her form of life, as a whole. As moral agents, we are not held praise- or blame-worthy only for what particular things we do and specific decisions that we make, but also for how we live, how this affects our children, and the larger goals we choose as well as the means by which we pursue them. In many ways, such larger decisions are often made for us. No one begins with the proverbial "blank-slate" upon which one writes out the course of her life. Even so, however, we are typically held accountable for our particular life plans. In order to be regarded as a moral agent in this thicker sense, we must also be able to apply our critical skills to our way of life as a whole. We must be able to question not only what we do, but also, how we live and how we will live in the future.

This latter conception of moral agency suggests something more than just creating the conditions for competency in moral decision-making. It implies some degree of overlap between the psychological and the normative conditions for agency. In thick agency, some of the

psychological conditions are necessary and this can be seen in Diana Meyers' discussion of responsibility reasoning. In responsibility reasoning, the agent must;

"be able to envisage a variety of solutions...examine these solutions openmindedly...imagine the likely results of carrying out these options, must be attuned to self-referential responses like shame and pride, be able to critically examine these responses, and...compare various possibilities systematically along sundry dimensions."⁶¹

Responsibility reasoning is Meyers' response to the claim that the feminist ethic of care perspective is incapable of producing an adequate conception of moral agency. The responsibility reasoner is concerned about preserving her sense of self-respect when engaged in a care relationship. Such a reasoner begins the process by asking questions like "'What would it be like to have done that?' and 'Could I bear to be the sort of person who can do that?'"⁶² According to Meyers, when such questions are asked by the agent, the above quoted set of reasoning abilities will be required and used to satisfactorily answer those questions.⁶³

⁶¹ Meyers, Diana. "The Socialized Individual and Individual Autonomy: An Intersection between Philosophy and Psychology". Women and Moral Theory eds. Eva Feder Kittay & Diana Meyers, Rowman and Littlefield, 1987, p. 151.

⁶² Meyers, D. *ibid*, p.151.

⁶³ Meyers, D. *ibid*, p.151.

The relevance of making this distinction between thick and thin agency is based upon the importance that liberals attach to the principle of revisability. If liberals are to be asked to justify protecting a cultural community on the grounds that it enhances the conditions for moral agency, then we need to know how agency is to be understood such that it will be compatible with liberal principles. This, it is clear that liberals cannot accommodate a conception of agency that fails to consider the possible revision of one's choices and ends. As Allen Buchanan points out, since the contractors in the original position are attempting to formulate principles of justice that allow them to further their life plans whatever those plans may be, it is also necessary that they will regard those life plans or conceptions of the good as essentially revisable.⁶⁴ One must be committed to the notion that "valuation is a rational enterprise...value judgments, and hence conceptions of the good are subject to rational assessment."⁶⁵ There are two main reasons for this. First, the contractors upon realizing that they will emerge from the original position into any possible societal position, would not be willing to

⁶⁴ Buchanan, Allen. "Revisability and Rational Choice" Canadian Journal of Philosophy. vol. 5, no.3, november 1975, p.398.

⁶⁵ *ibid*, p.399

be locked into one life course without the possibility of choosing another conception of the good. Second, in order for the contract to work such that fair principles of justice are produced, a person using the original position as a decision-making method must be able to imagine herself as a different person in different circumstances. Even if the alternatives are undesirable to that person, they must at least be conceivable. Therefore, as Buchanan argues, one must maintain a critical attitude towards one's overall conception of the good.

This critical attitude, however, requires not only just having the capacity to choose and to act, as suggested by the psychological conditions for agency, and it requires more than just a minimum set of reasoning skills or competency by which we can make negative determinations of responsibility. Having a critical perspective towards one's conception of the good requires the thicker conception of agency that I described above. In order to be committed to the notion that valuation is a rational enterprise, liberals must also be committed to a conception of a moral agent who is capable of taking a step back from the circumstances of her life and ask questions like "can I bear to be the type of person who does that" or "what type of life do I wish to lead". Being able to ask such questions as these and then explore possible solutions implies a conception of a moral

agent who is capable of subjecting her conception of the good to rational assessment - in other words, the thick sense of moral agency.

III. Kymlicka and Revisability

The purpose of the next section of the chapter is to put Kymlicka's defense of minority rights to the test of the liberal principle of revisability. As I have suggested in the last section, if we are to take seriously the claim that cultural communities need to be protected within a liberal society on the grounds that the community creates the conditions for moral agency, then it is necessary to realize that moral agency encompasses more than just being psychologically capable of choosing and acting. It also requires a critical stance towards evaluating one's life as a whole. It involves asking oneself questions concerning the type of person one wishes to be and the type of life one wishes to lead. This conception of a moral agent in turn incorporates the liberal principle of revisability. As Buchanan points out, the agreement reached in the original position is premised on the assumption that individuals will maintain such a critical attitude towards their conception of the good. Where the boundaries of rational assessment lie - the question that I raised above - go beyond strictly the choices that we make from within our particular

community, social context, or conception of the good. They extend, for the liberal, to examining the framework for decision-making as well as the decisions themselves.

We are justified to ask if Kymlicka's theory of cultural value can accommodate this conception of what it means to be a moral agent. Kymlicka does not specifically address this issue in his argument but it is possible to draw on what he does say about specific cultural communities to determine how well his arguments would stand up to the above considerations. Kymlicka makes a comparison between the native and the french-Canadian communities and argues that only the native community may claim minority rights. This argument is based upon what he believes to be the causes of the recent changes that have occurred to each cultural community. He argues that the francophone culture has undergone changes due to the choices that its members have made, whereas the native culture has faced changes in spite of choices made by its members. On one hand, french-Canadians have made choices outside of the traditional francophone context of choice and this has been the impetus for changes to the community itself. On the other hand, many native-Canadians have continued to make choices from the traditional native context of choice and the community

has nevertheless changed anyway.⁶⁶ As Kymlicka points out, native segregation in Canada has traditionally been held as a value where forced integration is regarded as a "badge of inferiority" which leads to cultural deterioration.⁶⁷ Pressures on the native community have lead to changes despite the fact that many native individuals continue to make choices from within their traditional context. For the francophones, even though the community has been altered, and its members make non-traditional choices, the community continues to be meaningful for its members. The context for choice, while evolving, remains significant for individual choice and self-respect. As a result, claims Kymlicka, francophones do not require special cultural protection.⁶⁸ For native-Canadians, however, the alterations to the community have in fact resulted in a deterioration of the native context for choice. The community is no longer meaningful to the individual no matter what types of choices are made and it no longer forms a social basis of self-respect.

Kymlicka also weakens the francophone claim to minority rights by pointing out that we simply cannot protect people

⁶⁶ Kymlicka, p.167.

⁶⁷ Kymlicka, p.145.

⁶⁸ Kymlicka, p.167.

from changes to their cultural character. This, he argues, would limit their capacity for choice rather than enhance it.⁶⁹ Even if we accept his claim (regardless of my arguments in chapter two) that changes have occurred to the native cultural structure and not to its character, it is nevertheless difficult to see why protecting natives from such changes is not equally a limitation on their choices, as it would be for francophones. To say that the native culture changed "in spite of" choices made by its members suggests that the cultural structure has been adversely affected independently of any influences or actions by its members. This implies that only external pressures on the culture are the causal factors in the culture's deterioration. Even though members may make choices internally, from within the culture itself, external pressures like racism, poverty, forced integration, and a lack of political standing may have rendered the culture meaningless for its members. Such factors have created negative stereotypes and images about being native and, moreover, have made living conditions in reserve communities very difficult. Thus, if members wish to continue to make internal choices where the community as a basis of self-respect is threatened by external factors, then Kymlicka may

⁶⁹ Kymlicka, p.167.

have a legitimate case for protecting this culture. A foreign value system is being imposed upon a culture whose members have no desire to embrace it, and this is undermining their sense of self-respect. Rather than restricting choice, protecting native communities would amount to enhancing a community's image thus making native options more attractive to members, and this would result in increased options.

In this case, the psychological conditions for moral agency are at risk. Through external pressures on the community, native-Canadians are being deprived of the values, beliefs, and knowledge necessary to make their choices meaningful and enhance their sense of self-respect. This runs contrary to the liberal mandate of neutrality as a way of protecting agency as suggested in the previous chapter. On the other hand, we must consider the fact that Kymlicka's project has the admitted aim of restricting liberty in the short term in order to enhance the greater capacity for liberty and rational agency in the future. In other words, in order to protect and enhance the culture's structure which makes choices meaningful, members must be prevented from making choices outside of their cultural context, at least on a temporary basis.⁷⁰ This suggests

⁷⁰ Kymlicka, p.170-171.

two things. First, if there is a perceived need to restrict choices that factors into Kymlicka's argument, then it must be the case that members have been making external choices in the past, choices outside of their traditional cultural context. This has in fact been the case. Many native-Canadians do live outside of reserve communities, pursue a higher education, choose non-traditional careers and lifestyles, and reject native associations. Secondly, this need to restrict choices implies that such external choices themselves are thought to constitute a form of internal pressure on the community, and that they too contribute to structural deterioration. In other words, rather than a foreign value system being imposed upon people who do not want it, many members do want some elements of this other system and what we must restrict is the possibility of their making such choices.

But this is a rather odd conclusion for a liberal to reach. Kymlicka's line of reasoning is as such: restricted liberty now will lead to greater liberty in the future. Or, more specifically, if we protect the culture's structure now, which makes internal choices meaningful, then in the future this structure will be strong enough to allow the culture's members to make meaningful external choices.⁷¹

⁷¹ Kymlicka, p.171.

To make a transition from merely protecting choices to restricting some choices for the sake of desirable others suggests that Kymlicka does believe that the psychological conditions for agency can also provide for the normative conditions. Even if we accept the idea that merely possessing a set of values, beliefs, and knowledge is not sufficient to create the conditions for moral accountability (as in the case of the computer), the notion that a temporary restriction on choices defined by this set suggests that these conditions will somehow obtain in the future. As Kymlicka points out;

"If certain liberties really would undermine the very existence of the community, then we should allow what would otherwise be illiberal measures. But these measures would only be justified as temporary measures, easing the shock which can result from too rapid change in the character of the culture (be it endogenously or exogenously caused), helping the culture to move carefully towards a fully liberal society."⁷²

But if these normative conditions do not occur now, it is not clear where they will come from in the future, especially once one's identity-forming psychological constituents may have become so socialized that they are no longer called into question.

In particular, I am concerned about the conditions for moral responsibility involving the possibility of choosing

⁷² Kymlicka, p.170.

and doing otherwise. This is a basic element of normative responsibility in the thick sense. We cannot hold X fully responsible for an action if X was threatened, coerced, or simply had only one possible course of action to choose from. In the case of making meaningful choices that will shape the future course of one's life, it is also not clear to me that a choice made from a highly restricted range of options is one that the agent can be said to be held morally praise- or blame-worthy for, except from the perspective of the community itself that restricts those options. And even if we do not accept the idea of coercion or force in such a case because there may be more than just one option available, such choices may still fail the normative conditions for agency on the grounds of being non-revisable. Within one's range of options, particular choices may be revisable, however, this test is failed in cases where the range of options itself is not subject to revision. In other words, one may change one's mind and choose from other options defined by one's conception of the good, however, if one's conception of the good, which itself defines those options, is not subject to critical evaluation and possible revision, then it is not clear that the conditions for moral accountability are met in such cases. The test is failed, not on the grounds that X could not have done otherwise but rather on the grounds that X's character and desires could

not have been different such that X could do otherwise.

Thus, if revisability is a central normative component of moral agency, then one must be able to change one's mind and choose other alternatives. It must be possible that one's character and desires be otherwise such that one is able to choose differently. Some comprehensive conceptions of the good may only allow for the first part of this, choosing other options from within a specified range, but not necessarily allow for the second part. The conception of the good itself, may not be subject to critical assessment and revision such that other ways of life are at least conceivable to the individual. In these cases, the individual is restricted to examining only those options that are viable according to her present character and desires. In such cases, it would be impossible for the agent to even consider the possibility of having different needs and desires, and as a result, would be incapable of reasoning in a manner that would produce fair principles of justice. Even if it is true that people rarely examine their life options in such a wide, reflective manner at all times, for liberals, it must always at least remain a possibility that one's comprehensive conception of the good remain open to critical evaluation and potential revision. Otherwise, the contract could not work the way it does and, as I have said, the basic conditions for moral

accountability are not met.

IV. Some Concluding Remarks

In the previous section, I examined Kymlicka's argument that, within his defense of minority rights, only the native-Canadian cultural community has a justifiable claim to special protection. The purpose of examining this particular argument was to determine if Kymlicka's defense could accommodate the notion of revisability. This particular argument was one of the few points where Kymlicka alluded to the effect that critical evaluation and choice revision, on the part of community members, had upon the community itself. Certainly revisability gives us a standard for distinguishing between the needs of different cultural communities, but it is not clear that liberals would be inclined to agree that there is a need to protect the same cultural communities that Kymlicka advocates. What options are available to the liberal in terms of protecting cultural communities, now that I have brought in and raised concerns about the issue of revisability? The purpose of this next section will be to wrap up this chapter by considering how Kymlicka's argument now stands from a liberal point of view.

Kymlicka's argument for aboriginal rights, in contrast to francophone rights, appears especially problematic in

light of the above discussion. This stems not necessarily from an assertion that native communities, by their nature, restrict choice and rational assessment. Native communities in Canada are diverse and self-government will likely entail different things for different groups. The difficulty for Kymlicka lies rather in his description of the changes occurring to the native and french communities, and their resulting impact. The reason that the francophone community does not require special status, it seems, is that it is capable of maintaining itself even when choices are made outside of the traditional francophone range of options. What this suggests is that the francophone community, as a conception of the good, can withstand the process of rational assessment and revision by its members. It can maintain itself as a meaningful factor in its member's lives even under rational scrutiny. The native community, on the other hand, deteriorates when subjected to this process. When the character and desires of its members change and choices are made outside of the traditional range of options, according to Kymlicka, the community suffers and fails to be meaningful. For Kymlicka it follows from this that the native community requires special protective measures to maintain itself.

But for the liberal, the implications of this are quite different. First, we can see that if liberals are to

protect any culture at all, they could only protect a culture that can continue to enhance moral agency even under the conditions of rational scrutiny. It is not clear that liberals could sanction the protection or even the existence of a culture that cannot be meaningful to its members unless it restricts rational assessment and revisability. This requirement, even as a short term measure, is unacceptable. The paradox of this, however, is that cultures that liberals might be willing to protect are, by this same requirement, cultures that are clearly not in need of minority rights. If we recognize the value that culture has in contributing to the formulation of rational life plans, and we see that a particular culture can make choices meaningful for an agent without placing stringent boundaries upon what the agent can choose, then clearly there is no special need to politically enhance this culture. The culture will have enhanced agency for its members without political protection.

Secondly, to prevent individuals from taking a critical stance towards their culture as a whole is suspicious, not simply because more options are better, but also because it makes the role that culture has in enhancing moral agency seem a bit dubious. If rational assessment is central to the notion of moral agency and if there are certain cultures that can only provide this in a limited manner such that the psychological conditions for agency break down as soon as

external choices begin to be made, then the link between culture and agency is rather uncertain, at least in these cases. If liberals are to protect any culture at all, the preference would seem to be for cultures that can change over time without resulting in a loss of cultural integrity or the violation of individual autonomy and moral agency. Cultures like the french-Canadian one are of this type, by Kymlicka's own argument and seem to have a stronger claim to special protective measures than do native-Canadians. These cultures allow for the revision of their member's choices in such a way that does not undermine its members context for meaningful choice or their social basis of self respect.

This places Kymlicka in a rather precarious position. On one hand, the community most likely to require special protection is the native one since a change in the community poses a serious threat to individual agency. On the other hand, the very fact that a threat of this nature exists suggests that the possibility of revision - an element of agency, itself - is what creates the threat. Furthermore, the community that can accommodate significant changes to its members rational life plans is also the community which, by the same argument, does not require special protective measures. In other words, the need to preserve the conditions for moral agency in the thick sense - the sense that liberals would have to advocate if they are to take

seriously the protection of minority cultures - is the very condition that disqualifies a community from claiming minority rights. This conclusion is rather disconcerting for a liberal.

Kymlicka has suggested that we may be justified in taking what appear to be illiberal measures now to protect a community so as to allow that community and its members to move towards a more fully liberal society in the future. What he is suggesting here is that we be willing to make a trade-off. Prior to considering the issue of revisability, this trade-off consisted in taking mildly illiberal measures towards merely focussing a person's choices and actions in such a way that would enhance their psychological sense of agency. We would, as liberals, be merely empowering a person to choose and act, whereas the alternative for the groups that Kymlicka has in mind is to suffer an existence without direction or self-respect. Upon considering the issue of revisability, this trade-off appears more worrisome. The process of focussing now appears to amount to a process of restricting some choices so as to make other choices appear more desirable. Even though the admitted aim is to enhance the psychological conditions for agency, the act of taking political measures to protect a particular set of conditions in the form of a community or a culture without considering the extent to which this community may

incorporate revision does seem to amount to saying that these particular choices are simply more valuable than others.

What I am suggesting here is that Kymlicka has unwittingly made a substantial moral commitment to the particular conceptions of the good held by native-Canadian communities. My reasoning for this follows from an attempt to respond to a question that I raised earlier in this chapter. I suggested that one of the main purposes of this chapter would be to explore the parameters of moral agency, and in particular, I would be concerned about where the limits of critical evaluation would lie. In particular, my concern here is about what the liberal conception of agency encompasses - the thick conception of a person who is concerned about maintaining her sense of self-respect in a moral dilemma by asking questions about what type of person she wishes to be and what type of life she wishes to lead. I suggested that this conception of moral agency is very much compatible with the liberal principle of revisability and, for that matter, is in many ways defined by it.

The question that I am concerned about then, in the context of the relationship between culture and moral agency, is whether this principle of revisability should refer primarily to the revision of one's ends based upon choices that are made from options found within and defined

by one's cultural community, or if the community and the culture should be subject to revision as well. My contention is that liberals should be concerned to preserve the conditions for both. The main reason for this is that culture is a comprehensive conception of the good. As I argued in chapter two of this thesis, Kymlicka's distinction between cultural structure and cultural character is not sustainable. Even though liberals may still be concerned about culture due to its relationship to moral agency, it still remains a comprehensive conception of the good and the contractors in the original position would want this to be subject to rational scrutiny. The contractors may recognize the value of cultural communities for the enhancement of self-respect and moral agency, as Kymlicka argues, however the liberal argument put forth by Allan Buchanan indicates that the contractors would not be willing to be locked into one particular way of life once the veil of ignorance is lifted. One must always be open to the possibility that one's way of life could be different even if one is perfectly content with the way it is now.

In other words, to prevent individual members from subjecting their culture and their community to rational assessment seems to have the result of "short-changing" them in their capacities to be moral agents in the thick sense of the term. The conception of moral agency that is compatible

with liberal revisability requires the notion of an individual who is capable of stepping back and examining her life, her beliefs, and her accepted values, norms and traditions. To limit revision to only those options that are found within a particular cultural context denies members the possibility of being fully accountable moral agents in the thick sense, and it undermines the very basis of Kymlicka's project which was to protect cultural communities for the sake of enhancing individual agency.

Conclusion

In this thesis, I have explored in detail some of the implications of Will Kymlicka's liberal defense of minority rights. In chapter one, I began with some exegetical remarks and examined a few of the surface features of the argument that emerged upon initial consideration. I was concerned first that although one's cultural community does appear to be the most likely place to find one's social basis of self-respect and one's context for making meaningful choices, certain cases may prove problematic for the liberal. For example, we might be worried about a culture that devalues the status of women, except in traditional roles; where one's sense of self-respect is derived from choosing a role that limits one's options. At this point I introduced the liberal principle of revisability and the importance placed upon it. Secondly, I was concerned about Kymlicka's distinction between a culture's character and its structure. Such a distinction is necessary to preserve the liberal nature of Kymlicka's argument. It is not clear to me, however, where a line can be drawn such that we can claim that a particular culture is identifiable and continuous over time without referring to its particular norms, values and traditions.

In chapter two, I expanded upon this latter theme and considered the possibility that we might understand cultural structure in terms of an institutional framework that preserves and justifies a cultural community. We might, for instance, consider the French-Canadian community that possesses an official language, legal system, school system and provincial government, which have served to protect and stabilize the community and resist the assimilation of its members. The difficulty was, however, that it was not clear how we could defend the protection of culturally-based institutions as valuable, qua being culturally defined, unless cultural character is what defines them and makes them valuable and meaningful. Kymlicka was forced into the dilemma of, on one hand, requiring a neutral framework that would be sufficient in providing for meaningful choices and, on the other hand, only being able to have such neutrality at the cost of preserving minority rights. That is, unless we accept the claim that cultural structure requires elements of cultural character to make the community central to one's sense of self-respect and context for choice, then it follows that the individual can easily derive these same benefits from living in some other community.

It appears to follow from this dilemma that, in order to justify protecting a particular cultural community, we must change the grounds of our defense and claim that the

cultural community has intrinsic value. This argument is taken up in the latter half of chapter two in which I discussed Don Lenihan's critical remarks of Kymlicka's argument. If assimilation is not possible and individuals cannot simply be transplanted from one cultural community to another, then it follows that culture constitutes an ontological, moral category that forms a basic part of who a person is and how a person reasons about morality and matters of social justice. In other words, contemporary liberal theory was itself, brought into question through the very notion that one may not be able to reason abstractly about the instrumental value of culture. It follows that, if Kymlicka is to maintain the non-transferability of individuals between different cultural communities, then he must accept the idea that culture is not abstract and instrumental but rather is, strictly speaking, a comprehensive conception of the good. This was in line with my previous arguments in this chapter which suggested that a distinction between cultural character and structure can not be sustained. It appeared to follow from this that culture can not be defined as anything other than a competing conception of the good to be relegated to the private sphere within a liberal society.

I responded to this concern by pointing out that liberalism can accommodate the notion that cultural

membership is non-transferable. First, an ontological link between culture and agency provides sufficient grounds for maintaining a neutral stance towards competing conceptions of the good in order to enhance that link. Failing to do so might diminish this link since the individual might not be protected from the imposition of other more prevalent views of the good. Secondly, it was not clear why having the capacity to imagine culture in the abstract necessarily commits one to the view that any particular culture is sufficient for one's life. In other words, the fact that I can imagine my life as being different from the way it is now does not commit me to the belief that some other mode of life would be equally as valuable or fulfilling as the one I currently have. The conclusion reached in the second chapter was that, not only does Kymlicka's structure/character distinction not work, but it is also not necessary at this point of my analysis if liberals are to defend the protection of certain minority cultures. Liberalism, itself, may already provide the tools needed for doing so without implementing this distinction.

In chapter three, however, I pointed out that even if liberalism can make room for the protection of minority cultures, on the grounds of a link between culture and moral agency, this becomes problematic when we consider the particular conception of moral agency that liberals would be

willing to enhance. I began the chapter by setting up some distinctions. First, it was suggested that a distinction could be made between the psychological and the normative conditions for moral agency. It was claimed that Kymlicka has focussed his argument primarily upon the enhancement of the psychological conditions - conditions which provide the individual with the capacity to make choices and feel psychologically confident about her decisions. Second, a distinction was made between the normative conditions for moral agency in the thin sense and moral agency in the thick sense. I argued that the thick sense was the conception of moral agency that liberals would be most concerned about in the question of whether or not to protect cultural communities because it incorporates the principle of revisability.

In the third chapter, I examined Kymlicka's argument that only the native-Canadian cultural communities qualify for protection within a liberal framework. This argument was made by Kymlicka in comparison to the political demands of the french-Canadian community whereby he denied their claim to minority rights. His description of cultural change resulting from choices made by members of these communities led me to conclude that the native-Canadian cultural community can only survive if limitations are placed upon its members' capacities for rational assessment

with respect to the culture as a whole. If members are able to examine and revise their cultural conception of the good and to subsequently make choices from outside of their traditional range of options, it follows that the native cultures will deteriorate. I argued that it follows from this that liberals would not be inclined to protect such communities, but rather could only grant minority rights to communities that incorporate revisability into their conception of what it means to be a moral agent. The communities that do so, however, are communities that do not in fact require protective measures by Kymlicka's own reasoning.