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Liberalism and Community in a World of Difference:
Justifying the Protection of
Ethnocultural Minorities within Liberal Democracy

by

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in
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ABSTRACT

The argument addresses two central questions: can the extension of special rights and privileges to ethnocultural minorities within liberal democracies be justified?; and can consistent principles be developed to govern such extension?

The first part of the argument considers important theoretical approaches that are of significance to our questions. The ontological assumptions that support these positions are considered and evaluated. The politics of universalism represents the popular understanding that liberalism requires all citizens to receive identical treatment from the state. The reliance of its proponents (John Rawls and Ronald Dworkin) on 'full autonomy' is shown to leave them incapable of recognizing the importance of community. Proponents of the politics of difference (Vernon Van Dyke, Frances Svensson, Owen Fiss), which supports special treatment, are shown to make strong communitarian assumptions about 'identification with community' which lead them to undervalue autonomy.

Similar problems arise for those whose theories appear to reconcile these values. Proponents of a choice-based personal autonomy (Will Kymlicka, Joseph Raz, Pierre Coulombe) assume too strong a connection between self-identity and historical community. Chandran Kukathas, who is described as advocating a 'preference-based' autonomy, is shown to over emphasize the fluidity of self-identity.

The second part of the argument tries to improve on these approaches by developing a new conception of the person (the 'synthetic self'). It suggests that autonomy and identification can be reconciled if we focus on the contribution each can make to the deeper value of 'meaningful life'. This requires a redefinition of these values which remains true to their general concepts. Personal autonomy becomes the freedom to form and pursue significant purposes, not to lead the examined life. Identification is associated with all communities of shared goods that support meaningful purposes, not just historical communities. This suggests that special treatment is justified to the extent that it supports meaningful lives.

The second question is addressed in the third part of the argument where the model of the synthetic self is employed to suggest principles for determining the legitimacy of claims for protection, the design of protection, and when interference in communities is warranted.

Keywords: Liberalism, Community, Minorities - Civil Rights, Ethnic Groups - Civil Rights, Multiculturalism, Self (Philosophy), Autonomy

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Introduction

The Nisga'a treaty deal - a major native land-claim settlement in Northwestern B.C. involving much land and money - bears an eerie resemblance to the Charlottetown accord, and has a good chance of suffering the same fate at the hands of the people. ... the critics have begun to react as well. Provincial Liberal Leader Gordon Campbell has come out against a "racially based fishery" and says the agreement offends the principle of "one law for all British Columbians."¹

While the extension of special rights and privileges to ethnocultural minorities is almost universally practised in liberal-democratic societies,² it has never been satisfactorily reconciled with liberalism, either in theory or in popular imagination. Francophones and native peoples in Canada; Welsh and Scottish in the United Kingdom; Basques and Catalonians in Spain; German Tyrolians in Italy; Maori in New Zealand; Aborigines in Australia; Corsicans in France; and Amish, Puerto Ricans, and Indians in the great bastion of liberalism, the United States: all receive rights and/or privileges which are not available to other citizens.

For those of us who believe in the value and legitimacy of such rights, their present status is a cause for concern. Lacking clear theoretical justification, they appear to be anomalous violations of an otherwise consistent and appealing liberal conception of distributive justice. This perception is reinforced when the handling of claims for special treatment appears not to reflect any consistent underlying standards. Together these perceptions suggest that special treatment represents injustice rather than justice by violating the basic liberal principle that all citizens be treated with equal concern and respect. This is expressed, for example, in the claim that justice

¹ Gordon Gibson, "The trouble with the Nisga'a deal," *The Globe and Mail*, February 20, 1996, A 17.

² 'Ethnocultural minority' refers to communities which consciously share such traits as ethnicity, religion, language, cultural practices, and group history; whose members identify as members of the group; and which always form minorities within their present political community.

requires one law for all citizens (or British Columbians, as the case may be). On this view, special treatment fails, by its very nature, to show equal concern and respect by making it easier for some citizens to satisfy their preferences than for others. It is the purpose of this essay to respond to such concerns by developing a justification of special treatment which demonstrates that it is integral to a compelling conception of justice. We will consider this to have succeeded if it can generate consistent principles for determining: the legitimacy of claims for special treatment; principles governing the design of special treatment; and standards for deciding when interference in the internal practices of communities is justified.

Before proceeding any further, we should clarify our background assumptions. As we suppose ourselves to be working within contemporary liberal-democratic debates about distributive justice, we assume a general level of agreement on what is to be distributed - political power and economic resources - and on the general principles which should govern such distribution: i.e., the state should resist designing the distribution of resources to promote a comprehensive moral doctrine,³ and should endeavour, instead, to treat all of its citizens with equal respect.

In developing our approach, we rely upon an important conceptual distinction which has been made by Charles Taylor. In considering the 'liberal-communitarian' debate he distinguishes a theorist's *advocacy position*, "the moral stand or policy one adopts", from her *ontological assumptions*, which concern "what you recognize as the factors you will invoke to account for social life".⁴ Of the relationship between advocacy positions and ontological assumptions, he observes that while they can be

³ John Rawls defines comprehensive doctrines as moral conceptions which include "conceptions of what is of value in human life, and ideals of personal character, as well as ideas of friendship and of familial and associational relationships, and much else that is to inform our conduct, and ... our life as a whole." (*Political Liberalism* (New York: Columbia University Press, 1993), 13) A fully comprehensive moral doctrine "covers all recognized values and virtues within one rather precisely articulated scheme of thought". Rawls, "The Priority of Right and Ideas of the Good," *Philosophy & Public Affairs*, 17, no. 4 (Fall 1988), 253.

⁴ Taylor, "Cross-Purposes: The Liberal-Communitarian Debate," in *Liberalism and the Moral Life*, ed. Nancy L. Rosenblum, (Cambridge, Mass.: Harvard University Press, 1989), 159.

distinct, in the sense that taking a position on one does not force your hand on the other. ... they are not completely independent, in that the stand one takes on the ontological level can be part of the essential background of the view one advocates.⁵

He suggests as an example that "the viable combinations between these two levels are restricted: a highly collectivist society would be hard to combine with an unencumbered identity, or a very individualist life-form would be impossible where selves are thickly situated."⁶

Applying this to our case, it should be evident that our problem is not going to be resolved at the level of advocacy positions. There appears to be no way to square the claim that equal respect requires all citizens to receive the same treatment as individuals with the competing claim that it requires some individuals to receive special treatment as members of groups. Thus we concentrate our efforts at reconciliation at the level of the ontological assumptions which may underlie each advocacy position: rather than addressing various interpretations of what *equal respect for persons* requires, we will reflect on the *conceptions of the person who is to receive equal respect* which underlie them. Our objective in this examination is to arrive at an ontological conception of the person which can inform an internally consistent, empirically valid, and politically viable liberal theory of distributive justice which is capable of generating substantive policy proposals.

Our first step in pursuit of this alternative ontology is to consider the possibility of integrating special treatment into existing theoretical frameworks. This is conducted in the four chapters which make up Part One. We begin in Chapters One and Two by considering two theoretical approaches most closely associated with the rejection and the endorsement of special treatment respectively. We will call these, for convenience, the "politics of universalism" and the "politics of (ethnocultural)

⁵ Ibid., 160.

⁶ Ibid.

difference", or the 'politics of difference' for short.⁷ Both have currency in contemporary theoretical and political debates. We examine how each interpretation of the requirements of equal respect affects the distribution of resources generally, and ethnocultural minorities in particular. We attempt to explain their radically different conclusions by working backward to speculate about the ontological assumptions which inform their conceptions of the person. Our purpose is not to identify their advocates' actual ontological assumptions, but, rather, to identify assumptions which they could not deny without falling into inconsistency with their advocacy positions.⁸

In the final stage of this analysis we consider what is appealing and enduring in each approach as well as their shortcomings. It is in this assessment of ontological assumptions that we begin to lay the groundwork for our alternative liberal ontology by introducing the idea of the value of a meaningful life.

Our analysis in Chapters One and Two reaches three conclusions. First, the politics of universalism and the politics of difference recognize important values in their conceptions of the person: the politics of universalism is shown to rely upon a conception of the person which treats 'personal autonomy' as a central value, while the 'politics of difference' is shown to rely upon a conception of the person for which 'identification with inherited communities' is a central value. The second conclusion is that each approach puts the meaningfulness of peoples' lives at risk by assuming that its central value is of singular importance. We will argue, not that either conception of the person is absolutely wrong, but that a compelling account of distributive justice must be informed by a conception of the person which recognizes

⁷ The choice of these terms is influenced by Charles Taylor's influential essay on multiculturalism ("The Politics of Recognition," in *Multiculturalism: Examining the Politics of Recognition*, ed. Amy Gutmann, (Princeton, New Jersey: Princeton University Press, 1994)). Given our focus on ethnocultural minorities, we have chosen to use the phrase 'politics of difference' to refer only to arguments which criticize liberalism for being unfairly biased against the aspirations of ethnocultural communities.

⁸ Here we rely on Taylor's observation that advocacy positions and ontological assumptions are not completely independent. See above.

a wider range of values.

The final conclusion is that this exclusivity is not inherent in the values of personal autonomy and identification with community themselves, but rather in the values as they have been operationalized in these particular approaches. Thus, in considering these issues, we assume a distinction which John Rawls has made between a *concept* and particular *conceptions* of that concept.⁹ We consider the concept of *personal autonomy* to concern, at a minimum, the ability of a person to pursue her ends, free from coercion and manipulation. Similarly, we consider the concept of *identification with a community* to refer to identification - a "psychological orientation of the self in regard to something (as a person or group) with a resulting feeling of close emotional association"¹⁰ - as a member of a community which contributes to one's self-identity. *Self-identity*, for this purpose, is the self-conception which one refers to when answering such questions as: Who am I?; What makes me who I am? Thus, the standard to which we will hold ourselves in deriving an integrating ontology is consistency with these general concepts and not with the particular conceptions they receive in the politics of universalism and the politics of difference.

Having suggested shortcomings in these single-value approaches, we begin our search for a superior ontology in Chapters Three and Four by considering theories which can be considered as attempts to reconcile autonomy and identification. Each approach we consider is rejected because of problems with the relationships which are assumed between self-identity and identification with community. In Chapter Three we reject the approaches of three writers (Will Kymlicka, Joseph Raz, and Pierre Coulombe) who work with a 'choice-based' conception of personal autonomy because they assume too rigid a connection between self-identity and identifications with *inherited historical* communities. Similarly, in Chapter Four we reject Chandran Kukathas's approach, which embodies a 'preference-based' conception of personal

⁹ John Rawls, *A Theory of Justice* (Cambridge, Mass.: Belknap, 1971), 5.

¹⁰ *Webster's Ninth Collegiate Dictionary*, (Markham, Ontario: Thomas Allen & Sons, 1990), 597.

autonomy, because it assumes that self-identities are so fluid that all communities can reasonably be treated as voluntary associations. A way forward is promised by Iris Marion Young's work which suggests that it may be possible to both recognize that people can have fluid self-identities and multiple identifications, *and* defend the practice of special treatment. Young's approach is found ultimately unsatisfying, so we turn in Part Two to seek a more compelling reconciliation for ourselves.

In Part Two we attempt what we hint at throughout Part One: the development of an alternative liberal ontology which reconciles 'personal autonomy' and 'identification with a community' by recognizing a value more basic than either: the value of a meaningful life. This is crucial to demonstrating that special treatment is integral, and not antithetical, to a coherent conception of distributive justice.

In Chapter Five we define the value of 'meaningful life' and employ it to develop a conception of human agency - the synthetic self. This, in turn, suggests new, complementary, conceptions of self-identity, identification with community, and personal autonomy. The understanding of self-identity which results recognizes that people's self-conceptions are often derived from multiple and often conflicting identifications with communities. Further, we suggest, such self-identities *can be* fluid (any particular identification may be replaced over time) and fragile (to be involuntary deprived of a particular identification may, in the right circumstances, cause an otherwise secure self-identity which supports a meaningful life to collapse, thus leading to anomie and meaninglessness). The fragile aspect of self-identity is shown in Chapter Six to explain why, and under which circumstances, the extension of special treatment to *particular* communities is justified.

Similarly, the fluid aspect of self-identity is shown in Chapter Five to justify a conception of personal autonomy - situated autonomy - which treats both the freedom to live in accordance with one's present identifications and the freedom to critically reflect upon those identifications as of only contingent importance to leading a meaningful life. Situated autonomy poses a serious challenge to those who would define autonomy in terms of the examined or critically-reflective life. Chapters Seven

and Eight defend situated autonomy against this view. Chapter Seven suggests why we should resist holding personal autonomy to the standard of the examined life and Chapter Eight defends situated autonomy as a valid conception of personal autonomy.

In Part Three we develop a ‘politics of the synthetic self’: a principled politics which shows equal respect for citizens whose primary, if not overt, interest is with being free to lead meaningful lives. This provides an opportunity to demonstrate our theory’s internal consistency by arguing, in Chapter Nine, that the unequal distribution of rights and resources which may be necessitated by special treatment should not be considered anomalous. The primary function of Chapter Nine is to suggest standards for determining the legitimacy of claims for special treatment. A key conclusion is that formal recognition of specific rights for particular communities cannot be justified by our approach. Chapter Ten continues the process of determining consistent standards by suggesting four principles to govern the design of special treatment. Here our commitment to meaningful life leads us to the somewhat controversial conclusion that special treatment cannot be extended on a permanent or perpetual basis. Finally, Chapter Eleven completes the process of developing principles by suggesting when interference in communities may be justified. Here we make a key distinction between protecting adults’ *ability* to pursue meaningful lives and children’s *capacity* to do so. Interference, we argue, is only warranted when it is necessary to protect these interests.

Thus, to the extent that our argument succeeds, it does so by redefining the conception of the person who is to receive equal respect from one who is centrally interested in leading a ‘fully autonomous’ life, to one who is centrally concerned with leading a meaningful life. On this basis we propose alternative definitions of personal autonomy, self-identity, community, and identification with community. These allow us to overcome apparent conflicts between so-called individual autonomy-based rights and group-based identity rights by suggesting that claims based on identifications with communities are different from claims based on mere preferences. In so doing, we arrive at a conception of justice from which the differential treatment of ethnocultural minorities is not necessarily an anomalous deviation.

Part One: Autonomy Versus Identification?

Chapter 1: The Politics of Universalism & Personal Autonomy

"I'm not prepared ever to acknowledge that my quality of citizenship in this country is any less than the quality of a resident of another province by reason of language, culture, size of the province, economic power, colour of my hair, ethnic origin or anything else"

Former Newfoundland Premier Clyde Wells¹

This chapter considers the 'politics of universalism' as exemplified in the 'equality of resources' liberalism of John Rawls and Ronald Dworkin.² In general, as Taylor notes, this politics emphasizes "the equal dignity of all citizens, and the content of this politics has been the equalization of rights and entitlements. What is to be avoided at all costs is the existence of 'first-class' and 'second-class' citizens."³ In everyday political discourse this takes an unsophisticated form generally associated with vague and often outraged demands for 'equal treatment' and rejections of 'favouritism'.⁴ In the first section of the chapter we consider the advocacy positions of the politics of universalism both in general and as they affect ethnocultural minorities. In section II we argue that the politics of universalism relies upon a 'partially comprehensive'⁵ conception of the person as one for whom the exercise of 'full personal autonomy' is an overriding value. In the final section, we suggest that this conception of the person poses a serious enough threat to meaningful lives as to

¹ Tu Thanh Ha, Paul Knox, and Richard Mackie, "2 sides swap blame for dollar's drop," *The Globe and Mail*, October 24, 1995, A 1.

² Their works are treated as examples of the same general theory - differences are noted only where relevant.

³ Taylor, "Politics of Recognition," 37.

⁴ See, for instance, the quotation from *Globe and Mail* columnist Gordon Gibson at the beginning of the Introduction.

⁵ The term 'partially comprehensive' is borrowed from Rawls, *Political Liberalism*, 13.

justify the rejection of the politics of universalism as a conception of justice.

I

We can begin by considering advocacy positions typical of the politics of universalism. Proponents of the politics of universalism reject the idea that society has a dominant end. They point out that liberal democracies are comprised of individuals who adhere to diverse and, perhaps, incommensurable conceptions of the good. This is considered to be a reasonable state of affairs which is unlikely to change.⁶ In the absence of a shared comprehensive doctrine,⁷ the only end which the state should pursue is the realization of a conception of justice which will facilitate individuals' pursuit of their own ends. This conception of justice requires that people be treated with equal respect. Rawls designs "basic social institutions ... to conform to the freedom and equality of citizens as moral persons."⁸ Dworkin wants to "impose no sacrifice or constraint on any citizen in virtue of an argument that the citizen cannot accept without abandoning his sense of equal worth."⁹ This results in a conception of distributive justice which requires a rough equality in the distribution of resources and political power.

With respect to resources, Dworkin's 'challenge model' suggests that all citizens should face the same abstract challenge¹⁰ in the sense that "the resources

⁶ See Rawls' four 'general facts of political sociology and human psychology' in modern democratic societies. These are summarized in Philip Petit and Chandran Kukathas, *Rawls: A Theory of Justice and Its Critics* (Cambridge: Polity Press, 1990), 135-6.

⁷ See Introduction, n. 3.

⁸ John Rawls, "Kantian Constructivism in Moral Theory," *The Journal of Philosophy*, LXXVII, no. 9 (Sept. 1980), 517.

⁹ Ronald Dworkin, "Why Liberals Should Care About Equality," in *A Matter of Principle* (Cambridge, Mass.: Harvard University Press, 1985), 205.

¹⁰ Ronald Dworkin, "Foundations of Liberal Equality," in *The Tanner Lectures on Human Values*, Vol. XI (1990), 102.

different people control [should be] equal in the *opportunity costs* of those resources".¹¹ Similarly, Rawls's 'difference principle' only condones deviations from equality of rights and economic resources where this will "improve everyone's situation, including that of the least advantaged".¹² The economic market is permitted to govern the ongoing redistribution of goods because it makes "a citizen's own distribution a function of the personal preferences of others as well as his own".¹³ Government intervention, in the form of taxation and redistribution, is advocated¹⁴ only where distributions of resources reflect unjust influences.¹⁵

Strict equality is also advocated for the distribution of political power. This is reflected in the endorsement of three basic institutions of liberal democracy: one elector one vote, majority rule, and individual rights. 'One elector one vote' implies "that each vote has approximately the same weight in determining the outcome of elections."¹⁶ Majority rule "enforces the right of each person to respect and concern as an individual."¹⁷ Individual rights are designed to address the problem that "in practice the decisions of a democratic majority may often violate" the right of

¹¹ Ibid., 36-7.

¹² Rawls, *Political Liberalism*, 282.

¹³ R. Dworkin, "Liberalism", in *Liberalism and Its Critics*, ed. Michael J. Sandel (New York: New York University Press, 1984), 67. For Rawls' opinions of the economic market, see *A Theory of Justice*, (Cambridge, Mass.: Belknap, 1971), 270-74.

¹⁴ Rawls, *A Theory of Justice*, 278-9; Ronald Dworkin, "What is Equality? Part 2: Equality of Resources," *Philosophy & Public Affairs*, 10, no. 4, (Fall 1981), 308.

¹⁵ I.e. where outcomes are 'endowment sensitive' (reflecting differences in ability among people with the same ambitions), rather than 'ambition sensitive' (reflecting only the costs or benefits of the choices people make). R. Dworkin, "What is Equality? Part 2," 311.

¹⁶ Rawls, *A Theory of Justice*, 223.

¹⁷ R. Dworkin, "Liberalism," 69. This reflects Rawls's principle of the 'fair value of political liberties' which requires that all citizens, regardless of their social or economic position, should enjoy the same opportunity to hold political office and influence political decisions. Rawls, *Political Liberalism*, 327-8.

individuals to equal respect and concern.¹⁸ Rights act as "trump cards" which individuals may play against political decisions which are "antecedently likely" to violate equal respect.¹⁹

While the interpretation of equal concern and respect as requiring a roughly equal distribution of political and economic resources may be intuitively appealing, it has implications for the treatment of ethnocultural minorities which run counter to established practice. Claims for special rights and resources to preserve valuable communities, like those of Welsh-speakers for Welsh-language media and education, or of native peoples to communal ownership of land and self-government, are clearly inconsistent with this approach.

Whether a community can survive when its members have access to the same rights and resources as nonmembers, is not a concern of justice. Dworkin says that whether any end or conception of the good has enough resources to keep it viable is simply a matter of luck.²⁰ His position is unequivocal:

The interests different groups have in the design of the social and cultural environment are accommodated by a price structure from assumptions neutral among their projects. ... Numbers will indeed count ... [People] who need a community of other committed believers in which to flourish, may find that enough other people share their convictions to enable them to join together in creating a special religious community without benefit of the criminal law. Nor is any minority, whether religious, sexual, or cultural, assured of social requirements ideal for them. Numbers count for them as well: they would plainly be better off, ... if more people shared their views, or had tastes that made their own activities less expensive. Their prospects ... will depend on the opportunity costs to others²¹

Similarly, when Rawls considers the possibility that his approach may discourage

¹⁸ R. Dworkin, "Liberalism," 69.

¹⁹ *Ibid.*, 70-71.

²⁰ R. Dworkin, "What is Equality? Part 2," 289.

²¹ R. Dworkin, "What is Equality? Part 3: The Place of Liberty," *Iowa Law Review* 73 no. 1 (1987), 31.

worthy as well as unworthy ways of life, he says that appeals for the provision of *sufficient space* for reasonable comprehensive doctrines (what I will call 'positive differentiations between permissible ends') are mistaken because "there is no criterion for what counts as 'sufficient space' except that of a reasonable and defensible political conception of justice itself."²²

Thus, the politics of universalism interprets equal respect and concern to require all people to be provided with an equal share of rights and resources. On this view, where members of an ethnocultural minority find such equal shares insufficient to sustain their communities, justice requires them to abandon claims for special treatment and ask themselves: "what is a good life for someone entitled to the share of resources I am entitled to have?"²³

II

Having noted the treatment which ethnocultural minorities receive from the politics of universalism, we will now attempt to determine the ontological assumptions with which this is consistent. We will do so by working backward from its interpretation of equal concern and respect to its assumptions about the conception of the person. This conception, we shall see, is that of a person who is both capable of, and morally motivated to act on, what Rawls describes as 'full autonomy'.²⁴

Note that at first blush, the politics of universalism appears consistent with a very general conception of personal autonomy (i.e. the ability of a person to pursue his ends free from coercion and manipulation). In his 'Kantian Constructivism,' Rawls says that his argument relies on

²² Rawls, *Political Liberalism*, 198 n.

²³ R. Dworkin, "Liberal Community," *California Law Review* 77 (1989), 503.

²⁴ While I recognize that Rawls and Dworkin both deny that they treat the autonomous life as the good life (Dworkin says his liberalism is not based on "the aristocratic ethics of autonomy" ["Foundations of Liberal Equality," 4]; Rawls claims that justice as fairness can be accepted without necessarily endorsing such comprehensive moral ideals as autonomy and individuality of Mill and Kant. ["Justice as Fairness: Political not Metaphysical," *Philosophy & Public Affairs* 14 (1985), 245-6]), I believe the discussion which follows supports my claim.

a particular conception of the person as an element in a reasonable procedure of construction, the outcome of which determines the content of the first principles of justice. ... [and that] Apart from the procedure of constructing the principles of justice, there are no moral facts.²⁵

He describes the essential nature of such persons as that of 'free and equal rational beings'.²⁶ Such beings have two moral powers which should be accommodated: a capacity for an effective sense of justice; and a "capacity to form, to revise, and rationally to pursue a conception of the good."²⁷

Beyond the commitment to accommodate the latter capacity Rawls and Dworkin's commitment to a general conception of personal autonomy is reflected in their opinions on paternalism. Dworkin, for instance, says that a person's life cannot "be improved just by forcing him into some act or abstinence he thinks valueless."²⁸ Likewise, Rawls says that when paternalistic decisions must be made, they should "be guided by the individual's own settled preferences".²⁹

A commitment to personal autonomy is also reflected in the way the politics of universalism characterizes the things which society distributes. Rawls calls these 'primary goods' (rights and liberties, powers and opportunities, income and wealth, the bases of self-respect).³⁰ He says they follow deductively from the conception of the person in that they are necessary for free and equal rational beings to realize their essential nature:³¹ i.e. they "normally have a use whatever a person's rational plan

²⁵ Rawls, "Kantian Constructivism," 516, 519.

²⁶ Rawls, *A Theory of Justice*, 252.

²⁷ Rawls, "Kantian Constructivism," 525.

²⁸ R. Dworkin, "Foundations of Liberal Equality," 78.

²⁹ Rawls, *A Theory of Justice*, 249.

³⁰ *Ibid.*, 62.

³¹ Rawls, "Social Unity and Primary Goods," in *Utilitarianism and Beyond*, ed. Amartya Sen and Bernard Williams (Cambridge: Cambridge University Press, 1982), 166-7. This allows their provision to be measured without examining "citizen's psychological attitudes or their comparative levels of

of life."³² The concern that people be free to pursue their plans without coercion or manipulation is revealed when Rawls says that his position is not based upon an epistemological scepticism,³³ but rather on an unwillingness to condone the use of political power to repress reasonable comprehensive views.³⁴ This suggests, then, a conception of the person for whom the capacity for a very general conception of personal autonomy is a vital interest.

This, however, cannot be all there is to it. The association of the politics of universalism with such a general conception of personal autonomy could not justify its refusal to deviate from equal distributions of rights and resources. It cannot explain, for instance, why, if communities which people find valuable are threatened with extinction because of a lack of resources, they should not be given a greater than equal share of resources. That this option is denied as a matter of principle suggests that further assumptions are being made.

The vital assumption, I suggest, is that people are capable of, and have a moral obligation to achieve, full autonomy. *Full autonomy* is derived from Rawls's first moral power of free and equal rational beings: the capacity for an effective sense of justice. He says that fully autonomous people act in everyday life "from the first principles of justice".³⁵ In practice, this means that if their plans cannot be executed with an equal share of society's resources, they recognize and act on their "responsibility [to] revis[e] and [adjust] their ends and aspirations in view of the all-

well-being". 163.

³² Rawls, *A Theory of Justice*, 62.

³³ Rawls, "Kantian Constructivism," 542.

³⁴ Rawls, *Political Liberalism*, 61. This arises in the context of a discussion of the 'Burdens of Judgment' (epistemological truths which suggest that in the absence of coercion, reasonable people may come to accept different and often conflicting 'reasonable doctrines'). 56-7.

³⁵ Rawls, "Kantian Constructivism," 521.

purpose means they can expect".³⁶

To exercise full autonomy people must have certain capacities and commitments. Rawls describes the required capacity most clearly in *A Theory of Justice*: "it is assumed that the members of society are rational persons *able to adjust their conceptions of the good to their situation*."³⁷ For the purposes of determining the nature of justice, they "do not view themselves as inevitably tied to the pursuit of the particular conception of the good and its final ends which they espouse at any given time."³⁸ Similarly, Dworkin says that while people's "tastes are often cultivated in response to beliefs ... [which] are not themselves cultivated or chosen", all citizens must ultimately "choose whether and how far to act on these beliefs."³⁹ Dworkin's belief in this capacity is demonstrated most clearly when he responds to the claim that "if people become detached from formerly unquestioned convictions their personality will disintegrate", by suggesting: "why should people not be able to reassemble their sense of identity[?]"⁴⁰

At the level of commitments, such people recognize that they have a responsibility to exercise this capacity. This is what Rawls means when he says that people are free in that they can understand and comply with a public conception of justice,⁴¹ and when he describes people who do not recognize this obligation as

³⁶ Rawls, "Social Unity and Primary Goods," 170.

³⁷ Rawls, *A Theory of Justice*, 94. My emphasis.

³⁸ Rawls, "Kantian Constructivism," 543-5. Conceptions of the good, in this sense, normally consist of schemes of final ends desired for their own sake which may include attachments to individuals, groups and associations which one wishes to flourish and which usually include "a view of our relation to the world - religious, philosophical, or moral - by reference to which the value and significance of our ends and attachments are understood." Rawls, "Justice as Fairness," 233-34.

³⁹ R. Dworkin, "What Is Equality? Part 1," *Philosophy & Public Affairs* 10 no. 3 (Summer 1981), 232, 237.

⁴⁰ R. Dworkin, "Liberal Community," 489-90.

⁴¹ Rawls, "Kantian Constructivism," 546.

treating themselves as "passive carriers of desires".⁴² Dworkin suggests this when he says of his challenge model of ethics that:

it is part of each person's ethical responsibility to decide an ethical identity for himself - to decide for *himself* whether it *is* a parameter of his life that he is an aristocrat or talented or whether these properties are only opportunities or limitations he faces in leading a life properly defined in some quite different way⁴³

The commitment to full autonomy also implies that people must be dedicated to the exercise of critical reflection. Dworkin is more forthright than Rawls about the role of critical reflection in the good life. He acknowledges that his liberalism requires people to treat it as a central aspect of their private conceptions of the good life: ethical integrity "requires me to reflect, from time to time, on whether I do find the life I am living satisfactory. ... I must want to live a good life, and not merely one I think good".⁴⁴ Rawls, however, tries to downplay the role of critical reflection: he says that legitimate relationships between individuals and their conceptions of the good can range from Mill's 'making our conception our own', to accepting an existing conception for good reasons or as matters of faith or custom.⁴⁵ This is somewhat deceptive, however, since to fulfil their obligation to 'adjust' their private conceptions of the good to their 'just' share of resources, people must engage in a degree of critical reflection which is inconsistent with accepting one's conception of the good as a matter of faith or custom.⁴⁶

People who exercise full autonomy must also be committed to a very particular conception of the good life. Rawls's conception of a good life is suggested by his

⁴² Rawls, "Social Unity and Primary Goods," 169.

⁴³ R. Dworkin, "Foundations of Liberal Equality," 102.

⁴⁴ *Ibid.*, 81.

⁴⁵ Rawls, *Political Liberalism*, 313-15.

⁴⁶ Petit and Kukathas have argued that Rawls's theory would benefit if he were to openly acknowledge this. See their *Rawls: A Theory of Justice and its Critics*, 142-50.

description of a happy person. He says a happy person "is in the way of a successful execution (more or less) of a rational plan of life drawn up under (more or less) favourable conditions, and he is reasonably confident that his plan can be carried through."⁴⁷ The crucial aspect here is the emphasis on 'plans' rather than 'particular plans' or 'significant plans' or 'meaningful plans' or 'plans consistent with the person's conception of the good'.⁴⁸ This suggests a very basic assumption about the nature of good or happy lives: they do not depend upon the execution of plans associated with any *particular* conception of the good. Thus, if resources are distributed such that a person must abandon his present conception of the good, it is assumed that he can still have a good life by adopting a new conception and successfully executing plans arising from it.

The person, as conceived here, then, is of one for whom no end or conception of the good is so constitutive that its denial would leave her unable to have a good life. She is able "to bracket off [her] fundamental beliefs, to treat them as if they were mere preferences, in the political domain."⁴⁹ For this person, as Thomas Pogge notes, "the desire to honor just institutions must constrain and (in case of conflict) override even our most constitutive *private* loyalties, commitments, and attachments whether personal, religious, or ethical."⁵⁰ These assumptions about the conception of the person could not be refuted without undermining the politics of universalism's commitment at the advocacy level to distribute rights and resources equally without exception.

⁴⁷ Rawls, *A Theory of Justice*, 409.

⁴⁸ This is further sustained by Rawls' consideration of rational plans of life. (*A Theory of Justice*, 407-416) These are defined, not as promoting constitutive ends or conceptions of the good, but rather as aims and interests, or, at most, 'present major desires' which can be changed in the future by choices made in the present. 415.

⁴⁹ Stephen Mulhall and Adam Swift, *Liberals and Communitarians* (Oxford: Blackwell, 1992), 220.

⁵⁰ Thomas Pogge, *Realizing Rawls* (Ithaca: Cornell University Press, 1989), 98.

A further implication of this conception of the person is that it undermines Rawls's claim that his *political* conception of justice does not rely upon a moral doctrine, comprehensive or otherwise.⁵¹ *Contra* Rawls, we propose that the politics of universalism does represent a partially comprehensive moral doctrine.⁵² Central to Rawls's position is the idea that his conception of justice "applies only to the person insofar as she is an inhabitant of the public political realm and not to any other aspect of her life."⁵³ Dworkin describes this as a 'strategy of discontinuity' which suggests that public and non-public identities are compatible since the "political perspective is in a special but important sense *artificial*, a social construction whose purpose is exactly to provide a perspective that no one need regard as the application of his full ethical convictions".⁵⁴

This bifurcation of perspectives, however, cannot be sustained. Even Rawls seems to acknowledge that his public conception of the person may contradict non-public conceptions,⁵⁵ but he chooses to deny its significance:

none of this need affect the conception of the person connected with society's public conception of justice. ... Within different contexts we can assume diverse points of view toward our person without contradiction so long as these points of view cohere together when circumstances require.⁵⁶

The problem with this is that there are circumstances in which such perspectives fail

⁵¹ Rawls, "The Priority of Right," 252-3.

⁵² One which "comprises certain (but not all) nonpolitical values and virtues and is rather loosely articulated." (Rawls, "The Priority of the Right," 253) It is not fully comprehensive because it does not include a detailed account of how a person should live her life. Mulhall and Swift suggest that Rawls admits that he employs a 'partially comprehensive liberalism' in his "The Idea of an Overlapping Consensus". I believe that the crucial passage is written too ambiguously to permit a definitive conclusion. See Mulhall and Swift, *Liberals and Communitarians*, 221-222.

⁵³ Mulhall and Swift, *Liberals and Communitarians*, 207.

⁵⁴ R. Dworkin, "Foundations of Liberal Equality," 17.

⁵⁵ Rawls says that the dualism of political liberalism originates not in philosophy, but in the reasonable pluralism which naturally arises in democratic political culture. *Political Liberalism*, xxi.

⁵⁶ Rawls, "Kantian Constructivism," 545.

to cohere. An obvious example, and the one most important to us, is that where the obligation to exercise full autonomy conflicts with one's ability to preserve a meaningful community and/or conception of the good in the private, nonpublic, realm.

Unlike Rawls, Dworkin does not deny that he develops a partially comprehensive moral doctrine. He says his approach employs a 'strategy of continuity'.⁵⁷ He says he wants to construct

a *liberal ethics* - instincts and convictions about the character and ends of human life that seem particularly congenial to liberal political principles - and then to show that these instincts and convictions already form the central part of how many of us imagine living well⁵⁸

In contrast to Rawls, Dworkin's liberal does not recognize a distinction between public and private identity: "he does not separate his private and public lives in that way ... [he] accepts that the value of his own life depends on the success of his community in treating everyone with equal concern."⁵⁹ Thus, our examination of ontological underpinnings suggests that the politics of universalism represents a partially comprehensive moral doctrine which treats full autonomy as a central value.

III

The central problem with this partially comprehensive moral doctrine is that it does not recognize the importance of *meaningful* identifications and conceptions of the good. By not acknowledging that there is a difference between expecting people to adjust their *preferences* as opposed to their *constitutive conceptions of the good* to an equal distribution of resources, the politics of universalism risks leaving people to lead aimless and meaningless lives. After discussing the nature of this problem, we suggest that it justifies the abandonment of the politics of universalism in favour of some other approach which can avoid such a dangerous outcome.

As Rawls acknowledges, there are a couple of ways that his conception of

⁵⁷ Rawls describes it as a comprehensive conception of the good. *Political Liberalism*, 211 n. 42.

⁵⁸ R. Dworkin, "Foundations of Liberal Equality," 20.

⁵⁹ R. Dworkin, "Liberal Community," 501.

justice may necessarily 'discourage' some comprehensive doctrines: "doctrines may be in direct conflict with the principles of justice; or else they may be admissible but fail to gain adherents under the political and social conditions of a just constitutional regime."⁶⁰ The first example is a case of what I will call '*rejecting impermissible ends*' - i.e. ends which are not permissible (because they do not respect the rights of others) are denied expression. The second is an example of a failure to make *positive distinctions between permissible ends* - i.e. the refusal to give special treatment to people whose permissible conceptions of the good cannot be sustained with an equal share of society's resources.

It is telling, from our perspective, that the only example which Rawls considers of a comprehensive doctrine which might be discouraged concerns impermissible ends. He refers to "a particular religion, and the conception of the good belonging to it, [which] can only survive if it controls the machinery of state and is able to practice effective intolerance."⁶¹ Given that the example involves an impermissible end, Rawls's unsympathetic response, that "there is no social world without loss",⁶² is reasonable.

This response is much less compelling, however, if we consider how permissible doctrines might be discouraged. We can imagine two ways this might occur. First, a community which supports a valuable conception of the good may be unable to survive on its members' (equal) shares of resources. Examples include aboriginal communities which cannot maintain their traditional land base, and linguistic communities whose critical mass is undermined by the influx of nonspeakers who outbid members for housing stock. Second, some ends may be so integral to some conceptions of the good that if their adherents are unable to pursue them (e.g. due to a lack of resources), the conception of the good itself would be effectively

⁶⁰ Rawls, "The Priority of Right," 265.

⁶¹ Ibid.

⁶² Ibid.

undermined. Consider Joseph Raz's contention that 'bad speech' should sometimes be tolerated because it may be integral to otherwise good ways of life:

The real question is one of separability. Can it not be said that in condemning these aspects of these ways of life one does not condemn the whole way of life?...[Someone's] way of life is the activities, practices, and attitudes which are meaningful and rewarding in their life.

The censoring government can say that it does not intend to condemn the style of life as a whole, that it rejects only the censored aspect of it. But such response, even when truthful, is inadequate. ... What counts is what the government did, not what it intended to do.⁶³

While Raz is concerned with the specific case of prohibiting bad speech, the general point about separability is applicable to permissible ends which cannot be sustained with equal shares of resources. Consider Rawls's example of people who "count among their religious obligations going on pilgrimages to distant places or building magnificent cathedrals or temples."⁶⁴ For these people to exercise full autonomy may lead to such absurd reasoning as: "My religion, the ultimate source of truth in my life, commands me to go on this pilgrimage. Nevertheless, I will refrain because it is more important that I adjust my ends to my fair share of resources." Such dissonant choice-making clearly threatens conceptions of the good and, with them, meaningful lives.

In both cases, conceptions of the good are 'discouraged', not because they are impermissible in themselves, but because the equal distribution of rights and resources creates an environment in which they cannot survive. Rawls indicates his awareness of this danger when he writes that if

a comprehensive conception of the good is unable to endure in a society securing the familiar equal basic liberties and mutual toleration, there is no way to preserve it consistent with democratic values as articulated by the idea of society as a fair system of cooperation among citizens viewed as free and equal.⁶⁵

⁶³ Joseph Raz, "Freedom of Expression and Personal Identification," in *Ethics in the Public Domain: Essays in the Morality of Law and Politics* (Oxford: Clarendon Press, 1994), 146-7.

⁶⁴ Rawls, *Political Liberalism*, 329.

⁶⁵ Rawls, "The Priority of Right," 266.

The only thing which could save this clear refusal to make positive distinctions between permissible ends is the idea that people really can 'adjust' their conceptions of the good and thus avoid being doomed to lead aimless and meaningless lives, bereft of a guiding conception of the good.

While it may be that in the majority of cases people who exercise full autonomy by "revising and adjusting their ends and aspirations in view of the all-purpose means they can expect"⁶⁶ survive unharmed, this cannot always be assumed. While this point will be argued more fully in Chapter Six, we will suggest its importance for now by referring to points which even Rawls and Dworkin feel compelled to admit.

Rawls, for instance, acknowledges in several places that our connections with our conceptions of the good are often very strong and difficult to replace. In discussing the importance of liberty of conscience, he says that people's conceptions of the good should be "regarded as given and firmly rooted".⁶⁷ He also accepts the strength of identifications when he says that the right to emigrate does not make an individual's acceptance of his state especially free because "the bonds of society and culture, of history and social origin, begin so early to shape our life and are normally so strong".⁶⁸

Similarly, Rawls and Dworkin both recognize that their theories require people to act politically in ways which appear to contradict their private self-understandings. Dworkin admits that liberalism can appear to be "a politics of ethical and moral schizophrenia", which

seems to ask us to become, in and for politics, people we cannot recognize as ourselves, special political creatures wholly different from ordinary people who

⁶⁶ Rawls, "Social Unity and Primary Goods," 170.

⁶⁷ Rawls, *Political Liberalism*, 314.

⁶⁸ Although he contrasts this with "the way that liberty of conscience makes accepting ecclesiastical authority free, politically speaking", this dichotomy seems difficult to sustain, since similar cultural, historical, and social forces appear to be at work in both cases. *Ibid.*, 222.

decide for themselves, in their ordinary lives, what to be and what to praise and whom to love.⁶⁹

Likewise, Rawls says that his liberalism requires citizens - who believe in their non-public identities that they have ends which "they would not, or could not stand apart from"⁷⁰ and which, if lost, would leave them "disoriented and unable to carry on"⁷¹ - to accept principles of justice in their public identities which reflect the assumption that they are "not inevitably tied to the pursuit of the particular ends they have at any given time".⁷² It is indeed odd that Rawls and Dworkin refuse to let the importance of such identifications affect their considerations of the nature of justice.

The real danger in the refusal to make positive distinctions between permissible ends, and the reason we suggest that the politics of universalism and full autonomy should be rejected, is that it cannot guarantee that people who have been forced to abandon meaningful identifications will ever be able to replace them. Denise Reaume considers this possibility in defending Rawls's theory from the criticism of Michael Sandel. If a person were deprived by the principles of justice of a constitutive conception of the good, she says, and "further self-reflection doesn't reveal a permissible conception of the good, this individual is doomed to an aimless life."⁷³ It is on the basis of this danger that we suggest that we should search for a conception of justice which improves upon the politics of universalism.

⁶⁹ R. Dworkin, "Foundations of Liberal Equality," 15.

⁷⁰ Rawls, "Kantian Constructivism," 545.

⁷¹ Rawls, "Justice as Fairness," 241.

⁷² Rawls, "Kantian Constructivism," 521-2.

⁷³ Denise Reaume, "Is There a Liberal Conception of the Self?," *Queen's Law Journal* 9 (1983-84), 364-5. Reaume, however, believes that situations in which people's conceptions of the good are capable of conflicting are "the very sort of situation in which neutral principles of justice are most desperately needed." The only alternative distribution principle she considers, however, is that of adjudicating disputes "according to a scale evaluating different conceptions of the good". This, she rightly suggests, "would be to judge the worth of the person himself along with his conception of the good." (365) What she does not consider is the possibility of treating people equally by showing equal respect for their needs to lead meaningful lives.

It is worth noting, lastly, that this approach cannot be saved by the claim that such dangers would not exist in a just society. For instance, Rawls says that in a well-ordered society

everyone's conception of the good ... is a subplan of the larger comprehensive plan that regulates the community as a social union of social unions. The many associations of many sizes and aims, being adjusted to one another by the public conception of justice, simplify decision by offering definite ideals and forms of life that have been developed and tested by innumerable individuals, sometimes for generations.⁷⁴

The suggestion that our problem would not arise in a well-ordered society is of no use to us precisely because we do not live in a 'well-ordered society'. In such a society cultural, linguistic, and religious conceptions of the good which required more than a 'fair share' of resources would already have been eliminated. The question we must answer is whether we should create such a society in the first place.

It is our contention that the costs which the creation of such a society imposes on those left to lead aimless lives is significant enough to justify its rejection. In saying this, however, we must note that what is most objectionable is not the politics of universalism's commitment to personal autonomy, but rather, its commitment to full autonomy. Without the assumption that people are capable of full autonomy - that they can always replace their ends and conceptions of the good, even when they have been *involuntarily* deprived of them - the obvious danger posed by an unequivocal commitment to the equal distribution of resources could no longer be concealed.

In the final analysis the principled refusal by proponents of the politics of universalism to entertain the claims of ethnocultural minorities to special treatment reflects the fact that they do not place the same importance on *meaningfulness* in their conception of the good life as we believe it deserves. Were this acknowledged the happy life could not be defined as the successful execution of plans, but rather of meaningful plans; similarly, it could not simply be assumed that people whose

⁷⁴ Rawls, *A Theory of Justice*, 563.

conceptions of the good are 'discouraged' can 'adjust' their conceptions of the good, without considering whether they have any meaningful alternatives. The price of attaining full autonomy is the risk of being left with no comprehensive doctrine at all. The failure to recognize this in the definition of fair shares of resources reveals the politics of universalism to be undesirable and in need of refinement.

Chapter 2: Ethnocultural Difference & Identification with Communities

*"When culture and tradition is brought up you say 'that is nice, but * * *,' but what? Isn't that what makes a person, and isn't that what we are considering here?"*

Miss Carlotta Penny Bird, Santiago Pueblo¹

This chapter considers a critique of the politics of universalism which we will call the 'politics of (ethnocultural) difference', or the 'politics of difference' for short. In everyday discourse, the politics of difference is associated with demands made by minority groups for special assistance in maintaining their identities, for resources to 'catch up' with the majority, and for compensation for past injustices. We are concerned with the first type of demand. This chapter treats the arguments of Owen Fiss, Frances Svensson, and Vernon Van Dyke as representative of this approach.² In the first section we describe how the politics of difference interprets equal recognition in its advocacy position, how this may relate to its conception of the person, and the implications of this for ethnocultural minorities. In Section II we argue that the strong communitarian ideal of constitutive identification with communities is a reasonable 'surrogate ontology' for the politics of difference. Then, in the third and final section, we argue that the politics of difference is flawed because, to the extent that its conception of the person assumes that people can be ascriptively identified with inherited communities, it poses a threat to meaningful life.

I

Like the politics of universalism, the politics of difference assumes that society has no comprehensive end. It also shares the position that justice requires citizens to be treated equally in the distribution of economic resources and political power. The

¹ Congress. Senate. Subcommittee on Constitutional Rights of the Committee of the Judiciary, *Amendments to the Indian Bill of Rights*, 91st Cong., 1st sess., April 11, 1969., 38.

² Discrepancies are noted where relevant. Iris Marion Young's work is discussed in Chapter Four.

two approaches part ways, however, in their conceptions of the person. These lead to different interpretations of equal recognition. Unlike the politics of universalism, the politics of difference advocates that people be treated equally, not simply as individuals or 'free and equal rational beings', but also *as members of social groups*. This means that both individuals and groups should be considered when deciding how to distribute resources.

We will begin by considering the idea of social groups. Proponents of the politics of difference reject the politics of universalism's refusal, at both the ontological and advocacy levels, to recognize the political significance of groups. They find particularly distressing the assumption that when determining 'fair shares' of resources, it is reasonable to treat citizens as willing and able to adjust their final ends and aspirations to comply with a conception of justice. They assume, conversely, that the relationship between the person, her conception of the good, and the community which supports it, should be considered when determining what constitutes a just distribution. In Svensson's terms, while the politics of universalism treats people as "essentially discrete and self-satisficing", the politics of difference treats them as "naturally communal and associative".³

Thus proponents of the politics of difference criticize the politics of universalism's interpretation of equal respect. Svensson, for instance, says the politics of universalism misapplies the 'Generalization Principle' ("If Y is right for A and if A and B are *relevantly similar* persons in relevantly similar situations Y is right for B"),⁴ by refusing to consider social group membership as a relevant dissimilarity. She attributes this to a reliance on the unexamined individualistic premises of liberal

³ Frances Svensson, "Liberal Democracy and Group Rights: The Legacy of Individualism and its Impact on American Indian Tribes," *Political Studies* 27 (1979), 424.

⁴ *Ibid.*, 428.

democracy⁵ which leads to "a new kind of discrimination, a refusal to distinguish the needs, rights, and interests of communities with right-claims against the dominant, policy-making components of individualized society."⁶ Van Dyke believes that the politics of universalism violates an important normative principle - the "equal enjoyment of human rights"⁷ - by denying to some the equal enjoyment of the human right of peoples to self-determination (especially the right to "freely pursue their economic, social and cultural development"⁸). For his part, Fiss rejects the dominant interpretation of the meaning of 'equality' in the U.S. Equal Protection Clause. He calls this the 'antidiscrimination principle' because it only allows the courts to protect social groups by disallowing state actions where the state can be shown to discriminate on an *arbitrary* basis.⁹ Fiss thinks this is unacceptable because it denies courts the right to distinguish between preferential and hostile treatment, and between truly nondiscriminatory state actions and those nondiscriminatory in form, but discriminatory in motive, purpose, or result.¹⁰ The recognition of social groups clearly distinguishes the politics of difference from the politics of universalism.

The various definitions which proponents of the politics of difference give to social groups share an important common element. This is the idea of an ascriptively-defined group or community which acts as the central locus of self-identity for its

⁵ The premises are that the competitive pursuit of individual self-interest is basic to human nature; that groups are only occasional coalitions of individuals; and that groups have a tendency to become entrenched and, thus, to exert an unnatural and dangerous influence over individuals and society. *Ibid.*, 425-6.

⁶ *Ibid.*, 428. This is similar to what we have called the refusal to make positive distinctions between permissible ends.

⁷ Vernon Van Dyke, *Human Rights, Ethnicity, and Discrimination* (Westport, Connecticut: Greenwood Press, 1985), 218.

⁸ *Ibid.*, 219.

⁹ Owen Fiss, "Groups and the Equal Protection Clause," *Philosophy & Public Affairs* 5 no. 2 (Winter 1976), 108-9.

¹⁰ *Ibid.*, 135-6, 141.

members and contributes to their well-being. The ascriptive nature of these groups is illustrated by Svensson's '*multidimensional group*' which has

many interlocking dimensions or facets shared by its members--in an ideal case, for example, language, religion, ethnicity, race, *and* historical experience. It is comprehensive, in that members express virtually all of their social identities through the group.¹¹

Fiss stresses the effect this has on well-being when he says that members of social groups "identify themselves--explain who they are--by reference to their membership in the group"; and that the "identity and well-being of the members of the group and the identity and well-being of the group are linked. ... [the individual's] well-being or status is in part determined by the well-being or status of [his] group."¹² Svensson expresses a similar idea when she says that "the group functions as a mechanism for mobilizing the individual to act in general social situations, helps to define needs and desires and the ways to achieve them, and forms the locus of strong affective attachments which figure prominently in self-identity."¹³

While the extent of claims differs, proponents agree that social groups are natural entities which are legitimate bearers of rights:

*Groups and associations—including multidimensional communities ... are both 'natural' and potentially beneficial to society.*¹⁴

The solution lies in recognizing that certain kinds of collective entities exist, just as individuals do¹⁵

There are natural classes, or social groups, in American society and blacks are

¹¹ Svensson, "Liberal Democracy and Group Rights," 434. Similarly, Van Dyke defines social groups inductively by studying groups which already receive special treatment. *Human Rights*, 213-15.

¹² Fiss, "Groups and the Equal Protection Clause," 148-9.

¹³ Svensson, "Liberal Democracy and Group Rights," 436.

¹⁴ *Ibid.*, 424.

¹⁵ Vernon Van Dyke, "Collective Entities and Moral Rights: Problems in Liberal-Democratic Thought," *Journal of Politics* 44 no. 1 (February 1982), 22.

such a group.¹⁶

While none deny that people can leave social groups - Fiss, for instance, says that a social group will disintegrate if "enough individuals cease to identify themselves in terms of their membership in [it]"¹⁷ - their understandings of the nature of social groups differ.

Svensson takes a fairly weak position, suggesting that while people can abandon their social groups they tend not to be inclined to do so:

At least some social relationships are enduring--essentially permanent--in a given human's experience, Human beings very reluctantly give up their associations, even in the face of negative costs of membership (such as discrimination).¹⁸

She believes that social groups are special, at least to the extent that they can be differentiated from associations: "There is a politically and morally significant difference between the American Medical Association or the National Rifle Association on the one hand, and the French-speakers of Quebec or the Amish in Pennsylvania on the other".¹⁹

In contrast to Svensson's talk of tendencies, Fiss says a social group is "an *entity*" which

has a distinct existence apart from its members, and also ... has an identity. It makes sense to talk about the group (at various points of time) and know that you are talking about the same group. You can talk about the group without reference to the particular individuals who happen to be members at any one moment.²⁰

Van Dyke takes an intermediate position, denying that groups are organic or possess a mind or will of their own, but still claiming that, like corporations, they have rights

¹⁶ Fiss, "Groups and the Equal Protection Clause," 148.

¹⁷ *Ibid.*, 149.

¹⁸ Svensson, "Liberal Democracy and Group Rights," 436.

¹⁹ *Ibid.*, 434.

²⁰ Fiss, "Groups and the Equal Protection Clause," 148-9.

which "do not derive from the rights of individuals and cannot be reduced to the rights of individuals."²¹

Despite differences about the exact nature of social groups, there is broad agreement as to which groups deserve special treatment: ethnic and racial communities, national minorities, indigenous populations, and those disadvantaged by prior discrimination;²² and those which do not: interest groups, social classes.

Given the assumptions that people are naturally communal and associative, and that they depend in part upon membership in social groups for their self-identity and well-being, the politics of difference suggests that individuals have an interest in the survival and success of their groups. This is the basis for its proponents' willingness to do what proponents of the politics of universalism will not - to make positive distinctions between permissible ends.²³

While the particular distinctions which each theorist advocates differ, they share a common willingness to extend special protection to social groups. Svensson would allow groups to "legitimately claim a right to a policy of differentiation".²⁴ Van Dyke says that "when the purpose or effect of the differentiation is to promote the equal enjoyment of rights, it is justifiable and therefore nondiscriminatory."²⁵ On this basis both advocate the right of peoples to separation and self-determination.²⁶ Further, both are willing to accept that in cases of conflicts "between the right of one person and the right of a group"²⁷ there could be cases in which the rights of the

²¹ Van Dyke, *Human Rights, Ethnicity, and Discrimination*, 208.

²² *Ibid.*, 213.

²³ See Chapter One.

²⁴ Svensson, "Liberal Democracy and Group Rights," 429.

²⁵ Van Dyke, *Human Rights, Ethnicity, and Discrimination*, 218.

²⁶ Svensson, "Liberal Democracy and Group Rights," 429; Van Dyke, "Collective Entities and Moral Rights," 36-7.

²⁷ Van Dyke, "Collective Entities and Moral Rights," 37.

group should prevail.²⁸ Svensson, for example, would endorse the right to maintain a group's cultural heritage, and to impose community values upon dissenting members if this were necessary to ensure the group's survival.²⁹

With respect to specific rights Van Dyke says like rights should be extended to like groups.³⁰ He recognizes rights to ethnic communalism (political representation based upon group membership), special arrangements to preserve the identity of communities such as community schools, the barring of outsiders from owning property, and affirmative action to undo the effects of past discrimination.³¹ He rejects the principle of majority rule on the grounds that in deeply divided societies "there is no way to prevent discrimination on the part of voters",³² and advocates in its place "an effort to secure the participation of all the communities in all decision-making bodies, and a change in political rhetoric [away from that of winners and losers, the ins and the outs]".³³

Fiss's argument shares the same general goals, but is limited in scope by his focus on the Equal Protection Clause. He argues that the courts should be empowered to protect social groups by interpreting this clause according to what he calls the '*group-disadvantaging principle*'.³⁴ This reduces the scope of his argument: it is not

²⁸ While Van Dyke denies that group rights *must* always prevail (*Human Rights, Ethnicity, and Discrimination*, 219), he says that allowing individual rights and majority rule to prevail while ignoring group claims "is to fight the battle of any ethnic community that happens to be in a majority." "Collective Entities and Moral Rights," 40.

²⁹ Svensson, "Liberal Democracy and Group Rights," 438, 430-2.

³⁰ Van Dyke, "Collective Entities and Moral Rights," 34.

³¹ *Ibid.*, 36-7.

³² Van Dyke, *Human Rights, Ethnicity, and Discrimination*, 220, 223.

³³ *Ibid.*, 206.

³⁴ This would allow the courts to strike down '*group-disadvantaging practices*' (a state practice or law which "aggravates(or perpetuates?) the subordinate position of a specially disadvantaged group" and thus harms the group's status [Fiss, "Groups and the Equal Protection Clause," 157]) and to treat justifiable preferential treatment and unjustifiable discriminatory behaviour asymmetrically, to the

proactive (courts cannot act where social groups are harmed by state inaction);³⁵ it only extends protection to groups which have experienced perpetual subordination, rather than social groups as such; and it only ensures groups a voice, not a victory.³⁶

Thus, unlike the politics of universalism, the politics of difference suggests that equal respect requires consideration of the interests of both individuals *and* groups when determining fair shares of resources. The implication for ethnocultural minorities is clear: if they qualify as social groups (which many do), they may deserve special treatment.

II

The positions advocated by proponents of the politics of difference suggest that their theories rely upon a conception of the person which differs radically from that underlying the politics of universalism. We argue in this section that these positions are sufficiently consistent with ontological assumptions defended by 'strong communitarians'³⁷ like Michael Sandel and Alasdair MacIntyre that it is reasonable to treat the strong communitarian conception of the person - the 'situated self' - as a 'surrogate ontology' for the politics of difference.³⁸ This is supported most clearly by the politics of difference's assumptions that people depend upon ascriptively-defined social groups for their self-identity, status, and well-being, and that social groups are 'natural' entities and legitimate bearers of rights.

Strong communitarians suggest that the person or self is '*situated*' or

advantage of disadvantaged groups. 161.

³⁵ Fiss, "Groups and the Equal Protection Clause," 168-70.

³⁶ *Ibid.*, 154-55.

³⁷ Marlies Galenkamp differentiates 'moderate' communitarians who simply insist that some kind of community must be presupposed from 'strong' communitarians who insist on 'constitutive' community. See Marlies Galenkamp, *Individualism versus Collectivism: The Concept of Collective Rights* (Rotterdam: Rotterdamse filosofische studies. Dissertatiereeks; 2, 1993), 88-100, esp. 96.

³⁸ I am not suggesting that this is their stated position, but rather, that they could not deny this without risking inconsistency.

'*embedded*' in inherited social practices such that these play an inextricably constitutive role in its self-identity. This self is typically defined in contrast to the liberal self which Sandel describes as *radically disembodied* (i.e. not determined by its circumstances; free to become whatever it chooses).³⁹ Two important aspects of the situated self illustrate its consistency with the politics of difference: its conception of the individual's relationship to ascriptive communities; and its account of agency.

Unlike the self-identity of the person assumed by the politics of universalism who can adjust or replace his conception of the good, situated selves find that their conceptions of the good are, to a significant extent, constituted by inherited and ascriptive communities. Of this, MacIntyre says,

we all approach our own circumstances as bearers of a particular social identity. I am someone's son or daughter, someone else's cousin or uncle; I am a citizen of this or that city, a member of this or that guild or profession; I belong to this clan, that tribe, this nation. ... I inherit from the past of my family, my city, my tribe, my nation a variety of debts, inheritances, rightful expectations and obligations. These constitute the given of my life, my moral starting point.⁴⁰

As the following passage from Sandel suggests, the situated self experiences its inherited communities as inescapable:

we cannot regard ourselves as independent in this way [seeing our identity as "never tied to our aims and attachments"] without great cost to those loyalties and convictions whose moral force consists partly in the fact that living by them is *inseparable from understanding ourselves as the particular persons we are* -- as members of this family or community or nation or people, as bearers of this history, as sons and daughters of that revolution, as citizens of this republic. Allegiances such as these are more than values I happen to have. ... [they are] more or less enduring attachments and commitments which taken together partly define the person I am.⁴¹

³⁹ Michael Sandel, *Liberalism and the Limits of Justice*, (Cambridge: Cambridge University Press, 1982), 20-21.

⁴⁰ Alasdair MacIntyre, "The Virtues, the Unity of a Human Life, and the Concept of a Tradition," in *Liberalism and Its Critics*, ed. Michael Sandel (New York: New York University Press, 1984), 142.

⁴¹ Sandel, *Liberalism and the Limits of Justice*, 179. My emphasis.

On this, MacIntyre is more paradoxical: "rebellion against my identity is always one possible mode of expressing it."⁴²

The ideas of constitutiveness and inescapability are further illustrated in the strong communitarian conception of human agency. Unlike the liberal 'free and equal rational being', the situated self experiences agency as a matter of discovery rather than choice. Sandel describes this as the *possessive aspect of the self*, a sort of half-way point between radically disembodied and radically situated subjects. This "means that I can never fully be constituted by my attributes, that there must always be some attributes that I *have* rather than *am*."⁴³ On this view agency is a process of self-reflection by which the self escapes an initial state of being submerged in a sea of unchosen attributes - "indebted in a complex variety of ways for the constitution of [its] identity - to parents, family, city, tribe, class, nation, culture, historical epoch, possibly God, Nature, and maybe chance"⁴⁴ - by differentiating those attributes which are 'mine' (which I 'have') from those which are 'me' (which I 'am'). MacIntyre relies on a similar idea of reflection when he writes: "I can only answer the question 'What am I to do?' if I can answer the prior question 'Of what story or stories do I find myself a part?' ... Hence what is good for me has to be the good for one who inhabits these roles."⁴⁵

Thus, constituted by and unable to escape its inherited communities, the situated self has an interest in the success and survival of communities with which it identifies. This is consistent with the politics of difference's claim that ascriptively-defined social groups are important to their members' self-identity, status, and well-being.

Strong communitarian ideas also provide ontological support for the politics of

⁴² MacIntyre, "Virtues," 143.

⁴³ Sandel, *Liberalism and the Limits of Justice*, 20.

⁴⁴ *Ibid.*, 143.

⁴⁵ MacIntyre, "Virtues," 138, 142.

difference's treatment of social groups as 'natural' entities which are legitimate bearers of rights. Members in what Sandel calls a *constitutive community* experience an *intersubjective conception of the self* where the "subject of possession is 'we' rather than 'I'."⁴⁶ Where this prevails people regard themselves "less as individuated subjects with certain things in common, and more as members of a wider (but still determinate) subjectivity, be it a family or community or class or people or nation."⁴⁷

So conceived, constitutive community

describes not just what they *have* as fellow citizens but also what they *are*, not a relationship they choose (as in a voluntary association) but an attachment they discover, not merely an attribute but a constituent of identity.⁴⁸

The importance of constitutive community to theories like the politics of difference has been noted by Marlies Galenkamp who writes that there is "a striking parallel between the communitarian attack of [sic] philosophical liberalism and the notion of collective rights"; "the presence of a constitutive community, seems to be a key presupposition underlying the notion of collective rights."⁴⁹ As something which people discover, rather than choose,

collectivities are no longer considered to be a mere summation of separate individuals - a view which seems to be predominant in the liberal approach - but the individual's identity is viewed to be mainly constituted by his or her belonging to a certain community.⁵⁰

An important effect of this, as Galenkamp notes, is that the emphasis placed on collective rights makes the collectivity, and not the individual, the prime actor, and, thus, "it is the protection of the interests of the collectivity as such which seems to be

⁴⁶ Ibid., 80.

⁴⁷ Ibid., 143.

⁴⁸ Ibid., 150.

⁴⁹ Galenkamp, *Individualism versus Collectivism*, 22-3.

⁵⁰ Ibid.

at stake."⁵¹ Thus, reliance on strong communitarianism is also consistent with the politics of difference's treatment of social groups as 'natural' entities which can legitimately act as bearers of rights.

Thus, it is not unreasonable to treat the arguments of strong communitarians as a surrogate ontology for the politics of difference. This is important because it suggests that the politics of difference relies upon a conception of the person as constitutively identified with inherited and ascriptive communities.

III

The politics of difference's major weakness lies in its similarity to the situated self's conception of 'identification with a community'. There are several problems with this assumption that people are constituted by the communities into which they are born: first, it is simply not compelling; second, the related assumption that collectivities can be treated as legitimate bearers of rights can lead to the violation of individuals' interests when the two come in conflict; and third, this suggests that the value of identification with communities is inconsistent with the value of personal autonomy.

The claim that people are constituted by the ascriptively-defined communities into which they are born is contradicted by the fact that people actually do reject and replace those communities. Attempts by strong communitarians to address this problem are unconvincing. Sandel writes that we are

constituted in part by our central aspirations and attachments, always open, indeed vulnerable, to growth and transformation in light of revised self-understandings. ...

As a self-interpreting being, I am able to reflect on my history and in this sense to distance myself from it, but the distance is always precarious and provisional.⁵²

Likewise, MacIntyre writes,

⁵¹ Ibid.

⁵² Sandel, *Liberalism and the Limits of Justice*, 172, 179.

the fact that the self has to find its moral identity in and through its membership in communities such as those of the family, the neighbourhood, the city and the tribe does not entail that the self has to accept the moral *limitations* of the particularity of those forms of community. ... Yet particularity can never simply be left behind or obliterated.⁵³

These arguments do not succeed: either they are saying something which is not true - that people cannot change their identifications; or they are saying something of little importance - that a person's former identification with a community always remains part of her self-identity.⁵⁴ Thus, the very idea of constitutiveness is problematic.

This goes from being simply inaccurate to being harmful, however, when individuals' interests conflict with those of their communities. Consider Sandel's idea of constitutive community in which people "know each other ... well enough to govern by the common good alone."⁵⁵ The idea of governance by the common good can be dangerous because it can be used to rationalize the imposition of values on individuals who do not share them. This danger is illustrated in Sandel's example of a town banning pornographic bookstores on the grounds that they offend "its way of life and the values that sustain it."⁵⁶ While forbidding people to operate and patronize such bookstores may protect the community's way of life, it clearly harms the interests of those who do not share the community's values.

A similar problem arises in Svensson's discussion of the Protestant Pueblo Indians whose religious practices brought them into conflict with the larger Pueblo community. She says that the imposition of the community's values on these dissenting members would be justified (even where this violated their individual rights)

⁵³ MacIntyre, "Virtues," 143.

⁵⁴ Kymlicka has made a similar critique Sandel's position: "The strong claim (that self-discovery replaces judgment) is implausible, and the weak claim (which allows that a self constituted by its ends can none the less be reconstituted), while attractive, fails to distinguish his position from the liberal view." *Liberalism, Community, and Culture*, 56.

⁵⁵ *Ibid.*, 183.

⁵⁶ Michael Sandel, "Morality and the Liberal Ideal," *New Republic*, May 7, 1984, 17.

if it were necessary for the survival of the community. She justifies this on the grounds that the victims of discrimination may choose to merge with the dominant society, while those loyal to the social group have "no place left to go, no refuge in which [their] values and priorities can be recognized."⁵⁷

The problem with both examples is that they do not give adequate weight to the importance of personal autonomy. The reason for this, I believe, is that they fail to recognize the true value of identification with community. By treating communities both as constitutive of self-identity and as substantive enough to bear rights, this approach invokes tenuous ontological assumptions. Svensson, for example, seems to assume that only one of an individual's identifications can be essential to her well-being at any point in time. How else could she treat the Pueblo Protestants in this either-or fashion?: either they should acknowledge that they are free-riders and start contributing to the community, or they should join the community with which they really identify, the wider American society. This ignores the possibility that these Protestant Pueblos may have complex self-identities which depend upon having access to both communities. By not recognizing this complexity, there is a failure to give full weight to the interests of individuals when they conflict with those of the group. In so doing, it ignores both the real value of 'identification with a community' and its potential compatibility with personal autonomy.

What does make identification with communities valuable? A few possibilities can be ruled out from the start. Surely it cannot be that people's initial association with them is the arbitrary result of birth. Nor can it be that communities are inescapable, for, as has been noted, they are not. Their value lies, I suggest, in the contribution they can make to the meaningfulness of their members' lives. By connecting their members to conceptions of the good, communities provide what

⁵⁷ Svensson, "Liberal Democracy and Group Rights," 437.

Charles Taylor⁵⁸ calls moral 'frameworks' which help them "determine where they stand on questions of what is good, or worthwhile, or admirable, or of value".⁵⁹

Nothing about such meaningful connections requires the communities which provide them to be inherited or ascriptively-defined. Both Taylor's account of practical reasoning as reasoning in transitions⁶⁰ and MacIntyre's 'rationality of traditions'⁶¹ support this. Both place more emphasis on the requirement that 'frameworks' or 'traditions of rational enquiry' make sense of people's moral experience, than on the framework's having been inherited. That frameworks are meaningful is a normative requirement; that they are often embodied in inherited communities is simply a contingent empirical fact.

This conclusion is echoed in Marilyn Friedman's idea of 'community of choice'. While Friedman shares with communitarians the idea of a "social self" which "acknowledges the role of social relationships and human community in constituting both self-identity and the nature and meaning of the particulars of individual lives", she rejects their reliance on a conception of community "which is focused particularly

⁵⁸ In referring to Taylor here, I am not suggesting that he is a strong communitarian. His position appears to combine a moderate communitarian ontology with an individualistic (versus collectivist) advocacy position. See Taylor, "Cross-Purposes."

⁵⁹ Charles Taylor, *Sources of the Self* (Cambridge, Mass.: Harvard University Press, 1989), 27.

⁶⁰ The 'Best Account Principle' suggests that we should rely on the framework which makes the best sense of our moral experience. I may replace my present framework if you "convince me by changing my reading of my moral experience". Ibid., 73.

⁶¹ Alasdair MacIntyre, *Whose Justice? Which Rationality?* (Notre Dame, Indiana: Notre Dame University Press, 1988), esp. 354-65. The idea is that people participate in traditions of rational enquiry which have their own current problematic ("that agenda of unsolved problems and unresolved issues by reference to which its success or lack of it in making rational progress toward some further stage of development will be evaluated" (362)); conceptions of truth; and conceptions of rational justification. Thus, from a position firmly grounded in one tradition, an individual (or community) might, through practical reasoning, determine that some other tradition answers or makes better sense of the 'current problematic' of their own tradition, and thus may meaningfully abandon their present tradition in favour of a superior one. 365.

on families, neighborhoods, and nations".⁶² She suggests that the range of communities which are compatible with the social self should be expanded to include 'communities of choice' which, while not based on shared history, are composed of people who share values or interests and often backgrounds of similar experience.⁶³ Such communities, she says, "may be as deeply constitutive of the identities and particulars of the individuals who participate in them as are the communities of place so warmly invoked by communitarians."⁶⁴

The idea that the value of "identification with a community" rests in its contribution to meaningful lives helps us address some important concerns. First, it allows us to reject the communitarian idea of constitutive community without rejecting the more general value of identification with community. Second, it suggests that the problem with forcing people to comply with the values of ascriptively-defined communities is that it results in a paradox: people must be compelled to comply with communities which they find meaningless in order to promote their well-being. Conversely, it allows us to explain our unease with the politics of universalism's reliance on full autonomy and subsequent refusal to make 'positive distinctions

⁶² Marilyn Friedman, "Feminism and Modern Friendship: Dislocating the Community", *Ethics* 99 (January 1989), 276, 277.

⁶³ *Ibid.*, 289.

⁶⁴ *Ibid.* See also Katherine Fierlbeck and Amelie Oksenberg Rorty. Fierlbeck writes, Just as liberal theory assumes that mature adults must always be the final arbiters of what is in their best interest, so it must acknowledge that each individual is the best judge of which characteristics or schemas define and shape their identities. To assert that one simply *knows* that another person is defined predominantly by their culture or specific group traits rather than other factors seems as "oppressive" as refusing to believe that cultural characteristics are important at all. Katherine Fierlbeck, "The Ambivalent Potential of Cultural Identity," *Canadian Journal of Political Science* XXIX:1 (March 1996), 15.

Similarly, Rorty writes, criticizing Charles Taylor:

An individual's cultural identity is by no means the sole or even the dominant influence on his or her conception of a good life. Many other groups and associations also shape the habits - the frames of interpretation and categorization, the primary practices, interests, and motivational preoccupations - that express, actualize, and define an individual's identity. Amelie Oksenberg Rorty, "The Hidden Politics of Cultural Identification," *Political Theory* 22 no. 1 (February 1994), 154.

between permissible ends': it requires expecting people to abandon meaningful identifications even when they have little or no hope of replacing them. Thus, *contra* proponents of the politics of universalism, we believe it is unreasonable to expect people to always conform to the demands of full autonomy, and *contra* proponents of the politics of difference, we believe it is unreasonable to treat people as if they were members of constitutive communities.

It is crucial to note that in rejecting the politics of universalism and the politics of difference because of their reliance upon the values of personal autonomy and identification with community respectively, we are suggesting neither that their problems stem from these values themselves or that they are insurmountable. Rather, we are suggesting that these problems are rooted in the particular ways in which these values have been operationalized within each approach. Thus, our purpose is to seek out a middle ground which may reconcile these values by determining new conceptions of them which remain true to the general concepts. Chapters Three and Four begin this task by considering theories which do seem to try to recognize both values.

Chapter 3: Attempts at Reconciliation I: Choice-Based Autonomy

*"Far down the Beautiful River,
Past the Ohio shore and past the mouth of the Wabash,
Into the golden stream of the broad and swift Mississippi,
Floated a cumbrous boat, that was rowed by Acadian boatmen,
It was a band of exiles; a raft, as it were, from the shipwrecked
Nation, scattered along the coast, now floating together,
Bound by the bonds of a common belief and a common misfortune"*
Henry Wadsworth Longfellow, *Evangeline*¹

Chapters One and Two suggested that personal autonomy and identification with a community are important values and that neither the politics of universalism nor the politics of difference recognizes both adequately. The next two chapters set the stage for Part Two by considering two important general approaches to enabling equality of resources liberalism to recognize identification with community as a value.

These approaches can be characterized by considering two preconditions Kymlicka associates with our "higher-order interest in leading the life that is good."² The first is that "we must be free to live our lives from the inside, in accordance with our beliefs about what gives value to life".³ The second is that people must be free to question their beliefs, "to examine them in light of whatever information, examples, and arguments our culture can provide" because "we recognize that we may be mistaken about the worth or value of what we are currently doing".⁴ The first of these acknowledges a general conception of personal autonomy as the freedom to pursue one's preferred ends and the second concerns a critically-reflective personal autonomy as the capacity to question and revise one's ends.

¹ Henry Wadsworth Longfellow, *Evangeline* (New York: H.M. Caldwell Co., 1904), 85.

² Kymlicka, *Liberalism, Community, and Culture*, 12.

³ Will Kymlicka, *Multicultural Citizenship* (Oxford: Clarendon Press, 1995), 81.

⁴ Kymlicka, *Liberalism, Community, and Culture*, 13.

We might describe the first general approach to reconciliation, the one considered in this chapter, as embodying a conception of personal autonomy which treats Kymlicka's second condition (questioning one's beliefs) as more important than the first (leading one's life from the inside). We shall call this a 'choice-based conception of personal autonomy'. The second general approach treats the first precondition as more important than the second. We shall call this conception, which prefers the pursuit of existing preferences to the development of a capacity for critical reflection, a 'preference-based conception of personal autonomy'. We consider it in Chapter Four.

We will argue that proponents of each approach misconstrue the relationship between self-identity and identification with a community. Those who have adopted a choice-based conception of personal autonomy assume too strong a connection between objectively-defined historical communities and self-identity. Those who adopt a preference-based conception of autonomy, conversely, do not accord as much weight to the importance of identification as to self-identity.

I

In this chapter we consider attempts by Will Kymlicka, Joseph Raz, and Pierre Coulombe to reconcile special rights for minority cultures with choice-based conceptions of personal autonomy. While each takes this general approach in different directions, they share two central assumptions: that the historical communities in which people were socialized are prerequisites of personal autonomy; and that it is unreasonable to expect people to replace these historical communities. It is these assumptions which, we will show, are their undoing. We begin by considering Kymlicka's approach.

Kymlicka's stated purpose is to demonstrate the compatibility of the equality of resources liberalism of Rawls and Dworkin, which is ontologically committed to the equality of individuals, with special rights for cultural minorities. Kukathas describes this approach as a comprehensive moral ideal which upholds the ideals of

equality and individual autonomy associated with Kant, Mill, and Rawls.⁵ While certainly not a *fully* comprehensive doctrine,⁶ Kymlicka's liberalism does embody a conception of what is valuable in human life (choice and critical reflection) and an ideal of personal character (the choosing, critically-reflective person). Thus, it treats the exercise of choice as more valuable than the pursuit of unexamined preferences.

Kymlicka clearly rejects a preference-based personal autonomy: "[i]t is all too easy to reduce individual liberty to the freedom to pursue one's conception of the good";⁷ liberals believe that "leading a good life is different from leading the life we *currently believe* to be good".⁸ He reveals a preference for a critically-reflective, choice-based conception, in his description of freedom - "Put simply, freedom involves making choices amongst various options".⁹ Despite his insistence that a "liberal society does not compel ... questioning and revision [of present ends]," this is belied by what he means when he says that a liberal society makes "it a *genuine possibility*."¹⁰ The processes which he says are required to create this 'genuine possibility' are designed to lead children to exercise choice and critical reflection. He writes,

The liberal view I am defending insists that people can stand back and assess moral values and traditional ways of life, and *should be given not only the legal right* to do so, *but also the social conditions which enhance this capacity* (e.g. a liberal education).¹¹

⁵ Chandran Kukathas, "Cultural Rights Again: A Rejoinder to Kymlicka," *Political Theory* 20 no. 4 (November 1992), 680.

⁶ See Chapter 1, n. 52.

⁷ Kymlicka, *Multicultural Citizenship*, 82.

⁸ Kymlicka, *Liberalism, Community, and Culture*, 10.

⁹ Kymlicka, *Multicultural Citizenship*, 83.

¹⁰ *Ibid.*, 82. My emphasis.

¹¹ *Ibid.*, 92. My emphasis.

Since such education "requires children to learn about other ways of life (through mandatory education)",¹² it appears deliberately designed to lead children to engage in critical reflection about their inherited way of life.

Kymlicka's advocacy positions arise from the requirement of equality of resources liberalism that government treat "people as equals, with equal concern and respect, by providing for each individual the liberties and resources needed to examine and act on these beliefs."¹³ Given the focus on equality, Kymlicka says, "a liberal needs to know whether a request for special rights or resources is grounded in differential choices or unequal circumstances".¹⁴ The distinction between choice and circumstance is made central to his defense of cultural rights when he suggests that 'membership in societal cultures' is a resource which must be distributed equally.

Societal cultures are associated with what I call historical communities. *Historical community* is similar to Kymlicka's idea of a people: "an intergenerational community, more or less institutionally complete, occupying a given territory or homeland, sharing a distinct language or history."¹⁵ Puerto Ricans, Quebecois, and North American aboriginals are examples.¹⁶ Kymlicka says that societal cultures provide their members

with meaningful ways of life across the full range of human activities, including social, educational, religious, recreational, and economic life, encompassing both public and private spheres. These cultures tend to be territorially concentrated, and based on a shared language They involve not just shared memories or values, but also common institutions and practices.¹⁷

¹² Ibid., 82. My emphasis.

¹³ Kymlicka, *Liberalism, Community, and Culture*, 13.

¹⁴ Ibid., 186.

¹⁵ Kymlicka, *Multicultural Citizenship*, 18.

¹⁶ Ibid., 79-80.

¹⁷ Ibid., 76.

Membership in such communities can usually be objectively defined - at a minimum, children of members are members.

Kymlicka is careful to differentiate societal cultures from what we will call *communities of shared goods*. These are objectively-definable communities, which to use Kymlicka's words, are "united by a common set of beliefs or values, or even a sense of solidarity."¹⁸ They can be of varying sizes, their shared goods more or less well-defined, and a person can identify with more than one of them.¹⁹ A Pueblo Protestant, for example, may belong to several communities of shared goods: her family, her pueblo village, the Pueblo community, a Protestant community. Kymlicka says that unlike communities (of shared goods) like "churches, neighbourhoods, family, unions, etc.", societal culture exists "at the national level ... [and] does not rest on shared values".²⁰ "The national culture", he says, "provides a meaningful context of choice for people, without limiting their ability to question and revise particular values or beliefs."²¹

Societal culture is defined so as to satisfy the requirements of equality of resources liberalism. It is characterized as a *resource*, the unequal distribution of which results from unchosen circumstances which people cannot reasonably be expected to overcome. Kymlicka describes the resource which societal cultures provide their members as a context of choice. *Contexts of choice* provide their members with meaningful options,²² and assist them in 'getting their beliefs right and

¹⁸ Ibid., 46, n. 19.

¹⁹ In using the term 'community of shared goods' we are not assuming the strong communitarian claim that "no harm is done by limiting individual rights in order to promote shared values." Ibid., 92.

²⁰ Ibid., 92.

²¹ Ibid., 92-3.

²² Kymlicka explains: "physical movements only have meaning to us because they are identified as having significance by our *culture*, because they fit into some pattern of activities which is culturally recognized as a way of leading one's life." *Liberalism, Community, and Culture*, 165.

acting on them'²³ by supporting "a *secure sense of identity and belonging*, that [people] call upon in confronting questions about personal values and projects."²⁴ Societal cultures have no "moral status of their own". Their value lies in the fact that "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."²⁵ Thus, as contexts of choice, societal cultures are a prerequisite of personal autonomy.

There are two important ways in which societal cultures are *unchosen*. First, no one chooses the historical community into which they are born. Second, Kymlicka writes that "the range of options" which contexts of choice provide people

cannot be chosen. In choosing how to lead our lives, we do not start *de novo*, but rather we examine 'definite ideals and forms of life that have been developed and tested by innumerable individuals, sometimes for generations'.²⁶

Thus, since people do not choose their societal culture, they cannot be held responsible if it needs protection.

Kymlicka says that the claim that it is *unreasonable* to expect people to renounce their membership in particular societal cultures is not a claim "about the limits of human possibility, but about reasonable expectations."²⁷ It is unreasonable, he suggests, to expect people to replace one societal culture with another because this involves the cost of learning the language and history which constitute the 'shared vocabulary of tradition and convention' which make meaningful choice possible.²⁸

²³ Ibid., 166.

²⁴ Kymlicka, *Multicultural Citizenship*, 105. My emphasis.

²⁵ Kymlicka, *Liberalism, Community, and Culture*, 165.

²⁶ John Rawls, quoted in *ibid.*, 164.

²⁷ Kymlicka, *Multicultural Citizenship*, 86.

²⁸ *Ibid.*, 83.

In the end, he writes:

the causes of this attachment lie deep in the human condition, tied up with the way humans as cultural creatures need to make sense of their world, and that a full explanation would involve aspects of psychology, sociology, linguistics, the philosophy of mind, and even neurology.²⁹

Thus, it is unreasonable to expect people who belong to insecure societal cultures to simply replace their insecure societal cultures with secure ones. Having defined societal cultures as unchosen resources which people cannot reasonably be expected to renounce, Kymlicka says equality of resources liberalism can support "special political rights ... to remove inequalities in the context of choice which arise before people even make their choices."³⁰

Finally, it is important to note that Kymlicka's approach treats choice-based personal autonomy as a characteristic of individuals rather than communities. This is revealed in the special political rights which he says will provide "*freedom within* the minority group, and *equality between* the minority and majority groups."³¹ He says these rights are liberal because they empower minority communities to protect themselves as contexts of choice by imposing *external restrictions* (which protect against the actions of outsiders) without allowing them to preserve their *character*³² by imposing *internal restrictions* (which stifle dissent).³³ This represents personal autonomy as a quality of individuals because its promotion does not require any

²⁹ Ibid., 90.

³⁰ Kymlicka, *Liberalism, Community, and Culture*, 190.

³¹ Kymlicka, *Multicultural Citizenship*, 152. These include territorial autonomy, veto powers, land claims, reserved political representation, and language rights. 110.

³² For example, while the character of Quebec's community was transformed by the Quiet Revolution - a traditional, religious culture was replaced by an industrialized, secular one - it persisted as a context of choice. Kymlicka, *Liberalism, Community, and Culture*, 167.

³³ Kymlicka, *Multicultural Citizenship*, 35, 105. An exception is where the survival of the community is at risk - i.e. where "the vast majority of its members [would] end up dead, or in jail, or on skid row". *Liberalism, Community, and Culture*, 170.

fundamental changes in the community, but rather only the preparation of individuals to exercise choice and critical reflection. Once societal cultures are protected "the cultural-marketplace" continues to function: "Decisions about which particular aspects of one's culture are worth maintaining and developing [are] left to the choices of individual members."³⁴

II

Having described Kymlicka's approach, we will now suggest why we believe it, and the other approaches discussed in this chapter, are flawed. The reason is that in defending special rights for minority communities given a choice-based conception of personal autonomy, unreasonable assumptions are made about the effect of socialization on the relationship between people's self-identities and their identifications with historical communities. Through this discussion we will gain some important insights into how the value of identification with community might be more successfully defended.

The first thing to note is that choice-based conceptions of personal autonomy provide no grounds, in themselves, for protecting minority cultural communities. This was illustrated in Chapter One in Dworkin's claim that "Numbers will indeed count [Neither people] who need a community of other committed believers in which to flourish. ... [nor] any minority, whether religious, sexual, or cultural, [are] assured of social requirements ideal for them."³⁵ To put a stop to this logic, and thus to provide a ground for protecting minority cultural communities, the capacity of the individual to exercise choice must be circumscribed. In Kymlicka's approach this circumscription is achieved by suggesting that the individual's capacity for choice can only be exercised within the *historical community* in which she was socialized: i.e. a person's ability to exercise choice depends upon having access to *her own* historical community. The problem with this is that it requires the conflation of objectively-

³⁴ Kymlicka, *Multicultural Citizenship*, 113.

³⁵ R. Dworkin, "What is Equality? Part 3," 31.

defined historical communities with what we will suggest are more valuable subjectively-defined communities. This conflation is unsupportable and potentially dangerous.

Consider Kymlicka's ideal of historical community as 'context of choice' - i.e. societal culture. Embedded in the idea of context of choice, I suggest, are two conceptually distinct, subjectively-defined communities. We will call these 'community as options to choose from' and 'community as standards to choose by'. These are 'subjective' in that they refer to how individuals relate to objectively-defined historical communities and communities of shared goods.³⁶ Their functions are found in Kymlicka's idea that societal cultures as *contexts of choice*: i) provide their members with meaningful options; and ii) support "a *secure sense of identity and belonging*, that [members] call upon in confronting questions about personal values and projects."³⁷ The subjectively-defined communities divide these functions. '*Community as options to choose from*' is that community or communities which contains all the *options* from which an individual might meaningfully choose. For example, for a francophone Quebecois this may be the historical community of the province of Quebec. For a bilingual Quebecois, it may include Canada and the United States. '*Community as standards to choose by*' includes the community or communities which act as a 'primary foci of identification' for individuals and which they call upon when considering how to act or which purposes to pursue.³⁸ Since historical communities are assumed to be connected to self-identity in this way, the status of these communities is presumed to affect people's dignity and self-respect.

The conflation of these subjectively-defined communities with objectively-defined historical communities is essential to Kymlicka's defence of minority cultural

³⁶ Both types of subjectively-defined community may encompass several objectively-defined communities.

³⁷ Kymlicka, *Multicultural Citizenship*, 105. My emphasis.

³⁸ This need be neither conscious nor explicit.

communities within equality of resources liberalism. If people's options to choose from are not limited to those found in their historical community, then special protection of their *particular* communities would be difficult to justify. The case is similar with community as 'standards to choose by'. In either case, Kymlicka's allegiance to historical communities appears problematic. We will argue that this is in fact the case. Further, we will suggest that some sense can be made of inconsistencies in Kymlicka's approach by associating communities as standards to choose by with communities of shared goods.

We begin our critique by considering Kymlicka's assumption of an overlap between historical community and 'communities as options to choose from'. The most obvious problem is that people can and do choose options from other cultures. For example, James Nickel suggests that the "key problem of choice [for Inuit adolescents] is how to combine and integrate ... options from two different cultural frameworks into a meaningful life plan that fits contemporary circumstances."³⁹ Kymlicka's response, that options from other societal cultures only become available or meaningful "if they become part of the shared vocabulary of social life - i.e. embodied in the social practices, based on a shared language",⁴⁰ does not address this critique. Rather, it only pushes the question back since it cannot account for how these options became part of the shared vocabulary of social life in the first place.⁴¹ He is no more successful at explaining why some people do not find any of the options in their societal culture meaningful.⁴²

³⁹ James Nickel, "Liberalism, Community, and Culture," (Book review), *Canadian Philosophical Reviews*, (Edmonton: Academic Printing & Publishing, January, 1990), 415.

⁴⁰ Kymlicka, *Multicultural Citizenship*, 103.

⁴¹ Consider the very idea of Pueblo Protestants.

⁴² Raz acknowledges this problem in his ideas of: 'failures of socialization' which leaves members alienated from their culture and unable to find fulfilment in it; and oppression which is "a structural feature of [a] culture which systematically frustrates the ability of people, or groups of people, to fulfil or give expression to an important aspect of their nature within that society." Joseph Raz, "Multiculturalism: A Liberal Perspective," in *Ethics in the Public Domain: Essays in the Morality of*

While Kymlicka recognizes these problems,⁴³ he goes no further toward reconciling this with his argument about contexts of choice than to suggest that he is "only dealing with general trends. ... most people, most of the time, have a deep bond to their own culture."⁴⁴ The lack of an explanation for *why* some people *are* bound in this way and others *are not* is a serious concern.

A good place to start considering this problem is Kymlicka's claim that: "Cultural membership affects our very sense of personal identity and capacity."⁴⁵ What is problematic is the implicit assumption that people have an *unmediated* attachment to the basket of options contained in their societal culture. He seems to suggest that people's standards of choice are present at the level of the societal culture, but somehow independent of both its overall character and the particular subcommunities and ways of life which exist within it. This is reflected in his willingness, for example, to protect the Inuit cultural community as a context of choice, but not to protect its character or any of the particular ways of life which Inuit may have chosen within it. Were it true that people have unmediated attachments to their societal culture, then the circumscription of choice by historical community would make sense. Unfortunately, this leaves unexplained the fact that people do choose options from other societal cultures.

A better explanation is that people's attachment to their societal cultures is mediated in important ways through their subjective identifications with communities of shared goods which exist within societal cultures.⁴⁶ By assuming that such

Law and Politics (Oxford: Clarendon Press, 1994), 169.

⁴³ Kymlicka writes: "Some people seem most at home leading a truly cosmopolitan life, moving freely between different societal cultures. Others have difficulty making sense of the cultural meanings within their own culture." *Multicultural Citizenship*, 90.

⁴⁴ *Ibid.*, 90.

⁴⁵ Kymlicka, *Liberalism, Community, and Culture*, 175.

⁴⁶ I say 'in important ways' because people do seem capable of making some unmediated connections: e.g. through national identity.

communities are at least as likely as historical communities to inform standards of choice, we are better able to account for people's actual behaviour. Consider a reasonable conception of human agency implicit in Kymlicka's *Liberalism, Community, and Culture*. When engaging in practical reasoning, Kymlicka says people take some commitment or belief as 'given' and choose among options by determining which is advantageous 'given' that commitment. What is treated as 'given' differs between individuals and over time:

If at one time we make choices about what's advantageous given our commitment to a certain religious life, we could later come to question that commitment, and ask what's valuable given our commitment to our family.⁴⁷

Note that what does the work here, the source of 'givens', is not a person's commitment to her societal culture, but rather, identifications with religious and familial communities of shared goods.⁴⁸

This suggests, quite reasonably, that each individual within a societal culture neither identifies with nor understands every option or way of life within a societal culture, but rather relates intimately to some and is only vaguely acquainted, if at all, with others. This is consistent with Kymlicka's suggestion that

[f]rom childhood on, we become aware both that we are already participants in certain forms of life (familial, religious, sexual, educational, etc.), and that there are other ways of life which offer alternative models and roles that we may, in time, come to endorse.⁴⁹

Thus, for example, the fact that the physical movement of people crossing themselves has meaning for me has more to do with my being a member of a Christian subcommunity, than of my being a Canadian.

This also helps explain why some people depend upon their particular societal

⁴⁷ Ibid., 51.

⁴⁸ Communities of shared goods differ from 'communities as standards to choose by' in two ways. First, only communities of shared goods are objectively-defined. Second, objective membership in a community of shared goods does not necessitate that a person treats that community as a source of 'standards to choose by'.

⁴⁹ Ibid., 165.

culture while others can move effortlessly between societal cultures: communities of shared goods, unlike societal cultures, can extend across several societal cultures. Obvious examples are ethnic communities (e.g. Jewish, Lebanese, Indian) and religious (e.g. Catholic, Buddhist, Muslim). If, in their practical reasoning, people take such identifications as ‘given’, it is not surprising that they might choose options from another societal culture. Similarly, someone who takes as ‘given’ an identification with a community of shared goods which only exists within a particular societal culture will have great difficulty choosing options outside of it. Thus, this view is compatible with and can explain the decisions of a Canadian *Baptist* to pursue a religious career in the American South, while a *Canadian* Baptist chooses to remain in Canada; of an American *Buddhist* to move to India, while an *American* Buddhist does not; and of a French *liberal* to move to North America, while a *French* liberal does not.

This suggests that Kymlicka focuses on the wrong level of community. By concentrating on objectively-defined historical communities, ‘community as standards to choose by’ is, in effect, detached from the particular communities of shared goods in which it is often embedded. Once this has been done, it appears reasonable to suggest that, for most people, the only options which they find meaningful are those found in their societal culture. The problem, as has been shown, is that this misrepresents the experience of many people for whom historical communities neither circumscribe all the options which they find meaningful nor function as their ‘community as standards to choose by’.

Once this conflation of communities is challenged, Kymlicka’s reconciliation of equality of resources liberalism and minority rights loses its appeal. Since both communities as ‘options to choose from’ and ‘standards to choose by’ may exist across or within societal cultures, societal cultures are no longer special. This undermines, not the recognition of identification with a community as a value,⁵⁰ but rather

⁵⁰ We have, in fact, noted two important functions which communities may perform.

Kymlicka's treatment of historical communities as the primary 'community as standards to choose by' which can inform self-identity.

III

Joseph Raz's theory differs from Kymlicka's to the extent that he does not require minority cultural communities to accept liberal principles of justice to receive special protection. He avoids this by recognizing, *contra* Kymlicka, that choice-based autonomy is only consistent with specific types of societies and cultures. He achieves this by combining limited expectations about the applicability of political philosophy with a perfectionist account of well-being. As we shall see, however, his reliance on the assumption that self-identity is such that choice is circumscribed by historical communities leads to difficulties similar to those identified with Kymlicka's approach.

A key component of Raz's approach is his limited expectations about the applicability of the conclusions of political philosophy:

I do not really believe that political philosophy provides us with eternally valid theories for the government of all human societies. To my mind political philosophy is time-bound. It is valid - if it is valid at all - for the conditions prevailing here and now.⁵¹

Thus, he concludes that "principles of political morality themselves grow out of the concrete experience of a particular society with its own institutions. Their validity is limited by their background."⁵²

Another key aspect of Raz's theory is his perfectionist conception of well-being. This provides him with a ground from which to judge the worth of both autonomy-enhancing and non-autonomy-enhancing, or traditional, societies. Raz says personal well-being is related to "how good or successful" a person's life is "from their point of view", measured against their own "actual goals".⁵³ The most important goals are *comprehensive goals* whose ramifications "pervade important dimensions of

⁵¹ Raz, "Multiculturalism," 154.

⁵² Raz, *Morality of Freedom* (Oxford: Clarendon, 1986), 3.

⁵³ *Ibid.*, 289-90.

[one's] life".⁵⁴ These are broadly defined and include "projects, plans, relationships, ambitions, commitments, and the like".⁵⁵ Some are acquired through choice, others one "may have drifted into, grown up with, never realized that anyone can fail to have them, etc."⁵⁶ The perfectionist aspect of his theory is that in determining 'success', Raz rejects the 'transparency thesis' (i.e. if a person wants something, its achievement has intrinsic value),⁵⁷ and insists instead that since people pursue goals for reasons, the achievement of goals only contributes to well-being if they serve the person's reasons, and if those reasons are valuable.⁵⁸

By relying on this deeper conception of value Raz is able to refuse to treat personal autonomy as a universal value:

To be a universal value it must be the case that people who lack personal autonomy cannot be completely well-off, or have a completely good life. ... there were, and there can be, non-repressive societies, and ones which enable people to spend their lives in worthwhile pursuits, even though their pursuits and the options open to them are not subject to individual choice⁵⁹

His conception of well-being also allows him to criticize the idea that all good lives must involve choice:

I do not see that the absence of choice diminishes the value of human relations or the display of excellence in technical skills, physical ability, spirit and enterprise, leadership, scholarship, creativity, or imaginativeness, which can all

⁵⁴ Ibid., 308.

⁵⁵ Ibid., 291.

⁵⁶ Ibid., 290-1.

⁵⁷ Ibid., 269.

⁵⁸ Ibid., 301. For instance, to be worthy of respect, a goal or social form (see below) must be "worthwhile" or "morally sound". While Raz is not precise about the meaning of these terms, he does say that a social form is 'morally sound' if dependence on it "guarantees the essential identity of people's responsiveness to their own well-being and to morality (i.e. the interests of others [313])". (319) Examples of 'worthwhile' social forms include teachers, production workers, and loyal friends who, by achieving personal goals, contribute to their community. 319.

⁵⁹ Joseph Raz, "Facing Up: A Reply," *Southern California Law Review* 62 (1989). 1227.

be encompassed in such lives.⁶⁰

Thus Raz can distinguish 'societies like ours' where "personal autonomy is a fact of life"⁶¹ from traditional societies where "each person's course in life (occupation, marriage, place of residence) is determined by tradition or by his superiors."⁶²

One society is distinguished from another by its social forms. *Social forms* consist of "shared beliefs, folklore, high culture, collectively shared metaphors and imagination, and so on."⁶³ That one society is autonomy-enhancing and another traditional, is, in Raz's view, a characteristic of societies: "The conditions of autonomy do not add an independent element to the social forms of a society. They are a central aspect in the character of the bulk of its social forms."⁶⁴ This is illustrated by the social form of marriage: in autonomy-enhancing societies marriages are chosen, in traditional societies they are pre-arranged.⁶⁵

Within autonomy-enhancing societies like ours, Raz endorses much the same positions as Kymlicka, Rawls, and Dworkin. He shares the choice-based conception of personal autonomy.⁶⁶ He believes the state in autonomy-enhancing societies has a duty to sustain the conditions of autonomy which include independence from coercion and manipulation,⁶⁷ an adequate range of options⁶⁸ which people are free

⁶⁰ Ibid., 1227.

⁶¹ Raz, *Morality of Freedom*, 394.

⁶² Ibid., 392.

⁶³ Ibid., 311.

⁶⁴ Ibid., 394,

⁶⁵ Raz considers this distinction to be of no consequence to well-being. Both chosen and unchosen lives can exhibit the excellences and human relations which lead to well-being. Ibid., 319.

⁶⁶ Raz says autonomous people create "their own lives through progressive choices from a multiplicity of valuable options." (ibid., 265) He also seems to suggest that lives must be lived from the inside: "improving the well-being of a person can normally only be done through his goals". 291.

⁶⁷ Ibid., 377-78.

to exercise or decline,⁶⁹ and toleration.⁷⁰ The state must also protect and promote positive freedom - i.e. the capacity for autonomy - by means of taxation, subsidy, rewarding pursuits, and advertising their availability.⁷¹

Within this framework of the autonomy-enhancing society, Raz provides two justifications for protection of minority cultures. One specifically concerns traditional societies like indigenous peoples and religious sects which do not support autonomy. His reasons provide some insight into the problems with Kymlicka's comprehensive liberalism. On one hand, good lives are not necessarily chosen lives. Raz says that traditional societies may be tolerated or even protected if "they are viable communities offering acceptable prospects to their members, including their young".⁷² On the other hand, since whether a society is autonomy-enhancing or not is a characteristic of its social forms, there is a danger that 'wrenching' people out of traditional societies "may well make it impossible for them to have any kind of normal rewarding life whatsoever because they have not built up any capacity for autonomy."⁷³ The

⁶⁸ Ibid., 372. To avoid coercion the range of options must present "incompatible virtues", otherwise choice would be like that "between two identical cherries from a fruit bowl." (398) This reflects his contention that "valuing autonomy leads to the endorsement of moral pluralism." (399) Moral pluralism is "the view that there are various forms and styles of life which exemplify different virtues and which are incompatible. ... [and thus] cannot normally be exemplified in the same life." 395.

⁶⁹ This distinguishes autonomy from self-realization, which "consists in the development to their full extent of all the valuable capacities a person possess". Ibid., 375.

⁷⁰ Ibid., 407. This follows from commitment to moral pluralism.

⁷¹ Ibid., 417. Raz says that the requirement that autonomy-enhancing societies do more to promote autonomy is consistent with his claim that autonomy is *not* an intrinsic value because in modern pluralistic societies socialization introduces people ... to the value of choice, and of self-determination. ... [If] the range of options actually open to them, unlike those available to others in their society, is disablingly restrictive, they have a legitimate grievance. Raz, "Facing Up," 1229.

It is the fact that societies treat personal autonomy as a value which allows them to be criticized if they fail to provide their members with its prerequisites.

⁷² Raz, *Morality of Freedom*, 424.

⁷³ Ibid., 424.

problem this reveals in Kymlicka's approach is that Kymlicka does not recognize that removing barriers to choice within a society may actually undermine, rather than enhance, otherwise meaningful lives.

A second defense of minority communities arises from Raz's idea of *encompassing groups*. This applies to autonomy-enhancing societies, and, not surprisingly, is very similar to Kymlicka's defense. *Encompassing groups* are pervasive cultures (either geographically concentrated⁷⁴ or dispersed among other encompassing groups⁷⁵) which function as "conglomerations of interlocking practices which constitute the range of life options open to one who is socialized in them".⁷⁶ By embodying social forms, encompassing groups contribute to well-being in a number of ways. They provide the comprehensive goals against which success in lives is measured and they provide a forum within which such goals are pursued.⁷⁷ Raz and Margalit say that "secure identification at this level is important to one's well-being" because encompassing groups shape, to a large degree, their members' tastes and opportunities, and provide "an anchor for their self-identification and the safety of effortless, secure belonging".⁷⁸

This would not add up to a defense of minority cultures, however, if Raz assumed that people could simply leave threatened encompassing groups to join others. Here, too then, choice must be circumscribed. Thus, like Kymlicka, Raz assumes that processes of socialization are such that people's ability to choose is circumscribed by their encompassing group (historical community). This is suggested when he writes that "Only through being socialized in a culture can one tap the options which give life

⁷⁴ Joseph Raz and Avishai Margalit, "National Self-Determination" in *Ethics in the Public Domain: Essays in the Morality of Law and Politics* (Oxford: Clarendon Press, 1994).

⁷⁵ Raz, "Multiculturalism".

⁷⁶ *Ibid.*, 162.

⁷⁷ Raz, *Morality of Freedom*, 310.

⁷⁸ Raz and Margalit, "National Self-Determination," 116, 118.

a meaning";⁷⁹ and of autonomy-enhancing cultures that "our options are limited by what is available in our society".⁸⁰ Thus, if people's options are limited to those available within their encompassing group, then respect for their autonomy, and, ultimately, their well-being, requires protection for encompassing groups. This is the basis of Raz's defense of special rights for multicultural and national encompassing groups within autonomy-enhancing cultures.⁸¹ Such rights, he insists, must not be exercised in ways inconsistent with personal autonomy.⁸²

A point which is not unrelated is that Raz's reliance on the underlying value of well-being allows him to recognize the importance to people of the freedom to pursue their present preferences. For example, he says that respect for autonomy may require the protection of particular options⁸³ because autonomy concerns "pervasive goals, projects or relationships".⁸⁴ Similarly, he advocates gradual change to protect 'vested interests' since "denying a person the possibility of carrying on with his

⁷⁹ Raz, "Multiculturalism," 162.

⁸⁰ Raz, *Morality of Freedom*, 394.

⁸¹ The measures he suggests to protect multicultural groups include: allowing parents to have their children educated in their own culture (while requiring that they also learn of the history and traditions of others in the state); recognizing group customs in law, public bodies, and private corporations; fostering respect for cultural identity by breaking the link between ethnicity, under-education, and poverty; providing generous public support for autonomous cultural institutions; and accommodating public space to the needs of all cultural groups. ("Multiculturalism," 174-5) National self-determination is treated as a special case which could only apply to national groups which are geographically concentrated and where an independent state is a viable option. Raz and Margalit, "National Self-Determination," 124-127.

⁸² Thus, the exercise of special rights must not infringe liberal protection of individual freedom; special rights should only be employed to enable "people, or groups, to fulfil or give expression to an important aspect of their nature within society"; members must have a viable right of 'exit'; (Raz, "Multiculturalism," 167-169) and criticism of rival ways of life should only be expressed as individual, rather than public, condemnation. Raz, "Freedom of Expression," 150.

⁸³ Raz, *Morality of Freedom*, 425.

⁸⁴ *Ibid.*, 409. The less pervasive a choice the less protection it merits (i.e. the less it effects "one's ability to choose one's career and to feel a full member of a political community"). For instance, he the option of going to university is more important than having access to a certain flavour of ice cream. 409-410.

projects, commitments and relationships [prevents] him from having the life he has chosen".⁸⁵ Thus by treating personal autonomy as an attribute of a society's social forms, and assuming that people are firmly connected to the communities into which they were socialized, Raz finds a way to recognize both identification and autonomy.

In the end, however, Raz's approach suffers from problems very similar to Kymlicka's with respect to the conflation of historical community and self-identity. His assumption that encompassing groups act as 'community as standards to choose by' is implicit in his claim that members of an encompassing group "typically regard [their membership] as an important clue in understanding who they are, in interpreting their actions, and reactions, in understanding their tastes and their manner."⁸⁶ While it is certainly true that people's membership in national or ethnic groups is one 'given' which they may refer to when engaging in practical reasoning, it is certainly not the only one. Membership in other communities of shared goods is often just as, if not more, important to most practical reasoning.

Further, the ability to draw on identifications with communities other than encompassing groups also helps explain what is troubling about Raz's claim that our options are limited to those available in our society (i.e. his conflation of encompassing groups with 'communities as options to choose from'). Even he accepts the possibility of assimilation both across different encompassing groups⁸⁷ and between traditional and autonomy-enhancing societies.⁸⁸ Here again, as with our discussion of Kymlicka's approach, the possibility that people may take identifications with communities other than their encompassing group as 'given' helps explain how such transitions are possible. Thus, while Raz's approach provides the insight that

⁸⁵ Ibid., 411. Morally repugnant options, of course, do not deserve protection. 425.

⁸⁶ Raz and Margalit, "National Self-Determination," 116-17.

⁸⁷ Raz, "Multiculturalism," 170.

⁸⁸ Raz, *Morality of Freedom*, 424.

people's identifications with communities may be more important to their well-being than their capacity for choice, its exclusive association of such identification with historical communities makes it ultimately unsatisfactory.⁸⁹

IV

Pierre Coulombe's approach is significant because it considers the possibility that the importance of identification may not depend upon its contribution to personal autonomy. In our terms, he associates the function of 'communities as standards to choose by' with communities of shared goods. The weakness of his approach, however, is his ascriptive association of identification with historical communities.

Coulombe treats identification with community (which he calls identity⁹⁰) and personal autonomy as independent values. In contrast to Kymlicka, Coulombe denies that community is only valuable if it "*promotes autonomy*".⁹¹ He believes this fails to give proper weight to the importance of community because it subordinates "the claims that a community would make to protect its character ... to its function as a context of choice required to maximize autonomy."⁹²

Coulombe seeks to address such characterless accounts of community by arguing from a rights-based liberalism in which rights are justified as "a way of expressing those claims to human goods [e.g. dignity, autonomy, integrity, identity]

⁸⁹ Note how Raz's position would be more compelling if his idea of well-being were replaced by the value of meaningful life. While both well-being and meaningful life can explain why individuals' may need access to the autonomy-enhancing or traditional societies into which they were socialized, only meaningful life can explain why people can, and might want to, choose options which are only available outside of their historical community.

⁹⁰ "What I mean by identity here is that region of our personality which is shaped by belonging in a particular community and which says something about who we are, or who we *think* we are, and where we come from". Pierre Coulombe, *Language Rights in French Canada* (New York: Peter Lang, 1995), 19-20.

⁹¹ *Ibid.*, 29.

⁹² *Ibid.*, 28.

that are most urgent."⁹³ He suggests that individual and communal rights derive from two types of community which exist in liberal states: "one that is rooted in liberal values [like autonomy], and another whose foundations rest on how we construe 'who we are' [identity]."⁹⁴ Liberal rights are derived from individual goods like the value of personal autonomy: "We value [individual] rights because we believe in the primacy of autonomy, in being the author of one's choices ["and consequently of being free to make choices"⁹⁵], which is undoubtedly central to our well-being."⁹⁶

Similarly, the value of identity grounds rights to communal goods because 'who we are' and 'who we think we are' are intimately related to the community to which we belong.⁹⁷ A communal good, as opposed to an individual good, "is a good in common or a shared good enjoyed by community members."⁹⁸ Communal goods can serve as markers of community membership and can involve "the *sharing* of such things as a common ethnicity or a common language that allows for a community formed of common purposes and ends."⁹⁹ Coulombe says the universal nature of communal rights is often overlooked because they are governed by a two-level process of justification. At the first level, they are truly universal: "in the abstract all communities have the right to preserve the conditions of their identity." These rights becomes particular at the second level, the level of application, which "considers that

⁹³ Ibid., 48. He does not really explore the relationship between identity and well-being. Rather, its importance is assumed in statements like, "If we believe in the value of identity to human flourishing". 55.

⁹⁴ Ibid., 21.

⁹⁵ Ibid., 14.

⁹⁶ Pierre Coulombe, "Language Rights, Individual and Communal," *Language Problems & Language Planning* 17 no. 2 (Summer 1993), 141.

⁹⁷ Ibid., 141.

⁹⁸ Ibid., 142.

⁹⁹ Coulombe, *Language Rights in French Canada*, 20.

communal claims are situated in an historical context and in particular circumstances."¹⁰⁰ Invocation of such rights is always contingent: it can only be justified where the good in question is a central communal good and cannot be done "in isolation from other factors of identity and from the specific conditions in which it is experienced."¹⁰¹ Thus, Coulombe believes that communal rights to identity and individual rights to autonomy "equally contribute to our well-being".¹⁰² Individual goods ground individual rights, and are claimed as members of liberal community. Communal goods ground communal rights and are claimed as members of particular communities.¹⁰³

Coulombe's most important move is to associate such communities of shared goods with what we are calling 'community as standards to choose by'. He suggests, *contra* Kymlicka, that the value of communities lies in their *character*, in the specific shared goods they embody which 'provide the material of our identity'.¹⁰⁴ "Identity", or, in our terms, identification with community of shared goods, "is the

¹⁰⁰ Coulombe, "Language Rights, Individual and Communal," 147.

¹⁰¹ Coulombe, *Language Rights in French Canada*, 60. For instance, the application of a right must be practicable - to warrant strong language rights a community must be territorially-based and have a 'critical mass'. Coulombe, "Language Rights, Individual and Communal," 148.

¹⁰² *Ibid.*, 49. This creates the potential for two kinds of conflict: inter-communal conflict between the communal rights of one community and the communal or individual rights of members of another; and intra-communal conflict between communal and individual rights within one community. Since Coulombe treats autonomy and identity as independent values he believes the only way to deal with such conflict is adjudication:

One is therefore led to conclude that neither right is outweighed in the balance. However, this should not prevent the adjudicating process from finding reasons that carry sufficient weight for one claim to gain advantage over the other. ... balancing respect for various [moral rights] appears to be the procedure that best leads to a just outcome. Coulombe, "Language Rights, Individual and Communal," 149-50.

¹⁰³ Coulombe, *Language Rights in French Canada*, 46.

¹⁰⁴ "If the *I* and the *we* are separate entities, they are nevertheless profoundly intertwined as they together form the complex facts of our identity. ... The suggestion is that our communality provides the material of our identity in the form of shared goods that cannot be experienced in isolation in any meaningful way." *Ibid.*, 19-20.

substance of the self that precedes our actions as autonomous beings". Autonomy requires preferences, and identity, he says, citing Taylor, "is the background against which our tastes and desires and opinions and aspirations make sense."¹⁰⁵ Thus, the value of communities lies specifically in their *character*, in the specific shared goods they embody which 'provide the material of identity'.

The problem, however, is that like Kymlicka and Raz, Coulombe associates the value of 'identification with community' exclusively with historical communities like Quebec and Acadia in which membership "is more likely to be inherited than chosen".¹⁰⁶ This conflation is illustrated in Coulombe's definition of communities as "built on a combination of objective shared features such as common ethnicity or language, and shared understandings and purposes derived from sharing that common ethnicity or language."¹⁰⁷ This treats something which should be determined inductively - whether an individual actually shares a communal good - as something which can be determined deductively - by objective features like ethnicity and descent. While such ascriptive association of people with historical communities may help justify special protection for minorities within a liberalism which values a choice-based conception of personal autonomy, it relies on problematic assumptions about historical community and identity, and threatens to impose values on people who do not share them.

Coulombe's approach implicitly relies upon a number of problematic assumptions about historical community and self-identity. First, for his approach to make sense, historical communities must embody shared goods which enable them to act as 'communities as standards to choose by'. This leads him, for example, to argue deductively, where he ought to argue inductively, that Quebec's Quiet Revolution

¹⁰⁵ Ibid., 19.

¹⁰⁶ Ibid., 34, n. 33.

¹⁰⁷ Pierre Coulombe, "Community in Liberalism" (Ph.D. diss., University of Western Ontario, 1992), 23.

exemplified both how the French language increased in value over time to become "no longer merely a vehicle or a marker of a multifarious identity, but ... identity *itself*"; and that it "represented an erosion of those [traditional] values that had formed the French Canadian identity, but left language intact".¹⁰⁸ This kind of description clearly *presupposes* something which really needs to be demonstrated: that the Quebecois historical community embodies a shared good.

More troublesome is the way this approach blurs the distinction between self-identity and identification with a community. This risks reducing individual self-identities to the shared goods of historical communities. In Coulombe's argument this is reflected in the ambiguous relationship between language and identity. Consider this passage which he quotes from Rene Levesque: "at the core of this [Quebecois] personality is the fact that we speak French."¹⁰⁹ While this may be good political rhetoric, it is not a good characterization of self-identity. Although many Quebecois and Acadians may identify with their historical communities as French-speakers, this does not mean that this identification *is* their self-identity. The preamble to Quebec's language law, Bill 101, recognizes this when it says that the French language "is the *instrument* by which that people has *articulated* its identity."¹¹⁰

This becomes dangerous when it is further assumed that people who share the objective characteristics of members of a historical community necessarily identify with that community and rely on its shared goods for 'standards to choose by'. This is illustrated by Coulombe's treatment of intra-communal conflict as a free rider problem. He begins by saying, reasonably enough, that: "With community membership come certain duties to respect the good of the community, especially if non-respect leads to the disruption of the community's values that are central to its

¹⁰⁸ Coulombe, *Language Rights in French Canada*, 80.

¹⁰⁹ In *ibid.*, 81.

¹¹⁰ In *ibid.*, 81. My emphasis.

identity."¹¹¹ This, in turn, may justify coercively constraining free-riders

when the central communal good is one that is necessarily shared, on the basis that agreeing that something is a good - especially when it is claimed as a matter of right - means agreeing to the enforcement of obligations for all those who benefit from it.¹¹²

Rather than supporting the deductive ascription of individuals with communities, this provides good reasons against it. It is precisely because enjoying a shared good can create duties and obligations that it is unreasonable to *assume* that someone makes such identifications. Thus, it is unreasonable to invoke free rider solutions to the problem of shared goods without consulting people's subjective identifications.

Coulombe's reconciliation of a choice-based conception of personal autonomy and identification with community only appears as problem-free as it does because of the special nature of Quebec as a linguistic community. He comes close to recognizing this when he writes that the

promotion of the French language does not aim at suffocating individuals under the yoke of community. ... Quebec and Acadia can remain liberal in fundamental ways and at the same time endorse policies that promote a particular good, namely the French language.¹¹³

Unfortunately for Coulombe, not all the shared goods which might define historical communities are as easily reconciled with personal autonomy.¹¹⁴ Consider what he describes as the components of the pre-Quiet Revolution Quebecois identity: faith, traditional values, and the French language.¹¹⁵ The protection of the character of this community, let alone the coercion of 'free riders' to fulfil duties to preserve it, could not be so easily reconciled with respect for rights to personal autonomy. If he

¹¹¹ Ibid., 123.

¹¹² Ibid., 123-24.

¹¹³ Ibid., 154-55.

¹¹⁴ The special nature of language also allows Coulombe to avoid difficult questions about the relative importance of identification and autonomy in intra-communal conflict.

¹¹⁵ Ibid., 78.

were to avoid this outcome, however, Coulombe would have to stop talking about the identity of objectively-defined historical communities and start talking about the subjective identities of individuals and the communities with which they subjectively identify.

IV

A number of conclusions can be made from the discussion. First, we have suggested that communities are valuable, not just for providing people with options to choose from, but also for providing people with ‘standards to choose by’. Second, we have applied this conclusion to suggest that theories which assume that only ascriptively-defined historical communities can fulfil these functions are mistaken. While these conclusions complicate the picture of the relationship between individual self-identity and communities of identification, I believe they provide a much more accurate picture of the real importance and value of communities to individuals.

Having considered and rejected three theories which invoke choice-based conceptions of personal autonomy, we begin Chapter Four by considering a theory which relies upon a preference-based conception.

Chapter 4: Attempts at Reconciliation II: Preference-Based Autonomy

When it was suggested to a Mrs. Mushquash that "through Bill C-31 ... [women who were reinstated to Indian status] gained self-respect and dignity and a sense of cultural identity", she replied "I had self-respect all my life. Being reinstated did not make it more. But to get medical and dental benefits, I am really pleased about that."¹

Chapter Three considered three approaches to reconciling a choice-based autonomy with recognition of special rights for minority cultural communities. The main reason these were rejected was that their proponents assumed too strong a connection between historical communities and communities 'as standards to choose by' which inform self-identity. Having rejected this assumption about the role of historical communities, this chapter considers approaches which embrace alternative assumptions.

We begin by considering an approach which relies on a preference-based rather than choice-based personal autonomy and rejects rigid assumptions about identification with historical communities. This is reflected in Chandran Kukathas's *"Are There Any Cultural Rights?"* and *"Cultural Rights Again"*. Kukathas describes his conception of personal autonomy as 'living according to one's (unexamined) preferences'. Unlike Kymlicka, whose choice-based personal autonomy led him to recommend interference in the socialization processes of communities to develop people's capacity for choice, Kukathas's preference-based conception leaves him much less critical of processes of socialization. He appears to share with Kymlicka an implicit assumption that liberals must choose either to interfere or to not interfere with processes of socialization. Thus, we find Kukathas's approach ultimately not compelling because it fails to take socialization and the importance of groups seriously enough.

¹ House of Commons, "Minutes of the Proceedings and Evidence of the Standing Committee on Aboriginal Affairs and Northern Development," Ottawa: Canadian Government Publishing Centre, Issue No. 33, February 23, 1988, 35.

In the second section we consider an approach which appears to improve upon theories which presuppose either a choice-based or preference-based conception of personal autonomy. This is the position argued by Iris Marion Young in *Justice and the Politics of Difference*. Her work suggests that it may be possible to both recognize that people can have fluid self-identities and multiple identifications, *and* defend special treatment.

I

Kukathas's commitment to a preference-based conception of personal autonomy is reflected when he defends, for instance, the "freedom of the individual to live as he or she prefers".² Further, he treats freedom of association - "to form communities and to live by the terms of those associations"³ - as a fundamental right. His commitment to these tenets is so strong that he takes a minimalist position on the demands a liberal state can place on associations. This is reflected when he rejects choice-based conceptions of personal autonomy like Kymlicka assumes by claiming that there "is no more reason to insist that gypsy parents offer their children a 'rational choice' of life-style through public education than there is to require that other parents offer their children the opportunity to become gypsies."⁴ He goes so far as to suggest that a liberal society "need not be made up of liberal communities",⁵ and that in a society embodying freedom of association "different ways of life can coexist, even if some of those ways do not value equality or autonomy."⁶ His respect for the integrity of associations is such that he only supports minimal obligations on associations to respect the rights of their members. Thus, he suggests that people who renounce

² Kukathas, "Cultural Rights Again," 677.

³ Kukathas, "Are There Any Cultural Rights?," *Political Theory* 20 no. 1 (February 1992), 116.

⁴ *Ibid.*, 126.

⁵ *Ibid.*, 127.

⁶ Kukathas, "Cultural Rights Again," 680.

membership in associations and live in the wider (liberal) society should have a typically liberal set of rights (e.g. the right to marry whoever one wants),⁷ while people who live in associations should only be protected against extreme rights violations (e.g. freedom from slavery, physical coercion, and 'cruel, inhuman or degrading treatment').⁸

He says that his is a liberal theory because it upholds the freedom of people to leave their communities⁹ by forbidding communities the right to use coercion to retain them.¹⁰ This leads him to concede to mainstream liberals that a *substantial freedom to exit* presupposes that people have somewhere to go and this may require "the existence of a wider society. ... [which may] be one that could be described as embodying a liberal political culture".¹¹

Kukathas believes that people's interests in groups can be accommodated *without* special rights. His primary thesis "is not that groups do not matter, but rather that there is no need to depart from the liberal language of *individual* rights to do justice to them."¹² He believes his approach strikes "a balance between the claims of the individual and the interests of the community."¹³ On one hand, while not guaranteeing that individual community members will always get their way or have their (liberal) rights respected, the freedom to exit gives them some power to transform their communities:

Once the possibility of leaving with impunity becomes ... practicable and the

⁷ Kukathas, "Are There Any Cultural Rights?," 136.

⁸ *Ibid.*, 128.

⁹ *Ibid.*, 116.

¹⁰ *Ibid.*, 125.

¹¹ *Ibid.*, 134.

¹² *Ibid.*, 107.

¹³ *Ibid.*, 117.

fact of staying becomes a deliberate decision the ethical balance between the individual and group has shifted irrevocably in the individual's direction.¹⁴

On the other hand, cultural groups are protected because the wider society is prevented from imposing its standards, systems of education,¹⁵ and definition of "what is to count as (a legitimate form of) human flourishing."¹⁶

Underlying Kukathas's refusal to accord special recognition to historical communities, or any other groups for that matter, is a rejection of the special connection which the writers we discussed in the last chapter assumed exists between self-identity and historical community. He does so by assuming such a fluid conception of self-identity that all groups are characterized as voluntary "associations of individuals" who "live according to cultural practices each finds acceptable".¹⁷ He rejects the idea of a 'primordial' aspect of identity, arguing instead that group identity is never fixed, but rather, "has a contextual character: Group boundaries 'tend to shift with the political context'."¹⁸ Group identity, he says - confusing, I believe, group identity with 'expressions of group identity' - mutates with changes in things like legal rights, political boundaries, and the migrations of peoples: thus, in addition to groups generating entitlements, he thinks entitlements generate groups.¹⁹

While these observations are important and are not given adequate consideration by many proponents of special rights, the conclusion he draws from them - that "[t]he mutability of such communities reflects their nature as *associations* of individuals with different interests"²⁰ and that the causes of group formation "point to why it may not

¹⁴ Mulgan in *ibid.*, 128.

¹⁵ *Ibid.*, 117

¹⁶ *Ibid.*, 124.

¹⁷ *Ibid.*, 116.

¹⁸ Kukathas, quoting Donald Horowitz, in *ibid.*, 110.

¹⁹ *Ibid.*, 112.

²⁰ *Ibid.*, 117. My emphasis.

be appropriate to try to answer questions about what political institutions are defensible by appealing to the interests of existing groups"²¹ - are problematic. If self-identities are as fluid as he suggests, then the right to freedom of association would be adequately protected by negative rights and there could be little grounds for differential treatment. Thus, there could be no argument to be balanced against his concern that the institutionalization of existing groups disregards dissension within groups, favours "existing majorities", and may trap some people within the community who do not identify with it in the form in which it has been institutionalized.²²

The weak point in Kukathas's position is the assumption that people's self-identities are so fluid that it is reasonable to treat all communities as voluntary associations. One problem is that this does not adequately address the fact that cultural communities are special precisely because most people become members by birth rather than choice. While Kukathas recognizes this, he downplays its importance by suggesting that such membership can be treated as voluntary where "members recognize as legitimate the terms of association and the authority that upholds them". Evidence of such recognition, he says, is a member's 'choice' to remain in the community.²³ This, however, is unsatisfactory. Since the communities 'as standards to choose by' into which people are socialized at least partly constitute their self-identities, preferences, and knowledge of the outside world, to assume, without examining actual processes of socialization, that a 'choice' to remain in a community is free is, as Kymlicka notes, 'bizarre'.²⁴ The mere presence of a society into which

²¹ Ibid., 111. He does not believe that the causes of group formation render group interests illegitimate - he thinks that people have a legitimate interest in avoiding the dislocation and anomie which accompany community disintegration - he just thinks they explain why special rights should not be extended.

²² Ibid., 114.

²³ Ibid., 116.

²⁴ Will Kymlicka, "The Rights of Minority Cultures," *Political Theory* 20 no. 1 (February 1992), 143.

to exit is not enough. Kymlicka emphasizes the important role of socialization by suggesting that someone deprived of "literacy, education, or the freedom to learn about the outside world ... does not have a substantial freedom to leave because she lacks the preconditions for making a meaningful choice."²⁵ Were Kukathas to give more appropriate weight to the effects of socialization into 'communities as standards to choose by' on preference formation, I believe he would find it difficult to continue to treat all groups as voluntary associations since socialization affects, without necessarily determining, the communities which one will prefer.

Beyond the fact that treating unchosen communities as voluntary associations seems unrealistic, Kukathas's treatment of all communities as voluntary associations appears to rest on a dubious assumption. This is revealed in his response to Kymlicka's critique of his description of a substantive freedom of exit. Kukathas says that Kymlicka's point is troubling, but there is no getting around it.²⁶ This seems to rely on the assumption that there are only two alternatives for addressing socialization. This is revealed when Kukathas says Kymlicka's criticism relies upon the mistaken assumption that one can reconcile the aspirations

to leave cultural communities alone to manage their own affairs, whatever we may think of their values ... [and] to champion the interests of individuals who, we think, are disadvantaged by their communities' lack of regard for certain values.²⁷

Believing these to be the only options, Kukathas thinks he is justified in considering any interference with an individual's socialization to violate her and her community's right to live as they prefer: there are only two alternatives, and he has simply made a hard choice.²⁸ Kymlicka, on Kukathas's view, mistakenly endorses interference by

²⁵ Ibid., 143.

²⁶ Kukathas, "Cultural Rights Again," 677. Thus he concludes that the significance of Kymlicka's critique is uncertain.

²⁷ Ibid., 678.

²⁸ Ibid., 677-78.

confusing the costliness of the decision to leave one's community (e.g. cost of learning a new language; risk of rejection from one's community²⁹) with the decision being meaningless. On our view, Kukathas chooses to leave cultural communities alone to the detriment of ensuring that people are really free to leave their communities, while Kymlicka chooses to ensure this freedom to the possible detriment of the communities they prefer.

Thus, significant costs and potential harm are associated with *both* Kymlicka's willingness to interfere with the processes of socialization to ensure that people develop a capacity for choice and critical reflection, *and* Kukathas's desire to leave people and communities to live as they prefer. Given their inherent costs, both arguments stand or fall on the assumption that there is no third alternative - that we could never identify when such interference is justified and when it is not. This defence would be undermined if a third alternative can be identified.³⁰

Both Kukathas's and Kymlicka's positions could also be improved upon if we could find an understanding of the relationship between self-identity and community which does not assume that people must identify with their historical community or that they need not identify with any community at all. Such an alternative, which suggests that in addition to the special case of unchosen communities, some communities may be differentiated from purely voluntary associations by the contribution of those communities to the constitution of people's self-identities is found in Iris Marion Young's idea of social groups. This provides a reasonable response to Kukathas's suggestion that contextual changes in group identities reflect the underlying fluidity of people's self-identities.

Social groups are

socially prior to individuals [and] constitute individuals. A person's particular sense of history, affinity, and separateness, even the person's mode

²⁹ Ibid., 677.

³⁰ This is addressed in Chapter Eleven.

of reasoning, evaluating, and expressing feeling, are constituted partly by her or his group affinities.³¹

They are special, she suggests, because they reflect a quality which Martin Heidegger calls '*thrownness*':

one *finds oneself* as a member of a group, which one experiences as always already having been. For our identities are defined in relation to how others identify us, and they do so in terms of groups which are always already associated with specific attributes, stereotypes, and norms.³²

Thrownness causes membership in social groups to affect "one's very identity, in the way, for example, being Navaho might."³³

Thrownness and the idea that social groups are constitutive of identity do "not mean that persons have no individual styles, or are unable to transcend or reject a group identity. Nor does it preclude persons from having many aspects that are independent of these group identities."³⁴ *Thrownness*, Young suggests, can explain why membership in social groups remains important, even when people transcend their original identifications. Such events as heterosexuals becoming gay, and young people becoming old "exemplify *thrownness* precisely because such changes in group affinity are experienced as transformations in one's identity."³⁵ Thus, the idea of '*thrownness*' suggests the possibility of acknowledging the fluidity of self-identity without assuming that all groups should be treated as voluntary associations.

For instance, Young says social groups can be distinguished from both '*aggregates*' and '*associations*'. Unlike *aggregates*, which consist of individuals who share a set of attributes, social groups involve self-identification: "[it is] identification

³¹ Iris Marion Young, *Justice And the Politics of Difference* (Princeton: Princeton University Press, 1990), 9, 45.

³² *Ibid.*, 46.

³³ *Ibid.*, 46.

³⁴ *Ibid.*, 45.

³⁵ *Ibid.*, 46.

with a certain social status, the common history that social status produces, and self-identification that define the group as a group."³⁶ *Associations*, like clubs, churches, and corporations in which people come together to perform specific practices or form certain types of affiliation, share with social groups the characteristic of self-identification, but, unlike social groups, do not constitute individuals because they implicitly conceive "the individual as ontologically prior to the collective, as making up, or constituting, groups."³⁷ Thus, in our terms, unlike 'communities as standards to choose by', voluntary associations usually act as vehicles through which people express pre-existing preferences.

On this view, then, contextual shifts in the expression of group identity, rather than reflecting changes in self-identity as Kukathas suggests, can be consistent with persistent underlying identities. The idea of thrownness suggests that such shifts often reflect changes in the saliency of identities rather than changes in identities themselves: "A person's group identities", Young writes, "may be for the most part only a background or horizon to his or her life, becoming salient only in specific interactive contexts."³⁸

Thus, the refusal of Kukathas's approach to distinguish communities which contribute to people's self-identities from purely voluntary associations leads him to treat some communities as implausibly voluntary and individual self-identities as unreasonably fluid. In the next section we will consider an approach which appears to do a better job of reconciling protection of important groups with recognition of fluid and multiple self-identities.

³⁶ Ibid., 44. She quotes Owen Fiss, who writes, "Group meanings partially constitute people's identities in terms of the cultural forms, social situation, and history that group members know as theirs, because these meanings have been either forced upon them or forged by them or both." 44.

³⁷ Ibid.

³⁸ Ibid., 46.

II

Iris Marion Young's approach combines what is appealing in both Kymlicka and Kukathas's approaches. Like Kukathas, she accepts the idea of fluid self-identity and multiple identifications: "Most people in modern societies", she says, "have multiple group identifications, ... [and] Every group has group differences cutting across it."³⁹ Unlike Kukathas, but like Kymlicka, however, she is willing to recognize the legitimacy of special rights for groups. Her work, then, is appealing to the extent that it appears able to reject problematic assumptions about identification and historical community and yet justify special rights for minority communities.

The core of her argument is summarized in three propositions. One, "instead of focusing on distribution, a conception of justice should begin with the concepts of domination and oppression."⁴⁰ Oppression consists in

systemic institutional processes which prevent some people from learning and using satisfying and expansive skills in socially recognized settings, or institutionalized social processes which inhibit people's ability to play and communicate with others or to express their feelings and perspective on social life in contexts where others can listen.⁴¹

Two, many social groups are oppressed in modern society.⁴² Three, a problem with democracy as currently practised is that "unless confronted with different perspectives on social relations and events, different values and language, most people tend to assert their own perspective as universal."⁴³ Together, these propositions suggest that the concerns of many citizens will never be addressed, even by well-meaning majorities, so long as minorities are unable to express themselves in the democratic

³⁹ Iris Marion Young, "Polity and Group Difference: A Critique of the Ideal of Universal Citizenship," *Ethics* 99 (January 1989), 260.

⁴⁰ I. M. Young, *Justice and the Politics of Difference*, 3.

⁴¹ *Ibid.*, 38.

⁴² I. M. Young, "Polity and Group Difference," 261.

⁴³ *Ibid.*, 262.

process.

Young's remedy, the 'heterogeneous public', requires a new conception of social justice.

A goal of social justice ... is social equality. Equality refers not primarily to the distribution of goods, [but] to the full participation and inclusion of everyone in a society's major institutions, and the socially supported substantive opportunity for all to develop and exercise their capacities and realize their choices.⁴⁴

This, she says, "requires not the melting away of differences, but institutions that promote reproduction of and respect for group differences without oppression."⁴⁵ It follows, then, that social policy should sometimes allow for "different treatment for oppressed or disadvantaged groups."⁴⁶ On this basis, Young develops an advocacy position composed of three policy proposals designed to ensure that the perspectives of oppressed groups receive consideration: 1) self-organization of group members with the support of public funding; 2) the expression of the group's analysis in "contexts where decision makers are obliged to show that they have taken these perspectives into consideration"; and 3) veto power regarding policies which affect a group directly.⁴⁷

Two things are especially noteworthy about Young's approach. The first is that her conception of multiple identities suggests a further problem with some choice-based conceptions of personal autonomy. Second, and more important in the long run, by focusing on oppression, she appears to misinterpret the nature of problems faced by members of cultural communities.

Young uses her "view of group differentiation as multiple, cross-cutting, fluid, and shifting" to question the very possibility of personal autonomy.⁴⁸ What she

⁴⁴ I. M. Young, *Justice and the Politics of Difference*, 173.

⁴⁵ *Ibid.*, 47.

⁴⁶ *Ibid.*, 158.

⁴⁷ I. M. Young, "Polity and Group Difference," 261-2.

⁴⁸ I. M. Young, *Justice and the Politics of Difference*, 48.

attacks, however, is a 'straw man' conception. She calls this the "authentic self" of individualistic contemporary theories of justice which "is autonomous, unified, free, and self-made, standing apart from history and affiliations, choosing its life plan entirely for itself."⁴⁹ She critiques this "model of the autonomous, unified self" in the following passage:

In complex, highly differentiated societies like our own, all persons have multiple group identities. The culture, perspective, and relations of privilege and oppression of these various groups, moreover, may not cohere. Thus individual persons, as constituted partly by their group affinities and relations, cannot be unified, themselves are heterogenous and not necessarily coherent.⁵⁰

She is surely right to reject such a rigid choice-based conception of personal autonomy which presumes that people are only autonomous when they make choices given unified and coherent self-identities. Her critique misses the mark, however, when it is applied to our general conception of personal autonomy. Rather than deny the possibility of autonomy, it merely supports Raz's claim that only over-intellectualized conceptions of autonomy require people to give unity to their lives,⁵¹ and his rejection of the "ideal of the perfect existentialist with no fixed biological and social nature who creates himself as he goes along".⁵² Her critique does not rule out other possible conceptions of personal autonomy.⁵³ Further, Young herself makes claims which are consistent with a less rigid definition of personal autonomy.⁵⁴ Thus, rather than denying the possibility of personal autonomy, Young's critique merely suggests

⁴⁹ Ibid., 45.

⁵⁰ Ibid., 48.

⁵¹ Raz, *Morality of Freedom*, 370-71.

⁵² Ibid., 155.

⁵³ For example, it is consistent with Raz's description of autonomous people as *part* authors of their lives who distinguish themselves from those who lead lives "of no choices, or of drifting through life without ever exercising one's capacity to choose." Ibid., 370, 371.

⁵⁴ She says, for instance, "that individuals should be free to pursue their life plans in their own way". I. M. Young, *Justice and the Politics of Difference*, 47.

limitations on the definition of personal autonomy once the fact of multiple identifications is accepted.

The last thing we wish to discuss is how Young's use of 'oppression' as the measure by which to determine which communities warrant protection misinterprets the nature of the problems faced by members of cultural communities. The focus on oppression creates two different kinds of problems. On one hand, it leads Young to offer the same solution to groups which face very different problems. On the other, it may lead her to overlook groups which may not be oppressed, but which still require special protection.

Young's focus on oppression leads her to lump together groups which are defined primarily in relational terms with ones defined by substantive ways of life. In some places she describes 'social groups' in more or less relational terms. When differentiating them from associations she says they are characterized by a degree of 'thrownness' that results from their being defined

in relation to how others identify [them] Although social processes of affinity and separation define groups, they do not give groups a substantive identity. There is no common nature that members of a group have.⁵⁵

Elsewhere, she distinguishes social groups by their substantive content. In differentiating them from interest groups she writes: "[social groups] describe the major identities and major status relationships constituting the society"; "[they represent] comprehensive identities and ways of life."⁵⁶ In other places substantive and relational aspects of identity appear to be interrelated. On one hand, she suggests that relational ascription can lead to the development of common substantive content

because the status of Otherness creates specific experiences not shared by the dominant group, and because culturally oppressed groups are often socially segregated and occupy special positions in the social division of labour.⁵⁷

⁵⁵ I. M. Young, "Polity and Group Difference," 260.

⁵⁶ *Ibid.*, 266, 267.

⁵⁷ I. M. Young, *Justice and the Politics of Difference*, 60.

On the other hand, she says that groups may become relationally-defined because of differences in their ways of life: "A social group is a collective of persons differentiated from at least one other group by cultural forms, practices, or way of life."⁵⁸

This blurring of distinctions is problematic because different types of groups often face different problems, and thus require different treatment. When members of relationally-defined groups are oppressed, their group membership may be experienced as a burden. In such cases, removal of the burden (i.e. ascriptively-defined group membership) may be an appropriate solution. This would not do, however, for members of a social group defined by a way of life. Although they would also want to escape oppression, they would not want to do abandon their group membership. Whereas oppression of the first type of social group may be alleviated by ensuring that all citizens are treated in more or less the same way, oppression of the second requires special protection to preserve and even promote identities. Young's focus on oppression, then, misinterprets the problems faced by different groups.

Similarly, the focus on oppression may lead Young to overlook important groups which represent substantive ways of life which are not especially oppressed, but which are having difficulty surviving in a market society. For example, while Welsh-speakers in the United Kingdom may not be oppressed, the survival of their community in modern society depends, at least in part, on the provision of state subsidy for Welsh-medium mass-communications which would not be provided by the market.

While 'oppression' misses these important distinctions, the value of 'meaningful life' does not. By focusing on people's ability to pursue meaningful lives, we see both that members of relationally-defined groups need the barriers removed which prevent them from participating in the communities with which they identify; and that

⁵⁸ Ibid., 43.

members of groups which represent substantive ways of life require special protection to help ensure their survival. Such measures are justified quite independently of whether people are oppressed or not. They are justified, on this view, because subjectively-defined groups deserve special protection where, and to the extent that, they support meaningful lives.

Consideration of Young's approach has provided a number of valuable insights. First, it suggests, *contra* Kukathas, that the fluidity and multiplicity of self-identity can be recognized without treating all groups as voluntary associations. Second, we have demonstrated that recognition of multiple identifications does not rule out all conceptions of personal autonomy, only overly intellectualized ones. Finally, the problems we identified with Young's use of 'oppression' provide further support for the contention that a more satisfying approach to our problem involves recognition of the value of meaningful life.

III

The various discussions in the four chapters of Part One have illustrated serious shortcomings in the capacity of existing theories to reconcile the liberal principles of liberal-democratic political systems with special protection for cultural minorities. The politics of universalism, it was argued, cannot do so because the emphasis it places on full personal autonomy prevents it from making positive distinctions between permissible ends. The politics of difference, conversely, is undermined by its assumption that people's well-being is intimately connected with communities with which they are ascriptively associated. The general conclusion of Chapters One and Two, then, was that personal autonomy and identification with a community are both important values, but the interpretations which they receive in these theories are indefensible.

Chapters Three and Four considered two general conceptions of personal autonomy, and the approaches of four theorists which appear to reconcile autonomy and identification, each of which was shown to be problematic. The contrast between Kymlicka's and Kukathas's interpretations of liberalism was particularly enlightening.

By giving priority to one aspect of personal autonomy - Kukathas to 'living as one prefers', Kymlicka to 'questioning one's beliefs' - each arrived at problematic conclusions. In privileging a strong choice-based conception of personal autonomy Kymlicka was willing to interfere with all people's socialization to develop their capacity for choice and critical reflection. Conversely, by privileging the freedom to live as one prefers, Kukathas ignored potentially detrimental forms of socialization. Both were faulted, then, for making the implicit, and mistaken, assumption that there we have only two alternatives in considering how to deal with socialization: either all processes of socialization must be interfered with or they are to be left alone.

A key conclusion, then, must be that alternative interpretations of personal autonomy and identification with community are needed if these problems are to be overcome. Any solution must place equal emphasis on identification and autonomy; it must recognize that people may, but do not necessarily, need to exercise choice and critical reflection; and it must be able to discriminate between socialization which supports and socialization which undermines personal autonomy. Other important insights which have been made through this analysis include: we must not assume that individuals can be ascriptively identified with inherited historical communities; self-identity must be treated as fluid, and identifications with communities as multiple; and personal autonomy must reflect what is important in both its choice-based and preference-based variants.

As neither the ideal of 'living as one prefers' nor the ideal of 'choice and critical reflection' provides an independent measure for reconciling these values, a promising approach is to ground such a theory on a deeper value. The potential of a deeper value to resolve otherwise unresolvable conflicts was suggested by Raz's and Coulombe's use of well-being. In Part Two, then, we will attempt to put the various insights we made so far into practice by deriving alternative definitions of autonomy and identification on the basis of the deeper value of 'meaningful life'.

Part Two: The Model of the Synthetic Self
Chapter 5: Meaningful Life & the Synthetic Self

"a rabbi from Eastern Europe turned to me and told me his story. He had lost his first wife and their six children in the concentration camp of Auschwitz ...

I made a last attempt to help him by inquiring whether he did not hope to see his children again in Heaven. However, my question was followed by an outburst of tears, and now the true reason for his despair came to the fore: he explained that his children, since they died as innocent martyrs, were thus found worthy of the highest place in Heaven, but as for himself he could not expect, as an old, sinful man, to be assigned to the same place."¹

How must we understand ourselves if we are creatures for whom both personal autonomy and identification with community are important values? Part One suggested that this cannot be achieved by understanding ourselves as free and equal rational beings,² as people constituted by historical communities,³ as beings for whom communities merely provide ‘contexts’ for our autonomous choice-making,⁴ as people for whom all associations are voluntary,⁵ or as people for whom the main problem concerning identification and community is oppression.⁶ To address these difficulties Part Two develops and defends an alternative conception of human agency - the synthetic self.

Rather than giving priority to autonomy or identification, this model tries to

¹ Viktor Frankl, *Man's Search for Meaning* (New York: Washington Square Press, 1984), 143.

² See Chapter One.

³ See Chapter Two.

⁴ See Chapter Three.

⁵ See Chapter Four, Section I.

⁶ See Chapter Four, Section II.

reconcile aspects of the free and equal rational being of the politics of universalism and the situated subject of the politics of difference by appealing to a deeper value - meaningful life. This allows these values to be redefined on an equal footing and provides a common yardstick for resolving conflicts. This approach stakes its validity on its ability to improve upon and to explain the weaknesses of accounts of autonomy and identification discussed in Part One.

By relying on the value of meaningful life the synthetic self suggests that autonomy is valued to the extent that it enables a person to pursue significant purposes. Similarly, identification is valued to the extent that it informs and supports such purposes. This forms the basis of conceptions of autonomy and identification which are mutually compatible within the individual agent.

Chapter Five defines meaningful life, develops and defends the model of the synthetic self and the conceptions of autonomy and identification which follow from it, and explains their mutual compatibility. Chapters Six, Seven, and Eight defend these conceptions in more detail and argue for their superiority over those discussed in Part One.

I

The key move in this argument is not the ontological claim that 'meaningful life' is important: many theorists have employed such terms as 'meaningful life' and 'meaningful choice' before. This approach is distinguished by its treating 'meaningful life' as something which is intrinsically valuable, which all people require, and which can support the values of personal autonomy and identification with community. Here we articulate what we mean by the 'value of a meaningful life'.

The problem of meaningful life is captured in Alfred Stern's description of man as a citizen of two worlds - "the world of values and the world of value-free physical, causal occurrences."⁷ One fails to have a meaningful life if she exists outside the

⁷ Alfred Stern, *The Search For Meaning* (Memphis: Memphis State University Press, 197), 186. I also use the term 'objective reality' in which I include the behaviour of other humans, the causes of which are often opaque to us.

world of values where there is only "axiological emptiness".⁸ A life becomes meaningful, on this view, when an agent is able to transcend her individual limits and connect "with some things or values beyond [herself]."⁹ The first question to be addressed, then, concerns the nature of that with which one must connect to sustain a meaningful life.

Robert Nozick has considered a number of types of meaning, two of which are relevant to our discussion. One, *meaning as intrinsic meaningfulness*, sets as its standard connection with "objective meaning ... in itself, apart from any connections to anything else".¹⁰ This suggests an unrelenting, Cartesian, approach to meaning: one must reject anything which is not intrinsically meaningful. Another type, *meaning as objective meaningfulness*, sets a lower standard. It suggests that one must connect with something which is important, nontrivial, significant.¹¹ We believe there are good reasons for preferring the second interpretation to the first.

While the standard of intrinsic meaningfulness is intuitively appealing, it has inherent drawbacks which justify its rejection. A fundamental problem is that the requirement that we be satisfied with nothing less than that which has intrinsic meaning threatens an infinite regress which would leave the question of meaning forever in doubt:

However widely we connect and link, however far our web of meaningfulness extends, we can imagine drawing a boundary around all that, standing outside of the totality of it, and asking 'but what is the meaning of that, what does that mean?'¹²

On this view, the only way to end the regress and secure meaning is to connect with

⁸ Ibid., 86.

⁹ Robert Nozick, *Philosophical Explanations* (Cambridge, Mass.: Belknap, 1981), 594.

¹⁰ Ibid., 575.

¹¹ Ibid.

¹² Ibid., 596-97.

that around which it is impossible to draw a boundary: 'the unlimited'. 'The unlimited' is intrinsically meaningful because there is no ground outside of it from which to question its meaning.¹³

A similar problem with intrinsic meaningfulness is that the skepticism it requires seems unlikely to ever admit of an answer at all. Consider Tolstoy's conclusion that

the strictly scientific knowledge, that knowledge which, as Descartes did, begins with a full doubt in everything, rejects all knowledge which has been taken on trust, and builds everything anew on the laws of reason and experience, cannot give any other answer to the question of life than what I received - an indefinite one an identity, $0 = 0$, life is nothing. Thus the philosophical knowledge does not ... negate anything, but only answers that the question cannot be solved by it¹⁴

Such radical questioning leaves this conception of meaning unlikely to sustain meaningful lives.

A further problem is that connection with 'the unlimited' might well undermine, rather than sustain, meaningful lives. On one hand, one's life may appear meaningless in light of 'the unlimited'. On the other, given the potentially vast proportions of 'the unlimited', it may not be obvious what its meaning *is*.¹⁵ Thus, low probability of success, and the real possibility that it may be of no use when discovered, are good reasons for rejecting intrinsic meaningfulness as the standard for meaning in our lives.

Objective meaningfulness recommends itself precisely because it suggests limits to the regress which intrinsic meaningfulness encourages. As Nozick notes,

it does not follow that the requisite connection must be with something that

¹³ For example, Tolstoy wrote of faith that "no matter how irrational and monstrous the answers that faith gave, they had this advantage that they introduced into each answer the relation of the finite to the infinite, without which there could be no answer." Leo Tolstoy, "My Confession," in *Life and Meaning: A Reader*, ed. Oswald Hanfling (Oxford: Basil Blackwell, 1987), 18.

¹⁴ *Ibid.*, 17-18.

¹⁵ Nozick, *Philosophical Explanations*, 598.

itself has *meaning*. What bestows meaning by connection must itself be nontrivial, but there are ways of being nontrivial other than having [intrinsic] meaning. Something is nontrivial, also, if it has value. The chain that grounds meaning cannot terminate in something worthless, but it ... can rest in something valuable. Thus the apparently inexorable regress is stopped.¹⁶

Objective meaningfulness ends the regress by accepting what Nozick describes as 'limited transcendence': "the transcendence of our limits so as to connect with a wider context of value which itself is limited". This, he says, "*does give our lives meaning - but a limited one.*"¹⁷ Note that in accepting 'objective meaningfulness' as our standard we are not suggesting that there is some objective standard by which an impartial observer could judge a life meaningful or meaningless, but rather, that from the individual's own perspective the values which sustain meaning in her life have a justification independent of her preferences.¹⁸

A second question, which we must ask, concerns how contexts of value contribute to meaningful lives. The answer, we suggest, is that contexts of value - as embodied in religions, philosophies, ethnic traditions - provide interpretations of 'objective reality' which enable us to form significant purposes. This allows, as Kurt Baier says, there to be purpose *in* life without purpose *of* life.¹⁹ Purposes provide the link between contexts of values and objective reality, between Stern's worlds of values and of value-free physical, causal occurrences.

The importance of the value of meaningful life which is achieved through the pursuit significant purposes finds much support in the literature. For instance, Paul

¹⁶ Ibid., 610.

¹⁷ Ibid., 618. My emphasis.

¹⁸ This seems reasonable, since, as Bernard Williams suggests, where the meaningfulness of a person's life is not secured outside of herself (i.e., were it conditional upon her existence), she could have no reason for choosing against suicide. Bernard Williams, "Persons, Character, and Morality," in *The Identities of Persons*, ed. Amelie Oksenberg Rorty (Berkeley: University of California, 1976), 207.

¹⁹ Kurt Baier, "The Purpose of Man's Existence," in *Life and Meaning: A Reader*, ed. Oswald Hanfling (Oxford: Basil Blackwell, 1987), 23.

Edwards writes, "When we ask whether a *particular* person's life has or had any meaning we are usually concerned not with cosmic issues but with the question whether certain purposes are to be found *in* his life."²⁰ Viktor Frankl wrote of those who perished in the Nazi death camps: "Woe to him who saw no more sense in his life, no aim, no purpose, and therefore no point in carrying on."²¹ Its importance is also been revealed by its absence:

All my happiness was to have been found in the continual pursuit of this end [reforming the world according to utilitarian principles]. The end had ceased to charm, and how could there ever again be any interest in the means? I seemed to have nothing to live for?²²

My life came to a standstill. I could breathe, eat, drink, and sleep, and could not help breathing, eating, drinking, and sleeping; but there was no life, because there were no desires the gratification of which I might find reasonable.²³

It appears in Durkheim's account of 'anomic suicide':

All man's pleasure in acting, moving, and exerting himself implies the sense that his efforts are not in vain and that by walking he has advanced. However, one does not advance when one walks towards no goal²⁴

It even finds support in Rawls's claim that self-respect includes one's

secure conviction that his conception of his good, his plan of life is worth carrying out. ... When we feel that our plans are of little value, ... All desire and activity becomes empty and vain, and we sink into apathy and cynicism.²⁵

Thus, while our definition of meaningful life and the emphasis we place on it may be

²⁰ Quoted in O. Hanfling, *The Quest for Meaning*, x.

²¹ Frankl, *Man's Search for Meaning*, 98.

²² J.S. Mill, "Autobiography," in *Essential Works of John Stuart Mill*, ed. Max Lerner (New York: Bantam Books, 1961), 83.

²³ Tolstoy, "My Confession," 11.

²⁴ Emile Durkheim. *Suicide*, trans. John A. Spaulding and George Simpson (Glencoe, Illinois: The Free Press, 1951), 248.

²⁵ Rawls. *A Theory of Justice*, 440.

new, the idea it reflects is not especially new or controversial.

In saying that a person's life is meaningful, then, we are not making a claim about the value of her life in some intrinsic or absolute sense. Rather, our view is that a life is meaningful to the extent that an individual is able to form and pursue purposes which she herself considers to be significant and worthwhile, and which offer some reasonable chance of being successfully executed.²⁶ This, we have suggested, presupposes that the individual is able to connect with a context of values which can inform such purposes.

II

We can now consider the origin of contexts of values and how people connect with them. We will argue that people connect with contexts of values by identifying with communities that embody traditions that allow them to act as communities as standards to choose by.

We will begin by introducing three important concepts: 'situation', 'self-identity', and 'governing assumptions'. A person's *situation* is the totality of his unchosen attributes (ranging from physical appearance to membership in groups, communities, and traditions).²⁷ Having been *thrown*, to use Heidegger's term, into a life characterized by membership in groups and communities, which are experienced as "always already having been",²⁸ the self begins its existence "indistinguishable from the sea of undifferentiated attributes of an unarticulated situation".²⁹ *Self-*

²⁶ A life lacks meaning, conversely, to the extent that a person is either unable to generate significant purposes or unable to execute them in ways that meet a subjectively minimal standard.

²⁷ David Archard says that 'situation comprises three interrelated sets of facts. First, there are those facts pertaining to an individual's biological endowment; second, those having to do with the conditions of an individual's education and rearing; third, those defining the present social and historical setting for an individual's life." David Archard, "Autonomy, character and situation," in *Liberalism, Citizenship and Autonomy*, ed. David Milligan and William Watts Miller (Aldershot: Avebury, 1992), 158.

²⁸ In I. M. Young, *Justice and the Politics of Difference*, 46.

²⁹ Sandel, *Liberalism and the Limits of Justice*, 20.

identity emerges out of situation when the agent identifies with some of his attributes and not others, thus differentiating those which he *is* from those which he merely *has*.³⁰ Those which he *is* constitute his self-identity.

Some identifications which constitute self-identity are more important to meaningfulness than others. We will call the subset which are most important to meaningfulness 'governing assumptions'. These are similar to what Stanley Benn describes as *nomos* - the law, set of standards, or "coherent set of beliefs, values, and principles, by which [a person's] actions are governed"³¹ - except that governing assumptions need not be especially coherent or law-like. Governing assumptions can also include a person's understanding of the relationship between his values and principles - which are most important; which apply in different circumstances. Governing assumptions are the part of self-identity, to use Charles Taylor's phrase, which describes "who we are, 'where we're coming from'. ... [they are] the background against which our tastes and desires and opinions and aspirations make sense."³² They are treated as authoritative (consciously or otherwise) when considering how to act or which purposes to adopt.³³ In recognizing that a person's identifications usually evolve during his life, we will call the first set of governing assumptions to emerge out of his situation his 'moral starting point'.³⁴

Governing assumptions, this model suggests, are derived from identifications

³⁰ *Ibid.*, 20.

³¹ Stanley Benn, "Freedom, Autonomy, and the Concept of a Person," in *Proceedings of the Aristotelian Society*, Vol. LXXVI (1975/76), 124.

³² Taylor, "Politics of Recognition," 33.

³³ The idea that contexts of values with which we identify authoritatively inform our determination of purposes is supported by Sandel: "if my fundamental values and ends are to enable me, as surely they must, to evaluate and regulate my immediate wants and desires, these values and ends must have a sanction independent of the mere fact that I happen to hold them with a certain intensity." Sandel. *Liberalism and the Limits of Justice*, 165.

³⁴ While this term is borrowed from Alasdair MacIntyre (*After Virtue*. 220), we do not borrow his idea that moral starting points are permanently constitutive.

with communities which embody traditions that sustain 'contexts of values'.³⁵ It is contexts of values that allow such communities to act as 'communities as standards to choose by'. There are at least two types of tradition which might sustain contexts of values.

John Kekes has developed two definitions of traditions which are useful for this purpose.³⁶ The first, which I will call the *purposive tradition*,³⁷ is "an association of people guided by a specific and common goal. ... [which] provides the framework in which [its members] aim to achieve whatever this goal happens to be".³⁸ The values with which these traditions connect their members include both the good which the tradition aims to achieve and the various virtues and vices which are understood to contribute to or detract from it.

The second type of tradition, which Kekes calls *moral tradition*, does not aim to promote

a specific goal, ... [but rather] to create a context in which specific goals can be achieved. Legal, political, managerial, and law enforcement traditions are examples of it. ... [They] are ground-clearing rather than architectural; enabling rather than productive; protective rather than venturesome. A moral tradition has achieved its purposes if no one in a society needs to be aware of its existence.³⁹

³⁵ Traditions and communities are analytically distinct. Consider the tradition of Catholicism. While it is sensible to speak of one Catholic tradition, this one tradition is embodied in thousands of separate communities. Further, each of these communities differs in the way the tradition is practised, depending, in part at least, on their members other identifications. For example, the Catholic tradition is practised differently in Italian, Irish, and Pueblo communities.

³⁶ These descriptions are borrowed from John Kekes's discussion of two types of relationship which Michael Oakeshott describes in "On the Civil Condition," in *On Human Conduct* (Oxford: Clarendon Press, 1975).

³⁷ Kekes gives it no name, Oakeshott calls it 'enterprise association'. "On the Civil Condition," 119.

³⁸ John Kekes, "Moral Tradition," in *Life and Meaning: A Reader*, ed. Oscar Hanfling (Oxford: Basil Blackwell, 1985), 237. This is similar to MacIntyre's 'tradition of a particular practice'. *After Virtue*, 187.

³⁹ *Ibid.*, 237.

Such traditions both help sustain the purposive traditions which exist within them and they may connect their members with their own contexts of values, including conceptions

of what makes life worth living, what it is to be a good man, what personal characteristics are virtuous and admirable, how people should treat others, what the acceptable forms of personal relationships are, how to cope with misfortune, adversity, and the prospect of failure, and what the duties and privileges are of the various stations in life his society affords.⁴⁰

Thus, communities which embody either purposive or moral traditions can connect their members with significant contexts of values.

These definitions have important implications for identifying communities which connect their members to contexts of values. First, it suggests that groups which are typically considered to be communities of shared goods - religious, national, ethnic, cultural, philosophical - qualify where they embody purposive traditions. Second, while broader communities, like historical communities and societal cultures, would rarely qualify as purposive traditions, they may act as communities as standards to choose by where they embody moral traditions.

This also allows us to distinguish some types of groups which are not communities as standards to choose by. Interest groups, for example, whose members "seek a particular goal, or desire the same policy, or are similarly situated with respect to some social effect",⁴¹ do not qualify because they embody neither purposive nor moral traditions. Similarly, ideological groups - collectives "of persons with shared political beliefs"⁴² - are best understood as adversaries who compete over the definition of a broader, usually moral, tradition. American liberals and conservatives, for example, promote conflicting interpretations of the values which constitute the moral tradition of the American historical community.

⁴⁰ Ibid., 240.

⁴¹ I. M. Young, *Justice and the Politics of Difference*, 186.

⁴² Ibid.

Identifications with contexts of values can inform people's purposes in different ways. For instance, they can inspire purely individual purposes. Stern writes that while there are

strictly individual projects the execution of which give meaning to millions of individual lives, ... the values which these projects try to achieve come from the collectivities of which the individuals are a part.⁴³

They can also contribute to individual purposes understood in collective terms. This is illustrated by Sandel's 'intersubjective conception of the self' where the "subject of possession is 'we' rather than 'I'".⁴⁴

Where this sense of participation in the achievements and endeavours of (certain) others engages the reflective self-understandings of the participants, we may come to regard ourselves, over the range of various activities, less as individuated subjects with certain things in common, and more as members of a wider (but still determinate) subjectivity, be it a family or community or class or people or nation.⁴⁵

Such identifications provide people with what Taylor calls 'moral frameworks' which let them know where they stand in relation to their 'good' and help them determine purposes by indicating how particular options might move them in relation to that good.⁴⁶

Identifications with contexts of values, do *not*, however, determine people's choices. Thus we reject the imagery in Stern's claim that the "great mass of individuals receive their tablets and hierarchies of values from the collectivities within which they have been educated".⁴⁷ Rather than being *monolithic* (hierarchy) and *static* (tablets), people's governing assumptions can be, and often are, plural, fluid, and, as a result, unique. There are a number of good reasons for believing this. First,

⁴³ Stern, *Search for Meaning*, 11-12.

⁴⁴ Sandel, *Liberalism and the Limits of Justice*, 80.

⁴⁵ *Ibid.*, 143.

⁴⁶ Taylor, *Sources of the Self*, Chapter 2.

⁴⁷ Stern, *Search for Meaning*, 11-12.

even people who share an identification with the same monolithic tradition, can develop different purposes. As Kekes notes, each person creates a "special individual amalgam of such opportunities, defined and made possible by his tradition, as he finds attractive and applicable to his own case."⁴⁸ Further, as Iris Young suggests, people who share the same identifications may interpret them differently: "No individual woman's identity, then, will escape the markings of gender, but how gender marks her life is her own."⁴⁹ Finally, since people, especially in modern plural societies, may identify with many, often competing, communities, their governing assumptions will be distinguished by how they integrate (or fail to integrate) those identifications. Identifications, then, influence, but do not determine, governing assumptions.

The limiting, yet not determinative nature of identifications can be illustrated with an example. Consider someone whose inherited *situation* has the following attributes: woman, Paul's daughter, Catholic, Pueblo, American, liberal. First, note that very different *self-identities* could arise from this situation. A person might believe she *is* a Catholic Pueblo who happens to *have* American citizenship, or she might think she *is* a liberal American woman who *has* Pueblo ancestry. The same is true for the governing assumptions which might arise from the same self-identity. Third, two people might apply the same authoritative identifications differently. Someone for whom being a Catholic liberal is authoritative might respond to abortion as a Catholic, a liberal, or both. Finally, a person could treat the same identifications as authoritative in similar situations and still come to different conclusions. The limiting effect of identifications, at least over the short term, is illustrated by the surprise we would feel if this Pueblo woman were to suddenly adopt the purposes of a Polynesian or a Swahili.

⁴⁸ Kekes, "Moral Tradition," 242-3.

⁴⁹ Iris Marion Young, "Gender as Seriality: Thinking About Women as a Social Collective," *Signs: Journal of Women in Culture and Society* 19, no. 3 (1994): 734.

III

Before outlining a conception of personal autonomy which reflects the value of meaningful life, we must first describe a model of human agency which expresses this value. This model, the *synthetic self*, has two elements: normal agency and meta-agency. These are ideal types; in practice there may be some overlap between them.

Normal agency, which accounts for the bulk of human deliberation, *proceeds from* an agent's governing assumptions which are taken as given. A person initiates normal agency, for example, by asking herself, "How should I, as a liberal Catholic, act in this situation?"⁵⁰ It is through normal agency that people transform their connections with contexts of values into significant purposes as well as engage in their pursuit.

In *meta-agency*, conversely, one's governing assumptions *are* the subject of deliberation. A person may ask, for example, "Given my dissatisfaction with the outcome of my previous deliberations, should I reconsider, reinterpret, or reject my identification as a liberal (Catholic, or both)?" Meta-agency is typically initiated when circumstances conspire to threaten the meaningfulness of a person's life by revealing shortcomings in her governing assumptions. She may, for instance, be unable to construct coherent governing assumptions from her situation; her purposes may fail too often when put into practice; or previously unrecognized incoherences within her governing assumptions or between her governing assumptions and objective reality may be revealed.

We will call such meaning-threatening experiences '*dissonance*'. Dissonance presents both a problem and an opportunity. It is a problem to the extent that it threatens the meaningfulness of a person's life by leading to anomie. It is an opportunity to the extent that its successful resolution will often refine a person's

⁵⁰ Of course, normal agency need be neither this intellectualized nor transparent. A person may simply believe certain things to be good or bad, right or wrong. For example, a person might reason, "Abortion is wrong, therefore I should not have an abortion." No explicit connection need be made between this belief and an identification with Catholicism.

governing assumptions and thus improve her reasons for having confidence in them. A person who never experienced dissonance, then, would never need to exercise meta-agency.

Meta-agency can be understood to follow the dialectic pattern of thesis, antithesis, and synthesis which is employed in many discussions of tradition and agency.⁵¹ The thesis in meta-agency is a person's present governing assumptions. One's first 'Thesis' is his 'moral starting point'. Antithesis is initiated by dissonance. The synthetic self responds to dissonance by engaging in critical reflection. In critical reflection one considers the identifications which constitute his governing assumptions, his perception of objective reality, and his understanding of the relationship between the two in the hopes of identifying the cause of dissonance. Synthesis is reached, if it is reached, when meaning is recovered.⁵² Typically, one either transforms his governing assumptions - by prioritizing, reinterpreting, compartmentalizing, rejecting, or adopting identifications to increase internal consistency or consonance with objective reality - or acts on his external circumstances (accepting, of course, that there are some things one cannot change about objective reality) to remove the dissonance. Presuming synthesis is achieved, however, the agent exercises normal agency again on the basis of new and transformed governing assumptions.⁵³

⁵¹ It appears, for instance, in MacIntyre's idea of the progress of traditions. The Thesis stage of all traditions occurs when authority is conferred on 'certain texts and certain voices' - such as the Homeric tales in ancient Greece (*After Virtue*, Chapter 10). Antithesis occurs when some event (e.g. an alternative interpretation of the texts, or the unification of separate communities) raises questions about the authority of the texts. Finally, traditions which reach Synthesis modify original beliefs, reinterpret texts or otherwise remedy inadequacies. See *After Virtue*, esp. Chapters 14 & 15; *Whose Justice? Which Rationality?*, esp. Chapters 17 & 18.

⁵² Meta-agency can, of course, fail: just as societies collapse and traditions die, some people never fully recover a sense of meaning in their lives. On the other hand, some contexts of value may enable people to have meaningful lives even when their purposes are thwarted.

⁵³ This account is highly idealized. For instance, it would often be the case that a person would exercise normal agency in many spheres of his life while exercising meta-agency in others. Also, normal and meta-agency may overlap: in choosing one purpose rather than another through normal agency, a person may strengthen his commitment to one governing assumption or weaken another - actions more akin to meta-agency.

The model of the *synthetic self* can be illustrated by considering the example provided by Philyp Rosser in his introspective essay, "Growing Through Political Change".⁵⁴ Rosser's unchosen moral starting point was a Labour-supporting Welsh community. The various communities he found himself 'thrown' into presented him with competing contexts of value. His 'Welsh' community was "Welsh in terms of language and ethos", while the Labour Party he was committed to in the 1960s and 1970s was "seemingly devoid of roots and belonging."⁵⁵ Despite such incongruities, he was able to create and maintain governing assumptions by compartmentalizing his identifications:

as long as I retained a perspective of politics which was unquestionably British the tension never really surfaced. Nothing was easier than for me to live out my Welsh existence, to speak the language in the home, in everyday conversation in the village and to listen to Welsh sermons in chapel on Sundays. But it stopped there. Politics, was, after all, different. Socialism contained that transcendent quality which welded the struggle of the industrial south Wales to the same struggle which was taking place in other parts of Britain, from London's East End, to Tyneside and the West of Scotland. Loyalties needed to be far flung far beyond the confines of Wales.⁵⁶

An important source of *dissonance* in his life was the realization that in doing nothing to prevent the decline of the Welsh community, he was losing a part of his own self-identity:

[I had] experiences accumulated on returning to Wales at periodic intervals and seeing a community, my own community, dying [and] the realisation that the decline of this community was not something extraneous to myself but was becoming increasingly personalised - that in the balance was not only the survival or extinction of a community but really it was the life or death of my own identity, my own specific Welsh consciousness.⁵⁷

⁵⁴ Philyp Rosser, "Growing Through Political Change," in *The National Question Again: Welsh Political Identity in the 1980s*, ed. J. Osmond (Llandysul: Gomer Press, 1985).

⁵⁵ *Ibid.*, 182.

⁵⁶ *Ibid.*

⁵⁷ *Ibid.*, 184.

Rosser responded to this with what we would call an exercise of meta-agency. He determined that the root of his crisis was the irreconcilability of his two key identifications: "The Labour Party's socialism is so heavily imprinted with British statism that it cannot come to terms with the community and cultural needs of a distinctive Welsh national identity." He responded by rejecting the British/Labour dimension of his self-identity (in his words, "discarding the maladjusted ethos of British socialism") and integrating his socialism directly into his Welsh identification. to create a socialism "rooted in the Welsh situation, identifying with a past and becoming itself enriched by what J.R. Jones often described as the interpenetration of energies which make up the specificity of the nation."⁵⁸

The model of the synthetic self as a conception of agency, then, has two important components: normal agency and meta-agency. Before moving on to consider the impact this has on conceptions of personal autonomy, we should point out some implications this has for our understanding of self-identity. Implicit in the model of the synthetic self, is a conception of self-identity which is both *fluid* - through meta-agency people may radically transform the identifications which constitute their self-identity - and *fragile* - dissonance-generating events, such as the involuntary loss of a valuable community of identification, may undermine a person's governing assumptions and thus deprive her of a meaningful life.

IV

The account of the synthetic self, with the central role it recognizes for meaning, helps define a conception of personal autonomy - situated personal autonomy - which places equal emphasis, in Kymlicka's terms, on our interests in leading our lives from the inside and in questioning our beliefs. It can also account for why both are valuable.

The concept of personal autonomy is highly contested: beyond broad agreement on the core idea of self-governance which personal autonomy shares with political and

⁵⁸ Ibid., 189-190.

moral autonomy,⁵⁹ there is little agreement on how to treat three key aspects of agency: the pursuit of purposes, the formation of purposes, and the nature of governing assumptions. Here we will consider how these issues might be resolved in a way which is consistent with the model of the synthetic self.

The pursuit of purposes involves the freedom to lead our lives from the inside. Two issues stand out. The least contentious concerns negative liberty: the freedom from being coercively prevented from pursuing one's purposes. The model of the synthetic self is consistent with negative liberty since to be deprived of such freedom both denies people the meaning that they may derive from achieving their purposes and demonstrates a lack of respect for meaningful life itself. Even though there may be circumstances in which such coercion is warranted, it always represents a harm.

More contentious is positive liberty.⁶⁰ People lack positive liberty when they are prevented from executing their purposes by a lack of resources or opportunities. An example is that of the religious sectarian mentioned in Chapter One who could not afford to take a pilgrimage because of the way resources were distributed in his society. Positive liberty raises questions about the effect of different distributions of resources on people's ability to pursue their purposes. Given the model of the synthetic self's focus on meaning, and not choice or strict equality of resources, it is consistent with claims for unequal distributions of society's resources where this is required to help people sustain the identifications and pursue the purposes which are vital to sustain meaning in their lives. Thus, with respect to the pursuit of purposes, the model of the synthetic self is consistent with claims based upon both positive and negative liberty.

⁵⁹ Political autonomy concerns "the right of a people to govern itself according to its own traditions without outside interference." (Meyers, *Self, Society, and Personal Choice* (New York: Columbia University Press, 1989), 10.) Moral autonomy "is a doctrine about the nature of morality" and "originates in the Kantian idea that morality consists of self-enacted principles". Raz, *Morality*, 370, n. 2.

⁶⁰ See, e.g. R. Young, *Personal Autonomy: Beyond Negative and Positive Liberty* (London: Croom Helm, 1986).

The second key aspect of agency, the formation of purposes, also touches on our interest in leading our lives from the inside. It raises two issues with respect to the normal agency by which people form purposes. The first turns on the definition of personal autonomy as self-governance. This contrasts the idea of governance with caprice: for the self to govern, it must treat something as authoritative. This suggests that the agent must be able to form second-order or higher-order preferences. Christman describes these in this passage:

Lower-order desires ... have as their object actions of the agent: a desire to *do* X or Y; higher-order desires ... however, have as their object other, lower-order desires; a desire to desire to do X or Y.⁶¹

People who form higher-order preferences "reflect upon and adopt attitudes towards their first-order desires, wishes, and intentions."⁶² This capacity is essential to personal autonomy since without it a person could not be self-governing at all.⁶³

Those who lack governing assumptions are not autonomous. They are usually described in one of two ways. The first type of nonautonomous person is like Frankfurt's *wantons* and Benn's *anomic choosers* who pursue whichever course of action they are most strongly inclined to follow at the time. This agent "does not care

⁶¹ John Christman, "Introduction," *The Inner Citadel: Essays on Individual Autonomy*, ed. John Christman (New York: Oxford University Press, 1989), 6-7.

⁶² Gerald Dworkin, *The Theory and Practice of Autonomy* (Cambridge: Cambridge University Press, 1988), 15.

⁶³ This is central to one of Sandel's criticisms of Rawls's 'disembodied subject.' He says it lacks the capacity for second-order desires because its reflections are restricted to two objects: "(1) the various alternative plans and their likely consequences for the realization of the agent's desires, and (2) the agent's wants and desires themselves, and their relative intensities." (Sandel, *Liberalism and the Limits of Justice*, 159) This, he suggests, reduces deliberation to a mechanical process:

a factual accounting of what their wants and desires really are. ... [after which] there would seem nothing left for me to *choose*. I would have still to match my wants and desires, thus ascertained, to the best available means of satisfying them, but this is a prudential question which involves no volition or exercise of will. (162)

The argument in Chapter One, however, suggests that Sandel is mistaken. Rawls's subjects do have an overriding second-order desire: to comply with the principles of justice.

which of his inclinations is the strongest";⁶⁴ he makes no attempt to live consistently and acts on "impulse not because he is impelled but because he acknowledges nothing as a reason for doing otherwise."⁶⁵ Wantons simply do not govern themselves. The second type of nonautonomous person, the *inner-impelled*, lacks autonomy because he behaves like an automaton, responding "uncomprehendingly to drives or attractions" which he cannot control.⁶⁶ This person suffers from 'natural' deficiencies in the skills required to self-govern (e.g. neurosis or psychosis).⁶⁷ Such people are incapable of determining and pursuing significant purposes, and thus cannot lead meaningful lives.⁶⁸ The model of the synthetic self, then, requires people to be able to form second-order preferences.

A second concern with respect to formation of purposes is the conditions under which they have been formed. For instance, Gerald Dworkin says autonomous people must form their preferences under conditions of *procedural independence*: people who have been influenced by hypnotic suggestion, manipulation, coercive persuasion, and subliminal influence lack procedural independence.⁶⁹ Similarly, John Christman says of his idea of Illegitimate External Influences, "were the agent to be made aware of their presence and influence, she would be moved to revise her desire set."⁷⁰ There are two problems with purposes which are not formed under conditions of procedural

⁶⁴ Frankfurt, "Freedom of the Will and the Concept of a Person," *Journal of Philosophy* 68 (Jan. 1971), 17.

⁶⁵ Benn, "Freedom, Autonomy, and the Concept of a Person," 124.

⁶⁶ *Ibid.*, 116.

⁶⁷ *Ibid.*, 113.

⁶⁸ This does not mean that autonomy requires one's life to be "ordered according to a plan or conception which fully expresses one's will". (R. Young, *Personal Autonomy*, 8) Rather, it requires one to consult second-order preferences (governing assumptions) which will sometimes conflict.

⁶⁹ G. Dworkin, *The Theory and Practice of Autonomy*, 18.

⁷⁰ John Christman, "Autonomy: A Defense of the Split-Level Self," *Southern Journal of Philosophy* 25 no. 3 (1987), 291.

independence from the perspective of the model of the synthetic self. One is that to the extent that such purposes are based on false or incomplete information, or that they do not reflect the agent's own governing assumptions, they are more likely to fail or prove meaningless. Second, those who violate this independence show a lack of respect for the meaningfulness of the lives of those they manipulate.

The third key aspect of agency concerns the nature of governing assumptions. This addresses the essential interest Kymlicka identified with questioning our beliefs. Here we ask whether *governing assumptions* from which purposes are formed are *the agent's own*. We can distinguish two cases in which people develop governing assumptions: one, when adults exercise meta-agency; the other, when children are socialized to make their first identifications or moral starting points. The first case is fairly straightforward. Respect for meaningful lives suggests that people should be free, in exercising meta-agency, from the illegitimate external influences described above.

The case with respect to children is more complicated. Two important issues must be addressed: one concerns the nature of the processes by which socialization occurs; the other how people should respond to their socialization. The model of the synthetic self suggests that socialization of children must be treated differently from meta-agency in adults. While, as a general rule, coercion is inconsistent with personal autonomy, its exercise is often integral to processes by which the secure identifications upon which autonomy depends are formed in the young.⁷¹ Nevertheless, distinctions must be made between legitimate socialization which respects meaningful lives, and illegitimate socialization which does not.⁷²

The second issue concerns how people should respond to the fact that they did not choose their moral starting points. It is useful to consider this as a problem of the

⁷¹ At the least, socialization requires children to be steered away from some influences and toward others.

⁷² This issue is addressed in Chapter Eleven where it is suggested that interference in processes of socialization can be justified.

role of critical reflection and the questioning of beliefs in the autonomous life.⁷³ We will describe three important positions which can be taken on this issue as the 'examined life', the 'life of open-minded conviction', and the 'dogmatic' or 'unreflective' life.

Those who lead the *examined life* engage in critical reflection as a matter of principle. They do not need to experience dissonance to question their governing assumptions.⁷⁴ Robert Young, for example, writes

we may accept that our socialization precludes our adopting motivations *de novo*, but believe as well that we have the choice of making them our own by identifying with them in our reflective judgments or rejecting them. Once privy to such awareness it does not matter so much how one came to have one's particular first-order desires, but whether or not on reflection one desires to have such desires.⁷⁵

On this view governing assumptions can only be *the agent's own* if she consciously makes them so through critical reflection. Autonomy is reconciled with socialization through a process of self-awareness in which one accepts or rejects previously unrecognized elements in their socialization.⁷⁶

At the other end of the spectrum, someone who leads the *dogmatic* or *unreflective life* is either unwilling or unable to engage in critical reflection, even in the face of circumstances which would cause dissonance in others. These are people whom Benn describes as *heterarchic*, such as the hypnotized, the brainwashed, and

⁷³ As we saw in Part One, the role of critical reflection is a central aspect of the debate about community and justice. For instance, Kymlicka suggests that everyone should be educated to be able to critically reflect upon their inherited beliefs while Kukathas does not; Raz treats the need for choice and critical reflection to be determined by socialization; advocates of full personal autonomy assumed that everyone can exercise critical reflection to choose to replace inherited commitments; and communitarians treat such commitments as virtually inescapable.

⁷⁴ The classic example is Socrates's: "the unexamined life is not worth living for man". Plato, *Apology*, trans. G.M.A. Grube (Indianapolis: Hackett, 1975), 38a.

⁷⁵ R. Young, "Autonomy and Socialization," *Mind*, Vol. LXXXIX (1980), 566.

⁷⁶ R. Young, *Personal Autonomy*, 40. See also R. Young, "Autonomy and Socialization," 568; M. Friedman "Autonomy and the Split-Level Self"; S.I. Benn. "Freedom, Autonomy, and the Concept of a Person"; and J. Christman, "Introduction".

those who cannot disobey an authoritarian parent, who act "according to a program implanted by someone else."⁷⁷ For such people the idea that their governing assumptions may not be *their own* is incomprehensible.

Someone who leads the life of *open-minded conviction* acts on beliefs which are held firmly and seriously as either 'true' or as their best account 'so far'. They are comfortable with objective meaning.⁷⁸ They are not especially motivated to seek information which challenges their beliefs, but their lives are distinguished from dogmatic lives by their willingness to entertain and reflect upon ideas and arguments which challenge their convictions, and, where this gives rise to dissonance, to exercise meta-agency. On this view a person's governing assumptions are *her own* so long as she can identify them and give an account of their validity.

The model of the synthetic self considers the life of open-minded conviction to provide the most reasonable characterization of the importance of critical reflection to meaningful lives. This position is defended in Chapter Seven by arguing against treating the examined life as a standard for autonomy and in Chapter Eight by arguing that the life of open-minded conviction can be distinguished from the dogmatic life.

We can now draw these various considerations together to define situated autonomy: An agent is *situatedly autonomous* if, in her day-to-day life, she exercises normal agency in accordance with governing assumptions which are her own, and she is willing, if she experiences dissonance, to exercise meta-agency. This makes three important claims. First, to be autonomous the agent must exercise normal agency. This means she must have governing assumptions, which rely, in turn, upon self-identity and identifications with communities. Second, these governing assumptions must be *her own*. Third, the agent need only be willing to exercise meta-agency when

⁷⁷ Benn, "Freedom, Autonomy, and the Concept of a Person," 116.

⁷⁸ Thus, they can treat their beliefs as 'unshakable' or 'holy'.

she experiences dissonance.⁷⁹

This definition sets a credible minimum standard for the autonomous life while stopping short of the examined life. While its insistence on normal agency excludes the wanton and inner-impelled, its endorsement of the life of open-minded conviction allows it to suggest, *contra* proponents of the examined life, that meta-agency is of only contingent value.⁸⁰ Thus, while not as 'heroic' as some conceptions of autonomy, situated autonomy reflects what is truly valuable in the idea of self-governance: its instrumental contribution to meaningful lives. In so doing, we believe it strikes a reasonable balance between the two essential interests identified by Kymlicka: leading our lives from the inside and questioning our beliefs: if one's current beliefs are meaningful, then one should be left free to pursue the purposes derived from them without being forced to develop a capacity for critical reflection; if one's current beliefs are not meaningful, then one needs to be free to question, reject, or replace them.

Respect for meaningful lives, then, requires respect for situated autonomy which, in turn, justifies the protection of both negative freedom from coercion or manipulation in determining and pursuing purposes (as well as in revising one's identifications), and positive freedom to have access to, and to participate in, the communities which support such meaning.

⁷⁹ The idea of situated autonomy allows us to respond to Iris Young's claim that people in complex highly-differentiated societies are incapable of personal autonomy because autonomy presumes self-identities to be "unified, free, and self-made, standing apart from history and affiliations". (*Justice and the Politics of Difference*, 45) Our response: people need to be autonomous because only they have the self-knowledge which is required to sustain meaning while managing multiple and often conflicting identifications.

⁸⁰ Benn, a proponent of the autonomous life as the examined life, would describe this as autarchy, not autonomy. The *autarchic* agent "knows what he will (or would) choose because he knows his own preferences, character, and beliefs, and expects to act on his decision." (Benn, "Freedom, Autonomy, and the Concept of a Person," 118) For the autarchic agent to also be autonomous on Benn's account, his beliefs, values, and principles must be "*his*, because the outcome of a still-continuing process of criticism and re-evaluation." 124.

V

We can now see how the values of personal autonomy and identification with a community have been defined in ways which are mutually supportive, rather than conflicting. To be situatedly autonomous one must have governing assumptions which connect one, through identification, with contexts of value from which normal agency can derive purposes. The ability of identifications to inform purposes, conversely, relies upon situated autonomy, through meta-agency, to sustain meaning by overcoming dissonance. Thus, autonomy and identification work together to support meaning by enabling people to form and execute significant purposes. Neither can do this on its own. Far from undermining identifications, situated autonomy enables people to shape and reshape their identifications to prevent their self-identities from losing relevance and meaning. Conversely, choice, without governing assumptions, is incapable of providing meaning to lives: there is no value in making meaningless choices, no matter how numerous.

In the remainder of Part Two we develop a rather unusual defense of special rights for ethnocultural minority communities. Unlike other approaches which justify special protection on the *special nature* of minority communities (e.g. Kymlicka's contexts of choice or Sandel's constitutive communities), the model of the synthetic self justifies special protection by a characteristic which they *share* with many other communities - their status as communities as contexts of values which support meaning in their members' lives. The model of the synthetic self, then, justifies *special treatment* on the basis of a *universal value* (identification with a community) with which members of other communities might be able to sympathize.

Chapter 6: Identification & the Importance of Particular Communities

Here I stand, I cannot do otherwise.

*Martin Luther*¹

To justify special treatment for cultural minorities we must address two important questions: why must *particular* communities be protected?; and why should nonmembers agree to the sacrifices this may require? Our answers are developed in three steps. In section one we consider the relationship between change and continuity with respect to our conception of self-identity. The resulting account of continuity is employed in the second section to explain why individuals may need access to their own particular communities. Finally, in the third section we suggest why identification with communities as contexts of values may justify the sacrifices which may be required of nonmembers.

I

In Chapter Five we suggested that self-identities can be both *fluid* - through meta-agency people may radically transform the identifications which constitute their self-identity - and *fragile* - dissonance may undermine the identifications or governing assumptions which support a person's self-identity and deprive her of a meaningful life. Identifications themselves were said to be important when they inform a person's beliefs, principles, and purposes, and, thus, support situated autonomy by providing 'governing assumptions' which act as 'givens' when engaging in deliberation. In this section we consider the implications of this for the processes by which traditions and individual self-identities change over time.

So far we have spoken of traditions and communities as *having members*. We will now reverse this perspective and consider individuals as *having communities* and

¹ M. J. Cohen, *The New Penguin Dictionary of Quotations* (London: Penguin, 1992), 260.

traditions. The exact way we conceptualize this is not important. We can imagine the individual to be a 'crossroads' at which traditions and communities intersect or a nodal point in a complex web of crisscrossing traditions and communities. What is crucial is the deliberate rejection of the image presented in much of the literature of each individual belonging to *one* coherent community or tradition.² Thus the model of the synthetic self directly addresses the fact that, at least in modern societies, people often identify with many communities and traditions.

It is with this in mind that we can describe situated autonomy as a struggle to maintain a meaningful equilibrium between one's various identifications, and not as a struggle to transcend one's situation or to create a coherent and unified self-identity.³ We will now employ this description to help explain the relationship between continuity and change in traditions and self-identity.

The model of the synthetic self allows us to understand the vitality of traditions to depend upon a reciprocal relationship between individuals and the traditions with which they identify: while the individual is shaped in part by the dictates of his tradition(s), the tradition is shaped in part by the interpretations it is given by each of its members. Traditions evolve through their members' personal struggles to sustain meaning by trying to reconcile their traditions to each other and to changing circumstances. Thus, each exercise of meta-agency by an individual has the potential to transform the nature of her tradition for present and future members. Martin Luther and Albert Einstein, for example, changed the meaning of Christian and scientific traditions for the generations which followed them. Situated autonomy, as expressed

² For example, while Stanley Benn's account of autonomy recognizes the possibility of *intra-tradition* incoherence, it does not adequately address the possibility of *inter-tradition* incoherence. While he is not oblivious to this problem - he refers to "the various subcultures which combine to make one what one is", and to "the notion of autonomy as a critical process carried out *within* a multicultural heritage" - he does not address it directly. Stanley Benn, *A Theory of Freedom* (Cambridge: Cambridge University Press, 1988), 221, 312.

³ For an approach which emphasises coherence and independence, see Onora O'Neil, "Autonomy, Coherence and Independence," in *Liberalism, Citizenship and Autonomy*, ed. David Milligan and William Watts Miller (Aldershot, U.K.: Avebury, 1992).

in meta-agency, then, has the potential to enhance the vitality of traditions.

This can be illustrated by the example of transformations in the ‘French-Canadian’ identity. While many of those who constituted this community continue to pursue the French-speaking lives which originally united them, changes in the political context have led them to express this underlying identification in new ways. As the battle for the survival of their way of life has shifted from the federal to the provincial theatre, the ‘French Canadian’ identity which had united those who shared in struggles, for example, against ‘English Canadians’, the British colonial administration, and the Durham Report, transformed into Quebecois, Franco-Manitoban, Franco-Ontarian, and Acadian identities. Despite these changes, the continuity between the ‘French Canadian’ and the newer identities could be traced through the various transitions which occurred over time.

These insights also help explain the continuity of personal self-identity through changes in identifications and changes in the nature of the communities with which people identify. Much as the continuity of a tradition can be established while some of its characteristics change, a person with self-identity_{abc} (containing identifications or values a, b, and c) at time t_1 is the same person as a person with self-identity_{def} at time t_4 if self-identities at times t_1 and t_4 can be linked by a narrative which explains these changes. Such explanation would present a dialectical series of transformations in which at least one identification was retained from one point in time to the next.⁴ We will call this, borrowing from MacIntyre, a ‘narrative account of selfhood’.⁵ I am the same person I was ten years ago if I can tell a story (without self-deception) which explains the sequence of changes in my self-identity as a linked series of additions to,

⁴ For instance:

t_1 : identity_{abc}; given identification b, a is replaced by d.

t_2 : identity_{dbc}; given identification d, b is replaced by e.

t_3 : identity_{dec}; given identification d, c is replaced by f.

t_4 : identity_{def}.

At each interval at least one identification provides a link to the earlier identity.

⁵ MacIntyre, *After Virtue*, 217-18.

deletions from, and reinterpretations of, my identifications.⁶ No such account could link me to someone other than my former self or to some future person who might inhabit my body were I to suffer amnesia.⁷

More importantly for present purposes, the flip side of this is that the narrative account of self-identity suggests how one's present self-identity may limit the identifications which one can meaningfully make in the future. We explain how this justifies the protection of particular communities in the next section.

II

We can begin to explain how we justify the extension of special protection to *particular* communities by noting two general ways in which people can be deprived of access to valuable communities. On one hand, they may be coercively prevented from associating with their community. This is clearly inconsistent with even the most basic concept of personal autonomy and is usually prevented by protecting toleration and freedom of association. On the other hand, communities may be threatened by changes in their circumstances. Such changes may prevent community members from pursuing the shared practices which define them as a community (thus, what counts as a threat will vary with the nature of its context of values). Alternatively such changes may lead to the death or dispersion of so many of a community's members that it becomes unable to reproduce itself.⁸ Where such changes are the result of

⁶ I thank Richard Vernon for pointing out the similarity between this and Michael Oakeshott's idea that the identity in historical change "may be found in its own coherence; that is, in its character as a passage of differences which touch and modify one another and converge to compose a subsequent difference." Oakeshott, "Historical Change," in *On History And Other Essays* (Oxford: Basil Blackwell, 1983), 114.

⁷ This provides a compelling alternative to two conceptions of the subject described by Sandel. Unlike the 'radically situated subject' which *is* its attributes, and whose identity changes every time its attributes change, the identity of the synthetic self depends not on particular attributes but on the continuity of a process. Unlike the 'radically disembodied subject', whose self-identity is secured independent of her attributes, the synthetic self's self-identity can be undermined if changes in identifications cannot be explained. See, Sandel, *Liberalism and the Limits of Justice*, 20-21.

⁸ Kymlicka says a cultural community is undermined if the majority of its members are dead, in jail, or on skid row. *Liberalism, Community, and Culture*, 170.

natural forces or are the unintended consequence of people pursuing private purposes,⁹ the negative freedoms sustained by toleration and freedom of association will be insufficient to protect the community. In such cases, we will argue, special protection may be warranted.

Our argument for special protection relies upon the idea of self-identities as both *fluid* and *fragile*. It denies both that recognition of *fluidity* obliges us to side with Kukathas and assert that communities do not need special protection, *and* that recognition of *fragility* forces us to accept that people can *never* reject inherited identifications. In other words, special protection may be warranted, not because transformations in self-identity are always impossible, but because there may be circumstances which make such transformations contingently impossible.

This argument develops in three stages. First, we argue that meaningful lives always depend upon continuing access to *some* community or its contexts of values. Second, we suggest that, given their present alternatives, people may be unable to replace their identifications. Third, we combine these ideas to suggest that people may need to be protected from the involuntary loss of access to *particular* communities.

There seem to be two reasons why people may need ongoing access to the communities which sustain their contexts of values. First, while a person may be aware that she treats an identification with a particular community as authoritative for making certain kinds of decisions, she may have incomplete knowledge of its context of values and thus be unable to determine its implications by herself. In exercising normal agency, for instance, she may ask herself, "How should I, as a Pueblo, act in this situation?" Having never considered the question, she may find she lacks the resources to answer it and must consult other members of her community to determine how to act. Deprived of this resource, she may feel, as Taylor suggests, that she did not "know anymore, for an important range of questions, what the significance of

⁹ An important example is market effects. The pursuit of private purposes by individuals in the market may undermine some communities by pricing them out of existence (e.g., by outbidding community members for land or other vital resources).

things was for [her]".¹⁰

A second reason people may need continuing access to particular communities is that some meaning-giving purposes can only be pursued within the communities which inspire them. For example, Raz suggests that it would be impossible to be a lawyer without a legal system, or a bird watcher where this is not recognized as a leisure activity.¹¹ Similarly, a person's life tends to go better the more his purposes and his belief system are integrated into and coordinated with those of others. An example is that of a person who finds meaning in what Benn calls *transcendent collective enterprises*. The purpose of such an enterprise (e.g. an orchestra or a scientific research institute) is *not* the well-being of its members, but either the activity the members perform, or some ideal state which it is intended to promote.¹² Clearly someone whose purpose is not, say, to simply play the violin, but rather to perform a concert as part of an orchestra, cannot succeed without access to that community. Thus, ongoing access to communities goods can play a vital role in people's attempts to form and pursue meaningful purposes.

While this may explain why people may need ongoing access to communities, it does not explain why, if a *particular* community upon which they rely becomes threatened, it may be unreasonable to expect them to replace it by identifying with a viable community (as would be consistent with full autonomy). This will be demonstrated by arguing that while self-identity can be *fluid* when changes are initiated by the agent, it can be *fragile* when changes are externally imposed. The reason for this, we suggest, is that a person's ability to make new identifications is naturally limited by the processes of normal and meta-agency as reflected in the 'narrative account of selfhood'.

According to the narrative account of selfhood people's present governing

¹⁰ Taylor, *Sources of the Self*, 27.

¹¹ Raz, *Morality of Freedom*, 310-11.

¹² Benn, *A Theory of Freedom*, 218.

assumptions can place limits on the new identifications which they can meaningfully make in the short term. One way this limitation might arise is that, as David Archard suggests, a person's ability to critically appraise any community or society is limited by the "finite and determinate 'menu' of fundamental values" presently available to him.¹³ Consider Benn's example of

someone reared in a tradition that took little account of some very general principle, such as respect for persons, or some value, such as the value of human life, could not be persuaded by reasoned argument into adopting it as a practical belief, because his culture (or language) lacked essential concepts for the formulation of such principles.¹⁴

Without such prerequisites, this person could not meaningfully adopt this value.¹⁵

A second way that such limitation might arise is found in Frankfurt's idea of 'volitional necessity'. This suggests that to treat an identification as authoritative (in his terms, to 'care about it') a person must avoid contradicting that identification in her subsequent actions. He writes that a person

who is subject to volitional necessity finds that he *must* act as he does. ... People are generally quite far from considering that volitional necessity renders them helpless bystanders to their own behaviour. Indeed many may even tend to regard it as actually enhancing their autonomy and their strength of will.¹⁶

Just like Luther's, "Here I stand: *I can do no other*," Frankfurt says, "An encounter with necessity of this sort, characteristically affects a person by somehow making it apparent to him that every apparent alternative to [his present] course is

¹³ Archard, "Autonomy, Character and Situation" 167.

¹⁴ Benn, *A Theory of Freedom*, 181.

¹⁵ Of course, a person with identity_{hij}, which prevented him from identifying with k, might *eventually* come to identify with it through an indirect process like this:

t₁: identity_{hij}; given identification i, h is replaced by l.

t₂: identity_{lij}; given " l, he can now identify with k.

t₃: identity_{ijk}.

¹⁶ Harry G. Frankfurt, "The Importance of What We Care About," in *The Importance of What We Care About* (Cambridge, U.K.: Cambridge University Press. 1988), 87.

unthinkable."¹⁷

Thus limitations imposed by the narrative account of selfhood reflect how making one identification influences a person's ability to make new identifications.¹⁸ This is not to deny that people can reject their 'most fundamental or deepest values', but rather to suggest that their ability to do so is limited both by the range of values which their present identifications allow them to draw upon and by respect for their commitments to their present identifications.

We can now explain why people may need to be protected from being *involuntarily* deprived of access to particular communities. The voluntary loss of an identification - i.e. a person's decision to reject it - is not problematic precisely because people normally reject identifications and replace them with others for reasons which are meaningful to them.¹⁹ In the case of involuntary losses the survival of meaning is not so easily assured. The problem is that once deprived of access to communities which sustain their governing assumptions, there can be no guarantee that agents will be able to make new identifications to replace the ones they lost.²⁰ Where the losses of identifications are significant enough, agents may be left unable to reconstruct meaningful self-identities from what remains. Unable to cope with this loss, agents may lose their capacity for situated autonomy, collapse into *anomie* or

¹⁷ Ibid., 86.

¹⁸ This also suggests that what is most important is not whether a person chose or was born into an identification, but how strongly they identify with it. This is consistent with Iris Young's claim that chosen communities can exhibit *thrownness*. *Justice and the Politics of Difference*, 46.

¹⁹ This is consistent with Raz's claim that assimilation is not problematic in itself so long as the process is not coerced, does not arise out of lack of respect, and is gradual. Raz, "Multiculturalism," 167.

²⁰ They may be prevented because they personally lack the necessary cultural resources to engage in deliberation which would allow them to make replacement identifications, or because they are prevented by 'volitional necessity' from identifying with any of the alternative communities from which they have to choose.

similarly meaningless lives.²¹

This suggests two cases in which the extension of special protection to communities can be justified. We might call the first the *remedial case*. It occurs where there is an obvious connection between people suffering the loss or deterioration of specific communities, their inability to make the transition to other communities, and the loss of meaning in their lives. A literary example is that of the savage in *Brave New World* who is removed from his community and kills himself rather than continue to live in a utilitarian dystopia which makes no sense to him. A contemporary example is that of many native peoples in North America who are being involuntarily deprived of their communities, are unable to make the transition to the wider society, and whose lives are characterized by high rates of poverty, alcoholism, and suicide.²² Where this point is reached, the case for special protection is clear.

The second case, which we might call the *preventative case*, is more controversial. This concerns situations where special protection is requested to *prevent*

²¹ Consider Ralph Linton's discussion of 'directed culture change'. Where members of a community change their ways as a result of the persuasion and prestige of another community, "no element of culture will be eliminated until a satisfactory substitute has been found. In other words, there will be no point in the process of culture transfer where techniques for satisfying all the group's needs are not present."

Where changes are involuntary (Linton only considers coerced changes, but his points also seem to apply to unintended changes), "the results for the subjects will be catastrophic." He explains: Under culture change which is both directed and enforced, the normal process of retention of old elements until satisfactory substitutes have been found is inhibited. The result is a series of losses without adequate replacements. This leaves certain of the group's needs unsatisfied, produces derangements in all sorts of social and economic relationships and results in profound discomfort for the individuals involved.

Ralph Linton, "The Distinctive Aspects of Acculturation," in *The Emergent Native Americans*, ed. Deward E. Walker, Jr. (Boston: Little Brown, 1972), 8-9.

²² Ronet Bachman documents that Indians in the United States suffer the worst levels of poverty of any group, have homicide rates second only to blacks, and have had the highest suicide rate. (Ronet Bachman, *Death and Violence on the Reservation: Homicide, Family Violence, and Suicide in American Indian Populations* (New York: Auburn House, 1992).) Others have made the case, in studying the Pueblo, Navajo, and Apache that level of acculturation seems to be an important factor in explaining suicide rates. Nancy Westlake Van Winkle and Philip A. May, "Native American Suicide in New Mexico, 1957-1979: A Comparative Study," *Human Organization*, 45 no. 4 (Winter 1986), 306-307.

the destruction of a community. This is controversial because it involves two counterfactual claims: that the community faces a real threat which will likely destroy it; and that many community members would be unable to reconstruct meaningful lives were they to lose access to it. There are two reasons why respect for meaningful life requires that such preventative claims be taken seriously.

The first derives from epistemological uncertainty. Given the fairly uncontroversial assumptions that people have different rudimentary characters (e.g. temperament and natural talents)²³ and that they will have different experiences throughout their lives, it is reasonable to expect that each person's governing assumptions at any point in time will be, if not unique, virtually impossible to predict. Thus, one reason we must take claims for preventative protection seriously is that we can only *know* for sure that a community needed protection after its members' lives have become meaningless.

A second reason is that respect for meaningful lives suggests, as a general rule, that we respond to people in ways which make sense to them in terms of their own beliefs and values. Thus, while outsiders may be able to understand the meaning of a culture or tradition as well as, or even better than, those inside it,²⁴ respect for meaningful life suggests that we generally resist employing solutions on this basis.

Consider John Kekes's discussion of the Dinka, an African tribe who traditionally practised the live burial of aged 'spear-masters' on the assumption that this was necessary to protect the life of the tribe.²⁵ This can be considered as a question of whether to extend special protection in the form of an exemption from laws concerning murder. Kekes entertains a defense of this practice which would be

²³ Joel Feinberg, "The Child's Right to an Open Future," in *Whose Child?: Children's Rights, Parental Authority, and State Power*, ed. William Aiken and Hugh LaFollete (Totowa, N.J.: Rowman and Littlefield, 1980), 148.

²⁴ Brian Fay, *Contemporary Philosophy of Social Science* (Oxford: Blackwell, 1996), Chapter 1.

²⁵ John Kekes, *The Morality of Pluralism* (Princeton, N.J.: Princeton University Press, 1993), 125-30.

compatible with the model of the synthetic self: that it should be tolerated if it were true that it sustained the tribe in a psychological, as opposed to a physiological, fashion.²⁶ Consider the two reasons Kekes offers for rejecting this defense. The first is that since the Dinka tradition is complex and the burial tradition is only a small part of it, the tribe can sustain itself if the practice were banned. We can suggest two problems with this. On one hand, it ignores the problem of epistemological uncertainty: Kekes's claim is just as speculative as the claim that the tribe could not survive. On the other hand, it fails to respect the Dinka's own understanding of their situation and thus the meaningfulness of their lives. Kekes's second reason is that, as a matter of historical fact, when the practice was banned the tribe survived.²⁷ This is unacceptable since it relies on *ex post facto* evidence which is never available when such decisions must be made. Thus, respect for meaningful life can provide reasons for giving the claims of the Dinka more serious consideration than they receive from Kekes.

Special protection for particular communities, then, is justified if three conditions are met: the community must be shown to connect its members with a context of value which supports their capacity for autonomy and meaning; members must reasonably demonstrate that they are threatened with the involuntary loss of continued access to the community; and members must demonstrate the likelihood that they would be unable to make alternative identifications with the communities presently available to them. The model of the synthetic self, then, unlike the politics of universalism, can muster the intellectual resources to justify 'positive distinctions between permissible ends'.

III

We can now consider our second question - on what basis should those who are not members of particular communities agree to the sacrifices which this may

²⁶ Ibid., 130.

²⁷ Ibid.

require? The first thing to note is that the model of the synthetic self requires people to be willing to live with what Charles Taylor describes as "deep" diversity "in which a plurality of ways of belonging [to the state] would ... be acknowledged and accepted". These ways of belonging (i.e. forms of citizenship) would range from 'multicultural citizens' whose "belonging would not 'pass through' some other community, although the ethnic identity might be important to him or her in various ways", to citizens who are members of national minorities whose sense of citizenship in the wider polity is felt "through being members of their national communities."²⁸ Such differentiated citizenship faces the criticisms that it "will undermine the sense of shared civic identity that holds a liberal society together", that it would lead "to a reduced willingness to make the mutual sacrifices and accommodations necessary for a functioning democracy",²⁹ and that it would undermine a country's sense of unity which can only be achieved with uniform citizenship.³⁰ Contrary to those who argue for uniform citizenship, we will suggest that the model of the synthetic self can provide a response to these concerns without resorting to treating group-differentiated rights as theoretically anomalous.

The appeal to uniform citizenship poses an important challenge which the model of the synthetic self must answer. We can begin our response by considering arguments found in David Miller's *On Nationality*³¹ and Will Kymlicka's *Multicultural Citizenship*. Our purpose is not so much to refute these arguments as to suggest how the model of the synthetic self expands and improves upon them.

The first thing to note is that both believe that the level of commitment and

²⁸ Taylor, "Shared and Divergent Values," 183.

²⁹ Kymlicka, *Multicultural Citizenship*, 173.

³⁰ Taylor, "Shared and Divergent Values," 183. Similarly, Rawls regards "the distribution of primary goods according to the content of certain interests regarded as especially central" as socially divisive. *Political Liberalism*, 329.

³¹ (Oxford: Clarendon Press, 1995).

sacrifice which states require of their citizens cannot be inspired by appeals to justice alone, but rather that the stability and unity of liberal democracies depends upon their citizens sharing an identity at some basic level.³² For Kymlicka this means that liberal democracies rely upon a "sense of shared civic purpose and solidarity".³³ Similarly, Miller suggests that "schemes of social justice, particularly schemes involving redistribution to those not able to provide for their needs through market transactions" will only be supported where members trust one another and he takes "as virtually self-evident that ties of community [and shared identity] are an important source of such trust between individuals".³⁴ The ability to appeal to such shared identity is especially important to the legitimation of special rights.

When considering unity and special rights, both Kymlicka and Miller draw a distinction between national minorities and multicultural or polyethnic groups. Both argue that, contrary to popular wisdom, special rights for multicultural minorities bolster national unity. Multicultural rights, like the general right to working and

³² Kymlicka writes,

It is not enough, therefore, to show that minority rights are consistent in principle with freedom and justice. We also need to determine whether they are consistent with the long-term requirements of a stable liberal democracy, including the requirements of a shared civic identity which can sustain the level of mutual concern, accommodation, and sacrifice that democracies require. Kymlicka, *Multicultural Citizenship*, 174.

Similarly, Miller believes that the functioning of modern states presupposes high levels of mutual trust and confidence. This is illustrated by the following example:

consider state grants or concessions to particular groups within the population, say financial support to an industry hard hit by changes in the terms of trade, or special funding for local authorities with inner-city problems. These dispensations are made on the understanding that other sections of the community would qualify for similar favourable treatment in the event that they too faced new and unforeseen difficulties. Such a practice cannot evolve if each sectional group jealously guards its own interests and insists that each dispensation should be strictly egalitarian. Again, what is needed is mutual confidence which allows you to sanction aid to group G on this occasion with the assurance that group G will give you its reciprocal support when it is your turn to ask for help. Miller, *On Nationality*, 91.

³³ Kymlicka, *Multicultural Citizenship*, 176.

³⁴ Miller, *On Nationality*, 93, 92.

shopping hours flexible enough to accommodate competing Sabbaths and festivals.³⁵ and the particular right of Sikhs in the Royal Canadian Mounted Police to wear turbans,³⁶ enable members of ethnic minorities to become full members of the wider community.³⁷ Thus, both writers call for the reform of the wider national identity and its institutions to accommodate such cultural differences.³⁸

Things are more complicated, however, when we consider groups which refuse to acknowledge membership in, or the full authority of, the political community (e.g. national minorities and groups like the Amish). These groups differ from multicultural minorities because they do not intend to integrate into the wider community, and because they believe "that there is more than one political community, and that the authority of the larger state cannot be assumed to take precedence over the authority of the constituent national communities."³⁹ Such groups pose serious problems for our project because their rejection of the wider civic identity appears to leave the political community "with no intrinsic bond that would lead the members of one national group to make sacrifices for the other."⁴⁰ Further, as Miller notes, when making claims for special treatment, these groups often forget that "much more rests on the majority's sense of fairness than [they] appreciate, and that sense of fairness is liable to be contracted if groups issuing demands reject the identity by virtue of which they belong in the same community of the majority."⁴¹

David Miller believes that these problems are such that, where possible,

³⁵ Ibid., 148.

³⁶ Kymlicka, *Multicultural Citizenship*, 177.

³⁷ Miller, *On Nationality*, 138-140; Kymlicka, *Multicultural Citizenship*, 176-181.

³⁸ Miller, *On Nationality*, 142; Kymlicka, *Multicultural Citizenship*, 178.

³⁹ Kymlicka, *Multicultural Citizenship*, 182.

⁴⁰ Ibid.

⁴¹ Miller, *On Nationality*, 140. While Miller directs this comment at 'radical multiculturalists,' this observation applies to all groups which reject identification with the wider community.

secession is the best solution.⁴² Further, where secession is not practical and two national communities must share one state, he says that systems of distributive justice cannot be legitimated "in the eyes of the populace." In such cases he says the state has only two options:

either it restricts the scope of its operations, providing only basic goods such as the protection of rights and national defence; or it embraces a form of federalism, making each constituent nationality responsible for promoting social justice within its own area⁴³

While this solution may make sense within Miller's framework, we must reject it. If this is the only reasonable way of dealing with such situations, then the model of the synthetic self fails for it requires all citizens to be willing to participate in the very kinds of distributions between communities which Miller says cannot be legitimized.

Fortunately, however, there are good reasons for believing that a basis can be found for political communities which embody "deep diversity" to generate the trust and solidarity required to legitimate distributive justice. Besides the fact that many states do make such transfers and have made them for some time without undermining their stability or unity,⁴⁴ some of the types of cases for which Miller recommends 'partial self-determination'⁴⁵ suggest the possibility of such cross-communal distributions. One type of case is that of groups like native peoples in North America "where the nationality in question and/or the territory it aspires to control is very small, and so could not realistically function as an independent state." He refers, for example, to the success of North American native groups who have negotiated "forms

⁴² Ibid., 108-115. Kymlicka also accepts that there may be circumstances in which secession is a legitimate solution. Kymlicka, *Multicultural Citizenship*, 186.

⁴³ Miller, *On Nationality*, 85.

⁴⁴ This, of course, cannot be decisive since it is often possible to sustain in practice what cannot be sustained in theory.

⁴⁵ A "constitutional settlement which creates a representative institution for the people in question and assigns to it legislative and policy-making powers over matters that are essential to their identity and material welfare." Ibid., 116.

of self-government that give them control over land use, health and social services. etc."⁴⁶ While he notes that many of these groups "fall short of economic viability,"⁴⁷ he neglects to mention that these services often only exist because they are funded by the transfers from the majority community which he says cannot be justified.⁴⁸

Another type of case which Miller describes is that "where many inhabitants of the relevant territory have national identities that are somewhat ambivalent. ... They see themselves as the bearers of both a wider and a narrower identity."⁴⁹ For example, many Catalans feel both a Catalan and Spanish identity; many Scots feel both a Scottish and British identity. What he does not explain, however, is why identification with this wider national identity cannot generate the mutual trust which socially just distributions require. Even Miller's own cases suggest, then, that mutual trust and solidarity across national identities is possible.

If such mutual trust is possible, what can possibly act as its basis? I believe that Kymlicka points us in the right direction when he suggests that the basis of social unity in multinational states must be shared identity and not shared values.⁵⁰ While

⁴⁶ Ibid., 116-117.

⁴⁷ Ibid., 116.

⁴⁸ He says, for example, of religious fundamentalist groups who refuse to have their children educated in state-run schools (this also seems applicable to national minorities who reject being socialized to identify with the national culture), that they cannot have it both ways. They may choose to withdraw from citizenship and live, so to speak, as internal exiles within the state. Alternatively, they may assert their rights of citizenship along with their cultural identity and make claims upon the state on behalf of their group. But in the second case they must also recognize the obligations of membership, including the obligation to hand on a national identity to their children so that the latter can grow up to be loyal citizens. Ibid., 145.

⁴⁹ Ibid., 117.

⁵⁰ "What holds Americans together, despite their lack of common values, is the fact that they share an identity as Americans. Conversely, what keeps Swedes and Norwegians apart, despite the presence of shared values, is the lack of a shared identity." Kymlicka, *Multicultural Citizenship*, 188.

he does not explain how such shared identity may be created,⁵¹ we will now suggest how such an explanation may be derived from the model of the synthetic self.

It is true that "a society founded on 'deep diversity' is unlikely to stay together unless people value deep diversity itself".⁵² Now, to be clear, our aim is not to explain why people would want to create a society characterized by deep diversity from scratch, but rather, why, given that they live in such a society, it would be reasonable for them to value it. This is possible, we will argue, if they come to recognize an important function which the wider political community fulfils for them. Our claim is not that the wider political community acts as a 'context of choice' or as a source of 'standards to choose by' for any or all of its citizens, although, of course, it might. Rather, we are suggesting that all citizens have an *indirect* interest in the preservation of the polity as a community which embodies a moral tradition that supports particular valuable communities within it. Its value lies, on this view, in its ability to sustain these particular communities which contribute *directly* to the meaningfulness of its citizens' lives.

Consider the Canadian case. The threat of Quebec separation has made this point clear to many Canadians who once felt that the problems of French-speaking Quebecois were not their concern. English-speaking Canadians have had to face the possibility of living in a Canada which no longer stretches from sea to sea to sea and which is much less culturally distinct from the United States.⁵³ Mohawk and Inuit communities have had to face the possibility of their people being further divided by a new international border. The Cree of northern Quebec have faced the possibility of being separated from a federal government which they believe owes them fiduciary

⁵¹ *Ibid.*, 191.

⁵² *Ibid.*, referring to Taylor.

⁵³ For instance, Claude Castonguay, wrote in an op-ed piece: "We admire the Americans for their patriotism. We also strongly believe in the need for an effective Canadian nationalism. Why could Canadians not accept a similar desire on the part of francophones in Quebec to protect their identity?" "It's five minutes to midnight," *The Globe and Mail*, May 21, 1997, A 19.

obligations. Even many Quebecois who value their dual identity as Quebecois and Canadians have had to consider what it might mean to live without it.

The important point is that for most members of a political community, most of the time, the political community itself embodies a valuable moral tradition: some rely on it *directly*, as a community with which they identify and which informs some of their governing assumptions; others rely on it *indirectly* as a precondition of particular communities which *directly* inform their governing assumptions.

The advantage of recognizing the wider political community as a community which embodies a valuable moral tradition is that it suggests a basis for generating a common identity.⁵⁴ This in itself, however, does little to justify the kinds of redistributions which we advocate. This requires that we explain why the political community should be treated as a social union of individuals united to facilitate the pursuit of meaningful lives.

In considering how this could be justified, we must note at the start that it cannot be based on strict reciprocity. In many countries economic and sociological circumstances are such that it is unreasonable to expect that some vulnerable communities will ever be able to reciprocate the benefits they receive from more secure communities. There are other justifications, however, both moral and prudential, which can be offered.

The moral claim is most direct. Given that all or most members of the political community rely upon it to sustain their pursuit of meaningful lives, the principle of equal respect and concern for citizens requires that the state ensure that all of its members, and not just members of the majority, are given equal consideration in this regard. This, we will argue more thoroughly in Chapter Nine, suggests that the identical distribution of rights and resources is not the only legitimate scheme of

⁵⁴ This compares favourably with Kymlicka's account which can suggest no similar basis because of the exclusive connection it must assume between individuals and their societal culture - if all citizens identified with the wider societal culture, their claims to special protection for their own societal culture would be undermined.

distributive justice.

The ability to generate support for this moral claim is furthered by the fact that our focus on communities as standards to choose by suggests multiple bases for creating sympathy between members of communities. Consider, for example, a particular community which embodies a purposive tradition within Canada which may perceive itself to be threatened, say the Oka Mohawks. On our view, it makes sense for other Canadians, in attempting to sympathize with their situation, to draw comparisons not just between the Mohawk community and their English- or French-Canadian societal culture, but also between the Mohawk community and any of the various communities which support meaning in their lives - e.g. religious communities, ethnic communities, outport communities, etc. This reflects the fact that it is often such communities, and not the wider societal culture, which perform a role in the lives of English Canadians which is similar to that which the Oka Mohawk community performs for its members.⁵⁵

The prudential claim, while not as universally applicable, could probably be shown to apply in most cases. This is that while some citizens of the wider political community will always be extending special benefits and others will always be receiving them, members of *all* communities benefit from the overall arrangement. The reason is that such sacrifices ensure the survival of the political community which sustains the particular communities which each values.⁵⁶ This reflects Kymlicka's insight that "people from different national groups [communities, in our terms] will only share an allegiance to the larger polity if they see it as the context within which their national [or communal] identity is nurtured, rather than subordinated."⁵⁷ In

⁵⁵ This especially likely to be true for those English-Canadians who are psychologically integrated into a wider North American culture.

⁵⁶ This idea of mutual obligations has obvious implications for the ethics of secession. These will not be explored here as this would take us too far from our present purpose.

⁵⁷ *Ibid.*, 189.

making sacrifices to sustain the overall arrangement, then, one helps secure communities which he personally values.

To summarize, in addition to feeling a moral obligation to provide all members of the polity with an equal chance to pursue meaningful lives, citizens may view the sacrifices this involves as an investment in the conditions which sustain the communities which support meaning in their own lives.

A final issue concerns the nature of the shared identity which we have suggested is required to give the community the unity it needs to sustain a commitment to redistributive justice. Beyond our acceptance of Kymlicka's suggestion that this must be based on a sharing of identity and not simply a sharing of values,⁵⁸ our intuitions pull us in opposite directions. On the one hand, realizing that any national identity is likely to be biased in favour of the values and history of the dominant cultural community, we fear that it will alienate members of nondominant communities. On the other hand, we accept that the majority has as much right as any minority to expect the state to respect its valued communities.

These competing intuitions are best dealt with, we suggest, by accepting that many of the goods which will be shared at the level of the political community will reflect the history and values of the dominant community, while requiring that strict limitations be placed on the majority's ability to use the wider political community to promote its values. Thus, the majority, in its use of the state, must respect the same principles as will be suggested for minorities in administering protected communities.⁵⁹ Now to be clear, this is not a claim about what the majority can do as a matter of right,⁶⁰ but rather about the legitimacy of what it is likely to do. In

⁵⁸ See also Charles Taylor, "Religion in a Free Society," in *Articles of Faith, Articles of Peace*, ed. James Davidson Hunter and Os Guinness (Washington, D.C: The Brookings Institution, 1990).

⁵⁹ These principles are worked out in Chapter Ten.

⁶⁰ To justify special measures to protect its community, a majority community, just like a minority community, would have to satisfy the requirements set out at the end of Section II. Being the dominant group within a political community, the requirement that it demonstrate that it is threatened

practice this will mean that the account of the moral tradition with which all citizens would be expected to identify as members of the political community will be relatively thin.⁶¹ As for the more substantive goods which members of the majority may wish to sustain, these will have to be pursued as members of particular communities (embodying either purposive or moral traditions) within the wider political community.

IV

Thus, we have argued that the model of the synthetic self can explain why special treatment should be extended to particular communities, and it can provide a basis upon which those who are not members of particular communities should agree to make the sacrifices which may be required to preserve them. By suggesting that a unifying identity may be based upon the contribution of the wider political community to the survival of the particular communities upon which individuals rely, a moral basis is suggested for ensuring that all citizens have an equal chance to pursue meaningful lives. It was further suggested that recognition of this mutual reliance upon the wider community creates prudential reasons for sustaining this sacrifice. Overall, then, by creating a central role for the value of meaningful life and by recognizing the contribution of the value of 'identification with community' to sustaining it, the model of the synthetic self portrays the extension of special rights to particular communities, not as anomalous behaviour which must be justified outside of theory, but rather, as prerequisite to the creation of a just and unified political community.

with destruction would be difficult, but not necessarily impossible to meet.

⁶¹ An example of shared goods at the national level which would be consistent with this account has been suggested by Taylor with respect to Canada. This includes: concern for law and order, collective provision, regional equality, and mutual self-help. Taylor, "Shared and Divergent Values," 183.

Chapter 7: Autonomy & the Rejection of the Examined Life

"Well, if a time comes when a person can no longer name his religion, his race, his country, his land, 'n when he can no longer name the language he's speakin, well, maybe that person no longer knows what kind of person he really is. Maybe he don't know not 'n any more."

Antonine Maillet, La Sagouine¹

Consider this criticism of the argument to this point: "The problem with situated autonomy is that it fails to recognize that the examined life *is* the autonomous life." This chapter and the next respond by arguing that the life of open-minded conviction is a more appropriate standard for autonomy. This chapter argues *against* holding autonomy to the standard of the examined life. Chapter Eight argues *for* the life of open-minded conviction, suggesting that it can be distinguished from the nonreflective life.

The first section of this chapter sets out the problem. The second considers and rejects the description of personal autonomy as the ideal realization of agency as choice or critical reflection. The third section introduces the argument that autonomy should be defined as the examined life because it is the means to living the best possible life. We reject this argument in the fourth section. The final section suggests why the autonomous life and the examined life may have been equated in the first place, and argues that the value of personal autonomy is more universal in its applicability if detached from the ideal of the examined life.

I

We can begin to examine our problem by considering criticisms of a conception of autonomy which is relevantly similar to situated autonomy. Gerald Dworkin defines autonomy

as a second-order capacity of persons to reflect critically upon their first-order

¹ Antonine, Maillet. *La Sagouine*, trans. Luis de Cespedes (Toronto: Simon & Pierre, 1979), 170.

preferences, desires, wishes, and so forth and the capacity to accept or attempt to change these in light of higher-order preferences and values.²

Critical reflection in this sense, refers not to the questioning of one's most basic beliefs, but to the process of identifying with or rejecting first-order preferences in light of potentially unquestioned higher-order preferences.

This 'formal' ("what one decides for oneself can have any particular content"³) as opposed to 'substantive' (one must "not defer independent judgment"⁴) conception is similar to situated autonomy in that: it is "compatible with the recognition of a notion of (limited) authority, and can accept the relevance (if not the conclusiveness) of tradition in moral life";⁵ it suggests that "it makes no more sense to suppose we invent the moral law for ourselves than to suppose we invent the language we speak for ourselves";⁶ and it challenges the distinction between autonomy with respect to moral principles and autonomy with respect to scientific principles.⁷ Further, both conceptions recognize the influence of socialization, that:

We are born in a given environment with a given set of biological endowments. We mature more slowly than other animals and are deeply influenced by parents, siblings, peers, culture, class, climate, schools, accidents, genes, and the accumulated history of the species.⁸

Thus, both definitions accept that the identifications which inform governing assumptions and first-order preferences "are not themselves the products of our

² G. Dworkin, *The Theory and Practice of Autonomy*, 20.

³ *Ibid.*, 12

⁴ *Ibid.*, 22.

⁵ *Ibid.*, 47.

⁶ *Ibid.*, 36.

⁷ *Ibid.*, Chapter 4.

⁸ *Ibid.*, 36.

choices", but are acquired, at least partly, through socialization.⁹

Both conceptions also appear vulnerable to the criticism that they fall short of autonomy because they rely on second-order preferences which have been absorbed uncritically through socialization. Marilyn Friedman, for instance, suggests that the emphasis which such 'top-down' approaches place on the act of identification threatens to collapse into an infinite regress. This arises, she suggests, if second-order preferences become autonomous *in the same way* as first-order preferences - i.e. one must identify with them according to even higher-order preferences.¹⁰

It is in Dworkin's response to this criticism that his approach and situated autonomy part ways. He says he is concerned with autonomous persons, not autonomous acts:

if a person's reflections have not been manipulated, coerced, and so forth and if the person does have the requisite identification then they are, on my view, autonomous. There is no conceptual necessity for raising the question of whether the values, preferences at the second order would themselves be valued or preferred at a higher level¹¹

There are two reasons why situated autonomy cannot accept this. On one hand, this would reduce autonomy to normal agency, thus excluding meta-agency. On the other hand, it provides no way of distinguishing the life of open-minded conviction from the dogmatic life: it can only distinguish people who have second-order preferences (whatever their origin) which they refer to them when deliberating, from wantons who do not. Thus, in Christman's words, Dworkin's account is flawed *ab initio* because "it involves the claim that desires can be autonomous without foundations".¹² Situated autonomy, then, must develop a different response.

⁹ Ibid., 12.

¹⁰ Friedman, "Autonomy and the Split-Level Self," *Southern Journal of Philosophy* 24 no. 1 (1986), 25.

¹¹ G. Dworkin, *The Theory and Practice of Autonomy*. 19-20.

¹² John Christman. "Introduction," 9.

To resolve the problem of the autonomy of second-order preferences and avoid infinite regress, we must explain how second-order preferences may become one's own "in some way *other* than that of critical assessment in accord with a higher principle."¹³ Before developing the model of the synthetic self's response in Chapter Eight, this chapter will consider and reject two possible solutions.

We consider the first here. This is the claim of the existentialist that the autonomous agent must "invent the law for himself".¹⁴ While this would certainly establish the autonomy of second-order preferences, it contradicts the value of meaningful life as expressed in the narrative account of self-identity. As Benn notes, practical rationality requires "criteria, rules of inference, and a conceptual scheme for grasping options" which are developed through socialization.¹⁵ To deny this would result in such a

desocializing independence of mind that the autonomous person [would be] endowed with a capacity to live according to a law he prescribes to himself but bereft of any resources with which to fabricate such laws.¹⁶

The existentialist position is unacceptable precisely because situated autonomy requires the agent to have reasons for acting - "it is not", to borrow Benn's words, "to have a capacity for conjuring criteria out of nowhere."¹⁷

A different solution is that advanced by proponents of autonomy as the examined life. This suggests that people make their second-order preferences their own by critically reflecting upon them. We develop a response to this in the remainder of this chapter by considering and rejecting two versions of this position.

¹³ Friedman, "Autonomy and the Split-Level Self," 26.

¹⁴ J.P. Sartre, mentioned in G. Dworkin, *The Theory and Practice of Autonomy*, 36.

¹⁵ Benn, *A Theory of Freedom*, 179.

¹⁶ *Ibid.*, 175.

¹⁷ Benn, "Freedom, Autonomy, and the Concept of a Person," 126.

II

One way that personal autonomy can be defined in terms of the examined life is by treating it as the ideal realization of a conception of agency as choice and critical reflection. Here the agent is conceived as "an initiator of events which will go differently, sometimes at least, if [he decides] to do this rather than that."¹⁸ Such autonomy, Thomas Hurka suggests, is an ideal of agency as "causal efficacy, of making a causal impact on the world and determining facts about it."¹⁹ The problem with such conceptions is not the emphasis they place on being initiators of events. Rather, it is that the close relationship they assume between efficacy and choice and reflection misrepresents the value of efficacy. This can be revealed by comparing the approach suggested by situated autonomy with the arguments of Hurka, who emphasises choice, and Benn, who emphasises critical reflection.

Hurka says this of his conception of autonomy:

Many of us think that autonomy is intrinsically good. When we imagine an ideal human life we think that its leading features must be chosen by the agent herself, and chosen from many options all fully understood.²⁰

The importance he places on choice is revealed when he says that it is "better to choose autonomously among ten options than to have only the best among them".²¹

This reflects his ideal of agency which, he says, requires

choice in the fullest sense: a simultaneous realization of some possibilities and rejection of others, so one's knowledge of the others appears in and through what one wills.²²

Thus, Hurka sees choice, and through it the examined life, as defining the efficacious

¹⁸ *Ibid.*, 117.

¹⁹ Thomas Hurka, "Why Value Autonomy?," *Social Theory and Practice* 13 No. 3 (Fall 1987): 366.

²⁰ *Ibid.*, 361.

²¹ *Ibid.*, 362.

²² *Ibid.*, 366-67.

agent.

Hurka's identification of efficacy with choice is revealed when he writes: "We want a person to direct her life, and to do so *meaningfully*. To be autonomous, on at least one understanding, is to direct oneself where different directions are possible."²³ The problem is that making choices among options is not the same as directing one's life meaningfully.

This can be demonstrated by comparing Hurka's position to that suggested by situated autonomy and the model of the synthetic self. According to this model, to direct oneself meaningfully, one needs a viable set of beliefs and commitments which can be treated as authoritative. Such governing assumptions, it was suggested in Chapter Six, limit, through volitional necessity, the options which one can meaningfully exercise in the future. Situated autonomy, then, can distinguish among the options a person faces, in a way that Hurka's account cannot. Consider a person who has one option, which, given the nature of her governing assumptions, is meaningful to her. On Hurka's account she would be more autonomous if presented with nine more options, even if none of them were meaningful to her and she would never choose them. For Hurka this entirely predictable response makes her more efficacious. While there is a sense in which this is true - there are more possible states of the world which she has chosen not to create - her ability to direct her life meaningfully has not been enhanced.²⁴

While Hurka's conception recognizes the importance of choice, it overemphasizes its value. Autonomy, *contra* Hurka, lies not in the number of options which one is presented, but in the freedom to execute purposes which one finds

²³ Ibid., 361. My emphasis.

²⁴ The value of such options, I suggest, lies in the facts that different people find different options meaningful (and, thus, need access to at least *one option* which they find meaningful), and that some people will need to replace the options which they presently find meaningful.

Conversely, the problem with traditional societies is not so much that people do not choose their options, but the possibility that they will find their unchosen way of life meaningless and be unable to replace it.

significant. A more compelling account of options and autonomy is suggested by Jon Elster when he writes, "freedom is a function of the number and importance of the things that one (i) *wants to do*, (ii) is free to do and (iii) is free not to do."²⁵ Choice, then, only contributes to autonomy to the extent that the options people face are ones which they might conceivably exercise.

Benn's 'natural person' illustrates the ideal conception of agency which emphasises critical reflection. A natural person understands himself as a chooser and attaches "a kind of higher-level importance to ... arranging his conduct according to the importance he attaches to states of affairs."²⁶ Autonomy, for Benn, is the apogee of natural personhood: being "a chooser is not enough for autonomy,"²⁷ the autonomous chooser must also choose his standards of choice. He appraises "not only his performance, but also the very standards he uses for the appraisal". His standards become *his* through "a still-continuing process of criticism and re-evaluation".²⁸ He emerges "as the author of his own personality", "his own cause, his own handiwork."²⁹ Benn reveals his treatment of this conception of autonomy as a political ideal when he says it reflects "a state of affairs [which] it would be valuable to bring about. ... [which] can generate reasons for quite specific actions and policies".³⁰

Any argument for making it government policy to develop citizens' capacity for such autonomy faces two important problems. The first is that compelled critical

²⁵ Jon Elster, "Sour Grapes - utilitarianism and the genesis of wants," in *Utilitarianism and Beyond*, ed. Amartya Sen and Bernard Williams (Cambridge: Cambridge University Press, 1982), 228. My emphasis.

²⁶ Benn, "Freedom, Autonomy, and the Concept of a Person," 122.

²⁷ *Ibid.*, 123.

²⁸ *Ibid.*, 124.

²⁹ *Ibid.*, 129.

³⁰ *Ibid.*, 123.

reflection can undermine otherwise meaningful lives. This will be addressed in Section III. The second is that treating critical reflection as a necessary component of autonomous lives takes a valuable insight too far.

Consider how Benn conceives of people making their standards their own. While he rejects existential choice - autonomy, he says, is "not a capacity for conjuring criteria out of nowhere" - he does say that the autonomous agent, while socialized into traditions like other people, searches for coherence and "does not rest on the unexamined if fashionable conventions of his sub-culture when they lead to palpable inconsistencies."³¹ It is in working through such inconsistencies, he suggests, that the agent makes his standards his own.

This is troubling because it suggests that people can only become autonomous by choosing their own standards, which, it seems, requires that they experience the kind of 'palpable inconsistencies' which we have called dissonance.³² The problem is that it is unclear why anyone would want such autonomy if it requires them to experience dissonance. It is not enough to simply assert, as Benn does, that people do want such lives.³³

This might not be so troubling if alternative conceptions of autonomy were not available. As it is, however, situated autonomy, relying as it does on the life of open-minded conviction, suggests that people can make their standards their own without necessarily engaging in critical reflection (Chapter Eight). By focusing on meaningful

³¹ Ibid., 126.

³² While Benn may deny this (e.g. he claims that autonomy only requires a person to "be alive to, and disposed to resolve by rational reflection and decision, incoherences in the complex tradition which he has internalized" [*A Theory of Freedom*, 182]), this does not bear scrutiny. Someone who was merely 'alive to and disposed to' resolve incoherences, but never actually experienced any, could not become autonomous on this account since she would never have made her standards her own. Without such experiences she cannot discover 'who she really is'. Benn, "Freedom, Autonomy, and the Concept of a Person," 127.

³³ He says that "someone who cared nothing for his ontological status as a natural person - *if such a person could be* - need have no particular concern for [such] autonomy." Benn, "Freedom, Autonomy, and the Concept of a Person," 129. My emphasis.

lives, situated autonomy treats the pain and angst which often accompany 'palpable inconsistencies' as an unqualified tragedy that autonomy should redress, not require. As with choice, then, critical reflection is best treated as an important component of autonomous and meaningful lives, but not as autonomy itself.

III

In this section we consider a different way of defining autonomy in terms of the examined life. This links the examined life to the best possible life. It is reflected in John Stuart Mill's claim that "it is better to be a human being dissatisfied than a pig satisfied; better to be Socrates dissatisfied than a fool satisfied."³⁴ This approach will be illustrated with references to Mill,³⁵ Amy Gutmann,³⁶ and Will Kymlicka.

This approach differs from that advocated by situated autonomy in two important ways. First, while situated autonomy treats choice and critical reflection as only contingently and instrumentally valuable, this approach treats it as a necessary condition of the good life. This takes two forms. For Mill and Gutmann the exercise of critical reflection is an element of the good life. Choice and critical reflection enter Mill's account through his idea of man as a 'progressive being'³⁷ who pursues the 'higher pleasures' which are experienced through the exercise of such 'higher faculties'³⁸ as "perception, judgment, discriminative feeling, mental activity, and even

³⁴ John Stuart Mill, "Utilitarianism," in *Utilitarianism, On Liberty and Considerations on Representative Government*, ed. H.B. Acton (London: Dent, 1972), 10.

³⁵ It is common practice in the literature to apply the term 'autonomy' to Mill's ideas on liberty.

³⁶ This position is also defended by Richard Arneson and Ian Shapiro, as we shall see in Chapter Eleven where we discuss the case of *Wisconsin v. Yoder*. "Democratic Autonomy and Religious Freedom: A Critique of *Wisconsin v. Yoder*," in Ian Shapiro, *Democracy's Place* (Ithaca: Cornell University Press, 1996).

³⁷ Mill, "On Liberty", in *Utilitarianism, On Liberty and Considerations on Representative Government*, ed. H.B. Acton, (London: Dent, 1972), 79. Progressive beings pursue the utilitarian goal of discovering "more and more effective means for the diminution of evils and the multiplication of higher pleasures." Mill, "On Liberty," editor's n. 8, 458.

³⁸ Mill, "Utilitarianism," 9-10.

moral preference, [which] are exercised only in making a choice."³⁹

People who exercise the higher faculties, Mill says, exhibit 'character':

A person whose desires and impulses are his own - are the expression of his own nature, as it has been developed and modified by his own culture - is said to have a character. One whose desires and impulses are not his own, has no character, no more than a steam-engine has a character.⁴⁰

The idea of character is important, as E.G. West argues, because it provides the fundamental justification for Mill's advocacy of negative liberty: it is only valuable to the extent that it enables people to express their nature as progressive beings. If negative liberty did not promote this, it "could be dispensed with."⁴¹

Mill makes several claims which suggest the centrality of the examined life to the good life. For instance, he says that conforming to custom as custom "does not educate or develop in [a person] any of the qualities which are the distinctive endowment of a human being."⁴² In another passage he writes: "Where, not the person's own character, but the traditions or customs of other people are the rule of conduct, there is wanting one of the principle ingredients of human happiness".⁴³ It is also suggested by his vexation with the person who is "never trouble[d] that mere accident has decided which of these numerous worlds is the object of his reliance, and that the causes which make him a Churchman in London, would have made him a Buddhist or a Confucian in Pekin."⁴⁴ Amy Gutmann reveals a similar disposition when she suggests that the democratic state should act on the belief that the examined

³⁹ Mill, "On Liberty," 126.

⁴⁰ Ibid., 128.

⁴¹ E.G. West, "Liberty and Education: John Stuart Mill's Dilemma," *Philosophy* XL (1965), 136.

⁴² Mill, "On Liberty," 126. The other two reasons are: the experiences of others may be too narrow or may have been mistakenly interpreted; and the interpretations of others may be unsuitable for one's own character and circumstances.

⁴³ Ibid., 124.

⁴⁴ Ibid., 86.

life is superior to the unexamined life.⁴⁵

The second form of the claim that critical reflection is a necessary condition of the good life appears in Kymlicka's approach. He suggests that we satisfy our 'highest-order' interest in leading a good life by revising, through critical reflection, those of our current beliefs about value which are mistaken.⁴⁶ This requires that we develop the capacity to "assess and potentially revise" our conception of the good.⁴⁷ Such strong endorsements of the examined life are clearly incompatible with the life of open-minded conviction which does not require people to exercise critical reflection.

This approach also differs from that advocated by the model of the synthetic self when it concludes that the state should develop the capacity for choice and critical reflection in citizens. Here again examples are not hard to find. Mill considers the failure to educate a child's mind and to train it in the skills required to use its liberty properly a moral crime which justifies state intervention. The form of education he advocates would clearly develop children's capacity to exercise choice and critical reflection.⁴⁸

⁴⁵ Amy Gutmann, "Undemocratic Education," in *Liberalism and the Moral Life*, ed. Nancy L. Rosenblum (Cambridge, Mass: Harvard University Press, 1989), 79.

⁴⁶ Kymlicka, *Liberalism, Community, and Culture*, 10-12.

⁴⁷ Kymlicka, *Multicultural Citizenship*, 92.

⁴⁸ Mill, "On Liberty," 174. Our claim appears to be contradicted by the fact that Mill does not make the development of the higher faculties an explicit goal of education, and by the following passage about the effects of education:

the rising generation would be no worse off in regard to all disputed truths than they are at present; they would be brought up either churchmen or dissenters as they are now, the State merely taking care that they should be *instructed* churchmen, or *instructed* dissenters. (176. My emphasis.)

The likely effects of this education can be inferred from Mill's description of what he means by 'instructed'.

While he says that schools may teach religion, he also says the state "may very properly ascertain and certify that a person possesses the knowledge requisite to make his conclusions". (176-177) To have 'requisite knowledge' a person must learn the views of those who oppose his beliefs (for instance, an atheist must study the 'evidences of Christianity'). Mill must have understood that requiring people to acquire such 'requisite knowledge' would lead them to develop their higher faculties (choice and critical reflection). He also must surely have been aware of the risks this

Similarly, Kymlicka advocates the use of state power to enhance people's capacity to 'stand back and assess moral and traditional ways of life' through such means as liberal education.⁴⁹ Kenneth Henley, in considering the preparation of children to exercise religious liberty, expresses more concern that children develop the capacity to choose among religious beliefs than to live by any one of them.⁵⁰ Gutmann laments that in the United States "some citizens still hold religious beliefs that reject teaching children the democratic [value of] ... rational deliberation (among differing ways of life)."⁵¹ She advocates education which would prepare people to engage in rational deliberation by exposing them to different ways of life and by fostering "the ability to defend their personal and political commitments, and revise those that are indefensible."⁵² As William Galston comments, to implement proposals like Gutmann's, a state would have to throw "its weight behind a conception of the human good ... at odds with the deep beliefs of many of its loyal citizens."⁵³

IV

In this section we develop three criticisms of the examined-life-as-means-to-best-life approach by focusing on its advocacy of compelling people to develop a capacity for critical reflection. These are that this approach relies upon a false dichotomy in the choices we face; that imposing the development of a capacity for

involved, since he underwent a crisis of meaning in his own youth. Mill, *Autobiography*, Chapter V.

⁴⁹ Kymlicka, *Multicultural Citizenship*, 92.

⁵⁰ Consider the educational standards which he suggests: children must not be isolated among their co-religionists/co-atheists; they must learn of the variety of religious and non-religious ways of life; and they must learn that their parents' way of life is not socially obligatory. Kenneth Henley, "The Authority to Educate," in *Having Children: Philosophical and Legal Reflections on Parenthood*, ed. Onora O'Neill and William Ruddick (New York: Oxford University Press, 1979), 261.

⁵¹ Gutmann, "Undemocratic Education," 82.

⁵² *Ibid.*, 77-79.

⁵³ William Galston, "Civic Education in the Liberal State," in *Liberalism and the Moral Life*, ed. Nancy L. Rosenblum (Cambridge, Mass.: Harvard University Press, 1989), 100.

critical reflection may undermine the strong identifications which provide the 'givens' upon which autonomy depends; and that there are no 'neutral' sources of 'givens' which can be assumed to replace strong identifications (e.g. scientific principles or true selves).

The first criticism is that much of this approach's force is derived from its implicit reliance upon a false dichotomy. This is illustrated in a criticism which Kymlicka has made of Sandel:

so long as Sandel admits that the person can re-examine her ends -- even the ends constitutive of her 'self' -- then he has failed to justify communitarian politics. He has failed to show why individuals should not be given the conditions appropriate to that re-examining, as an indispensable part of leading the best possible life.⁵⁴

The dichotomy which this suggests is that either people are constituted by some *particular* ends and, thus, communitarian politics is substantiated, *or* all of a person's ends are open to change, communitarian politics is refuted, and the position that people "should be given not only the legal right to [re-examine their ends], but also the social conditions which enhance this capacity (e.g. a liberal education)"⁵⁵ is justified. The problem is that it does not follow from the fact that people *may* want to re-examine their ends that their capacity to do so *should be* enhanced. Rather, this can only justify the claim that people should not be prohibited from re-examining their ends.

Consider what Kymlicka writes about the relationship of the self to its ends:

What is central to the liberal view is not that we can *perceive* a self prior to its ends, but that we understand our selves to be prior to our ends, *in the sense that no end or goal is exempt from possible re-examination.*⁵⁶

Such re-examination - "comparing one 'encumbered' potential self with another

⁵⁴ Kymlicka, *Contemporary Political Philosophy: An Introduction* (Oxford: Clarendon University Press, 1990), 214.

⁵⁵ Kymlicka, *Multicultural Citizenship*, 92.

⁵⁶ Kymlicka, *Liberalism, Community, and Culture*, 52.

'encumbered' potential self"⁵⁷ - lends no more support to defining autonomy in terms of the examined life than the life of open-minded conviction: it cannot exclude the more modest claim that people should be free to engage in critical reflection if they so choose. The move from not prohibiting re-examination to enhancing the capacity to do so must be justified and, we will suggest below, there are good reasons for resisting this.

A second concern with this approach is that by forcing all people, not just those experiencing dissonance, to develop the capacity to critically reflect on their ends, it may actually undermine otherwise autonomous and meaningful lives. The danger is that this may threaten some people's situatedly autonomous lives by frustrating, or even preventing the formation of, the strong identifications which situated autonomy requires.

Proponents of 'liberal education' may think that this overstates the problem. For example, Kymlicka writes:

There must always be some ends given with the self when we engage in such reasoning, but it doesn't follow that any *particular* ends must always be taken as given with the self.⁵⁸

This, however, ignores two important points: the difference between voluntarily and involuntarily initiated critical reflection; and the process by which people initially develop strong identifications.

Consider the difference between critical reflection which is undertaken voluntarily in response to dissonance, and involuntarily because it is required by others. When people engage in critical reflection in response to dissonance they usually only reflect on a limited number of governing assumptions. Since most of their identifications remain unquestioned, there is little doubt about what to take as 'given'. As Morton Kaplan notes: "In my understanding of myself ... I find my own

⁵⁷ Ibid., 53.

⁵⁸ Ibid.

ground for autonomous choice."⁵⁹ Such critical reflection is normal and desirable, and is recognized by situated autonomy as meta-agency. When critical reflection is imposed, however, the agent may find herself without any secure identifications to take as 'given'. Rather than leading to more meaningful lives, then, the requirement that people develop the capacity for critical reflection may actually cause dissonance - not something most would consider a component of the 'best possible lives'.

A further danger is that the coerced development of a capacity for critical reflection through liberal education may prevent people from ever developing the strong identifications which can inform choice. It is difficult to develop such identifications where the values, beliefs, and conceptions of the good life of one's community are presented in a neutral fashion along with the contradictory beliefs of others.⁶⁰ For people so educated, the identifications which autonomy presupposes may be undermined or may never develop in the first place.⁶¹ For some the strain of such reflection and choice, especially those who begin with no clear 'givens', may prove too much:

Preferring even a negatively valued identity to a bundle of contradictions, they become delinquents and dropouts [or they may] prefer to submerge themselves totally in a single role commitment For these people, the alternative to heteronomy that they fear is not autonomy, which they lack the strength and confidence to aspire to, but an intolerable anomie - a moral lawlessness, in which there is no freedom, but only a total lack of orientation.⁶²

⁵⁹ Morton A. Kaplan, "The Right to be Left Alone Is a Right to Be No One," in *Morality and Religion in Liberal Democratic Societies*, ed. Gordon L. Anderson and Morton A. Kaplan (New York: Paragon House, 1992), 300.

⁶⁰ Imagine a medical school which gave equal time to the claims of modern medicine, phrenology, and witchcraft.

⁶¹ As Galston notes, proposals like Gutmann's "can have corrosive consequences for political communities in which it is allowed to take place. The pursuit of truth - scientific, historical, moral, or whatever - can undermine structures of unexamined but socially central belief." Galston, "Civic Education in the Liberal State," 90.

⁶² Benn, *A Theory of Freedom*, 190-91.

Thus, while there may be some justification for defining autonomy as the examined life, it cannot be that it will always lead to the best life possible.⁶³

Even if this were defended by the lesser claim that it offered the only *chance* of leading the best possible life, it could not justify the use of state power to educate people against their will or the will of their parents and communities. If we respect individuals, we must let them decide if they want to risk losing otherwise happy and meaningful lives on the chance that they might develop better ones. To suffer anomie is terrible when unavoidable. It is much more so where it could have been avoided *but for* being forced to develop critical reflection by others. If the proponents of critical reflection could guarantee its success this argument would lose much of its force. As it stands, those who would define autonomy as critical reflection should refrain from imposing their views on others and restrict themselves to proselytizing on the basis of their arguments about its desirability.⁶⁴

⁶³ Consider some examples of how liberal education can undermine *otherwise viable* communities. In the *Wisconsin v. Yoder* decision, Chief Justice Burger wrote: "Compulsory school attendance to the age of sixteen for Amish children carries with it a very real threat of undermining Amish community and religious practices as they exist today". (*Wisconsin v. Yoder*, 216; quoted in Feinberg, "The Child's Right to an Open Future," 134) Of the residential schools to which many native children were removed in Canada earlier in this century, the Royal Commission on Aboriginal Peoples reported: "At almost every hearing intervenors raised the issue of residential schools and spoke of their impact on Aboriginal language and culture, and of the chain of abuse, violence, suicide and problems with the law that the experience of these schools had generated in Aboriginal communities." Royal Commission on Aboriginal Peoples, *Overview of the First Round*, 1992.

Raz recognizes that requiring people raised in traditional societies to live lives of choice and critical reflection could "make it impossible for them to have any kind of normal rewarding life whatsoever because they have not built up any capacity for [his choice-based conception of] autonomy." Raz, *Morality of Freedom*, 423-24.

These observations lead me to concur with Galston that the greatest threat to children in the liberal state is not that they will believe anything too deeply, but that they will not believe anything deeply at all: "Even to achieve the kind of free self-reflection that many liberals prize, it is better to begin believing something." Galston, "Civic Education in the Liberal State," 101.

⁶⁴ One argument which they might make is Mill's defense of the 'higher pleasures'. The argument is that the *majority* of those who have experienced both higher and lower pleasures prefer the higher. (Mill, "Utilitarianism," 9-11) Even were this true, it cannot justify compelling people to live critically reflective lives. First, this evidence would only demonstrate that this way of life was preferred by more people, not that it was superior. Second, the comparison may not be neutral: it may be that people's characters are changed in the process of learning to enjoy higher pleasures and what is in their

We can now consider the third problem with defining autonomy as the examined life. Some who defend this approach seem to address the concern about 'givens' by assuming that people will always have certain sources of 'givens' available to them. We will consider and reject two such sources of 'givens': secular, scientific principles; and the agent's 'true self'. Reliance on such givens, we will argue, is flawed, and only reinforces the criticism that critical reflection cannot generate the strong identifications upon which autonomy depends.

The approach of treating secular and scientific assumptions as a reasonable source of 'givens' is explicitly pursued by Richard Lindley. He defines autonomy such that its perfect achievement is beyond normal human intelligence: autonomy "in regard to a particular set of beliefs, desires, or actions does require an agent's relevant beliefs *to be true*, and that she be able to give a justification for them".⁶⁵ On this basis he suggests that people can only be autonomous in limited areas of their lives. People do not need to be autonomous with respect to their theoretical scientific beliefs, since, he writes, such beliefs "are unlikely to have wide ramifications throughout our life projects."⁶⁶ Rather, he suggests, people should be concerned about autonomy with respect to 'matters of opinion' (religious, moral, and political beliefs) since there is no guarantee of truth in such matters:

[There] is a danger that people will adopt life styles not because they represent truly their best options, but because they have not properly considered alternatives, and are carried by the force of public opinion⁶⁷

interest changes with it. (Lindley, *Autonomy* (London: MacMillan Educational Limited, 1986), 60-61) For example, while people may come to prefer Nozick's 'experience machine' after they have been hooked up to it, this cannot be an argument for hooking them up now against their will. (Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), 42) Third, even were the life of higher pleasures objectively superior, respect for meaningful lives requires that people be left to choose or reject it for themselves.

⁶⁵ Lindley, *Autonomy*, 51. My emphasis.

⁶⁶ Ibid.

⁶⁷ Ibid., 50.

The irony in Lindley's approach is that the same things could be said about scientific beliefs - there is no guarantee of truth in these matters either, and most people *are* carried by the force of public opinion.⁶⁸ Thus, paradoxically, following Lindley's approach, a person may appear autonomous with respect to a 'matter of opinion' even though in determining her position she relied on a scientific belief which she accepted entirely on the authority of others (i.e. heteronomously).⁶⁹

Examples of such contradictions are not hard to find. Consider liberal attacks on a favourite target: conservative Christians. Diana Meyers says the mother who "is a fundamentalist preacher's poorly educated daughter who has never been exposed to less benighted theological doctrines and who has never questioned her faith", acts

⁶⁸ For instance Gregg Easterbrook writes:

Suppose you accept the Big Bang theory of the origin of the universe. Here's what you believe, roughly, according to the model proposed by Alan Guth, a physicist at the Massachusetts Institute of Technology:

You believe that, once upon a time, all the potential in the cosmos - all the potential for a firmament of 40 billion galaxies at last count - was packed into a point smaller than a proton. You believe that within this incipient cosmos was neither hypercompressed matter nor superdense energy nor any tangible substance. It was a 'false vacuum' through which coursed a weightless, empty quantum-mechanical probability framework called a 'scalar field.' ...

Next, you believe that, when the Big Bang sounded, the universe expanded from a pinpoint to cosmological size in far less than one second - space itself hurtling outward in a torrent of pure physics, the bow wave of the new cosmos moving at trillions of times the speed of light.

Further, you believe that, as subatomic particles began to unbuckle from the inexplicable proto-reality, both matter and antimatter formed. Immediately, these commodities began to collide and annihilate themselves, vanishing as mysteriously as they came. The only reason our universe is here today is that the Bang was slightly asymmetrical, its yield favouring matter over antimatter by about one part per 100 million. Because of this, when the stupendous cosmic commencement day ended, a residue of standard matter survived, and from it the galaxies formed. ...

It's wise to take the Big Bang hypothesis seriously, since considerable evidence weighs in its favour. ...

Yet, for sheer extravagant implausibility, nothing in theology or metaphysics can hold a candle to the Bang. Surely, if this description of the cosmic genesis came from the Bible or the Koran rather than the Massachusetts Institute of Technology, it would be treated as preposterous myth.

Gregg Easterbrook, "Is God at the end of the scientific Rainbow?," *The Globe and Mail*, October 24, 1998, D 5.

⁶⁹ Another concern is that it is unclear why science, as one tradition of rational enquiry among others - albeit one that has powerful predictive capacities - should be given such preferential treatment.

heteronomously when she protests a teacher's dismissal of creationism.⁷⁰ Katherine Addelson notes that Meyers has a blind spot in applying the term 'heteronomous': "The fundamentalist mother is faulted for accepting creationism uncritically, but we do not ask about the schoolteacher's acceptance of Darwin - evolutionary theory is true, is it not?"⁷¹

Similarly, Henley says of religious teaching in private education:

Surely no school could be licensed which refuses to teach scientific theories on the grounds that they contradict religious revelations. It is a difficult question whether religious objections to scientific theories should be discussed in schools; such discussions would tend to be partisan and would encourage a view that science and religion are competitors⁷²

But, why this inconsistency? Why are proponents of the examined life so shy about examining scientific beliefs? A possible reason, I suggest, is that, consciously or not, they recognize that without some ground to stand on, without some 'givens' to ground deliberation (e.g. scientific 'truths'), it would be impossible for people to act autonomously at all. This reliance on scientific and secular beliefs may be interpreted, then, as an unintended acknowledgement that autonomous deliberation presupposes second-order values which can act as 'givens' and that critical reflection alone cannot satisfy this need.

Autonomy conceived in terms of the life of open-minded conviction avoids these problems by not requiring people to critically reflect unless they encounter dissonance. This does not commit it to adopt a relativistic position with respect to truth, or to reject the ideal of progress. So long as there is no perfect paradigm with which we can identify, we must accept that traditions are 'all we have' and that people can only begin 'where they are' and start their search for 'truth' or the 'best life' from

⁷⁰ Diana Meyers, "Personal Autonomy and the Paradox of Feminine Socialization," *The Journal of Philosophy* 84 no. 11 (Nov. 1987), 625-26.

⁷¹ K. Pyne Addelson, "Autonomy and Respect," in *Impure Thoughts* (Philadelphia: Temple University Press, 1991), 629.

⁷² Henley, "Authority to Educate," 262.

within traditions.

Rather than rejecting the idea of 'progress' towards truth, this approach suggests that progress can only be made within or across traditions.⁷³ Even Mill, a great defender of progress, acknowledged that "it would be absurd to pretend that people ought to live as if nothing had been known in the world before they came into it."⁷⁴ Progress, then, is not impeded by traditions, but by those who refuse to allow their tradition to evolve. On this view, rather than promoting progress, training in 'neutral facts' and exposure to various ways of life, may simply undermine a person's identifications and leave them without access to the traditions upon which any kind of progress depends.

In addition to scientific beliefs, another source of 'givens' which has been defended by some proponents of autonomy as the examined life is the idea of a 'true self'. The idea is that a person's 'true self' can be distinguished from those aspects of her character which have been imposed by society. For example, Lindley writes:

Autonomy requires a person to reflect on the influences of her culture, to sort out those of her felt impulses which are really expressions of *her unique nature*, from those which are *merely* the product of external influences.⁷⁵

The idea of a unique nature is useful in two ways. It suggests a firm ground from which people may conduct their deliberations, and it suggests a reason why critical reflection might lead to the best possible life: one's best possible life is the one which reflects her true self.

What, however, it seems reasonable to ask, is this true self, or 'unique nature'?

⁷³ Of course, were a tradition to perfectly reflect its members' circumstances, and were these circumstances never to change, then we would expect to see a (temporary?) end to progress. This appears unlikely to happen any time soon.

⁷⁴ Mill, "On Liberty," 67.

⁷⁵ Lindley, *Autonomy*, 52. My emphasis. Similarly, Robert Young refers to 'true motivations' which are "central or important to who one is and what one wants to be". (50) These are discovered through critical evaluation in which, for example, "we recognise that to satisfy certain important desires ... would necessitate doing things to which we are averse". R. Young, *Personal Autonomy*, 39-40.

Feinberg seems to provide a reasonable account in his idea of 'rudimentary character'. It is, he says, a person's "temperamental proclivities and genetically fixed potential for the acquisition of various talents and skills."⁷⁶ This, however, seems insufficient to build a life upon. As Lindley acknowledges, the idea of unique natures "is consistent with the view that it would be impossible for a human being to develop a character except within a culture."⁷⁷ The true self, then, seems too thin a concept to support autonomous lives. If, after the exercise of involuntary critical reflection, it were all that was left, the agent would have little substance to guide deliberations.

Another problem with the idea of a true self is that by relying on this unchosen aspect of one's character, one would seem to allow one's life to be shaped by principles which have not been made *one's own*. Consider how Feinberg resolves the following paradox concerning how a child may be socialized without undermining its self-determination:

Whether a certain sort of life would please a child often depends upon how he has been socialized, and so we cannot decide how to socialize him for that life by asking whether that kind of life would please him.⁷⁸

To resolve this, Feinberg appeals to the right of children to an 'open future', a 'right-in-trust' or an 'anticipatory autonomy right'⁷⁹ which is violated "if certain crucial and irrevocable decisions determining the course of [the child's] life are made by anyone else before he has the *capacity of self-determination* himself."⁸⁰ Feinberg says the paradox is resolved if the parents make decisions for the child consistent with its 'rudimentary character'.⁸¹ He says this "is the most sense that we can make of the

⁷⁶ Feinberg, "The Child's Right to an Open Future," 150, 149.

⁷⁷ Lindley, *Autonomy*, 52.

⁷⁸ Henley, "Authority to Educate", 260-1.

⁷⁹ Feinberg, "The Child's Right to an Open Future," 126.

⁸⁰ *Ibid.*, 143.

⁸¹ *Ibid.*, 150, 149.

ideal of the 'self-made person'".⁸² If achieved, "the child's future is left open as much as possible for his own finished self to determine".⁸³

Problems remain, even for Feinberg's rather clever use of the 'true self'. First, this approach is open to the criticism that while a person's pre-social or natural preferences may clearly be his, it offers no account of how the agent might make them *his own*. In fact, it seems to treat one's true self as being just as constitutive as the communities of strong communitarians. Second, true selves, at least as Feinberg describes them, do not seem to provide the critical perspective which accounts of autonomy as the examined life require. While critical reflection may reveal that as part of my true self I am patient and dextrous, this offers little insight into whether I should choose to be a spear-hunter in a traditional society or a pool-shark in Chicago. With respect to such questions, Feinberg's account still relies on socialization.

Diana Meyers' account of a 'true self' seems to address the problem of how one's true self⁸⁴ might become *one's own*. It also explains how a person's true self might contribute to her autonomy without either denying the reality of socialization or abandoning people to it.⁸⁵ To achieve this, she argues that since all socialization is coercive,⁸⁶ society should not try to help people to transcend it, but rather it should socialize people for autonomy.⁸⁷

She characterizes the autonomous life as being squeezed on two sides. On one, socialization threatens to displace the agent's internal desires: "if people are products

⁸² Ibid., 150.

⁸³ Ibid., 151.

⁸⁴ Defined here by "the distinction between real and apparent desires. ... [where] one desire is more integral to our identity than another." Diana Meyers, *Self, Society and Personal Choice* (New York: Columbia University Press, 1989), 26.

⁸⁵ Ibid., 96.

⁸⁶ Ibid., 207.

⁸⁷ Ibid., 262.

of socialization, they have no true selves, and they cannot control their own lives".⁸⁸ On the other side, she recognizes what Feinberg did not: that autonomy can be undermined by too much reliance on one's 'true self'. Even if a person's true self were coherent and harmonious (which she doubts), autonomy requires more than simply following its dictates - that would mean being determined by one's pre-social 'true self'.⁸⁹

Given these pressures, Meyers says autonomy depends on the exercise of three 'autonomy competencies': self-discovery, self-definition, and self-direction.⁹⁰ Through self-discovery the agent uncovers her true self; through self-definition she develops an authentic self out of her true self; and through self-direction she governs herself in accordance with this authentic self.⁹¹

Critical reflection enters Meyers' account through the ideas of autonomy competency and the *authentic self*. The authentic self "is the repertory of skills that make up autonomy competency along with the collocation of attributes that emerges as a person successfully exercises autonomy competency."⁹² Those with autonomy competency possess and exercise two types of skills: self-referential responses (the

⁸⁸ Ibid., 20.

⁸⁹ Ibid., 44.

⁹⁰ Ibid., 20.

⁹¹ Marilyn Friedman develops a similar model by rejecting the hierarchical 'top-down' view of critical assessment favoured in most models of the self which work with higher- and lower-order preferences. She argues for a "two-way process of *integration* within a person's hierarchy of motivations, intermediate standards and values, and highest principles." (M. Friedman, "Autonomy and the Split-Level Self," 32) She wants highest principles to "be assessed for their fit and appropriateness in light of what guides and motivates a person at the lower levels." (33) This allows her to suggest that "It matters not whether her preferences are, in an important sense, originally hers or originally the preferences of other persons to whom she devotes her life." Marilyn Friedman, "Moral Integrity and the Deferential Wife," *Philosophical Studies* 47 (January 1985), 147.

⁹² Meyers, *Self, Society and Personal Choice*, 92.

ability to consider what it would feel like (e.g. shame, pride)⁹³ to be a certain way or do a certain thing); and critical rationality (the ability to consider values independent of one's feelings or inclinations, (e.g. forbearance, loyalty)).⁹⁴ The autonomous person poses the question 'What do I really want, need, care about?'; acts on her answer; and corrects herself when she gets it wrong.⁹⁵ Autonomous people 'choose' the constitutive qualities of their authentic selves by placing themselves in situations and acting in ways "designed to bring about such changes."⁹⁶ Despite its reliance on the idea of a 'true self', and much like situated autonomy, this results in a fairly flexible account of autonomy which is compatible with many types of lives and which recognizes that self-identity is always open to evolution and transition.⁹⁷

Meyers thinks the lives she advocates are valuable, despite the potential for complexity and stress, because those who lead them support their self-respect and avoid future disillusionment by setting their life plans on 'secure psychological foundations'. This ensures that their "personal ideals and life plans befit their individual strengths and needs and ... [that their] lives match their personal ideals and life plans."⁹⁸

While I have much sympathy for this approach, I believe its reliance on 'true selves' leaves it unable, like all approaches which emphasize critical reflection, to account for the kinds of strong identifications which support people's ability to conduct complex deliberations (in Meyers' terms, to exercise autonomy competency).

⁹³ Meyers, "The Socialized Individual and Individual Autonomy: An Intersection Between Philosophy and Psychology," in *Women and Moral Theory*, ed. Eva Feder Kittay and Diana T. Meyers (Totowa, N.J.: Rowman & Littlefield, 1987), 151.

⁹⁴ Meyers, *Self, Society and Personal Choice*, 81.

⁹⁵ *Ibid.*, 76.

⁹⁶ *Ibid.*, 95.

⁹⁷ *Ibid.*, 54.

⁹⁸ *Ibid.*, 215, 233.

This can be illustrated by considering Meyers' response to Janet Radcliffe Richards' suggestion that children be exposed "to a wide variety of options in a nonprejudicial fashion through public education."⁹⁹ While Meyers recognizes that "bombarding children with sundry options will only confuse them", she thinks the problem could be remedied by having this policy 'dovetail' "with a method of nurturing the competency of autonomy. ... [by developing their] ability to select [options] that match one's authentic self."¹⁰⁰ The problem with this, as I see it, is that true selves, and the authentic selves derived from them, lack sufficient substance to inform such deliberations and that while methods for developing it can be imagined, the self which emerges would not be simply the agent's own.

One way that people might develop sophisticated governing assumptions from their true selves would be to have them construct successively more complex self-identities by being presented with choices between simple options which would then be increased in complexity. It would be unreasonable, however, to describe such a process as being determined by the agent's true self. Rather, it would be at least as much the product of those who determined the nature and order of the choices with which the person was presented. While this does not pose problems for situated autonomy which accepts the unchosen nature of such moral starting points, it imperils accounts of autonomy which justify critical reflection on the grounds that it allows people to choose ways of life which reflect their true selves.¹⁰¹

Thus, approaches which define personal autonomy as the examined life are deficient in that they cannot ensure the development of and may even undermine the strong identifications upon which autonomy and meaningful lives depend. This leaves

⁹⁹ Ibid., 193.

¹⁰⁰ Ibid.

¹⁰¹ John Christman notes: "Integration views [like Meyers's and Friedman's] can be achieved by the fiercest manipulations emanating from outside their person." "Autonomy: A Defence of the Split-Level Self," *Southern Journal of Philosophy* 25 no. 3 (1987), 287.

one last justification for defining autonomy as the examined life: that it is intrinsically valuable. This, however, would require demonstrating what none of its proponents claim: that the exercise of critical reflection is valuable even if it undermines people's governing assumptions and leaves them with meaningless lives. I believe this is implausible.

V

We have shown that those who define personal autonomy as the examined life extend the reasonable insight that people *may* need to question, revise, and transcend received beliefs (i.e. to exercise meta-agency) to the unreasonable conclusion that autonomy *requires* critical reflection and choice. The danger, we have argued, is that by requiring people to develop this capacity we may undermine the strong identifications upon which autonomous deliberation and meaningful lives depend.

If the argument to this point is correct, then it might be asked: why would anyone ever have defined autonomy in terms of the examined life? I believe at least part of the explanation lies in the fact that advocates of this approach often focus exclusively on modern plural societies like our own. People in such societies are often *thrown* into many competing, sometimes irreconcilable, communities and traditions. This creates a potential for dissonance unknown in well-functioning traditional societies. In such circumstances the importance of critical reflection and meta-agency is undeniable. The danger in focusing on such societies is that one may assume that this is true for all.

Stanley Benn seems to recognize this. He acknowledges that his conception of autonomy as "a critical, creative, and conscious search for coherence within [one's] system of beliefs"¹⁰² presupposes "a system of beliefs in which it is possible to appraise one sector by canons drawn from another".¹⁰³ Where such systems of beliefs prevail, critical reflection is often necessary to avoid loss of self-respect,

¹⁰² Benn, *A Theory of Freedom*, 179.

¹⁰³ *Ibid.*, 182.

disillusionment, and the conclusion that one's life is not good. This suggests that autonomy as critical reflection "is an ideal for troubled times."¹⁰⁴

This, however, is just the point. While some may choose to pursue the examined life as their personal conception of the good life, critical reflection is only universally valuable for addressing troubled times and personal crises. It is not valuable for all people in all circumstances. This is what proponents of autonomy as the examined life fail to recognize.

This conclusion is compatible with two ways of dealing with critical reflection when defining autonomy. One is to define autonomy as the examined life, but to limit its application to modern plural societies. This is Benn's and Raz's approach.¹⁰⁵

The second approach, our approach, is to treat autonomy as universally valuable and to define it in terms of the life of open-minded conviction. This allows us to recognize the valuable contribution that critical reflection and choice *can* make to meaningful lives, without assuming that they are equally valuable to people living in traditional societies who may not need to exercise critical reflection or choose their way of life from a range of options.

¹⁰⁴ Ibid., 183. Similarly Kymlicka says that his 'societal cultures', which he says act as contexts of choice, "did not always exist, and their creation is intimately linked with the process of modernization." *Multicultural Citizenship*, 76.

¹⁰⁵ Raz writes: "Since we live in a society whose social forms are to a considerable extent based on individual choice, and since our options are limited by what is available in our society, we can prosper in it only if we can be successfully autonomous." (*Morality of Freedom*, 394) Autonomy, then, is not essential to people socialized in traditional societies where each person's occupation, marriage, and place of residence is determined by tradition or his superiors. Ibid., 392.

Chapter 8: Autonomy & Good Reasons

It is not an easy life. If they fall sick, they must wait for a helicopter that can take days or weeks to arrive. Sometimes an entire camp of several families will die of starvation because they are too sick to feed themselves. The average Nenets man has a life expectancy of about 45, the average woman 55. They are always vulnerable to a disastrous change in the weather, which could devastate their reindeer herds.

But when they glimpse the Russian towns at the southern end of their migration routes, the reindeer-herders feel no temptation to leave their nomadic life. "We live well," says Volodya, a young Nenets man. "In the city it's boring."¹

In rejecting the definition of autonomy as the examined life in Chapter Seven, we made half the argument for defining the life of open-minded conviction as a minimal condition of personal autonomy. We will now complete the argument by demonstrating that the life of open-minded conviction can be distinguished from the unreflective or dogmatic life.

Those who advocate autonomy as the examined life believe that people can only be autonomous with respect to first-order preferences (purposes) if they are autonomous with respect to second-order preferences (governing assumptions). This, it is suggested, requires that people examine the values and beliefs they developed through socialization to truly make them *their own*. People who fail to do this, they believe, cannot be autonomous.

By endorsing the life of open-minded conviction the model of the synthetic self provides a different understanding of socialization. We argue in this chapter that a person can make her governing assumptions *her own* without engaging in critical reflection by having 'good reasons' for continuing to adhere to them. This is important because it demonstrates that we can reject the ideal of the examined life without necessarily succumbing to dogmatic or unreflective lives.

¹ Geoffrey York, "Where reindeer are a way of life," *The Globe and Mail*, March 15, 1997, D 1.

I

We will argue that the life of open-minded conviction can be distinguished from the dogmatic life by suggesting that governing assumptions, absorbed uncritically through socialization, can be made *one's own*. One's governing assumptions are *one's own*, we will argue, if one has good reasons for continuing to adhere to them.

People who lead lives of open-minded conviction control their lives, more or less consistently, with governing assumptions. Further, they can identify these governing assumptions, at least in a rough-and-ready way. While this clearly distinguishes them from wantons who do not abide by governing assumptions, it does not distinguish them from people who lead dogmatic or unreflective lives.

The difference between those who lead lives of open-minded conviction and those who lead dogmatic lives is most obvious when they experience dissonance. Those who lead lives of open-minded conviction respond by engaging in meta-agency. Conversely, those who lead dogmatic lives refuse to reevaluate their beliefs. This causes them to lead lives of increasingly debilitating contradictions. This difference is similar to that which Benn describes between his conceptions of autonomous and heteronomous agents. While Benn's autonomous agent reforms "his belief structure to resolve such incoherences," the heteronomous (our dogmatic) "looks in his uncertainty to others for cues, to point a way to resolve his dilemma, or ... suppresses the intrusive ideas, denying to himself that they are or ever were his."²

Less easy to determine is whether a person who has not experienced dissonance is leading a life of open-minded conviction or a dogmatic life. The first thing to note is that it would be very difficult, if not impossible, to make this distinction by simply observing behaviour. Rather, differences are only likely to appear in people's explanations of their continued adherence to practices or traditions.³ In addition to

² Benn, *A Theory of Freedom*, 180.

³ Note: since differences between those leading open-minded and those leading dogmatic lives only become pronounced when and if they experience dissonance, by sustaining conditions in which people can lead situatedly autonomous lives, we necessarily permit others to lead dogmatic and wanton

being able to identify their governing assumptions, what distinguishes those who lead lives of open-minded conviction is their ability to give an account of the validity of their governing assumptions and/or the traditions which inspired them.⁴ By so doing, one makes one's governing assumptions *one's own*. This is not the case with the dogmatic who, unable to give such an account, may explain his continued adherence on the grounds that they are part of the tradition into which he was born.

Now, by being able to offer an account of the validity of one's governing assumptions, we are not reintroducing the requirements of the examined life through the back door. For us, the validity of traditions, contexts of values, and governing assumptions, lies not in their ability to withstand tests of intrinsic meaning. Rather, it lies in their ability to sustain that for which they are valued: meaningful life. It is useful to recall Stern's idea of people as citizens of two worlds:

the world of values [which we have associated with traditions] and the world of value-free physical, causal occurrences [which we have called 'objective reality']. I think that during his whole life man balances on the edge between these two worlds. He sacrifices a good deal of his energies to the effort to remain well equilibrated within the world of values, so that he may not fall into the axiological emptiness of the world of blind causes⁵

One has good reasons for continued adherence if one's traditions or contexts of values can sustain meaning and avoid 'axiological emptiness' in the face of a 'world of blind causes' ('objective reality') which cannot be understood in its totality. For one who

ones. This cannot be avoided for two reasons. First, there seems to be no way, outside of directly questioning people, to determine whether particular dissonance-free lives are being led autonomously. Second, even if we could make this determination, we would not act on it since we have ruled out the option of forcing people to develop a capacity for critical reflection as too dangerous.

Rawls arrives at a similar conclusion for very different reasons.

Of course, many persons may not examine their acquired beliefs and ends but take them on faith, or be satisfied that they are matters of custom or tradition. They are not to be criticized for this, for in the liberal view there is no political or social evaluation of conceptions of the good within the limits permitted by justice. Rawls, *Political Liberalism*, 314.

While we can evaluate such lives (they are in danger of becoming meaningless), we are no more willing to intervene.

⁴ This idea is influenced by G. Dworkin, *The Theory and Practice of Autonomy*, 38.

⁵ Stern, *Search for Meaning*, 86.

has never experienced dissonance, an account of validity would suggest that one's own experience or the experience of one's community demonstrates that the tradition or context of values is free from disturbing conflicts with external reality and that it is more-or-less internally consistent.

Just as in mathematics, it is reasonable for one to have faith in the validity of her tradition if, when following its dictates, she experiences

no disturbing conflict, either between results already obtained or between a result already obtained and one he might reasonably expect to obtain if the sequence were to continue.⁶

Evidence of the *absence of 'disturbing conflicts'* may be that the tradition has survived sporadic dissonance-generating experiences without proving self-defeating;⁷ or being unable to prevent moral dilemmas.⁸

One's tradition is internally consistent when it satisfies the test of what David O. Brink calls moral coherentism. This is similar to our position on intrinsic meaning (which Brink calls systematic justification)⁹ because it holds "that one's own beliefs are noninferentially justified."¹⁰ Rather, it supposes that continued adherence to "one's moral belief *p* is justified insofar as *p* is part of a coherent system of beliefs, both moral and nonmoral, and *p*'s coherence at least partly explains why one holds *p*."¹¹ Thus, one's reasons for continuing to adhere to a tradition are better, the more

⁶ Harry Frankfurt, "Identification and Wholeheartedness," in *The Importance of What We Care About* (Cambridge: Cambridge University Press, 1988), 168-9.

⁷ Kekes, "Moral Tradition," 245.

⁸ G. Dworkin, *The Theory and Practice of Autonomy*, 60-61.

⁹ He distinguishes systematic justification, which "is absolute or complete justification and results from consistently applying the epistemological requirement that justifying beliefs be justified," from contextualist justification in which for "some belief *p*, certain background beliefs are treated as justified that would actually have to be justified if *p* were being systematically justified." David O. Brink, *Moral Realism and the Foundations of Ethics* (Cambridge: Cambridge University Press, 1989), 123.

¹⁰ *Ibid.*, 103.

¹¹ *Ibid.*

consistent the tradition is with his other beliefs, both moral and *nonmoral*.

The decision to accept such good reasons, and avoid the "potentially endless sequence of evaluations" which extensive critical evaluation may require, is, as Harry Frankfurt says of 'decisive identification', not necessarily arbitrary.¹² Acceptance of such contextualist justification is reasonable, as Brink suggests, "both because we believe our background beliefs can be justified and because pursuit of systematic justification would prevent us from getting on with our inquiries."¹³

The difference between explanations which are consistent with dogmatic lives and lives of open-minded conviction can be illustrated with some examples. The dogmatic offers no evidence that she has made her governing assumptions *her own* by considering their validity. For instance, she may explain her decision to engage in a practice in this way: "My people do this, so I must do like they do."¹⁴ The explanation of someone leading a life of open-minded conviction, however, would attempt to account for the validity of the assumptions upon which she decided to act. For instance, she might say: "This practice reflects values which are central to the way of life which has never failed me and past generations of my people."

The case is similar with two examples from the literature. Compare the behaviour of Jehovah's Witnesses in the Nazi concentration camps who, according to Bruno Bettelheim, refused to use their positions of authority to 'feather their own nests' or abuse and mistreat fellow prisoners,¹⁵ with that of the character of Stefan Arkadyevitch in Tolstoy's *Anna Karenina* who *absorbed* his liberal principles from his

¹² Frankfurt, "Freedom of the Will," 16-17.

¹³ Brink, *Moral Realism*, 123.

¹⁴ Hanna Papanek, "To Each Less than She Needs, From Each, More Than She Can Do: Allocations, Entitlements, and Value," in *Persistent Inequalities: Women and World Development*, ed. Irene Tinker (Oxford: Oxford University Press, 1990), 176.

¹⁵ I do not endorse Robert Young's claim that the Witnesses are autonomous because the commands of their religion having been so internalized as to be their own directives. R. Young, *Personal Autonomy*, 16-17.

favourite newspaper, neither reflecting on them, nor being aware that they changed with those of his newspaper.¹⁶ While neither Arkadyevitch nor the Witnesses (from what we know of them) critically reflected on their principles, the Witnesses appear to be in a position to defend their continued adherence to their tradition in a way that Arkadyevitch is not. For instance, they might explain that they had confidence in their beliefs and had never seriously considered other ways of life, because their tradition had never failed as a source of meaning and motivation. Arkadyevitch, not even aware of the source of his principles, could not offer such an account. To the extent that the Witnesses are able to offer such an account, their principles are *their own*, while to the extent that Arkadyevitch cannot, his principles remain merely *his*. Thus we see how people may make their governing assumptions *their own* without subjecting them or the traditions which support them to rigorous questioning and critical reflection.

Before we conclude our defense of the association of personal autonomy with the life of open-minded conviction, we should point out the key advantage of our position and address some potential criticisms. Our approach avoids the problem of infinite regress that was associated with Gerald Dworkin's conception. The appeal to good reasons described in terms of internal consistency and the ability to avoid disturbing conflicts allows us to escape the problem of justifying principles by appeal to principles of increasingly higher-orders.

One aspect of this which may provoke criticism is that the test of whether someone has good reasons for continuing to adhere to a tradition is subjective: the justification of continued adherence to traditions is dependent upon the tradition's ability to sustain meaning for particular individuals or communities. We do not deny this. Respect for meaningful life requires that reasonableness be determined by standards and information available to those *within* the tradition. Our rejection of the Cartesian scepticism associated with intrinsic meaning is reflected in our acceptance

¹⁶ G. Dworkin, *A Theory of Freedom*, 38.

that traditions are neither self-sufficient nor self-justifying.¹⁷

the standpoint of a tradition cannot be presented except in a way which takes account of the history and the historical situatedness, both of traditions themselves and of those individuals who engage in dialogue with them.¹⁸

Thus, even if a tradition could be logically invalidated on the basis of facts or beliefs which its adherents are unaware of or do not understand, this cannot determine whether they have good reasons for continued adherence.

This subjectivism may be criticized on the grounds that it represents a radical relativism which would make any criticism of practices within competing traditions impossible. This, however, need not be so. In responding to this criticism we will employ a distinction which John Kekes has made in defending his pluralism. He notes that between his pluralism which justifies interference in the internal practices of communities and radical pluralism which does not, there is a third possibility - conventionalism. Pluralists and conventionalists agree on the idea that there are 'primary values'¹⁹ which all good lives must promote, and secondary values which, among other things, make universal primary values concrete in particular contexts. "We all need to eat, so nutrition is a primary value. But in normal circumstances what we eat, with whom, and when; who prepares it and how; ... vary greatly from context to context."²⁰ The relevant distinction which Kekes draws between pluralists and conventionalists concerns whether "reasonable evaluations [of a tradition by outsiders] must appeal to considerations that carry weight only in the tradition that provides the context."²¹

¹⁷ MacIntyre, *Whose Justice? Which Rationality?*, 360.

¹⁸ *Ibid.*, 400.

¹⁹ Kekes describes primary values as benefits and harms: "physiological (e.g. food and torture), psychological (e.g., love and humiliation), and social (e.g., respect and exploitation)." *Morality of Pluralism*, 18. For more, see 39-41.

²⁰ *Ibid.*, 18, 19.

²¹ *Ibid.*, 128.

For conventionalists, as for the model of the synthetic self, reasonable evaluations must, as a general rule, carry weight within the tradition;²² for pluralists like Kekes, they need not. Thus, for instance, we would not be able to accept Kekes's justification of interference with the Dinka community.²³ He says that since he and the Dinka agree that life is a value and that one must have a good reason for taking life, he is justified in imposing his view with respect to a third, "much more morally superficial" disagreement: "They think, and we do not, that live burial is a reasonable way of protecting life."²⁴ From our perspective this reasoning fails to respect what we consider (to use Kekes's term) a primary value: identification with communities which support meaning in one's life. By imposing a change on the Dinka which does not make sense in their terms, Kekes takes the risk *for them* that their meaningful lives will survive intact. Thus, out of respect for the meaningfulness of their lives, we should stand by while spearmasters allow themselves to be killed, even if we *know* perfectly well that the assumptions which support this practice are mistaken.

This does not mean, however, that we must accept radical relativism. The model of the synthetic self escapes radical relativism because there are some primary values which it is willing to protect regardless of whether those within a tradition agree or understand. These are the value of meaningful life and its subordinate values of situated autonomy and identification with a community. The effects of this recognition are considered in Chapter Eleven.

Another criticism which may be directed at our position that good reasons need to carry weight within a tradition according to people's own beliefs and knowledge, is that this does not allow us to protect people from oppression which is accepted through false consciousness - i.e. a "kind of consciousness that prevents the members

²² This does not apply, however, when practices within one tradition threaten the meaningful lives of people within other traditions.

²³ This was discussed in Chapter Six.

²⁴ Kekes, *Morality of Pluralism*, 129.

of a society from behaving as their interests would otherwise dictate."²⁵ For instance, Susan Moller Okin writes that "oppressed people have often internalized their oppression so well that they *have* no sense of what they justly entitled to as human beings."²⁶ Our concern here is not so much with cases like the Dinka precisely because those who act against what we perceive to be their interests (i.e. the spearmasters who allow themselves to be killed) appear to be in a position of privilege within their society. Rather, we are concerned with cases where those who act against their interests do so in a way which clearly seems to serve the interests of others within the society. A good example is that of women in African cultures that condone polygamous marriage. It seems clear, at least to many of us in the West, that this only serves the interests of men. One husband was even quoted as saying, "one wife on her own is trouble. When there are several, they are forced to be polite and well behaved. If they misbehave, you threaten that you'll take another wife."²⁷

Why, it may be asked, should we allow such practices to persist if we are in a position to stop them? The reason is *not* necessarily an appeal to epistemological scepticism: our reasons for not interfering would persist even if we were right in some absolute sense. Rather it is that coercive interference is inconsistent with respect for meaningful life. This is so in at least two ways. First, while we may find a particular practice objectionable, it is in the nature of false consciousness that its victims consider these practices to form their own significant purposes. Thus, to prevent them from pursuing them is to interfere with their pursuit of meaningful lives. Second, it may be that we and those whom we observe simply do not share the same understanding of 'interests'. While the feminist may consider the Christian housewife to have been

²⁵ Michael Rosen, *On Voluntary Servitude: False Consciousness and the Theory of Ideology* (Cambridge: Polity Press, 1996), 1.

²⁶ Susan Moller Okin, "Gender Inequality and Cultural Differences," *Political Theory* 22 no. 1 (1994), 19.

²⁷ Marlise Simons, "France moves to stem polygamy," *The Globe and Mail*, February 1, 1996, A 18.

deceived into denying her interest in autonomy, the Christian housewife may consider the feminist to have mistakenly rejected her interest in salvation. Who is right? From our perspective it does not matter. Respect for meaningful lives requires that, at least as a general rule, we refrain from coercively interfering in people's pursuit of their purposes, no matter how strongly we believe them to be acts of self-oppression.²⁸ Thus while the idea of false consciousness may capture some truth about reality, respect for meaningful life requires that we not use the coercive power of the state to redress it.²⁹

Another implication of defining autonomy in terms of the life of open-minded conviction which may draw criticism is that it does not require people to be able to defend every last detail of their traditions. Since traditions are not expected to comprehend objective reality in its totality, the mere presence of imperfections cannot be a reason to reject them.³⁰ Criticism may arise if this is confused with self-deception. This, however, is not the case. While an ironically-lived life of deliberate self-deception may appear self-governing, it is not situatedly autonomous because self-deception, by its very nature, disregards the requirement that beliefs bridge the gap between the world of values and world of blind causes.

A behaviour which may seem like self-deception is an agent's deliberate avoidance of influences which she believes may lead her to reject her present commitments. Some religious sects, for instance, may avoid higher education or television because they believe that if exposed to these for too long, they would reject

²⁸ As we shall see in Part Three, coercive interference is justified where it would promote meaningful life - e.g where people are denied the freedom to exit communities which they no longer find meaningful; and where the interests of children in developing a capacity for meaningful life are at stake.

²⁹ As we shall also see in Chapter Eleven, this does not prevent us from employing argument and exhortation.

³⁰ Brink says of coherentism, "Because the process of reflective equilibrium is one we can (only) approximate to a greater or lesser extent, our moral views can exhibit coherence to different degrees, and the degree of justification with which we hold our moral views will vary accordingly." Brink, *Moral Realism*, 131.

their present way of life. Many people avoid participation in cults, and experimentation with cigarettes or drugs for similar reasons. Unlike self-deception, this is self-governance. As Frankfurt says of 'volitional necessity',

Not only does [a person] care about following the particular course of action which he feels constrained to follow. He also cares about caring about it. Therefore, he guides himself away from being critically affected by anything - in the outside world or within himself - which might divert him or dissuade him either from following that course of action or from caring as much as he does about following it³¹

Such behaviour is self-deceptive only if what is avoided is not undesirable influences, but dissonance-generating evidence of objective reality.³²

This concludes the second half of the defense of situated autonomy. The definition of autonomy as the examined life was rejected in Chapter Seven. Now that we have demonstrated that lives of open-minded conviction can be distinguished from dogmatic and unreflective lives, we have completed the argument that one does not have to exercise critical reflection to make one's governing assumptions *one's own* and, thus, to act autonomously.

II

By relying upon the model of the synthetic self, which treats the value of meaningful life as its basic premise, we have been able to develop mutually compatible conceptions of personal autonomy and identification with community. The appeal of these conceptions is suggested by their ability to improve upon accounts considered in Part One and to explain their weaknesses.

By associating situated autonomy with the life of open-minded conviction we overcome many problems with other liberal conceptions of autonomy. Unlike the politics of universalism, with its *free and equal rational being* whose full autonomy is realized through choice, situated autonomy recognizes the importance of the

³¹ Frankfurt, "Importance of What We Care About," 87.

³² Brink says of coherentism that "justified beliefs cohere with, among other things, observational beliefs over time." Brink, *Moral Realism*, 128.

freedom to pursue subjectively *significant purposes* based upon governing assumptions derived from identifications with communities. From this perspective, the problem with full autonomy is its refusal to acknowledge the potential fragility of self-identity - i.e. that some identifications can be so central to the meaning in people's lives that it can be unreasonable to expect them to replace them.

Unlike Kymlicka's choice-based conception of autonomy, which suggests that one only really makes her preferences her own through choice and critical reflection, and Kukathas's preference-based conception, which suggests that one's preferences are simply one's own, situated autonomy suggests that one's preferences are one's own if one has good reasons for continuing to adhere to the traditions from which they are derived. By emphasizing good reasons we can reject dogmatic adherence to historically contingent identifications, without requiring people to ponder the ultimate justification of their traditions. This allows, as Frankfurt says of volitional necessity, that identification, despite elements of historical contingency,

may be both self-imposed in virtue of being imposed by the person's own will and, at the same time, imposed involuntarily in virtue of the fact that it is not by his own voluntary act that his will is what it is.³³

The requirement of good reasons, then, puts a stop to the potentially corrosive effects of accepting that autonomy requires one to make one's preferences one's own.

Thus, by treating meaningful life, and not the development of a choice-based conception of personal autonomy, as its cardinal value, the model of the synthetic self resists transforming liberalism into a partially comprehensive moral doctrine. This improves upon approaches like Kymlicka's and Gutmann's which in promoting choice-based conceptions of personal autonomy require forms of socialization which, while not reflecting a substantive view of the good life, can fundamentally alter people's commitment to their ways of life. Arneson has justly criticized them for this:

Anyone with minimally liberal political instincts would be skeptical of the claim that an individual's good consists in spiritual salvation as defined by a

³³ Frankfurt, "Importance of What We Care About," 88.

sectarian religious doctrine. ... I submit that anyone should be equally skeptical of the claim that an individual's good consists in rational autonomy [i.e. autonomy as critical reflection]³⁴

The model of the synthetic self, then, is much more consistent with people's actual understanding of what is important in their own lives.

By associating 'identification with community' with self-identities which can be both *fragile* and *fluid*, we recognize the importance of identification and community while avoiding the problematic claim associated with proponents of the politics of difference that self-identity is so fragile that people should be treated as if they were permanently constituted by inherited communities.

Together these conceptions of personal autonomy and identification with community result in a theory of justice which emphasises the equal opportunity to pursue meaningful lives. This recognizes fundamental rights 'to identify freely, to propagate the community with which one identifies, and to change one's identifications,'³⁵ but does not require people to learn about other ways of life or to critically reflect on their own.

Despite its willingness to give moral weight to communities, there are two ways in which this remains a recognizably liberal theory of justice. One is that it treats the individual and her well-being, rather than the community and its interests, as a central measure of value. The other is that by treating meaningful life as its cardinal value, this theory avoids transforming liberalism into a partially comprehensive moral doctrine. In Part III we will explore some practical implications of a politics of the synthetic self.

³⁴ Richard Arneson, "Autonomy and Preference Formation," in *In Harm's Way: Essays in Honor of Joel Feinberg*, ed. Jules L. Coleman and Allen Buchanan (Cambridge: Cambridge University Press, 1994), 67.

³⁵ Kymlicka, *Multicultural Citizenship*, 156.

Part Three: A Politics of the Synthetic Self
Chapter 9: Legitimate Claims for Special Protection

"The things you value, that which makes life meaningful to you are not the same with us in many respects. But we respect your beliefs. We expect nothing more in return."

Benny Atencio, Santo Domingo Pueblo¹

Part Three explores the implications of taking the model of the synthetic self and the value of meaningful life seriously. This requires considering three general questions with respect to special protection for communities: when are claims for special protection justified?; what principles should govern the design of special protection?; and when is coercive interference with the internal practices of communities justified? Chapter Nine discusses the conditions under which claims for special protection are justified and considers how such claims should be initiated. Chapter Ten suggests principles to govern the design of special protection. While the conclusions of Chapters Nine and Ten only apply to the small proportion of all possible communities which would ever qualify for special protection, Chapter Eleven addresses an issue which applies to all communities. It considers when interference by the state in the internal practices of a community can be justified.

Chapter Nine begins by suggesting in Section I why special protection should not be considered anomalous privilege. In Section II we begin to consider the requirements governing when special protection is justified. We consider the principle that communities must connect their members with contexts of values which support their capacity for autonomy and meaning and discuss how this gives rise to potential sources of conflict. Section III continues this exercise. It addresses the second and third requirements for determining the legitimacy of claims. Finally, in Section IV we discuss how claims for protection should be initiated.

¹ U.S. Congress. Senate, 29.

I

From the perspective of the politics of universalism the special protection which might be extended to communities appears anomalous and illegitimate. In this section we suggest how the politics of the synthetic self removes this appearance without invoking the essentialist claims of the politics of difference.

This is achieved by emphasizing two propositions. The first is that given the conclusions of the preceding chapters, we should treat the political community as a social union of individuals who unite to facilitate the pursuit of meaningful lives. This suggests that the state's legitimacy depends upon its ability to provide people with an equal opportunity to pursue meaningful lives.

The second proposition is this: while, other things being equal, i) the equal distribution of political rights and economic resources recommended by the politics of universalism is sufficient to satisfy our autonomy interests in leading our lives from the inside and being free to examine them;² and, ii) the universal freedom of association recommended by Kukathas is sufficient to sustain our interest in identification with communities, other things are not always equal.

If we accept these propositions - that the state has a duty to provide people with an equal opportunity to pursue meaningful lives and that circumstances are not always such that this can be achieved by a strictly equal distributions of rights and resources - then we must admit that the state does not have a duty to distribute rights and resources equally to all citizens. On this view, the extension of special protection to particular communities is not anomalous. Instead, universal and special rights represent equally legitimate tools at the state's disposal to achieve the single goal of equal respect for meaningful lives.

Our model is also capable of distinguishing between justifiable and unjustifiable protection. As shall become apparent, some forms of special protection which have been promoted in the literature are compatible with the model of the synthetic self -

² Kymlicka, *Liberalism, Community, and Culture*, 13.

like special rights to enable communities to preserve themselves against external threats,³ and rights designed to provide communities with special resources and opportunities⁴ - and others are not - like measures designed to ensure representation of particular communities in the policy-making institutions of the wider political community.⁵

II

Since every accommodation made for members of one group necessarily limits the resources and opportunities available for nonmembers to pursue their own purposes, it is crucial that only claims for special protection which are consistent with equal respect for meaningful lives succeed. In Chapter Six we suggested three conditions under which the extension of special protection is consistent with respect for meaningful life: where it can be shown that a community contributes to the meaningfulness of its members' lives; where it can be reasonably established that people are threatened with the involuntary loss of access to the community; and where the likelihood that they would be unable to replace it with new meaning-sustaining

³ For example, the right to restrict the mobility, residency, and political rights of members and nonmembers (Kymlicka, *Liberalism, Community, and Culture*, 146; Van Dyke, "Collective Entities and Moral Rights," 37); residency requirements on the right to vote; immigration restrictions; right to refuse education and public services in the majority language (Kymlicka, *Liberalism, Community, and Culture*, 146-50); and a veto over legislation affecting crucial community interests. Ibid., 147; I.M. Young, "Polity, and Group Difference," 262.

⁴ For example, public funding to help community members organize (I.M. Young, "Polity and Group Difference," 261); recognition of minority customs and practices by public bodies and private corporations (Raz, "Multiculturalism," 174-5); public support of autonomous cultural institutions like voluntary organizations, libraries, museums, theatre; allowing communities to educate their own children (Van Dyke, "Collective Entities and Moral Rights," 36-7; Raz, "Multiculturalism," 174-5); affirmative action to redress past discrimination (Van Dyke, "Collective Entities and Moral Rights," 37); and enabling courts to distinguish preferential from discriminatory treatment. Fiss, "Groups and the Equal Protection Clause," 161.

⁵ For example, efforts "to secure the participation of all communities in all decision-making bodies," (Van Dyke, *Human Rights, Ethnicity and Discrimination*, 206; I.M. Young, "Polity & Group Difference," 261-2) and political communalism whereby members of identified communities are assured political representation. Van Dyke, "Collective Entities and Moral Rights," 36; Kymlicka *Multicultural Citizenship*, 26-33.

identifications can be demonstrated. In sections II and III we examine these requirements in greater depth and illustrate what they might mean through empirical cases, with special reference to the Pueblo of New Mexico, the francophones of Quebec, Welsh-speakers of Wales, and the Coast Salish of British Columbia. In this section we focus exclusively on the first condition.

We have described two general ways in which communities might contribute to the meaningfulness of their members' lives. First, and primarily, they connect the individuals who identify with them to contexts of values which inform significant purposes, the pursuit of which provides meaning to their members' lives. This function, as has been noted, can be performed by communities which embody moral traditions, but is more likely to be performed by communities which embody purposive traditions. A second way is specific to communities which act as moral traditions. Such communities can contribute to meaningfulness by providing an environment which sustains the communities whose contexts of values actually inform people's purposes.

In the normal course of events, such communities will exist unnoticed for the most part and will certainly not be in need of special protection. This is generally a good thing. As Amelie Oksenberg Rorty notes, "cultural cohesion and continuity are sometimes best served by allowing ends and norms to remain vague and ambiguous so that contending groups can interpret them in their own ways without pressing for a consensus on their specification."⁶ Unfortunately, if we are to extend special protection to a community, we must give it some definition. This is required to justify protection in general and, where communities are to be empowered to provide benefits and impose obligations, to define membership.⁷

Thus, how we extend special protection to communities can have serious effects

⁶ Rorty, "The Hidden Politics of Cultural Identification," 161.

⁷ For instance, Coulombe notes, "With community membership come certain duties to respect the good of the community, especially if non-respect leads to the disruption of the community's values that are central to its identity." *Language Rights in French Canada*, 123.

on people's ability to sustain meaningful lives. Attempts to describe the contexts of values which define communities are fraught with difficulties and potential sources of conflict. Two have troubling implications for the success of our project. These concern the definition of community membership and the burdens which may be imposed on nonmembers.

A problem with describing a community's context of values in order to protect it, is that we cannot avoid also defining the nature of the community and its membership. This problem has been described by Rorty.

A liberal state attempting to preserve a culture must, of course, specify the identity of the culture. But cultural descriptions are politically and ideologically laden. ... The implicit cultural essentialism of a good deal of celebratory multiculturalism disguises the powerful intracultural politics of determining the right of authoritative description.⁸

How a community's context of values is defined seriously affects people's ability to sustain meaningful lives by pursuing significant purposes. Some will be included in the community while others will not; some purposes will be protected and promoted, others will be discouraged or banned. Thus, if our project is to succeed, we must be able to define communities so as to minimize any negative effects.

One way problems can arise is if a community is defined so narrowly that its membership criteria are *too exclusive*. This can reflect a conflict between the community's need to protect itself as a context of values, and individual members' need to exercise normal and meta-agency. It usually pits those who would impose exclusive and/or essentialist definitions of membership which threaten the "more complex understanding of multiple identities that change both over time and according to the context",⁹ against others who identify with the community and rely on it, but who, through the exercise of situated autonomy, come to challenge these essentialist

⁸ Rorty, "The Hidden Politics of Cultural Identification," 158.

⁹ Anne Phillips, "Dealing With Difference: A Politics of Ideas or a Politics of Presence?" *Constellations*, 1 no. 1 (1994), 85.

definitions.¹⁰ This can cause serious harm when it leads to the exclusion, not just of those whose beliefs are fundamentally inconsistent with the community's context of values or whose actions threaten its survival, but also those who rely upon their identification with the community for meaning in their lives.

Typically, definitions are too narrow where those who are excluded are committed to the community's goods and values, but disagree about their interpretation or how they are put into practice. The Sikh community in British Columbia seems to provide an example of such conflict. Equality, a basic tenet of Sikhism, is said to be expressed in *langar*, the after-service meal in which "everyone prepares the food together, sits together and eats together."¹¹ A controversy has erupted in the community over whether equality requires all to eat on the floor or whether it is consistent with the use of tables and chairs. While no perfect definition of this community is probably forthcoming, it seems clear that any definition which excluded people who accepted the value of equality but took one or the other position on the *langar* issue, would be too exclusive to be consistent with respect for meaningful life. Conversely, the exclusion of those who reject the value of equality altogether would not be inconsistent. Thus, definition of a community is problematic when it leads to membership criteria which are more exclusive than is necessary to preserve the community as a context of values.

While overly narrow definitions of membership can give rise to conflict, difficulties are also associated with criteria which are too broad. This can lead to two different kinds of problem. One concerns *free riders* - people who try to benefit from a community without contributing to its survival. Not all free riders seek the same benefits. For instance, some may wish to partake of a community's context of values

¹⁰ This problem is reflected in Kukathas's warning that to regard "the wider group as the bearer of cultural rights is to affirm the existing structures and therefore to favor the existing majority." Kukathas, "Are There Any Cultural Rights?," 111.

¹¹ Robert Matas, "Religious ruling comes as blow to liberal Sikhs," *Globe And Mail*, April 28, 1998, A 2.

without doing anything to sustain it. Coulombe provides an example with respect to the francophone community in Quebec:

I am thinking here of those French-Canadian parents who wish to send their children to English schools so long as nobody else does the same. This way their own children might have better chances of upward mobility and Quebec would remain French.¹²

In other cases, free riders are simply interested in the privileges associated with membership.¹³ For example, it was said of 'returnees' to Pueblo communities:

now that tribal lands have shown great economic potential, those Indians are looking back to the reservation, not so they can identify with those who stayed and hold on to vestiges of tribal entity and thus far preserved it, but so they may claim property rights.¹⁴

Whatever their motivation, the trouble with membership criteria which fail to exclude free riders is that the actions of free riders may undermine the context of values which makes the community valuable for its more committed members.¹⁵

A second problem associated with broad membership criteria is that they may undermine *voluntary* membership. People can be involuntarily included in a community's membership in two ways. On one hand, community members who reject their membership in the community may be denied the freedom to exit the community.

¹² Coulombe, *Language Rights in French Canada*, 123.

¹³ Kukathas notes, quoting Donald Horowitz, "Group boundaries 'tend to shift with the political context'", Kukathas, "Are There Any Cultural Rights?," 110.

¹⁴ Emory Sekaquaptecco Jr., in U.S. Congress. Senate, 121.

¹⁵ Harrison Bull said of the effect of returnees to reservations under Bill C-31 (which reinstated Indian women [and their children] who had married non-Indians):

Bill C-31 will accelerate the loss of the Cree language and culture because of the permitting of non-Cree-speaking persons into [the reserve] ... Many of the reinstates and their children no longer speak Cree, and many have little appreciation of Cree culture. Bill C-31 undermines the customs and values of traditional Indian families and communities [House of Commons, "Minutes of the Proceedings and Evidence of the Standing Committee on Aboriginal Affairs and Northern Development" (Ottawa: Canadian Government Publishing Centre, Issue No. 39, April 27, 1988), 56.

Similarly, Emory Sekaquaptecco, Jr. described Pueblo returnees as "Indians who have experienced life away from the reservation for extended periods and have become habitual [sic] in the 'individual rights concepts of their economic and social surroundings.'" U.S. Congress. Senate, 121.

On the other hand, communities may impose membership duties and obligations on people who do not identify with them. The danger in both cases is that such involuntary members may be forced to fulfil obligations or participate in practices which they either find meaningless or which frustrate the meaningful purposes which they have set for themselves.

Besides its effects on membership, another potential source of conflict arising out of the description of a community concerns burdens which may be imposed on nonmembers. This reflects the fact that in providing special protection for one group, we necessarily place limits on the ability of those who must support it to pursue their own significant purposes. Such limitations may be monetary (e.g. taxes to finance subsidies) or they may involve lost liberties or opportunities (e.g. denial of the right to use certain parcels of land or post signs in a particular language). Respect for the meaningfulness of all lives requires the minimization of such burdens.

Thus in describing a community, we must aim to strike a balance between the need of those who rely on the community to preserve it as a context of values, individual members' needs to preserve the fluid and multiple nature of their self-identities and identifications, and nonmembers' need to pursue their own purposes. Through the illustrative cases which follow we wish to demonstrate: i) that while the model of the synthetic self will not allow us to eliminate all of these problems, by providing us with a better understanding of what is at stake, it helps us ensure that they are alleviated; and ii), that while the identification and description of communities as contexts of values will always be difficult, the problems associated with this are not so insurmountable as to render a politics of the synthetic self impossible.

One community which has been much discussed in the literature is the Pueblo of New Mexico. This is a clear example of a situation in which the description of a community has been contested. The controversy, in our terms, surrounds the question of whether the community's context of values should be recognized as requiring a commitment to a 'semi-theocratic' form of government. The problem is that this would seem to exclude from membership those Pueblo who had converted to

Protestantism.¹⁶ Two important positions have been taken, both of which pose serious problems from our perspective.

Frances Svensson, accepting the position of some Pueblo that violation of religious norms would threaten the "survival of the entire community", writes,

Granting that some individuals, and even sub-groups, within the minority might find themselves, in their acceptance of dominant group values, 'discriminated' against ... there remains an 'appeal' of last resort for them - merger with the dominant society. If the rules of the dominant society are imposed upon the minority community across the board, the minority community has no place left to go, no refuge in which its values and priorities can be recognized. Of two possible injustices, the former appears to be more acceptable than the latter, since it preserves maximum openness of opportunity to members of both dominant and dependant communities.¹⁷

A problem with Svensson's position, from our perspective, is that it appears to presume that individuals either identify with the dominant or the dependent community. This permits the idea of the Protestants simply 'merging' into the dominant society to appear quite reasonable. By focusing on communities as contexts of values rather than historical communities, however, we can recognize the possibility that people have constructed self-identities which rely equally upon their Protestant and Pueblo identifications. On this view, the proposed 'merger' would clearly endanger their ability to sustain meaningful lives.

Kymlicka takes the position that allowing religious freedom within the Pueblo community (thus denying that semi-theocracy is essential to the community's description) would not undermine it as context of choice since it "wouldn't make the Pueblo vulnerable to being outbid or outvoted on crucial issues by the non-Pueblo population ...; nor would it create internal disintegration". Further, he says, "were the

¹⁶ For instance, it was alleged in *Toledo et al v. Pueblo de Jemez* (1954) that Protestants were refused full participation in the community by being denied rights to: bury their dead in the community cemetery; build a church on Pueblo land; use their homes for Church purposes; permit Protestant missionaries to freely enter the Pueblo; use a communal threshing machine. Warren Weston, "Freedom of Religion and the American Indian," in *The American Indian: Past and Present*, ed. Roger L. Nichols and George R. Adams (Waltham, Mass.: Xerox College Publishing, 1971), 265-6.

¹⁷ Svensson, "Liberal Democracy and Group Rights," 433, 437.

theocracy ended, each majority member of the Pueblo would have as much ability to use and interpret their own cultural experiences as the dissident minority, or, indeed, as member of the non-Indian community."¹⁸ From our perspective, this appears to beg two important questions. First, do we not have to first decide whether Protestant Pueblos are members of the Pueblo community, before we can determine whether granting religious liberty will cause the Pueblo to be outvoted on 'crucial issues'? Second, how can we know that the Pueblo's ability to 'use and interpret their cultural experiences' has been preserved if we refuse to define those experiences?

From our perspective, the way to resolve this issue is to determine whether we can identify a Pueblo community whose context of values contributes to the meaningfulness of its members' lives without undermining their identifications with other valuable communities. In this case it appears that we can identify such a community which is defined broadly enough to include the Protestant Pueblos.

While Svensson quotes Domingo Montoya, a Pueblo, as saying that "We are virtually the only American Indians who have managed to retain their social and political systems intact from prehistoric times",¹⁹ this is simply not true. Rather, the Pueblo historical community appears to sustain a multicultural melange of communities of shared goods which embody purposive traditions. These can be described as native spiritual, Spanish Catholic, and 'American' or 'Anglo'.²⁰ Suina and Smolkin argue that despite much mutual interpenetration²¹ the Catholic and native religious communities "remain very separate and distinct in overall philosophy

¹⁸ Kymlicka, *Liberalism, Community, and Culture*, 196.

¹⁹ Svensson, "Liberal Democracy and Group Rights," 432.

²⁰ Joseph H. Suina and Laura B. Smolkin, "The Multicultural Worlds of Pueblo Indian Children's Celebrations," *Journal of American Indian Education*, Spring 1995, 19.

²¹ In the Tewa Pueblo, Spanish and native political institutions are so merged "that no one has yet been able to disentangle them in any analytically satisfactory way." (Alfonso Ortiz, *The Tewa World*, (Chicago: The University of Chicago Press, 1969), 61) Pueblo officials receive a double spiritual sanction: once from the chiefs who mediate with the supernatural, and once from the priest. *Ibid.*, 67.

and forms of expression."²² In fact, Catholicism has gained such importance for "a small segment of the Pueblo population ... [that they] have chosen not to participate in native religious ceremonies."²³

The 'American' or 'Anglo' context of values is reflected in both communal practices and individual values. For instance, such 'American' cultural celebrations as Christmas, President's days, and Thanksgiving are integrated into the Pueblo ceremonial calendar.²⁴ Those who identify with this community might be characterized as sharing convictions like these: "The reservation, regardless of what may be said, is part of the United States of America and should abide by the same laws, rules, and regulations as anyone else";²⁵ and "[The U.S.] includes the Indian reservation. We are not a different nation."²⁶

Despite identifying with these various communities, people also appear to retain identifications with a distinctly Pueblo community. We might characterize this wider Pueblo community as a moral tradition which contributes to the meaningfulness of its members' lives both by providing a context within which these various purposive traditions survive, and by promoting values associated with 'the maintenance of a Pueblo way of life.' It will be useful, then, to attempt to describe this community and to explain why there might be room in it for the Protestant dissidents.

The Pueblo community "encompasses some forty thousand people speaking six mutually unintelligible languages and occupying thirty-odd villages stretched along a

²² Suina and Smolkin. "Multicultural Worlds," 21.

²³ Ibid., 20-1.

²⁴ Halloween is a tri-cultural event. It is an 'American' cultural celebration whose Christian roots - All Soul's Day - have special resonance with natives who believe in ancestral spirits. Ibid., 23.

²⁵ Congress. Senate. 55.

²⁶ Ibid., 58.

rough crescent of more than four hundred miles."²⁷ Despite such diversity, Ortiz suggests that there exist across the many Pueblo villages

enough broad similarities ... to know that the Pueblo are related to one another culturally and they belong together conceptually, [even if one] cannot put a finger on any invariant cultural property held in common throughout the Pueblo crescent at any one time.²⁸

We suggest that a reasonable description of the values which characterize this moral tradition would include a sense of communal duty, a desire for harmony, an identification with the land, and a keen sense of 'Puebloness' which influences everything from the conduct of politics, to personal conceptions of right conduct, to the way that communal resources and obligations are allocated. We will briefly describe these values below.

The sense of duty and preference for communal harmony over individual achievement and aggrandizement are reflected in Pueblo practices, institutions, and ways of thinking. The traditional Pueblo special events calendar, for instance, contains no days to commemorate individuals' accomplishments, since, as Suina and Smolkin explain, in this "group-oriented society ... individual status has been of minimal importance."²⁹ Institutionally, this is expressed in the requirement that, in lieu of taxation, all tribal members "perform certain community functions which will benefit the whole tribe".³⁰ It is also expressed in ways of thinking: the belief that making oneself useful to "the people that I care about and to my community," and making "a commitment to your group of people" is "what Zuni is all about";³¹ in the rhetorical

²⁷ Alfonso Ortiz, "The Dynamics of Pueblo Cultural Survival," in *North American Indian Anthropology*, ed. Raymond J. Demallie and Alfonso Ortiz, (Norman, Oklahoma: University of Oklahoma Press, 1994), 296.

²⁸ *Ibid.*, 297.

²⁹ Suina and Smolkin, "Multicultural Worlds," 20.

³⁰ U.S. Congress. Senate, 20.

³¹ Quoted in Barry Osborne, "Cultural Congruence, Ethnicity, and Fused Biculturalism: Zuni, and Torres Strait," *Journal of American Indian Education*, 28 (January 1989). 11.

question, "What is the goal of every society or government? Is it not harmony?";³² and in the fear that 'one man, one vote' majority-rule is incompatible with the practice of consensus-seeking.³³

Ortiz suggests of the value of identification with the land that the fact that the Pueblo have never been displaced from their homelands has contributed to their cultural survival since "the Pueblos only believe in what they see and experience, and in their homeland they can see what they believe."³⁴ For the Tewa this means having a religious shrine located two miles north of town.³⁵ For the Taos it means the return of Blue Lake (the "sacred place in which life began") to native control after a seventy-year struggle.³⁶

Finally, the Pueblo's keen sense of identity is expressed, reinforced, and constantly reinterpreted through the complex ceremonial-festival networks which Ortiz says "may well constitute the single most important mechanism of cultural survival and revitalization that the Pueblos have".³⁷ Dance, especially the communal burlesquing of non-Pueblo groups like the Comanche and Navajo, and the individual burlesquing of 'others' like tourists, Catholic priests, Bureau of Indian Affairs school teachers, politicians, and village members who have "behaved in an unacceptable manner" by 'clowns',³⁸ performs two important functions. On one hand, it "simultaneously expresses what is Pueblo and what is not Pueblo. ... [and] reminds the

³² U.S. Congress, Senate, 38.

³³ *Ibid.*, 7.

³⁴ Ortiz, "Dynamics of Pueblo Cultural Survival," 297-8.

³⁵ Ortiz, *Tewa World*, 70.

³⁶ J. Wunder, *'Retained by the People': A History of American Indians and the Bill of Rights*, (Oxford: Oxford University Press, 1994), 163.

³⁷ Ortiz, "Dynamics of Pueblo Cultural Survival," 303, 304.

³⁸ Jill D. Sweet, "Burlesquing the Other in Pueblo Performance," *Annals of Tourism Research*, Vol. 16 (1989), 67-8, 71.

Pueblo people of community obligations, their beliefs, their values, and their vision of the world."³⁹ On the other hand, it helps the Pueblo, who "have strong notions of world order and boundaries",⁴⁰ to make sense of and adapt to their ever-changing world. Through ritual dance they

take important events of the past that intruded upon them and freeze them into place ... lock[ing] those events comfortably onto their own cultural landscape. This renders what may have begun as a disturbing and disruptive historical intrusion into a permanent, ... unvarying and therefore, unharmed, part of their communal experience.⁴¹

This suggests, then, the possibility of describing a Pueblo community as a context of values which contributes to the meaningfulness of its members' lives, and which is detailed enough to allow for its protection. This definition appears to be broad enough to include those who wish to identify as both Protestant and Pueblo.⁴² We should note, however, that this happy separation of a community's moral tradition and religion is neither required, nor always necessitated, by our position.

A similar approach might be taken with another community which has demanded special protection: the Welsh-speaking community in Wales. The problem in this case is that there appears to be no one Welsh-speaking community of shared goods which could be described as informing purposes which contribute to meaningfulness of its members lives.

Borland, Fevre, and Denney have described four communities which, in our terms, appear to embody purposive traditions which support meaning in people's lives. Membership in the '*open community*' is open to anyone willing to share the community's purposes and embrace and promote the Welsh language and culture,

³⁹ Ibid., 73.

⁴⁰ Ibid., 66.

⁴¹ Ortiz, "Dynamics of Pueblo Cultural Survival," 303.

⁴² For example, Delfino Concha, a Protestant, said he had been denied the use of community property including the pasture and threshing machine "even after expressing [his] desire to share in the upkeep of the ditches on the reservation." U.S. Congress. Senate, 59.

"peace, ecology, freedom from nuclear contamination, and ... [the defense of] Welsh communities in both north and south Wales."⁴³ The '*culturally-closed, religiously-based community*' is described as "the Congregation before God, those who speak Welsh and those who share the Christian values of tolerance, freedom, democracy and family life." Membership is only open to those ethnic Welsh who will share obligations to follow God's will in their lives, "to support family life, to be tolerant and respectful of others, to give everyone in Wales the opportunity to reclaim their heritage and to seek political change."⁴⁴ Membership in the '*culturally-closed, secularly-based*' community, which is characterized by a commitment to language and community, is restricted to "those who speak Welsh and will promote the language" and obliges people "to speak the language, promote its development, defend houses, jobs and the community's resources".⁴⁵ Finally, the '*racially-closed*' community is only open to ethnic Welsh in whom the 'Spirit of the People' (*eneidfaeth*) flows. Obligations of membership include guarding and defending Welsh civilization, drawing nearer to the true Welsh of the countryside, and rejecting outside, especially English, influences.⁴⁶ Such various and competing definitions of the Welsh-speaking community appear to unsettle our project.

What this complexity at the level of purposive traditions masks, however, is a shared identification with the wider Welsh-speaking community as a moral tradition which aims to preserve the linguistic environment which sustains these subcommunities. By focusing upon the linguistic community we are able to describe the community in a way which both does not appear to exclude anyone who relies upon it and enables it to be protected.

⁴³ John Borland, Ralph Fevre, and David Denney, "Nationalism and Community in North West Wales," *The Sociological Review*, 40 no. 1 (Feb. 1992), 56.

⁴⁴ *Ibid.*, 61-2.

⁴⁵ *Ibid.*, 63.

⁴⁶ *Ibid.*, 64-6.

Another interesting problem is posed by the francophone community in Quebec. Here one might question whether its declared shared good of promoting the French language (as a "means by which a people may express its cultural identity" and "by which the individual expresses his or her personal identity and sense of individuality"⁴⁷) is substantive enough to contribute to the meaningfulness of lives. This concern is reflected in Rorty's claim that

Multicultural though they may be, the citizens of most European and American states ... are significantly motivated by similar economic practices. ... Typically, their shared identity-defining motives - and the vast range of interpretive habits they carry with them - permeate and often outweigh their cultural differences.⁴⁸

It is important to address this criticism because I believe it reflects a strength of the model of the synthetic self. Rorty's claim is directed at defenses of cultural rights which assume that cultural communities have some special or exclusive relationship to people's identities. This is not our position. Rather, our claim is that cultural communities are important because people's identifications with them contribute to the meaningfulness of their lives. We make no claims to exclusivity. Thus, in the case of the francophone community in Quebec, while there is much similarity between living as an entrepreneur or a union leader in Quebec, Ontario, and upstate New York, the fact that one fills these roles as a francophone Quebecois adds a layer of meaning and purpose which would be undermined if this community ceased to exist.

The really troubling question about the Quebecois case concerns not whether it contributes to the meaningfulness of people's lives, but rather whether it is to be defined on purely linguistic basis, or on a linguistic *and* ethnic basis. The problem with the latter is that it risks both the inclusion of people who qualify ethnically, but who do not identify subjectively with the community, and the exclusion of people who lack the ethnic qualifier, but do subjectively identify. Thus, in this case, the definition

⁴⁷ *Ford v. Quebec (Attorney General)*, 88/712 (Supreme Court of Canada, 1988), 749.

⁴⁸ Rorty, "The Hidden Politics of Cultural Differentiation," 155.

of the community in terms of the language seems apt.

Finally, so as not to give the impression that all communities must embody individual rights-friendly 'moral traditions', we will discuss a couple of cases where the context of values is embedded in a purposive tradition. The first is that of communities which practice the Coast Salish Spirit Dance. While not all Salish are dancers, the dance and the social gatherings called 'big dances', of which spirit dance forms an integral part, appear to embody and express a context of values which contributes to the meaningfulness of members' lives. The functions performed by spirit dancing are evident from two perspectives: that of the dancers, and that of the observers.

The practice of the spirit dance for the dancer has changed from pre-contact times. Then it was believed that to "produce either food or wealth, a man had to have one of a number of special skills which ... were acquired and practised with the aid of the supernatural."⁴⁹ Such aid was believed to usually come in the form of a vision during which

the seeker encountered some animal - real or mythical - which conferred upon him a particular skill and became ... his guardian spirit. The seeker also usually received a ... 'spirit song,' which came to him some winter later in life and made him sick. A shaman or ritualist recognized the sick person as ... a 'new dancer' and helped him to control his song and ... to dance with it in a state of possession.⁵⁰

In this century spirit dancers' songs are rarely associated with specific skills or professions: they no longer suggest "I am a great hunter, or a great canoe maker, or warrior".⁵¹ While Salish themselves have explained the continuing functions of spirit dancing as therapeutic ("If we can't sing, we'll get sick!"), as an expression of the

⁴⁹ Wayne Suttles, "Spirit Dancing and the Persistence of Native Culture among the Coast Salish," in *Coast Salish Essays* (Vancouver: Talon Books, 1987), 204.

⁵⁰ *Ibid.*, 204.

⁵¹ *Ibid.*, 207-8.

Indian Way, and as an instrument of social control,⁵² Suttles and Amoss believe it performs several latent functions. For Suttles it acts as an expression of identity: to spirit dance is to proclaim, 'I am an Indian.'⁵³ For Amoss it provides "a system of meaning".⁵⁴

For both dancer and observer, spirit dancing expresses and validates central communal values: personal autonomy ("The dancer's relations with the supernatural are direct, singular, and immediate. There can be no interference between a person and 'what he has.'"); kin solidarity ("A person's vision is his alone, but he cannot really develop a full relationship with his vision unless his kin support him during the initiation process."); and differential social rank (to attain prestige, one must 'do things right': this "includes knowing how to behave, knowing how to reply when called as a witness, knowing what to do in the event of an accidental fall or loss of part of a costume, as well as being able to pay for things.").⁵⁵

Suttles says that the 'big dances' have "become the vehicle for the survival of a good deal of potlatch behaviour" which has declined with the integration of the Salish into the modern economy.⁵⁶ In addition to spirit dancing, 'big dances' involve 'the work', a remnant of the potlatch in which people engage in complex 'naming' and gift-giving traditions which affect their status within the community.⁵⁷ Amoss believes these rituals perform the latent functions of keeping people from assimilating into the dominant society by preventing them from fully participating in its economic

⁵² Pamela Amoss, *Coast Salish Spirit Dancing: The Survival of an Ancestral Religion* (Seattle: University of Washington Press, 1978), 142-4.

⁵³ Suttles, "Spirit Dancing," 208.

⁵⁴ Amoss, *Coast Salish Spirit Dancing*, 145.

⁵⁵ *Ibid.*, 145-151.

⁵⁶ Reliance on summer work made the traditional potlatch festival inconvenient. Suttles, "Spirit Dancing," 207-8.

⁵⁷ *Ibid.*, 200-206.

system,⁵⁸ and of promoting in-group solidarity by giving "people a chance to affirm their worth as individuals and as Indians in a milieu from which whites are excluded."⁵⁹ Big dances seem, to use Benedict Anderson's term, to provide members of the many Salish peoples with a 'common pilgrimage'⁶⁰ by "getting people from different parts of the Salish area together."⁶¹

Given this description of the community's context of values, then, it seems clear that one criterion of membership must be acceptance as an ethnic member of the community. A danger inherent to including ethnicity in the definition of membership is that community members may interpret this to include everyone who satisfies the ethnic qualification - even those who do not subjectively identify with the community. An example of this occurred in British Columbia with respect to the initiation of a spirit dancer. While two of the traditional processes by which one can become a spirit dancer do not jeopardize voluntary membership (seeking one's vision on a solitary journey, and having one's dream come unsought while suffering grief), the third can. It involves inducing a person's spirit song "by means of a ritual abduction and isolation".⁶² This has been associated with the socialization of deviants.⁶³ This

⁵⁸ Amoss, *Coast Salish Spirit Dancing*, 152.

⁵⁹ *Ibid.*, 158, 163.

⁶⁰ Benedict Anderson, *Imagined Community*, (London: Verso, 1983), Chapter Four.

⁶¹ Amoss, *Coast Salish Spirit Dancing*, 159.

⁶² Suttles, "Spirit Dancing," 204. The process is commenced by the initiate being "grabbed" by his or her initiators, and taken to a Long House and there detained for a number of days, While in the Long House, the initiate undergoes a process which includes being lifted horizontally to shoulder or head height, by eight or so initiators who, among other things, blow on the body of the initiate to help the initiate "bring out" or sing his or her song. ... During the process the initiate participates in rituals including a ceremonial bath, dressing in clean clothes, fasting and sleeping in a blanket tent set up in the House. *Thomas v. Norris*, 88/412 (Supreme Court of British Columbia, 1992), 34.

⁶³ "If a young adult is drinking heavily, is involved in a romantic affair of which his family disapproves, or simply is being difficult and rebellious, he may find himself 'grabbed' and initiated as a dancer for the express purpose of correcting his behaviour." Amoss, *Coast Salish Spirit Dancing*.

third process was imposed upon a person who clearly did not identify with the community, thus showing disrespect the meaningfulness of his life.⁶⁴ Thus, in this case, as in any case where membership is defined in ascriptive terms, membership criteria must include self-identification.

Our final case is that of the Amish who were involved in the much-discussed case of *Wisconsin v. Yoder*. In this case the community's context of values is embodied in a purposive tradition. This emphasizes the rejection of institutionalized churches, a

return to the early, simple Christian life de-emphasizing material success, rejecting the competitive spirit, and seeking to insulate themselves from the modern world. ... [Also] a fundamental belief that salvation requires life in a church community separate and apart from the world and worldly influence. ... [and] devotion to a life in harmony with nature and the soil⁶⁵

Given the very narrow focus of the community's shared purpose, there appears to be no way to define it such that those who did not share these convictions could be included in its definition of membership. This is not especially problematic from our perspective, however, since people who were excluded on this basis would not seem to be harmed in their pursuit of meaningful lives.

Thus, we hope our discussion of these cases has demonstrated that it is possible to satisfy our first criterion for establishing a claim for special protection communities and, thus, contrary to the opinions of some, that the problems associated with describing communities are not insurmountable.

III

The second criterion for justifying special protection is that communities must

143.

⁶⁴ David Thomas was grabbed and initiated into the spirit dance tradition, even though He never authorized anyone to have him initiated into the society, and he did not want to be a member of it. He knew very little about the religion of the Coast Somenos people. He was not, and is not, really interested in learning about their culture. He was not brought up in it and lived off the Reserve most of the time. *Thomas v. Norris*, 8.

⁶⁵ *Wisconsin v. Yoder* 92 Supreme Court 1526 (1972), 1530.

reasonably demonstrate that they will be threatened with destruction without it. While such questions must be answered hypothetically,⁶⁶ this appears to be a matter about which people can reach reasonable and plausible conclusions.

For example, evidence presented in the case of *Ford v. Quebec* was sufficient to convince the Supreme Court of Canada that special protection in the form of legislation designed to preserve and promote the place of the French language in Quebec represented "a response to a substantial and pressing need."⁶⁷ Evidence included: the declining francophone birth rate, the assimilation of francophones outside of Quebec, the preference of immigrants to assimilate into the anglophone community, and the "dominance of English at the higher levels of the economic sector."⁶⁸

Similar evidence could be marshalled to demonstrate the endangered status of Welsh-speaking Wales. The population of Welsh speakers has steadily declined both in absolute and relative terms over the last century.⁶⁹ The inability to create suitable employment has resulted in significant out-migration. De-industrialization has undermined the "coalfield communities where the largest numbers of Welsh speakers in Wales were to be found".⁷⁰ And the immigration of non-Welsh speakers, especially English retirees, has compounded the effects of emigration by reducing the available housing stock and forcing prices up.⁷¹ The cumulative effect of these

⁶⁶ To wait for a definite answer is to wait for the destruction of the community.

⁶⁷ *Ford v. Quebec*, 777.

⁶⁸ *Ibid.*, 778.

⁶⁹ The population of Welsh-speaker in Wales has declined from approximately 930,000 or fifty percent of the population in 1901 (Charlotte Davies, *Welsh Nationalism in the Twentieth Century: The Ethnic Option and the Modern State* (New York: Praeger, 1989), 39) to 508,098 or 18.6 percent in 1991. Janet Davies, "The Welsh Language," in *Post-War Wales*, ed. Trevor Herbert and Gareth Elwyn Jones (Cardiff: University of Wales Press, 1995), 55-58.

⁷⁰ J. Aitchison and H. Carter, quoted in J. Davies "The Welsh Language." 68.

⁷¹ Fiona Bowie, "Wales from Within: Conflicting Interpretations of Welsh Identity," in *Inside European Identities*, ed. Sharon Macdonald (Providence: Berg, 1993), 183. In 1989 the "percentage of such [holiday] homes, which were unoccupied for most of the year, was so high as to virtually

trends has been to gradually dilute concentrations of Welsh-speakers to the point that it has become increasingly difficult for Welsh-speakers to pursue their purposes.⁷²

The case of the Pueblo is different since they already receive special protection in the form of communal ownership of land and limited self-government. If we ask counterfactually whether the perpetuation of such protection is necessary to preserve the community, the lamentable experience of American Indian tribes which lost protection through allotment and termination policies suggests that protection is necessary.⁷³

The Coast Salish community, like the Pueblo, already receives some protection in the form of reserves. For similar reasons, it seems reasonable to assume that this could be justified. The main threat to spirit dancing is the judicial ruling that the practice of 'grabbing' is unlawful because it involves the illegal use of "force, assault, injury and confinement".⁷⁴ While we have argued that spirit dancing is of central importance to the community's context of values, the same cannot be said of the practice of 'grabbing' initiates. The fact that there are exist alternative, noncoercive ways to create new dancers makes 'grabbing' indefensible.⁷⁵ If somehow it could be shown that 'grabbing' was so integral to the community that its ban would lead to the community's demise, then some provision would have to be made to ensure that community members understood that the possibility of being subjected to this practice was a consequence of membership.

destroy the social life of many Welsh-speaking communities." C. Davies, *Welsh Nationalism*, 48.

⁷² As Gareth Jones notes, "the health of the language lies not only in the actual number of speakers, but also in the contexts in which it is spoken. ... The numbers of communities in which Welsh is the normal language of communication, so recently contiguous over the whole length of west Wales, continued to contract in the last decade [to 1994]". Jones, *Modern Wales*, 316.

⁷³ J. Wunder, *'Retained by the People'*.

⁷⁴ *Thomas v. Norris*, 40, 34.

⁷⁵ Justice Hood also suggested that 'grabbing' does not appear to be integral to spirit dancing. *Ibid.*, 43.

Finally, we should tie up a loose end concerning Rawls's example, which we introduced in Chapter One, of people who "count among their religious obligations going on pilgrimages to distant places or building magnificent cathedrals or temples." Rawls dismisses claims to special shares of resources on such bases because he believes they would be socially divisive.⁷⁶ Our approach distinguishes itself by being willing to entertain such claims. While we would have to know the details in particular cases, whether we would extend protection would depend upon whether being unable to fulfil these obligations would undermine the communities which inspired them, and whether the burden of supporting this protection would deprive nonmembers of an equal opportunity to pursue their own significant purposes.

A corollary to the second criterion reflects our concern about the burdens that special protection can place on nonmembers. In addition to demonstrating that they will be threatened with destruction if they do not receive special protection, communities must also demonstrate that such protection can reasonably be expected to make the community *viable*.⁷⁷ Of course, as Raz suggests, when determining which groups should receive protection, the fact that protection "changes the prospects of survival for cultures it supports" should be taken into account.⁷⁸ M. Estellie Smith describes a community as viable where there is a sufficient "population for the reproduction of new members who mature committed to the continuity of the socioculture's identity".⁷⁹ Evidence of such viability is

that members state a preference for the life-style of their natal society; that the majority, despite other available options, prefer living within their natal community to leaving and adopting a 'foreign' life-style; and that members

⁷⁶ Rawls, *Political Liberalism*, 329-330.

⁷⁷ Raz takes a similar position. He says that special protection should not be extended to cultures which have lost the ability to perpetuate themselves. Raz, "Multiculturalism," 158.

⁷⁸ *Ibid.*, 174.

⁷⁹ M. Estellie Smith, "The Process of Sociocultural Continuity," *Current Anthropology*, 23, no. 2 (April 1982), 130.

explicitly strive to make whatever adjustments are considered necessary to ensure the continuity of the socioculture.⁸⁰

Where long-term viability cannot be assured, protection may be extended, while still respecting the burdens of protection, by limiting it to a period sufficient to allow members to reorient their identifications and integrate into new communities.⁸¹

The final criterion for determining if special protection is warranted is that community members must demonstrate the likelihood that they would be unable to make new meaning-sustaining identifications with the communities presently available to them. Here too we must rely upon hypothetical assessments.⁸² While it is too much to expect precision in such matters, consideration of the facts in particular cases should allow us to reject the most frivolous of claims. A few examples will illustrate this point.

Amoss's explanation of why the many Nooksak (a subgroup of the Coast Salish) rejected Methodism in favour of spirit dancing, suggests how such a case might be constructed. In this case we might argue that only the spirit dancing community was capable of enabling the Nooksak to express such values as a personal and immediate relationship with the supernatural, being Indian, and their acceptance of social inequality. Amoss says that while the Nooksak viewed Pentecostalism as superior to Methodism because, "like spirit dancing, [it] offer[ed] opportunities for affirming personal worth in a supernatural context", it provided no basis for affirming their worth as Indians. Conversely, while the Indian Shaker Church shared with Pentecostalism and spirit dancing the encouragement of "spontaneous emotional expression", it was not as successful as the practices which accompany 'big dances'

⁸⁰ Ibid.

⁸¹ A contemporary example is 'The Atlantic Groundfish Strategy' in Canada which was primarily intended to help members of Newfoundland outport communities to adjust to the end of a way of life which had depended upon the Atlantic cod.

⁸² We do not want to wait until people actually experience *anomie*.

at expressing the value of social inequality.⁸³ Thus, for the Nooksak for whom spirit dancing is a shared good, there appear to be no viable alternatives with which they might choose to identify.

Similarly, Pueblo spiritual and historical communities require specific communal forms of political, social, and economic organization for their sustenance and expression. Meaning in lives whose purposes presuppose the supremacy of harmony and communal obligations would be difficult to sustain if communal ownership of the land were abandoned and the Pueblo were unwillingly integrated into the competitive political and economic systems of the 'Anglo' community.

Examples of cases which would not succeed can be found in testimony concerning Canada's Bill C-31 which reinstated native women who married non-natives and their children to Indian status. A Ms. Ennis testified that Bill C-31 "does not mean that we are going to have 1,000 women coming back at one time. Most of us are settled into communities already. We have our own lives."⁸⁴ Similarly, a Mrs. Mushquash replied, when asked if being reinstated would help her gain self-respect and a sense of cultural identity: "I had self-respect all my life. Being reinstated did not make it more. But to get medical and dental benefits, I am really pleased about that."⁸⁵ In both cases, our third criterion is not satisfied since the witnesses suggested that they had established meaningful lives after losing access to their communities.

Having explained the three criteria for justifying special protection and illustrated our claims with reference to several cases, we can now consider how such

⁸³ Amoss, *Coast Salish Spirit Dancing*, 163.

⁸⁴ House of Commons, "Minutes of the Proceedings and Evidence of the Standing Committee on Aboriginal Affairs and Northern Development," (Ottawa: Canadian Government Publishing Centre, Issue No. 16, May 14, 1985), 56.

⁸⁵ House of Commons, "Minutes of the Proceedings and Evidence of the Standing Committee on Aboriginal Affairs and Northern Development," (Ottawa: Canadian Government Publishing Centre, Issue No. 33, February 23, 1988), 35.

claims might be initiated.

IV

This section considers the initiation of claims. It takes seriously the suggestion that in making claims for special protection, people must be allowed to represent themselves or their groups and communities within the political system.⁸⁶ In this section we consider how we might respect this suggestion while remaining consistent with the model of the synthetic self.

The first thing we can note is that the model of the synthetic self cannot accept methods of enabling communities to initiate claims, such as that advocated by Iris Young, which require the predetermination of eligible groups. The problem is that such mechanisms deny the multiple and fluid nature of identifications.

Consider the idea of guaranteed group representation within legislative assemblies.⁸⁷ Such mechanisms are unable, by their very nature, to accommodate the multiple nature of identifications. For instance, both affirmative gerrymandering (redrawing electoral boundaries to increase the voting power of a minority group) and reserved representation (creating separate seats to represent self-identified members of minorities), rely on the essentialist assumption "that a single identification ... is the most important identification for the voter and that it remains so across time."⁸⁸ Consider the groups which Iris Young says might deserve protection: women, Native Americans, old people, poor people, disabled people, gay men and lesbians, Spanish-

⁸⁶ Anne Phillips calls this a 'politics of presence'. It claims that while it is important *which* ideas receive political representation, it is equally important *who* represents them, since "no amount of thought or sympathy, no matter how careful or honest, can jump the barriers of experience". ("Dealing with Difference," 75-91, esp. 76) Similarly Iris Young says a problem with democracy is that "unless confronted with different perspectives on social relations and events, different values and language, most people tend to assert their own perspectives as universal." I.M. Young, "Polity and Group Difference," 260.

⁸⁷ Similar arguments would apply to enumerated constitutional rights.

⁸⁸ Roger Gibbins and Loleen Youngman, "The Institutional Expression of Multiple Identities: The Electoral Reform Debate," in Thomas M.J. Bateman, Manuel Mertin, and David M. Thomas (eds.) *Braving the New World* (Toronto: Nelson Canada, 1995), 215-17, 217.

speaking Americans, young people, and nonprofessional workers.⁸⁹ Two things about such groups complicate the task of extending any special protection: individuals usually simultaneously identify with more than one such group; and few of these groups are monolithic: they are usually "differentiated by age, gender, class, sexuality, region, and nationality".⁹⁰ While the single transferable vote electoral system addresses the essentialist problem by allowing people to choose which identification *they* want represented at different elections, it does no better at allowing people to simultaneously represent more than one of their identifications.

In addition to failing to reflect the multiplicity of identifications, such mechanisms also fail to recognize the fluidity of self-identities. On one hand, some forms, like affirmative gerrymandering, force people to continue to represent one of their many identifications, whether it remains central to their identity or not. On the other hand, even where people are allowed to reject such designations, the fact that elections usually only occur every four to five years limits people's ability to reflect changes in the salience of their identifications. Communities given institutionalized protection today may not need it tomorrow, and communities which did not seem important today will have difficulty attaining it tomorrow.⁹¹

A further problem is that of identifying which groups will receive this special representation. This, in Iris Young's words, "poses a paradox of political origins".⁹²

⁸⁹ I. M. Young, *Justice and the Politics of Difference*, 265.

⁹⁰ *Ibid.*, 48.

⁹¹ Another problem with legislatures is that they tend to be ineffective at protecting a wide range of groups. For example, in Canada in 1993 each Member of Parliament was expected to represent between 30,000 and 90,000 citizens. Further, research concerning women suggests that to be effective, a group must have a critical mass of representation, estimated at between fifteen and thirty per cent - this limits the number of groups which can be effectively represented in such institutions. Linda Trimble, "Becoming Full Citizens: Women and Politics in Canada," in *Introductory Readings in Canadian Government & Politics*, 2nd ed., ed. Robert M. Krause and R.H. Wagenberg (Toronto: Copp Clark, 1995), 281.

⁹² I. M. Young, *Justice and the Politics of Difference*, 190.

Her solution, that of leaving the matter to the 'ongoing political discussion', only seems to create more problems. She suggests, rather optimistically, that

If democratic publics in American society accept this principle of group representation, as I have suggested a few have, they also are likely to name candidates for groups within them that deserve specific representation. Such an opening might sensitize the public to the need for other groups to be represented.⁹³

It seems unavoidable that such an approach would produce a hierarchy of community status. This should be considered dangerous for a number of reasons. First, as Anne Phillips has argued, mechanisms which protect communities by predetermining the ones which will receive protection risk

imposing a rigid definition of the identities that have to be included or the interests so far left out. The more complex understanding of multiple identities that change both over time and according to context is a potential casualty here.⁹⁴

Second, by creating such a hierarchy, an incentive is created for various groups to engage in zero-sum conflicts over the distribution of privileged status. This promises neither to ensure that protection is received by those groups which really need it, nor that group leadership will take a favourable attitude toward their members' participation in cross-cutting groups. As Phillips notes, by institutionalizing identity groups, we risk granting excessive power to group leaders over their members.⁹⁵ This increases the possibility of group closure which could block development and change within communities.⁹⁶ Thus we agree with Phillips's conclusion that we should reject arguments which call "for the extreme reversal of current liberal

⁹³ Ibid.

⁹⁴ Phillips, "Dealing With Difference," 85.

⁹⁵ Similarly, Fierlbeck writes that "it is naive to think that a positive belief in one's cultural or group similarities with others will dispel the struggle for power within the group." Fierlbeck, "The Ambivalent Potential of Cultural Identity," 21.

⁹⁶ Anne Phillips, "Democracy and Difference: Some Problems for Feminist Theory," *The Political Quarterly* 63 no. 1, (January-March 1992), 85.

democratic practice that would substitute group representation for the more general representation by political parties."⁹⁷

In place of the specific recognition and protection of communities, a politics of the synthetic self recommends an ethic of commitment to "adopt special measures that respond to the legitimate claims"⁹⁸ for the protection of communities. Whether simply reflected in the political culture, or given formal constitutional recognition,⁹⁹ is immaterial.¹⁰⁰ What is important is a willingness among all those involved in the policy process, and the political system in general, to consider and respect legitimate claims for special rights.¹⁰¹

This approach promises to better ensure that communities receive the protection which they deserve, while avoiding the problems associated with the permanent recognition of specific groups.¹⁰² On one hand, it leaves individuals free to try to protect or abandon any or all of the communities upon which the meaningfulness of their lives presently depends. One may to defend the Pueblo community today and

⁹⁷ Ibid., 86.

⁹⁸ Van Dyke, "Collective Entities and Moral Rights," 36.

⁹⁹ For example, the relevant clause might state: "Citizens have the right, where numbers warrant, to the protection of valuable communities of shared goods, when and for so long as those communities are threatened."

¹⁰⁰ I thank Richard Vernon for pointing out that this is not immaterial, however, where rights which may conflict with this right *are* constitutionally enumerated. In such cases this right would also have to be entrenched to prevent it from being trumped.

¹⁰¹ This is not unlike James Tully's suggestion that the idea of popular sovereignty be revised to mean that "culturally diverse peoples here and now seek to reach constitutional agreements from time to time by means of negotiations in which the conventions of recognition, continuity and consent are honoured." James Tully, "The Crisis of Identification: the Case of Canada," *Political Studies* XLII (1994), 95.

¹⁰² This will not be popular with communities which presently receive special protection, since it does not guarantee them perpetual protection. Thus, it will not satisfy the aspiration which Charles Taylor credits to Quebecois in Canada. He writes, "the aim is not only that francophones be served in French but that there will be francophones there in the next generation". Taylor, "Shared and Divergent Values," 165.

the Pueblo Catholic community tomorrow. On the other hand, it reduces the incentive to engage in the zero-sum games often associated with enumerated rights.¹⁰³

The idea of a general constitutional right is especially promising since it addresses Iris Young's concern that members of social groups need some power (she suggests a veto) to ensure that decision makers take "their perspectives into consideration".¹⁰⁴ Legal challenges would not necessarily have to be launched to have this effect. On one hand, the very threat that this right might be exercised creates an incentive for governments to seriously consider such demands. On the other, the risk of losing everything in the event that their case fails provides an incentive for community members to negotiate seriously.¹⁰⁵ Another argument in favour of a constitutional approach is that courts, being less exposed than legislatures to the day-to-day pressures of politics, are better positioned to consider the complicated arguments and evidence which such claims would involve.

With respect to the initiation of claims, then, the model of the synthetic self rejects approaches which give specific recognition to particular communities and suggests instead that protection be extended to communities in general. Thus, forms of specific protection like reserved representation, group-specific constitutional rights, and vetoes are rejected because they fail to recognize the fluid and multiple nature of

¹⁰³ For instance, Ian Brodie suggests that the extension of constitutional protection to specific groups can perpetuate problems of groups conflict within the political system. He concludes, in reference to the Canadian case, that "trying to resolve group-based conflict by conferring constitutional status on the groups promotes, not political stability, but rather damaging group competition." Ian Brodie, "The Market for Political Status," *Comparative Politics* 28 (1996), 267.

¹⁰⁴ I. M. Young, "Polity and Group Difference," 261.

¹⁰⁵ Kathy Brock says of attempts by North American Indians to secure rights through the courts that "while the political arena allows for compromise and negotiation, the legal forum forces issues into a zero sum situation with winners and losers." Kathy Brock, "The Issues of Self-Government: Canadian and American Aboriginal Policy Compared," in *Canada and the United States: Difference that Count*, ed. David Thomas (Peterborough, Ontario: Broadview Press, 1993), 263. See also, Melissa Williams, "Political and Judicial Approaches to Justice Toward Groups," in *Citizenship and Rights in Multicultural Societies*, ed. Michael Dunne and Tiziano Bonazzi (Keele, Staffordshire: Keele University Press, 1995).

self-identity and identifications.

V

Thus, the model of the synthetic self suggests that extending special protection to communities by creating unequal distributions of rights and resources *can be* consistent with treating people with equal respect. By employing the ideal of equal respect for the pursuit of meaningful lives we have been able to suggest some standards for determining the legitimacy of claims for special protection and for the design of processes by which claims for such protection should be initiated.

Chapter 10: The Design of Special Protection

"In our tradition, there is the principle that when one party benefits and the other party loses little or nothing, the first party shall be permitted to proceed Sure it's absurd to and irrational to believe that your life is going to be changed by the presence of a wire, but it's even more absurd and irrational to oppose it."

Emeritus Chief Rabbi, Lord Jakobovits¹

Even if we determine that a community warrants special protection, we must still consider how such protection should be designed. While we believe that many of the difficulties and potential sources of conflict discussed in Chapter Nine can be alleviated, our intention is not to develop an exhaustive list of principles to govern the design of special protection. Rather, we want to demonstrate how the model of the synthetic self can help us identify important issues, hard cases, and, ultimately, general principles regarding the design of special protection. For this purpose, we have chosen to discuss four areas of concern. These involve the extent of protection, the cost of protection, the duration of protection, and limitations on protection. We will discuss these and illustrate issues and hard cases by referring to empirical cases. In the end, we hope to demonstrate the capacity of our model to suggest reasonable general principles to govern the design and application of special protection.²

I

In Chapter Nine we identified two potential sources of conflict to which the extension of special protection can give rise. These concerned the definition of community membership and burdens imposed on nonmembers. The model of the synthetic self suggests that we should not assume that conflicts occur between

¹ Calvin Trillen, "Drawing the Line," *The New Yorker*, December 12, 1994, 51.

² While the argument and examples we consider in this chapter pertain to communities which constitute minorities within the wider political community, the principles we develop are also applicable to the use of the wider political system by majority communities to preserve and promote themselves. See Chapter 6, Section III.

incommensurable collective rights of communities and the autonomy rights of individuals. Instead, we should focus on the underlying justification for special protection: sustaining important contexts of value upon which meaningful lives depend. This allows us to view conflicts as occurring between claims which share the same ultimate justification. While this change in perspective cannot guarantee the resolution of all conflicts, it does suggest a way to proceed: we should aim to ensure that all citizens have an equal opportunity to pursue meaningful lives.³

The extent of protection is important because it can affect potential conflicts associated with both the definition of membership and the burdens placed on nonmembers. The more extensive the measures of protection supplied to a community the more factions within it are empowered to exclude people for illegitimate reasons; the more harm can be done to people who are involuntarily included in the community; the more attractive is membership to potential free riders; and the more likely is the community to be accused of receiving an unjust share of society's resources at the expense of nonmembers. For all these reasons, then, our arguments suggests that any protection extended to particular communities must be *minimal*. Protection is minimal when it is no more extensive than is necessary to i) sustain the community as a context of values; and/or ii) to exclude people whose beliefs or purposes are so at odds with the community's values that their inclusion would pose a threat to the community's survival. Minimal protection, then, attempts to strike a balance between each individual's need to protect the fluidity and multiplicity of her self-identity and identifications, and the shared need to sustain the community as a context of values upon which each member relies.

What constitutes minimal protection will vary with circumstances. In the best case protection need only be extended to the 'minimal bases' of communities. To understand the idea of minimal bases we can compare the relationship between

³ Where one or both parties refuse to recognize the rights of others to pursue meaningful lives no balancing is required: their claim is illegitimate.

minimal bases and communities as contexts of values to that which Iris Young describes, borrowing Sartre's distinction, between *series* and *group*.⁴ A *series* is "a social collective whose members are unified passively by the objects around which their actions are oriented or by the objectified results of the material effects of the actions of others."⁵ Sartre's classic example is that of people waiting for a bus. They constitute a *series* in their "relation to a material object, the bus, and the social practices of public transportation."⁶ The bus, and the social practices associated with it, result from human action, but each particular individual experiences them as something she cannot change, at least not in the short term.⁷

Unlike members of a *series* who have no common goals, but rather a similar relationship to particular material objects and practices, a *group* "is a collection of persons who recognize themselves and one another as in a unified relation with one another. Members of the group mutually acknowledge that together they undertake a common project."⁸ The relationship between group and series is illustrated in the bus example. "The latent potential of this series to organize itself as a group will become manifest ... if the bus fails to come; [the riders] will complain to one another about the lousy bus service, share horror stories of lateness and breakdowns, perhaps assign one of their number to call the company, or discuss sharing a taxi."⁹

We might think of minimal bases as being in a similar relationship to the objects and practices which support *series*, as communities which embody particular contexts of values are to *groups*. The value of limiting protection to the minimal

⁴ Iris Marion Young, "Gender as Seriality: Thinking About Women as a Social Collective," *Signs: Journal of Women in Culture and Society* 19, no. 3 (1994), 724.

⁵ *Ibid.*

⁶ *Ibid.*, 725.

⁷ *Ibid.*, 726.

⁸ *Ibid.*, 723-724.

⁹ *Ibid.*, 725.

bases of a community is that, where this is sufficient to protect the community, it allows us to show maximal respect for the fluidity and multiplicity of members' self-identities and identifications. Valued communities are preserved without creating opportunities for intra-communal factions to exclude those who do not fit their particular understanding of the community.

The examples of the francophone Quebecois and Welsh-speaking Welsh illustrate how some potential conflicts might be avoided by limiting protection to minimal bases. While they value similar things (conduct of life in the communal language) and minimal bases (the ability to live, work, and raise children in the communal language), differences in their circumstances allow us to illustrate the context-dependent nature of minimal protection. Welsh-speakers are in a much more precarious position than francophone Quebecois: they constitute a minority in their homeland, their communities are being undermined by the immigration of anglophones, and since their language is not an international language (unlike French), there is a very limited market for many of their cultural products. These differences justify different levels of protection to achieve similar outcomes.

The key form of protection which has been employed in Quebec is language legislation. The history of this legislation suggests the importance of ensuring that protection is minimal. Some provisions of Quebec's language law, Bill 101, have never been controversial from our perspective. The requirement that large workplaces operate in French is reasonable. So too is the requirement that newcomers to Quebec, whether from Canada or from other countries, have their children educated in French: those who have *chosen* to immigrate presumably have governing assumptions which are consistent with moving to a French-speaking community.¹⁰ To the extent that this legislation simply ensures that francophone Quebecois will be able to live, work,

¹⁰ The case of refugees is different because they did not choose to leave their homelands - thus, they may lack meaningful reasons for having come to their new community. Since they presumably want either to move back to their homeland or to immigrate to some other community, temporary accommodations seem to be in order.

and raise children in French, it protects only the community's minimal bases: individuals are free to form whatever other identifications they wish within this linguistic environment.

Conflicts have arisen, however, when this legislation has exceeded what is minimal. The best known instances arose from provisions which threatened the equal right of members of the long-standing anglophone community to pursue meaningful lives. For example, at one point English was abolished as an official language in the legislature and courts, all public signs were required to be in French *only*, and *all* school boards, municipalities, and hospitals, including those in anglophone communities, were required to use French for internal communications.¹¹ These provisions, as the Supreme Court ruled with respect to the sign provisions, were neither necessary to protect the French language nor proportionate to the threats it faced.¹² Subsequent court challenges and legislative amendments have resulted in protection more in line with our position: English is an official language, local institutions may communicate internally in English, and signs must only give *predominance* to French.¹³ These revised provisions appear to better ensure all citizens of Quebec an equal opportunity to pursue meaningful lives.

A harder case arises from the possibility that this legislation may force people who are ethnic Quebecois by descent, but who subjectively identify with the anglophone community,¹⁴ to have their children educated in French.¹⁵ This represents a denial of the capacity of individuals to reject inherited identifications by

¹¹ Roger Gibbins, *Conflict and Unity: An Introduction to Canadian Political Life*, 3rd ed. (Scarborough, Canada: Nelson Canada, 1994), 139.

¹² *Ford v. Quebec*, 717.

¹³ Gibbins, *Conflict and Unity*, 139-41.

¹⁴ We assume that these people have truly assimilated and are not merely free-riding on the communal good.

¹⁵ See. Coulombe, *Language Rights in French Canada*. 123-124.

exercising meta-agency. It creates a serious dilemma because, as a practical matter, it is difficult to distinguish free riders from people who have truly assimilated. To resolve such cases we must determine the relative effect of the alternatives on our ability to ensure that all citizens have an equal opportunity to pursue meaningful lives. In this case, we must compare the harm that would be done to community members by ignoring free riders to the harm that would be done to individuals by forcing them to fulfil obligations which they have renounced.

The protection which is required to sustain the Welsh-speaking community is more extensive than that in place in Quebec. It has involved: subsidies to the communications media; provision of bilingual and Welsh-medium education; official bilingualism in the public service; and housing and planning regulations. Such protection of the linguistic community is minimal to the extent that it does not prejudice one's decision to identify with any of the various Welsh-speaking communities of shared goods discussed in Chapter Nine. We will briefly discuss each of these measures and suggest how keeping them minimal reduces the potential for conflict with anglophones in Wales and the United Kingdom.

Communications media, especially television, are crucial to people's ability to live in their own language. As Michelle Ryan notes, they influence "the way we see ourselves and understand the rest of the world."¹⁶ Unlike Quebec, the private sector in Wales has done a poor job of providing Welsh-language media. Thus, the use of public subsidy to support Welsh media could be justified on the basis that it helps ensure equal opportunity to pursue meaningful lives. The British policy of public provision or subsidy of Welsh-language books and magazines, public radio (Radio Cymru) and television (*Sianel Pedwar Cymru* (S4C))¹⁷ may well be excessive as it

¹⁶ Michelle Ryan "Blocking the Channels," in *Wales: The Imagined Nation*, ed. Tony Curtis (Bridgend, Mid Glamorgan: Poetry Wales Press, 1986), 185.

¹⁷ S4C has been described as the most subsidized television channel in the world. Hugh MacKay and Hugh Powell, "Wales and Its Media: Production, Consumption, and Regulation," in *Contemporary Wales*, Vol. 9, ed. Graham Day and Dennis Thomas (Cardiff: University of Wales Press, 1996), 24.

generally requires little or no sacrifice on the part of Welsh speakers themselves. Redressing this situation by charging some sort of fee for these services could reduce two sources of tension. First, it could help ease burdens on nonmembers by ensuring that Welsh speakers do not pay less for Welsh-language services than anglophones pay for similar services in English. Second, requiring the provision of such services to depend upon fairly broad-based support in the Welsh-speaking community to survive would discourage factions from trying to use the media to exclusively promote their conception of the community.

Another aspect of the minimal bases of the Welsh-speaking community is the ability to educate children in Welsh. A fairly minimal approach has been taken in the most straightforward situation where linguistic communities are spatially separated. The national curriculum shows equal respect for the pursuit of meaningful lives by making Welsh a 'core subject' in Welsh-speaking areas and a 'foundation subject' in non-Welsh-speaking areas.¹⁸

A harder case occurs where communities are of such size that it is only practical to provide one school with one curriculum. This can create a conflict between the interest of members of each community in having their children educated in their own language. As usual, this requires balancing people's interest in pursuing meaningful lives against each other. A solution which we can accept was developed by the county of Gwynedd in 1975. It identifies areas as traditionally Welsh or non-Welsh. Welsh-medium primary education is provided in the former and bilingual

See also, D. Roy Thomas, "Welsh-language Publications," in *Contemporary Wales*, Vol. 9, ed. Graham Day and Dennis Thomas (Cardiff: University of Wales Press, 1996); Susan Delamont, "S4C and the Grassroots? A Review of Past and Future Research on the Mass Media and the Welsh Language," in *Contemporary Wales*, Vol. 1, ed. Graham Day and Gareth Rees (Cardiff: University of Wales Press, 1987).

¹⁸ R. Brinley Jones, "Education in a New Era," in *The New Wales*, ed. David Cole (Cardiff: University of Wales Press, 1990), 1978. For other sources on education in Wales, see Roberts, "Political conflict over bilingual initiatives: a case study," *Journal of Multilingual and Multicultural Developments*, 8 (1987); and P.M. Rawkins, "The politics of benign neglect: education, public policy, and the mediation of linguistic conflict in Wales," *International Journal of the Sociology of Language* 66 (1987).

education in the latter. Anglophone children who move into traditionally Welsh areas are given intensive Welsh instruction to help them adjust quickly.¹⁹ This represents a reasonable balancing of interests since the threat posed to the ability of Welsh-speakers to pursue meaningful lives by the deterioration of their communities much outweighs the threat posed to anglophones who could choose to locate elsewhere and who have easy access to English language culture outside of school.

Many aspects of bilingualism, like the printing of documents, notices, and advertisements in both English and Welsh required by the Welsh Language Act, 1993, are uncontroversial from our perspective.²⁰ Bilingualism policies would exceed what is minimal and would place an unreasonable burden on anglophones, however, if they gave Welsh-speakers privileged access to public employment. This would occur if all officials, rather than institutions, were required to be bilingual.²¹ Official bilingualism could be advanced in a minimal fashion by insisting only that institutions be bilingual and, perhaps, by instituting a policy of linguistic proportionality in public employment similar to the system of ethnic proportionality used in Italy's South Tyrol.²²

Finally the threat posed to Welsh-speaking communities by the inflow of anglophones and the conversion of housing to holiday homes provides a justification for the use of special planning restrictions. Policies such as Dyfed's Policy CS1,

¹⁹ J. Davies, "The Welsh Language," n. B15, 73-4.

²⁰ See, for instance, David Blackaby and Stephen Drinkwater, "Welsh-speakers and the Labour Market," in *Contemporary Wales*, Vol. 9, ed. Graham Day and Dennis Thomas (Cardiff: University of Wales Press, 1996).

²¹ Anthony Alcock, "The Protection of Regional Cultural Minorities and the Process of European Integration: the Example of South Tyrol," *International Relations*, XI, no. 1 (1992), 22.

²² South Tyrol has a policy of official bilingualism, but avoids favouring Germans, who are typically bilingual, over Italians, who typically are not, by insisting that employment in the public service be proportionate to each group's share of the population. See A. Alcock. "The Protection of Regional Cultural Minorities"; and "South Tyrol," in *Minority Rights in Europe*, ed. Hugh Miall (New York: Council for Foreign Relations Press, 1994).

which states, among other things, that "development proposals likely to be prejudicial to the needs and interests of the language will not be permitted",²³ satisfy the minimal principle since they seem to aim only to preserve Welsh-speaking communities. Ceredigion's 1993 plan, however, does not. It proposed "to limit occupation of new and converted dwellings in five community council areas where 70 per cent or more of the population spoke Welsh, to persons whose origins are or who have previously lived for 5 years in the district or within 25 miles of the district" and "to allocate land for employment generating purposes in the same five communities".²⁴ This is excessive to the extent that it imposes an unreasonable burden on outsiders to finance an investment in economic development from which they appear to be intentionally excluded.

As the Quebecois and Welsh cases suggest, the protection of minimal bases strikes a good balance between protecting communities and respecting the need of individuals to preserve multiple identifications. Nevertheless, there will be circumstances in which minimal protection must be more extensive than preserving a community's minimal bases. The more we tailor protection to particular communities of shared goods, however, the more we limit the ability of individual members to redefine the community, or to reject or replace it. The difference, to employ Sartre's example, is like that between i) protecting the series of bus riders by preserving the particular bus schedule and thus leaving them free to form or not form whichever groups they choose in relation to it, and ii) protecting a specific group of bus riders that has formed out of the series at one point in time. While protecting communities at the level of minimal bases is always to be preferred, where this is not possible we must sometimes be willing to protect particular communities.

The Pueblo historical community is an example of a community which would

²³ Clive James and Colin H. Williams, "Language and Planning in Scotland and Wales." in *Nationality and Planning in Scotland and Wales*, ed. Roderick Macdonald and Huw Thomas (Cardiff: University of Wales Press, 1997), 286.

²⁴ *Ibid.*, 288.

require such specific protection. As we noted in Chapter Nine, it appears to function as a community whose context of values is embodied in a moral tradition which sustains several communities of shared goods which embody purposive traditions (e.g. native spiritual, Catholic, Protestant, and 'American' communities).

The most obvious danger in extending protection to specific communities is that it will be used by some faction to exclude those with whom it disagrees. In the case of the Pueblo, as we have seen, this has been reflected in the attempts by the officials of some Pueblo villages to define membership to exclude Protestants. From our perspective this represents less a conflict between the 'community's' right to enforce 'its' (Catholic and native spiritual) standards and the individual's right to practice his religion of choice, than an attempt by members of one religious community of shared goods to define the common historical community to exclude members of another religious community.

Our first concern, then, in determining the extent of protection which should be provided to the Pueblo historical community is to identify its bases. While certainly not beyond question, two defensible bases appear to be the communal ownership of traditional homelands, and village self-government. Preservation of the integrity and communal ownership of traditional homelands supports the Pueblo community by expressing and sustaining Pueblo identity and values: it enables the community to maintain a concentration of members sufficient to sustain its languages and other traditional practices (e.g. the ceremonial-festival network); it guarantees members access to sacred sites which express and affirm their beliefs; and it permits the value of 'communal obligation' to be expressed in the duty to work on the communal dikes and pastures. To facilitate such communal ownership would require special legislation to set aside territory, to make it inalienable, and to facilitate communal (as opposed to individual) ownership and control.

The provision of communal ownership of property creates the potential for conflict with the nonmembers who would be excluded from the opportunity to use it and may even be expected to pay for it. Friction arising from this could be reduced,

if not eliminated, by limiting privileges associated with membership to: communal control of property sufficient to sustain the community members and keep them together in a spatial community; the possession of sacred sites and shrines; and a say in decisions about development which might undermine their way of life. Deliberately excluded are control over resources which the community has not traditionally exploited since this could not be justified as necessary to preserve the context of values embodied within the Pueblo historical community.²⁵

Village self-government acts both as an expression of communal values and as a bulwark against the values of the wider 'American' community. Traditions of self-government express and embody many values which could be threatened by the imposition of rights which are widely accepted in the 'American' community: the establishment clause in the First Amendment is incompatible with the semi-theocratic government of some pueblos;²⁶ some believe that the system of 'one man, one vote' elections would undermine the legitimacy of Pueblo governments whose authority often derives from "traditional religious beliefs";²⁷ and it has been suggested that the behaviour required to succeed in competitive elections is inconsistent with the Pueblo value of "harmony between the individual, and his social institutions".²⁸

The danger with village self-government, as we have seen, is that some leaders may confuse the perfectly legitimate practice of excluding Protestants from participation in Catholic or native spiritual communities, with the illegitimate practice of excluding them from all aspects of community life. This problem could be avoided in large part by having each Pueblo village clearly define the privileges and

²⁵ Also, control of mineral rights by the wider political community would partly offset the costs it incurs in extending special protection.

²⁶ In the traditional Tewa Pueblo form of government, for instance, tribal officials are selected on a yearly basis by traditional leaders - the summer and winter chiefs. Ortiz, *Tewa World*, 61-7.

²⁷ U.S. Congress. Senate, 29.

²⁸ *Ibid.*, 8.

obligations of membership. These might include a duty to respect the form of government presently in place (not, of course, to the extent of allowing oneself to be denied the minimal requirements of a meaningful life)²⁹ and to accept obligations directly associated with sustaining the historical community such as the duty to contribute to the maintenance of communal pastures and dikes. Minimal rights of membership might include: the right to express dissent with the present form of government; the right to participate in the observance of communal traditions; the right to participate in the use of communal property (e.g. pastures and equipment); and the right to use one's share of communal lands and resources in ways which do not threaten the wider community. If such clearly defined membership criteria were in place, tribal officials would be unable to exclude anyone, including the Protestants, from participation in the community so long as they were willing to fulfil communal duties.

Even harder cases occur where communities are described by their members such that protection could only be extended to people identified, among other things, by such ascriptive characteristics as race and ethnic descent. We are thinking here of communities, such as aboriginal communities like the Salish and possibly the Pueblo, in which the significance of the community's context of values for its members rests in no small part on the fact that they are the values of a particular ethnic group (e.g. they are 'our' values). This is in contrast, say, to membership in the francophone Quebecois community which is open to anyone willing to live in a French-speaking community and have their children educated in French-language schools. This case is hard for a couple of reasons. First, it appears to contradict our claim that we are only concerned with providing *individuals* with an equal opportunity to pursue meaningful lives, not with preserving *communities* as such. Protecting ascriptively-defined communities appears to flout our conception of the person as one who needs to be free to identify with and participate in any community with which he comes, through the exercise of meta-agency, to identify. Second, it appears to risk

²⁹ See Chapter Eleven.

undermining popular support for special protection since it would place burdens on nonmembers to provide benefits to communities which they could never share in, even if they came to subjectively identify with those communities.

In suggesting that some communities might be empowered to enforce such definitions of membership, we are not endorsing an essentialist account of identity. Rather, we are accepting the fact that in some cases communities are presently constructed such that it is impossible for their members to disentangle the context of values from the ethnic identification. In such cases, the requirement that these communities open themselves to anyone willing to fulfil general obligations of membership could undermine the entire community.³⁰ Together, the risk this would pose to the members' pursuit of meaningful lives, and the improbability of nonmembers coming to identify with such communities, argue for the extension of protection.

In such cases, the danger that factions within such communities might use membership criteria to illegitimately exclude people who identify with the community's context of values is heightened. Consider, for example, the case of the Sawridge band in Alberta. While 220 people claim membership in this band, only 27 (all but one of whom are members of the same family) live on the reserve and, thus, are entitled to vote in band affairs and control the membership code. This situation came about, it has been alleged, because members of this faction used their majority position to force others to leave the reserve.³¹ While membership criteria which exclude non-Indians or non-Sawridge may be justified in this case, this use of membership criteria clearly exceeds what can be justified.

Thus, with respect to the extent of protection, we have shown that keeping protection as minimal as the goal of supporting threatened communities as contexts of

³⁰ Raz's argument that 'bad speech' should be tolerated where it is integral to otherwise good ways of life is relevant here. See Chapter One, p. 21.

³¹ Erin Anderssen, "How the Sawridge millions tore apart a native community," *The Globe and Mail*, A 1, 8-9.

values will allow is a good general approach which helps to prevent many potential conflicts. Further, we have demonstrated how our focus on the role of communities as contexts of values in sustaining meaningful lives provides a standard by which to determine the extent to which protection is reasonable, and, where conflict is unavoidable, it provides a yardstick for balancing competing claims.

II

With respect to the cost of protection, our model suggests that membership in protected communities should require people to incur some burden or *sacrifice*. Such costs may be monetary (e.g. requiring Welsh-speakers to spend some of their own money to access subsidized cultural products)³² or nonmonetary (e.g. membership in the francophone Quebecois community may indicate a willingness to have one's children educated in French). An example is provided in Sandel's discussion of the case of *Thornton v. Caldor, Inc.*. It involved

a Connecticut statute guaranteeing Sabbath observers a right not to work on their Sabbath. Although the law gave all workers the right to one day off each week, it gave Sabbath observers alone the right to designate their day.³³

This law is consistent with our position since it extends a special benefit in the form of the right to choose their day off to people who, for reasons of volitional necessity, are unable to work on a particular day. The sacrifice which Sandel's description implies, and which the model of the synthetic self would require, is that to enjoy this privilege a person would actually have to observe his Sabbath.

A number of possible conflicts are avoided by attaching such costs to membership. First and foremost, it reduces burdens on nonmembers by denying members of protected communities the freedom to enjoy an entirely costless resource. Second, it reduces the attractiveness of membership to potential free riders. The

³² A funding formula might be established which required Welsh-speakers to contribute the rough equivalent of what anglophones pay for similar services in English.

³³ Michael Sandel, "Freedom of Conscience or Freedom of Choice?" in *Articles of Faith, Articles of Peace*, ed. James Davidson Hunter and Os Guinness, (Washington, D.C: The Brookings Institution, 1990), 89.

conflict in the Sawridge case, for example, appears to be driven primarily by the fact that the band's oil and other businesses have an estimated value of \$85-million.³⁴ This has resulted in complicated claims for access to membership. For instance, Elizabeth Poitras was quoted as combining a claim which is legitimate from our perspective ("I don't belong anywhere ... It really hurts. I want to live on Sawridge because it's my land.") with one which, while perhaps legitimate in some other way, we can give no standing ("And I have as much right to that money as the Twinn's do.")³⁵ This complexity would presumably be cleared up if all that were at stake were the right to live within a particular community.

In addition to the problem of joining communities, conflicts can arise where individuals choose to leave a community which is in possession of considerable resources. Sometimes, as in the case of the Pueblo, where we viewed communal ownership of land as one of the community's minimal bases, this cannot be avoided. In such cases, a sacrifice might be imposed by obliging members to accept that their right to enjoy any benefits associated with membership lasts only for so long as they remain members and fulfil communal obligations. For instance, the custom law of Zia Pueblo holds that

all rights in land are in the pueblo, and are under the pueblo, and all rights of use of land by allotment, inheritance, gift, sale, or lease, depend on proper performance of his duties in the pueblo. ... everything moveable can rightly be taken away by a person who is thrown out of the pueblo, except sacred things which do not belong to any single person as a person, but are held in trust for all.³⁶

With such a system, membership comes at the cost of fulfilling various duties and of forfeiting privileged access to property if one leaves. This makes the decision to leave the community expensive, but not impossible.

³⁴ Anderssen, "How the Sawridge millions tore apart a native community."

³⁵ Ibid.

³⁶ U.S. Congress. Senate, 87.

Thus, by requiring that special protection come at the cost of some sacrifice to those who take up membership in it, we help ensure that protected communities do not impose excessive burdens on nonmembers, and we make them less likely to attract free riders.

III

Two final areas of concern are the duration of protection and limitations on protection. These are related since any restrictions placed on the length of protection is a form of limitation. A politics of the synthetic self, we will argue, must accept the principle that special protection can only be extended on an *impermanent* basis.

This follows from the arguments we have offered to justify special protection itself. First, we said that protection is only warranted if it can be demonstrated that the community is threatened with destruction. If things change so that the community is no longer threatened, then special protection becomes an unjustifiable burden on nonmembers. Second, we suggested that protection is only justified so long as people rely on the community to sustain meaning in their lives. If people, through their exercise of meta-agency, no longer define their significant purposes by reference to the community's context of values, then, protection is no longer justified.

We must respond immediately to a criticism which this principle is likely to elicit. Some may complain that people in communities seeking protection could not accept this principle because they wish to ensure their community's survival in perpetuity.³⁷ It is important that we explain how our model enables us to respond to this. On one hand, it is true that a politics of the synthetic self is unable to ensure the survival of communities through future generations. This simply reflects our recognition that individuals can and should be free to reject inherited identifications. On the other hand, we do recognize the interest that parents and children share in the

³⁷ This is expressed, for instance, in Charles Taylor's criticism of Kymlicka's argument that it "doesn't justify measures designed to ensure survival [of communities] through indefinite future generations. For the populations concerned, however, this is what is at stake." Taylor, "Politics of Recognition," 41, n. 16.

active creation of community members through socialization designed to lead children to identify as community members.³⁸ Where we draw the line, however, is in asserting that the ability of present community members to ensure their community's survival must be limited to their efforts to reproduce this desire in their young. Thus, for instance, if as several recent books have suggested, "North America's Jews, as a whole, simply don't care enough to imbibe Judaism themselves and convey it to their children",³⁹ there is nothing which this community should be empowered by the state to do to prevent this.

One way of promoting impermanence is to design it into the special protection itself. This can take different forms, depending upon circumstances. Impermanence might be made an explicit feature of protection, say, by requiring community members to express periodic and explicit approval for the protection. For example, language laws in Quebec could be made subject to approval by a majority of community members in a vote taken, say, every five years. This would allow a majority of community members to choose to not renew the protection if they found it too burdensome or no longer necessary. In other cases, impermanence may only be implicit. Consider our Welsh example from Section I. Were people to simply stop purchasing subsidized Welsh cultural products, or to fail to qualify as competent Welsh speakers for purposes of public employment, special protection would simply fade out of existence.

A second way of promoting impermanence brings us to an important limitation on protection. This is that communities cannot deny people the freedom to exit the community. While we will consider the nature of this freedom in more detail in Chapter Eleven, the point here is that the freedom to exit makes community membership impermanent for individuals. This is true for both protected and unprotected communities.

³⁸ This phrasing is based loosely on *ibid.*, 58-59.

³⁹ Gerald Tulchinsky, "Is Jewish history ending?," *The Globe and Mail*, July 12, 1997, D 11.

The significance of the freedom of exit can be illustrated through the case of Miriam Wilngal. She chose to leave her tribe in Papua New Guinea for the capital of Port Moresby after she had been offered as compensation to another tribe for a killing. Ms. Wilngal, it turned out, wanted to finish high school, become a typist, and to have her own money so that she would not have to depend on a man.⁴⁰ We should note a number of things about this case. First the freedom to exit allowed Ms. Wilngal to leave a community which could not facilitate the significant purposes which she had set for herself. Second, it allowed her to do so without necessarily undermining the community which continues to provide a context of values to its members. The fact that Ms. Wilngal chose to leave does not, in itself, prove that there are not other women who continue to find meaning in a community which treats them as 'divine objects'.⁴¹ Third, and finally, while this freedom which is now available to women will surely have a transformative effect on the community,⁴² if managed properly, the community will be allowed to respond to it in a way which is consistent with its members governing assumptions. As Dr. John Muke, a professor of archaeology and a member of Ms. Wilngal's clan said, "There are certain changes that we have no choice but to accept, like women's rights and notions of equality. But there are certain things that we have to hold on to."⁴³

Thus, impermanence as manifested in both the design of protection and the freedom of exit offers to strike a balance between community members' interest in preserving and promoting their community and their interest in retaining flexibility both for the community and individuals to develop and change in the future.

⁴⁰ Seth Mydans, "Woman defies tribal tradition," *The Globe and Mail*, May 7, 1997, A 16.

⁴¹ Ibid.

⁴² Kukathas says that after the Maori gained a real freedom of exit, their identity became "much more a matter of individual choice." Kukathas, "Any Cultural Rights?", 117, 128.

⁴³ Mydans, "Woman defies tribal tradition."

This discussion should be sufficient to demonstrate that our model is capable of generating principles for governing the design of special protection. While not exhaustive, the four principles which we have suggested - that it should be minimal, it should involve some sort of sacrifice, it should be impermanent, and it should allow members the freedom of exit - are sufficient to illustrate the capacity of our approach to identify and prevent obvious forms of conflict and to offer guidance in hard cases. Further, the fact that much special protection which is in place today is often broadly consistent with our principles suggests that the model of the synthetic self systematizes some unarticulated assumptions with which we are presently making decisions.

Chapter 11: When Interference Is Justified

[When some pueblos adopted majority-rule elections] they did so of their own free will. ... [When they] felt prepared for the change, they freely adopted their own constitutions, designed to meet their own needs. ... But if the changes are forced upon us without our consent - and before our people are ready for them - they will drastically undermine our ability to govern ourselves.

Domingo Montoya, Chairman, All Indian Pueblo Council¹

In Chapter Ten we considered one potential source of conflict associated with the extension of special protection - the design of special protection itself. In this chapter we consider another - the decision by the wider political community to interfere in the internal practices of communities. This offers another test of the versatility of our model.

In the first section we consider the general question of when interference is justified. We suggest that both argument and exhortation are to be preferred, but when coercive interference is necessary, the treatment of children should be held to a different standard than that of adults. In the second section we determine conditions which would justify interference with the socialization of children, and in the third we apply our conclusions to the case of *Wisconsin v. Yoder*. Finally in the fourth section we determine conditions which could justify interference in the treatment of adults.

I

Given our respect for meaningful lives, the decision to interfere with the internal practices of communities cannot be taken lightly. Only in extreme cases, when meaningful lives are threatened, is coercive interference justified. Otherwise it is usually counterproductive and cannot be countenanced.

There are a number of reasons for exercising such caution. First, as was argued in Chapter Seven, interference might actually undermine meaning in people's lives.

¹ U.S. Congress. Senate, 8.

Second, a willingness to coercively interfere may be more reflective of differences in power between communities than of real threats to meaning. Being in a position to effect change makes it much easier to convince oneself that aspects of another community which one finds offensive are actually dangerous. Thus, where the meaningfulness of people's lives is not at stake and the community poses no threat to the meaningfulness of nonmembers' lives, tolerance is in order.

Respect for meaningfulness is always consistent, however, with noncoercive interference in the form of argument and exhortation. As long as those who object to a community's practices do not force anyone to listen to their arguments and no one inside the community is compelled to ignore them, then any resulting changes will reflect the appeal of arguments to governing assumptions, and not differences in wealth or power.²

Before we can determine if interference is justified, we must conceptualize minimal conditions of meaningful lives which we can expect all communities to respect. This requires that we distinguish between the circumstances of children and adults. The key difference, as Richard Arneson points out, is that unlike adulthood, childhood occurs "before the individual has much experience of the world and a fully formed set of preferences in response to it".³ Recall that to lead meaningful lives people require identifications with communities (which connect them with contexts of values which inform their governing assumptions) and situated autonomy (through which they form and pursue significant purposes, and reflect upon and revise governing assumptions through meta-agency). In terms of the model of the synthetic self, then, childhood is a time when people's most important concern is the development of identifications, and adulthood is a time when people are most concerned with exercising situated autonomy.

² Thus, I have more sympathy for Kymlicka's suggestion that liberals speak out against what they perceive as injustice in minority communities than his suggestion that they offer incentives for change, such as favourable trade agreements. Kymlicka, *Multicultural Citizenship*, 168.

³ Arneson, "Autonomy and preference formation," 59.

Minimal conditions of meaningful life, then, vary accordingly. On one hand, while the use of influence and coercion to lead people to make certain identifications is always inconsistent with respect for the situated autonomy of adults, it is often consistent with the goal of socializing children to make the identifications which can support their capacity for autonomy. On the other hand, while respect for the situated autonomy of adults may require us to stand aside, for instance, when people allow themselves to be killed in ways which are meaningful to them,⁴ the killing of children is never tolerable. The key difference between children and adults with respect to interference, then, is that our main concern with adults is their *ability to pursue* meaningful lives, while our main concern with children is their *capacity* to lead meaningful lives.

II

The relationship between the pursuit of meaningful lives by adults and the development of significant identifications by their children is generally noncoercive and inextricable.⁵ To interfere in this relationship poses a double danger to meaningful lives. On one hand, it threatens to deprive the adult socializers of a significant purpose which may add meaning to their lives.⁶ On the other hand, it may prevent children from establishing the sound identifications with communities which they need to develop a capacity to exercise situated autonomy. This makes

⁴ For example, we may not interfere when the Dinka spearmasters, discussed in Chapter Six, allow themselves to be buried alive.

⁵ This is illustrated by Kenneth Henley with respect to religious socialization:

In the early years of the child's socialization, he will be surrounded by the religious life of his parents; since the parents have a right to live such religious lives, and on the assumption that children will normally be raised by their parents, parental influence on the child's religious life is both legitimate and unavoidable. ... at such an early stage it can hardly be said that coercion is involved; the child simply lives in the midst of a religious way of life and comes to share in it.

Henley, "Authority to Educate," 260-61.

⁶ This could be either a personal purpose, like parenting, or part of a transcendent collective enterprise, like perpetuating a community.

noninterference a good general policy.

There are, however, two sets of interests which can justify interference. One is the interest of children in receiving socialization which respects their capacity for meaningful lives. This interest may be threatened when parents, in pursuing their own purposes, fail to show such respect. The other is the interest of the state in the development of citizens who will not imperil its functioning and stability.⁷ Together these interests suggest some minimal conditions of meaningful lives which, if not satisfied, can justify interference.

Socialization which respects children's capacity for meaningful life is sincere and considerate of their capacity to exercise meta-agency in the future. *Sincere* socialization is veracious and non-exploitive. Where socialization is *veracious*, the contexts of value with which children come to identify reflect the actual beliefs of their socializers: e.g. they are the 'best accounts' the socializers possess, the ones they actually try to live by. Veracity is expressed in reasoning like this: 'This way of life has proven meaningful to me. I pass it on to you.' Socialization which lacks veracity fails to respect children's capacity for meaningful life. It occurs where socializers raise children to accept values which they know to be false, as, say, where children are denied an education at least roughly equivalent to that received by their socializers.⁸ It does not occur where only outsiders *know* the content of socialization

⁷ Other interests which might justify state interference include "the concern that children not be a source of infection to others" and the concern "that they not become criminal or hopeless dependents on state welfare support." Feinberg, "The Child's Right To An Open Future," 128.

⁸ This distinction is nicely illustrated by Goldwin Emerson's comments on a conversation he overheard between a grandmother, a mother, and a four-year girl in which the child was told: "Santa [Claus] does see everything you do - he's just like God. ... He keeps track of everything you do." Of this Emerson wrote,

Perhaps the mother and grandmother were sincere in their belief that God sees everything you do - if so, they were simply passing along a belief that they themselves genuinely accepted as reality. But surely they did not believe that Santa Claus keeps track of all children's behaviour

Goldwin Emerson, "It's no fun to threaten kids with Santa-spy," *The London Free Press*, December 6, 1997, F 7.

to be false.⁹

The condition that socialization be *non-exploitive* applies to the *intent* of socializers, not the *effects* of socialization. It is less a matter of *what* people are socialized to believe, than *why* they are socialized to believe it. Socialization which results in behaviour which others consider strange or oppressive can be sincere so long as it reflects the meaningful way of life of the socializers. If, however, it is intended to create preferences in the young merely for the pleasure or some other benefit of the socializers, it is exploitive and insincere.

The value of sincere socialization is not that it ensures that the contexts of value with which children identify will embody 'true' representations of 'objective reality'. Rather, its value lies in the respect it shows for meaningful life. By ensuring that children receive the best account of objective reality consistent with the development of secure identifications, children are protected from the pain of discovering not only that their contexts of value are dissonance-generating and in need of revision, but also that they were set up for this by their socializers' contempt or indifference.¹⁰

Socialization which respects children's capacity for leading meaningful lives must also show respect for the possibility that they may, in the future, determine through meta-agency that they need to reject or abandon their inherited communities. Thus, children need to be socialized in ways which are both *renounceable* and *forthright about real alternatives*.

When socialization is renounceable, children are not subjected to practices

⁹ See the discussion of the Dinka in Chapter Eight.

¹⁰ An interesting puzzle raised by this discussion concerns how we should deal with those who have been sincerely socialized by people who were insincerely socialized. Suppose, for instance, that the founder of a religious sect had been a fraud. Should present-day members of this sect be prevented from socializing their young to accept its beliefs? The answer must be a qualified no, so long as the present-day believers have good reasons for continued adherence. While the possibility that their beliefs are based on a lie is something which, when brought to their attention, autonomous agents should take seriously, the failure to renounce their beliefs is not decisive evidence of a failure of autonomy: it may be that their reasons for retaining their beliefs outweigh this information.

which permanently limit their physical or mental capacities. For instance this rules out foot-binding, the elongation of necks, male and female circumcision (where not medically necessary), the refusal of life-saving blood transfusions, and practices which permanently lower native intelligence. These are offensive because they may make it impossible for children to pursue purposes consistent with new identifications they may adopt through meta-agency in the future.¹¹ This requirement, however, does not preclude the inculcation of values which may lead children to choose to engage in such practices in adulthood.¹²

Socialization which is forthright about alternatives ensures that children do not fail to exercise meta-agency as adults because they are unaware that they have options.¹³ Thus, at a minimum, children must learn that other ways of life exist in the wider political community,¹⁴ and that they are free to leave to pursue any of them.¹⁵ This does not require, however, that their education prepare them to pursue those ways of life or that it "require or strongly invite [them] to become skeptical or critical of their own ways of life."¹⁶

Socialization which is veracious, nonexploitive, renounceable, and forthright

¹¹ Such practices cannot be saved by the fact that after children have been subjected to them they may come to prefer not being able to do what they are prevented from doing. Such 'adaptive preferences' (Jon Elster, "Sour grapes - utilitarianism and the genesis of wants," in *Utilitarianism and Beyond*, ed. Amartya Sen and Bernard Williams (Cambridge: Cambridge University Press, 1982)) result in a person's *purposes* not being *her own* and, thus, significantly undermine her ability to self-govern.

¹² Note that this does not save practices which only make sense when conducted in childhood.

¹³ As Rawls says, they should not do so out of "ignorance of their basic rights or fear of punishments for offenses that do not exist." *Political Liberalism*, 199.

¹⁴ This condition is much weaker than Kymlicka and Gutmann's requirement that children be exposed to other ways of life.

¹⁵ Rawls says "children's education [should] include such things as knowledge of their constitutional and civic rights so that, for example, they know that liberty of conscience exists in their society and that apostasy is not a legal crime". *Ibid.*

¹⁶ William Galston, "Two Concepts of Liberalism," *Ethics* 105 (April 1995), 529.

about alternatives ensures that in helping children develop strong identifications, their socializers do not, in their zeal for their own purposes, fail to respect their children's *capacity* for meaningful lives. Where these conditions are not met, interference by the state may be justified.

A second possible justification for interference is the state's interest in the development of citizens who will not imperil its functioning and stability. This has two facets. First, as a social union of individuals united to facilitate the pursuit of meaningful lives, the state requires children to be socialized in ways which are compatible with this central purpose. Second, as a democratic polity which depends upon people's ability to negotiate and reach mutual understandings, the state requires people to be prepared to carry out this responsibility.

A politics of the synthetic self depends upon general acceptance of the equal right of all people to pursue subjectively meaningful lives. This requires that children learn that their way of life is not universally accepted and that their community and their way of life will only be secure so long as members of other communities are similarly secure. Ensuring that children develop this commitment requires the inculcation of three values.¹⁷ One is *toleration* (in Galston's sense): "the principled refusal to use coercive state instruments to impose one's views on others, the commitment to competition through recruitment and persuasion alone."¹⁸ The second is *justificatory reciprocity*: the willingness to consider the arguments of others and to present one's own arguments in light of the beliefs and values which those others hold. Such toleration and justificatory reciprocity are not inconsistent with unswerving commitment to one's own beliefs: they only require one to accept that, like oneself, other people have deep commitments to their beliefs. The third value is that of an *identification with the wider political community as a context of values*. This refers

¹⁷ We accept that the inculcation of these values may undermine communities whose members' commitment to bigoted contexts of values prevents them from recognizing the right of others to pursue meaningful lives.

¹⁸ *Ibid.*, 528.

to our discussion in Chapter Six, Section III, where we suggested that unity in political communities must be based on recognition of the political community as embodying a moral tradition which supports the many communities goods which exist within it.

The requirement that children be prepared to act politically as citizens is partially met by the veracity principle: in the process of socializing children with their subjectively-veracious beliefs, socializers will normally teach children the political skills they have developed in protecting the community's interests in the past.

The veracity principle, in itself, however, cannot be relied upon to promote this state interest. Thus, the state may require that, at a minimum, communities teach their children their political rights, the principles, workings, and history of the political institutions of the wider community, and, where this is necessary to follow and participate in political debate, one of the official languages of the wider political community as a second language.¹⁹

It is important to note, however, some interests which have been associated with the state which are inconsistent with the model of the synthetic self. For instance, the state does not have an interest in requiring children to be educated to lead rationally autonomous lives,²⁰ or, to develop critical thinking skills.²¹ The development of such skills, we argued in Chapter Seven, can undermine the

¹⁹ Galston suggests that the state can also require children to be equipped to perform as members of a liberal economy and society. (Ibid., 528). We consider this unnecessary and excessive. It is unnecessary to the extent that people who are meaningfully motivated to immigrate to liberal societies from premodern societies are able, albeit with some difficulty, to successfully integrate. It is excessive to the extent that preparation for participation in a liberal market economy may undermine their communities.

²⁰ Education for rationally an autonomous life (i.e. "one that is self-chosen in a reasonable way") has two requirements:

(1) upon onset of adulthood individuals should be enabled to choose from the widest possible variety of ways of life and conceptions of the good and (2) individuals should be trained into the habits and skills of critical reflection, so that they attain to the greatest feasible extent the capacity to choose rationally among these alternative ways of life. Arneson and Shapiro, "Democratic Autonomy and Religious Freedom," 158.

²¹ Ibid., 147.

identifications upon which situated autonomy depends. It is also inconsistent with many ways of life because it assumes that people accept that their current beliefs may be mistaken and that critical reflection is the best means for acquiring valuable and worthy beliefs.²² The state also does not have an interest, *contra* David Miller, in using the education system to reproduce a 'common national identity' by outlawing sectarian schools and making schools into places "where members of different ethnic groups are thrown together and taught in common."²³ This would undermine the ability of many parents to raise their children to identify with valued subcommunities.

Thus, to summarize, socialization which satisfies the minimal conditions of meaningful life is veracious, non-exploitive, renounceable, and forthright about alternatives; it provides children with a basic capacity to act as citizens; and it inculcates such political values as toleration, justificatory reciprocity, and identification with the wider political community as a context of values. Where these conditions are not met, meaningful life is not respected, the community's good functioning and stability is threatened, and interference may be justified.

III

We can add more substance to this discussion and highlight its strengths by comparing how it would treat the much-discussed case of *Wisconsin v. Yoder* with that of other commentators. From our perspective the central issue in this case is whether the state of Wisconsin was justified in interfering with the Amish community by requiring its children to attend school to age 16 rather than 14.

We should begin our discussion by considering the various interests. Both Amish parents and their children have good reasons to oppose interference. For Amish parents the legislation may undermine two of their significant purposes:

²² *Ibid.*, 168.

²³ Miller, *On Nationality*, 142.

achieving personal salvation,²⁴ and preserving the community.²⁵

By imperilling the survival of the community, the legislation threatened the children's interest in developing secure identifications. As noted earlier, the values embodied in the Amish community include the rejection of institutionalized churches,

[a] return to the early, simple Christian life de-emphasizing material success, rejecting the competitive spirit, and seeking to insulate themselves from the modern world. ... [Also] a fundamental belief that salvation requires life in a church community separate and apart from the world and worldly influence. ... [and] devotion to a life in harmony with nature and the soil²⁶

The Amish argued that high school education threatened these values and the way of life which supports them because it "tends to emphasize intellectual and scientific accomplishments, self-distinction, competitiveness, worldly success, and social life with other students."²⁷ Testimony at the hearing suggested that "compulsory high-school attendance could not only result in great psychological harm to Amish children, because of the conflicts it would produce, but would also, ... ultimately result in the destruction of the [community]".²⁸

The key question, then, is whether the children's interest in socialization which respects their capacity for meaningful life and/or the state's interest in the development of citizens who will not imperil its functioning and stability, can justify interference.

The first thing to note about the children's interest is that no one has suggested

²⁴ They "believe that their own prospects of salvation are tied to raising their own children properly, which in turn means raising them so that they in due course become loyal and conforming members of the traditional Amish society." Arneson and Shapiro, "Democratic Autonomy and Religious Freedom," 152.

²⁵ The Amish contended, and the court accepted, that two additional years of education posed a serious threat to the community. *Ibid.*, 143.

²⁶ *Wisconsin v. Yoder*, 1530.

²⁷ These conflict with "Amish society [which] emphasizes informal learning-through-doing; a life of 'goodness,' rather than a life of intellect; wisdom rather than technical knowledge, community welfare, rather than competition; and separation from, rather than integration with, contemporary society." *Ibid.*, 1531.

²⁸ *Ibid.*

that Amish socialization is insincere. Justice Burger wrote that "the Amish have demonstrated the sincerity of their religious beliefs, the interrelationship of belief with their mode of life, the vital role that belief and daily conduct play in the continuing survival of the Old Order Amish communities".²⁹ Further, no one suggested that the post-elementary education which the Amish provide their children (basically vocational training for life in the Amish community) is either exploitive or lacking in veracity.

Also, while Amish education is designed to prepare children for life in the community and to shield them from influences which would lead them away from it,³⁰ it does not seem either to mislead children about their alternatives or to be incapable of being renounced. Arneson and Shapiro's suggestion that "Amish youth do not enjoy a genuine choice as to whether or not to enter the community"³¹ is difficult to square with their own declaration that "more than a fifth of the children leave the community before adulthood".³² Thus, Amish socialization does not appear to violate our minimal conditions of meaningful life.

The case is much the same with respect to the interests of the state. Amish socialization is compatible with respect for other people's pursuits of meaningful lives. Children are not raised to be intolerant of outsiders' ways of life. Further, Amish beliefs appear compatible with 'justificatory reciprocity': one of the reasons they value public education at all is that it prepares children "to be able to deal with non-Amish people when necessary in the course of daily affairs."³³ Compatibility with

²⁹ Ibid., 1528.

³⁰ Arneson and Shapiro, "Democratic Autonomy and Religious Freedom," 141.

³¹ They suggest that when Amish adolescents decide whether to be baptized into church membership or leave the community they "have been 'so thoroughly immersed in a total ethnic world with its own language, symbols, and world view' that to leave would involve a traumatic severing of all their significant friendships." Ibid., citing Donald Kraybill, *The Riddle of Amish Culture* (Baltimore: Johns Hopkins University Press, 1989), 140.

³² Ibid., 140.

³³ *Wisconsin v. Yoder*, 1531.

justificatory reciprocity is also suggested by the *Yoder* case itself: the Amish successfully couched their position in terms of the First Amendment right to free exercise of religious belief. Finally, their commitment to the wider political community as a context of values is suggested by their willingness to work through the American judicial system and to have their children educated in public schools.

The only minimal condition of meaningful lives which the Amish may fail to meet is the requirement that children be prepared to act politically as citizens. It is unclear whether Amish socialization teaches children of their political rights, and the principles, workings, and history of the political institutions of the wider community. If they do fall short on this account, they do not appear incapable of satisfying it. While their values discourage active participation in worldly politics, they do seem to accept the necessity to be good citizens.³⁴ It seems that they would not object to children learning such things, so long as they were not required to act upon them.

Thus, while the facts of the *Yoder* case, as presented here, suggest that interference is not justified (with one noted exception), it will be useful to consider how the situation would have to differ if interference were to be justified. For instance, the state might interfere to protect the children's interests if, say, Amish parents violated the veracity principle by denying their children an education roughly equivalent to that which they had received. It could also be justified if the parents were not forthright about their children's alternatives: e.g., if the children were led to believe that they were legally barred from entering the wider American society.

Similarly, the state could be justified in interfering to protect its own interests. This would be the case, if, for instance, the community was fostering intolerance in its children by training them to use legal or illegal means to impose their values upon nonmembers. It would also be justified if the community refused to teach children anything about the political system or led them to believe that they were legally

³⁴ For instance, "they do not object to elementary education through the first eight grades as a general proposition because they agree that their children must have basic skills in the "three Rs" in order to read the Bible, [and] to be good farmers and *citizens*". Ibid. My emphasis.

prohibited from participating in its politics.

The distinctiveness of the model of the synthetic self's approach can be highlighted by considering how its treatment of *Wisconsin v. Yoder* differs from some other influential considerations. A key difference lies in the type and definition of the interests which should be considered when deciding such cases. For instance, Joel Feinberg, in his discussion of *Yoder* in "The Child's Right to an Open Future", does not recognize children's interest in developing identifications which can inform their governing assumptions. This leads him to conclude that the case was decided correctly, but for the wrong reasons. He can only do this, we suggest, by over-emphasizing the importance of choice and the ability of one's rudimentary character to inform it.

Feinberg argues that each child has a "rudimentary character consisting of temperamental proclivities and a genetically fixed potential for the acquisition of various talents and skills"³⁵ out of which develops a self which can act autonomously. The goal of autonomous selves, he says, is to achieve self fulfilment, defined as:

the development of one's chief aptitudes into genuine talents in a life that gives them scope, an unfolding of all basic tendencies and inclinations, both those that are common to the species and those that are peculiar to the individual, and an active realization of the universal propensities to plan, design and make order.³⁶

It is on this basis that Feinberg suggests that children have a right-in-trust to an 'open future'. This is violated by conduct which "guarantees *now* that when the child is an autonomous adult, certain key options will already be closed to him."³⁷ This suggests that the only relevant interests in cases like *Yoder* are those of parents to exercise religious freedom and of their children to safeguard their 'open futures' (which the

³⁵ Feinberg, "The Child's Right to an Open Future," 149.

³⁶ *Ibid.*, 143.

³⁷ *Ibid.*, 126.

state has a duty to protect).³⁸

Feinberg believes that decisions in such cases should be guided by the principle that education should send the child "out into the adult world with as many open opportunities as possible, thus maximizing his chances for self-fulfilment."³⁹ He thinks the *Yoder* case was decided correctly because the two additional years of elementary education which were at issue would have had little impact on the children's future opportunities and thus could not justify interference with the parents' religious freedom.⁴⁰ Had the case turned on a significant degree of education, Feinberg says that "no amount of harm to the parents' interest in the religious upbringing of their children could overturn the children's right-in-trust to an open future."⁴¹

The danger which the model of the synthetic self reveals in Feinberg's approach is that it ignores the interests of children in developing secure identifications. While Feinberg says that autonomous lives should be determined by the child's own 'governing values, talents, and propensities', he does not give appropriate weight to the role of parents and communities in developing these values. His alternative approach, that of relying on people's 'true selves' to inform autonomous choices, was discussed and rejected in Chapter Seven.⁴² Thus, Feinberg's approach risks condoning interference which may prevent children from developing valuable identifications.

Michael Sandel does recognize the important role which communities can play in people's lives. A problem which our model reveals in his approach is a failure to

³⁸ Ibid., 128.

³⁹ Ibid., 135.

⁴⁰ Ibid., 136.

⁴¹ Ibid., 137.

⁴² Chapter Seven, Section IV.

recognize children's interest in receiving socialization which respects their capacity for meaningful life. Sandel's recognition of the importance of community is illustrated when he criticizes the U.S. Supreme Court's reliance upon 'an unencumbered conception of the self'. This, he says, has led the court to assimilate "religious liberty to liberty in general" and thus confuse "the pursuit of preferences with the exercise of duties and so forgets the special concern of religious liberty with the claims of conscientiously encumbered selves."⁴³ He says this misses "the role that religion plays in the lives of those for whom the observance of religious duties is a constitutive end, essential to their good and indispensable to their identity."⁴⁴

Sandel's approach and the approach of the model of the synthetic self part ways because Sandel never considers whether the value of autonomous choice could justify interference in the conduct of religious communities. His discussion of *Yoder* presents the issues in an either/or fashion: *either* the state should leave the Amish to pursue their way of life *or* it should interfere to protect the children's right to choose.⁴⁵ This suggests that he confuses constitutive ends with ends which cannot be replaced, and thus has much trouble dealing with the fact that people do reject constitutive identifications.

The model of the synthetic self deals with this more subtly. Its fluid yet fragile conception of self-identity allows it to recognize both that the Amish should be permitted to pursue their way of life and that the state acts legitimately when it interferes to ensure that children are not deprived of the *capacity* to exercise meta-agency in the future.

While Sandel's approach ignores children's interest in their future autonomy, Arneson and Shapiro's defends too strong a conception of this interest. It is on this basis that they argue that the Amish should have lost. The soundest justification they

⁴³ Sandel, "Freedom of Conscience, or Freedom of Choice?," 91.

⁴⁴ *Ibid.*, 89.

⁴⁵ *Ibid.*, 90-91.

offer is that "the difficulty with the Amish program of socialization ... [is that it] fails to train children in skills of critical thinking and to encourage them to place a positive value on engagement in critical thinking about one's fundamental values."⁴⁶ They justify the central role they accord critical reflection with two arguments, each of which relies upon assumptions which are unnecessarily controversial.⁴⁷

The first argument is based on the assumption that all reasonable people maintain a basic level of uncertainty about the veracity of their fundamental beliefs.

Anyone who accepts that her current beliefs that underlie her fundamental personal values might be mistaken or confused must acknowledge that critical examination of the reasoning supporting her values might reveal confusion of thought and that further acquisition of factual knowledge might remove false beliefs but for which she would not maintain her commitment to her current values.⁴⁸

This is an assumption which lacks widespread acceptance.⁴⁹

The second argument is based upon a similarly controversial conception of the nature of a good life and the education which best contributes to it. Arneson and Shapiro say the "problem of a guardian choosing an education for a youth entrusted to her care is how to maximize the expected value of the life the child will lead".⁵⁰ One maximizes the expected value of one's life, they suggest, by choosing a way of life which is 'better' given one's particular 'traits'. Thus, it is finally suggested, the best form of education is that which teaches the child to exercise 'well-informed critical deliberation' since this is claimed to make it more likely that a person will

⁴⁶ Arneson and Shapiro, "Democratic Autonomy and Religious Freedom," 162.

⁴⁷ They also argue that critical reflection is required for people to fulfil obligations of democratic citizenship. This idea was addressed in Section II.

⁴⁸ *Ibid.*, 168.

⁴⁹ For instance, many religious people would not accept Arneson and Shapiro's characterization of religious freedom as being more concerned with "the freedom as an adult to choose one's own faith" than the freedom to practice one's religion. *Ibid.*, 156.

⁵⁰ *Ibid.*, 169.

choose the way of life which is best for him.⁵¹

Now, Arneson and Shapiro are aware that this description of a good life is controversial. In fact, they feel compelled to respond to the Amish parent who "believes that he knows the comparative value of an Amish versus a non-Amish existence and believes the former is superior for his children, regardless of their idiosyncratic traits." Their response, in a nutshell, is that since one can know neither the comparative value of all ways of life nor someone else's 'traits and evaluative dispositions', the best one can do is develop their children's critical reasoning skills so that they can decide for themselves.⁵²

In the end, Arneson and Shapiro draw their final line in the sand by issuing their detractors a challenge:

to deny the moral appropriateness of requiring all guardians to promote in their charges the disposition to critical reasoning and the skills needed to practice it, it would seem that one must deny that an individual of normal potential competence is likely to benefit from such exercise of critical reasoning skills. One must hold that the epistemic strategy of uncritical acceptance of the values that the individuals was taught is a superior strategy for maximizing the goodness of the life the individual will have.⁵³

There are essentially two components to this challenge, both of which can be answered with reference to the model of the synthetic self.

The first is the claim that the universal benefit of the development of critical reasoning skills is undeniable. We addressed this in Chapter Seven where we argued that the promotion of critical reasoning skills can, in the worst case, harm people by undermining, without replacing, the identifications which sustain their governing assumptions. The second component is the claim that the only alternative to the life of critical reflection is the life of uncritical acceptance. We addressed this in Chapter Eight when we argued for the 'life of open-minded conviction' as an intermediate

⁵¹ Ibid., 170.

⁵² Ibid., 170, 170-171.

⁵³ Ibid., 171.

alternative between the life which places 'a positive value on engagement in critical thinking about one's fundamental values' and the life in which one is simply unwilling (as Arneson and Shapiro suggest, apparently unaware that this is different from their original claim) "to step back from those of our current beliefs *that have been rendered problematic in some way* and to think critically about them."⁵⁴ By demonstrating that we can reject the life devoted to critical reflection without embracing the life of uncritical acceptance, we undermine Arneson and Shapiro's claim that only an education which encourages critical reflection satisfies children's interest in protecting their capacity for autonomy.

Our model also allow us to suggest that the emphasis David Miller places on the importance of a shared identity to national unity is too strong. Miller sees the Amish's claim that "their cultural values can be transmitted only through a closed educational system"⁵⁵ as incompatible with the connection he makes between shared national identity and the legitimization of systems of distributive justice within political communities. He concludes that communities like the Amish 'cannot have it both ways'. They may either

choose to withdraw from citizenship and live, so to speak, as internal exiles within the state. ... [or] assert their rights to citizenship along with their cultural identity, ... make demands on the state on behalf of their group. ... [and] recognize the obligations of membership, including the obligation to hand on a national identity to their children so that the latter can grow up to be loyal citizens.⁵⁶

The problem with this position, at least from our perspective, is that it asks too much of members of minorities. As argued in Chapter Six, the degree of unity and solidarity which Miller desires does not require so thick an account of the national community. The thinner account which our argument supports is compatible with

⁵⁴ Ibid., 174. My emphasis.

⁵⁵ Miller, *On Nationality*, 144.

⁵⁶ Ibid., 145.

respecting the desire of the Amish to reproduce their own community.

Finally, consideration of Kymlicka's discussion of interference reveals some inconsistencies with his theory's commitment to personal autonomy which would be addressed if meaningful life, rather than autonomy, were treated as the central value. While this does not apply to his claim that interference is justified in the extreme cases "of gross and systematic violation of human rights, such as slavery or genocide or mass torture and expulsions",⁵⁷ it is true of his positions in less clear-cut cases.

Consider, for instance, his claim that, as a general rule, in dealing with illiberal minorities,

members of the more liberal majority will have to sit down with the members of the national minority, and find a way of living together. Liberals have no automatic right to impose their views on non-liberal minorities. ... Relations between national groups should be determined by dialogue.⁵⁸

It is unclear how this follows from his treatment of personal autonomy as a central value. In fact, Kymlicka does not even try to make this connection, choosing instead to offer pragmatic justifications. He says that "attempts to impose liberal principles by force are often perceived ... as a form of aggression or paternalistic colonialism" and have often "backfired".⁵⁹ This reliance upon pragmatic reasons suggests a recognition that this position cannot be explained in terms of his commitment to personal autonomy.

The decision to refrain from interference can be justified by reference to the value of meaningful life. We can accept that we should refrain from interfering to impose liberal principles because people find meaning in their present way of doing things and see no reason to change, or because liberal principles would threaten to undermine the communities life which they presently find meaningful. That Kymlicka might implicitly acknowledge this is suggested when he writes, "in the end, liberal

⁵⁷ Kymlicka, *Multicultural Citizenship*. 169.

⁵⁸ *Ibid.*, 171.

⁵⁹ *Ibid.*, 167.

institutions can only really work if liberal beliefs have been internalized by the members of the self-governing society, be it an independent country or a national minority."⁶⁰

A similar case can be made with respect to the criteria he suggests for determining whether to interfere in borderline cases:

The exact point at which intervention in the internal affairs of a national minority is warranted is unclear I think a number of factors are potentially relevant here, including the severity of rights violations within the minority community, the degree of consensus within the community on the legitimacy of restricting individual rights, the ability of dissenting group members to leave the community if they so desire, and the existence of historical agreements with the national minority.⁶¹

Consider the 'severity of rights violations' factor: it is unclear why a theory which treats personal autonomy as its central value should tolerate *any* violations of the rights which promote it. The model of the synthetic self avoids this problem by explicitly recognizing that we must balance pure autonomy interests against interests in maintaining valuable identifications. A similar point can be made regarding the 'degree of consensus within the community' factor. If justice requires respect for personal autonomy as a central value, why should it matter how many people agree to act unjustly? Again, Kymlicka's position is better explained by our model: the restriction of individual rights may be a necessary component of a meaning-sustaining project, or it may be required to preserve the community.

A final point can be made with respect to Kymlicka's position on groups like the Amish and Hutterites. He says of the special protection they have received that

We may now regret these historical exemptions, but they were granted, and we cannot entirely dismiss them, unless they are unconscionably unjust Relying on certain tacit or explicit assurances about their right to maintain separate institutions, these groups have now built and maintained self-contained enclaves that depend upon certain internal restrictions. Had those assurances

⁶⁰ Ibid.

⁶¹ Ibid., 170.

not been given, these groups might well have emigrated to some other country.⁶²

Again, it is unclear why the success of communities which restrict their members' personal autonomy or the fact that their ancestors might have gone elsewhere, should count as reasons within a theory for which personal autonomy is a central value. Here again Kymlicka's position can be explained by appeal to the model of the synthetic self: the extension of special exemptions to such communities is justified because it is necessary to preserve the communities upon which meaningful lives depend.

IV

The interests of adults in the ability to *pursue* meaningful lives suggest other minimal conditions of meaningful lives which can justify interference. These reflect two of the potential sources of conflict which we identified in Chapter Nine: the concerns that community membership be voluntary and that it not be defined so narrowly as to exclude anyone who relies upon the community for meaning.

The concern for voluntary membership suggests a number of possible justifications for interference. First, it suggests that people should not be exposed to subjectively-meaningless threats to their life or security. This allows us to accept Kymlicka's claim that interference is warranted in cases of "slavery or genocide or mass torture or expulsions".⁶³ Our position differs from his, however, to the extent that threats to life and security cannot justify interference where those so threatened voluntarily place themselves in jeopardy as part of their pursuit of significant purposes. Thus, while this would not justify interference to protect Dinka spearmasters from the live burial they accept, it could justify protecting unwilling initiates to the spirit dance from being assaulted.

A second implication is that if people are to be free to exercise meta-agency, and thus possibly to reject and replace their present communities, they must be free

⁶² Ibid.

⁶³ Ibid., 169.

to exit their communities. This means both that they should be free to leave the community (e.g. Pueblos must not be prevented from moving off reservation) and to shed its obligations (e.g. ex-Coast Salish should not be subjected to 'grabbing'). Beyond these formal requirements, freedom of exit also has substantive elements.⁶⁴ Any reasonable account of such requirements, I believe, is satisfied by the minimal conditions which we attached to socialization. Such socialization ensures that when children become adults they are aware of alternative ways of life, they know that they are legally free to pursue them, they have not been irreversibly prevented from exercising them, and they are minimally prepared to act politically as citizens.

A related minimal condition which follows from the freedom to exit is that adults should not be prevented from learning about other ways of life if they so choose. Thus, communities cannot oblige their members to act in ways which have this effect. This is violated, for instance, by the Amish practice of *Bann und Meidung* (excommunication and shunning) which requires members, on penalty of expulsion, to have no commerce whatsoever with those who have been shunned.⁶⁵ This is problematic, not because ex-members have a right to even such minimal participation in the community, but, rather, because it has the effect of denying members a source of information about the outside world.⁶⁶

The concern that membership not be defined too narrowly suggests that no one should be excluded from communities with which they identify so long as they are willing to fulfil minimal obligations of membership. Thus, interference is justified where members who are willing to fulfil such obligations are expelled from the community or denied full benefits of membership (e.g. the Pueblo Protestants) and

⁶⁴ See, for instance, our discussion of Kymlicka's criticism of Kukathas's account of the freedom to exit. Chapter Four, Section I, and Galston's description of four elements of a substantive freedom of exit. Galston, "Two Concepts of Liberalism," 533.

⁶⁵ John A. Hostetler, *Amish Society* (Baltimore: Johns Hopkins Press, 1963), 62.

⁶⁶ The case would be different if the community only counselled, but did not enforce, the ban on commerce.

where nonmembers who are similarly disposed are excluded from participation (e.g. the Ceredigion land use policy).⁶⁷

Where such minimal conditions are violated, the wider political community is justified in interfering to rectify the situation. What this might mean in practice would vary with circumstances. In the Salish grabbing case (*Thomas v. Norris*), for instance, the charging of Norris and the other defendants with assault seems sufficient to prevent similar occurrences in the future. In the case of the Pueblo Protestants, reasonable interference could range from simply decreeing that the discriminatory behaviour is illegal and demanding that it cease, to removing the special protection which is being misused.

⁶⁷ See Chapter Ten.

Conclusion

"You don't understand it, you won't understand it, and, quite honestly, you don't need to understand it. The point is we want it, we consider it important, and we ask you to respect that."

Rabbi Kimche¹

We began this essay by noting that the extension of special rights and privileges to ethnocultural minorities, while almost universally practised in liberal-democratic societies, has not been satisfactorily reconciled with liberalism, either in theory or in the popular imagination. Now, having arrived at the end of the argument, we should reflect briefly upon what has been accomplished. We have developed a conception of justice that treats the extension of special protection as integral rather than aberrant; and we have demonstrated that consistent principles can be derived from this to govern the application of special protection. We have undertaken this, not by the invention of an entirely new theory, but by shifting emphasis from values like 'choice' and 'autonomy, 'identity' and 'identification', which were central to some of the theories we considered in Part One, to the value of meaningful life, which lay in the background of these theories but was overshadowed by these other values. We will use these final comments to note the effect of this shift on the nature of the communities which warrant special treatment, to clarify the debate about the relationship between liberalism and personal autonomy, and to emphasize an important and continuing threat to the special protection of ethnocultural communities which has not been addressed in this argument.

When we consider the type of community for which special treatment has been justified, we realize that it is not exactly what we might have had in mind when we began. In particular, it is not open to all ethnocultural communities and all the communities to which it is open are not ethnocultural ones. The reason is that, by

¹ Trillin, "Drawing the Line," 62.

focusing on meaningful life and the individual, we have taken neither the nature nor the value of particular ethnocultural communities for granted. We consider, instead, the important role which such communities can play for their members as contexts of values. Unlike approaches which base claims for protection on the special nature of ethnocultural communities, as do, say, Kymlicka's contexts of choice or Svensson's multidimensional groups, our model of the synthetic self highlights a characteristic which some ethnocultural communities may share with other types of community - the ability to connect people to contexts of values which contribute meaning to their lives. Thus, our argument, while devised with ethnocultural communities in mind, is also applicable to other meaning-sustaining communities such as religious and regional communities, and communities which represent a particular way of life.

Our conception of community has some important practical implications which are worth recounting. First, it provides a normative yardstick for evaluating protection which is extended to ethnocultural minorities. On one hand, special protection must reflect our concern for meaning and equality. Respect for meaningful lives requires that communities only receive protection if their members rely on them as contexts of values: that is, if they support individual purposes or goods, or promote collective goods which individuals desire. Thus, the mere fact that people identify as members of a 'community' does not make the community a context of values (e.g. the 'white' or 'black' community).

Respect for the equality of all citizens requires that protection only be extended where such communities are threatened and only to the extent necessary to achieve this objective (i.e. demands for a state, home rule, or specific powers have no *prima facie* validity). This enables us to distinguish justifiable claims for protection from 'interests' which should have to prove their worth in regular political contests. For example, while Welsh communities, in which such values as environmental or socialist concerns are grounded, may deserve protection based upon their meaning-supporting roles, the actual political goals which these communities inspire, however, (e.g. no nukes, socialized drug plans) must be subjected to the normal rough-and-tumble of

political competition. On the other hand, our argument suggests that communities can be refused protection if they fail to respect the fluidity and multiplicity of their members' self-identities and identifications by requiring them to reject other identifications or by denying them the freedom to exit. Thus, by treating meaningful life as our central value, we are able to recognize a more subtle and compelling account of the value and nature of community.

The emphasis we place on meaningful life also allows us to clarify a rather stale and long-running debate about the nature of liberalism. William Galston aptly describes this as occurring between 'Enlightenment Project' liberalism which takes personal autonomy as its central value, and 'Reformation Project' liberalism which values diversity.² While our argument clearly rejects 'Enlightenment Project' liberalism, it is worth pointing out why we are not necessarily in the camp of Reformation Project liberals. What makes our approach special is that, unlike many versions of Reformation Liberalism, our commitment to diversity is based on an underlying value, meaningful life, rather than on appeals to the intrinsic value of diversity or to some sort of *modus vivendi*. The significance of this can be illustrated by comparing our approach to Galston's 'Diversity State'.

The 'Diversity State' fits nicely into Galston's dichotomous understanding of conceptions of liberalism because it rejects the promotion of personal autonomy as a shared liberal purpose, and endorses instead, "public principles, institutions, and practices that afford maximum feasible space for the enactment of individual and group differences, constrained only by the requirements of liberal social unity."³ Whereas the model of the synthetic self justifies its commitment to the value of identification by appeal to the deeper value of meaningful life, Galston avoids making a decisive case for diversity. While he suggests three "kinds of arguments that might

² Galston, "Two Concepts of Liberalism," esp. 525.

³ Ibid., 525, 524.

produce an overlapping consensus in favour of such a stance",⁴ he commits to none and proceeds on the supposition "that on some bases such as these, a plausible case for diversity can be made out."⁵ Beside the fact that meaningful life seems a more intuitively compelling basic value than diversity,⁶ it also permits the model of the synthetic self to avoid the problems Galston encounters when he commits to a conception of liberalism which cannot treat autonomy as a value by definition.

Consider the trouble Galston makes for himself when, after having rejected personal autonomy as a shared liberal value, he addresses the topic of interfering in the internal practices of communities. The challenge, as he notes when considering interference in processes of education, "is to hew a principled path between intrusion and laissez-faire."⁷ The problem he faces, though, is that the value of diversity provides little basis in itself for interference. Thus, Galston must find some other basis for justifying it. He finds this in what he calls central public purposes of the liberal state.⁸ The problem is that in appealing to these public purposes he seems to reintroduce personal autonomy through the back door. He comes close to recognizing this when he concludes, after discussing the idea of a 'meaningful right of exit', that his position has moved "back some distance toward policies more typically associated

⁴ These are: 1) removing diversity would require "unacceptable degrees of state coercion"; 2) diversity is instrumentally valuable: either for Millian [choice enhances the meaning of commitments] or Madisonian reasons [diversity provides obstacles to tyranny]; 3) diversity is intrinsically valuable. (Ibid., 527) Surprisingly, Galston does not invoke his argument that Enlightenment Project liberalism "can weaken or undermine ... the deepest sources of [people's] identity" to support his 'Diversity State'. 521.

⁵ Ibid., 528.

⁶ Compare reactions to the following questions: Why should we value diversity?; Why should we care if our lives are meaningful?

⁷ Ibid., 529.

⁸ He provides three examples in this paper: "the protection of human life"; "the protection and promotion of basic capacities"; and the development of "'social rationality' (the kind of understanding needed to participate in the society, economy, and polity)". Ibid., 525.

with autonomy concerns."⁹ Thus, the Diversity State does treat personal autonomy as a shared value after all.

This is only a problem, of course, because of the way Galston has set up the question. What the model of the synthetic self allows us to recognize is that what is really at the heart of the debate between Galston's 'Two Concepts of Liberalism' is not *whether* liberalism should endorse personal autonomy as a value, but *which conception* of personal autonomy it should adopt: a critically-reflective conception or one, like our situated autonomy, which is much more easily reconciled with a value like identification with a community. Thus, by relying as we do on the underlying value of meaningful life, we are able to avoid an unnecessary dichotomy and openly recognize the importance of both autonomy and diversity (or, in our terms, identification).

While the emphasis we have placed on the value of meaningful life has allowed us to recognize more subtle and compelling accounts of communities with which people identify, as well as to transcend an important debate about the nature of liberalism, a serious obstacle to the success of our project remains. Even if our argument were to convince a majority of voters in liberal-democratic countries of the justice of special protection, various pressures are being exerted by the processes and institutions of international capitalism which seem destined, if unaddressed, to undermine any progress which might be made.

Some of the most significant trends which are transforming the order of states have been described by Allen J. Scott:

the continuing transformation of world economic geography into a mosaic of interdependent regional production systems. ... has been accompanied by a certain dampening of the system-coordinating capabilities of the sovereign state, and a concomitant (but unequal) drift of political functions up to the international level where piecemeal contractual and institutional regimes strive to ensure some degree of economic order, and down to the local level where municipal and regional governments all over the world are struggling to

⁹ Ibid., 534.

formulate viable economic strategies in the context of competitive currents from which national governments are increasingly unable to shelter them.¹⁰

This suggests three important processes which must be considered: the undermining effect of international economic competition on the capacity of nation-states to provide services to their citizens; the drift of authority up to international and supranational institutions; and the drift of authority down to local and regional governments.

Consider the impact of increasing economic competition. Patterns of investment, changed by what Kenichi Ohmae has described as the four free-flowing "I's" of the global market - industry, investment, individuals, and information¹¹ - increase pressures on states to compete for increasingly mobile capital. This creates incentives to keep costs, especially taxes, down. As we are all too painfully aware, such pressures constrain the ability of governments to maintain what Ohmae calls the 'civil minimum' of public services: once "demands on the nation's resources exceed the available supply, the reaction of interested constituencies [will be] ... to turn with a vengeance on competing constituencies".¹² This does not bode well for forms of special protection which require redistribution of resources, such as the subsidization of cultural production, and the withdrawal of culturally-sensitive resources from the marketplace.

Another potentially detrimental trend is the upward shift of authority to international institutions. While no threat is inherent in such an upward shift in itself, a threat is posed by the largely economic interests which have driven it. For example, an important concern with the European Union (EU) is the effect it has on instruments of cultural protection. Alcock describes this with respect to the EU's protection of the mobility of persons:

¹⁰ Allen J. Scott, "Regional Motors of the Global Economy," *Futures*. Vol. 28, No. 5, (1996), 405-6.

¹¹ K. Ohmae, *The End of the Nation State: The Rise of Regional Economies* (New York: The Free Press, 1995), viii.

¹² *Ibid.*, 47.

In article 3(p) of the draft treaty on European Union, dated 18 June 1991, the Community's activities are to include 'contribution to education and training of high quality and to the flowering of the cultures of Europe in all their forms'. Upon the extent to which this can be reconciled with draft 3(c), 'an internal market characterised by abolition, as between Members States, of obstacles to freedom of movement of goods, persons, services and capital', the fate of Europe's many regional cultural minorities may come to depend.¹³

While Alcock is specifically concerned with the effect of Article 48 of the Treaty of Rome (which bans limits on freedom of movement) on ethnic proportionality schemes in the public service,¹⁴ the more general point is that international institutions designed primarily to advance the concerns of global trade and development may well undermine special measures designed to protect particular communities.

Even the drift of authority down to local and regional governments does not necessarily work in the interests of vulnerable communities. Consider the example of Wales where this dynamic appears to have been expressed in the success of the referendum to create a Welsh Assembly. One thing this highlights is that the new regionalization which is being predicted is being driven by economic, rather than cultural forces.¹⁵ If Wales is indeed a new global region, its boundaries seem no more, if not less, likely to promote the interests of Welsh-speakers who constitute only twenty-percent of its population.¹⁶ There seems, then, to be something generally true

¹³ A. Alcock, "The Protection of Regional Cultural Minorities," 36.

¹⁴ It was decided in 1980 that "member states could only restrict the entry of aliens to public posts if those posts put the holders thereof in the positions of directly participating in the exercise of official authority or of making use of prerogatives in the nature of powers conferred by law in regard to members of the public." *Ibid.*, 29-30.

¹⁵ The main justifications which have been offered for creating this assembly have been economic. For example, even the government's argument that a Welsh Assembly will address the 'democratic deficit' in Wales is ultimately couched in economic terms: "a more responsive elected body will be better placed to promote economic prosperity and quality of life across Wales." *White Paper: An Assembly for Wales*, "The Case for an Assembly".

¹⁶ The results of the September 1997 referendum are not very encouraging on this point. Determined on a geographical basis, the Welsh-speaking, Welsh-identifying Welsh voted 64 percent for the Assembly, the English-speaking, Welsh-identifying Welsh voted 54 percent for, and the English-speaking, British-identifying Welsh voted 63 percent against. [Calculated in a rough and

about Gwyn Williams's claim that the Westminster Parliament is "the only forum within which these fragmented peoples could co-exist".¹⁷

Thus, for the value of meaningful life, as defined and defended in this argument, to be secured, further consideration must be given *both* to how international politics and international organizations would have to be structured to ensure such protection, *and* to how such an arrangement could be justified. While this clearly exceeds the parameters of this project, I believe that the rudiments of such a position are present in the argument for the model of the synthetic self.

While it clearly does not answer all the questions which may be asked of it, I believe the model of the synthetic self marks an important point of departure in the discussion of liberalism and minority rights. By focusing our attention on the underlying value of meaningful life, it takes up the challenge posed by MacIntyre's scathing criticism that the American Supreme Court tries

to keep the peace between rival social groups adhering to rival and incompatible principles of justice by displaying a fairness which consists in even-handedness in its adjudications. ... [and] not by invoking our shared moral first principles. For our society as a whole has none.¹⁸

While MacIntyre is certainly correct to suggest that there is no existing consensus based on a liberalism which promotes full autonomy as its central value, the model of the synthetic self aspires to place liberalism on firmer ground which could form the basis of such a moral consensus.

ready' way from the Welsh Office website, "Full Referendum Results: ALL WALES TOTALS". Internet.]

¹⁷ Gwyn Williams, *When Was Wales?* (London: Black Raven Press, 1985), 295.

¹⁸ MacIntyre, *After Virtue*, 235-236.

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