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**FREEDOM AND BELONGING:
AN ESSAY ON LIBERAL MORAL IDENTITY**

By Donald G. Lenihan

This thesis is presented to the School of Graduate Studies in partial fulfillment of the requirements for the degree of Doctor of Philosophy.

University of Ottawa

 Donald G. Lenihan, Ottawa, Canada, 1993



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for Francine and Jean-Michel

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Moral conviction embodies an inescapable element of passivity, Hegel argued, a constitutive identification with morality's demands, that cannot arise from autonomous decision, but only from the training and socialization that creates our very sense of self.

Charles Larmore

The end of communism is, first and foremost, a message to the human race. It is a message we have not yet fully deciphered and comprehended.

In its deepest sense, the end of communism has, I believe, brought a major era in human history to an end. It has brought an end not just to the 19th and 20th centuries, but to the modern age as a whole.

Valclav Havel

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Chapter 1

Introduction: Setting the Problem

The theoretical task

The present work aims at clarifying one, central question: Is the granting of special constitutional rights or powers for entrenched cultural minorities -- rights or powers which may override other constitutionally guaranteed rights of individuals -- compatible with liberalism taken as a political and moral theory? In short, can the notion of collective rights be justified within a liberal democratic framework? The orthodox view is that it cannot be justified. I will argue that there is an important sense in which it can be.¹

If the issue of collective rights is muddy, it is evident from the emotional intensity surrounding the debate that something of its depth and import is grasped by friends and foes alike. Thus, for example, when the Reagan government in the United States withdrew its support for UNESCO in the mid-1980's, it cited the current administration's support for collective rights as a key reason. By and large, Anglo-American political theory has viewed collective rights talk as a sinister threat both to individual freedom and democratic government.

¹ For other sympathetic views see: Taylor 1979; Kymlicka 1989; MacDonald 1991.

But in the last decade a number of philosophers – whom I will very loosely identify as *communitarians*² -- have begun to articulate a position which is at least implicitly more sympathetic to this doctrine. Briefly, communitarians have mounted an attack on the individualist moral ontology of liberal theory. In this work I will draw on certain aspects of this critique, and, in particular, the moral philosophy of Charles Taylor, in an attempt to work out the basis of a moral ontology that is compatible with the spirit of liberalism but which makes room for a doctrine of collective rights. The main task of this revisionist ontology is to explain how it is that a collectivity can be the subject of a moral right; and, more specifically, of the right³ of self-determination.

The Canadian context

The issue of collective rights has particular relevance for Canadians. From the beginning, the cultural tensions between French- and English-speaking Canadians have played a crucial role in shaping Canadian political theory and debate. More recently, the issue of aboriginal rights has taken on similar significance. In both contexts, arguments asserting or denying a collective right of one of these

² I say 'loosely' because some whom I treat as communitarians, such as Bernard Williams, might resist that classification. As will become apparent, I associate communitarianism more with considerations of ontology than politics.

³ Or, as I will say in Chapter 6, of the rights of cultural membership.

minorities are common.

On the one hand, there are those like former Canadian Prime Minister Pierre Trudeau who think that, "Only the individual is the possessor of rights. A collectivity can exercise only those rights it has received by delegation from its members." (Trudeau 1989, p. 364) Mr. Trudeau maintains that "entrenching the primacy of the individual" in a constitutional charter is "in keeping with the purest liberalism." He tells us that, when conceiving the Canadian *Charter of Rights and Freedoms*, he pictured citizens as beings which "transcend the accidents of place and time, and partake of the essence of a universal humanity." Yet when he turns to the question of the status of Canada's native peoples he allows -- inconsistently, I believe -- that "Where the rights of individuals may be indistinct and difficult to define, (we may) also enshrine some collective rights of minorities."

On the other hand, we often hear arguments from Quebec nationalists or Aboriginal leaders which appeal to their rights as peoples, rights which are said to justify collective action aimed at protecting, preserving and promoting the way of life of a particular community. These rights, it is assumed, should not only be entrenched in the Constitution but where relevant should be weighed against those individual rights set out in the Charter.

What will liberals say if we ask them why individual rights are important? They will reply that reasonable people often disagree about what constitutes a good life. So, if we want to give everyone a chance at it, we must ensure that each has the freedom to choose for herself what constitutes the good life. Liberals do this by giving the maximum amount of freedom to each individual, consistent with the same amount of freedom for others.

The collectivist view, on the other hand, emphasizes one's particular historical roots, one's having a special place in the community, state and world. It insists that values, what make an individual life worth living, are created and sustained within the life of a community. They are a product of the language, customs, practices and traditions of the society. The meaning of an individual life -- one's identity -- is deeply enmeshed with the culture. The good of the individual is therefore fused with that of the community. Membership in such a community -- cultural membership -- is essential to human flourishing.

An argument against collective rights: Part 1

The main argument against collective cultural rights that I will address falls into two parts. Part 1 goes something like this: If (some) cultural rights are genuinely *collective*, then the subject of the right must be the collectivity: not just the

individual members who make it up. So at issue is whether a good such as a flourishing culture can be the legitimate object of a claim made in the group's name. Now claim rights are usually grounded in one of two ways: (1) an appeal to the subject's autonomy; or (2) an appeal to some interest of the subject which is particularly crucial to its well-being. (Waldron 1984, Chpt.1.) Neither of which, say critics, work for groups.

The former (1) is a kind of Hegelian application to collectivities of the Kantian argument for individual moral autonomy. It maintains that cultural groups are autonomous moral agents in the relevant ways. As such, we must admit that the conditions (roughly, freedom) essential to the integrity of this agency command our respect. But, insist the critics, this argument is really a *reductio ad absurdum*. For there are only two principal reasons for attributing (moral) agency, both of which fail here. First, we single out individuals as moral agents when we want to praise or blame them for some action. But neither makes any sense for groups *qua* groups. When we do praise or blame groups --say, the Nazis for attempting genocide-- we are indirectly praising or blaming their members. Hence at Nuremburg it was not the German nation *qua* cultural group on trial, but a series of morally culpable individuals.⁴

⁴ Which does not exclude the possibility that some of the beliefs of these individuals were also being examined and evaluated.

The second reason to attribute moral agency is to accord protection (rights) to 'project makers', i.e. autonomous agents whose identity and self-respect is intimately connected with their capacity to set and achieve goals and who require space in which to pursue them. (Benn 1989) But the existence of collective goals - say, a literate population or a strong economy-- does not require the existence of a collective subject whose goals they are and to whose identity they are integral. To think that a collective project or a nation's sense of self respect requires a transpersonal subject -- a *Geist* -- to whom these intentions belong is just bad metaphysics. We can admit that groups have morally relevant, non-reducible intentions without drawing the further conclusion that they are therefore *bona fide* moral agents. Feminists and Marxists implicitly make this point when they attack one class for exploiting another. One commentator puts it this way:⁵

We could not morally defend a right whose purpose is to benefit a collectivity as such (e.g. the state) but not to benefit the individual members of the collectivity...And the reason why...is that a collectivity does not in the relevant sense have interests independently of its members...For what constitutes having an interest is having certain sorts of experiences, viz. hedonic or

⁵ In fact, McDonald defends collective rights. But his is an interest-based theory, not an autonomy-based one. A reply to this line of argument from collective rights opponents is sketched in the pages immediately below. I examine this approach in detail in Chapter 2.

affective reactions, and only individuals can be said to have experiences...[Thus] I cannot accept what might be termed 'Hegelian' (or should I say 'facist') 'collectivism'. (in Stanley 1979, 336)

Concerning (2), as the quote above notes, it is a generally accepted principle of moral philosophy that only the interests of individuals are morally relevant. So, if we want to maintain that a collectivity has rights, it won't be enough merely to show that it has interests crucial to its flourishing. Bacteria, after all, have these. There must be some special reason to claim that these interests should be *protected*. One reason might be benevolence. For example, some moral philosophers, while admitting that animals are not moral agents, point out that they can suffer, and so have a crucial interest in not being subjected to pain. Considerations of benevolence, say these philosophers, forbid us from gratuitously inflicting pain on such creatures. The Principle of Benevolence thus implies that *ceteris paribus* this interest should be protected. The conclusion is that some nonmoral agents – sentient beings -- have genuine moral rights. But notice that this argument appeals to the suffering of particular animals, not animals as such. The aim is to prevent the gratuitous suffering of this or that *individual*. There is no special concern for the *species*. Surely, collective rights opponents add, it is obvious that this kind of argument has no analogue among groups. Groups, unlike animals, do not suffer.

In conclusion, one cannot substantiate the claim that certain collective interests should be protected by a vague allusion to the needs, interests or concerns of a group *qua* group. Collectivities just aren't the proper subjects of moral rights. There is therefore no such thing as a genuine collective right.

An argument against collective rights: Part 2

The second part of this argument against collective cultural rights goes like this: The good which is to be protected in a collective rights claim -- say, cultural vitality -- is usually a collective good, i.e. a good the distribution of which is not controlled by any individual. (Raz 1986) Two standard examples of collective goods are clean air and a well trained labour force. Now, liberal rights can be justified by an appeal to particular goods which, given the important role they play in our welfare, are accorded special protection as rights. Private property might be one example, and our right not to be tortured, another. But there is no obvious reason to suppose that the same kind of argument cannot be made for certain collective goods. Indeed, it is now commonplace to hear that an educated, healthy population, or a clean, safe environment, are general preconditions for human flourishing and hence the state has a moral obligation to provide its

citizens with them.⁶ In fact, this is the principal argument which egalitarian liberals put forward for the welfare state. So, there may be rights to certain collective goods. But, if there are, they will not be genuinely *collective* ones. On the contrary, their justificatory arguments will be grounded in an appeal to the welfare of those *individuals* whose interests are at stake. Hence these individuals, and not the collectivity, are the true subject of the right. One might still, for practical reasons, want to speak about such rights as collective ones; but, as far as moral ontology is concerned, this is a mere *façon de parler*. It is simply expedient for legislative purposes to admit a category of collective rights. But a search for their moral ground always returns us to considerations of welfare for some particular individuals.

A first reply to Part 1

Both stages in this critique of collective rights are open to question. First, the claim that collectivities cannot be moral subjects is, if not wrong, at least misleading. In the aftermath of World War II, collectivist jargon and theories were much maligned in the West and in particular in the United States. Liberalism was

⁶ One may wonder here who is the subject of this moral obligation. Is it really *the state*? or is it the individual members of the executive? or the bureaucracy? or some other group or collection of individuals? If the first, we have already admitted that some collectivities are moral agents.

opposed to the collectivist theories of Marx and Hegel. The former, it was said, takes the individual as the basic ontological category and groups are, for moral purposes, mere collections of them. The latter, on the other hand, takes the group as primary and the individual as derivative. Thus the orthodox view has been that, while liberalism establishes the priority of certain basic rights and freedoms of individuals over the interests of the group, collectivism subordinates them to it. (Berlin 1969) But in the last decade some philosophers have tried to articulate a position less hostile to collectivist theories of identity and approaches to politics.

Communitarians reject the classical modern theories of identity --those of the Cartesian-Lockian-Kantian variety -- which, they say, fail to do justice either to the 'We' of first person discourse or the 'I' of practical reason. (Carr 1986; Williams 1985) Their many important differences notwithstanding, what these modern theories share, think communitarians, are epistemological assumptions which favour the 'I' of theoretical discourse, treating it as ontologically prior to the others. This creates a strong tendency in moral theories sharing these assumptions to assimilate practical to theoretical reason. Orthodox liberalism, say the communitarians, is a case in point. Its approach to key moral and political problems remains locked into the categories and logic of the classical model. Thus at crucial points, it identifies the 'I' of theoretical reason with the *self tout court* and then treats the latter as an ahistorical point of moral reference. In this way, moral autonomy gets equated with a narrowly defined capacity for rational

decision-making. 'Narrowly defined' because rationality itself gets worked out in terms of the model already at hand: theoretical reason. Thus, when orthodox liberal theorists finally do turn to a discussion of the collectivity, the ontological die has already been cast: the 'We' of prereflective discourse appears as a concept, an abstraction derived from the empirical experience of a more primitive 'I'.

But, say communitarians, social life is not just a context into which the 'I' inserts itself and from which it can withdraw again at will. Nor is culture essentially a market where the self can view and select from a range of opportunities and goods available for its private consumption. Autonomous moral choice is possible, if at all, only where the institutions and practices of a particular, historical form of life have made it so. Individual autonomy, *pace* Kant, is not always an option. It is not, in other words, a metaphysical condition. It is a collective, moral achievement to which some individuals can now aspire. Hence, for communitarians, moral autonomy is not grounded in a faculty of pure reason. It is not a capacity, first, to judge according to universal principles of right action and, second, to choose whether or not to comply. Moral agents are individuals 'thick with traits', *selves* whose capacity for moral deliberation is the product of their participation in a community which, from the point of view of moral theory, is principally defined by a set of practices (Williams 1985). Abstract moral principles are only attempts at articulating our concrete moral intuitions, sentiments and actions; not the reverse. Hence, whatever moral autonomy

amounts to, it is intimately bound up with membership in a very particular kind of cultural community whose practices and institutions are its precondition.

Orthodox liberal theory, continue the communitarians, obscures this. By treating basic principles of practical reason as though they were ahistorically or presocially constituted principles of rational choice, liberals (say the communitarians), misrepresent the moral will as an abstract, metaphysical power of judgement, an autonomous faculty which is ontologically distinguishable from the immediate political and moral structures in which it is embedded. This is a legacy of the moral theory of the Enlightenment which made protection of this abstract freedom the *raison d'être* of liberal rights, a bias which has given all liberal theory since a fetish for personal preference over the common good. It is just this reification of the moral will -- of which Kant's theory is the paradigm -- which, at bottom, communitarians oppose. But if so, the real dispute between liberals and communitarians is not, or at least not primarily, over liberal values, or even over liberal rights, but over an ontology which prejudices our understanding of liberal values and rights by situating discussion of them within an irreconcilable conflict between (abstract) freedom and community. In any event, this is how I shall interpret the communitarian-liberal debate.

But if there is this deep commitment which unites communitarians, it has tended to be obscured by the variety of ends to which they put it and the claims

they have used it to justify. Beyond the common front forged by their opposition to 'liberal individualism', differences among communitarians are substantial. If they share a deep intuition about the role historical and social forces play in shaping the moral realm and the ontological category of the self, none has yet given the definitive account of just what this amounts to either ontologically or morally. The result is a frustrating vagueness about where this revisionist ontology is heading and what real contribution, if any, has been made to moral and political theory. Indeed, uneasiness about the clarity of these points has recently led some liberals not only to deny that liberal theory is 'individualist' in this debilitating sense, but to further assert that communitarian theories of community add little to the theory of community already implicit in a careful reading of Part III of John Rawls's *A Theory of Justice*. Allan Buchanan, for example, defends this view in a recent article aimed at clarifying the differences between liberals and communitarians. (Buchanan 1989. See also Kymlicka 1989, 1991; Pogge 1990)

He begins by distinguishing between a strong and weak form of communitarianism. What he calls a radical communitarian is someone who

rejects individual civil and political rights out of hand and seeks to replace references to individual rights either with teleological talk about the goods of communities or with talk of group rights. The

moderate communitarian, in contrast, acknowledges individual civil and political rights but denies that they have the sort of priority the liberal attributes to them. (Buchanan 1989, p. 855)⁷

But, when it comes to any particular communitarian, Buchanan admits that it may be difficult to say whether she is really a radical or a moderate:

it may not be easy to tell whether a communitarian's rather disparaging remarks about individual rights are based on a radical rejection of the whole framework in favor of a teleological approach in which the telos is the good of the community, or on the more moderate charge that individual rights are less important than liberals think and may be infringed or limited by appeals to the good of the community. (p. 855)

Buchanan, I think, is right to hedge his bets. Perhaps there are some genuine radical communitarians out there. But I honestly doubt there are many. Certainly, few communitarians repudiate basic liberal values like tolerance, equality or individual freedom. And, rhetoric notwithstanding, most who attack individual

⁷ As an example of a liberal who seems to give this kind of priority to individual rights, Buchanan mentions Rawls who holds that liberty rights have lexical priority over other rights and concerns. But it seems a little odd that Buchanan should point to Rawls here, given that he thinks Rawls' theory can accommodate the concerns of communitarians.

rights would, when pressed, concede that some form of individual rights is probably the best way to secure liberal values. Thus, as Charles Larmore points out, even Alasdair MacIntyre, a bombastic critic of liberalism, is really a liberal *malgré lui*. (Larmore 1987) Others, like Charles Taylor, Richard Rorty, and Michael Waltzer, cheerfully admit that they are liberals. Really, when all is said and done, communitarianism is little more than a motley collection of disgruntled liberals looking for a better moral theory, one which reconciles the traditional liberal commitment to respecting autonomy with the view that moral life is in crucial respects collectively constituted.

On this point Buchanan's paper is particularly helpful. For it separates the liberal political thesis from justificatory theories which support it. The former, he says, can be roughly defined as "the thesis that the state is to enforce the basic individual civil and political rights" (p 854).⁸ Detaching the liberal political thesis in this way is useful in that

...it locates a major theoretical and practical disagreement between liberals and communitarians without saddling liberals with the

⁸ This should be distinguished from the liberal moral thesis of pluralism (i.e. that reasonable people can disagree about the nature of the good life) in which it is rooted and which is usually cited as its justification. (See eg, Kymlicka, 1989 Chpt 1.) But the moral thesis, like the political thesis, is also separable from the justificatory theories which support it. And it is here, at the level of moral theory, that the real differences between communitarians and orthodox liberals lie. See Chapters 4 and 5.

implausible view that individual civil or political rights are absolute, that is, that they may never be justifiably infringed or restricted. The point of disagreement, rather, is on the question of what sorts of justifications for infringing or restricting these rights are legitimate. The moderate communitarian can [now] be seen as denying that only the need to protect another individual right can justify infringement or limitation. (855)

Buchanan then rightly points out that there is nothing in the liberal political thesis which denies that liberal rights aimed at protecting individual autonomy may be overridden by considerations of welfare and, in particular, by those which involve the good of community. He thus agrees that liberal theory has sometimes been too individualistic and holds that a *rapprochement* between liberals and communitarians is possible. What is needed is a theory which balances considerations of welfare with those of individual autonomy. He maintains that the theories of Rawls and Dworkin can be read in just this way and hence may be adequate to deal with communitarian concerns. In conclusion, Buchanan thinks, we owe a debt of gratitude to communitarians. They have come, it seems, not to overthrow liberalism, but to fulfill it.

Buchanan is, I think, right about three important points: First, there is nothing in the liberal political thesis which necessitates the lexical priority of civil

and political rights. That is established, if at all, only by some moral theory grounding the thesis. Secondly, (moderate) communitarianism is not incompatible with the liberal political thesis. Thirdly, the real debate between liberals and communitarians revolves around the relationship between individual autonomy and community. Nevertheless, he is wrong to suggest that moral claims based upon community can be dealt with under the moral category of individual welfare. As I shall argue in Chapters 5 and 6, there is a crucial class of claims – the limiting case of which is the right to self-determination – where this just does not work. For that right is reducible neither to individual rights grounded in autonomy nor in considerations of individual welfare. If the latter were true, we would sometimes -- perhaps often – be justified in refusing it where in fact we think it holds. For when it could be shown that granting national self-determination would bring substantial harm to the individuals in the group seeking it, the colonial master would be morally justified – perhaps, obliged – to override the right.⁹ Moreover, in evaluating the claim, it would be further obliged to weigh the welfare of those outside the colony but affected by the decision, equally against those within it.

⁹ This is beautifully illustrated in the 1983 film *Gandhi*. Gandhi is discussing the possibility of Indian independence with the British viceroy when one of the latter's military commanders indignantly demands to know whether Gandhi has grasped what will happen to civil order if the British pull out. With calm but riveting moral conviction, Gandhi replies that "there is not a people in the world who would not prefer their own bad government to the good government of a foreign power."

Thus, for example, when India sought independence from Great Britain, it would have been crucial to know how this would affect the welfare of, say, textile workers in Manchester. But in practice we usually regard such considerations as having at best secondary importance.¹⁰ Similarly, when Western states were admonishing the former Soviet Union for refusing to grant independence to the Baltic states, they were asserting, first, that the people of these states have a right not to be subject to this sort of paternalistic authority, *whether or not it is in their best interests*; and, secondly, that the costs or benefits incurred by the rest of the Soviet federation as a result of independence are, at best, secondary considerations. In Dworkin's language, we would say that the right to self-determination of, say, Lithuanians simply trumped the welfare rights of other members of the Soviet federation.¹¹ So the criteria we use to decide whether a particular group in fact has the right to self-determination are only indirectly connected with questions of individual welfare. When we ask whether a group has a right to self-determination, what we really want to know is, roughly, whether that group genuinely constitutes a people. And that, as it is the burden of this work to show, is a very different kind of question.

¹⁰ There may, of course, be exceptions. That is, cases where the interests of individuals or groups outside the colony but affected by its claim could outweigh the right to self-determination. But that is only to admit that the right to self-determination, like individual rights, is not absolute.

¹¹ There is a very important exception to this rule, namely, when two nations share the same living space. I will take this up in the final chapter.

A first reply to Part 2

As for the second part of the critique of collective rights, reflection on the nature and status of collective goods has opened the door to the creation of a "perfectionist" doctrine among many liberals. That is, it has resulted in a strong challenge to the Rawlsian-Dworkinian thesis that a liberal state should remain neutral with respect to conceptions of the good life. (See, e.g., 'Liberalism' in Dworkin 1978.) More and more liberals now argue that the promotion of non-neutral collective goods can and should be made the legitimate goal of state policy. Charles Taylor, for example, has recently argued for a distinction between two kinds of liberalism: procedural and substantive. (Taylor 1991) Procedural liberals, he says, accept the neutrality thesis and so maintain that state institutions and policy should distribute social benefits and burdens in a manner indifferent to the various conceptions of the good life which citizens hold.

By contrast, substantive liberalism holds that it is fine for political communities to design their institutions and policies so as to promote certain conceptions of the good life as long as: (a) this is done democratically; and (b) certain very fundamental liberal rights are not infringed. The principle reason for (b) is, of course, to ensure that minorities who do not share the state's commitment to a collective goal or good will not be unjustly victimized by it. But "unjustly victimized" does not here mean, as, presumably, it would for the

procedural liberal, 'in a manner affected by one's views on controversial conceptions of the good life.' It means, rather, something like 'in a manner which violates one's *basic rights*.' And these two are emphatically not the same.

Examples of such basic rights, says Taylor, are life, liberty, due process and free speech. (Taylor 1991, p 26) In short, the traditional list of civil and political rights. But, revealingly, this whole issue of a procedural vs. a substantive theory of liberalism is raised in the context of a discussion about the province of Quebec and its place in Canadian Confederation. More particularly, Taylor is asking whether Quebecers should be granted a special status that could in certain ways exempt them from the Canadian *Charter of Rights*. For example, Taylor alludes to a law created by the Quebec government (Bill 178) which forbids the use of English on signs posted outdoors in Quebec.¹² An earlier version of this law, contained in Quebec's Charter of the French Language (Bill 101), was struck down by the Supreme Court of Canada on the grounds that it violated the Canadian Charter's guarantee of freedom of speech. Taylor replies that, while basic liberal rights must be unconditionally guaranteed in a society committed to substantive liberalism, the scope of this freedom differs from that accorded under procedural liberalism. From the point of view of substantive liberalism:

¹² See the opening section of this chapter, '*The Canadian context*.'

there is something exaggerated, a dangerous overlooking of an essential boundary, in speaking of fundamental rights to things like commercial signage in the language of one's choice. One has to distinguish the fundamental liberties, those which should never at anytime be infringed,¹³ and which therefore ought to be unassailably entrenched on the one hand, from privileges and immunities which are important, but which can be revoked or restricted for reasons of public policy -- although one needs a strong reason to do so -- on the other. (p 26)

In short, substantive liberalism takes it that, *pace* the Supreme Court of Canada, the right of free speech does not extend to the posting of signs in one or another language. That is a revocable privilege. And, in this case, the right reason for revoking it would be that it seriously conflicted with Quebeckers' overriding commitment to the substantive collective goal of preserving and promoting a francophone culture.

But Taylor's distinction leaves too much unsaid. How, one wonders, is this "essential boundary" between "basic rights" and "revocable privileges and immunities" to be drawn? Where, in other words, does the bedrock of, say, freedom of speech lie? There are many -- including, apparently, a majority of judges on the Supreme Court of

¹³ It is interesting to see Taylor here defending what seems to be the strongest possible form of the priority of individual rights. As I shall argue later, I doubt this is really consistent with his moral theory or his considered political views.

Canada – who think posting signs in English is a part of our basic right to free speech. Yet Taylor takes it that this is obviously false. Who is right here?

Taylor gives absolutely no hint as to how this problem can be solved. Hence, from the point of view of a procedural liberal, or an even-minded judge, his distinction simply begs the question. For it suggests that persuing the normal processes of legal and moral debate would lead to an agreement about where the lines should be drawn which distinguish "revocable privileges and immunities" of private citizens from their basic liberal rights. This seems to be just false. It is, of course, open to Taylor to insist that compelling arguments for where these lines should be drawn exist. But then, first, he owes us the argument; and, second, even if he were able to produce it, that would make the whole point of drawing a distinction between procedural and substantive forms of liberalism academic. For what liberal is really opposed to allowing state policy to promote democratically determined collective goals that do not infringe on anyone's basic rights? Certainly not Dworkin, whom Taylor makes his principal spokesperson for the proceduralist camp. As for any "revocable privileges and immunities" which might be lost in the process, surely all liberals will agree that this is just what is meant by calling them "revocable", i.e. that they can be weighed against other important public interests and concerns.

In fact, it's hard not to conclude that Taylor's distinction is just a sleight-of-hand which avoids a serious problem by ignoring it. For the traditional liberal doctrine of

neutrality – which is what is at stake here – is designed to ensure that, on the one hand, the state makes room for a realm of private choice, and, on the other, that all citizens are treated equally within the public realm independently of their private choices. As Taylor clearly recognizes, accepting some form of this distinction is close to a necessary condition for being a liberal. Without it, talk of individual freedom just degenerates into rhetoric. Hence one of the primary tasks of a liberal theory is to define the boundary between private and public. This comes down to providing a theoretical framework in which the scope and schedule of basic rights can be determined. Any liberal theory which hopes to get off the ground owes us this much. But, as the on-going and acrimonious debate between libertarian and egalitarian liberals demonstrates, far from a consensus, at the very core of liberal theory there is profound divergence over the nature, list and scope of basic rights. Taylor's distinction, while quite evidently born of this controversy, provides no obvious clue how to grapple with it. On the contrary, he justifies perfectionism by first exaggerating the commitment that the liberal political thesis places on us toward basic rights, and then arbitrarily limiting their scope in such a way that they will accommodate the substantive goals he favours.

Not that it isn't useful for some purposes to set up a taxonomy of liberal camps and simply start from the fact that they have different –often opposing– ideological assumptions about rights. This is what politicians, political analysts and journalists do. And, in that context, it is appropriate. For political issues are rarely so clear, and political argument so persuasive, that we are simply driven one way or the other. But

acknowledging that this kind of uncertainty persists hardly justifies the pursuit of controversial perfectionist policies and goals. Even if we admit that political life is burdened with difficult choices, that the doctrine of neutrality is only a regulatory ideal, and that deep controversies over the scope of our basic rights are endemic to political life, this is still not a warrant for side-stepping the very problem which separates liberals into different political camps. Establishing by fiat a *theoretical* distinction between substantive and procedural liberalism, as Taylor does, is disingenuous in that it creates the theoretical illusion of a kind of Rawlsian overlapping consensus which can serve as a framework for determining rights. But it does this, as noted, *by fiat*. It simply assumes a view of basic rights which effectively excludes dissenters from the discussion: 'If you think X is a basic right, and I think it is a revokable privilege, then you are a procedural liberal and I am a substantive liberal.' As a matter of fact, this may even be correct. But, philosophically, it neither explains nor justifies anything.

But worse, it seriously compromises the traditional liberal commitment to neutrality. For if by simply saying 'We are substantive liberals' a majority can create a moral consensus on a controversial issue, a consensus with the authority to draw a line between revocable privileges and basic rights, the majority will sometimes -- perhaps often -- be able to justify using state institutions to pursue its substantive goals even though these conflict with the wishes and existing rights (now deemed 'revocable privileges') of a dissenting minority. I say "sometimes" because there are certainly limits to what can be justified in this way. Suppose, for example, that the majority of citizens

in an independent Quebec wanted to ban the Equality Party from holding public meetings on the grounds that promotion of its goals threatened the cultural security of a nascent francophone state. There is probably a strong enough consensus among liberals of all persuasions to show that this would be a violation, pure and simple, of the basic right of association on any plausible account of that right. Still, the limits established by this liberal consensus are far too broad to provide anything but cold comfort to insecure minorities. I have already alluded to the controversy between libertarians and egalitarian liberals and the debate over positive rights. Admitting the existence of a class of positive rights places new limits on basic civil and political liberties. Granting a right to education or health care, for example, implies new limits to the right to private property: taxes must be levied to pay for these services. Analogously, admitting the legitimacy of perfectionist goals will place new restrictions on basic rights -- as the debate over Bill 178 shows. And, as with positive rights, the controversy won't be confined to the question of whether or not they should be accepted. There will surely be serious differences among defenders of the doctrine over what substantive goals are permissible.¹⁴

Suppose that we just accepted Taylor's distinction, as well as his empirical claim that Quebec is essentially a substantive liberal society while English Canada is a proceduralist one. If a majority of Quebeckers decided to support a policy to forbid, on

¹⁴ Taylor himself, I am told, disagreed with Bill 178. If so, he was on the side of the minority in Quebec intellectual circles.

pain of expulsion, school children from using English on (public) school premises,¹⁵ and if, as is certainly possible, a majority of liberal Quebecers believed that speaking English on the playground after school hours was merely a revocable privilege, it would be pointless for 'procedural' liberals in the rest of Canada to disagree and simply *ad hominem* to accuse Quebecers of being illiberal for supporting the policy. For the authoritative moral consensus required by the theory *need not extend beyond Quebec*. In short, this distinction between substantive and procedural liberalism would automatically justify the majority's understanding of free speech and hence preempt outside criticism. This is surely not right.

In conclusion, if Taylor's distinction is to do any real work, it must be placed in a theoretical framework which, minimally, allows us to justify a schedule of basic rights and their limits. In lieu of this, it is no more than a taxonomical claim which justifies nothing. Now, while I don't even fully except Taylor's distinction as a taxonomical claim, I nevertheless think he is on to something very important. His two criteria for substantive liberalism, i.e., that controversial goals must be democratically decided and cannot violate basic rights, are an attempt to explain some of our deep moral intuitions about what sorts of public goals are legitimate and even necessary in a liberal democratic society, intuitions that procedural liberalism subverts. Ultimately, the moral framework which I will develop in this work will involve a defense of something like this distinction. In particular, in Chapter 4 I will argue that liberal democratic states have the

¹⁵ Such a policy was in fact recently proposed by the Montreal school board.

right to pursue the development of something I call an *autonomous identity*.

Conclusion

So my central thesis in this work is that there is a special class of rights (the limiting case of which is the right to self-determination) which is based upon an appeal to the collective identity of a community and which is reducible neither to considerations of individual welfare nor individual autonomy. Theories which treat these rights as if they were, conflict with some of our deepest moral intuitions about community, as well as some of our deepest intuitions about liberal politics. Hence liberals who think they can resolve the conflict between freedom and belonging by tempering autonomy-based arguments with considerations of welfare have not fully appreciated the depth of the communitarian charge that liberal theory is individualistic. This is true whether, like Kymlicka and McDonald, they defend collective rights, or, like Buchanan and Pogge, they do not. Hence, even if the theories of Rawls and Dworkin are powerful enough to reconcile tensions between individual autonomy and individual welfare, as Buchanan, Kymlicka and Pogge argue, they will still be wanting. For they will fail to show how we can resolve the tensions between individual rights and the legitimate claims that a community can make in the name of its collective cultural identity. If these theories can be made to accommodate this, at the very least, substantial revisions will be needed.

However, this work starts from the assumption that we are better off to just try to work out a new moral ontology for liberalism. One which puts the three great principles of liberalism (Equality, Liberty, Community) on an equal footing. Such an ontology will have to be powerful enough to cope with collectivist concerns about community while preserving our equally fundamental commitments to liberty and equality. This is a tall order, but it's far from clear that liberalism, as a political and moral tradition, is not up to it.

Indeed, the increasing willingness to incorporate collectivist rights and principles into constitutions is, I think, evidence of an emerging consensus that the prevailing individualist ontology is somehow one-sided or incomplete. If this is so, it wouldn't be the first time liberalism has responded to deep self-criticism with an internal transformation of its basic doctrines. Liberalism, we should recall, was originally dominated by questions of freedom, the issues of religious tolerance, freedom of speech and association and the protection of private property. As a political and moral doctrine, this period found its quintessential expression in the 17th century doctrine of natural rights as conceived, for example, by John Locke. This mainly negative view of freedom formed the philosophical basis of classical liberalism and economics.

But a second phase, the liberal reform movement of the 19th century, was called forth by the social conditions of the industrial revolution. Driven by concerns over the exploitation of, and lack of concern for, the working class, reform liberals exposed a

tension deep in the heart of liberal theory. They responded by giving us a new conception of these basic liberal principles, one which fused our understanding of freedom with an active commitment to equality. This culminated in the ideal of freedom as self-realization. Reformers saw liberalism as a profoundly humanistic doctrine aimed at providing the best possible chance for everyone to maximize her human potential. The concept of equal opportunity which emerged laid the groundwork for the welfare state.

If indeed a new, third wave of liberalism is beginning, it will surely be met with resistance and create new schisms in liberal ranks. For there can be no doubt that talk of collective rights is regarded by those who use it as a vehicle for the assertion of national identity. And there are many conscientious liberals -- both of classical and egalitarian mind -- who presently regard nationalism as an enemy of liberal (here read as "human") progress.

In an era when the economic future of Europe, North America and Asia is thought to hinge upon the ability of member states to set aside parochial differences and form single, integrated spheres of trade and commerce, the idea of providing conservative cultural groups with a powerful ideological and legal weapon that could complicate participation in the globalizing trend will be regarded by many liberals with suspicion at best. Hence, even if the recognition of collective rights does turn out to be a third phase of liberalism, one with the emphasis on questions of community, and even if political and legal theorists find ways to reconcile this collectivist tendency with the

traditional liberal respect for individual rights, it is doubtful that everyone will be persuaded. For such a rethinking will surely transform present notions of individual freedom and equality, perhaps as radically as did the shift from classical to reform liberalism.

But it is also worth noting that the desire to reconcile liberalism with the conservative tendencies of cultural nationalism may not be as anti-liberal as it seems. For, if it is true that post-war liberals, having lived through the worst horrors and excesses of collectivism in both its right-wing fascist and left-wing Stalinist forms, have been uniformly hostile toward collective rights, viewing it as a kind of totalitarian double-speak, it is less clear that earlier liberals like J.S. Mill and John Dewey would have concurred. (See Kymlicka) Both were alive to the sense of communal belonging which nationalistic sentiments engender and had deep respect for the distinctive role cultural membership plays in healthy human societies -- liberal or otherwise.

In fact, the doctrine of collective rights may even be a way of harnessing these powerful feelings and bringing them under control. For insofar as such rights are made explicit through constitutional entrenchment, the demands which an appeal to a "collective" or "minority" interest can place upon individuals is strictly limited by the judiciary. Strong nationalistic sentiment need therefore antagonize neither legitimate economic interests nor genuine individual freedom. On the contrary, it is usually only after a period of harsh political suppression or perverse aggrandizement that nationalism

erupts in uncontrollable, vengeful or destructive acts. And, indeed, this shouldn't surprise us. For if Nietzsche and Freud taught us anything, it's that we're simply not the rational, autonomous choosers seeking to maximize self-interest that classical liberals say we are. Human thought and judgement are deeply enmeshed in powerful, primitive, sometimes irrational feelings, the existence of which it is pathological either to exalt or deny. If, then, we want a healthy, well-adjusted society, we are wise to recognize the legitimacy, and grant room for the expression, of these forces.

Perhaps, then, as memories of the holocaust fade and now that the Berlin wall has fallen, liberals can slowly relax their tight ideological grip on post-war Anglo-American style liberal democracy. Perhaps it's time to take seriously intuitions, feelings and doctrines that have been officially unthinkable for over a generation. As the cramp in our collective political consciousness disappears, we should adopt a new willingness to experiment with that strange yet strangely familiar longing to belong in ways that go beyond sentimental patriotism. The great tradition of liberal democracy rests on the institutions of parliamentary government and the protection of individual rights. Perhaps it is time to turn the page again. We can begin by asking ourselves what citizenship would be like in a democratic republic committed to the quasi-romantic belief that nations have historical essences, deeply-rooted characters, which a liberal state should nurture. This, in any case, is the thought that underlies the present work.

Chapter 2

Liberalism and the Problem of Cultural Membership

In the opening pages of *Liberalism, Community and Culture*¹ Will Kymlicka tells us that the book was motivated by two concerns:

One is my discomfort with recent communitarian discussions of culture and community, and with the kinds of criticisms they have brought against liberalism. The other is a discomfort with the way liberals have responded with indifference or hostility to the collective rights of minority cultures (1).

With respect to the first, Kymlicka rejects the communitarians' claim that liberalism is individualistic in such a way that it undermines the good of community. On the contrary, he hopes to show that the "individualism that underlies liberalism isn't valued at the expense of our social nature or our shared community. It is an individualism that accords with, rather than opposes, the undeniable importance to us of our social world" (2-3). With respect to the second, Kymlicka thinks that liberals have overlooked the importance which cultural membership plays in individual well-being. We need, he thinks, to reflect

¹ While most of the quotations in this chapter are taken from Kymlicka: 1989, I have also drawn freely on Kymlicka: 1991 where much of the same material has been reworked and elaborated in interesting ways.

more carefully on what it is to belong to a cultural community. There is "an interest in cultural membership which requires independent recognition in a theory of justice" (3) but which liberals like Rawls and Dworkin have failed to appreciate. Kymlicka's argument for collective cultural rights unfolds in two stages. First, he intends to provide an analysis of

the kind of good which cultural membership is, its relationship to individual freedom, and hence its proper status in liberal theory; and secondly, an account of the ways in which members of a minority culture can be disadvantaged (4).

So Kymlicka's principle objective -- providing a liberal defence of collective rights -- rests on his account of the good of cultural membership.

In this chapter I make two principal criticisms of Kymlicka's argument. First, the conception of liberalism which underwrites his whole argument is question-begging in an important, though not necessarily fatal, way. Secondly, Kymlicka's analysis of the value of cultural membership simply does not get to the heart of the debate over either community or cultural rights. In his concern to show that contemporary liberalism -- in particular, the theories of Rawls and Dworkin -- can accommodate the demands of community, Kymlicka has failed to take seriously the possibility that a different moral ontology might either be

needed or on offer. In consequence, his argument is, if not a *non sequitur*, too weak to accomplish what he sets out to do, namely, reconcile the desire to protect the good of cultural membership with (Rawlsian-Dworkinian) liberalism. In the end, the argument fails because it lacks a crucial premise. Or, more precisely, it provides the needed premise but only in an obscure form. But attempting to unpack Kymlicka's cryptic comments here suggests two things: first, the argument cannot be squared with Rawlsian-Dworkinian liberalism as he hopes; secondly, at the most critical stage, Kymlicka himself crosses the line between the liberal individualism he defends and the communitarianism he opposes. He is, it seems, more of a communitarian than he realizes.

The inside/outside distinction

Kymlicka opens his book with a discussion of liberalism. What is liberalism and why should we embrace it? First of all, he argues, we all have an essential interest in leading a good life (1989: 10). But liberals agree that there is often a difference between leading a good life and leading the life we currently believe to be a good one. In other words, liberals accept that we can be mistaken about what a good life really consists in. We may discover that our current life is in fact banal or meaningless. But, so far, this is hardly enough to distinguish liberals from (say) Marxists. For the latter also accept that there may be -- indeed, insist that there

is -- a distinction between the life we currently believe to be good and the life which genuinely is good. The difference, then, consists in this: liberals hold that

...while we may be mistaken in our beliefs about value, it doesn't follow that someone else, who has reason to believe a mistake has been made, can come along and improve my life by leading it for me, in accordance with the correct account of value. On the contrary, no life goes better by being led from the outside according to values the person doesn't endorse. (1989: 12)

Following Dworkin, Kymlicka elsewhere refers to this idea that liberals believe it is wrong to force people to live by values they don't accept as the "endorsement constraint" (1991: 204). Accepting this constraint provides a bulwark against moral theories like Marxism which would use the coercive institutions of the state to compel citizens to live the official version of the good life. The endorsement constraint implies, says Kymlicka, that we must guarantee individuals the freedom to revise their conceptions of the good in accordance with their developing and changing understanding of it. From which comes the liberal commitment to the protection of individual liberties through the creation of a schedule of rights. In conclusion, thinks Kymlicka, there are

...two preconditions for the fulfilment of our essential interest in

leading a life that is good. One is that we lead our life from the inside, in accordance with our beliefs about what gives value to life; the other is that we be free to question those beliefs, to examine them in light of whatever information and examples and arguments our culture can provide. (1989 p.13)

He finishes off his account of liberalism by maintaining that we must therefore have the resources and liberties necessary to live our lives in accordance with our beliefs about the good. The details of this last point are defended and worked out through a Rawlsian-Dworkinian analysis of social justice.

As a matter of fact, Kymlicka is right: liberals do by-and-large accept the endorsement constraint. But this doesn't tell us *why* they should. What, exactly, is the argument? Why shouldn't we use the state's coercive power to force people to live a good life? There seem to be at least two replies. The first is that moral agents have a right to make their own choices. Not to respect this right is to harm them in a very particular and serious way. This Kantian line assumes some account of persons as rational agents (ends-in-themselves) whose autonomy commands respect. The second approach focuses on well-being. It insists that by-and-large individuals are in the best position to promote their own welfare. So it is prudent to let them decide and pursue their interests. In my view, this latter cannot provide an adequate defence of liberalism. Such a defence requires that we

regard autonomy as an intrinsic, rather than just an instrumental, good. Kymlicka's account, however, seems to deny this. Notice that he does not argue that state paternalism is wrong because it violates our autonomy. Rather, he contends it is wrong because "no life goes better by being led from the outside according to values the person does not endorse" (Kymlicka 1991, p.203). This is not an autonomy-based argument. On the contrary. Kymlicka is saying that what is really at issue, what from the moral point of view matters, is whether or not our life goes better. And one of the consequences of forcing people to live by values they reject is that it does not. So his is a consequentialist defence which asserts that liberalism is the means which most effectively promotes the end of our well-being.

But this attempt to rest the defence of liberalism on consequentialist considerations of individual well-being begs a crucial question. For even if we accept that forcing someone to live her life from the outside according to values she doesn't endorse prevents her from living a good life, there is a serious question about what it means either to have your life 'led from the outside' or to 'endorse' values. Imagine a primitive, tribal society in which the core values are not questioned and which are preserved and learned through custom, ritual, myth, etc. Now, if what we mean by endorsing certain values is to assent to (and perhaps encourage) the kinds of actions they imply, the members of this society will almost certainly endorse its values. But if so, there will be no obvious reason

to prefer a liberal society to this tribal one. For on the quite reasonable assumption that a good life is measured in terms of the well-being of the individual concerned, many tribal societies will deliver in spades. For, on almost any plausible way of cashing out 'well-being', the members of such societies will often do well. Of course, this is a consequence Kymlicka may not only accept, but consider a virtue of his argument. Thus he might cheerfully admit that any society which promotes the welfare of its members without thwarting the same for members of other societies, is on a par with a liberal one. In short, if his consequentialist defence is correct, Kymlicka need not insist that there is anything intrinsically valuable about liberal societies which makes them more desirable than tribal ones. He may be defending liberalism simply because it is presently the best way to promote individual well-being.²

But given that the members of our tribal society may have only the vaguest conception of, perhaps not even a word for, the core values underlying their society, and that they almost certainly do not question the validity of these values, we need to raise a further question here. Are their lives being led from the inside or the outside? When a particular action *X* results from the agent's having assented to its commission, is that enough to say that the agent is leading her life from the inside? Or, given that her membership in the community is the best explanation for her assenting to do *X*, should we conclude that her life is really led from without? In other words, from the moral point of view, how should we

² In conversation Kymlicka has in fact expressed some sympathy for this view.

understand the fact that she has unconsciously assimilated (or should we say 'been assimilated to?') some system of values which underwrites her goals, beliefs, actions, etc.? What, exactly, is the criterion Kymlicka is proposing to separate 'internally' from 'externally' determined actions? If he wants to argue that liberalism is preferable to perfectionist forms of paternalism because it avoids the negative consequences which flow from externally coercing people to live according to values they do not endorse, he owes us a clear account of what it means to lead our lives internally, as opposed to externally.

Now Kymlicka obviously thinks this internal/external distinction has something to do with endorsing the value on which the act is based. But if, as suggested above, endorsement only requires that the agent assent to committing the act, that is just not enough to support the distinction. For there are many means (e.g., lying, flattery, coercion, advertising, drug inducement, stress, brainwashing, etc.) by which we can get people to assent to do X but where, both morally and legally, we regard the source of the act as some external thing or person. As far as I can tell, there is only one promising direction in which Kymlicka can move if he is to reply here. He will insist that when he says 'endorsed' he really means something like 'freely endorsed'. That is, a life internally led is one where the values on which it is based are the result of an 'informed decision' or 'critical reflection' or 'rational deliberation', which, roughly translated, means 'having rationally concluded that Y is a good reason for

doing/valuing X.' On this account, to endorse a value is to do more than assent to actions which conform to it. It is to identify with this value in a very special way: while the agent accepts it and acts upon it, she nevertheless takes her relation to it as having been constituted (at least partly) by her own efforts at critical reflection. It is a relation of commitment. In short, in order to endorse a value she must conceive of her moral agency as a power distinct from it, as a will whose acceptance of that value is contingent. Thus, before she can endorse a value, she must confront the genuine possibility of its rejection. Only by contemplating such rejection can she finally come to *cherish* it.³

Cherishing a value is thus a very particular kind of relation, one which presupposes a special kind of agency. For in order to grasp the contingency of the relation between her moral will and the fact of her valuing X as a value, the agent must engage in self-conscious, critical, moral reflection. But this implies that the capacity for such reflection has its own (moral) significance above and beyond the (consequentialist) considerations of whether or how its exercise contributes to her well-being. It is really an admission that the inside/outside distinction is inseparable from this very particular conception of moral agency. In short,

³ I use this word with some reluctance. Obviously, it carries a lot of baggage. So I should underline that I am using it in a quite particular, and perhaps controversial, way. I don't deny that there are other senses of the term which might be quite appropriate to members of tribal societies. For a further discussion of the inside/outside distinction and the idea of 'cherishing' values, see Chapter 4.

introducing into moral theory the distinction between a life which is internally, as opposed to externally, led also introduces a category of morally relevant interests that is quite distinct from concerns about well-being. This issue will be explored at greater length in Chapters 3 and 4.

Clearly, then, when we contrast societies which permit us to live our lives according to our internal convictions with those which do not, the contrast is not between, on the one hand, societies (like our tribal one) where the core values of the community are indistinguishable from the core values of each of its members; and, on the other, a modern liberal society where the two often diverge. It is rather, as Kymlicka suggests, between a society in which we are coerced into living according to values we may genuinely reject, and one which genuinely encourages choice. But such societies are only possible where members can come to cherish certain values. So, given that the question of choice over core values doesn't arise in (say) tribal societies, neither does the issue as to whether one's life is either internally or externally led in the sense relevant to a discussion of autonomy.⁴

⁴ Someone might wonder about individuals like, for example, slaves who are taken by one tribal society to another and then forced to live in the latter. Are they not being forced to live by a set of values which they reject? This is a complex and difficult question. Let me just hint at what an answer might look like.

First, in tribal societies where this happened, I doubt the goal was to change the values of the slaves or to try to make them into different persons. A slave was simply a beast of burden whose own interests counted for little or nothing.

Moral autonomy is therefore the key to understanding the internal/external distinction that is at the core of liberal theory. As such, it is a precondition for establishing a liberal society, that is, one in which we may sometimes discover that our reason for having endorsed *X* is really some arbitrary and/or unworthy thing 'outside' of us (perhaps even 'inside' of us as, say, a perverse desire) which is to be rejected. If so, Kymlicka's defence of liberalism can't really rest on a consequentialist argument, as it first seemed. For if he is serious about the claim that leading our life from within is a precondition for the fulfilment of our essential interest in leading a good life (1989: 13), the achievement of autonomy will be a precondition of success. So at the bottom of Kymlicka's argument for liberalism is more than just the view that we have an essential interest in living a good life. He is also committed to a particular conception of the good life,

Secondly, the situation needn't be as clear cut as I am making it sound. Indeed, it is the burden of my argument that moral autonomy is not something one either has or not. It admits of degrees. So, in tribal as in liberal societies, what we really want to say is that the internal/external distinction applies to the extent that (1) self-conscious, critical, moral reflection is possible; and (2) takes place in the individual in question.

I do not, therefore, see any reason to deny categorically that individuals in tribal societies can engage in actions we might sometimes want to call autonomous. There may even be room here to speak of 'forms of autonomy', though we must guard against diluting the concept to the point that it loses its special moral significance.

My point here is just that, in contrast to liberal societies, autonomous actions in tribal societies would be at least much rarer and the degree of autonomy much weaker. Most importantly, autonomy is a value which such societies are not designed to promote – indeed, they would generally discouraged it.

namely, one based upon a commitment to the development of individual autonomy. Liberalism is therefore not just a political arrangement, a presently useful way of protecting people's interests. It is a moral/political theory which organizes social life around the promotion of a particular good – autonomy -- which it regards as a fundamental characteristic of moral life. This commitment to autonomy is what, at bottom, distinguishes the morality of liberal from tribal and many other societies.

There is a great deal more which needs to be said about both autonomy and the inside/outside distinction. We will return to both in Chapters 3 and 4. For the moment, I only want to draw together the main points already made. First, to make this distinction a basic term in one's moral ontology, as Kymlicka does, is to make autonomy an intrinsic good. Second, as the tribal example shows, one can live a good life, that is, one's well-being can be successfully promoted, without making this distinction basic, that is, without promoting autonomy. Third, Kymlicka's defense of liberalism is also (implicitly) a defense of autonomy. And fourth, as Kymlicka makes plain, individual well-being is also a basic good which liberalism promotes. Thus, if we accept Kymlicka's defence, modern liberal societies are based upon at least two basic or intrinsic values which they seek to promote: autonomy and well-being.

Culture as a context of choice

In *A Theory of Justice* John Rawls argues that there are certain goods resulting from social cooperation – such as income and wealth, opportunities and powers, liberties and rights – which are general preconditions for the pursuit and attainment of a good life (Rawls 1971: 92-95). Now, while Kymlicka accepts this, he nevertheless thinks that Rawls' list is incomplete. For it fails to acknowledge the importance of community in liberal society. Insofar as the communitarian critique of liberal individualism raises questions about the status of community, it is thus drawing attention to something important. But the good of community is not, as communitarians seem to think, something that stands outside of, or in opposition to, the list of Rawlsian primary goods. Community is a primary good. To explain this, Kymlicka invokes the Rawlsian idea of the primary good of self-respect, i.e. the sense that our plan of life is worth carrying out. First he notes that Rawls accords a special place to this good, and then he goes on to argue that what Rawls (and Dworkin) misses is the deeper insight that cultural membership -- as a particular form of community -- is a precondition of self-respect and hence also a primary good.

But why is cultural membership a precondition of self-respect? Kymlicka's answer leads him into a thoughtful discussion of the value of culture. Cultural membership, he thinks, is what makes meaningful individual choice possible:

We decide how to lead our lives by situating ourselves in...cultural narratives, by adopting roles that have struck us as worthwhile ones, as ones worth living...(1989: 165)

But it doesn't follow that the particular culture to which we belong is, as (he thinks) communitarians would have it, something of intrinsic value, to be revered and not questioned. There is no need to accept or perpetuate a particular set of values and traditions just because one's parents, kin, or community does so. A living culture is not a seamless horizon of shared values. Rather, it is like a bustling marketplace where critical examination and evaluation of the wares offered should precede purchase:

The decision about how to lead our lives must ultimately be ours alone, but this decision is always a matter of selecting what we believe to be most valuable from the various options available...(1989, 164)

So, viewed as a primary good, culture is a background structure, a *context of choice* which presents us with options for different ways of living our lives. Post-war liberalism, with its almost universal tendency to suppress debate over the importance of cultural membership, has lost sight of this fact. But, Kymlicka continues, it must come to terms with the unique role culture plays in making a

good life possible. Each one of us has a crucial interest in belonging to a rich, vibrant culture. An interest which sometimes warrants protection in the form of rights. But, *pace* communitarians, this is not because cultural structures

have some moral status of their own, but because it's only through having a rich and secure cultural structure that people can become aware, in a vivid way, of the options available to them, and intelligently examine their value. (165)

So, Kymlicka's argument is that cultural membership is a precondition for meaningful individual choice, and meaningful individual choice is crucial for the good life. As a marketplace for opportunities, a culture offers its members an adequate range of materials from which they may select in order to construct coherent and meaningful life-plans for themselves. Without this context, we would have no sense of value, no appreciation of what anything was worth:

Whether or not a course of action has any significance for us depends on whether, or how, our language renders vivid to us the point of that activity. And the way in which language renders vivid these activities is a matter of our cultural heritage. Our language and history are the media through which we come to an awareness of the options available to us, and their significance...(1989: 165)

Now, as this quote demonstrates, there are passages in this pivotal section of the book where Kymlicka's analysis of the value of cultural membership -- his metaphors, language and arguments -- sound strikingly communitarian. But in two previous chapters (4 and 5) he has examined their arguments and found them seriously wanting. To establish that he is not covertly sympathetic to those views he has taken to task, Kymlicka makes a crucial move which distinguishes his analysis of culture from the like-sounding communitarian ones he sometimes seems to be endorsing.

The strategy of Kymlicka's argument here is to distinguish between two very different conceptions of culture. On one reading, 'culture' "refers to the character of a historical community. On this view, changes in the norms, values, and their attendant institutions in one's community...would amount to a loss of one's culture" (1989: 166). We might say that on this conception the identity of a culture rests on a continued affirmation and renewal of the particular content of the beliefs, values, practices, etc. which comprise it. To the extent that that changes, so does the culture. On the other reading, 'culture' refers to something Kymlicka calls "the cultural community, or cultural structure...On this view, the cultural community continues to exist even when its members are free to modify the character of the culture, should they find its traditional ways of life no longer worth while." (167) The example Kymlicka provides is French-Canadian culture in the 1960s. In spite of the Quiet Revolution -- the rejection of Duplessism; the

challenging of ecclesiastical authority; etc. – the existence of the French-Canadian cultural community was never in question. It underwent change. But the community is still there.⁵

⁵ I must say that this example seems to me to raise more questions than it answers. Kymlicka claims that French-Canadians constitute(d) this cultural community before and after the Quiet Revolution. But, in fact, one of the consequences of the Quiet Revolution seems just to have been a fragmenting of the French-Canadian cultural community.

Before 1960, when the Catholic church was still the most important agent of French-Canadian nationalism, the principal focus of this nationalism was language and religion. These, at bottom, constituted the distinctive elements of the identity of the French-Canadian nation. Hence at that time there was a much greater sense of solidarity between French-speaking Canadians inside and outside Quebec. Consequently, it is at least plausible to argue that at that time there was a single, more-or-less unified cultural community which identified itself as French-Canadian. But when the authority of the Church was undermined during the Quiet Revolution, the mantle of leadership passed to the state, i.e. the Quebec provincial government. Since then citizenship in that province seems to have become almost a necessary condition for membership in 'the nation'.

This opened a gulf between French-speaking Canadians inside and outside Quebec. The latter have tried to cope with this new nationalism by attempting to reassert their own historical identities as eg, franco-Ontarians, franco-Manitobans, etc. But, insofar as they have succeeded, it has been due in large part to the patronage and protection of the federal government. Unfortunately, this leaves the existence of these cultural groups tragically vulnerable to shifts in public opinion and policy.

So today there is a plurality of relatively autonomous groups of French-speaking Canadians, few of whom still think of themselves primarily as French-Canadians. Certainly nationalists in Quebec would bridle at that description. They regard themselves, first and foremost, as Québécois. So, *pace* Kymlicka, it seems to me that it is something of an open question just how far it makes sense to speak of French-speaking Canadians today as members of the same cultural community as the French-Canadians before 1960.

Kymlicka thinks that the significance of this distinction has been lost on communitarians. If they have rightly recognized that cultural membership plays a crucial role in our well-being, nevertheless they have focused myopically on the character of culture. This encourages the mistaken view that cultural practices have intrinsic value and are to be respected, preserved and promoted for their own sake. But this aggrandizement of tradition simply corrupts moral theory and politics with a narcissistic affection for the status quo, or, as communitarians like to say, 'the common good'. By contrast, Kymlicka's liberal interpretation of the good life, with its implicit commitment to autonomy, suggests that it is not enough to have our well-being promoted 'from without', we must *achieve* it through critical judgement. We must come to cherish our goods. This, in turn, means that culturally derived goods and obligations must be regarded as *defeasible*, that is, as legitimate objects of rational scrutiny and, ultimately, rejection. Communitarians' preoccupation with the common good prevents them from recognizing that the real value of culture is instrumental, that it is important for a theory of justice only insofar as it provides a context in which (autonomous) individuals can peruse the options, freely choose from among them, and then live out their individual life-projects. The fact that some value or obligation is part of a tradition to which one belongs is thus never a sufficient justification for accepting it. If culturally imposed duties and obligations are to be considered binding, they require an independent source of justification.

So Kymlicka thinks that by drawing this distinction between the character of a culture and its function as a context of choice, he has undermined the kind of dogmatic and conservative attitude toward the preservation of cultural values that communitarians so often reveal. To accept it is to accept the liberal view that culture is a marketplace of opportunities. If, then, Kymlicka is a liberal prepared to stand up for the rights of cultural membership, it is only with the strong caveat that cultural traditions are instrumental goods whose language, religious practices, values, customs, rites, etc., make only *prima facie* moral claims on their members. So, on this view, if we want to place a culture under the protection of a regime of rights, we must justify it by appeal to some other principle or good which the culture promotes. And, in fact, the only one powerful enough will be one which sees it as a means to attaining 'the good life' – whatever that turns out to be. Given that Kymlicka has tied it to the promotion of autonomy, protection of cultural membership will be (a) only justified insofar as it promotes either the well-being or the autonomy of those individuals it protects; and (b) conditional upon its not undermining the society's commitment to the basic good of autonomy. What I wish to show is that Kymlicka's analysis is on the right track insofar as it commits us to (b) but too narrow in its commitment to (a). In short, just as autonomy and well-being are basic moral goods, so is cultural membership.

Now there is something intelligent and sensible about Kymlicka's

distinction. For, insofar as he is saying that the attempt to live the good life should not be prescribed by some external, traditional authority which we ought slavishly to follow, he is surely right. But, for all their differences, how many living philosophers writing in the European/North American tradition really want to deny that individual freedom is an important moral good? Probably, very few. Kymlicka, however, is convinced that communitarians are genuinely hostile to the idea of individual freedom. Now it may be true that in moments of rhetorical flourish, some speak as if they are. But to take this at face value is, I think, to seriously misunderstand what, at bottom, makes many communitarians tick. Kymlicka, for all his concern over community and culture, falls victim to just such a misunderstanding. It is worth pursuing this point at length for it eventually leads to the central flaw in his own argument for collective rights.

The situated self

One place Kymlicka's misreading of communitarians surfaces is in the course of a critical discussion of some arguments which in various ways contrast the idea of a 'situated' self with a remark Rawls makes to the effect that the self is prior to its ends (1989: Chapter 4, 52-61).⁶ Kymlicka takes one of the main points of the

⁶ In 'Assessing the Communitarian Critique' in *Ethics* Volume 99 No.4, Allen Buchanan points out that Michael Sandel's critique of Rawls, which makes much of this remark, misunderstands it by interpreting it out of context. This may well

contrast to be an argument that Rawls' position requires the existence of a perceivable self independent of, and prior to, its ends. Kymlicka comes to Rawls' defence by reinterpreting his argument so that what is being claimed is not that we can literally perceive a self prior to its ends, but that we can *understand* ourselves to be prior to our ends in the sense that no end is exempt from possible reexamination. This line is, of course, much easier to square with the rather mundane truth that introspection never yields a simple self. Hence Kymlicka thinks he has, if not answered, at least countered the offensive made by Rawls' critics.

Of course, if Rawls really does think there is a perceivable self prior to its ends, he is wrong. Hume decisively, if quaintly, refuted that view two centuries ago. But more likely, something like Kymlicka's defense, which relies on the old Rationalist distinction between reflection and introspection⁷, is correct. Essentially, this distinction, made by Descartes, Leibniz and even more clearly by Kant, rests on the claim that consciousness and self-consciousness are radically different forms of awareness. In the former, our internal empirical states – e.g., feelings,

be. But it need not affect my point here. For I am not concerned about what Rawls actually meant in the disputed passage so much as what Sandel and others have taken him to be mean. For the particular point they are making is, I think, an important one. The extent to which it does, or does not, apply to Rawls is a matter for dispute.

⁷ For an careful discussion of this distinction see McRae 1976.

desires, sensations, etc. – are simply given. But, as Hume famously pointed out,⁸ insofar as our inner awareness of ourselves is given through introspection, our internal life appears as a fleeting series of discreet states. Where, then, is this ‘self’ which binds them into a unity? To what am I addressing myself when I speak of the ‘I’ of self-consciousness? Hume’s answer is that there really isn’t one. In fact, ‘selfhood’ is a kind of fiction which arises from a contingent semblance of unity caused by the psychological association of states. In Kant’s analysis,⁹ however, judgement is set apart as a special function distinct from introspection which *introduces* unity into our discreet empirical states by *thinking* them as pertaining to the same consciousness. So this unity of our diverse internal states which we take for granted, and which Hume seems to have denied -- that is, our self -- is for Kant a formal one created by the synthesizing function of judgement. To regard myself as a self is simply to think of these states as pertaining to an unchanging ‘I’. But this ‘I’ is not – cannot be -- given in introspection. It is the pure thought of my own integrity as an individual.¹⁰

If Kymlicka’s interpretation does rest on the same distinction, it’s hard to believe that communitarians like Sandel, MacIntyre or Taylor, all of whom are

⁸ David Hume, *A Treatise of Human Nature*, Book I, Section VI: ‘Of Personal Identity’.

⁹ See Immanuel Kant’s *Critique of Pure Reason*, ‘Deduction of the Pure Concepts of the Understanding’ (Second Edition), Section 2, Transcendental Deduction of the Pure Concepts of the Understanding.

¹⁰ The Kantian view of the self is discussed at greater length in the next chapter.

well versed in the history of philosophy, would have missed it. After all, they all attack what they take to be Rawls' Kantianism. And, as we have just seen, the idea that there is a distinction between the empirical, that is, *perceivable*, self of experience and the transcendental self -- i.e. the formal unity grasped by reflective thought -- is the starting point of Kantian philosophy.¹¹ I doubt, therefore, that many communitarians will be impressed with Kymlicka's reply.

Continuing his discussion of these contrasting views of the self, Kymlicka notes that communitarians think the differences between the two views also imply different models of practical reasoning: communitarians speak of self-discovery while liberals, says Kymlicka, are concerned with judgement. In his view, we should opt for the latter because

...the question about the good life requires us to make a judgement about what sort of a person we wish to be or become. For communitarians, however, the question requires us to discover who we already are (1991: 213).

The self-discovery model, according to Kymlicka, replaces or forecloses on the individual's ability to make judgements about how to lead her life. Sandel, he

¹¹ That Kymlicka approvingly attributes this distinction to Rawls is, I think, just more evidence that his use of the inside/outside distinction is grounded in some prior notion of, and commitment to, rational autonomy. See pages 5-6.

says, takes this to be in keeping with our deepest self-understandings. Kymlicka then refutes the argument by pointing out how obviously wrong it is. For no matter how deeply we find ourselves implicated in a social practice -- e.g., a marriage, a career, a position of public trust -- we are always able to question whether or not it has any genuine value. But the communitarian model, which makes practical reasoning an exercise in self-discovery, he thinks, cannot explain this.¹² On that view, we should simply accept what we find.

But how many communitarians who advocate a model of self-discovery really think it implies that we either cannot or should not question the values which constitute our identity? As Kymlicka himself notes:

In places, Sandel admits that practical reasoning is not just a question of self-discovery. He says that the boundaries of the self, although constituted by its ends, are none the less flexible and can be redrawn, incorporating new ends and excluding others. In his words, "the subject is empowered to participate in the constitution of its identity..."(1991: 214)

¹² Notice that, once again, the argument rests on the distinction between an autonomous self which can *think* itself to be independent of the values it endorses and the empirical self which is simply given in introspection. Kymlicka reading of communitarians' seems to assume that they either reject or do not see this distinction.

Kymlicka does not take this as a flag that perhaps his interpretation of the arguments is lacking and that a more subtle and imaginative one might be in order. Instead, he concludes that Sandel is simply inconsistent and that communitarianism fails to live up to the advertised difference between itself and liberalism. At this point, he concludes, the difference between liberals and communitarians just seems to collapse. So, insofar as communitarian arguments make sense at all, they aren't even saying anything very different from liberals.¹³

I think there is a more sophisticated way of understanding the common thread in the communitarian position, one which does not foist such unsubtle views and powers of interpretation on a philosopher as thoughtful and

¹³ In fairness, communitarians often do talk in loose and provocative ways that seem --probably do -- attribute to Rawls or Dworkin or Kant crude views about the self and overly abstract notions of practical reason. Sandel and MacIntyre, to name only two, seem guilty of this -- as many of their critics have pointed out. Indeed, the tensions and conflicts in their positions can easily turn the interpretation of their own texts into a mug's game where one quote is refuted with another. Perhaps the most charitable way to deal with this problem, the approach I am trying to take here, is to bear in mind that they are struggling to articulate and reconcile some deep, unorthodox and conflicting intuitions about the nature of, and relations between, the self, society and practical reason. The persistent and confusing vagueness of their principal claim that the self is 'situated' is at the heart of all this. Typically, in the struggle to sort things out, they have often found it convenient to contrast their views with those of opponents which then serve as a foil against which to work. But it is easy to oversimplify in the process. Communitarians have hardly been immune.

knowledgeable as, say, Charles Taylor.¹⁴ In this respect, Kymlicka's interpretation is hardly flattering. Consider that, while communitarians like Taylor do maintain that (1) the self is in some crucial way constituted by its ends; and (2) these ends are themselves the product of the traditions, language, values, practices, etc. of a culture, to claim, as Kymlicka does, that they draw the reactionary conclusion that (3) therefore our deepest commitments (ends) simply shouldn't or can't be questioned, is to saddle them with a glaring *non sequitur*. Taylor *does* argue that there are serious questions about the limitations which practical reason places on our power to simply overturn our deepest values.¹⁵ But he regards this as a problem of moral epistemology, not a normative sanction against the attempt.¹⁶ I know of nowhere where he argues that, in the interest of preserving the common good, we just shouldn't question basic values. On the contrary. His own work over the last two decades is a sustained and critical effort at just that. Moreover, he himself has serious doubts about many of the deepest values held by our own cultural heritage. Taylor's commitment to some sort of historicism is not grounded in a conservative desire to preserve the status quo or in a nostalgic

¹⁴ Kymlicka has objected here that, in the point under dispute, he was addressing Sandel, not Taylor. The latter, he says, has different – and more sophisticated – views. Perhaps. But throughout the chapter Kymlicka speaks of 'communitarians' in a generic sense. I also have done this in places, though not without reservation. I think it is fair, then, to show that, insofar as there is something called 'communitarianism', it is not without the resources to reply to Kymlicka's charges.

¹⁵ See, for example, Taylor 1989: 29, 47, 64.

¹⁶ Taylor is, after all, an admirer – albeit a critical one – of Nietzsche. See Taylor 1989, Chapter 3, Section 2.

yearning to recreate a romanticized past. Rather, it is born of deep convictions about what, at bottom, moral judgement and practical reason are like and how they proceed.

So what, exactly, does this 'conviction' amount to? Exploring that question will be the main task of the next chapter. For the moment, I only want to sketch in a few ideas. As I understand it, the main point of contrasting a 'situated' model of the self with, say, (Sandel's interpretation of) Rawls' remark that the self is prior to its ends, is to illustrate where the latter's moral ontology, as it is understood and taken over by Kymlicka,¹⁷ goes wrong. Why it is both too 'individualistic' and too 'rationalistic'. In brief, the problem is that this 'Kantian' conception of practical reason identifies moral agency too exclusively with a rationalistic conception of autonomy. In essence, to be a 'moral agent' is, on this view, to have the capacity to determine and act on rationally justified beliefs about what is good or right. But if and when we finally get an account of what is meant by this, it comes down to the assertion that 'autonomous moral choice' just is the capacity to grasp (and act on) some abstract principle or other as a universal principle (or set of principles) of moral judgement.

The communitarian objection is based on the conviction that this account

¹⁷ For a statement of Kymlicka's interpretation of Rawls, see Kymlicka 1991, Chapter 3.

is just too narrow. It ties 'moral agency' and 'practical reasoning' too tightly to a very particular (and very abstract) conception of rationality, i.e., one in which our capacity to act as moral agents originates in our having or not having a capacity to judge and act impartially, that is, to make practical reason conform to universal principles. The appealing side of this account is that this 'picture' of moral agents as essentially rational decision-makers provides the whole Kantian tradition¹⁸ with an intuitively satisfying and powerful model on which to base the claim that practical reason can establish a list and ranking of universally valid principles of moral judgement. Unfortunately, as will be argued at length over the next two chapters, this attempt to provide rational foundations for practical reason fails just because there is no non-question-begging way to establish that rational autonomy, so-defined, provides an adequate foundation for practical reason. On the contrary, sooner or later such attempts come down either to an assertion that competing accounts of ethical judgement and action (for example, the Greek view that a good act is motivated by virtue or character) are not based upon the promotion of genuine moral goods (hence Kant's view that the only unqualified moral good is a good will); or that these goods are morally relevant only insofar as they promote the supreme good which is itself defined by universal principles of practical reason (hence the consequentialist view that the true good is happiness, welfare, or well-being and that acts are morally relevant only insofar as they

¹⁸ Insofar as the 'Kantian tradition' here refers to a view about what practical reasoning is, I include Utilitarians and subjectivists in it. My reasons for this are discussed in Chapter 4.

promote, or fail to promote, that end); or that, they are 'lesser' or 'private' moral goods which are to be subordinated to the universal, i.e., rationally defined, good of protecting the moral autonomy and integrity of the individual through protection of her right to choose for herself (hence the traditional liberal view that respect for individual autonomy should be the basis of moral theory; this is the view that I claimed is implicit in Kymlicka's arguments).

But, as communitarians like MacIntyre, Williams, Sandel and Taylor are at pains to point out, there seems to be a whole range of ethical practices, e.g., loyalty, faith, courage and hope, the moral point of which simply cannot be given a universal formulation. Far from conforming to the 'higher' universal principles of moral judgement, the 'logic' of these latter often conflicts with the demands of impartiality. Moreover, their moral point and inner logic cannot be grasped outside of a deep, intuitive sense of who and what we are as real historical persons.¹⁹ The ethical significance and value they have to an agent lies precisely

¹⁹ Kymlicka 1991, Chapter 3 maintains that the argument from the Original Position in *A Theory of Justice* is meant only as a tool for modeling the more important 'intuitive argument' according to which we recognize that it is unfair that the distribution of resources be determined by our natural talents. For example, in the lottery of talents, some have been endowed with considerable intelligence, others with little. The fact that Jane is intelligent, therefore, is a morally neutral fact about her for which she should be neither praised nor blamed. A liberal theory of justice should reflect our intuition that the possession of such talents is brute luck and, rather than rewarding those who possess them and punishing those who do not, should try to compensate those who through no fault of their own suffer as a result of the lack of them.

This analysis greatly downplays the significance of the Original Position

in the distinctive ways in which they help shape and define her individual character *within a particular cultural/historical context*. The downside of the rationalist account, then, is that it simply fails to do justice to this aspect of moral life. It fails because it cannot comprehend these intuitions as an authentic and original source of moral judgement and action. By identifying our capacity for moral choice and action too completely with our capacity to judge and act impartially, the Kantian approach transforms the moral will into a bare abstraction -- a capacity for rational choice -- which is logically distinct from the particular practices that define our membership in particular historical communities. The result is that it regards our concrete moral intuitions as morally inferior to the impartiality of rationally grounded, universal principles. Insofar as the former come into conflict with the latter, the Kantian view leads inexorably

while playing up the role Rawls accords to intuition. The correctness of this reading is, of course, a matter which can be settled only by looking closely at the text. But whatever the outcome, I don't think my argument here is affected. I am not denying that Rawls thinks that a deep intuitive sense of who we are as persons is guiding the whole project. I think he probably does. I am rather asserting that this intuition turns out to be one in which our status as moral agents is defined in terms of our status as autonomous, rational agents. But nor am I denying that we actually have a deep intuition of our moral life as constituted along these lines. Indeed, I am convinced that we do. My point is that, *pace* Kymlicka (and perhaps Rawls): (a) we also have other, equally powerful and conflicting intuitive pictures of ourselves as moral beings -- one need only turn to Nietzsche or Freud to see this -- and (b) there is no non-question-begging way to establish the primacy of the Rawlsian one. For a similar criticism of Rawls, see Gerald Doppelt's 'Is Rawls's Kantian Liberalism Coherent and Defensible?' in *Ethics*, Volume 99 No. 4 July 1989.

to the conclusion that, when the forms of action associated with these intuitions conflict with universal principles, they must either be prohibited or at least confined to a realm of 'private choice' where, as 'personal' goods, we are free to individually pursue them as long or insofar as they do not openly (i.e. publicly) conflict with the interests of moral autonomy. The point communitarians like Taylor are struggling to make, I believe, is really twofold. First, our capacity for rational autonomy is only one aspect of our capacity for moral choice; and, second, insofar as there are others, there is no uncontroversial way to establish that the principles flowing from autonomy provide the court of highest appeal for moral judgement and action.

So the reason communitarians focus on the question 'Who am I?' is to get us to think about ourselves differently. This approach requires that, to put it crudely, we take 'moral agency' to be a concept with some *historical* content. When our 'capacity to make choices' is fully abstracted from the historical context in which it is situated, the picture of moral choice we get is one-sided and incomplete. For, *pace* Kant, the force of the human will, our power to act, flows as much from its objects as from its own autonomy. Will and value are, in the end, complementary and mutually defining elements of our moral life. You cannot grasp the nature of one without the other. My attempt to work out these claims over the next few chapters takes as its starting point, Taylor's claim that

our awareness of our own inner life – our selfhood – is exhausted neither by introspection (as Hume thought) nor reflection (as Kant thought) but is also given through something he calls an *import*. For the moment, I will have to gloss this as a kind of cognitive component of the emotions which grounds our ‘sense’ of who we are and of how things matter to us. What seems to unite communitarians in their attack on the ‘individualism’ of current liberal theory is the conviction that it is precisely the fallacy of Kantianism – whatever its particular form -- to think that a rational moral self can be disentangled from, and contemplated independently of, this deep sense of who we actually are.

We will examine Taylor’s view on this matter at length in the next chapter. Suffice it to say here that the answer to the ‘Who am I?’ question is simply not that I am a bare, rational will. Or, as Bernard Williams nicely puts it, that I am a bare, rational will “and no more”.²⁰ Necessary and sufficient conditions for moral autonomy cannot, as autonomarians like Kant and Rawls (at least on this reading) imply, be provided. There is no bare capacity called ‘rational choice.’ Nor is moral agency an abstract concept whose definition can be fleshed out with a list of universal rights or principles.

So when a communitarian like Taylor maintains that the real question guiding practical reason is “Who am I?” (Taylor 1989: 27), he is not denying that

²⁰ Bernard Williams, *Ethics and the Limits of Philosophy*, page 62, Fontana Press, 1985.

there is a central role in moral life for autonomous thought and action. He is pointing out that our conception of ourselves as autonomous rational agents is only part of a larger picture. My status as a rational agent and the values and practices underlying my membership in a particular cultural tradition often make conflicting claims on me. When they do, I cannot avoid weighing the one against the other. For the latter is what makes my participation in moral life meaningful for me. It not only provides me with what Kymlicka calls a 'context of choice', but more importantly, what I will call a *moral identity*, that is, a set of horizons which impart a shape and direction to my life and which are themselves the larger 'context' in which the freedom to make choices is itself meaningful. Having a moral identity, that is, being able to participate in the particular practices of community life, is thus an indispensable component of our capacity for moral action. The unique achievement of liberal society lies in its having found a way to integrate individual freedom (i.e. autonomy) into the essentially collectivist foundations of moral identity. At the core of our liberal moral identity is a peculiar kind of 'complementarity' between freedom and belonging which makes the flourishing of the community and the flourishing of individual freedom interdependent, or so I shall argue in Chapter 5. Providing the ontological framework in which to conceptualize this complementarity is the principal task of this essay.

Cultural membership and the question of assimilation

Having, first, argued that cultural membership is a primary good and, second, sketched out his distinction between the character of a culture and its function as a context of choice, Kymlicka makes the following observation:

Even if cultural membership is a primary good, we haven't discussed whether it implies membership in any *particular* cultural community. People may require a cultural structure to make sense of their lives, but it doesn't follow that we ought to be concerned about their own community...Why not let minority cultural communities disintegrate, and assist those who suffer that misfortune to assimilate to another culture? (1989: 172-3)

This is a remarkable passage for two reasons.

First, Kymlicka clearly admits here that his Rawlsian argument fails to establish anything more than that individuals need *a* cultural context. For, given that the function of that context is simply to provide a marketplace of options, philosophical argument will be unable to establish even a presumption in favor of the options offered by *one's own* cultural community. On the contrary. The relevant moral question here is 'What will best promote the well-being of the

community's members?' And that is an empirical question to be decided by weighing and balancing a wide range of psychological, sociological, economic, and other considerations. So no one, individual or group, has even a *prima facie* right to membership in, or preservation of, their own particular culture. In short, if culture really is a context of choice in Kymlicka's sense, that is, a marketplace of options, then any cultural group which wants to make a claim to special protection (rights) against assimilation by another group must demonstrate that the move will better promote the well-being of its members than assimilation. Indeed, if the moral principle at issue here is the promotion of individual well-being, there is a serious question why we should limit our attention to the members of the community in question. Shouldn't we also be taking into account the well-being of the individuals in the second community, at least insofar as they will be affected by a decision to go one way rather than another? As Kymlicka admits, the logical conclusion of the argument as it stands seems to be that, if the claim to greater individual well-being cannot be established, assimilation is the morally preferable alternative.

But many of us think this view simply flies in the face of our moral intuitions. These days, liberals are tending in just the other direction. That is, not only do we think there is a presumption in favour of one's own cultural community, we think cultural communities often have a *right* to decide their own fate even when it is not in the best interests of either the community or its members --let

alone the interests of individuals outside of it. Presumably, this is what we are getting at when we speak of a right of self-determination.

Now, interestingly, Kymlicka himself goes on to argue directly and forcefully against the view that cultural communities should have to consider the welfare of those outside their communities when they are justifying the existence of their rights. His target is Bryan Schwartz, who, commenting on Canadian aboriginal issues, defends this view and draws the conclusion that, if assimilation of Canadian Natives were in everyone's best interest, it would be the right thing to do. But he is castigated by Kymlicka for failing to realize that what makes aboriginal rights *rights*

is that they are claims to be respected even if some other policy would better serve the interests of the rest of the Canadian political community. Special rights are justified because aboriginal peoples have a legitimate claim to the protection of their cultural membership, whether or not the lives of non-aboriginal Canadians are thereby improved or enriched. (1989: 173)

But why does Kymlicka think that these rights can be justified independently of other affected cultural communities? Does he think they can still be justified even when it is shown that assimilation is in the best interest of the members of the

threatened community?²¹ These questions bring me to consideration of the second reason I had for saying that the passage quoted at the outset of this section is so remarkable.

Kymlicka's attempt to fill in the gap he has found in his Rawlsian argument seems to me to run afoul of his own distinction between the character of a culture and its function as a context of choice.²² For his argument rests squarely on the claim that the *character* of cultural communities has a unique moral significance which political institutions and practices must respect. But this is precisely what the character/context distinction seemed to deny. In essence, the argument boils down to a grudging admission that, after all, there is "a kernel of truth in history-based groupism." This 'kernel' forces us to recognize that

People *are* bound, in an important way, to their own cultural community. We can't just transplant people from one culture to another, even if we provide the opportunity to learn the other language and culture. Someone's upbringing isn't something that can just be erased; it is, and will remain, a constitutive part of who

²¹ In his recent book *The Morality of Political Divorce from Fort Sumpter to Lithuania to Quebec* Allen Buchanan makes a criticism of Kymlicka which picks up on this point.

²² This, it should be remembered, was the distinction which was to distinguish his own arguments from those of communitarians.

that person is. Cultural membership affects our very sense of personal identity and capacity. (1989: 175)

But if we press him and ask *why* people are bound to their cultural communities in this way, the cryptic answer we get is that "cultural membership seems crucial to personal agency and development." From this highly compressed argument Kymlicka draws the needed conclusion that "respecting people's own cultural membership and facilitating their transition to another culture are not equally legitimate options" (1989: 176) – a conclusion which is intended to save him from falling head-long into the Rawlsian gap.

But what is really being said here? What, exactly, is the argument? To say that it is unclear is an understatement. Nevertheless, one thing is apparent: Kymlicka has had second thoughts about the 'individualist' ontology he has been defending. His own moral intuitions simply won't allow him to accept the consequences of his claim that culture is just a marketplace of opportunities. And, now that he sees where it has lead him, he is thrashing around for an argument to articulate his conflicting intuitions. Revealingly, however, what he finally settles on seems to be nothing other than the communitarian-style arguments he earlier rejected. His cryptic premise about cultural membership being crucial to personal

agency can hardly be taken any other way.²³ For what else could it mean but that the definition of a moral agent is inextricably bound up with our particular, historical situation in such a way that 'individualistic' moral theories which equate moral agency with rational autonomy fail to catch? But this is precisely what unites communitarians in their opposition to individualism.²⁴ Kymlicka, it seems, is more of a communitarian than he realizes.

Hence, just as it turned out that his defence of liberalism harboured and implicit commitment to autonomy as an intrinsic good,²⁵ so too cultural membership is turning out to be a basic term in Kymlicka's moral ontology. It 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

²³ For an interesting discussion of this claim, see Charles Taylor's 'What is human agency?' and 'Self-Interpreting Animals' in Volume 1 of his *Philosophical Papers*, Cambridge University Press, 1986.

²⁴ Of course, they differ greatly in how they cash out the crucial but vague clause 'in such a way'. On the one hand, it comes down to in some way accepting the idea of a 'situated' self. And, in a general and intuitive way, communitarians pretty much agree about this. But when it comes to working out the details, there are almost as many versions as there are communitarians. Noone, as far as I can tell, has yet given a really definitive account of this idea the way, say, Kant did for transcendental theories of the self or Hume did for empirical ones.

²⁵ See the section above on *The inside/outside distinction*.

other fundamental good.

The 'somehow', of course, is just what needs to be explained. Presumably because he does not realize that he has in fact turned cultural membership into a basic moral category along with well-being and autonomy, Kymlicka provides little in the way of an explanation here. Still, he does give some hint at the direction in which he would move if forced to unpack his argument. He suggests that this "connection between personal identity and cultural membership" is to be explicated in terms of sociological considerations about language, psychological considerations about how well people adjust to change, etc. In short, Kymlicka seems to think that it is the job of empirical social sciences to establish and flesh out this connection. Now, perhaps the social sciences might succeed sometimes, or in some cases, and at least persuasively argue that the relevant conditions Kymlicka alludes to pertain. All other things being equal, we would then be entitled to conclude that assimilation of the people in question would seriously hinder their chances of a good life and hence they have a right to resist it.

So, the upshot is that *if* it turns out that the social sciences vindicate Kymlicka's intuitions, the argument might go through. But this, I suspect, will be cold comfort to cultural minority groups who will surely make the same criticism of Kymlicka's argument that he made against Schwartz's in the passage above: it fails to treat their rights as *rights*. That is, if cultural groups really do have a

right to resist assimilation, it must be a product of our moral theory, not contingent upon the success of our social sciences or a bunch of hypothetical empirical facts about psychology and sociology. Firstly, that would just leave us wondering whether these same facts may be disconfirmed by new cases. Secondly, it would place a burden on cultural groups to convince us that the empirical hypothesis is true. Thirdly, the existence of these rights would be at the mercy of changing theoretical fads, a notorious problem in the social sciences. Finally, the existence of the right would also be subject to the 'all things being equal' clause mentioned above. And God knows what this might turn out to include. In short, if cultural membership really is a right -- as Kymlicka seems to think it is -- the sociological/psychological thesis on which he is resting his defence, even if true, is too weak to establish it. What Kymlicka really needs is a moral, i.e. a philosophical, argument. One which shows us (1) why cultural membership is an intrinsic good; and (2) how it relates to other such goods like autonomy and well-being. It is the principal goal of the present work to sketch in an alternative moral ontology which can provide such an argument. Indeed, it would not be far wrong to say that this essay just is an attempt to justify and explain the two crucial claims that Kymlicka argument makes (i.e. that 'cultural membership seems crucial to personal agency and development' and that 'respecting peoples' own cultural membership and facilitating their transition to another culture are not equally legitimate options') but which, I have argued, he fails to justify.

Conclusion

So, if I'm right, Kymlicka is labouring to fit what are, in the end, some genuinely communitarian intuitions into what is decidedly a Kantian mold. On the one hand, he wants to see the self as historically situated, genuinely able to identify with the world in which it finds itself. But, on the other, he wants to liberate it from the parochial and often repressive ties of the cultural world. His liberal commitment to autonomy convinces him that we must be free to stand apart so we may judge rationally and critically for ourselves what is good and what is not. But, as Kymlicka himself so often notes, by what standards will we judge if not those derived from our culture? And where will we find the values which shape our moral existence if not in the midst of those simple worldly relationships which brought us into being? From what other vantage point or position could we possibly survey the moral world other than our own surroundings?

If Kymlicka's argument fails here -- and I think it is clear that it does -- it is because the philosophical resources of the moral theories he is working with are not adequate to the task he sets. Contemporary liberal theory, insofar as it can be used to protect cultural membership at all, conceives of it as an instrumental

good whose value lies in the range of opportunities it makes available to particular individuals. In short, it has moral significance only insofar as it affects some individual's well-being. But the moral category of individual well-being, it turns out, is very shaky ground on which to rest an argument for the protection of cultural membership. In my view, an adequate defense can be mounted, if at all, only by admitting that some forms of community – in particular, cultural membership -- are intrinsic goods.

So, when communitarians say that Rawls is too 'individualistic' or too 'rationalistic', they need not be interpreted as saying that he has *no* place for culture, society and history. It is rather that his unequivocal commitment to the primacy of autonomy pitches moral discussion about the self at a level which is simply too abstract to take account of its intimate connection with some particular historical situation. Culture, to a pure rational will, can have no significance beyond the function of providing options -- a *context* -- in which it can exercise its autonomy. What both communitarians and Kymlicka have recognized, is that our particular relation to a particular culture has moral significance which the abstract level of description does not touch. This is the gap in the argument Kymlicka is trying to fill.

Kymlicka is thus trying to make sense of something very important. In a

nutshell, he is trying to situate the self and still preserve its autonomy, something he fears communitarians cannot do. And, indeed, no one these days denies that there is *something* right about 'situating' the self.²⁶ The real issue is this: how far away from rationalist conceptions of the self can you go before the notion of autonomy disappears altogether? How particularized can we make the self before the will just dissolves in a welter of social forces? Kymlicka knows that if he gives the self over to history, its (history's) multifarious, sometimes chaotic forces will rush in and overwhelm it. Detaching the autonomous liberal will from its Kantian foundations is a tricky business. If we go too far, we leave it naked before the elements. Then it will be lost. Kymlicka, I think, sees a storm on the horizon. He fears the loss of a firm foundation for both the self's right and its power to act according to self-imposed, rationally justified, standards of morality. Rawls, while claiming to eschew Kant's ontology, retains enough of the framework to provide a rudder for such an argument. But, the clear lesson of Kymlicka's inspiring if unsatisfactory effort, is that hanging on too tightly to autonomy steers one away from, not toward, a deeper understanding of the moral significance of cultural membership. Nevertheless, there is much to be learned from this admirable work. For Kymlicka's argument brings into focus what is perhaps the most important issue now facing liberal theory: the problem of cultural membership.

²⁶ There has been much debate, for example, of Rawls's 'communitarian shift'. For some interesting discussions of various aspects of this see 'Symposium on Rawlsian Theory of Justice: Recent Developments' in *Ethics*, Volume 99 No.4 July 1989.

Chapter 3

Charles Taylor's Moral Realism

Introduction

In the last chapter I maintained that Kymlicka failed to establish the crucial premise he needed for his defense of collective rights, namely, that 'People are bound, in an important way, to their own cultural community', and hence failed to vindicate his conclusion that 'respecting people's own cultural membership and facilitating their transition to another culture are not equally legitimate options'. According to my analysis, the reason Kymlicka's attempt to reconcile cultural membership with liberal individualism failed is that it regarded the former as only an instrumental good, a "context of choice", whose value lies in the range of opportunities it makes available to members of the community. Over the next three chapters, my goal is to give an account of the relationship between cultural membership and autonomy that takes them to be independent moral goods; or, more specifically, independent but complementary components of what, in Chapter 4, I will call the liberal moral identity. The objective of the remainder of this essay is thus to provide a philosophical argument for both the premise and the conclusion that Kymlicka failed to establish.

In order to achieve this goal, the primary task that needs to be accomplished, and which I now want to set for myself, is to sketch in a moral framework that remains true to the spirit of liberal individualism, with its commitment to respect for individual freedom, but which weakens the conceptual grip that the 'Kantian' conception of rational autonomy (criticized in Chapter 2) holds on orthodox liberal views about moral agency. Hence in Chapter 1 I spoke of the need to provide liberalism with a new moral ontology. Developing this ontology, I maintained, is among the most urgent problems facing liberal political and moral theory. I now want to suggest that, if we are to succeed where Kymlicka failed, that is, if we are to provide a liberal argument for the existence of collective rights, we will have to incorporate into liberal theory something of the spirit of the communitarian doctrine that the self is a 'situated' or 'culturally defined' point of moral reference. However, as mentioned, my intention is not simply to reject individualism, say, in favour of a radical communitarian ontology in which the self is constituted only by the practices, values and beliefs of a collectivity. It is rather to sketch in a moral ontology that provides the basis for a *theoretical rapprochement* between these two camps. By redefining the relationship between the two basic goods -- 'freedom' and 'belonging' -- on which these camps are based, we can, I will argue, accommodate the essentials of both.

The first step in this project is to argue for an account of moral judgement that is essentially historicist in outlook, yet capable of supporting trans-cultural

moral claims. This is a tall order. In a first attempt at meeting it, in this chapter I explore a form of *moral intuitionism* based on the claim that human subjectivity is partly constituted by an inarticulate 'sense' of the objects of moral judgement. The claim that we have a 'moral sense' is really a way of emphasizing the provisional role that *general principles* play in this intuitionist account of the objectivity of moral judgements. Essentially, the idea is this: while the existence of universal principles provides the 'ground' of some objective moral judgements, it is not the only one. There are also objective moral judgements which are 'particular' in the sense that their 'ground' is an established network of practices which, from a phenomenological point of view, appear as a 'moral sense'. Positing this sense is what, at bottom, distinguishes intuitionism from contemporary rationalism and naturalism, both of which will be traced back to a common root in the Kantian doctrine of the identification of thought and judgement.

Ontologically, this intuitionism is pluralistic in that it assumes the existence of more than one 'basic good'. It is, I will argue, by reference to these basic goods (or 'hypergoods') that we distinguish our selves as moral agents from the world. Hypergoods provide the normative framework for drawing what, in Chapter 2, I called the inside/outside distinction. As such, they structure both our moral relationships and the 'logic' of moral judgement. The intuitionist account of moral judgement sketched here is held up as a genuine alternative to Kantianism.

The conceptual cornerstone of my analysis in this chapter is Charles Taylor's thesis that ethical judgement is guided by an "import" that cannot be made fully explicit. Much of the discussion therefore takes the form of an exegesis of his work. And while I have tried to remain true to the spirit of Taylor's thought, I have nevertheless elaborated and extended it at important points. In subsequent chapters, I will develop the ideas set out in this chapter even further. In particular, by making room for the (quasi-communitarian) view that one's moral identity is continuous with that of a larger collectivity in a way that makes membership in it partly constitutive of one's capacity to act as a moral agent, Taylor's intuitionist approach permits me, in Chapters 4 and 5, to advance a philosophical argument for the claim that cultural groups can be the genuine subject of a moral right. For it allows me to claim that moral agency is internally linked to membership in a *particular* cultural community in such a way that the individual self is in important respects indistinguishable from the collectivity in which it is embedded. This internal connection is what ultimately explains the individual's very special interest in maintaining her membership in that particular community.

Approaches to modern moral theory

Since the Enlightenment, there has been a strong tendency in moral philosophy to assimilate practical to theoretical reason. That is, to assume that objective moral

knowledge, like scientific knowledge, must conform to universal and necessary principles. On this point, modern rationalism and skepticism are really two sides of the same coin, differing not in whether they accept or oppose this conception of moral knowledge but in the conclusions they draw from it. Modern rationalists, influenced by Kant, take it to imply that the 'logic' of moral judgement is determined by a range of higher-order, moral principles. On the assumption that you can't get an 'ought' from an 'is', rationalists go on to argue that these principles cannot be grounded in natural facts and so must be truths of reason. As such, they are to be discerned and justified through reflection and argument.

Modern skepticism, influenced by British empiricism (and especially Hume), agrees with the rationalists' conditions for moral knowledge, but denies that there are any universal moral principles. It starts from the assumption that the object of all scientific (i.e. objective) knowledge is reality. 'Reality' is then defined by reference to the is/ought or fact/value distinction. That is, this distinction is taken to be the basic form of the inside/outside distinction¹ and hence provides a criterion of the real: anything that falls on the value side is 'unreal' in the sense that it 'is merely subjective,' 'is not part of the furniture of the world,' 'does not inhere in nature,' or 'is a mere projection of human dispositions onto reality.' The final conclusion, of course, is that there is no basis

¹ On the inside/outside distinction, see Chapter 2.

'in reality' for objective moral claims.² Hence skepticism. We can call this approach to moral theory *naturalism*.

Now according to Charles Taylor, while the fact/value distinction is a useful and legitimate one, particularly in science, turning it into an ontological dogma is a fatal mistake. For once that move is made, we are driven toward subjectivism. By driving a wedge between the world and values, naturalism permanently severs the connection between value judgements and truth. The result is that we never again find a satisfactory reason to take objective moral claims seriously. As current examples of this approach, Taylor cites John Mackie's error theory and Simon Blackburn's projectivism. Naturalists like Mackie and Blackburn, argues Taylor, are eventually forced to smuggle in some sort of bogus reason to explain our unshakeable conviction that there is right and wrong and to justify why we (and they) should continue to be concerned about moral values (1989: 59-60).

As an alternative to both rationalism and naturalism Taylor proposes a kind of ethical realism. But it is an unusual kind, for it is itself in a crucial respect

² Of course one can still appeal to principles of psychology, sentiments, suffering, etc. as a basis for moral judgement and theory. But the point is that, however one *feels* about these, they do not, as Hume pointed out, justify claims of right or obligation.

subjective. Emotions,³ he tells us, have a cognitive aspect which he labels an *import*. Some imports are what he calls *subject-referring*. That is, they "can be explicated only by a subject who experiences his world in a certain way" (1985: 53). What he means is that the nature or content of some import-ascriptions only makes sense, that is, is only characterizable, in terms of the significance it has for the subject.

Shame, for example, is an emotion that simply cannot be understood without invoking the point of view and experiences of the subject *as a subject*. While shame leads to physical behaviour such as avoiding eye contact, hiding, apologizing, etc., we have no adequate way of describing what a person who engages in such behaviour is doing which by-passes the question of what that behaviour means for her. To think, for example, that we can divide the concept into two components, one descriptive and one evaluative, as R.M. Hare has argued, simply misunderstands what shame is. Seeing the evaluative point of the actions, that is, understanding how the subject herself views them, is a crucial part of any adequate description. With terms like 'shame,' 'courage' and 'brutality' "we cannot grasp what would hold all their instances together as a class if we prescind from their evaluative point. Someone who had no sense of this point wouldn't know how to "go on" from a range of sample cases to new

³ Taylor's choice of words here is probably not the best one. Moreover, he often uses the words 'feelings', 'emotions' and even 'desires' interchangeably. When he speaks of 'emotions' he has in mind a broad range of evaluative states.

ones. This means...that the "descriptive" meaning cannot be separated from the "evaluative"..." (1989: 54). So the significance of a subject-referring import can be grasped only by considering it in the context of those other purposes, desires and aspirations which the subject has. To be ashamed is to regard some feature of myself, perhaps my appearance or something I thought or said, as in a special way inconsistent with what I take myself *as a self* to be. "What we can be ashamed of are properties which are essentially properties of a subject" (1985: 53).

Now Taylor thinks that there is currently in vogue a form of the naturalist approach to moral theory that is especially subtle. He calls it "sophisticated naturalism" and attributes a version, albeit hesitantly, to Bernard Williams. Its root, he claims, lies in Wittgenstein's discussion of 'forms of life.' One way to see why Taylor thinks this view is sophisticated, is to see how it avoids the subjectivism of the "cruder forms" of naturalism defended by Mackie and Blackburn. The virtue of the sophisticated form is just that it takes

our valuations as part of our perceptions of the world and our social existence which are inseparable from our living through and participating in our form of life. Granted the mode of social interchange, granted that this mode is organized around certain goods which we cherish and that it in turn makes other qualities and conditions of value to us, we cannot but perceive our lives in

terms of certain qualitative distinctions. Or, rather, the only way to prescind from these would be to stand altogether outside of this mode of life...(1989: 67)

So sophisticated naturalists like Williams not only think it makes good sense to speak of values as somehow 'in the world', they are also prepared to grant that value judgements made from within the cultural-historical context of a given form of life often constitute genuine knowledge.

One might therefore wonder just how different Williams' approach could be from Taylor's or if it even makes sense for the latter to class Williams' as a skeptical theory in contrast to his own version of realism. But Taylor insists that there is a crucial difference, one that justifies his claim that Williams' theory is cut from the same cloth as those of Mackie and Blackburn. In his words:

The sophisticated naturalism could agree that the distinctions marked by our value words were as real as any others, certainly not mere projections. Coming to learn them would be seen as attaining a kind of 'knowledge.' But whatever the truths were to be found here would nevertheless in a crucial sense be relative to the given form of life (1989: 67).

Taylor's concern, then, is that there is a relativism deep within this view that can and should be overcome. And it is precisely this advance that he thinks he can make.

Hypergoods

In 1977 when Taylor wrote 'Self-Interpreting Animals' he had already distinguished between two ways in which subject-referring properties can relate to experience. On the one hand, the relation can be simple. In this case, the properties 'are only what they are in the ordinary experience of human subjects' (1985: 55). A soldier's act of courage in the face of the enemy might be an example. Such an act of courage is constituted by situating it in the skein of meanings which make up the soldier's understanding of 'courage.' Of course, this skein has not been created *ex nihilo* by the soldier. It is a product of the customs, traditions, practices, language, etc. of his culture. He assumes or enters into it by participating in a form of life. Within this form of life 'courage' has a more or less normal sense, a general meaning that makes it what it is in normal experience. These simple subject-referring properties are thus not unlike the qualitative distinctions Taylor attributes to Williams.

But Taylor also mentions a second way that subject-referring properties can relate to experience. They may 'be something that is presupposed by this

experience, or gives it its shape; like an aspiration to dignity or, even less immediately, one to integrity, or wholeness, or fulfilment...' (1985: 55). Taylor seems here to be proposing some kind of higher-order value. And, indeed, more than a decade later in *Sources of the Self* he takes up this theme again, this time at length, by positing a special class of values called *hypergoods*. These are goods that 'not only are incomparably more important than others but provide the standpoint from which these must be weighed, judged, decided about' (1989: 63). Hypergoods are overarching ends or demands -- such as Kant's Categorical Imperative, or the Utilitarian's injunction to act so as always to maximize the good -- which seem to exert a kind of unqualified authority over a vast range of, in some cases perhaps all, value judgements. They are not merely instances of, but in some way definitive of, the good and the right. Taylor's contention is that human subjectivity, whatever the form of life, involves hypergoods as a kind of transcendental condition.

Thus, while we have already seen that to be a human subject presupposes the capacity to situate our feelings, desires, etc. within the skein of meanings that constitutes our own self-understanding, what is now coming to light is that this skein is itself structured by a set of higher-order goods -- hypergoods -- to which we are committed. As Taylor nicely puts it:

...the human agent exists in a space of questions. And these are

questions to which our framework of definitions (i.e. hypergoods) are answers, providing the horizon within which we know where we stand, and what meanings things have for us (1989: 29).

So to understand the evaluative point of a subject-referring term two conditions must be met: First, we must have a grasp of how the subject herself situates it in her own self-understanding. Second, we need to understand the 'framework of definitions' or 'cultural horizons' within which the individual's self-understanding is situated. In short, the kind of social interchange, the common purposes or mutual needs – how things can go well or badly between people in the society where this term is current (1989: 54). But as Williams has clearly recognized, these conditions seem to point to the conclusion that human subjectivity is a product of socialization, that is, that what is perhaps most distinctively human -- our ability to use subject-referring terms -- is unthinkable outside of the kind of cooperative network of activity that produces language, customs, practices and a past: in short, a form of life. Value, then, appears to be a cultural artifact.

A closer look a sophisticated naturalism

According to Williams, qualitative distinctions – which he calls 'thick ethical concepts' -- such as 'courage' are 'action-guiding,' by which he means that they

provide someone with a reason for action in some circumstances; and also 'world-guided,' by which he means that their use is controlled by facts or by the user's perception of the world (Williams 1985: 140-1). But he agrees with Taylor that this does not mean that they can be broken into descriptive and prescriptive components. There is no adequate factual description of either situations calling for courageous behaviour or courageous behaviour. Nor is there a kind of all-purpose or imperial 'ought' which can be attached to such descriptions. Like Taylor, Williams understands the subject's own perception of things, what she takes as the *point* of the action, to be a crucial element in determining what she is really doing. Reasons are therefore constituted in part by how the subject understands the way she is placed in a situation; which, in turn, is linked to her participation in a certain form of life. Courage is first and foremost a shared practice. Thus far, Taylor and Williams have much in common. But there is a crucial difference. In the end, Williams is a skeptic. He is resigned to the impending conclusion that, if different human societies have very different values (which, of course, they often do), there may be no way to arbitrate between them when they clash. Taylor, on the other hand, is more optimistic and rationalistic. He grudgingly admits that 'incommensurability' is a possibility which seems to follow from the analysis. Nevertheless, he doubts that it is true (Taylor 1989: 61). The arguments behind this difference of opinion are intriguing.

Williams concedes that a possible strategy for overcoming the problem of incommensurability is to admit that an outsider may observe some practice in a foreign culture that she is able to put into her own terms and then reject (Williams 1985: 145-6). In other words, someone might argue that, major cultural differences notwithstanding, there is always enough overlap⁴ – enough shared values – to support a genuinely rational dispute about the moral validity of (broad) cultural practices and values. Thus, an outsider could, in principle, establish whether certain local practices are *wrong*. And, in fact, Taylor argues for something like this in a number of places.⁵ In *Sources of the Self*, for example, he suggests that cross-cultural comparisons can be made in terms of gains and losses resulting from communally held goods. Such reasoning, he thinks, can achieve commensurability (1989: 61-2). The only serious question, in Taylor's view, is an empirical one about whether there is always enough overlap to get the conversation going. And, on this point, he is optimistic. (I will return to Taylor's views on this issue below.)

But, replies Williams, things are not so easy. This strategy assumes that the 'rationale' underlying the practice strives to conform – if only tacitly -- to some very general judgement based upon some very general concept, that is, to a

⁴ This 'overlap' could centre on a variety of things, but most likely it would involve similarities resulting from shared physiological and psychological characteristics.

⁵ In particular, see his essay 'Rationality' in *Philosophical Papers*.

general idea of what is 'right' or 'wrong' or what one 'ought' or 'ought not' to do. But these concepts, he insists, are a product of *reflection*. They only arise *as a result of* standing back from one's culture and posing very general questions about its practices, such as whether they are really alright. Williams' claim is that the sense of 'alright' that arises here has no genuine analogue at the prereflective level. It plays no crucial role, nor need it even exist, in order for the thick ethical concepts to function. In short, it is not as though the thick ethical concepts used by an unreflective culture were implicitly invoking a universal principle or form which could be uncovered by reflection. No such form is necessary. 'The basic question,' argues Williams, is thus 'how we are to understand the relations between practice and reflection' (Williams 1985: 146). His contention, then, seems to be that the former is thinkable without the latter. If so, and if that view is coherent, we might be able to see how a naturalist like Williams could expect to explain the origin of value on the basis of an 'evolutionary pathway' running from instinct to value through social practice. If so, it would be only a short step to the final conclusion that the 'very general concepts' of moral reflection -- concepts like 'ought' and 'right' -- are mere abstractions derived from the vast diversity of concrete obligations embedded in the thick ones. *Pace* Kant, the notion of a universal *ought* would thus be far from the most important, powerful and clear of ethical concepts. On the contrary, it would be among the weakest, most impoverished and vague. But, if this argument is to persuade, we must agree that thick ethical concepts can in fact function without reflection.

The appearance of universality

Taylor certainly agrees that, in order to have value, there must be a shared commitment to a form of life. But his notion of a hypergood is underwritten by something more than a sensitivity to the role of history, culture and language in the creation of value. Hypergoods aren't just the *consequence* of the practices and history of a community. Taylor takes it as a necessary condition that for something to function as a hypergood it must appear to those who accept it not only as the highest good, but as *truly* such. Exploring the logic of a hypergood, he tells us, seems to push us beyond the parochial, historical context of the community in which it was forged (1989: 67-8). For example, it seems to us today that it is part of the meaning of the Principle of Respect for Persons that it applies irrespective of sex, colour, race, background, beliefs, etc. To restrict its application, say, to white adult males, seems completely arbitrary. In fact, the Principle of Respect even seems to apply *backward in time*. Thus we can't help feeling that past societies that violated it by, say, selling young girls into slavery were doing something genuinely -- indeed, dreadfully -- wrong.

Of course, it doesn't follow from the fact that people seem to grasp hypergoods as universal truths that therefore they are universal truths. But Taylor's present claim is the more modest one that universality is an ineradicable

phenomenological feature of some of our deepest moral convictions. One, moreover, that exercises enormous influence on our practical reason and that therefore we can neither dismiss nor ignore. Until or unless reflection undermines such conviction, we should take it as *prima facie* evidence that the good in question is universal and so transcends cultural boundaries. Who, after all, really feels comfortable saying that, e.g., slavery, widow-burning, human sacrifice, or female circumcision might be acceptable – even praiseworthy – practices in another society (1989: 67)?

So, the problem with Williams' view is that it fails to adequately explain the commitment to universality implicit in hypergoods. Indeed, his position is underwritten by a profound relativism. For once one steps outside of the cultural-historical context in which the form of life (hypergood) holds sway, there remains no ground for cross-cultural value judgements. Hence Williams can only react to bizarre or ruthless practices of a foreign culture with a shrug of the shoulders and a claim that they are 'incommensurable' with his own. Taylor's moral realism, on the other hand, aims to use the notion of a hypergood to link up (some) value judgements with a conception of truth that transcends cultural beliefs and practices the way (most of us believe) science does. But, of course, he wants to do this without turning values into 'scientific' (i.e., subject-independent) objects. Still, if he expects to persuade, he will have to give more than just *prima facie* evidence. For even if we agree that hypergoods always *appear* as universals, we may not be

convinced that any of them really *are* universals. In short, if Taylor wants to save the appearances, he needs to back them up with some argument. How then does he think his account of moral experience justifies the claim that hypergoods are (or can be) more than just 'forms of life?'

*The ontological interdependence of social practice and subjectivity:
drawing the inside\outside distinction*

We are given an important clue as to the direction in which Taylor is moving in the closing paragraphs of the Introduction to his *Philosophical Papers*. He approaches his questions first by castigating the "current vogue...of Derrida's later writings" which he takes as "something close to an unmitigated disaster" for the philosophical tradition (of which Taylor is a part) stemming from Herder and Humboldt; a tradition which explores "how language not only depicts, but also articulates and makes things manifest, and in so doing helps shape our forms of life" (1985: 10). This rebuke of Derrida is intended to underline Taylor's opposition to the radical relativism and anti-subjectivism of 'post-modernists.' Having made it clear that he regards this strain of philosophy as a kind of bastard child of the phenomenological/hermeneutical tradition, Taylor goes on to pose what he evidently takes as one of the tradition's genuine and most important problems:

...if one of the fundamental uses of language is to articulate or make manifest the background of distinctions of worth we define ourselves by, how should we understand *what* is being manifest here? Is what we articulate ultimately to be understood as our human response to our condition? Or is our articulation striving to be faithful to something beyond us, not explicable simply in terms of human response? (PP 11)

We will better see what Taylor is pondering here by calling to mind his notion of a subject-referring import which, as we saw, lies at the base of his theory of the emotions. Taylor is asking the deep ontological -- perhaps metaphysically transcendent -- question what, at the deepest level, determines or grounds a subject-referring import? He is convinced that *something* must. For if he is right that our self-understanding -- which can here be glossed as our *narrative* (1989: 47) -- is constituted through the interpretation of subject-referring imports; and that imports, reciprocally, are transformed by interpretation, then, if nothing constrained these acts of interpretation, we could, in principle, transform our experience (and our selves) into just about anything. This amounts to the reduction of subjectivity to language, or, less charitably, of reality to fiction. It is a view which Taylor (rightly, I think) regards as nonsense to be refuted by both commonsense and daily experience. Hence the attack on Derrida. Thus while Taylor subscribes to the hermeneutical thesis that our feelings (and ultimately the

structure of subjectivity) are constituted by interpretation, he is adamant that they "cannot be shaped at will by the account we offer of them. On the contrary, an articulation purports to characterize a feeling; it is meant to be faithful to what it is that moves us. There is a getting it right and getting it wrong in this domain" (1985: 65).

The real question, then, is what, ontologically speaking, constrains interpretation? What determines the nature of a subject-referring import beyond language itself? If naturalists are correct, these "background distinctions of worth" are the result of generations of historical practice. They are grounded in facts of human biology -- instincts, feelings, sensations -- that have been moulded and shaped by the exigencies of nature and geography and the caprice of history. Value, in short, evolves out of and along with a form of life.

To many, it will seem obvious that (something like) this line is the right one. For if, as Taylor maintains, imports are that "property of something whereby it is a matter of non-indifference to a subject...what in the situation gives the ground or basis of our feelings..." (1985: 48-9), a conventionalist account of their genesis may seem like the only plausible answer. Suppose, for example, that I'm ashamed of my shrill voice. Presumably, then, my attributing the import 'embarrassing' to a situation in which I must speak publicly is a consequence of the pitch of my voice, a physiological fact. But surely the idea that shrillness of

voice is something, say, unmanly, and hence of which I ought to be ashamed, is a cultural convention. How then was this convention established? Perhaps high-pitched sounds evoked an uneasy physiological response in our ancestors. Human actions (such as vocal sounds) which caused this uneasiness in hearers provoked them to treat the source as an irritant. Eventually, as shrillness of voice was associated with females and females with weakness, the desire to avoid the irritant was accompanied with contempt and a desire to dominate and, finally, transformed into scorn. A shrill voice thus became a sign of weakness and so a shameful thing. If this *kind*⁶ of analysis is on the right track, then a subject-referring import seems to have evolved out of a convergence of physiological facts. It is a short step from here to the conclusion that subject-referring imports are simply the product of biology and past practices. And so on to conventionalism.

But the analysis may be a little too quick. Consider that we cannot understand the relevant sense of 'being ashamed' without also understanding what it is to be 'manly,' which in turn refers us to concepts like 'courageous,' 'honourable,' 'just,' etc. The meaning of subject-referring terms is thus holistic. Now while Taylor agrees that enquiring into the genesis of this 'skein of meanings' uncovers the crucial work which social practices, customs, beliefs and institutions do, he thinks that naturalists like Williams nevertheless exaggerate it.

⁶ The details are obviously not to be taken very seriously.

He concedes that there seems to be a level of basic instincts which are causally determined. But if subject-referring imports are really irreducible, he reasons, there must be a qualitative leap separating the language required to account for the former from that required for the latter. Still, insisting on this difference is not obviously incompatible with maintaining the naturalist thesis that subject-referring imports are the result of centuries of socializing our instincts. That is why, as Taylor points out, 'sophisticated naturalists' like Williams can enthusiastically endorse the claim that 'the virtues'⁷ are irreducible, and hence that an adequate account of human behaviour and institutions requires the introduction of a range of predicates whose logic is quite unlike that of the descriptive/causal language used to analyze basic instincts.

Like Williams, Taylor stresses the fact that adding these predicates to our language is not like adding, say, an extra variable to an algebraic equation. He is deeply impressed by the extent to which they transform the nature of our discourse. For they force us to use the subjective language of meaning and value and the objective language of description and causes in ways which not only overlap but ultimately converge. To understand human behaviour we need much more than causes. Our vocabulary must be rich enough and flexible enough to incorporate an empathetic grasp of the subject's own interpretation of what she

⁷ Roughly speaking, the virtues are a sub-category of what Taylor calls subject-referring imports.

is doing. But, as Taylor reminds us, this just returns us to a consideration of the skein of meanings -- which is what we were seeking to explain in the first place. So there is a circle here. Still, it is one with a lesson: *Social practices are unintelligible without subjects, just as subjects are unintelligible without social practices.* We can call this the *principle of the ontological interdependence of subjectivity and social practice.* This principle, as we will see, is the axis around which Taylor's model of moral judgement revolves.

First impressions notwithstanding, neither the principle nor its implications are banal. And while Williams' claim that the thick ethical concepts are irreducible seems to suggest that he would strongly endorse it, nonetheless the gist of Taylor's polemic against 'sophisticated naturalism' is that even it fails to accept the full implications of this ontological interdependence. As Taylor sees things, Williams & Co. have been blinkered by the modern prejudice that human subjectivity is the result of a complex mixture of biology and social practice -- a philosophical thesis that, however subtly executed, sooner or later affirms that these 'irreducible' values have emerged out of an evolutionary pathway that runs from instinct to virtue through social practice. At bottom, sophisticated naturalism just is the thesis that social life rests on a set of conventions that are first established by simple ritualistic practices and that somehow harness and transform the natural forces of human biology.

In effect, then, the naturalist thesis grants a special ontological status to sociological and biological accounts of human existence. In Taylor's jargon, it makes them the 'ground' of other aspects of human life -- in particular, of those normative principles (hypergoods) that he contends are presupposed by the existence of both communities and individuals. Clinging to the naturalistic thesis therefore prevents philosophers like Williams from working through their own argument for the irreducibility of the virtues. For all its appeal, the (sophisticated) naturalists' outlook is really just the flip-side of the German Idealists' penchant for wanting to treat 'Thought' as the ontological ground of both history and nature. That we now find the former more intuitively satisfying, Taylor rightly regards as a consequence of our peculiar cultural bias. While this is certainly different from that which inspired German thought in the early 19th century, it is hardly clear that granting its ontological assumptions this preferred status is any less dogmatic than, say, Hegel's conviction that Nature was a manifestation of Reason.

Taylor's strategy for overcoming this prejudice is to deepen our understanding of (human) subjectivity by reexamining the implications of its irreducibility. The driving force behind his analysis, as I interpret it, is the conviction that the distinction between the 'outer' realm of social practices and the 'inner' one of subjective meanings is not merely one of "nature's joints" where fact is carved from value. The 'outer' realm of practices and the 'inner' one of values

are to be taken as essentially points of view. For there is no authoritative way of determining, once for all, which is ontologically fundamental or even where one stops and the other begins. The division between our 'inner' and 'outer' life lies along a continuum and where the line is to be drawn depends as much on our particular interests as on, say, the physical limits of our body or the structure of our sensory organs.

Hence when someone says, for example, that in interacting with his children he often feels as though they were 'part of him', there is a sense in which he may be speaking quite literally. For insofar as there is no authoritative way to separate his own actions from theirs (no "ontological criterion", as I will say in Chapter 4), or his 'inner' life from his 'outer' one, his own identity -- his 'self' -- genuinely overlaps with theirs. Interpreting his claim as though it were simply a metaphor or poetic speech therefore only misrepresents the nature of both his actions and the relationship. And, indeed, explicating this kind of relationship has always been a problem for Kantians and Utilitarians, who, because they define the moral value of an action by reference to universal principles, have had difficulty accounting for (i.e., explaining away) our irrepressible conviction that, for example, the bonds of kinship, loyalty, or personal affection, can ground objective moral claims -- claims that sometimes conflict with the demands of universal practical reason. In the universalist's view, the reason that these values cannot be genuine moral sources is that they cannot be given a universal

formulation. They are therefore 'particular' in the sense that they are by nature historically and culturally contingent. At best, then, they rank as instrumental goods that are useful insofar as the actions they encourage do conform to genuine (i.e. universal) principles of moral reason. Actions based upon these 'particular' values therefore have no intrinsic (i.e. universal) moral significance.

The deep lesson which Taylor seems to have drawn from the principle of ontological interdependence, and which has led him to the postulation of a class of hypergoods, thus seems to be that, while the capacity to draw a distinction between 'inner' and 'outer' may be basic (i.e. a defining feature of human subjectivity), the *way* it gets drawn depends upon one's interests and concerns. A hypergood is an overarching principle by reference to which these interests are determined; and hence in accordance with which the distinction is drawn. Hypergoods, in short, define the moral context in which the self is situated. But none is *the* ontologically primitive or basic one. On the contrary, the 'moral logic' of the inside/outside distinction changes along with the hypergood. There is therefore no single, right way to separate 'inner' from 'outer' or the self from the world. Naturalism, however, obscures this point. For it pictures subjectivity as a complex property which 'emerges out of,' and 'supervenes upon,' the 'simpler, causal functions' of the organism, e.g., instincts, sensations and locomotion -- a picture that is often useful. But by taking this picture too seriously and insisting that it is the *right* one, it turns the fact/value version of 'inner and outer' into an

ontological dogma. Naturalism thus results from the deep intuitive conviction that somewhere 'out there' is an objective, natural world that, shorn of the parasitic subjective categories of meaning and value, is more fundamental, more intelligible, more genuinely *real*, than the distorted world of shadowy projections we inhabit.

Focusing the ontological problem

If this ontological interdependence between hypergoods (i.e., the normative principles Taylor says integrate both communities and selves) and social practices is the focus of Taylor's critique of naturalism, we will want to know how the emotions fit into the picture. For hypergoods, as we have seen, are a special class of subject-referring imports. And imports, Taylor argued, are what in a situation 'gives the ground or basis for our feeling.' It is in feeling that we are first conscious of imports. Hence we spoke of them as the 'cognitive content' of our emotions, the *sense* which gets articulated in reflective acts of (evaluative) judgement. Taylor's insistence that imports are what constrain interpretation leaves us with the following problem: If hypergoods are more than merely articulations of ritualized patterns of thought and action, then they must be determined by something beyond the horizons of linguistically and socially informed consciousness, something that must be presupposed in order to explain the etiology of value. But what exactly does he have in mind here?

The 'inarticulable' element of experience

Consider the traditional Cartesian claim that our internal states (e.g., sensations, feelings, emotions, desires, etc.) are simply given in introspection. In this view, some states are 'natural' in the sense that their content is neither determined nor affected by our introspective awareness of them. When I am hot and tired as a result of hard physical work, for example, I may stop and say to myself 'I'd like a nice, cold beer!' Presumably, the recognition that I am thirsty, and that a beer is what I want, can be an accurate representation of my internal state both before and after I articulate it. Doing so simply facilitates satisfaction. Accepting this kind of a connection between states and consciousness makes it plausible to claim, as does Taylor, that we may be able to develop a strictly causal theory of certain kinds of desires which reserves no special, non-reductive role for subjectivity. Of course, in our example, the desire itself is not 'purely natural.' For, assuming that what I really want is a beer, perhaps even a certain brand, this desire-state has obviously been socially informed somewhere along the way. What, then, is a purely natural desire or instinct like? This is a serious question. For if the naturalist project is to get off the ground, we need the premise that such states can and do exist. That is, we must posit a level of brute, unsocialized, natural

wants and inclinations out of which socialized consciousness emerges.⁸ Can we -
- do we -- have such experiences?

Given Taylor's commitment to the principle of ontological interdependence, he would presumably want to deny that we have such experiences. Yet, in fact, he often seems to be endorsing something like the view that we do, as when he alludes to our having a 'prearticulate' or 'prelinguistic' sense of our feelings. Is he therefore claiming that we do have a kind of 'pre-social' consciousness and, if so, is he then agreeing with the naturalists?

⁸ It is important here not to confuse instincts with blind reflexes. They are not the same. For the behaviour of systems which operate on reflexes -- perhaps snails and worms -- is determined differently. These creatures are composed of simple biological mechanisms which are directly activated by stimuli. Such creatures are virtual machines with no recognizable capacity to respond to imports. An instinctual animal, by contrast, mediates its response. The biological processes at work here are more complex, involving at least two functions. First, the system must monitor internal and external changes; and, second, it must have an effective selection procedure for sorting out stimuli and choosing response-options. Instinct does both. It is a form of consciousness which monitors change and a set of cues that serves as a 'selection function.'

By integrating the system's states this monitoring capacity has the effect of centralizing input into the system, thus creating the need for an effective means of selecting which stimuli will be responded to and how. The fact that there is now a range of options rules out the possibility that the selection function could be based upon simple stimulus-response mechanisms. For the *immediate* nature of a reflex action excludes the possibility of selection: there is just an isolated occurrence of a stimulus and a response. Centralizing input therefore requires a less determinate selection process, say, a 'cuing' mechanism, which 'signals,' 'orients,' 'guides' or 'inclines' the system in sundry ways. This lack of rigidity, however, also introduces the risk of error. So, perhaps not surprisingly, while the integration of states achieved by centralization of input (ie, consciousness) increases options, it also creates new liabilities.

On the one hand, there are a number of places where Taylor seems to say that we don't and can't have a pre-linguistic consciousness of objects. *All* experience, he states, is constituted by interpretation, a distinctively human trait (1985: 68-75). We use language to articulate our feelings. No other animal does this. But articulation always *transforms* imports. Language not only represents our feelings, it shapes them. It is thus "essential to these emotions, indeed constitutive of them" (1985: 68). Even more unequivocally:

...it is not as though we started off with a raw material of repulsions and attractions, elans and uneases, which were then interpreted as higher and lower, elans toward some deep good, or uneases before some discreditable trait. On the contrary, human life is never without interpreted feeling: the interpretation is constitutive of the feeling (1985: 63).

Or, more recently:

What I am as a self, my identity, is essentially defined by the way things have significance for me...(and) *things have significance for me* (my italics), and the issue of my identity is worked out, only through a language of interpretation which I have come to accept as a valid articulation of these issues. To ask what a person is, in

abstraction from his or her self-interpretation, it to ask a fundamentally misguided question, one to which there couldn't in principle be an answer (1989: 34).

These remarks are typical of both Wittgensteinians and partisans of the phenomenological/hermeneutical tradition. And, as such, Taylor approves of both.⁹

But it is not quite so easy to pin down his own views on the issue. For when he describes some forms of evaluation as an "inarticulate feel" or says that we simply "weigh" one desire against another, or classes some desires as "brute," there is a nagging suspicion that something doesn't quite jibe. Even odder is his recent speculation that some of our deepest moral intuitions underlying reflective judgements, in particular, the respect for life, may not be unlike an instinct "connected perhaps with the almost universal tendency among animals to stop short of the killing of conspecifics." The suspicion that this allusion to instinct is more than just loose talk is reinforced by the further remark that "like so much else in human life, this 'instinct' receives a variable shape in human culture" (1989: 5). These comments sound a lot like the 'sophisticated naturalism' Taylor is at pains to refute.

⁹ On Wittgenstein, see 1989: 34.

In fact, I think there really is a tension here. For, if Taylor is to prevent the cornerstone of his theory of the emotions from crumbling – i.e., the thesis that feelings are grounded in imports which judgements articulate – he needs both claims. On the one hand, if imports were not immediately given in feelings, there would be nothing objective to constrain their interpretation. This is the position of the ‘post-modernist, neo-Nietzscheans,’ e.g., Derrida, that Taylor castigates. On the other hand, if the import of our feelings were simply given to introspective consciousness the way, say, Descartes suggests, then interpretation would be redundant, which would spell the end for Taylor’s thesis that it is constitutive of human subjectivity.¹⁰ To put things a little more awkwardly: Taylor can’t make us too conscious of imports or reflection will be pointless; but neither can he make us too unconscious of them, lest we become indifferent to their existence.

This tension comes into sharp focus at one point where Taylor tries to explain this claim that “interpretation is constitutive of experience.” In ‘What is Human Agency?’ Taylor, seeking to avoid post-modernist relativism, once again assures us that interpretation is not unconstrained. “(A)n articulation,” he insists, “can be wrong...We do not just speak of error but frequently also of illusion or delusion.” He continues:

¹⁰ This claim, we will recall, is crucial to his position. It is what allows him to argue, against the cruder naturalists, that normative judgements can amount to real knowledge rather than mere projections.

Our attempts to formulate what we hold important must, like descriptions, strive to be faithful to something. But what they strive to be faithful to is not an independent object with a fixed degree and manner of evidence, but rather a largely *inarticulate sense* (my emphasis) of what is of decisive importance (1985: 38).

But then in 'Self-Interpreting Animals' he cautions us against allowing "our experience of *inarticulate emotion*" (my emphasis) to obscure the truth of his claim that interpretation constitutes experience.¹¹ It would be wrong, he suggests, to conclude that the feelings we articulate, what we might call our "pre-articulate" feelings, are somehow language-independent. On the contrary, this

pre-articulate sense of our feelings is *not* language-independent. For they are the feelings of a language being, who therefore can and does say something about them, for example, that he feels something disturbing and perplexing, which baffles him, and to which he cannot give a name (1985: 74).

These passages leave one wondering whether Taylor is ultimately affirming or denying that we have a pre-linguistic sense of simple imports. The last passage

¹¹ The occasion for this comment is an attempt to show that animals such as baboons do not share human emotions. This remark is all the more interesting given Taylor's cryptic comments about instincts cited above.

is especially confusing as it can be interpreted in different ways. On the one hand, he seems to be saying that we simply *don't have* -- indeed, *couldn't have* -- a genuinely pre-articulate sense of our feelings and are misguided to think we do. In this case, 'inarticulate sense' and 'pre-articulate feelings' would not refer to an aspect of the sense or feeling of which we are somehow conscious but have not yet articulated. Presumably they refer to a sense or feeling that the existing articulation is inadequate.¹² On the other hand, he could be saying that we are in fact somehow conscious of what the articulation is striving to 'get right' (i.e., the import); but that this ambivalence just is a characteristic feature of *how* we are conscious of imports and cannot be distinguished from our attempts to articulate it.

On the face of it, these positions seem to conflict. Yet, as mentioned, Taylor seems to need both. Is he, then, simply on the verge of incoherence? I don't think so. Indeed, I am inclined to view his attempt to wrestle with this conflict as very important philosophical work. His conviction that a viable alternative to both rationalism and naturalism can be found is, I think, motivated by an important insight into the nature of practical reasoning, namely, that it is infected with a deep ontological ambiguity. In the next chapter I will explore this ontological ambiguity at length, giving my own account of its genesis. In particular, I will

¹² Of course, then we will wonder just what it is we are aware of (and how we are aware of it) that informs us of this inadequacy: inadequate with respect to what? This is discussed further below.

argue that it is what allows us, at one level, to treat hypergoods abstractly as trans-cultural universals; and, at another, as a concrete 'intuition' that is indistinguishable from our own unique history and our intimate sense of who, as individual persons, we are.

For the moment, however, I only want to bring out more clearly the nature of this 'ambiguity' and show how it is generating the conceptual tension that Taylor's analysis is struggling to articulate and resolve. I will attempt to do so by contrasting Taylor's account of moral judgement with Kant's. This will help us get a better picture of the intuitionist model of moral judgement that Taylor is developing. It will also help us evaluate the merits of Taylor's approach over Williams'. For it is in terms of their respective attempts to work out a non-Kantian theory of judgement that the strengths and weaknesses of the two positions surface most clearly.

Modern rationalism and moral judgement: the Kantian view

For Kant human subjectivity is *equivalent to self-consciousness* which, in turn, is constituted through an act of synthesis (i.e., judgement):

The objective unity of all empirical consciousness in one consciousness, that of original apperception, is thus the necessary condition of all possible perception; and [this being recognized we can prove that] the affinity of all appearances, near or remote, is a necessary consequence of a synthesis in imagination which is grounded in *a priori* rules. (1965: 145)

What makes this view so powerful is the fact that the centrepiece of the theory - judgement -- is itself explained in a simple and intuitively satisfying way as the application of universally valid rules to empirically given states. Thus the empirical person is constituted through a rule-governed, transcendental synthesis of empirical states:

...all perceptions are grounded *a priori* in pure intuition (in time, the form of their inner intuition as representations), association in pure synthesis of imagination, and empirical consciousness in pure apperception. (1965: 141)

Selfhood, self-consciousness or subjectivity, on the other hand, is the postulate of a primitive unity – the understanding -- that ‘contains’ and exercises the rules of judgement. It is, as Kant says, the ‘I think’ accompanying judgement:

That representation which can be given prior to all thought is entitled intuition. All the manifold of intuition has, therefore, a necessary relation to the ‘I think’ in the same subject in which this manifold is found. But this representation is an act of *spontaneity*, that is, it cannot be regarded as belonging to sensibility. (1965: 153)

The ‘self,’ that is, the primary unity underlying my empirical states, is quite literally the most abstract theoretical framework conceivable.¹³

In Kant’s view, self-consciousness is thus an exclusive function of the pure understanding. Unlike Taylor, he allows ‘sensible intuitions’ no normative or evaluative function. Intuitions without concepts, he famously asserts, are blind. In the absence of judgement there would, on Kant’s model, be no cognitive activity.¹⁴ Kant’s approach, we could say, is therefore ‘top down’ in that it treats the pure form of self-consciousness (the understanding) as an Archimedean point from which to derive the universally valid rules of cognition that govern and

¹³ With the exception of simple principles of logic.

¹⁴ Hence Kant’s opinion of animals is only slightly higher than that of Descartes.

constitute (human) experience. In this, Kant acknowledges his debt to Wolff:

In the execution of the plan prescribed by the critique, that is, in the future system of metaphysics, we have therefore to follow the strict method of the celebrated Wolff, the greatest of all dogmatic philosophers. He was the first to show by example...how the secure progress of a science is to be attained only through orderly establishment of principles, clear determination of concepts, insistence upon strictness of proof, and avoidance of venturesome, non-consecutive steps in our inferences. (1965: 32-33)

This ingenious and highly original version of rationalism, with its uncompromising repudiation of 'intellectual intuitions,' 'innate ideas' or any of the other epistemological devices of traditional metaphysics, ranks among the most significant intellectual achievements of the modern era. It would be difficult to exaggerate its influence.

The driving idea behind Kant's analysis is, as with so many great achievements, really quite simple: thought is judgement and judgement is the linking and applying of concepts to intuitions according to rules. The product, human experience, is thus a rule-governed synthesis determined by the forms (Categories) of pure thought. The now-orthodox view that the first task of philosophy is to construct 'theories' that set out the rules of judgement and the

conditions of adequate evidence for knowledge in different domains -- e.g., ethics, physical science, history and aesthetics -- owes much to this approach.

Taylor and Williams share at least one main criticism of Kant's rationalistic account of the self. As Kant rightly saw, if self-consciousness really can be considered 'in itself,' that is, as a pure universal independent of its connection with a particular historical situation, then we must assume that it is somehow independent of, and prior to, experience.

Pure reason is...that which contains the principles whereby we know anything about...*a priori*...

...*what here constitutes our subject-matter* is not the nature of things, which is inexhaustible, but the understanding which passes judgement on the nature of things; and this understanding, again, only in respect of its *a priori* knowledge. (1965: 60-61)

This is the basic assumption behind 'transcendental idealism.' And accepting it, as Kant, Hegel, Husserl and others in the tradition have recognized, leads one to postulate a realm of 'pure thought' underlying experience. Both Williams' interest in reviving something of the spirit of Greek philosophy and Taylor's sympathy for the hermeneutical tradition are in large part motivated by their suspicion of

the rationalism and idealism of most post-Kantian philosophy. Nevertheless, there is an important difference in the lessons they draw from it. Unlike Williams, Taylor concludes that naturalism shares a crucial assumption with this tradition and so fails to escape from it. In his view, if we are to get beyond rationalism, naturalism too must be rejected. His logic can be brought out by considering the four following theses derivable from the Kantian conception of the self:

- (1) all experience is *objective* in that it results from applying concepts to intuitions according to a rule which can (at least in principle) be made explicit;
- (2) evaluation is a function of judgement;
- (3) moral experience is conceptual;
- (4) the structure of moral experience is ahistorical.

Taken together, these theses provide an extremely powerful conceptual framework, one which makes it possible to imagine how a theoretical account -- a science -- of our basic moral principles might be achieved. These theses have had a particularly profound effect on post-Kantian moral philosophy. I will briefly explain the significance of each one in order to show how and why naturalists

ought to be counted among the heirs to this Kantian tradition.

We can explain (1) by saying that, for Kant, there is only one way in which the human mind experiences things: *objectively*, that is, mediately through concepts that have been linked by a judgement:

Judgement is...mediate knowlege of an object, that is, the representation of a representation of it. (1965: 105)

But judgement is a *rule-governed* synthesis. Hence there is always a principle (rule) underlying experience (judgement) that can be made explicit. This thesis is the soul of contemporary rationalism. Cognition is a conceptual, that is, rule-governed, synthesis. There is no place for a genuine intuitive cognition of objects.

The whole difficulty is as to how a subject can inwardly intuit itself; and this is a difficulty common to every theory. The consciousness of self (apperception) is the simple representation of the 'I', and if all that is manifold in the subject were given by the *activity of the self*, the inner intuition would be intellectual. In man this consciousness demands inner perception of the manifold which is antecedently given in the subject, and the mode in which this manifold is given in the mind must, as non-spontaneous, be entitled

sensibility. (1965. 88)

Thus we grasp things only as they are mediated by concepts and presented in judgement. It should be noted here that the ambiguity Taylor finds pervading human experience -- the way we are conscious of imports -- is simply unintelligible for Kant. He has so thoroughly identified self-consciousness with judgement that there is no place for (cognitively informed) intuitions, moral or otherwise.¹⁵ Kant thereby ensures that anything given in experience, anything of which we can be conscious, must be something that can be *thought*, i.e., the object of a judgement.

This takes us to (2), which is that evaluation is a function of judgement. The point to notice here is that rationalists and naturalists alike agree with the Kantian view that there are only two ways that things can count as 'given' in experience: either as 'principles of reason' or 'simple empirical states.'

...there are two stems of human knowledge, namely, *sensibility* and *understanding*, which perhaps spring from a common, but to us unknown, root. Through the former, objects are given to us; through

¹⁵ While Kant does find room for a 'moral sense' in his moral theory, this is not an intuitive form of knowledge. Similarly, in his aesthetics, there is a sense of the beautiful. But this is explained in a way which divests it of any intellectual content.

the latter, they are thought. (1965: 61-62)

'Principles of reason' are, by definition, principles of judgement. These days, non-controversial examples are few and far between. Even the self-evident status of basic principles of inference has been doubted. Simple empirical states, if such exist, are entirely passive and cognitively inert. That is, they present certain qualities to consciousness -- e.g., colours, shapes, feels, etc. -- but these *qualia* must then be interpreted by an act of judgement. As Descartes puts it at the end of Meditation II:

...we say that we see that wax itself, if it is present, and not that we judge it to be present from its color or shape. Whence I might conclude at once: the wax is therefore known by eyesight, and not by an inspection on the part of the mind alone...(but) what I believed I had seen with my eyes, I actually comprehend with nothing but the faculty of judgement which is in my mind. (1979, 21-2)

By way of contrast, animals have only sensory systems. So, while they have internal states or 'ideas,' there is no reflective consciousness which identifies them as its own. That requires a faculty of judgement, that is, a mind. Without it, internal states are blind causal mechanisms and the system itself a mere machine.

Point (3) says that moral experience is conceptual, that is, that value is a product of judgement. Once evaluation has been limited to judgement (i.e., the linking and applying of concepts according to a rule), moral life is firmly entrenched in the intellect. Hence Kant insists that:

...the ground of obligation must be looked for, not in the nature of man nor in the circumstances of the world in which he is placed, but solely *a priori* in concepts of reason. (1964: 57)

A science or 'theory' of moral knowledge, if it is possible at all, must begin with a framework consisting of the basic principles underlying moral judgement. The first task of moral theory, then, is to identify, systematize and justify the rules for linking and applying moral concepts. This is what I have been calling (contemporary) rationalism. But, in the current intellectual climate, there is a strong bias in favour of the assumption that value judgements originate in non-normative, empirical facts such as feelings, desires, instincts, geography, etc. Hence the rules governing moral judgement are grounded in mere 'matters of fact.' Now, as Hume says, you can't get an 'ought' from an 'is.' Hence this 'naturalist' outlook inevitably leads to doubts as to whether justification is even possible. The impending conclusion is that 'the world' does not contain a genuine moral domain.

Finally, (4) asserts that the structure of moral experience is ahistorical. In the case of rationalists the reasoning is obvious. For they argue that the moral principles guiding judgement are universal, hence they must be ahistorical. But what about naturalists? Isn't their view of moral knowledge historical? In one sense, it is. For, insofar as they maintain that the principles of moral judgement are grounded in empirical states, changes in the human condition -- whether because of evolution or socialization -- should bring about changes in our moral principles. In this sense, the naturalists' view is deeply historical.

But this is misleading. For the approach is underwritten by the same sort of ahistorical ontological framework as the Kantian account. By making the fact/value distinction basic, naturalists lock themselves into a view of the relation between subjectivity and nature that confronts them with the same choice as Kantians. Either they must argue for the existence of universal (i.e. rational) moral principles¹⁶ or they subordinate, if not reduce, values to empirical states in such a way that they become a kind of unreal 'projection' onto nature. But notice that,

¹⁶ Utilitarians, among others, fit into this group; which is why I claimed in Chapter 2 (see note 17) that, by accepting a certain view of moral agents as rational decision-makers, they were in fact part of the Kantian tradition in ethics. It is, of course, probably true that the idea precedes Kant. However, it was Kant who most fully and clearly articulated it as the now-orthodox view that: (a) judgement is the linking of concepts according to rules; and (b) that objectively valid judgements must be based upon (at least implicit) appeal to a universal and necessary rule of judgement. This, as I have already said, is the move that collapses any distinction between objective knowledge in practical and theoretical reasoning. As such, it is the soul of modern rationalism in ethics.

insofar as naturalists disagree with the Kantian approach, it is *not* his account of moral judgement that they reject. Rather, it is his claim that there actually are rationally grounded principles on which universal and necessary moral judgements can be based. The naturalists' quarrel is therefore not with Kant's claim that practical reason should be modeled on theoretical reason, but only with the extent to which moral judgements actually meet the high standards this sets for objective knowledge. By accepting the need for, while denying the existence of, universal principles of moral judgement, naturalists render claims to objective moral knowledge inherently problematic, if not incoherent. For, as Taylor is at pains to show, once one opts for a form of subjectivism that takes the fact/value distinction to be basic, one never again finds a satisfactory reason to take claims to objective moral truth seriously. They always appear as something that is based upon a 'merely subjective' feeling or value. By contrast, Taylor's justification for his claim that his own form of subjectivism is a form of realism, is grounded in his refusal to accept that the fact/value distinction is the basic one underlying the inside/outside distinction.

The limitations of sophisticated naturalism

The strategy that Williams employs -- his 'sophisticated naturalism' -- and which is supposed to save him from sliding into subjectivism, is simply to deny the need

for 'theoretical concepts' (i.e. universals) in practical reasoning. He seems to think that this move drives a conceptual wedge between theoretical and practical reason in a way that frees ethics from the thrall of rationalism. By then analyzing the relationship between reflection and practice as if the former somehow 'emerged' out of the latter, he hopes to provide an alternative account of ethical judgement and practice based upon the Wittgensteinian concept of a form of life. Sophisticated naturalism, like Taylor's intuitionism, therefore seeks to avoid the extremes of subjectivism and rationalism; in the first case, by making our participation in intersubjective practices partly constitutive of personal identity; and, in the second, by appealing to the rules established by these practices as a basis for objective ethical judgements. But, unlike Taylor, Williams does not think that the rejection of rationalism and subjectivism requires the rejection of naturalism. On the contrary, his naturalist assumptions play a key role in his argument strategy in at least two interrelated ways.

First, his conception of 'forms of life' rests upon a naturalistic account of their origins. Human 'forms of life' are, presumably, the result an evolutionary process, one that puts causally determined animal instincts at one end of a continuum and 'thick ethcial concepts' at the other. Somewhere 'in the grey area' between the two is a vague hybrid class of quasi-ethical, judgement-practices -- a kind of 'missing link' in the chain of ethical evolution -- that is close enough in nature to both instincts and values to bridge the gap between the two. The

mechanism by which this transformation is accomplished is social practice. Hence the picture of the pathway running from instinct to virtue through social practice. These practices are presumably themselves (originally) determined by the basic survival needs of the community and its members as well as the conditions in the natural environment (including individuals' biological urges and drives). The regularity and/or importance of certain of these practices establishes the community's peculiar 'form of life'.

Secondly, Williams' attempt to decouple reflection and practice seems to be based upon a parallel analysis of our own (i.e. European-North American) ethical development. Presumably, our tradition began in a set of uninformed, quasi-instinctual practices. However, as reflection emerged, we developed, little by little, a series of progressively more general ethical concepts until, finally, we arrived at the Kantian 'ought' or 'should'. Williams apparently thinks that looking at things in this way helps us to see how modern rationalism has reversed the natural order, and come to view the 'mere abstractions' of theoretical reflection as the basis of ethical practice rather than the thick ethical concepts from which they were derived. By retracing these steps, he hopes to convince us once more to reverse the order and subordinate the very general concepts of ethical reflection to particular ethical practices.

Nevertheless, in the end, Williams' attempt to overcome rationalism and avoid subjectivism seems only to show the extent to which he remains in thrall to the modern moral outlook he is at pains to reject. His reason for wanting to separate practical from theoretical reason, as I understand it, is to escape the Kantian doctrine that objective moral knowledge must be grounded in universal rules of moral judgement. If so, he is quite right to doubt that claim. Unfortunately, his naturalist assumptions blind him to the alternative that is available. Instead, they lead him to the conclusion that, if he is to vindicate the objectivity of 'thick ethical concepts', he must altogether deny the validity of universal rules. Practical reason, it seems, must be purged of any vestige of theory. Having posed the problem in a way that forces him to choose between a false dichotomy of Kantian rationalism, on the one hand, and naturalism, on the other, Williams opts for the latter, acting, presumably, on the assumption that the relativism at its core is the lesser of two evils. Unfortunately, he then finds himself employing all of his intellectual resources to stave off the disintegration of ethical life. For along with modernity comes the fragmentation of those forms of life that defined the ethical practices of closely knit, traditional communities and on which Williams' sophisticated naturalism rests.

On the other hand, Taylor, as we have seen, starts from the assumption that the existence of a class of objective moral claims based upon a system of communally defined ethical practices (i.e. a form of life) does not foreclose on the

possibility that there is also a class of objective moral judgements based upon trans-cultural (i.e. universal) principles. The task that confronts him is to explain their relation. As it stands, his attempt to find a solution is worked out in two inter-connected stages. First, by positing a class of historically emergent (but quasi-transcendent) hypergoods, Taylor makes conceptual room for the claim that objective moral judgements do not all derive from the same ontological source, that is, from the same basic good. However, if this peculiar kind of pluralism is not to collapse in on itself, he must explain how individuals can avail themselves of these heterogeneous moral sources without having their own moral world (i.e. their capacity for practical reason) degenerate into chaos. In short, he must provide us with some 'ontological space' in which independent hypergoods can co-exist. This brings us to the second step.

It is Taylor's phenomenological analysis of hypergoods that provides the clue as to the 'location' of the space we are seeking. Considered in the context of our discussion of the principle of ontological interdependence, his reflection on the nature of hypergoods suggests a novel way to understand a moral universal, namely, as an ontological category which 'holds sway' over practical reason by structuring moral space. A hypergood generates a framework (a set of 'horizons') within which the nature and limits of the self can be defined. The human agent, as Taylor says, exists in a space of questions to which this framework of definitions is the answer. (1989: 29) In other words, a hypergood amounts to a

way of drawing the inside/outside distinction. Our capacity to distinguish our self from the world, 'inner' from 'outer', is the 'mechanism' by which this space is created. (This will be further discussed in the next chapter.)

But, as Taylor clearly recognizes, making hypergoods, subjectivity and social practice all interdependent in this way requires us to abandon naturalism; or, more specifically, the ontological dogma that the fact/value distinction is the basic form of the inside/outside distinction. Accepting this interdependence amounts to an admission that the 'true nature' of the self is incorrigibly vague. What it is 'really' like depends, in part, on our point of view. In the end, the 'real world' isn't somewhere 'out there' beyond the veil of human experience; nor is it 'up there', a realm of 'pure reason' to which we can appeal in an effort to establish which principle, or form of moral judgement, is *the* 'highest' or 'right' one. There is, however, within our capacity for practical reason a deep ambiguity; a power to structure (or restructure) moral space along the lines of a hypergood. There are, then, different ways of "situating" one's self in the world. An adequate account of practical reason must expose the source of this 'ambiguity', and thereby make room for a pluralistic account of the ground of objective moral judgements. But, as we have already seen, Taylor does not think pluralism leads us into moral skepticism based upon concerns over the 'incommensurability' of frameworks. Questions over the nature of a hypergood, or the way its demands should be reconciled with conflicting ones arising from another one, are, he

maintains, essentially historical ones. Attempts to rationally resolve them will take the form of what, following Nietzsche, he calls "genealogies". These are essentially historical narratives that attempt to 'tell the story' of our collective and individual moral experience. (1989: 72) The only real criterion for sorting out which account turns out to be 'right' is, as Taylor says, the Principle of the Best Account, i.e., the one which, all things considered, makes the most sense to us.

So, if this analysis is right, the deep relativism that infects Williams' position is the result of his refusal to let go of the naturalist thesis. For all its sophistication, Williams' account remains mired in the ontological dogma that the fact/value distinction is fundamental. On the good side, Williams is sensitive to the problems that subjectivism creates for moral judgement and he tries to mitigate their effects by arguing that a shared form of life can support ethical knowledge that is not grounded in universal principles of reason. There is an important insight here. But, in the end, this 'defense' of value leaves human existence looking pretty pathetic. 'Forms of life' are like desert springs: they can sustain life; but only in small, isolated pockets. Contact with outsiders will exhaust the source or, worse, contaminate it with 'incommensurable' practices and values, spreading the spiritual plague of confusion and doubt. If indeed human culture can flourish around a form of life, it will amount to no more than a tiny oasis in a vast and threatening moral desert.

Williams' own analysis is itself an expression of the spiritual ennui now pervading the rationalist program in ethics. The repeated failure to bridge the gap between theory and practice, that is, to provide a coherent and plausible theory of moral judgement, has sapped our optimism and driven moral philosophy toward naturalism. Williams' attempt to make membership in the community the basis for simple ethical practices manages to salvage something of the integrity of ethical life, thereby mitigating the effects of the skeptical slide toward subjectivism. But his 'solution' leads to the creation of little ethical dominions under the benign rule of a form of life. He defends these sanctuaries of ethical action with the claim that all the abstract theoretical equipment that appears on the left side of the theory/practice divide is unnecessary for ethical life to flourish in a community. Unfortunately, the price he pays for hanging on to his naturalist assumptions is too dear. For in order to vindicate his account of intersubjectivity, he is forced to conclude that objective moral 'knowledge' does not rise above an uncritical -- almost habitual -- conformity to a way of life. And, when reflection and theory are reintroduced, he is driven to the dismal conclusion that modern moral philosophy is essentially a muddle. Ironically, if he is right, philosophical thought manages to overcome both tribal ignorance and dogmatic rationalism only to lapse into a morose skepticism. Williams, as they say, is caught between a rock and a hard place.

The intuitionist turn

I now want to return briefly to the four Kantian theses and say something about Taylor's relationship to them. He would, it seems, have to oppose them all. But, in essence, this really comes down to one thing: he rejects Kant's strict identification of thought and judgement. Taylor, as we have seen, invests emotions with a judgement-like function which he calls an import-ascription. While he accepts that judgement interprets imports, he denies that value is entrenched in the intellect. On the contrary. Imports *guide* value judgements. Emotions are not brute sentiments but intuitively informed cognitions. Value judgements strive to articulate their content, i.e., the ascription implicit in the import. But -- and this is the heart of Taylor's disagreement with Kant -- to say that ethical judgement is *guided* by an import is to say that *there is something more than just rules* underlying it; something that, unlike a rule, cannot be made fully explicit. That is why there is always a gap between interpretation and import, why an interpretation can never be complete.

So the alternative Taylor is proposing to naturalism rests on the claim that we have a sense of something 'in' or 'through' or 'behind' interpretation that guides it but that is distinguishable from instinct. Plato evidently held something like this when he distinguished matter from the Forms and declared that only the latter were intelligible. Likewise, Husserl seems to have had some such thing in

mind when he proposed the transcendental *epoché* as a way of distinguishing 'meaning essences' from empirical facts. But in both cases intellect was conceived as a capacity to directly 'apprehend' its ultimate object, that is, the Form or essence. On this point, Taylor's views diverge from theirs and are closer to those of Aristotle who, by distinguishing practical from theoretical reason, limited ethical reflection and argument to intuitively grounded judgements about what constituted the good, and what sort of action promoted it. By distinguishing our feelings from attempts to articulate them, Taylor has also limited our capacity to directly apprehend the ultimate objects of ethical thought (i.e., the imports). But by insisting that imports give feelings some kind of cognitive function, and so make them curiously like judgements, he has also sought to avoid relativism. Like Aristotle, Taylor is convinced that human nature is in part constituted by an intuitive moral sense – a capacity both distinct from judgement yet also like it -- that guides practical reasoning but never attains the precision and finality that both Plato and Husserl took as characteristic of all true knowledge. This 'moral sense' is essentially an inarticulate -- and, in some ways, inarticulable -- 'feel' for the inner logic of certain hypergoods, which, put in practical terms, means that we are able to 'find our way around' the various moral worlds they create. So Taylor is defending a version of what John Rawls calls *intuitionism* (Rawls 1971: 34). And, in fact, is candid about his sympathy for this ethical tradition (Taylor, 1989: 76).

It is this commitment to intuitionism that is the source of the tension I

claimed to have found in Taylor's discussions of imports (i.e., that there is, and is not, a prearticulate sense of them). For, insofar as imports are *intuitively* given, our sense of them is 'inarticulate' precisely because it is *immediate*. Insofar as they are *objects of interpretation*, they are external to consciousness which, as judgement, strives to conform to them. It is crucial to see how this approach contrasts with Kant's rationalistic conception of moral judgement. For him, this cognitive tension between import and interpretation cannot even arise. In his view, experience results from judgement and judgement is what makes us conscious of objects. Both judgement and object share the same structure and impart it to experience. Indeed, experience just is awareness of an object through judgement. There is thus no 'ambiguity' in either practical or theoretical reason because there is no gap between the rules of judgement and the object. They are different 'sides' of the same process and so share an identical structure. This account of judgement is not only behind Kant's theory of ethics, but also his theory of empirical knowledge, science and mathematics. In effect, it is this thorough-going identification of thought and judgement that results in the assimilation of practical to theoretical reason. By reintroducing the gap between moral judgement and its object (i.e. an import and its articulation) Taylor is in effect insisting against Kant that there really is a deep difference between the structure of theoretical and practical reason; and thus attempting to reclaim for practical reason its own mode of functioning. It is therefore Taylor's intuitionism, not Williams' naturalism, that succeeds in decoupling them.

Chapter 4

Liberal Autonomy and Moral Identity

Identifying the task

In the last chapter a philosophical position was argued for that was described as a form of *intuitionism* – a label meant primarily to distinguish it from modern rationalism and naturalism, both of which I traced back to the Kantian doctrine of the identification of thought and judgement. By contrast, the intuitionism sketched out was said to be grounded in a cognitive function analogous to but distinct from judgement. The main conceptual pillar of this view was Taylor's thesis that ethical judgement is guided by an import which cannot be made fully explicit.

In this chapter, I will attempt to deepen our understanding of the nature of this intuitionism. In order to do so, I must shift the focus of attention. So far, the analysis has concentrated mainly on the subjective side of the principle of ontological interdependence.¹ That is, by concentrating primarily on emotions and judgement, I have tried to work out a kind of philosophical psychology of the moral subject. One which, while it acknowledges that social practice has a central role in the creation of moral value, nevertheless concerns itself mainly with the subject's intimate relation to

¹ For a discussion of this principle, see Chapter 3.

the objects of moral judgement. Now it's time to change the point of view and begin the task of integrating the idea of social practice more directly into this account of moral judgement.

But when I speak of 'social practice,' I still have something pretty abstract in mind. My real objective is to explore the obscure claim that, in the closing pages of the last chapter, I attributed to both Aristotle and Taylor, namely, that human nature is in part constituted by an intuitive moral sense. This chapter will provide an interpretation of this claim. I propose to approach it as though talk of a 'moral sense' were an attempt to point to or express a deep but philosophically perplexing intuition that we have about our selves, an intuition about *the way* we conceive of and experience the objects of our own moral life. The source of this intuition, and the principal object of my analysis, is what I described in the last chapter as an 'ambiguity' pervading practical reason. Insofar as imports are *intuitively* given, I concluded in Chapter 3, our sense of them is 'inarticulate' precisely because it is *immediate*. Insofar as they are *objects of interpretation*, they are external to consciousness which, as judgement, strives to conform to them. I now want to take this a step further. The task of the present chapter is twofold: First, to provide enough of the rest of the emerging conceptual framework to show how this ambiguity arises; and, second, to draw out what I take to be the major implication that the intuitionist approach has for liberal theory.

The basic idea

The seminal thought behind my analysis in this chapter is this: We are conscious of our selves in (at least) two distinct ways. On the one hand, we conceive of and experience ourselves as individuals; on the other hand, we also conceive of and experience ourselves as continuous with a larger collectivity.² Each gives rise to a 'picture' of what we are as selves. But the moral logic of these pictures is fundamentally different and, in some ways, incompatible. The explanation, I maintain, is that they are generated by different *hypergoods* (see Chapter 3), which I will call, respectively, 'freedom' and 'belonging'. However, while there is a tension between these two pictures, there is nevertheless a crucial sense in which they have come to function as complementary aspects of what I referred to in Chapter 2 as our moral identity. In order to bring all this out, I will use Taylor's intuitionist account of moral judgement as a basis for separating the two pictures. Doing so not only allows us to see how they give rise to different and often conflicting patterns of practical reason, but, equally importantly, how we can reconceive our political theory in a way that allows us to better integrate them within liberal society.

On the one hand, there is the 'Kantian picture' in which we grasp ourselves as

² ² For a similar argument see Carr 1987 on the 'We' of pretheoretical discourse.

autonomous moral agents whose relation to our particular community and its values and traditions is essentially conditional and revocable. On the other hand, there is the 'communitarian' or 'historicist' picture in which we grasp 'selves' as essentially historical creatures whose moral identity is defined by our participation in a particular cultural tradition. From the historicist point of view, any attempt to conceptualize the nature of the self outside of such a tradition -- whether as a pure ego, a rational will or a metaphysical soul -- is a meaningless abstraction. The self, on this view, is 'embedded in' or 'continuous with' the community.³ Nevertheless, I will argue, both pictures are integral to the contemporary understanding of moral life. The conclusion that thrusts itself upon us is therefore that the basis of our moral identity is, as Charles Larmore (1987) puts it, heterogenous rather than monolithic. In other words, there is no theoretically coherent way to integrate these two aspects within a single comprehensive theory. However, it may well be possible -- and very useful -- to give a *philosophical account* of these different pictures that we have of ourselves as moral agents. That is, to give a clear conceptual expression to the ontological assumptions underlying the various patterns of judgement and reasoning to which they give rise.

In a sense, of course, this is what moral theories do. But given their rationalist assumptions, the main goal of theory construction is, as we saw in Chapter 3, to identify and justify general principles of moral judgement. Indeed, just to get off the ground,

³ For a critique of these arguments see Kymlicka 1991 Chapter ____.

(monolithic) theories must assume that both comprehensiveness and formal criteria for rational decision-making are, in principle, achievable. The conviction that they are is a legacy of Kantian rationalism with its peculiar assumptions about judgement -- or so I argued. Once one rejects those assumptions and moves toward the intuitionism being proposed, however, it is the category of the self rather than judgement that moves to centre-stage. Not only because, as communitarians keep reminding us, our moral commitments somehow define who we are, but because it is the peculiar genius of our own moral identity, that is, of contemporary liberalism, that it somehow succeeds in integrating these conflicting pictures by making them interdependent and complementary aspects of a unique 'form of life'. This is the story that needs to be told.

My attempt to unfold the inner logic of this identity is an attempt to understand how that integration is achieved. The key, I shall argue, lies in the peculiar 'complementarity' that has developed between these two opposing aspects and which, in my view, is the inner core of our liberal moral identity. This core is what, at bottom, generates the ambiguity that Taylor's phenomenological analysis is struggling to resolve. To opt for the proposed form of intuitionism is thus, first, to accept that our everyday moral experience transcends the reach of theoretical knowledge in a quite particular way; and, second, to accept that, conflicts notwithstanding, our liberal moral identity -- our untutored sense of who we are -- somehow integrates these opposing aspects of our 'form of life' as parts of a greater whole. For the intuitionist, then, practical reason is not

only an attempt to apply universal rules, as Kant thought, but also to 'articulate' a pretheoretical 'sense' or 'intuition' of the significance or value that many of the objects of everyday moral life have for us.

The problem, argument strategy and objectives

The following sections thus attempt to reconceptualize at an abstract level these two pictures in a way that allows us to see the roots of the deep tension between the *intimate sense* of moral *belonging* associated with terms like 'community', 'solidarity', 'national identity' and 'cultural membership' and the impartial moral logic of *concepts* associated with *freedom*, such as choice, self-determination and autonomy. The principal goal is to provide an account of the way we belong to liberal society that helps us to accommodate, if not resolve, the tension between these hypergoods.

But I also have another, more specific goal in mind. And that is to provide a philosophical basis for the claim that we said Kymlicka, in Chapter 2, needed but failed to establish, namely, that 'People *are* bound, in an important way, to their own cultural community' and that 'respecting people's own cultural membership and facilitating their transition to another culture are not equally legitimate options'. What permits me to vindicate this claim is that the intuitionist approach makes room for the (quasi-

communitarian) view that personal identity is continuous with a larger collectivity in a way that makes membership in it partly constitutive of one's capacity to act as a moral agent. That premise, it will be recalled, was invoked by Kymlicka before drawing his conclusion that individuals are bound to their own cultural communities. Unpacking the conclusion, I argued in Chapter 2, shows that at a critical point in his argument, Kymlicka crosses the line between the individualism he defends and the communitarianism he attacks.

I therefore take it as a benefit of the intuitionist approach I am defending that it conceptualizes one's moral identity as something that is internally linked to membership in a *particular* cultural community. For that is what gives the individual a very special interest in her membership in *that* community.

Now, I maintained that the central reason that Kymlicka's attempt to reconcile cultural membership with liberal individualism fails is because it regards the former as only an instrumental good, a 'context of choice', whose value lies in the range of opportunities it makes available to members of the community. In this chapter, I will argue that our moral ontology should put cultural membership on par with autonomy, that is, it should grasp *both* as hypergoods that are constitutive of our moral identity. Insofar as this is the case, it must be admitted that the position I am advancing conflicts with the tradition of 'individualism' in liberal democratic theory and so poses a

challenge to it. Hence, in Chapter 1, I spoke of the need to provide liberalism with a new moral ontology. However, as I have already said a at a number of points in this essay, my intention is not simply to reject individualism in favour of a radical communitarian ontology in which the self is constituted only by the practices, values and beliefs of the collectivity. On the contrary. My view is that 'freedom' and 'belonging' are complementary aspects of our liberal identity and that neither can be dispensed with; nor can one be reduced to the other. My aim is to sketch in a moral ontology that provides the basis for a *rapprochement* between these two hypergoods (and the philosophical camps based upon them), not to vindicate one over the other.

So the intuitionist moral ontology being developed here sets the debate between communitarians and (individualist) liberals in a new light. It suggests that their main differences are a consequence of tying their analyses too tightly to the inner logic of one or other of these two hypergoods underlying our liberal moral identity.⁴ Uncovering the ontological basis of these differences permits us, first, to clearly separate the two aspects of this identity and, second, to see how we might rethink the foundations of liberal theory in a way that better integrates the dual aspects of 'freedom' and 'belonging' at the core of our liberal identity.

⁴ Thus I argued in Chapters 1 and 2 that the debate between these two camps was essentially over their conflicting accounts of the self.]

Finally, a word on interpretation. It should be born constantly in mind that, in the following analysis, the abstract models (i.e. the 'pictures') I will examine are 'ideal types'. They represent what a moral agent would be like *if* our moral identity were in fact defined exclusively by only one of these hypergoods. As such, the models are two-dimensional and admittedly abstract. Taken in isolation, none is meant to explain the richness and multifarious "patterns of moral complexity" (as Larmore calls them) that are characteristic of real life. But it does not follow that reflection on them is vague, empty or meaningless any more than studying plane geometry is vague, empty or meaningless just because there are no ideal, two-dimensional figures in the world. On the contrary. The substantive claim being advanced here is that the rich patterns of moral judgement and reasoning in everyday life often can be modeled on these two abstract types; as can a number of philosophical theories and traditions. The hope is that by abstractly separating these divergent strands and exploring their internal logic, we will get a better idea of how they can be integrated into our moral and political life. These are, of course, controversial claims; and they may be wrong. Both Kantians and Utilitarians, for example, will presumably claim that they are. But, in the end, that issue will only be settled (if at all) by a long debate and appeal to what, following Taylor, we can call the Best Explanation Principle.

A note on terminology

In writing this chapter, it has often been necessary either to give very special meanings to existing terms or to invent new ones. In any case, I have tried to explain them as they emerge. But something should be said about the relation between what I call 'collective' as oppose to 'cultural' identity. In many ways, the two are very similar and it is sometimes hard to keep them separate. Perhaps I can best explain my attempt to do so by saying that they stand in the relation of genus and species, with 'collective identity' as the genus. Thus, insofar as I am giving an account of collective identity, I take myself to be considering what, from the point of view of moral ontology, it is to be a member of collectivities in general. Cultural groups are thus a special case of group membership and my special interest in them is explained by the important role they play in the development of what I call 'moral identity'. However, as I note in Chapter 5, there is an important sense in which membership in all sorts of groups just is one of the defining features of our liberal culture -- and here it is difficult to keep the difference between these terms from just collapsing. Still, if pressed for a narrow definition of what I mean by 'cultural identity', I would have to say that it is something close to the description I give of 'acquired' as opposed to 'autonomous' identity.

When I speak of 'moral identity', what I have in mind is something close to cultural identity. The concept is explained in Chapter 2 at the end of the section on the situated self. But when I speak of the 'liberal moral identity' I am referring to the central thesis of this chapter, namely, that 'our' moral identity, the one contemporary liberal

society is struggling to articulate, somehow integrates an 'individualist' conception of the subject as an autonomous moral agent with a 'collectivist' one of the subject as constituted by membership in a cultural community.

Acquired and autonomous identity: a first look

I will begin by jumping from the very abstract discussion of moral epistemology in the last two chapters 'down' to the level of real politics in order to briefly examine some recent developments in Quebec nationalists' views about the normative aspects of their project. The point of this section is to give us a concrete illustration of a society that for the last thirty years has been undergoing a transformation in the nature of its collective identity from what I call the *acquired* to the *autonomous*.

When acquired, a society's identity is the result of a (relatively) unreflective participation by its members in what, following Williams, we can call a 'form of life' such as that, perhaps, of 'primitive' societies. At its simplest, an acquired identity relies heavily on mechanisms like tradition, ritual and habit for consolidating and transmitting the attitudes, values, skills, knowledge and techniques required for the community's (and the individual's) survival. When a society's identity is autonomous, it is the result of a process of collective decision-making that is reflective and uncoerced. It should be

said, however, that both of these descriptions are 'limiting cases'. I take it that there are no societies with only an acquired identity just as there is presumably none with only an autonomous identity. Acquired and autonomous identities are perhaps best pictured as two extremes on a continuum. The identity of every human society (and individual) should therefore be assumed to be a mixture of both. What is important is that the 'mix' of acquired and autonomous identity varies dramatically.

Using the following example of Quebec as a point of departure, I will, in the next few sections, sketch in enough of the rest of my ontological framework to show why autonomy and cultural membership must be treated as different aspects of our liberal moral identity. This analysis will lead me back 'up' into an abstract discussion of the complementary role that these aspects must be allowed to play in establishing the relationship between the individual and the community, if both are to flourish. The analysis is guided throughout by the principle of ontological interdependence.

Quebec nationalism: from cultural conservatism to liberal perfectionism

Before the Quiet Revolution of the 1960s, French-Canadian nationalism was based upon a common language and religion and along with that a traditional way of life. French-speaking Quebec society was, in a fairly uncontroversial sense, a distinct society. During

the Quiet Revolution, this nationalism underwent a significant change. In particular, along with the modernization of Quebec society came a secularization of the nationalist culture which was accompanied by a shift in emphasis from the church to the state. This latter became the *bona fide* institutional vehicle for cultural preservation and development. But during the Quiet Revolution, Quebec nationalists still viewed the preservation and promotion of the language and cultural roots of French-speaking Quebecers as equally important goals. The creation of a modern, independent state was portrayed as a necessary step if the liberation and full flowering of French-speaking Quebec's unique historical tradition was to be achieved. The attempt to articulate this goal, however, ran into problems. For the attempt to use the powers of a modern democratic state to preserve and promote a traditional way of life easily comes into conflict with the liberal democratic values of liberty and equality on which such a state is supposed to be based.

By the 1980s two events had brought the theoretical tensions implicit in Quebec nationalism out into the open. First, the birthrate in Quebec dropped dramatically. French-Canadian Quebecers, historically among the most fertile in the industrialized world, saw their natality rate drop to one of the lowest. By the mid-70s Quebecers were not even producing enough babies to stabilize their own population. To resolve this problem -- and this is the second event -- policy-makers turned to immigration. This move was supported by Quebec's nationalist intellectuals who argued that, if their language and culture was not to be assimilated to that of the 240 million English-

speaking people around them, they would have to rely on immigration as a policy tool to shore up the falling birth-rate. The strategy was to bring in immigrants who would either already be French-speaking or who would learn French and, more importantly, make it the first language of their children.

Over the last three decades, the immigrant population of Quebec -- particularly in Montreal -- has swollen. But many, perhaps most, come not from western Europe but from third-world countries. While some of these, such as those from Haiti and Senegal, already share French with Quebecers as a mother tongue, no one pretends that they or the other immigrants from the third world share Quebecers' cultural heritage. This situation posed a stark dilemma for nationalist intellectuals and policy-makers. If the traditional goals of nationalism are accepted, namely, that the primary objective of the movement is the preservation and promotion of French-Canadians' (and later Quebecers') language *and* distinctive cultural heritage, and if both are made the basis of a vigorous public policy agenda, the result will almost certainly be the creation of an elitist cultural group within the society the promotion of whose special interests will dominate public life. There is no plausible way of rethinking liberal democratic theory that will justify that arrangement.

By-and-large liberal nationalist intellectuals in Quebec have now clearly recognized the anti-liberal implications of such an agenda and in response have turned

their attention away from the goal of using the state to preserve and promote the distinctive cultural history of a subsection of the population, namely, *les Québécois de souche*. Instead, most now look to the future rather than the past, and, more specifically, have redefined their goal as that of creating a thriving 'francophone society' in the midst of English-speaking North America. In fact, this change of emphasis amounts to a profound conceptual shift. Briefly, what has happened is that, for the purposes of public policy, the notion of *culture* has become almost indistinguishable from that of *language*. This doesn't, of course, mean that they now believe the peculiar historical experience of French-speaking Quebecers should be forgotten or ignored. Rather, it is that the primary emphasis is now on *creating something new*, namely, a vibrant francophone society which draws freely on the cultural backgrounds of all of its members without being dogmatically attached to the values, beliefs, customs or practices of any.⁵

⁵ Thus, for example, Lise Bissonette, Editor of Montreal's intellectual daily, *Le Devoir*, rebuffs in an editorial the expressions of sympathy and support coming from some well-intentioned English-speaking Canadians who claimed that, given Quebecers' cultural insecurity, their demands for more power are understandable and justified. Ms. Bissonette, evidently feeling patronized, could only reply that they had failed to understand the whole point of Quebec's demand for more autonomy. It is not to *protect* the 'distinct society' but to *develop* it. Still, the contemptuous tone of Madame Bissonette's prose seemed like a thin disguise for what was really an acute discomfort at having the views of contemporary liberal Quebec nationalists like herself identified with the defensive -- and sometimes chauvinistic -- ones of conservative populist nationalists of the past.

In a similar vein, Yves Martin, Special Advisor to *Parti Québécois* leader Jacques Parizeau, complains in a letter to American political philosopher Allan Buchanan that "there is a deep misunderstanding of the real meaning of the movement aiming at full political sovereignty for Québec." M.

In summary, the first phase of modern French-Canadian nationalism came with the modernization of Quebec society. It was characterized by the secularization of the traditional nationalism and the identification of 'the people' with a particular set of political institutions, namely, those of the National Assembly in Quebec City. The second phase, still under way, has deemphasized the unique history of French-speaking Quebeckers, made language the principal basis for membership in Quebec's 'distinct society', and put the accent on this society's 'freedom to create'. The conceptual evolution of Quebec nationalism is thus moving from a defensive and conservative doctrine concerned with preserving its past to a confident liberal one aiming to control and design its own future. Insofar as Quebeckers have in fact adopted the program of these liberal nationalists and are no longer preoccupied with merely preserving their traditional values and way of life, they have committed themselves to a new overarching goal, namely, the development of an autonomous cultural identity. Adopting such a goal, I will shortly argue, amounts to making cultural membership a 'basic value' or good on par with autonomy.

But when we say that a change in a society's 'basic values' or 'basic goals' has

Martin admits that until the Quiet Revolution Quebec nationalists concentrated their attention on preserving the language and culture, on their "*survivance*", as he puts it. But, he concludes, with the Quiet Revolution "Québec departed more and more intensely from that protective attitude and is rather engaged in a dynamic process of gaining the political powers that would ensure its development as a specific society."

occurred, what do we really mean? What does it even mean to say that a society has 'basic values'? What are they? How does it get them? And what purpose do they serve?⁶ When we look at liberal Quebec nationalists' attempt to redefine the basis of the 'distinct society' as a commitment to develop and share the French language, the underlying assumption seems to be that societies are wholes that in large part are integrated and individuated by reference to the (putative) existence of a shared identity. The principle basis for this identity is conceptualized as a set of collectively held 'basic values' that are somehow a product of the community's shared historical experience. I propose to take this assumption seriously and to attempt to work out a philosophical framework that will help us answer some of the questions about the connection between 'shared values' and 'common identity' posed above.⁷

⁶ Canadians, in particular, have made these questions the subject of intense debate and reflection. The recurrent constitutional crises over the unity of that nation have driven people from all sectors, classes and regions of the country, as well as governments, public interest organizations, academics and think-tanks, to pose and earnestly try to answer these sorts of questions. For many, the goal has been to arrive at a set of 'basic values' that will define Canada as a society and, perhaps, a nation. For our purposes, it is noteworthy that, when asked to identify these 'shared values', many people seem to turn immediately, almost intuitively, to accounts -- factual and mythical -- about what they take to be their 'shared history.' It seems to them almost a given that cultural or national identity is the product of a shared history. What, they ask, have we as a community been through together? What experience did our ancestors share and what of it, if anything, has been handed down to us?

⁷ I want to make it clear that I am neither defending nor attacking this particular claim about what constitutes the Quebec identity. Whether the reference to 'language' is right or wrong is altogether another question. I repeat that my interest is in the apparent agreement over the more general point that a society is individuated by reference to its collective identity and that this identity is

The naturalist-historicist view

Suppose that we demanded a 'philosophical justification' for this claim that societies are wholes that are individuated by a set of collectively held 'basic values', values that are somehow a product of the community's shared historical experience. What could the defenders of this view say? In fact, there seems to be a kind of motivating 'picture' of social and ethical development underlying the 'shared values' conception of collective identity. It is the stark one of humankind standing alone in the face of the elements. By eking out a living together we initiate a process that will lead to the formation of what in the last chapter we called a 'form of life'. Let's flesh this out a little further.

In a society's early stages, the development of systematic practices for harvesting the lands' resources leads to the creation of a shared economic space composed of primary industries such as hunting, fishing, agriculture, forestry and mining. The human capacity to alter and systematically extend these practices permits the community to adapt to new conditions brought about by changes in weather or animal migratory patterns, disease, famine, and exhaustion of a crucial resource, thus extending and embellishing the pattern of embroidery. Along with the development of primary industries comes a set of values, practices, customs and beliefs that have been forged in

essentially constituted by a unique system of shared values.

the often harsh conditions of the early encounter between 'the elements' and human needs. This matrix forms the basis of social and cultural life. The development of new practices and skills to solve special problems relies heavily on the entrenched beliefs and values that constitute our cultural outlook on the world, that is, our collective sense of 'how things are'.

This disposition to define the unknown in terms of the known tends to reaffirm the society's commitment to its basic values and beliefs at each new level of development. For example, one of the key tools of intellectual discovery -- analogical reasoning -- is by nature deeply conservative. Human reasoning characteristically seeks to understand the new in terms of the old by modelling the unknown on the known. In the 17th century, the Newtonian universe was likened to a great clock; in the 18th century, David Hume's postulated Principle of Association was supposed to do for psychology what the Principle of Gravity did for physics; in the following century Karl Marx portrayed history as a struggle between rich and poor; and in the first part of the 20th century, Sigmund Freud pictured the human mind as a complex system of biological energy flows and hidden chambers. On the 'picture' we are discussing, the global result of this conservative trend in social development is the formation and emergence of a 'form of life'. Presumably the claim that someone defending this thesis would want to make, then, is that, even though modern societies are multi-layered, and economically and socially diverse, a given society taken as a whole nevertheless bears

the indelible mark of the natural conditions from which it emerged. This sense of historical continuity is created by our common commitment to a system of 'basic values.' These values are the basis for the sense of solidarity and of community that members of the society share and play the major role in defining a common identity.

The general ontological picture that I have been sketching here can be called the *naturalist-historicist* thesis.⁸ It is 'naturalist' insofar as it regards the society's basic values as the causal ancestor of non-normative elements such as natural geography and the basic biological needs of its members. It is 'historicist' in that it assumes a more-or-less well defined set of collectively held 'basic values' which exert a strong and conservative influence on the on-going process of social development. In general, it can be said that the naturalist-historicist thesis treats the development of the society's matrix of basic values (and hence of its collective identity) as the result of a semi-conscious collective response⁹ to the determining conditions of geography and biologically determined basic

⁸ The account I have given is, of course, not to be taken literally. One would have to be pretty naive to think that something as complex as social development could occur in such a diagrammatic way. It should be born in mind that what I am trying to get at is the ontological *picture* which stands behind or motivates a whole family of theories about the connection between social development and moral life. As such, the account is intended to point to an intellectual standpoint or orientation to these questions. It thus aims to be schematic rather than sophisticated or complex. One could even say that I am recounting one of the myths underlying modern culture. I am not sketching a theory which draws upon it.

⁹ That is, a response that is mediated through such mechanisms as tradition, ritual, habit and custom.

needs.

If one hopes to provide a naturalistic account of moral value, one that needn't wind up undermining the conviction that there are genuine moral duties and responsibilities, then something like this line of reasoning may seem promising. For it appears to demystify moral realism by taking three decisive steps: first, it makes 'basic values' a (perhaps *the*) defining feature of cultural distinctiveness and identity; second, it makes individual participation in the life of a cultural community the necessary precondition of a human life; and, finally, it traces the causal ancestry of the community's identity (through 'basic values') back to an early encounter between 'the land' or 'nature' and basic (i.e. biological) human needs. By taking these steps, a naturalist moral theorist may think she will be able both to explain the origin and justify the existence of a collective commitment to certain 'basic values' by making their internalization a necessary condition of membership in the cultural community. Williams' position, as we saw in Chapter 3, seems to be based upon some such view.

However, the account of ethical life that goes along with this 'picture' of social development is one that tends to suppress questions about the nature and role of autonomy, whether collective or individual. By-and-large, our collective identity – our shared values or 'form of life' – is taken to be something that is passively acquired. It is the causal descendant of instinctual and biological ancestors. Individual autonomy, if

it exists at all, is assumed to be just another part of the process; one more 'value' developed along the way. It should be clear that this approach is a version of what in Chapter 3 I described as a 'pathway' leading from instinct to virtue through social practice. And historically, it has exerted a deep influence on a wide variety of philosophical traditions. Marxists, for example, have argued for a distinction between 'base and superstructure' and drawn the conclusion that moral life is a by-product of the current mode of production. Hence the key role of notions like 'ideology' and 'false consciousness'. Freudians have seen in ethical life a mechanism for protecting civil society against the explosive biological forces of the id. The set of inhibitions, norms and rules which make up the superego are assumed to be a necessary compromise between the wants of the id and the basic level of public order necessary for social life. Similarly, the 'sophisticated naturalism' of Williams, which was discussed in Chapter 3, takes the 'thick concepts' which make ethical life possible to be the result of participation in deeply rooted, semi-conscious, communal practices. The 'form of life' that evolves out of these practices is what integrates the social life of the community.

What these views all have in common, is an inability to grapple with the questions surrounding autonomy, whether individual or collective. Even Williams' view, which is the least pessimistic of the three, has the unfortunate consequence that genuine ethical life seems only to be fragmented and broken down by reflection, analysis and outside contact. For all three, ethical life is essentially a way of *reacting* to situations.

Nevertheless, one can at least say that Marx, Freud and Williams all seem to have grasped this deeper implication of their naturalist-historicist ontological assumptions. Unfortunately, as Taylor, for example, is at pains to point out, this is a lesson that most contemporary moral theorists have yet to learn.

The inside/outside distinction

Reflecting a little further on this inability to grapple with autonomy will allow us to finally get to the bottom of a problem that has been with us for some time and that has surfaced again and again over the last two chapters, namely, why it is that naturalist-historicist views cannot get beyond relativism. The problem with this approach is that the conception of identity (both personal and collective) with which it is working is one whose philosophical assumptions leave only one coherent way to understand talk about an inner and an outer aspect to moral life.¹⁰ On the naturalist-historicist view, to be a member of a moral community is to *share* certain values with the other members of that community, where 'share' means that the morally relevant features of one's identity are those which are sanctioned by the *practices* of the community. Hence the idea of 'shared values' as something rooted in social practice. Strict adherence to the logic of this model,

¹⁰ This distinction between 'inner' and 'outer' has already been discussed in some detail in both Chapters 2 and 3.

however, leads to the conclusion that the 'inner' moral life of the individual is not only continuous with, but, from the point of view of moral ontology, indistinguishable from the 'shared practices' of the community. *There simply is no criterion by which we can distinguish values from practices.* To enquire into the 'inner moral life' of such an individual is the same thing as enquiring into the moral practices of the community.

Hence, on this view, 'inside' cannot refer to a moral subject's reflective grasp of her own interests, rights, duties, values and practices as, strictly speaking, *hers*, any more than 'outside' can refer to her recognition that other independent moral agents might stand in a similar relation to their own interests, rights, duties, values and practices. That 'reflective' point of view is what is introduced with autonomy. At the level of shared values, the inside/outside distinction refers to the boundaries of the moral community as established by its shared practices. Individuals are either inside or outside of the community according to whether or not they participate in these practices. To have a recognizable moral life is just to be a member of a community, that is, to share in its practices. But this is precisely not the notion of 'inside/outside' that is appropriate to the liberal notion of autonomy. Indeed, it is almost the inverse. For moral autonomy is a way of drawing a distinction between my values and practices, on the one hand, and *my self*, on the other. It allows me to conceive of my moral integrity as something that is not dependent upon my membership in any community or my adherence to any set of interests, rights, duties, practices or values.

On the ontological assumptions underlying the naturalist-historicist model, there just isn't any theoretically consistent way to get from the shared values and practices that define its sense of the inside/outside distinction to that which is appropriate to autonomy. This is what is meant by saying that there is no "ontological criterion" for distinguishing the moral life of the individual from the practices of the community. *Autonomy* is precisely the criterion that allows that distinction to be drawn. It is the principle of moral individuation. Perhaps someone will want to reply that, if there is no 'criterion' for separating the moral life of the individual out from the practices of the community, neither is there any criterion for separating the community out from the moral life of the individuals. Why not therefore assume that it is the individual rather than the community which, for purposes of moral theory, is basic? The answer is that these 'shared values' are, by the naturalist-historicist's own admission, a product of, and sustained by, social practices. The existence of the community, therefore, is the prior condition for the existence of individual moral life. At this level, then, social practice and moral subjectivity are simply two different ways of talking about the same thing. 'Inside' and 'outside' is a way of defining the boundaries of the community, not of the individual. As such, it tells us something about the function of communities from the point of view of moral ontology, namely, that, at this level, they appear as the loci of moral action and the purveyor of moral identity. That is presumably why communitarians hold that 'shared value/practices' are the basis of collective identity. It also explains why Quebec liberal nationalists seemed to agree that identity is the key to

the individuation of the community as a whole. In short, on these ontological assumptions, a community just is a unique system of value/practices. This way of drawing and interpreting the inside/outside distinction results from a strict adherence to the ontological interdependence of social practice and subjectivity.

If autonomy is now to be introduced into this ontology, something must be added. There must be a 'mechanism' which grounds our 'capacity' to draw a distinction between our integrity as moral agents and shared value/practices. And here, the naturalist-historicist's moral ontology breaks down; for it is unable to provide such a mechanism. Social practice, as we just saw, is simply not enough. However, I do not intend to pursue here the question of what this mechanism underlying our capacity for individual autonomy is like. I don't think it's necessary for present purposes. I should say that the pursuit of that question would, I think, link us up with Taylor's question about what, ultimately, grounds hypergoods (see Chapter 3). But the only premise needed here is that such a mechanism exists, that is, that we have a capacity for autonomy. I will simply take this as a given and turn instead to the task of making two important points about that capacity.

First, it is our capacity for autonomy that permits us to take a reflective stance toward values, i.e., to draw the distinction between them and our selves and to freely choose whether or not to endorse these values. As such, it cannot be considered as just

another practice on par with those shared value/practices on which it reflects. If it were, then, from the ontological point of view, there would once again be no basis for introducing a distinction between the self and the value/practices of the community. But in that case, there would be no basis for talking about an 'individual moral will' or for treating it as a source of moral value distinct from the community. There would be no reason, in short, to treat individuals as ends-in-themselves. And that, from the point of view of moral theory, is the essence of what autonomy (and liberalism) is all about. So, whatever the mechanism behind autonomy turns out to be, our ontology mustn't equate it with a shared value/practice. In some sense, autonomy must be said to 'transcend' value/practices. This is partly what is meant by saying that it is a stance *toward* them. Moreover, the fact that autonomy is not simply a value/practice presumably helps us get a grip on why the moral obligations that follow from it appear as trans-cultural universals. For an analysis of autonomy (as Kant noted), aims at telling us something about the necessary conditions for individual moral action, not about the particular commitments that flow from a collectively constituted moral identity. Autonomy is thus what in the last chapter we called a hypergood.

Secondly, implicit in this capacity is the ability to distinguish between identity as an abstract 'thing-in-itself', that is, as the unifying principle or integrity of the system, and its substantive features. Conceiving of our selves in this way changes our perspective on the collective aspect of our identity, i.e., the shared value/practices. 'Who

I am', that is, my acquired moral and cultural identity, can now be grasped as something that is genuinely 'mine.' Moreover, it appears as something malleable, something that can be moulded and shaped without endangering my integrity as a moral agent. Grasping my self in this way invites a comparison between my own identity and a work of art. There is an interesting analogy between the two in that my moral and cultural identity now appears as something that can be created and enjoyed for its own sake, that is, as an end-in-itself. Reflection thus introduces a radically new relationship *within my self*; one between, on the one hand, the shared value/practices which I can now recognize as the substantive basis of my moral and cultural identity; and, on the other, the abstract thought of my separateness or individuality as a source of moral value and action. Our capacity to grasp ourselves in this way is the phenomenological evidence for the existence of what Kant rightly concluded was the individual moral will.

The inside/outside distinction that autonomy introduces is thus very different from that which is proper to the level of shared value/practices. From the autonomous point of view, to say that a value/practice is 'internally' held is to say that it is 'mine' in a very special sense. It is to say, not only that I endorse it, but that I regard it as something that, in principle, I could reject. In other words, it is to say that I *freely* endorse it. This is the relationship that in Chapter 2 we referred to as 'cherishing' a value/practice. From the point of view of autonomy, to say that a value/practice is 'outside' is *not*, as it was at the level of shared value/practices, to say that it is no longer

within the boundaries of my own *community of practices*. It is to say that I do not take it to be subject to my own moral will, that is, that I am not free to reject it.

So, when I said at the outset of this chapter that I propose to approach the claim that we have a 'social nature' as though it were an attempt to point to or express a deep but philosophically perplexing intuition about ourselves, an intuition about *the way* we conceive of and experience the objects of our own moral life, what I had in mind was this deep ambiguity in the ontological structure of our capacity for moral action. The capacity to draw the inside/outside distinction in these two different ways yields two very different pictures of ourselves as moral agents. The phenomenological sense of 'ambiguity' is a consequence of our capacity to shift back and forth between the two different points of view -- usually without even realizing what we have done. So, on the one hand, when I say (with Taylor) that imports are *intuitively* given, I am alluding to our capacity to directly participate or share in an established set of value/practices. But because these value/practices are, at that level, indistinguishable from what we are as moral selves, they appear to quite literally constitute our moral and cultural identity. As such, our capacity for moral action is contingent upon our being 'embedded in' or 'continuous with' the larger community that sustains them and which is the locus of our moral activity. Hence the (communitarian) claim that the self is 'constituted' by social practice. On the other hand, to say that I have a capacity to make these value/practices *objects of my own interpretation* is to treat them as something which can *belong to me as an*

individual, that is, as 'values' which I distinguish from my integrity as a moral agent and which I take to be subject to my own will in the sense that I am free to integrate them into my own *personal* identity. I am free to commit myself to them, act on them, transform them, and reject them, all through the exercise of my capacity for autonomous moral action.

It is time now to ask how what we have said about these two aspects of our moral identity links up with contemporary liberalism. I begin with an illustration.

Modernization and institutional autonomy: Collective choice vs. tradition

In the early part of this century, almost anyone living on the Canadian prairies was somehow involved in agriculture. The basic institution around which the industry and the society was built was the family farm. At that time, changes in the quality of the soil, weather patterns, farm technology, and transportation costs, affected directly and in similar ways just about everyone living in the wheat-belt between Winnipeg and Edmonton. The less diversified Prairie society was, the more its way of life was shaped by the same natural forces and boundaries shaping agriculture and the intimate relations of family and kinship that dominated life on the farm and in farming communities. But the more it now diversifies -- economically, socially and culturally -- the less relevant

these forces and boundaries and the family farm become. As diversification proceeds, not only are new patterns of life added to the social tapestry but the causal forces behind the society's economic and social organization begin to change as it comes to rely more and more on regional institutions like the legislatures, educational systems and media as the agents of change and order. Insofar as the new institutionally-based forces replace or compete with the existing ones of geography, family and tradition, the society's 'centre of gravity' -- i.e. the primary locus of those forces which shape it -- shifts away from the land, the intimate ties and relations of family and kinship, and the traditions, rituals, customs and habits that define the 'way of life' in a traditional agricultural society, and onto these institutions. As this process advances, these institutions become the loci of a new socio-political dynamic which originates from 'inside' the society. Or, to put it slightly differently, a new way of drawing the inside/outside distinction at the collective level begins to emerge.

The development of such an institutional framework introduces a new and important dimension into the model of collective identity based upon shared value/practices that I have been developing. For it permits us to set powerful social forces in motion precisely for the purpose of shaping or modifying the social structure of society. As such, these institutionally controlled forces contrast with the relatively 'blind' ones of nature, instinct, tradition, ritual and habit which underlie the naturalist-historicist model. There is an interesting analogy here between the development of such

an institutional structure and the 'mechanism' we spoke of above that grounds our capacity for individual autonomy. For the emergence of this institutional structure vastly expands the society's 'public space' and thereby its capacity for collective reflection and action. By providing a forum in which the members of the society can 'openly' debate their concerns and interests, it facilitates and encourages both. As in the case of individual autonomy, public reflection introduces a radically new relationship *within the society*; one between, on the one hand, the shared value/practices which can now be publicly recognized as the substantive basis of the community's moral and cultural identity; and, on the other, the abstract thought of its separateness or individuality as a locus of moral value and action. Publicly conceiving of their collective identity in this way thus allows the members of the society to collectively draw the equivalent of the (autonomy-based) inside/outside distinction at the collective level.¹¹ Hence their collective identity, like that of the autonomous individual, begins to appear as something which can be developed and pursued for its own sake. Undertaking to do so once again invites comparison with the creation of a work of art, but in this case the process of creation is one in which the members of the society will, ideally, jointly participate. This brings us back to the distinction which we introduced just prior to our discussion of

¹¹ I am describing this process as though the recognition by individuals that they can treat their own identity autonomously temporally precedes the analogous recognition at the collective level. In fact, this need not be, and probably isn't, the case. More likely, the two are 'dialectically' related and develop together. But, interesting as that may be, it does not affect the real point here which is that individual autonomy is *ontologically* prior. More of this below.

Quebec nationalism, i.e. that between acquired and autonomous identity. It is time to take up this distinction again.

Acquired and autonomous identity

When acquired, collective identity is the result of a (relatively) unreflective participation in a 'form' or 'way' of life such as that of the rural agricultural society alluded to above or, perhaps more obviously, of the way of life in 'primitive' societies. I say this sort of identity is acquired because its 'form' is determined by forces beyond the collective control of the community such as, e.g., the elements, basic human needs, the relations of family and kinship, tradition, ritual, habit and happenstance. At its purest, acquired identity would be essentially a means of consolidating and transmitting the attitudes, values, skills, knowledge and techniques required for the community's survival. As a community of value/practices, acquired identity can be described from two points of view: inside and outside. From the latter point of view, that is, for someone who is not a member of the community, to participate in its form of life is simply to engage in its practices. But from the former point of view, that is, for the members, this participation provides a kind of immediate access to the community's unique body of accumulated experience. It gives one a 'sense of things' and of who and what one is. It also provides a 'point of view', that is, an intuitive understanding of the appropriateness of things, of

the rightness or wrongness of behaviour, and of the norms and rules around which daily life in the community is organized. This 'sense of things' and 'point of view' constitutes the omni-present background against which individual participation in the collective life takes on a personal meaning. It is the substantive aspect of what I have been calling 'moral identity'. Sharing in the acquired identity of one's own society -- cultural membership -- is thus a normative bond between the individual and the collectivity. It motivates and gives subjective meaning to an individual's participation in social life. The society's cultural character is therefore a constitutive part of the moral identity of its members.

It is worth pursuing this a little further in order to get a sense of just how 'deep' the mechanisms underlying cultural membership go. For this reservoir of collective experience is not just a layer of basic values and beliefs which have been codified in myths, narratives, aphorisms, rules, or whatever. As Paul Connerton has emphasized (1989), the transmission of 'social memory' from generation to generation is a process that is profoundly reliant on non-cognitive, physical mechanisms such as the postures, gestures and motions surrounding culturally entrenched tendencies, practices and ritualistic patterns of behaviour. Participation in this 'bodily component' of cultural life is crucial to a full appreciation of the significance and meaning that cultural membership has for the members of a distinctive community. But this 'bodily component' is *not* something that can be codified. Rather, its acquisition is one of the basic 'life skills'

which community members 'learn' in much the same way as they 'learn' to walk, talk or use their hands, namely, by a semi-conscious blend of imitation and doing. The effects of full participation in the 'bodily level' of community life permeate all other aspects of it. For example, in some cultures, the dramatic use of one's hands in conversation permits the speaker to embellish her meaning and infuse it with a richness, sense and subtlety that, while integral to her act of communication, are nevertheless absent from the cognitive component codified by the language. From the viewpoint of those engaged in the conversation, this capacity to participate in their society's accumulated collective experience and unique systems of communication appears as a given, it is simply 'how things are for us', and constitutes for them what is quite literally a palpable sense of their shared identity and an intuitive grasp of the richness of their common past.¹²

When collective identity is autonomous, the value/practices on which it is based are the result of a process of democratic decision-making that is itself the result of a free and informed public debate. This process leads to the setting of goals, the adoption of values, and the creation of laws, policies and institutions, for the development and promotion of a sense of solidarity and a common identity among community members. So the development of an autonomous identity presupposes more than just a sophisticated institutional structure. It also requires that this be based upon a particular

¹² For discussion of this see Connerton 1989 on collective memory; also see Carr 1986 on our prethematic awareness of time.

kind of decision-making process, namely, one that is open, free, informed and democratic. For, if a society's members do not see the changes wrought by the exercise of the power of these institutions as something that is sanctioned by their own (autonomous) will, the identity which the state seeks to develop and promote will appear to them as something which is alien and imposed. In which case, the values on which it is based will not be 'cherished' in the sense already given to that word. *A collectivity has a capacity for autonomous identity to the extent that its members regard themselves as willing and able to submit to the use of state power for the purpose of modifying, rejecting or adopting 'basic values' as a result of such a process of decision-making.*¹³ It should be mentioned, however, that *sustaining* the value/practices on which an autonomous identity is based requires many of the same mechanisms as an acquired one, e.g., traditions, rituals and habits. The difference, then, is in how these value/practices originate.

Consciously developing a political culture that encourages this reflective attitude toward its own 'basic values' seems to be a unique achievement of the liberal democratic tradition. We can call the existence of a collective capacity for this sort of reflection a community's 'autonomous will' or, less grandly, its *individuality*. The positing of such a will, it should be noted, does not amount to the creation of a metaphysical entity. It

¹³ I realize that there are still all sorts of problems in trying to decide, say, what counts as 'democratic' decision-making. At the risk of sounding like I want to sidestep them, I must put them off for another day.

is merely a way of marking out and talking about the achievement of a level of individual autonomy and a form of political integration which, taken together, allow for the creation of an autonomous collective identity. This capacity therefore adds nothing new to our ontology.

Neutrality and the liberal state

There are two conclusions I want to draw from the discussion of the preceding sections. The first is that the goal of neutrality which the liberal state has aspired to with respect to the promotion of a vision of the good, insofar as this means a 'way of life' or a particular set of cultural values and practices, should be abandoned. My reasons for this are as follows.

If my account of the relation between the individual and the community is accepted, that is, if there is a genuine sense in which the moral identity of the former is 'embedded' in the latter, then participation in the value/practices of the community (i.e. its traditions, customs, rituals, rites, etc.) are partly constitutive of our capacity for moral action. Is it still plausible to argue (as classical liberal theory does) that a fairly clear and uncontroversial distinction can be made between the private realm of civil society and the public one of the state? The answer, in part, depends upon what one means by

'neutrality'. If this is taken to mean that the state should not be in the business of promoting a particular form of life, the answer is no.

If, as I have suggested, there really is an 'inner dynamic' within liberal democratic societies by which a shift in the locus of the forces underlying social organization and change is brought about, this means that, to the extent it has occurred, the exercise of institutional power has become a new source of the value/practices which define the community's common identity. As this shift proceeds, one of three things is happening. Either the traditional value/practices which provided the foundation of the society's collective identity are being broken down and (a) replaced with new ones; or (b) not being replaced at all; or (c) the exercise of institutional power is now being used as a means to preserve the traditional ones.

On the one hand, if the practices are being broken down and replaced by new ones, then the state's institutional structure is now being used, consciously or not, to develop and promote new value/practices and hence a new collective identity. On the other hand, if the practices are being broken down but not replaced, then there is a serious danger that the society will begin to fragment as the normative bonds of the traditional way of life dissolve. In order to reverse this fragmentation, there will be pressure to use the state's power to try to develop new value/practices (i.e. a common identity) which will provide stability. Finally, if the state's institutional structure is being

used as a new means to preserve the old value/practices, then, once again, it is promoting a certain identity or way of life. In short, there is no way to keep the state altogether out of the business of promoting a particular form of life.

However, it is not, I think, impossible to imagine a liberal society in which state activity is (more-or-less) limited to what, following Allen Buchanan in Chapter 1, we called the liberal thesis.¹⁴ Insofar as this involves our ability to come to agreement on a distinction between the good and the right, I am, in fact, rather optimistic. As I argued in Chapter 2, Kymlicka is right that, within liberal society, the protection (or promotion) of a particular cultural identity (what I am calling here a form or way of life) must be conditional upon its not undermining autonomy. And, as I will shortly argue, we already have a pretty good idea what that means, namely, the protection of traditional liberal rights and freedoms. The main problem with this view of neutrality, as it stands, is that such a society would probably have to be small, culturally homogenous, and have a large, relatively prosperous middle class. In other words, there would have to be few pressures for either social change or economic diversification. But, I submit, even if such were the case, we would not want to say that it was the adherence to this version of neutrality that explained the stability and prosperity of the society. On the contrary. We would conclude that it's stability is what explained its ability to adhere to this view of neutrality. More specifically, the ability to reach a consensus on the view that state action

¹⁴ That is, the view that the state should enforce the basic political and civil rights.

should be limited to those areas defined by the liberal thesis would be traced to the society's prosperity and its having a homogenous collective identity which happened to flourish under these conditions. So, if I reject the traditional liberal view of neutrality, it is not because I think it impossible to reach a consensus on a workable distinction between the good and the right.

My claim is rather that the master argument liberal theory offers for limiting the activities of the state to issues and questions of 'the right' simply begs the question. *Pace* classical liberals, there just isn't any compelling moral reason why we ought to so limit state activity and there are some very good ones why we should not. In a nutshell, as I also argued in Chapter 2 (this time against Kymlicka), liberal theory should consider cultural membership as a basic moral good that is *on par with* autonomy, i.e. as a hypergood. In other words, the promotion of a common identity should be a basic goal of liberal society. The reason for this should now be clear. Few contemporary liberal states fit the description of the one immediately above. That is, few are small, culturally homogenous groups with a large, relatively prosperous middle class. Indeed, more and more of these societies are regionally and culturally diverse, and contain large economically and socially underprivileged classes. Within such a society, there will be intense pressure on governments to use the state's power in different and often conflicting ways in order to resolve or contain the tensions arising from this diversity.

Given that this is so, why shouldn't committed liberals condone the use of the state's power in order to promote the development of a common identity or to protect the identity of, say, culturally entrenched minorities if and when it promotes stability or the overall well-being of the community? The only plausible answer that liberalism gives us returns to the distinction between the good and the right. In essence, it says that, because there is no uncontroversial way to settle disputes over the nature of the good life, the liberal state should subordinate them all to an ontologically prior commitment to respect for individual autonomy. Put into plain language, this means that individual freedom is the highest good in liberal society and so we should let each person decide for herself what the good life amounts to. But if the gist of my analysis so far has been right, then it is precisely one's participation in a community of shared value/practices that provides the basis for living a meaningful life. If then, the price one pays for autonomy is the impoverishment or fragmentation of one's community, and along with it, one's sense of belonging -- in short, if what is at stake is one's moral identity -- what is the point?

In fact, I think the liberal predisposition to affirm the right over the good is simply misplaced -- just as the communitarian one to affirm the good over the right is misplaced. The flourishing of our liberal moral identity requires a proper balance of both. The sixty-four thousand dollar question, however, is how do we strike the right balance? The key, I think, lies in the direction of what I have been calling autonomous

identity. An undertaking by the citizens of a liberal state to develop their existing (i.e. acquired) identity in an autonomous direction seems to be the only liberal way to reconcile the use of state powers for the promotion of 'the good' (in the form of a substantive moral and cultural identity) with a commitment to respecting the moral autonomy of individuals. If liberal societies refuse to commit themselves to such a project, then, as the internal pressures caused by change and diversification mount, the attempt to preserve the traditional liberal commitment to neutrality will result in one of two things. Either the moral basis for the community's existence (i.e. its acquired identity) will disintegrate, or (more likely) the value/practices of an already acquired identity will simply begin to function as a set of *de facto* norms for deciding which public policies and goals are within the bounds of that society's commitment to 'neutrality'. The result of the latter is that some dominant group unilaterally imposes its own value/practices onto minorities, immigrants, and other marginal classes, as a set of unofficial terms and standards for membership in the community.¹⁵ Insofar as this is the case, the liberal ideal of the neutrality of the state is not only a myth but an inherently illiberal one.

If liberal theory is to come to terms with this new role of the state as the

¹⁵ If we recall our discussion of the evolution of nationalist thinking in Quebec we can see that it is just this conclusion which the more progressive liberal nationalists in that province have arrived at. Their attempt to develop a new, more inclusive national identity is an attempt to come to grips with precisely this problem in a liberal and democratic way.

instrument for the creation of an autonomous collective identity, liberals will have to change the way they now look at the relation between their society and its institutions. They must accept that the role of the state is not confined to the enforcement of the basic individual civil and political rights – what we called above the ‘liberal political thesis.’ Nor will it be enough to add that it also has the task of administering social justice. The state has a positive role to play in the development of a collective identity. In short, liberals must rethink their conception of neutrality so that it is no longer understood to mean that the state’s institutions are not to be used for the promotion of controversial conceptions of the good life (i.e., a cultural identity). Neutrality must be understood to mean rather that the conception of identity which is adopted is one that has been arrived at through genuinely democratic means. That is, it must be an *autonomous* identity. Which brings me to the second of the two conclusions I wished to draw in this section. Liberal theory should sanction the use of state institutions (subject to the decision-making process described above) to promote not only an autonomous individual, but also collective, identity.

Individuals and liberal democratic communities: an analogy

If one accepts this conclusion, a question immediately poses itself. How are the limits on this expansion of the state’s role into what liberals traditionally considered a matter

of private interest to be defined?

There is both a short and a long answer to this question. The short answer is that this is to be done by drawing an analogy between the autonomy of individuals and that of the liberal democratic state. The key proposal I want to make, then, is this: We must rethink the foundations of liberal theory by incorporating into it the idea that there is an important parallel between the liberal state's institutions and individual moral autonomy, specifically, *the liberal state's institutions are the collective analogue of the 'mechanism' behind individual autonomy* which I described above. The long answer, on the other hand, is whatever we end up with after we have worked out the implications of this parallel. At the risk of sounding glib, I can only hint here at what I have in mind, how the project might proceed, and what sorts of advantages and consequences it would have. Let me begin by attempting to make the basis for the analogy a little more explicit.

First, consider what was said above about individuals: the 'mechanism' behind individual autonomy is something ontologically distinct from shared value/practices. If it were not, it could not explain our capacity to distinguish our integrity from the value/practices which in large part define substantive identity. Only after this distinction is drawn can we come to regard the development of identity as an end-in-itself. Autonomy, I said, is the *capacity* which allows this distinction to be drawn. While I did not identify the *mechanism* behind the capacity, I said that, if we assume (against, say,

Marxists and Freudeans) that the capacity is there, we will be forced to postulate the mechanism.

Now consider what I said about the collective level: at least two things are required before the development of an autonomous collective identity is possible. First, democratic decision-making must be the outcome of a free and informed public debate. Second, there must be a 'mechanism' by which the policies, laws and programs that result from the decision-making process can be introduced into the society in order to modify or prevent existing value/practices or create new ones. This mechanism, I argued, is the society's institutional infrastructure. Both of these conditions must be met before the development of an (autonomous) collective identity is possible.

When we bring this picture of the state as a mechanism for the creation of autonomous identity together with the view that the community, as a system of value/practices, provides the substantive basis for our moral identity, it seems natural, I suggest, to build on the claim that the state's institutions are the collective analogue of the mechanism behind individual autonomy, and draw a full analogy between a (liberal democratic) society and an autonomous moral subject. In other words, liberal theory should regard such a community as an individual with its own identity and integrity and therefore (at least potentially) the capacity to grasp the autonomous development of its own identity as an end-in-itself. Indeed, it is just something like this picture, I

submit, that underlies our willingness to recognize the right of self-determination of peoples and our intuitive conviction that it is a morally sound principle. In other words, if I am right, our liberal commitment to respecting the right of self-determination is grounded in an (implicit) analogy between communities as (at least potentially) autonomous moral agents and individuals.

It will be recalled that at the beginning of Chapter 1 I stated that the main task of the 'revisionist', i.e. intuitionist, ontology I would be proposing would be to explain how a collectivity could be the subject of a moral right; and, more specifically, of the right of self-determination. We can now see that the answer to that question turns on our willingness to accept two things. The first is the principle of ontological interdependence and, more specifically, the conclusions to which it has led us regarding the inside/outside distinction, namely, that there is a sense in which we are continuous with, and constituted by, the practices of the communities to which we belong. The second is that, on the strength of that distinction, we are prepared to endorse the use of an analogy between the individual and the community as the philosophical basis for our talk of a collective subject that would be the bearer of a collective right.

Let me be candid here about the difficulties of making this analogical argument. Frankly, I don't see why one couldn't just refuse to make the move, even after accepting my account of the inside/outside distinction. Essentially, my argument for making the

analogy appeals to Taylor's Best Account Principle discussed in Chapter 3. I am (rightly or wrongly) convinced that we *do* make this analogy – all the time and for lots of purposes. In particular, as I have already said, I am convinced that it is at the basis of our belief that there is something just about the claim that peoples have a right of self-determination. So, in fact, my argument in favour of the analogy is also a challenge to my critics to produce a better account. Let me explain.

As I pointed out in both Chapters 1 and 2, consequentialist arguments for the right of self-determination just don't seem to do justice to our understanding of what people who claim this right are really saying. Nor do arguments based upon individual autonomy, for the right seems to be genuinely *collective*. Kymlicka, for example, as we saw in Chapter 2, attempts to justify collective rights with a kind of individualist argument. But, if my analysis is correct, he fails precisely because he refuses to compromise the traditional individualist ontology of liberalism. The challenge I am posing to traditional liberal individualists, then, is simply to provide a convincing account of the right of self-determination that doesn't make an (analogical) appeal to a collective subject. Frankly, I doubt that such an argument will be found. Indeed, that there isn't one helps explain, I suspect, why liberals have traditionally scorned the notion of collective rights. They rightly recognized that it violates their ontological commitments. Of course, one could reply to my challenge by just denying that there is a collective right to self-determination. But who, in this post-colonial day and age, really

wants to defend that position?

Before leaving the subject, I wish to make a few more points about the use of this analogy in moral and political argument.

First, beyond providing a justification for the right of self-determination, accepting this analogy has many theoretical benefits. For one thing, it provides a framework that explains, justifies and disciplines our penchant for talking about collectivities (and, in particular, states) as though they were moral agents.¹⁶ For another, concerning Kymlicka's thesis that liberals should admit a category of collective rights (along with, or perhaps as opposed to, the bare right of self-determination), it suggests a simple and straight-forward justification which would go something like this: Just as the interests underlying a rights claim based upon our identity as individuals belong properly to the agent, the interests based upon that aspect of our identity that is continuous with the community whose practices constitute it, belong to the group. I will further explore this aspect of the analogy in the next chapter.

Second, let me make it clear that, accepting that there is a communal subject that is the bearer of a collective right *adds nothing to the ontology I have been developing*. It does

¹⁶ ¹⁶ On the importance for international relations theory of regarding states as independent actors, see e.g. Mayall 1990.

not, therefore, amount to the claim that there is a transcendent metaphysical subject, a Geist, somewhere 'out there.' Invoking the analogy is simply a principled way of expanding the compass of our moral discourse. No more, no less.

Finally, and perhaps most importantly, if we accept this analogy, it certainly does not follow that the state can do anything it wants in order to develop its existing (i.e. acquired) identity in an autonomous direction. *There is nothing totalitarian about the position I'm developing.* For if the collective identity the community aims to develop is to be *autonomous*, it must be 'cherished' by the members of the community. That is, they must regard themselves as free, in principle, to reject it. Minimally, this seems to involve a deep commitment to promoting individual autonomy. For, given that the decisions and acts of liberal democratic political institutions are autonomous only insofar as they are a vehicle through which the members of the community can exercise and express their own autonomy, the flourishing of the society's autonomous collective identity will depend on the flourishing of the autonomy of its members.

There is thus a crucial complementarity here in the relationship between a liberal society and its members. At the level of shared value/practices, it is the individuals who rely on the community to provide the substantive basis for their moral identity. But, at the level of autonomous identity, it is the state that relies on its individual members to provide the autonomy required for the development of its identity. This interdependence

requires that the policies and laws implemented by the state in the development of an autonomous identity respect all the usual checks on the exercise of its power, e.g., the rule of law, the consent of the governed, periodic democratic review of the leadership, the right of emigration, the usual political and civil rights, and the particular restraints placed upon it by its own constitution. For these are (some of) the necessary conditions that must be met in the preservation and promotion of the autonomy of its citizens. Providing the framework that allows us to conceive of the relation between members and state in terms of this peculiar complementarity is a major advantage of the moral ontology I am proposing. Looking at things this way yields a vision of liberalism as a form of life in which the flourishing of the community and the flourishing of individual freedom are interdependent. This interdependence I take to be the core of our liberal moral identity. Recognizing it is a major step toward resolving the current tensions between freedom and belonging.

But if this interdependence means that the state is still subject to all the usual constraints on the exercise of its power, what is the point of making the analogy? The answer is that it changes our way of looking at things. Perhaps dramatically. In particular, it will affect our *interpretation* of liberal democratic principles, practices and rights. For instance, if we think the development of an autonomous cultural identity is not only a legitimate end but perhaps even a duty of the liberal state, the scope of individual rights -- what, in other words, we consider a 'reasonable limit' on their

application -- may begin to look quite different. The possible implications of such a shift in outlook were discussed at length in Chapter 1 where we argued that Taylor's distinction between 'procedural' and 'substantive' liberalism, while unacceptable, was nevertheless on the right track. The claim I'm advancing here is that the moral ontology I've been developing will go a considerable distance in helping us to solve the problem we identified in Taylor's account of this distinction, namely, that it provided no clue how to distinguish 'basic rights' from 'revocable privileges' in a 'substantive' liberal society.

Working out the logic of the analogy I am proposing, I submit, would give us a handle on how to do this. For it would expand the existing normative framework of liberalism in ways that would discipline debate over, and help us evaluate claims concerning, the acceptable limits of the use of state power for the end of developing an autonomous cultural identity. We might, for example, begin by looking at the moral principles that define the rights and limits placed on individuals in the pursuit of their own private goals. By following up the analogy and thinking of the state as a moral individual, it may be possible to get some idea of what a theory of 'basic rights' would look like that accepted the premise that the rights of individuals must be balanced against the legitimate needs and aspirations of the community in the development of its own autonomous identity.

Conclusion

By way of a conclusion, I only want to repeat what was said at the outset. The models of identity which have been sketched are two-dimensional abstractions. There are presumably no societies with only an acquired identity just as there are presumably none with only an autonomous identity. The assumption here is that, while it is useful to separate out and consider the 'pictures' that it is being claimed underlie many of our patterns of moral judgement and argument, they do not exist alone. Acquired and autonomous identity are perhaps best pictured as two extremes on a continuum. Every human society (and individual) should be considered as a mixture of both. But it is clear that the 'mix' of acquired and autonomous identity varies dramatically. *Insofar as institutional autonomy has been established*, the causal chain on which the naturalist-historicist's account of the genesis of values and cultural identity depends has been interrupted. For there is a simple sense in which autonomous decision-making cannot be considered as yet another stage in the 'natural evolution' of the community. Genuine autonomy opens up the possibility that those basic values on which the community is founded could be rejected. But from the point of view of the naturalist-historicist, that would sever any connection between the community and its historical past and thus undermine the social base on which the society (and the thesis) rests.¹⁷

¹⁷ Hence Williams' dismal conclusion that reflection and outside contact will lead to the fragmentation and dissolution of self-contained ethical communities is in keeping with his assumptions.

Insofar as this is the case, the naturalist-historicist model must treat autonomous decision-making as an independent source of change, one moreover which supplants its own mechanisms of biology, geography, and traditional institutions like the family. This is *not* to say that shared values and beliefs will no longer define the society's identity; but rather that the exercise of autonomy means their content is subject (at least in some measure) to an independent mechanism which allows them to become self-shaping and self-transforming. Autonomy thus short-circuits the 'natural' causal mechanisms in the naturalist-historicist's theory of cultural development by bringing the creation of identity under the moral category of choice.

Chapter 5

Liberalism and Collectivities

1. LIBERALISM AND CULTURAL RIGHTS

Liberalism and self-determination

This chapter contains the final phase in my argument. As such, it brings me full circle and returns the discussion to the opening question of Chapter 1: Is the granting of special constitutional rights or powers for entrenched cultural minorities -- rights or powers that may override other constitutionally guaranteed rights of individuals -- compatible with liberalism taken as a political and moral theory? More generally, can the notion of collective rights be justified within a liberal democratic framework?

In one sense, the answer has already been given. If the analogy which I have drawn between individuals and liberal democratic communities is accepted, I cannot see why one would resist the further conclusion that there is a perfectly legitimate sense in which such societies ought to be considered as genuine moral agents and, as such, the bearers of rights. In particular, as I already suggested in Chapter 4, as an autonomous individual, the society can lay claim to a legitimate right not to be interfered with in the promotion of its own identity, i.e., it can

claim a right of self-determination. But two questions immediately arise.

First, given that my argument has been tied to an analysis of what I am calling the *liberal* moral identity, what about communities that are not liberal democratic? Does the analogy still apply? Or are we to draw what will strike many as the blatantly chauvinistic conclusion that the right of self-determination applies only to liberal societies?

Second, throughout the last few chapters, I have been discussing communities, forms of life, collective identities, and value/practices as though what I had in mind were relatively self-contained societies. However, as I mentioned at the end of Chapter 4 (see the section on neutrality), most contemporary liberal democratic societies (Canada is a good example) contain cultural minorities whose distinctive collective identities are 'embedded' in that of the larger society in what are often extremely complex ways. Do such groups have a right of self-determination? and, if so, how are they to exercise it without coming into conflict with other individuals and groups sharing the same territory? I now want to address these questions.

Is self-determination a 'liberal' right?

If, as I have argued, the right of self-determination really is based upon an

analogy between individuals and liberal democratic communities, does the right still apply to communities that are not liberal democratic? The answer is yes and no. Perhaps the best way to explain myself here is by looking at a case of an actual group that is claiming this right but that also denies it is part of the liberal democratic tradition. The case I have in mind is that of a major Canadian native organization, the Assembly of First Nations. Assembly leaders are claim an inherent right of self-government for their peoples. In the process, however, they at one point became engaged in a debate with the Canadian government over whether native self-government should be subject to the Canadian Charter of Rights and Freedoms, a document that constitutionally entrenches most of the traditional liberal political and civil rights. The Assembly thought maintained that it should not be, while the Canadian government insisted that it should be.

According to those who supported the Assembly's position, the real point at issue was respect for cultural differences. It is wrong, they said, for one culture to impose its traditions on another. Then the argument was made that the rights and freedoms defined by the Charter were in some way unacceptably parochial - - 'Eurocentric' -- in outlook. The Canadian Charter, it was said, may contain a good 'formulation' of universal rights for 'our' society, but it is not our place to decide whether it serves the interests of native ones.

The Assembly's Grand Chief, Ovide Mercredi, gave the following example: the democratic rights set out in ss. 3 and 4 of the Charter¹ may conflict with traditional native practices. He cites the Mohawk's traditional practice of having tribal leaders chosen by 'clan mothers'. Mr. Mercredi feared that, if native self-government were subject to the Charter, the courts might find this practice inconsistent with ss. 3 and 4. But, he replied, who are we (i.e. non-native society) to tell Mohawks not to use this method of leadership selection, if that is what their people want?

In evaluating this argument, there are, I think, really two questions that need answering here. First, if natives do have a legitimate claim to some form of autonomy, what is the moral basis of that claim? Second, how, if at all, do we establish its limits?

There seemed to be two master arguments advanced by natives in support of their claim to autonomy. First, natives claimed that they were never consulted regarding, nor did they consent to, the original pact of Canadian Confederation in 1867. Therefore, presumably on the assumption that the state had no legitimate authority without the consent of the governed, they concluded that the Canadian government was a colonial one and that they had no moral obligation to submit

¹ These sections guarantee Canadian citizens the right, first, to vote in national elections and stand for election in them; and, second, that a national election will be held at least once every five years.

themselves to its laws and authority. We can call this the *contractualist* argument.

The second line of argument that one often heard from Native leaders alluded to the long history their peoples have shared together as communities. It goes on to remind us of the (undeniable) distinctiveness of the cultural traditions they have evolved over thousands of years. Natives pointed out that these traditions and practices constitute 'ways of life' that are separate from non-native society and that are the basis of their unique cultural identities; their sense of who and what they are. Finally, they concluded that this makes them into *peoples*; and peoples, they reminded us, have an inherent right to self-determination. We can call this the *historicist* argument. While I will say a word about the contractualist argument, it is really the historicist one that I want to discuss here.

The historicist argument: are natives liberals?

First, I have no wish to deny that moral and political ties, rights and duties between peoples (or individuals) can arise or be abrogated by agreement. Nor do I wish to challenge natives' claim that, having been left out of the negotiations leading up to the Confederation agreement, they do not stand in the same moral relationship to the Canadian state as, say, the descendants of United Empire Loyalists. But surely no one thinks that it is this failure to include them in the

negotiations that is the moral basis of their right to autonomy. It could, of course, *affect* such a right. But, if we are to accept that natives *ought* to have been invited to sit down *as a people* at the time of Canadian Confederation in 1867 to have negotiated their own terms of union, it is presumably because we think they were already in possession of the right of self-determination. What then is the source of the right?

I have, of course, already given my answer (see Chapter 4). And, as I argued at length, it is, first, intimately linked to the defense of a liberal conception of individual autonomy; and, second, dependent upon the use of an analogy. More specifically, I maintain that basic 'human rights' must be understood as transcultural universals. In my view, an adequate justification for both the particular set of rights on the list, and the further claim that they are universals, requires a defence of the fundamental liberal principle of respect for persons, where 'persons' will be explained in terms of a potential for moral autonomy. Basic human rights, I argued, are the conditions necessary to protect individual autonomy. In a nutshell, I argued in Chapter 4 that 'freedom' is what Taylor calls a hypergood.

On the other hand, I also explicitly criticized the traditional ontology on which liberalism as a moral and political doctrine is based. I agree with communitarians that it is too individualistic and too rationalistic. Indeed, the main

purpose of this essay has been to try to correct this one-sidedness by integrating 'individualism' with a more 'collectivist' outlook, one that takes, for example, the Wittgensteinian concept of a 'form of life' every bit as seriously as the Kantian one of autonomy. This led me to put the substantive aspect of what I have been calling our liberal moral identity on par with the abstract aspect of autonomy. In short, to make 'belonging' a hypergood. The result is a moral ontology that is 'heterogenous' rather than 'monolithic', and 'intuitionist' rather than 'rationalist'. But it is the master concept behind this ontology -- that of a liberal moral identity -- that is the whole of which these hypergoods are parts. So insofar as the position I am advancing gives new political legitimacy to demands based upon 'forms of life' or 'cultural membership' or 'collective identity', it is to the master concept of the liberal moral identity that one must appeal for justification. For that is what the crucial analogical argument made in Chapter 4 is based upon. If liberalism must therefore open itself up to various forms of 'belonging' and begin to ask what implications this has for moral and political theory, so, I maintain, must conservative, tradition-bound societies which want to claim a right to self-determination open up to various forms of individual freedom and begin to ask what implications this has for their moral and political traditions. The grand conclusion I want to draw, then, is just that 'the good life' combines freedom with belonging and that the liberal state has a role to play in promoting both.

Now, given that the moral framework I have been sketching, and that I would invoke to explain and justify concepts like 'human rights' and 'moral autonomy', has its roots in the European philosophical tradition of the Enlightenment, I see nothing chauvinistic about advocating that liberalism should be considered an integral part of any transcultural moral doctrine -- any more than I think it chauvinistic to advocate that the experimental method should be an integral part of any trans-cultural doctrine of medical science. Thus, even though I claim that human rights are universals, I have argued that the ultimate source of their justification is the 'Kantian' picture of the self, and that this 'picture' is an integral part of the *liberal* moral identity. In this respect, then, I am a liberal and I think others should be too.

In the absence of a more explicit justification from Natives as to why we should agree that their distinct cultural identity grounds a collective right to autonomy, I want to suggest that it is in fact a picture something like my own that is behind their claim. In other words, if they were to work out ('articulate', as Taylor would say) the logic of their own intuitions, the resulting justification would include, first, an appeal to the rights which individual members of Native communities are due *as autonomous persons*; and, second, an analogy of some sort between the need to protect the autonomous moral identity of these individuals

and that of their community.² If I am correct, there is a subtle irony here. For it means that Native leaders' master argument to protect their cultural identity from complete assimilation to our European-based one would in fact be built on key concepts from the European philosophical and moral tradition. Insofar as this were true, they would be liberals despite themselves.³

What evidence do I have that they do, in fact, think this way? In fact, I think there is very strong evidence for this conclusion. Chief Mecredi, for example, often reminds us that he is committed to respecting 'human rights'. His task as a native leader, he says, is to strike the right balance between the rights of the community and those of the individual. Thus in a recent speech he is quoted as saying: 'The only way we (Natives) are going to enjoy our human rights is if we protect our collective rights.' So he seems to agree that the commitment to respect 'basic' or 'human' rights transcends cultural boundaries.

² I certainly don't exclude that there would be a lot of other important concerns and arguments advanced in the process, in particular, arguments about the welfare of members of Native communities. I'm only contending that, insofar as their master argument involves the claim to an *inherent right* to self-government, the justification would involve a crucial appeal to respect for individual autonomy and something like my proposed analogy.

³ I hasten to add that this would not be, in my view, either a bad thing or a flaw in their argument. On the contrary. I think there is something deeply right about their position and their argument -- both of which, it should now be obvious, I take to be not only consistent with, but evidence for the correctness of, my account of the liberal moral identity. For, as we saw, it makes a community's interest in its cultural identity a morally and politically potent one. I will return to this shortly.

The real issue, it seems, is over what counts as a 'basic right'.

In fact, even this issue may not be as controversial as it seems. Notice, for example, that in Mr. Mecredi's defence of the Mohawk's clan mother system (see above) he adds the rider 'if that is what the people want'. But by doing so, Mr. Mecredi is tacitly appealing to one of the two 'basic rights' embodied in ss. 3 and 4 of the Canadian Charter, namely, the Consent of the Governed. Now I am not a specialist in native history, but I doubt that most of the traditional systems of leadership selection in native societies were subject to this condition. By suggesting that they should be, Mr. Mecredi may in effect be calling for a liberal democratic revolution. If he also agreed that this consent should be subject to periodic review by the people living under it (the second condition set out in the Charter), I doubt many liberals would take exception to the use of traditional native leadership selection practices.⁴ Moreover, I suspect that a serious, non-confrontational discussion with native leaders about the kind of society they want would reveal that they are in fact committed to most of the same 'basic individual rights' as 'we' are, e.g., the rule of law, consent of the governed, the right of emigration, freedom of association, speech and conscience, and the equality of men and women. After all, which native leaders would ask their people to

⁴ In their debate with the Canadian government over whether or not native self-government should be subject to the Canadian Charter, the Assembly of First Nations (along with three other major native organizations) finally agree to the government's demand.

support a form of self-government which was not committed to these rights?

It is worth adding here that the 'liberal' direction in which my argument is heading is supported by recent trends in international law and relations. Traditionally, the approach that governed United Nations policy and that of most national governments (at least officially) was based upon the principle of the Inviolability of National Borders. Consistent with the theologically inspired conception of sovereignty that emerged with the nation state, the basic idea was that what governments did within their own borders was their own business. However, in recent years there has been increasing support for the view that the principle of Respect for Persons (in the form of a catalogue of basic human rights) provides a justification for overriding the inviolability of borders principle. Thus, when gross human rights abuses are occurring within a nation's borders, more and more political leaders (and citizens) are not only scandalized, but inclined to draw the conclusion that direct intervention, say, by a U.N. task force, is appropriate -- indeed, a moral duty. The fact that this view is gaining support in all parts of the world suggests that there is something about Respect for Persons (and hence about human rights) that transcends cultural boundaries and strikes more and more people from all kinds of backgrounds as somehow universal.

Nevertheless (to return to the Canadian context), as Chief Mcredi rightly points out, when it comes to providing a 'formulation' of basic rights in a manner

that respects cultural differences, there remain serious differences. And it is certainly true that the Canadian Charter sometimes formulates these rights in a culturally specific way. There is no reason, for example, that the democratic rights in ss. 3 and 4 must be tied to the traditional practices of parliamentary government rather than, say, a clan mother system. But there may be a number of ways to resolve problems of 'parochialness'. One possibility is to insert an interpretive clause into a rights document like the Canadian Charter that recognizes the cultural distinctiveness of Native societies and specifically instructs the courts to make the 'basic right' consistent with the traditions and needs of their culture. Thus the clan mother system, subject to the consent of the governed and periodic review, would presumably conform to the demands of the 'basic rights' set out in the Canadian Charter. Of course, this still leaves us with the question of who would do the interpreting. In the Canadian case, one solution would be to guarantee native peoples some representation on the Supreme Court. Another option would be to construct a 'parallel charter' that guarantees the 'basic rights' of Natives but formulates them in a manner consistent with their cultural heritage. And there are other possibilities.

But the real point that needs to be made here is that the whole debate over whether or not basic liberal rights are 'Eurocentric' is a bit of a red herring. I said above with respect to the contractualist argument that I have no wish to deny that moral and political ties, rights and duties between peoples (or individuals) can

arise or be abrogated by agreement. And I do not. But the question we need to ask is this: Is agreement the only source of them? I doubt that it is. And, indeed, for an argument to the contrary, we need go no further than the 'historicist' one advanced by Natives themselves in defence of their claim to a right to autonomy.

The real force of that argument, I take it, derives from the claim that moral and political ties, rights and duties are engendered by sharing a common history. Sharing a history, as I argued in Chapter 4, is what creates a moral identity, a 'form of life'. It is the source of our 'particular' moral commitments, as I called them in Chapter 3. We need to ask, then, whether the 500 years in which non-native Canadians have shared the northern half of the North American continent with native peoples has engendered any ties, rights and duties either between natives and non-natives, or between the members of either of these groups? Put slightly differently, even if we admit that native peoples' moral identities or 'forms of life' were 'incommensurable' with those of the Europeans who landed in North America with Columbus, is it plausible to insist that they have remained so?

Quite frankly, I don't see how anyone could ingenuously defend that position. White society, in particular, has had an enormous impact on native life - - mainly for the worse -- and, I want to argue, on the nature of native peoples' cultural identity. What I want to suggest, is that there is a very important point

at which *our cultural identities now intersect*. The fact is that most members of native communities now share in what I have been calling the liberal moral identity. That is, on the one hand, they believe that their unique cultural identity is a constitutive part of their personal identity; but, on the other, they also accept that this identity must be made to conform to the principle of respect for persons. Once one accepts this latter principle, however, I do not see how you can avoid buying into a whole package of rights, i.e., all (or most) of the civil, political and democratic rights which liberals argue are essential to the protection and promotion of personal freedom. Presumably, this is what explains Chief Mcredi's commitment to respecting human rights. However, it is crucial to note here that, if we accept appeals to cultural identity as a legitimate basis for legal, moral or political arguments, we will significantly affect how the *scope* of these basic rights will be determined in different cultural communities.

Thus it may very well be the case that, say, certain traditional values in Inuit society will lead its people (and judges) to conclude that preventing Practice X is a 'reasonable limit' on the freedom of expression, while in, say, Mohawk society it is not. But I see no reason at all that this should be considered an embarrassing consequence. On the contrary. If anything can be said with confidence about the history of liberal rights, it is that their scope has changed over time along with the beliefs, practices and values of the society, as well as being interpreted differently in different societies at the same time. Indeed,

recognition of the role cultural values play in determining the scope of rights is one of the reasons the Canadian Charter (unlike the American Bill of Rights) includes in s. 1 a clause explicitly instructing the courts to take into consideration arguments meant to establish "reasonable limits" when determining a right's scope. Assuming then that the differences in application of these basic rights would remain within what are, broadly speaking, tolerable limits, having 'different' (i.e. differently applied) basic rights in different communities within the same country may be perfectly reasonable.

Insofar as this consequence is to be understood as a vindication of the claim that an appeal to collective cultural rights can sometimes justify overriding the constitutionally entrenched rights of individuals (which is the question posed at the outset), I find it both admissible and fully consistent with liberalism, at least the brand I am defending. This brings me, at last, to the question of collective cultural rights.

The rights of cultural membership

Insofar as the systems of value/practices on which a cultural group's distinctive cultural identities rest are unique and distinguishable from that of the larger one in which they are embedded, I maintain that there exists a basis for the

development of an autonomous collective identity. I further take it to be a consequence of my argument that such entrenched cultural minority groups have at least a *prima facie* right not to be interfered with in the creation of institutions, ranging from schools to semi-autonomous governments, for the (autonomous) development of that identity.⁵

So stated, this conclusion gives rise to another, more specific class of collective rights that, while they are distinguishable from the 'bare' or 'unqualified' right of self-determination, are perhaps best understood as furnishing the substantive component of that claim. For insofar as the substantive identity of the group is constituted by a system of shared value/practices, it will have, like an individual, specific needs that will have to be met and interests that may need to be protected if the autonomous development of its identity is to be undertaken. I call these substantive rights the *rights of cultural membership* because they are grounded in the specific needs and interests that flow from a cultural group's unique historical identity and situation. As such they are to be contrasted with the 'bare right' of self-determination which flows from a community's

⁵ Of course, there are lots of reasons why such a right's claim could be denied or sharply circumscribed. For example, if the community in question is made up of immigrants, it may have been a condition of their entry into the country that they agreed to forfeit the right to make certain collective claims based upon their common cultural identity. Or, if the development of that identity interferes in important ways with that of other groups or individuals in the society, this may also be grounds for limiting or even denying the right. But, insofar as the claim is free of such overriding reasons, we are left with the question: What does such a right amount to?

abstract status as a (potentially) autonomous individual. Given that the claims to autonomy which these rights advance are relatively limited and justified by the special needs of an entrenched cultural community, we can speak of them as 'forms' of self-determination. Three different examples may help to clarify this.

First, the claim made by the Native Council of Canada, a native organization representing many non-status indians⁶ based upon the inherent right of self-government of native peoples, that non-status Indians concentrated in urban centres should be granted control over the administration of some services, such as hospitals and education, for the members of their community.

Second, the case of language protection in Quebec presents an interestingly different kind of cultural rights claim. If we accept the claim of Quebec liberal nationalists discussed in the last chapter, namely, that Quebeckers have embarked on a collective project of creating a thriving francophone society within North America, the vitality of the French language will obviously be a precondition of the flourishing of that society. Given the crucial role which the language has in the development of this autonomous identity, special powers or measures may sometimes be needed to ensure its flourishing.

⁶ A non-status indian is one who lives off-reserve and has no legal entitlement to the benefits of those living on reserves.

Third, the Canadian government's official policies of bilingualism and multi-culturalism are also based on the recognition that the state has a duty to respond positively to the cultural needs of minority groups. The former ensures members of one of one of Canada's two official-language minority groups (French- and English-speaking) that they will receive services from the federal government in any part of the country in their native language. Among other things, the latter sponsors programs that promote the ethnic diversity of Canada's immigrant communities.

My attempt to integrate liberal individualism and collectivism can be seen as the first step in a much larger project aimed at putting some limits on the concept of cultural identity. The philosophical framework I propose introduces some order and discipline into the debate by setting limits to the kinds of claims that can be advanced in the name of cultural identity. My insistence that the terms of native self-government should include an explicit commitment to promote 'basic rights' is one step in that direction. Still, I fully recognize the limits of my analysis. It does, I think, allow us to see why collective identity is important and why collectivities can be the bearers of rights. However, it does not provide more than general principles to guide debate over collective rights claims. But that is not a fault of the analysis. Providing more specific answers to the questions surrounding this task is not the work of moral ontology. Progress on that issue will require a much larger and more interdisciplinary approach,

involving (at least) law, the humanities and the social sciences.

As for the prospects for success, I believe there are grounds for optimism. We do, after all, have some pretty good intuitions about what kinds of claims count as plausible and what kinds don't. There is no obvious reason that the basis of these cannot be more-or-less systematically worked out. In part, this would come from looking at lots of different claims to see what is being advanced, what kinds of things count as overriding reasons, when claims seems to interfere 'intolerably' with someone else's rights, what sorts of institutions and powers seem to be essential to promoting cultural identity, etc. Finally, process also has a crucial role to play. Legitimate claims that are very substantial, like the native demand for self-government, must be the subject of negotiations between governments and the cultural group. This process would therefore also have to be the subject of careful scrutiny and experiments with design in order to ensure that it facilitates resolution rather than leading to deadlock.

2. LIBERALISM AND COLLECTIVE RIGHTS

Two objections to the project

There are many who will reject outright – perhaps even be horrified by -- the

position I have been advancing. There is no point in denying that the liberalism I am contemplating challenges many orthodox views about liberal politics and liberal society. Nor do I take these implications lightly. Nevertheless, liberalism seems to me to be at a crossroads. We need to rethink its foundations. In particular, we need to address the question of nationalism. Liberal opposition to granting cultural groups a political status and rights has traditionally been rooted in two fears. First, that these groups would use them as a justification for illegitimately restricting the liberty of individuals; and second, that allowing collectivities to have rights would simply open the flood gates to all sorts of similar claims from all sorts of groups – cultural and otherwise – thereby making the already complicated task of ‘balancing’ rights unmanageably complex. Before ending this chapter, I want to make a few brief comments on each of these.

Liberalism and nationalism

Many liberals regard cultural nationalism as the natural enemy of liberal society. I do not share this view. Nor do I regard nationalism as inherently illiberal. While the fear of cultural nationalism is understandable, particularly in the aftermath of World War II, the time has come for liberalism to make peace with it. Human thought and judgement, as I said at the end of Chapter 1, are deeply enmeshed in powerful, primitive, sometimes irrational feelings. Liberalism must come to

terms with this. In particular, it must allow us to see nationalism for what it is, namely, an expression of the basic human feeling that who one is -- in particular, what I have been calling one's 'moral identity' -- is partly constituted by a sense of belonging to, or having a place in, a community. The failure to understand nationalism is simply one consequence of the deeper failure to understand the fundamental -- one might even say 'existential' -- human need *to belong*. Liberalism must make room for the legitimate expression, and even promotion, of this sentiment, rather than trying to eradicate it. The real question is, how? The first step toward an answer, I have suggested, is to overhaul the individualist moral ontology in a way that helps (rather than hinders) our understanding of how 'belonging' fits into the picture of moral life.

The 'explosion' of claims

As for the fear that, once we grant some collectivities rights, they will all want them, this concern may be exaggerated. The attempt to have these rights legally protected will be controlled by three things: first, the 'groundrules' for legitimate political activity which have been negotiated and set out in a society's particular constitution; second, the democratic process; and, finally, by a combination of the rough criteria and fairly well defined intuitions which we already have concerning what constitutes a legitimate claim for a group right. Regarding the

latter, consider, for example, how in Canada almost no one still denies the justice of aboriginal peoples' claim to a right to self-government (though there are certainly divergences over the scope of that right). The reason is clear enough. Almost no one denies that aboriginal peoples have a distinct cultural tradition, that the flourishing of their cultures is important to the well-being of their peoples, that promoting these special interests should be largely left in the hands of natives themselves, and that the nature and scope of the powers associated with self-government should be (at least) adequate to the task of ensuring that native peoples will be able to preserve and promote their distinctive cultural heritage. The point to note here is that the claim to an inherent right of self-government that is being collectively advanced by natives, when tempered with principled questions about the scope of that claim, implies that they have a just claim to control over those affairs that affect their cultural tradition and the special needs associated with preserving and promoting it. In short, a collective right, say, to self-government, even if just, doesn't give the group *carte blanche* to do whatever it wants any more than the view that freedom is a basic human right gives individuals *carte blanche* to do whatever they want. Before either right has any real political significance, its scope must be determined. And when it comes to sorting this out, we are not in the dark. We already have pretty good intuitions about what sorts of things count as legitimate claims and what sorts don't. And there is good reason to think that these intuitions can be worked out in a fairly systematic way. If so, this would already put a strong brake on spurious claims

to collective rights.

Secondly, the democratic process itself would help to suppress illegitimate claims. For in order to have an interest legally protected by the creation of a right, a group would have to convince its government that its claim was just. But, if the claim was quite evidently unsubstantiated, it probably wouldn't get off the ground. For example, the claimants would probably receive little support from the media or public interest groups; they would have a hard time attracting the attention of legislators, who prefer to occupy themselves with issues and claims which are judged to be important in the public eye; they would have a hard time raising funds to promote their concerns; etc. So, in conclusion, I think it is reasonable to say that the democratic process itself also provides a check on the advancement of illegitimate claims.

Finally, one of the things that a country's constitution should do, is to set out the basic terms or membership in the society in a way that sets the 'groundrules' for how the various subgroups can attempt to advance their particular interests and develop their distinctive identities.

Liberalism and group rights

Before leaving this issue, it is in order to reflect briefly on a slightly different side

of this issue, namely, the question of how, if at all, collective rights apply to some other kinds of groups. Traditionally, the sense of belonging was provided by one's membership in a closely knit cultural group with a well defined system of shared values. In contemporary liberal democratic societies, however, the homogeneity of one's cultural community has often been greatly diluted so that, in many cases, it no longer contains a single (relatively) coherent set of core values. And, even if it did, these 'core values' probably couldn't be 'shared' by the majority of the community's members for the simple reason that contemporary societies are too large, diversified and complex to expect most members to develop an intimate acquaintance with even the major aspects of cultural life.

In large part, this dilution of cultural uniformity is a consequence of the centrifugal forces set in motion by the specialization that accompanies the economic, social and cultural diversification of contemporary liberal societies. Without counterbalancing centripetal ones, these forces would threaten to fragment liberal society. Fortunately, the process of diversification seems to contain a kind of internal corrective mechanism. For along with diversification has come a new network of subgroups. We might call them 'mini-cultures' for in some ways they play the same role which tightly knit cultural communities served in the past. That is, by uniting individuals around a shared interest, need, belief, value or goal, they create a sense of solidarity or belonging.

In my view, the formation of such groups should be considered an integral part of the culture of modern liberal democratic societies; and membership in them an integral part of our collective cultural identity. Note that this is not only because the particular values or goals that such groups are designed to promote are often 'basic cultural values', but, equally importantly, the forms of activity and association which membership in such groups requires are often quintessentially liberal ones, that is, they promote individual autonomy and the respect for liberal democratic values. Membership in such groups is therefore as important to the flourishing of liberal democratic societies as is the attainment of many of the particular goals that are promoted. Finally, it should be mentioned that, given that individual citizens are often members of a number of such groups, the result is a vast and extremely complex network of such relations. As a central component in the cultural identity of the society, this network plays a crucial role in offsetting the centripetal forces set in motion by diversification.

While these ideas have remained submerged throughout the discussion of cultural identity, they were nevertheless always close to the surface. Indeed, one of the underlying assumptions of my analysis is that the cultural identity of liberal society is becoming more and more intertwined with the existence of such groups. Insofar as that is so, what I have said about the political and moral status of the more traditional kinds of cultural groups -- i.e. that they often have unique interests which require protection in the form of a regime of rights -- may well

apply to some of these groups too. Hence in Canada, for example, advocates for womens' groups, the disabled and the poor have all argued that their constituencies have a legitimate claim to group representation in a reformed Senate. I accept that such claims have at least a *prima facie* legitimacy.

In response to the fear that 'every group in existence will soon demand political rights', I can only reply in more-or-less the same way I have already replied to the charge that admitting a category of collective cultural rights would lead to an explosion of such claims, namely, that the criteria which could be gleaned from a systematic investigation of what constitutes a legitimate claim, working in tandem with the groundrules set out by a particular constitution and the democratic process itself, should be adequate to the task of keeping the situation under control. Of course, I could be wrong. And I certainly accept that, at the very least, admitting these kinds of claims will complicate and change our politics. But it is far from clear that it will make them unworkable. That remains to be seen. In any event, to those who will criticize me for taking this step, I pose only one question: Is there an adequate way of conceiving of liberalism which avoids the question of collective rights? I personally doubt that there is. And the status quo, that is, a form of liberalism which recognizes only individual rights is, as far as I can tell, hopelessly inadequate to the political challenges now facing liberal democracy in much of the world. Here in Canada, for example, where we have been forced to face and debate these questions at length, there are very few

who still want to deny that, say, aboriginal peoples have some sort of just claim to certain special rights and privileges designed to protect their cultural identity. A similar debate is, I believe, taking shape in many other countries which either already are, or aspire to become, liberal democratic societies, including many African and East European countries. I further suspect that as the European Community reaches a more advanced stage of integration, it too will face serious questions about the special needs and rights of the different cultural groups which make it up.

Conclusion

In conclusion, whether we wish it or not, the issue of collective rights is being thrust to the fore of political theory. Liberalism as a moral and political philosophy simply cannot continue to argue for state neutrality on questions associated with the human need to belong, that is, the need for what I have been variously calling a form of life, sense of solidarity, cultural membership, a cultural identity, and a collective identity. In particular, liberals must accept, first, that the promotion of such an identity, when democratically pursued, is a legitimate end of state policy; and second, that such an identity can serve as an adequate ground for the creation of rights. If we fail to come to terms with this problem, we risk seeing liberalism get swallowed up by the tide of history.

Appendix

The Collective Rights Debate: Some Arguments and Distinctions

1. Introduction

As a topic in political theory, the collective rights issue is an extremely diffuse one. The debate ranges over a number of complex and often confusing issues, arguments and distinctions.¹ Not only is opinion divided over what sort of rights exist at the moral level; there is a further divergence of opinion over what implications these rights have at the legal level. Further, it may not be enough just to distinguish the moral from the legal level. Consideration of the different functions of constitutional and statute law may lead one to different conclusions about the role of collective rights at the legal level.

This paper examines some of the ways in which the distinction between the moral and legal levels is viewed, as well as the proposed justificatory relationships between them. The paper is both analytical and constructive. First, it considers some key distinctions and arguments that have been advanced; and, second, it attempts to bring them together in a way that sheds some new light on the claim that there exist collective

¹ For identification and discussion of some of the issues, see Hartney 1991; and Kymlicka 1992.

moral rights which sometimes justify the creation of collective legal rights.

2. Legal vs. Moral Rights

A number of commentators make a distinction between legal and moral rights.² Ian Macdonald begins by telling us that "...a moral *right* is a claim which has to be taken seriously...it is a claim which is to be denied only in very rare circumstances." He continues:

I wish to contrast the account of rights (whether group or individual) which is presumed in this paper with accounts of 'rights' as *simply* legal or constitutional *mechanisms* for achieving socially desirable goals. *Moral* rights are taken as *grounds* for legal and constitutional rights and claims of moral right violations may form the basis of a moral critique of positive legal and constitutional practices. (Macdonald 1989: 117)

In this view, moral rights are what ultimately justify legal ones. This distinction is not uncontroversial. The claim that there are moral rights, and that they can (and should) ground legal rights, has been the subject of a long debate in both moral and legal

² See e.g. Hartney 1991; Campbell 1988: 36-54; Davis 1979.

theory.³ Nevertheless, this controversy is external to much of the debate over collective rights. Most who are involved in the debate already accept some version of this distinction. I will therefore ignore the controversy over whether positive law is to be (at least in part) justified by reference to moral rights and principles.

3. A Moral Argument for Orthodox Liberalism

Almost everyone agrees that at least some sorts of collective legal rights do and should exist in a liberal-democratic society. Examples might include the right of a corporation to bid on public contracts; the right of labour unions to strike; and the right of a municipality to tax its citizens. If these sorts of collective rights are (relatively) uncontroversial, it may be because, as Macdonald claims, most accept that talk of 'rights' here is derivative. (Macdonald 1988: 117-118) For the existence of these 'collective rights' can be easily enough justified in terms of the legitimate exercise of state power which creates the statutes that establish them. That, in turn, is justified in terms of the democratic consent of the individual members of the society.

However, liberal-democratic societies are supposed to be based upon a respect for individual freedom and equality. Many who oppose the recognition of collective rights do so because they believe that the only moral rights which flow from the liberal

³ See e.g. Dworkin 1978: chapters 2 and 3; see also Raz 1984.

commitments to freedom and equality are individual ones. Hence former Canadian Prime Minister Pierre Trudeau maintains that:

...all members of a civil society enjoy certain fundamental, inalienable rights and cannot be deprived of them by any collectivity (state or government) or on behalf of any collectivity (nation, ethnic group, religious group or other)...only the individual is the possessor of rights. A collectivity can exercise only those rights it has received by delegation from its members...(Trudeau 1990: 363-4)

According to this view, in a liberal society individual rights should always prevail over the rights of collectivities. We can call this position 'orthodox liberalism'.⁴ In Trudeau's version, collectivities can have rights but (a) they are merely derivative; and (b) the range of such rights is naturally restricted by the fact that some individual rights are 'inalienable'. Hence he condemns restrictive language education laws in the province of Quebec on the grounds that they violate a basic (moral) right to free choice.⁵ (1992: 27)

Writing in the South African context, Macdonald comes to a similar conclusion. In his view, there are no nonderivative, i.e. moral, collective rights. He argues that, if such rights did exist, then "...groups, and members of groups, would have morally

⁴ See also Hartney 1991.

⁵ For a rejoinder to this position, see Davis 1979.

strong and legitimate grounds of complaint against certain government policies which would be lacking if only individual rights were acknowledged. (Macdonald 1988: 119) But on examination he finds that appeals to collective rights not only fail to improve on our use of individual rights; where they actually add something new to our thinking, it is, he argues, something that violates basic liberal commitments.

To show that collective rights add nothing useful to individual rights, Macdonald considers the objection that liberalism is 'too individualistic' in that it fails to appreciate that persons are in part constituted by their membership in various groups. Some maintain that, because of their individualistic nature, liberal rights fail to protect the important role that group membership plays in the constitution of individual identity.

In this view, collective rights mitigate or balance individual ones by helping to preserve the integrity of certain key collectivities, such as language groups. Macdonald turns the table on this argument by replying that, in fact, it is traditional liberal rights that best *protect* groups. For by preventing others from interfering with our right to freely associate with whomever we choose and for a broad range of purposes, they ensure that all sorts of groups can flourish. Collective rights are therefore not necessary to protect groups. (122-3)

To show that collective rights violate liberal commitments, Macdonald begins by arguing that these rights are often 'positive' rather than 'negative' in nature. That is,

rather than permitting the right-holder to do something by placing others under a duty not to interfere, group rights place others under a positive duty to do something. Rights claimed for a language group, for example, generally imply that the group "should be given public recognition and support." Moreover, they also often place members of the group under a duty. Hence, as a member, one not only has a liberty to speak one's language and pass it on to one's children. One has a *duty* to do so. Just as the government has a duty to promote the language. (124)

Macdonald concludes that both claims are simply inconsistent with liberal views about freedom and equality. Members of a language group could not be placed under an obligation to speak their language without violating their fundamental freedom to choose whether they wish to associate with such a group and under what conditions. Nor could governments be under an obligation to provide support to one linguistic subgroup in the society without incurring that responsibility to all such groups. That, concludes Macdonald, would violate the liberal commitment to equality. (132) It is interesting to note the difference here between Trudeau and Macdonald.

While the latter thinks that basic liberal rights can provide no justification for the state's promoting the interests of a particular linguistic group, Trudeau, by contrast, is the author of a comprehensive set of language policies which establish educational and other rights for individual members of the two official language groups in Canadian society: French and English. We shall return to a consideration of this difference near the

end of this article.

But if liberals like Macdonald and Trudeau have differences, the extent of their agreement is considerable. Both hold that, while there are legal collective rights, there are no moral collective rights. Only individual ones. And while they accept that membership in cultural and linguistic communities is an important aspect of human life, the two conclude that such membership should be a matter of private choice, like religion. To restrict one's right to freely participate in (or remove one's self from) a cultural or linguistic community is a fundamental violation of basic liberal rights.

4. A Sociological Argument for Orthodox Liberalism

The claim that recognizing collective rights leads to a violation of basic individual rights is not the only line of argument one can construct against the creation of legal collective rights. Nathan Glazer takes a different tack.

He begins by noting that discrimination against individuals is the result of some group characteristic which they have, such as race, colour, language, sexual orientation or gender. (Glazer 1978: 87) Now, even though discrimination is motivated by group characteristics, civil rights legislation in liberal democracies is usually drafted in the language of individual rights. But if discrimination is essentially a product of group

culture, as Glazer thinks it is, how reasonable is it to maintain that the problem can be eliminated by a strategy that addresses the problem only at the individual level? Wouldn't it be better also to address the problem at the group level, say, by creating affirmative action programs or guaranteeing special representation in public institutions? Reflecting on this question, Glazer poses the key issue in the collective rights debate this way: "Can we...solve the problems of group discrimination by using the language, and the law, of individual rights?" (88) This formulation of the issue is noteworthy in at least two ways.

First, Glazer tells us that he is considering the issue from a 'sociological' rather than 'philosophical or legal' point of view. Instead of weighing moral arguments for and against the creation of collective legal rights, his approach is result-oriented. He thinks we should adopt the most effective strategy for eliminating discrimination. But on the basis of which criteria is an assessment to be made? Glazer formulates a series of interrelated questions, consideration of which is supposed to help us decide.

In his view, the "key principle" which should determine whether legal collective rights should be created in any particular liberal-democratic state rests on

...whether it sees the different groups as remaining permanent and distinct constituents of a federated society or whether it sees these groups as ideally integrating into, eventually assimilating into, a common society. (98)

So the society must assess what sort of long-term vision it has of itself. More precisely, it must decide what sort of future relationship it wants to have with those groups presently discriminated against. Does it want to assimilate racial and ethnic minorities? Or preserve their differences by adopting a confederation of groups model?

Before making this decision, Glazer thinks two further issues should be considered: (a) what sort of political culture does the society already have? and (b) what sort of political culture will result from selecting one model rather than the other? Finally, Glazer proposes that we take into account what he calls the "state ideology." This 'ideology' reflects a kind of "national consensus" which, according to Glazer, "shapes and determines what attitude immigrant and minority groups will take toward the alternative possibilities of group maintenance and group rights on the one hand, or individual integration and individual rights on the other." (100)

We are given an example of what Glazer has in mind. He contrasts the U.S. with Canada. "Canada", he tells us:

because it was already based upon two founding, distinct national elements, gave more opportunity for incoming minority immigrant groups to select group maintenance as a possibility. Thus it appears there is somewhat less integration, somewhat greater commitment to group maintenance, among Slavic groups and Jews who went to Canada,

compared with the same groups when they went to the United States. The United States, whatever the realities of discrimination and segregation, had as a national ideal a new a unitary and new ethnic identity, that of American. (100)

Glazer comes to the conclusion that, for Americans, the individual rights model is best. He maintains that the preservation of group difference through special rights, while sometimes necessary to preserve "inter-group harmony", often has high social costs in terms of inter-group conflict and political instability -- particularly where group territorial and cultural boundaries are unclear. In such cases, reliance on the group rights model may well lead to greater social ills. (101)

Glazer's approach to collective rights thus differs from that of Trudeau and Macdonald in several important respects. First, Glazer insists that he finds nothing about legal collective rights as such that warrants the conclusion that they are by nature inconsistent with basic human rights or inherently undemocratic.⁶ (98) Second his 'sociological' analysis of the issue leads him to the conclusion that the same problem can often be approached either as a collective rights issue or as an individual rights issue. Whether a society should adopt one or the other depends upon its long-term goals and

⁶ While Glazer seems to be here suggesting that he is essentially neutral with respect to the relative merits of a 'confederation of peoples' model as opposed to an 'integrationist' one, the tone of the discussion in the last few pages of his article certainly suggests that he views the former as really a kind of evil which must sometimes be tolerated.

the state of its political culture. Collective rights are a means to an end. They are essentially policy instruments. Whether they are good or bad depends upon the situation.

It is worth making a point here about Glazer's attempt to bypass moral argument. When setting out his "key principle" (98) Glazer does not say *who* should decide whether the long-term goal of a society is assimilation of its minorities or the acceptance of cultural pluralism. Presumably he regards this as a more-or-less standard public policy decision to be made by the normal democratic processes. As such, he simply sidesteps the question of whether the decision to assimilate or not ought sometimes to be the prerogative of members of the group in question. In short, Glazer's analysis simply ignores what, for many, is the most central issue in the collective rights debate, namely, that groups sometimes have a moral right to expect state protection against assimilation.⁷ It is hard not to draw the conclusion that Glazer's sociological approach, whatever its virtues, is adopted precisely to avoid the hard moral questions.

This brings us to the second feature of Glazer's approach which we said was noteworthy. Insofar as he treats the collective rights debate as a moral issue at all, Glazer takes it to be essentially a debate over how to respond to discrimination. Now, if the creation of collective legal rights is sometimes justified, it may well be that, as Glazer argues, the goal of preventing discrimination will sometimes provide such a justification.

⁷ For a critique of Glazer's conclusions along these lines, see Kymlicka 1992.

But is discrimination the only basis for talking about collective rights?

5. Equality Rights vs. Cultural Group Rights

Writing in the Canadian context, F.L. Morton argues that discrimination is not the only basis for a collective rights claim. Indeed, in his eyes, it is not even the principal basis.

He writes:

Historically, Canadian public policies toward minorities can be roughly placed into three distinct categories: non-discrimination, special treatment based on a group's legal status, and group self-government.⁸ (1985: 71)

Morton points out that, despite much of the group rights rhetoric that surrounds the debate over discrimination, the focus of these rights is essentially individualistic. Their goal is to ensure that individuals are not arbitrarily discriminated against on the basis of racial, ethnic or religious background. In this, Morton's views coincide with those of Trudeau and Macdonald. Also like them, he worries about possible conflicts between collective rights and liberal equality. But his reasons and conclusions are quite different.

First of all, Morton points out that a number of sections of the Canadian

⁸ For an elaboration of this distinction, see Kymlicka 1992.

Constitution contain legal collective rights. These include religious education rights and aboriginal rights. He also regards 'provincial rights', in the form of a set of powers allotted to provinces by the Constitution, as a form of group rights. For they provide protection for the distinctive language and culture of French-speaking Canadians in the form of political autonomy in the province of Quebec.⁹ (77)

Unlike Trudeau and Macdonald, Morton seems undisturbed by the presence of collective rights in the constitution of a liberal society. On the contrary, his fear is that the new "American style equality clause" (74) included in the *Canadian Charter of Rights and Freedoms* and entrenched in the Canadian Constitution in 1982, will undermine the "politics of culture" (81) on which the collective rights approach rests.

As he sees it, the new equality rights are stated in terms that are simply too strong and too clear to allow the courts to limit interpretation to 'procedural equality', that is, to non-discrimination in the application and administration of the law (i.e. the Rule of Law). Phrases in the new equality clause such as 'equality under the law' and 'equal protection of the law' will make it very difficult to uphold traditional legal distinctions based on, for example, linguistic or racial status without falling into *ad hoc* jurisprudence. A number of interesting points emerge from Morton's analysis.

First, while he does not explicitly distinguish between legal and moral rights, he

⁹ For a similar view, see Van Dyke 1982: 24-31.

speaks approvingly of the collectivist tradition in Canadian politics, noting that it provides the "source and moral force" of Quebec nationalist thought. (81) Presumably, then, he accepts that the collective legal rights in the Constitution are grounded in collective moral rights. Second, after his discussion of the conflict between collective rights and the strong equality rights, he draws the explicit conclusion that "group rights do not mean the right of an individual not to be discriminated against..." (81)

An interesting difference surfaces here between Morton's views and those of Glazer. For Glazer, recall, collective rights were a means of preventing discrimination. For Morton, genuine collective rights aim rather at "facilitating the "survival" and "development" of a collective way of life, a shared language and a shared culture." (81) Glazer, we saw, fails to even raise the question whether such rights might exist. We will return to this point in section 11.

Finally, by denying that discrimination gives rise to collective rights, Morton presumably means collective *moral* rights. For, as Glazer rightly points out, at the legal level nothing prevents us from framing our laws in collectivist language and instructing the courts to attack the problem at that level.¹⁰ The real issue, as Glazer and Morton apparently agree, is whether that is the *right* thing to do. Glazer maintains that the answer depends on the situation; or, more specifically, on the state of the political culture and the society's long-term vision of the place of its minorities. Morton appears

¹⁰ On this point, see also Hartney 1991: 304-307.

to disagree. He seems to be arguing that, because discrimination violates an individual moral right, the individual nature of the wrong should be reflected in the approach taken at the legal level. This difference of opinion draws attention to a source of considerable disagreement and confusion in the collective rights debate.

6. What Sorts of Collectivities might have Moral Rights?

One of the most widespread fears about accepting the existence of collective (moral) rights is that it will open a kind of 'Pandora's box': if we grant such rights to one collectivity, what is to stop every other collectivity from demanding them? How are we to stop the escalating demands?¹¹

As far as discrimination is concerned, it does seem that more and more often demands that rights be respected are formulated in collectivist language. Thus we hear not only about racial, cultural and linguistic groups having rights; we also hear about the collective rights of homosexuals, women, the disabled, the poor, and so on. It is, of course, true that these are all collectivities. It is also true that many people are discriminated against as a result of their membership in one or more of these groups. Finally, almost everyone seems to agree that there exists a moral right not to be discriminated against. But is that moral right a collective one? Or is it just the case that

¹¹ For a reply to this objection, see Van Dyke 1982: 31-33.

demands for protection are being framed in collectivist language?

As Alan Cairns observes, the inclusion of the new equality clause in the *Charter of Rights and Freedoms* has politicized the issue of equality and acted as a catalyst for the emergence of a whole new political and legal class: the so-called 'Charter' or 'equality-seeking' groups:

The Charter is more than an instrument that hands out abstract rights equally to all Canadians and is indifferent to their various statuses defined by gender, ethnicity, official language status, and the presence or absence of disabilities. In fact, it specifically mobilizes Canadians in terms of these categories. It encourages Canadians to think of themselves for constitutional purposes as women, as official-language minorities, as disabled, or as ethnocultural Canadians.

Thus, perhaps ironically, there is a sense in which the new equality clause has had the reverse effect from that predicted by Morton: rather than undermining the politics of status, this 'American style' equality clause has in fact created a whole new wave of demands and claims based upon group membership.¹²

¹² This is not to deny the importance of Morton's principle point, namely, that the conflict between substantive equality and group status he identifies will be a source of political and legal conflict and that finding a principled resolution to the legal conflicts

By providing the victims of discrimination with a powerful constitutional clause around which to rally, the Charter has united them as collectivities seeking a common goal: freedom from discrimination. As Cairns notes, the subsequent emphasis on their status as groups was facilitated by the existing political culture:

Particular Charter clauses...engender constitutional discourses organized around gender, ethnicity, indigenoussness, and so on, which join the historic constitutional languages of federalism and parliamentary government...These clauses generate constitutional identities, formerly lacking, in those to whom they apply. (Cairns 1993: 208)

The new Charter groups found the strong federalist tradition in Canada, with its group-oriented political culture, to be fertile soil for their own cause. Generally speaking, it made a group-based approach to the elimination of discrimination much easier.¹³ It encouraged them to articulate their own grievances in the moral language of the

will provide a serious challenge for the courts. Eight years later, Morton appears to have been quite right.

On the political level, for example, one could point to the debate over the 'distinct society' clause in the Meech Lake accord. Most of the 'Charter groups' outside Quebec opposed it, fearing it could undermine the rights of equality-seeking groups within Quebec. On the legal level, Morton's prediction that the issue of Indian women who married and lost their status was "a Charter case waiting to happen" (1985: 77) was absolutely right. [reference]

¹³ For a discussion of the development of 'Charter politics' in Canada, see Knopff and Morton 1992.

federalist tradition (i.e. the language of communities, diversity, and collectivities). This, in turn, greatly strengthened their moral arguments concerning the need for -- indeed, their *right* to demand -- strong *positive* initiatives to overcome discrimination, whether these be in the form of guaranteed representation in public decision-making, pay equity legislation, affirmative action programs to ensure 'balanced' hiring practices, or some other measure. If indeed Canada's existing federalist political culture played an important role in the rise of Charter groups, it would strengthen Glazer's case that the evaluation of collective rights claims should not be divorced from sociological considerations.¹⁴ We will return to this in section 11 below.

We must now ask whether the moral right at issue here -- the right not to be discriminated against -- is an individual or a collective one? And, if the former, does the conclusion attributed to Morton hold, that is, does it follow that there is then no justification for creating legal collective rights? Or, alternatively, should we side with Glazer and say that creating legal collective rights to combat discrimination does not as such violate our commitments to liberal democracy and that the important questions are 'sociological' ones about societal goals, political culture and the like? A distinction made by Michael Hartney is helpful here.

Though a strong opponent of the view that there are collective moral rights,

¹⁴ For an interesting and comprehensive attempt to provide criteria for determining which sorts of groups have legitimate rights claims, see Van Dyke 1982.

Hartney agrees with many proponents of collective rights that "communities are valuable and ought to be protected". His question is "whether this protection can, or should, take the form of rights." (Hartney 1991: 301) In order to answer this, he explores two distinctions. The first is that between legal and moral rights. The second is

...between the conceptual question whether rights -- moral or legal -- can ever inhere in collectivities, and the substantive question whether the protection of communities requires that they be endowed with rights (moral or legal). (301)

Like Hartney, we will briefly explore the two sides of this distinction in an effort to shed light on what kinds of moral rights there are and how they relate to legal rights. We begin with the conceptual question.

7. Can Collectivities be the Bearers of Rights?

Hartney argues in favour of what he calls "value-individualism". This is the thesis that "only the lives of individual human beings have ultimate value, and collective entities derive their value from their contribution to the lives of individual human beings." He opposes this to "value-collectivism" which is "the view that a collective entity can have value independently of its contribution to the well-being of individual human beings."

(297) Hartney further maintains that a moral right is an interest that is "sufficiently important that it warrants protection by duties on others." (304) So finding the answer to the 'conceptual question' comes down to deciding whether (a) value-collectivism is true; and (b) if it is, whether the interests (i.e. goods or values) that groups generate are sufficiently weighty to impose duties on others, i.e. to generate moral rights.

Many who argue in favour of collective moral rights have been motivated by the conviction that traditional liberalism is too individualistic and that, as such, it fails to appreciate the way individual identity -- the self -- is 'bound up' with the practices of certain communities.¹⁵ Over the last 15 years much attention has centred on exactly what ways the self might be linked to various communities and what implications this has for moral and political theory.¹⁶ At the very least, this has led to an increased sensitivity among liberal theorists concerning the importance of community membership.¹⁷ While the issues here are far from settled, some insightful suggestions have recently moved the debate ahead. One such suggestion comes from Leslie Green and, in a slightly different form, Denise Réaume.

Green argues that individuals have at least two kinds of collective interests. One is what economists call "public goods." The other he calls "shared goods". Public goods

¹⁵ See e.g. Taylor 1992; Jacobs 1991; Sandel 1982; Van Dyke 1977.

¹⁶ See e.g. Taylor 1989; Williams 1985; and MacIntyre 1981.

¹⁷ See e.g. Kymlicka 1989; and Buchanan 1989.

are the sorts of things that when "available for some then there is no convenient way of preventing others from also receiving them". Clean air and a strong economy are standard examples. Shared goods "are like public goods except that their public aspect is not merely a contingent feature of their production but partly constitutes what is valuable about them." Green cites friendship as an example. He notes that it is "a constituent feature of friendship that it is jointly produced; individuated supply is not merely inefficient, it is impossible." (1991: 321)

Réaume introduces a similar class of goods which she calls "participatory goods". The example she uses is a cultured society. "Such goods", she says, "involve activities that not only require many in order to produce the good but are valuable only because of the joint involvement of many. The publicity of production itself is part of what is valued -- the good is the participation." She concludes that, "[w]hether or not all goods are enjoyed by individuals, not all are individually enjoyed." (1988: 10-11)

In the case of both shared and participatory goods, then, there is alleged to be an important sense in which the good or value is non-individualizeable; for its production is joint. Does this mean that the individuals' *interests* in the good are non-individualizeable? This is an important question for, as Hartney notes, it is precisely the interest which one has in certain goods that can give rise to a duty in others, and hence a right. It is thus not the good as such which explains the right.

Hartney doubts that participatory goods give rise to non-individualizeable interests. He asks us to consider playing in an orchestra as an example of a participatory good. Lots of people, such as the listeners and certain members of the community, will surely have an individual interest in the good produced by this joint or collective activity. Why not, asks Hartney, also the musicians performing the music? Why aren't their interests in the good also individualizeable? And, if they are, then wouldn't any rights that flow from participatory goods be individual ones? (1991: 299)

It would be hard to deny that the musicians have individualizeable interests at stake here. If, for example, the first violinist is better at and favours playing Romantic to Modern pieces, she will surely have an (individualizeable) interest in seeing that the orchestra's repertoire leans to the former rather than the latter. But is this the whole story? I don't think so.

The question that needs to be asked here is this: Does the sum of the individual interests which the members of the group have in playing in the orchestra exhaust the good that results from their cooperative activity? If not, then there must also be a *collective* interest here. For there wouldn't be much point in speaking of a good or value, above and beyond that defined by individual interests, if no one had an interest in it. In my view, Green and Réaume would be right to insist that the sum of the individual interests in participatory and shared goods does not exhaust the good (and hence the interests) at stake. Green seems to be making just this point when he says that some

interests have a "collective aspect". (1991: 321)

But what exactly does it mean to say that some interests have a 'collective aspect'? How does this differ from their 'individual aspects'? And on what basis do we distinguish these two aspects from each other? What, in short, structures the logic of shared and participatory goods?

I now want to argue that there is a quite natural and legitimate sense in which we can and do identify group activity as a source of value. There is thus an important sense in which we treat some sorts of value as *sui generis* or non-individualizeable. Hence what Hartney calls value-collectivism appears to be true. But my defense of value-collectivism is not without a strong caveat. For there is also a quite natural sense in which we hold that the *ultimate* source of *any* value could *potentially* be, individual. Insofar as that is so, our moral reasoning often should and does proceed on the assumption that value-individualism is true.

This apparent contradiction is not simply the result of competing analyses, at least one of which must be wrong. The problem is deeper than that. *Moral reasoning appears to be heterogeneous*. This shows up in how we draw the line between group and individual identity. That distinction can and does take different forms. Which form it takes depends in part on the way we think about our relation to the values in question. Our capacity to look at values in (at least two) very different ways helps explain the odd

and sometimes ambiguous logic of shared and participatory goods.

If we want to understand the peculiar nature of these goods, we must first identify the basis on which the distinction between their collective and individual aspects is drawn. The key, I will argue, lies in identifying the source of a certain indeterminacy in the relationship between the individual subject and these goods. My claim is that the structure of that relationship differs depending on which of two different 'modes of moral reasoning' one employs. I now turn to a brief examination of these two paradigms.

8. Two Modes of Moral Reasoning

One of the two paradigms of moral reasoning can be illustrated by considering the tradition of virtue, as it has been revived and understood in recent years. On this view, to be a member of a moral community is to *share* certain values with the other members of that community, where 'share' means that one's moral identity is the result of one's participation in a set of *practices* sanctioned by the community.¹⁸

If one adheres strictly to the logic of this reasoning, it seems to lead to the

¹⁸ See e.g. MacIntyre 1981, especially pp. 201-205; Williams 1985; Arrington 1989: Chapter 4.

conclusion that the 'value' implicit in a meaningful life is not only continuous with, but, from the point of view of moral theory, indistinguishable from the 'shared practices' of the community. There does not seem to be a criterion by which one can distinguish values from practices. To enquire into the nature of a meaningful life is the same as enquiring into certain practices of the community. In this paradigm, then, referring to 'values' or to the social practices that ground them are two different ways of talking about the same thing. To live according to certain values is to be a member of a certain community, that is, to share in its practices.

The theory that emerges from this view thus makes community life the source of value. The community, as the locus of moral action, is the context in which a life of value becomes possible and is lived out. The structure of such a life will reflect the culture and history of the community. Individual members articulate the value of their own lives through the media of their shared language, culture and history, whose meanings they appropriate through participation in the value/practices of the community. The mode of moral reasoning appropriate to virtue is thus based upon, to use Hartney's term, value-collectivism.

But the liberal notion of individual autonomy generates a different conception of value. Moral autonomy is precisely a way of drawing a distinction between values and practices, on the one hand, and *my self*, on the other. It allows me to conceive of my individual integrity as something that is not dependent upon my membership in any

community or my participation in any set of value/practices.

Autonomy is a kind of 'conceptual mechanism' that permits us to take a reflective stance toward these value/practices. It does this by introducing a simple but enormously powerful (conceptual) distinction into our theoretical language: that between the value of a practice and my willingness to participate in it. The latter involves all that is 'particular' and 'historical' about the act -- its 'empirical content', as Kant says. (Kant 1964: 92-94) The former adds only the abstract thought of my *willing consent*.

When we reflect on ourselves this way, we restructure our own inner world. We create a new kind of relationship between our value/practices and our selves. By adopting the autonomous 'point of view' we make the value/practices of the virtue paradigm appear unconnected to our own ultimate worth, which now resides in our 'integrity'. Thus it is no longer the values implicit in these practices that appear constitutive of our identity. On the contrary, they appear as its 'merely accidental' or 'historical' content. That is, as objects whose relation to us as 'pure individuals' is merely contingent.

Kant somewhat pretentiously describes our abstract integrity as a 'pure moral will'. (1964: 58) In fact, we need to speak here of no more than a conceptual capacity to think of our selves as, at the most abstract level, 'pure individuals', much the way the number 1 is treated as a 'simple unity' in pure mathematics. Nevertheless, conceiving

of our selves in this way has enormous implications. It makes it possible to radically change our relationship to our shared value/practices. 'Who I am', that is, the moral and cultural identity I have acquired through membership in a community, can now be grasped as something that is potentially 'mine' as opposed to 'me'. Insofar as I recognize this, my identity begins to appear as something malleable, something that can be moulded and shaped without endangering my integrity as an individual self.

Grasping my self in this way invites a comparison between my own identity and a work of art. There is a pregnant and intriguing analogy between the two in that my identity begins to appear as something that I can reflect on and transform, accept or reject, refine and enjoy, *for its own sake*. My life, in short, becomes (potentially) *my* life. I can give it a new meaning by rejecting inherited values and choosing new ones. Values that are freely chosen have a new kind of significance for me: they are *mine*.

This power to make values *my own* derives from my autonomy, my freedom. Freedom is something I *cherish* as no other thing. For it alone allows me to approach my life, as Kant says, as an end-in-itself. (95) The recognition of my own freedom, my autonomy, allows me to transform my life from a collective into an individual enterprise. My integrity thus appears to me as the ultimate source of *my* actions, and hence of their value. Thus Kant concludes that the only thing that is good without qualification is a good will. (61) We are back to Hartney's value-individualism.

The logic of these two modes of reasoning -- virtue and autonomy -- is thus very different. Yet they are also interdependent. For autonomy is only possible *from within* the virtue paradigm. The ideal of the 'purely autonomous life' is an empty abstraction. Real autonomy always exists within an historical and cultural context: a set of value/practices. Otherwise there would be no meaningful choices in terms of which our individual freedom could be exercised.¹⁹ But the only way to 'get inside' a 'context of meaningful choice' is through *participation* in it. If one wants to know the value of certain practices, one must, to some extent, participate in the life of the community to which they belong.

There is thus both a tension and an interdependence between these two modes of moral reasoning. They are heterogeneous, but not unconnected. Charles Taylor has attempted to account for this heterogeneity by positing what he calls 'hypergoods'. (Taylor 1989: 62-75) These are, so to speak, the 'logical motifs' according to which value judgements -- and hence the 'inner world' of the self -- are structured. Following his suggestion, we can say that the autonomy paradigm is structured by the logic of **freedom**; while the virtue paradigm is structured by the logic of **belonging**. The former, as Kant argued, rests upon a respect for the impartiality of universal moral reason. As such, it differs from the logic of belonging in at least four different but interconnected

¹⁹ For a stimulating discussion of this point, see Kymlicka 1989: Chapter 8. For critical assessments of Kymlicka, see Benson 1991; and Lenihan 1991. Also, for discussions of the problems of the relationship between personal identity and cultural pluralism, see Taylor 1992; and Waldron 1992.

ways.

First, virtue is not based upon universality or impartiality. Ethical practices like trust, loyalty, faith and courage simply cannot be given an adequate universal formulation. They have no 'essential meaning' outside of the various historical contexts in which they are found. Far from conforming to some set of 'higher' universal principles of moral judgement, the 'logic' of these latter often conflicts with the demands of impartiality.

Second, we do not conceive the virtues as being only contingently related to the self. On the contrary, they are apprehended as somehow constitutive of it. To be divested of these characteristics would be somehow to suffer a loss -- perhaps an utterly debilitating loss -- of one's personal integrity.

Thirdly, the virtues are conceived as being part of a real historical situation -- an ethical tradition established and preserved in the practices of a particular community. As such, they do not extend to the people 'outside' the tradition. The boundaries of ethical life are co-terminus with the boundaries of the community. One is 'inside' the community to the extent that one shares the practices which sustain its cultural life.

Fourth, precisely because the virtue paradigm does not distinguish between the 'integrity' of the self and the set of value/practices in which it participates, as does

Kant's conception of autonomy, one's power to act as an individual agent appears indistinguishable from one's participation in the collective life of the community.²⁰ From the virtue standpoint, the value of one's actions is determined by one's participation in certain collective value/practices. And so there is a natural sense in which one's identity -- one's *self* -- can be said to be continuous with the life of the community. Or, to put it in terms similar to Green's, one's interests sometimes have a 'collective aspect'.

In my view, then, the basis of the distinction between the two 'aspects' of Green's shared goods, or Réaume's participatory goods, is to be found in our reliance on these two modes of moral reasoning. On the one hand, as value/practices these goods are created and sustained by a collectivity. From the standpoint of virtue, this gives them an inherent value which is *sui generis* and non-individualizable.

On the other hand, insofar as we, as autonomous individuals, have 'freely chosen' the values implicit in these practices (in the sense specified above), we also define their value in terms of the role they play in our own lives, i.e. in terms of the 'individual interests' they serve. As such, the ultimate source of the value they have *for me* is my own autonomy. Both of these paradigms of value, and the two modes of moral reasoning they generate, are integral to our full understanding of the logic and

²⁰ Kant disparagingly refers to this condition as "heteronomy of the will". (Kant 1964: 108)

significance of shared and participatory goods.

We will return to a consideration of the importance of this discussion before closing. But first we must examine the second part of Hartney's distinction: the substantive question of whether the protection of communities requires that they be endowed with rights. In other words, are there interests (individual or collective) in maintaining a community's existence which are weighty enough to justify the creation of legal collective rights?

9. Should There Be Any Legal Collective Rights?

In section 3 we saw that, similarities notwithstanding, Trudeau and Macdonald ended up with very different views on language rights. According to Macdonald, liberal equality implies that, if language rights are granted to one group in society, they should be granted to all groups. Trudeau, on the other hand, is the father of a comprehensive system of French and English language rights in Canada.

Macdonald does think it's possible for a country to justify having an official language. But the choice must be based on criteria of general public interest, not the

special interests of some linguistic group(s).²¹ (Macdonald 1989: 132-34) Suppose Macdonald asked Trudeau to justify his creation of the Official Languages Act or his entrenchment of official language education rights in the Charter. How might Trudeau reply? Most likely, he would maintain that guaranteeing French and English minority language rights was a matter of *justice*, not a way of maximizing public utility.

But if it was a matter of justice, why? Why was it not a matter of justice that, say, Chinese or Italian language rights be entrenched? The answer one usually hears to this question is that the French and the English were founding communities and the Chinese and Italian were not. The point, presumably, is that there is a *moral* right at issue, one which justifies the entrenchment of legal rights. One that the Chinese or Italian communities lack. But, *who* has this right? Is it the French- and English-speaking *communities*? Or is it the *members* of these communities? And, again, why do only they have this right? Why shouldn't the commitment to liberal equality force the decision on us that the Chinese or Italian communities also have such rights, as Macdonald claims?

As Will Kymlicka points out, the answer to the second question seems to lie in distinguishing between a "national minority" and an "immigrant ethnic minority". (Kymlicka 1991: 249-253) Both groups may have cultural and linguistic interests that *prima facie* merit protection. But there is a difference. Immigrants usually come to their new country *as individuals* who, on gaining citizenship, enter into a social contract with

²¹ For a different interpretation of liberal equality, see Van Dyke 1982: 33-35.

their new country. In a liberal society, the terms and conditions under which they are invited to *join* the new society usually won't require them to abandon their traditional cultural and linguistic practices. However, implicit in the act of *joining* the new society is an admission that they have no historical claim to rights as a 'national minority' flowing from an earlier social contract.

By contrast, as members of the 'founding communities' French- and English-speaking Canadians do have an historical relationship to the state which is different in kind. Presumably, Native peoples, who were largely ignored at Confederation, also have a moral claim against the state which immigrant communities lack.

It is hard to imagine what other kind of answer could be given to Macdonald's question, if not that historical agreements of various sorts -- 'social contracts' -- often provide the only plausible explanation for what often seem to be legitimate differences in the moral and legal status of groups within a community. But, even if this argument is accepted, we have yet to answer the other question, Who has the right? Is it the communities or the members of the community?

While I do not have space here to make the arguments, on the basis of the discussion so far, I think a compelling case could be made for three points:

- (1) language is a quintessential example of what Réaume calls a participatory good;²²
- (2) membership in a language group therefore gives rise to *both* collective and individual moral interests;
- (3) both of these sets of interests, individual and collective, are strong candidates for legal rights.

However, even if these three points are accepted, one question still remains. If a strong case is made that legal rights are needed, what kind of rights should they be? Collective or individual ones? In order to answer this question, it will be helpful to look briefly at the two different ways the language issue has been handled in the Canadian Constitution.

11. Choosing Legal Rights: Collective or Individual?

²² An influential group of Quebec nationalists, recently calling for a new social compact in Quebec on language, seem not to have appreciated the special justificatory power implicit in Réaume's and Green's concepts of 'participatory' and 'shared' goods. While this group argues that French should be the 'language of Quebec', for justification they specifically appeal to the French language as "what economists call a 'public good'". See 'le pacte de la langue', *Le Devoir*: A13, April 24, 1993.

Section 93(1) of the *Canadian Constitution, 1867* limits the powers of the legislature of a province to make laws in respect of education by providing that "Nothing in any such Law shall prejudicially affect any Right or Privilege with respect to Denominational Schools which any Class of Persons have by Law in the Province at the Union." This (legal) right is widely acknowledged to be a collective one. It is a "Class of Persons" that has the "Right or Privilege", not the individuals within the Class. On the other hand, as Rob Howse correctly points out, it is "wrong to characterize language rights in the [1982] charter as collective rights. Language rights are clearly stated as belonging to individuals, not groups." (Howse 1992: B3) Trudeau, as is well known, made every effort to ensure that these rights were not framed in collectivist language.

These two approaches to the language issue are illustrative of a deep division of attitudes about what is appropriate in a federal, liberal-democratic state like Canada. The denominational rights, entrenched by the Fathers of Confederation in 1867, reflect their conviction that the country's two main cultural and linguistic groups have interests that are quite appropriately expressed as such in law. Mr. Trudeau's approach reflects what he calls his liberal commitment to the "primacy of the individual". By allocating rights only to individuals and not to groups, he takes himself to be "in keeping with the purest liberalism". (Trudeau 1989: 364) But is he really as committed to the 'primacy of the individual' as he claims?

Insofar as the discussion in the previous section is on the right track, it seems to

lead to the conclusion that Trudeau's own deep commitment to bilingualism in fact betrays an implicit acceptance of the importance of something like Réaume's participatory goods, and hence of the existence of some kind of collective moral rights.²³ If not, then his brand of liberalism should probably lead him to the same conclusions about language rights as Macdonald. He would thus owe us an explanation as to how his commitment to bilingualism is to be squared with his commitment to the 'primacy of the individual'. If, on the other hand, he was (implicitly) treating language as a participatory good, does that mean his individualist approach to language rights in the Charter was wrong and that the collectivist one of the Fathers of Confederation correct?

Not necessarily. In fact, the answer to that question could be any of a number of possibilities: both may have been right; both may have been wrong; or one side may have been right while the other was wrong. Consider. If language is a participatory good *par excellence*, as I am suggesting, and if my analysis of that good in section 8 is accepted, then there is little reason to deny that there is a collective moral right at issue here.

But participatory and shared goods have *both* a collective and an individual aspect. And both aspects give rise to interests. These two sets of interests, the individual

²³ This suspicion is reinforced by a cryptic comment. While discussing the creation of a charter of rights, Trudeau first insists that it should entrench only the rights of individuals. But then, when he turns to the question of the status of Canada's native peoples, he allows that "Where the rights of individuals may be indistinct and difficult to define, (we may) also enshrine some collective rights of minorities." (Trudeau 1989: 364) It is an interesting question what, exactly, "indistinct and difficult to define" really comes down to. Could 'difficult' turn out to be 'impossible'?

and the collective, overlap and intersect at a myriad of points in the life of the society. From the point of view of decision-makers trying to make public policy, there can be no simple way of deciding exactly what interests need protecting, where, and by what means.

The pressure to create legal minority rights is usually a response to complex historical situations: changing demographics; economic and technological evolution; new social attitudes; political instability; etc. These affect the interests of both the group and its members in manifold ways. Determining the right (legal) response to a situation depends upon more than abstract moral arguments about whether liberal rights should be vested in individuals or communities. It also depends upon a wide range of 'sociological' considerations.

Sometimes the best strategy will be to create some collective rights; sometimes some individual rights; sometimes a combination of both; and sometimes none. Judgement is called for. Over the long-term, legislators should aim at 'preserving a balance' between the interests of the collectivity and those of individuals. Whether Trudeau's language reforms succeeded in preserving that balance is a question for debate. The point here is just that, while abstract moral argument is important, it is by no means sufficient for deciding what should be done. Even if we accept that the creation of legal collective rights are not, in principle, anti-liberal or anti-democratic; and that a certain community has moral rights, there will still be a host of sociological and

political questions that will have to be considered.

Before closing I want to return briefly to the issue of discrimination and the question raised near the end of section 5: Do Charter groups have collective moral rights that should be translated into collective legal rights? An answer is not easy to give. Only a couple of general points will be made here. In order to arrive at an answer, at the very least, two key things would have to be considered: the kinds of group rights that are being demanded; and the level at which they are to be set out in law. In considering this question, it is thus important to distinguish between statute and constitutional law.

A constitution sets out the basic rules for the political life of a community. It provides an authoritative statement of how the relationship between state, communities and citizens is to be structured and how political power is to be exercised. The group rights one traditionally finds in (liberal-democratic) constitutions, as Van Dyke points out, are typically aimed at the protection and preservation of linguistic and cultural, national minorities. (1982: 24-33) The justification is that the individual members of these groups have an exceptionally strong interest in protecting their cultural identity. As noted in section 8, this is crucial to their having meaningful choices and opportunities for self-development.

The primary reason for entrenching such rights in a constitution, is that these rights are regarded as conferring some measure of autonomy on the group within the

context of the larger community. But, as Morton (1985: 71) rightly insists, *the members of these groups are not just seeking freedom from discrimination*, as Glazer's analysis suggests. Securing their autonomy is a way of ensuring that they will not only be able to *preserve* but also promote their collective interests. Entrenching their collective rights at the constitutional level is a way of acknowledging that the larger community will respect the group's autonomy as part of the terms and conditions of the society's basic social contract.

An individual's basic right not to be discriminated against will also be part of the fundamental social contract in any liberal-democratic society. But, as Macdonald notes, this can only be given a general form as a negative individual right. (1989: 130-132) Insofar as this might imply collective rights to non-discrimination, these are usually *positive* measures aimed at overcoming some particular form of discrimination. But, as Kymlicka notes, such measures are by definition conceived of as *temporary* ones (see Kymlicka 1992). As such, they are not to be understood as part of the fundamental rules of the society, that is, as part of the basic social contract. They are measures intended to compensate for, and overcome the effects of, some particular injustice. As a general rule, then, these should not be placed in a constitution. They should be implemented by statute law where they can be more easily repealed or strengthened as the situation changes.

There is also a second reason for restricting collective legal rights aimed at

overcoming discrimination to statute law. Multiplying group rights at the structural level of the constitution, as both Glazer and Cairns note (see section 6), tends to fragment the society; and may encourage the development of a political class which defines its own goals and interests in ways that are in tension with individual liberal rights. In the interests of long-term stability, liberal-democracies should seek to minimize laws, rules and practices that tend to fragment the political community.

In conclusion, insofar as Charter groups are seeking to overcome discrimination, there seem to be at least two important reasons for limiting their collective rights claims to statute law. One is that these claims are, by definition, temporary measures. The other is that the multiplication of group rights at the constitutional level tends to fragment the political community. Nevertheless, there is no solid ground here for categorical claims. There may well be times when the sociological or political considerations warrant constitutional entrenchment of some collective legal rights aimed at overcoming discrimination. On this, perhaps Glazer should get the last word.

Afterthought

In this thesis I have advanced a number of claims regarding collective rights, including the following:

- (a) minority cultural groups within a larger society sometimes have a right to some measure of collective autonomy;
- (b) groups united by common geographical and economic interests sometimes have a right to some measure of collective autonomy;
- (c) groups united by a common interest in overcoming some form of discrimination sometimes have a right to some measure of collective autonomy.

In retrospect, I continue to defend (a) and (b). However, I have since become much less enthusiastic about (c). I now think individual rights protecting one against discrimination provide adequate protection for the pursuit of most group interests which fall outside of (a) and (b). My views on this are discussed in the appendix . But what, exactly, is my argument for (a) and (b)? And how does it differ from Kymlicka's analysis?

Kymlicka has suggested that there are really two arguments for collective rights

in the thesis: one based upon cultural membership; the other on collective autonomy. How, he wonders, are these two linked, if at all? Perhaps there are two arguments here. Or perhaps there are two stages to the same argument. In the following pages I will try to clarify my position somewhat on this by more clearly distinguishing certain key concepts in the argument.

Individual autonomy and traditional societies

In traditional societies, what sort of relationship exists between the community and its members? If I had space, I would argue that in such societies individual members' sense of identity is heavily dependent on their membership in the cultural community. Their sense of 'who they are' as individuals, of what their lives are about, is intertwined with the community's language, values, practices, traditions, customs, ways, etc. to such an extent that depriving them of their membership in the community, say, by removing them from it, would be to harm them in a very serious way.

Hence the members of such communities have a crucial interest in maintaining the integrity of their community. In my view, this interest can for certain purposes be said to ground a 'moral right'. For example, appeal to such a right may well justify the restriction of some individual liberties, if that is necessary to ensure the community's integrity.

Moreover, I would argue that these communities have this right *whether they claim*

it or not. If the members or leaders of a particular community which was threatened were for some reason unable to claim the right, that would not stop us from recognizing the validity of the claim, say, if it were advanced on their behalf by someone outside the community.

Suppose that an anthropologist discovers a primitive community in some remote corner of the Amazon jungle, as yet untouched by the outside world. This anthropologist, also being a human rights advocate, then advances the claim that the members of this community have a right not to be interfered with, a right to be 'left alone' so that they may continue to enjoy their way of life, as they have done for millennia. I think many would regard this claim as a reasonable one, even if, at the end of the day, disagreements remained over what exactly the right entailed.

Suppose that our anthropologist then discovers that some of the individuals in the society exercise control over others in ways that infringe upon what in a liberal society would be considered basic individual rights. Perhaps women are given no role in group decision-making. Instead, it is customary for fathers to arrange marriages for their daughters at about age 16 and without consulting them. These young women are then expected to 'honour and obey' their new husbands. Failing to do so would be treated as a serious wrong. Nevertheless, the community as a whole functions well and its individual members seem happy and manifest no desire to change their basic social practices.

Now, when our anthropologist/human rights advocate learns of this, she finds herself torn between conflicting commitments. On the one hand, she believes that the women in this community, simply by virtue of their being human, have a right to equal treatment with the men. It pains her that they are not free to decide with whom they will pass their lives. And it angers her that these women are regarded as socially inferior to men. On the other hand, as an anthropologist, she is convinced that 'enlightening' the community on these issues would initiate a chain of events that might well undermine the community's integrity and way of life.

If, as a result, the advocate opts to leave the community alone, she will owe us an explanation as to why she thinks this violation of basic rights should go unchallenged. What might she say? Could she rely on an argument like Kymlicka's and say that the restrictions on individual liberty were justified in order to preserve what he calls a 'context of choice'?

That would be odd, indeed, for the idea of individual choice and the respect for autonomy would probably have very little place in this community. Indeed, insofar as one insisted on treating the community as essentially a 'context of choice' for the group's members, the moral logic would probably push us in the other way. For this way of understanding the relationship between member and community puts an extremely high premium on individual autonomy. Taking that approach here would probably lead to

the conclusion that a society in which such serious gender inequalities were taken as normal, even among those who suffered them, needed a bit of 'enlightening'.

This argument, as many anthropologists would surely agree, just seems paternalistic. It ignores the fact that there may be other goods which exist in the society in abundance and which are prized by its members every bit as much as individual autonomy is prized by liberals. If, then, our human rights activist concluded that a policy of noninterference was best, it would be presumably as a result of such reasoning. As an anthropologist, she would have recognized that this non-liberal society provides a good life for its members.

Hence she sidesteps the issue of basic rights and individual autonomy by ignoring the question of how well the community's practices do or do not provide a good 'context of choice' for the society's members. Instead, she approaches the relationship between member and community from a different point of view. She assesses the community's value in terms of its success in producing other goods, perhaps welfare. But, in so doing, the anthropologist/human rights advocate has, in effect, conceded that the 'context of choice' model is largely irrelevant here. In essence, she has conceded that it misunderstands how these individuals *belong* to their society. If this is correct, it suggests something interesting about rights.

On the one hand, the claim that the members of the community have a right 'to

be left alone' does not depend in any obvious way upon their being able *to make the claim*. On the contrary, our anthropologist could do this on their behalf without their being aware of or even concerned about the state of their own interests. On the other hand, the individual rights that flow from autonomy seem to differ on this point. The scope of the duties they place upon us seems to be linked to the value the subject herself places on her own freedom. The simple act of insisting that her own right to choose is of great import to her can affect the moral status of her capacity for choice. The same does not seem to be true for her insistence that, for example, she needs warmer clothes, more attention, or a longer vacation. The moral status of these latter claims -- call them her 'needs' -- seems to be (relatively) independent of her own beliefs on the matter. At the very least, they are far less dependent upon her own views than are her interests in her own freedom.

If we assume that both freedom and the satisfaction of needs (welfare) have intrinsic value, that is, both are basic moral goods, one very important difference between them is that the 'weight' which respect for individual freedom is to be given in moral reasoning cannot be assessed independently of how the subject views her own interests on the matter. This, in turn, implies that the moral relevance of autonomy is subject to far greater variability than the satisfaction of needs. Thus, if the individual's capacity for autonomy is demonstrably limited, or is of secondary interest to her, that fact will weaken the duties that respect for her autonomy places upon us *viz-a-viz* other duties, such as those stemming from her right to the satisfaction of her basic needs. Thus

respect for the liberty of children, the mentally handicapped, and the sick is often overridden by other concerns. We make decisions for them, based upon our own estimates of their (objective) needs.

In conclusion, I suggest that the fact that the concept of individual autonomy among the members of our imagined community is only poorly defined and barely articulated affects the weight of the rights that flow from it. Their rights to individual freedom should be treated as less urgent than their other needs. However, this situation could be reversed by the simple act of their *claiming* these rights.

Once the concept of individual freedom has been clearly articulated within a society and grasped by its individual members, the rights that flow from it will often supersede in importance the rights that flow from other interests. In general, I do not oppose this. Nevertheless, I do think the prevailing conception of autonomy is still too heavily influenced by Kant. As a result, the liberal approach to our capacity for choice has tended to be overly abstract and has failed to appreciate the complex ways it is linked to our membership in various communities.

Autonomy in a modern liberal society

This is where we move to the second stage of the argument, that which argues for certain collective rights based not on a negative argument from cultural disadvantage

but a positive one from a kind of collective autonomy.

What is the difference between what I have called a traditional society and what I will call a modern liberal one? With the latter I have at least two things in mind. First, a society with a relatively sophisticated institutional infrastructure and with centralized decision-making. Second, a society with relatively well established liberal-democratic values and practices; in particular, a respect for individual freedom or autonomy, including the basic liberal freedoms of thought, expression, association, the Rule of Law, and the basic democratic rights.

The combination of these two conditions creates something I call 'public space'. That is, a realm in which the collective interests of the community are (ideally) openly (i.e. democratically) discussed and debated; and where such debate often appropriately terminates in democratic decision-making and the creation of public laws, policies and rules, the enactment of which can change and shape the practices of the entire community.

Suppose that, within such a society, a particular cultural/linguistic minority finds itself publicly reflecting on its own position within the larger community. The members of that society recognize the important role which their distinct cultural/linguistic heritage plays in their own lives, including the meaningful choices it makes available to them as autonomous individuals.

As the members of this community reflect on the basic shared practices which differentiate their society from the larger community, they may identify ways that would make it possible to democratically use some of the institutional resources of a modern state to further develop their society's distinct characteristics, such as their language and the various cultural and other activities based upon it. This, presumably, would enhance the quality of their lives. But it may also be the case that (a) the majority is not inclined to support such policies; and (b) there is no immediate threat to the existence of the minority language or culture by the majority. In such circumstances, the minority may claim that it has a right to some measure of autonomy, perhaps in the form of its own state or provincial government, so that its members can collectively and democratically *improve* the condition of their language.

Now Kymlicka argues that cultural membership is necessary for meaningful choices. But he treats membership in such communities as essentially an instrumental good whose justification lies in its providing individual choosers with a context of choice. On these terms, it is hard to see why the majority should concede such a right to this minority. For the community is not on the verge of being assimilated. And to create public policies which are a burden on the majority simply to please a minority seems to violate basic democratic assumptions. Moreover, insofar as the value of one's membership in a cultural community is only an instrumental good, the moral logic of the arguments for according special rights as an alternative to assimilation will, when all is said and done, come down to a kind of cost-benefit analysis: as long as the costs

which the assimilation option impose on the members of the minority culture are higher than the burden placed on the majority by taking steps to preserve the minority culture, these special rights are justified.

But there will be a point at which the costs to the majority may plausibly be said to outweigh the benefits to the minority. If, for example, the minority group's desire to consciously shape and develop its collective identity in new ways might lead to political instability or disintegration of the larger community, these demands will begin to appear extremely burdensome to the majority and difficult to justify by the theory. In my view, however, such claims are sometimes justified. Quebec may be an example. But how is this claim to collective autonomy to be explained?

My answer turns upon a particular way of understanding liberal autonomy. In a nutshell, I think that autonomy is exercised *from within* a 'context of choice', not *from outside of it*. I do not think Kymlicka's analysis gets this quite right. And I do not think it is a trivial point.

In my view, one can only assess the significance of the values which a 'context of choice' (i.e. a cultural/linguistic community) offers through some form of meaningful *participation* in its practices. But the consumer/market analogy fails to do justice to the nature of this participation. The relationship here is often not an instrumentalist one, as this model suggests it is. Characterizing it as such, even if only for the purposes of

political theory, misrepresents the way we *belong* to communities. The result is that it distorts our view of the relative weight which various, sometimes competing, interests have. In particular, it often makes our interest in individual autonomy appear much stronger than it is in fact.

If we are to make sense of the claim that communities sometimes do have a right to collective autonomy in order to pursue their own development, I think we must begin to think of individual autonomy in a less formalistic way. That is, not merely as an abstract capacity for individual choice, but more broadly as a capacity for a very special kind of participation in social life, public and private.

I am not advocating that we abandon our conception of autonomy as an abstract capacity for choice. This 'point of view' helps us understand the nature of our commitment to basic liberal rights. But the abstract characterization of autonomy is insufficient. It does not go far enough. Autonomy is more than an abstract capacity. It is also a unique personal achievement. It is a very special way of integrating one's life with the social world, public and private, in which one finds one's self.

In particular, the relationship of an autonomous individual to his cultural and linguistic community cannot be understood simply in terms of the relationship between consumer and marketplace. It is -- it *must be* -- more than just an instrumental relation. For I am not always free to take or leave the goods which are on offer, as I see fit. On

the contrary, as a *member* of the community, I *share* in its practices. They are meaningful for me. If they were not, I would have few meaningful choices in my life.

As a member of the community, then, I am more than a casual consumer. Indeed, it is often an implicit condition of my remaining a member in a cultural or linguistic community that I actively participate in certain of its practices and share certain of its values – say, the use of and appreciation for its language. It may even be that, as a matter of fact, I could abandon these practices and values, if at all, only at great cost to my own well-being, my sense of who I am, my ‘moral identity’.

Nevertheless, if my membership in a particular community is only possible through a kind of constitutive participation in it, that doesn’t preclude my having an autonomous relationship to the practices and values implicit in this participation. Even if it is true that I am not free to reject certain values, it does not follow that I am therefore *not free to choose them*.

There is thus no strict equation between the extent of one’s autonomy and one’s capacity to adopt or reject values at will or even as a result of rational reflection. In some cases, this abstract capacity for choice is indeed how autonomy is to be understood. After all, sometimes we really are mere consumers of values. But an individual who stood in such a relation to all values would be a frightening freak of nature.

Often to stand in an autonomous relation to a value means something quite different. It means that one has developed a certain kind of appreciation for it, perhaps because of the way in functions in one's life or the life of a community in which one is a member. One may come to see, for example, that there is nothing universal or absolute in the value, yet one understands it as a genuine good -- a good, moreover, that is part of one's own being. In this sense, one may come to freely endorse and even celebrate an inherited value, even though one may be psychologically incapable of rejecting it.

In conclusion, then, my argument in the thesis has been that autonomy is an integral part of the liberal moral identity. But that it is by no means the sole basis of it. One's membership in a cultural and linguistic community is partly constitutive of this identity. An autonomous individual does not simply 'choose' his identity. He partly chooses it, partly discovers it, and partly works it out. All this is done in the context of his daily life, private and public. The fact that this relation to one's cultural or linguistic community is more than an instrumental relation gives its members a crucial interest in the on-going development and flourishing of the tradition of which they are a part. It is this interest which sometimes justifies the claim by a minority group that it has a right to some measure of collective autonomy.

The question of regional autonomy

One final question remains. How does this analysis link up with the claim that regional-economic communities may also sometimes have a right to some measure of collective autonomy?

Perhaps someone will be prepared to accept that membership in linguistic\cultural communities cannot be adequately modeled on what I have called above an abstract conception of autonomy. Perhaps this person will also agree that the constitutive links which we have to such communities give rise to interests that are sometimes strong enough to justify a rights claim. But why should a collection of individuals who happen to share a certain geographical region and certain economic interests have any claim to a right to autonomy?

This is a difficult question. It must be acknowledged here that, as things stand, my treatment of it in the thesis is inadequate. The question deserves and needs a full and careful analysis on its own. I cannot provide that here. Nevertheless, I should say that I remain convinced of two things: (a) such an account could be given; and (b) it could be given in a way that is consistent with the account of autonomy which I have developed here. Before closing, I will try to indicate the direction in which I think the analysis would have to go.

In the 1960s and '70s there was much talk of 'nation-building'. The whole idea of 'nation-building' is premised on the assumption that a new society can be *built*, from the ground up, as it were. A nation, in this view, can be created out of a collection of free and equal individuals who choose to unite together in order to promote their common interests. These interests are, in the first instance, usually economic ones. By using its institutional decision-making power, the group can 'build' a shared social and political culture on top of the common economic base.

I accept that, sometimes, 'nation-building' is a genuine possibility. I also accept that there are times when there are very good reasons for a group of individuals to undertake such a project. In particular, sometimes the overlapping and mutually supporting economic activity of a collection of individuals who share the same territory can reach a point where the maintenance and promotion of their common interests simply requires more institutionalized decision-making power. But if the interests of this group are peripheral to the main interests of the larger political community, its members may be unable to marshal the state's decision-making powers to their aid. A demand for more decision-making power may, in such a case, be quite appropriate and justifiable.

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