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## New Worlds for Old: Kymlicka, Cultural Identity, and Liberal Nationalism

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### Abstract

The problems that ethnic and cultural diversity pose for democratic societies have become a central concern for political theory. This paper offers a critical analysis of Will Kymlicka's hugely important and ambitious attempt to formulate a liberal political morality for multicultural states. Kymlicka argues that cultural membership is a necessary condition for autonomy. He then goes on to gloss this as membership in a specific sort of community, namely, a nation. This paper unpicks his arguments for liberal nationalism. It also argues that Kymlicka's post-colonial diet of examples skews his theory's usefulness for illuminating the politics of contemporary Europe.

### 1 Introduction

Cultural diversity and national identity have become increasingly prominent themes in political philosophy. This has in part emerged as a response to powerful practical demands and problems as well as to a broader concern with the nature of community and identity. Within Europe, since the early part of this decade, claims for independent statehood from Latvia, Lithuania, Estonia, the Ukraine, the constituent parts of Yugoslavia, the Czech Republic and Slovakia have been successful (or at least accomplished). Over a longer period, parts of Belgium, the United Kingdom, and Spain have called for increased regional autonomy. At the same time, cultural diversity appears to have become problematic within established states. Questions, such as how much cultural diversity a state can accommodate, and how it should do so, have been asked with increasing intensity. Attitudes toward immigration and naturalization, education, criminal law, and the limits to freedom of expression have come under scrutiny in the light of the needs, interests, and claims of different cultural groups, sometimes appearing in distilled (and explosive) form in fierce public controversies such as the Rushdie case in the United Kingdom and *'l'affaire des foulards'* in France.<sup>1</sup>

Will Kymlicka's work has offered a timely and ambitious attempt to supply a framework with which to comprehend both of these currents, and

it is grounded in a liberal understanding of what fair treatment of individuals who have a right to culture involves.<sup>2</sup> He furnishes powerful and influential arguments for 'differentiated rights' for cultural minorities, and for self-rule for national minorities. It has become increasingly clear that a form of liberal nationalism underlies his arguments. He approvingly quotes Yael Tamir, "most liberals are liberal nationalists" (Tamir 1993: 139; Kymlicka 1995a: 93), and he does not wish to be an exception.<sup>3</sup> Many states are multinational and these, he argues, rather than attempting to impose a single national identity on their populations should devolve to their national minorities some of the powers of sovereign bodies. This form of liberalism tries to reflect and accommodate not merely the pluralism of interests but the pluralism of identities that is found in modern states. While it starts with a general concern with each individual and the survival of his or her cultural habitat, it arrives at a defence of political self-determination, at least in some measure, for national minorities.

The purpose of this paper is to examine the clarity and persuasiveness of this theoretical trajectory. In the first section I will discuss Kymlicka's distinction between two sorts of cultural minority – national groups and immigrants – and his attempt to draw a normative distinction between these two groups based upon the presumption that migration is characteristically a voluntary act. The second section outlines the structure of his 'independent argument' for the value of national identity, which hinges on a commitment to an individual right to a secure and reasonably familiar cultural habitat. The third section unpacks the difficulties with this account. There are tensions between the argument for an individual right to culture and the case for the devolution of powers to national groups; the latter argument is overlaid on the former by Kymlicka, but not supported by it. The contingency of this relationship suggests that constitutional provision for self-rule (or, at the limit, secession) is only one political mechanism that may support this right, but has no privileged connection to it. In the process of my discussion, I suggest that this contingency may in part be disguised by the diet of examples on which his argument feeds. Needless to say, much of his work is neglected in the following, which tries to thread a path through a full discussion of the liberal conception of social justice and Kymlicka's many discussions and judgments about specific cases.

### 2 Cultural minority

In *Multicultural Citizenship* Kymlicka distinguishes between two sorts of cultural minority. The first is a societal culture or national minority:

that is, a culture which provides its 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. (Kymlicka 1995a: 76)

A state that houses more than one societal culture is 'multinational'. Where a minority group possesses a distinct societal culture it deserves rights of self-government, in order to allow it to perpetuate its cultural identity, and it may even be entitled to secede from the political association (Kymlicka 1995a: 28-30, 79-80, 103-105, 142-145, 186). Although Kymlicka alludes to European national minorities, his diet of examples, and the cases which he hopes to address with his theoretical machinery, are heavily skewed toward the New World: American Indians, Puerto Ricans, the Chamorros of Guam, and native Hawaiians in the United States; Quebecois and original peoples in Canada; Maoris in New Zealand; and Aborigines in Australia. Kymlicka is part of a post-colonial movement in social and political theory (Tully 1995; Ivison 1997) that aims to reassert the distinctness of national minorities whose territories have been "incorporated into the boundaries of the larger state, through conquest, colonization, or federation." (Kymlicka 1995a: vii.)

The other sort of cultural minority is constituted by voluntary immigration. An immigrant group does not seek national self-rule or claim a homeland territory in its new state. Its cultural distinctness manifests itself in the private sphere of family life and voluntary associations, and is consistent with the group's integration into the public institutions of the dominant culture, such as that culture's language. For example, except for the elderly, immigrants must learn English in order to acquire citizenship in Australia and the United States (Kymlicka 1995a: 14). It is thought that such immigrant groups do not characteristically claim entitlements to self-government but only to a different form of group-specific rights, which Kymlicka calls 'polyethnic rights'. These include measures to counteract discrimination and to preserve features of their original culture: for example, official holidays may be rearranged to reflect a society with diverse religious faiths. Some of the most contentious of these claims have been for exemption from laws and regulations which disadvantage some minority groups, given their religious practices (such as rules on the slaughter of animals), or for measures that seem to call into question the unity of the state (such as demands for public services and schooling in the original culture's tongue) (Kymlicka 1995a: 30-31; Miller 1995: 141-145; Scruton 1990: 325).

Fairness to these minorities involves something different in each case. On the one hand, "we should aim at ensuring that all national groups have the opportunity to maintain themselves as a distinct culture, if they so choose," a principle which forms nothing less than the grounds on which "to recognize languages, draw boundaries and distribute powers." (Kymlicka 1995a: 113.)

(The language of 'distinctness' is no doubt influenced by Quebec's constitutional struggle to assert its status as a 'distinct society' within Canada.) While the rights of self-rule to which national minorities are entitled are granted in order to maintain cultural distinctness, polyethnic rights are granted in order to promote integration into the 'common culture' rather than to establish a separate public or institutional life (Kymlicka 1995a: 66-68, 177-181; Kymlicka and Norman 1994; Spinner 1994: 76-78). Polyethnic policies furnish the opportunity for immigrants to feel a sense of continuity with their original culture while living much of their lives outside it. This will disappoint those immigrants who hope to pass on their traditions to their children through designated public institutions (Ripstein 1997a: 611), but this insistence does not overly trouble Kymlicka since, as we shall see, he takes the view that immigrants (or, if not all of them, at least those with whom he is concerned) moved to their new country voluntarily.

The first way, then, in which Kymlicka distinguishes between the entitlements of national minorities and those of immigrants is by drawing attention to the latter's putatively voluntary decision to migrate: "the expectation of integration is not unjust," he argues, "so long as immigrants had the option to stay in their original culture." (Kymlicka 1995a: 96.) If a group of Americans moves to Sweden, it has no right to expect the Swedish government to provide institutions of self-rule or education in English. Indeed, immigrants expect and choose to integrate into the dominant culture (Kymlicka 1997b: 58). One objection to this way of distinguishing between cultural minorities is that we may thus view membership of a national minority as voluntary. A member of a national minority (say, a Scot or a Catalan) may have the option to embrace the multinational state identity without severe costs but choose not to. If we can view minority identity as a matter of choice in this way, why are those who opt for it not in the same position as voluntary immigrants? (Kukathas 1997: 413.) The wider society would be under no obligation to support their choice of identity except in the way that it supports other 'polyethnic' identities. This objection fails, however, when the terms of Kymlicka's 'voluntariness' are recalled: this requires that I can only be seen to have chosen a cultural identity when I have the option to stay in my original culture. If this culture was to be eroded in the absence of provision for self-rule, then I would be deprived of the option to stay in it. Without provision for self-rule, then, the expectation that I integrate is unjust. It follows that we can only view cultural membership as voluntary if the original culture remains in existence – and is furnished with what it needs in order to exist. One may ask whether or not this requirement calls for self-rule as a matter of principle, a point I will take up in section 3 below.

Kymlicka is on weaker ground in the presumption that migrant ethnic minorities are voluntary. This is an appropriate point to consider how well the

distinction between national minority and voluntary immigrant maps on the politics of multinational and polyethnic states in Europe. It is not hard to find cases that fall into both categories: Belgium, Switzerland and the United Kingdom are examples of multinational states (although Kymlicka oddly mentions "uninational states like England" (Kymlicka 1995a: 56) – while these countries, and many others, such as Germany and France, have a politically challenging immigrant presence (Brubaker 1992; Halfmann 1997; Jennings n.d.). Yet, there are also the "hard cases and grey areas" to which he glumly refers, noting that African Americans do not fit his scheme very well (Kymlicka 1995a: 101, 1997b: 77-8; Parekh 1995; Parekh 1997; Young 1997). There are the dispersed, non-voluntary groups such as Jews and Romanians. There are also national groups which 'have' their own nation state but have settled elsewhere for quite non-voluntary reasons, and sometimes in problematic enclaves, such as Germans in Hungary, Slovakia, the Czech Republic and Romania; Poles in Lithuania; Albanians, Serbians, and Croats in the Balkans; and Hungarians in Slovakia and Transylvania. The communities of Northern Ireland constitute another case in which the opposition of voluntary immigrants and indigenous people has no grip. The point here is not to suggest that his typology is too neat for messy reality, but that the class of dispersed cultural minorities is not coextensive with the class of voluntary minorities. This is perhaps a point more easily overlooked in countries where the majority population comprises a *mélange* of immigrant groups, many of whom may indeed have made a choice to immigrate there (Kymlicka 1995a: 63; Walzer 1982). Nevertheless, slaves and transported convicts are plainly not settlers by free choice in the colonies. Similarly, it is not clear that refugees persecuted on political or ethnic grounds, or, as he concedes, the victims of severe economic injustice are immigrants by virtue of a free choice (Kymlicka 1995a: 99). Finally, some further argument is surely required in order to establish whether dependents who accompany voluntary immigrants are themselves voluntary immigrants.

These difficulties suggest that voluntariness is not a helpful way to classify minorities. But if voluntariness does not mark the distinction on the basis of which the two sorts of minority should be treated differently, what does? Why should any particular value be attached to the membership of a societal culture or national group? In order to answer the latter question we must look at Kymlicka's important and influential account of the value of cultural identity.

### 3 Value of cultural identity

The basic principle of Kymlicka's conception of liberal justice is that while the state ought to leave its citizens alone to bear the consequences of their free choices, it is under an obligation to furnish the necessary conditions for the

exercise of free choice on fair terms (Kymlicka 1990). A secure and largely familiar culture provides the context in which people can make choices about what matters to them: cultures provide us with a map of the world in which we deliberate, narratives which make it intelligible to us, ways of viewing options, and some of the skills and capacities required to make choices for ourselves. A particular vernacular language, for example, provides its speakers with a vocabulary with which they can conceptualize their world, but it does not prescribe the content of all the specific decisions they make. Since this cultural framework is a necessary condition for free choice, it is the appropriate subject of political protection, and since cultural identity is usually a significant part of a person's identity, people should be allowed to express and maintain this identity without paying undue costs. Of course, cultural identity may also be the object of choice: I may decide to become a New Age Traveller or an Anglo-Catholic royalist Englishman; I may also seek to redefine what a certain identity involves, should I adopt it. In such cases, I should be left to make these choices and to deal with the consequences of making them as best I can. Yet a secure cultural framework is required if one is to be a chooser at all. And, if necessary, this unchosen framework should be protected by political means.

Kymlicka identifies this cultural framework, which is necessary for individual deliberation and choice, with societal culture: "Freedom involves making choices among various options, and our societal culture not only provides these options, but makes them meaningful to us." (Kymlicka 1995a: 83; see also Margalit and Raz 1990; Raz 1995; Ripstein 1997b.) He invokes the 'depth' and 'naturalness' of the attachment that one is meant to have to one's own societal culture (Kymlicka 1995a: 105; Kymlicka 1997b: 60). He also claims that societal cultures are normally the possession of *nations*, "national minorities have societal cultures and immigrant groups do not", and that the two ideas are generally identified (Kymlicka 1995a: 101, 80, 84-93). So, it is ultimately national groups that carry the special burden of providing cultural frameworks for choice on behalf of their members, and national groups, therefore, that must be provided with powers of self-rule in order to preserve their distinctness. A national minority, such as the Quebecois or original peoples of Canada, requires distinctness in order that its individual members can maintain their identity and agency on an equal footing with members of the majority culture. In this way, fairness calls for these groups to be granted rights specific to them such as guaranteed political representation, constitutional vetoes or the right to interpret laws by the light of the minority tradition, and perhaps self-rule. For without this provision, the capacity for agency and identity of their members would be undermined.

This argument aims to support the protection of culture and minority rights without invoking a communitarian belief in the value of tradition or acquiescence in communal standards, regardless of whether or not the values deferred

to support individual autonomy.<sup>4</sup> Rather it attempts to establish the value of cultural identity as a necessary prop for each individual's capacity to deliberate and make choices. At the same time, Kymlicka is concerned to rebut liberal qualms about nationalism and granting groups special rights on two fronts. First, liberals sometimes mistrust ideas of nationality which they see as entangled in an unjustified particularism and in brutal excess. On the contrary, he argues, liberalism ought to own up to its heritage and assumptions: as quoted above, "most liberals are liberal nationalists," who believe that liberal goals are to be achieved within the stable domain of each nation. Indeed, he believes that nations provide a desirable form of community for liberals by virtue of their size and diversity: "[t]he national culture provides a meaningful context of choice for people, without limiting their ability to question and revise particular values or beliefs." (Kymlicka 1995a: 92-93.) The other worry he wants to abate is that granting group rights in this fashion opens up the possibility that the minority groups may use their powers to oppress some of those within the group (Kymlicka 1995a: 38-44, 152-172). However, he insists that the special rights granted should be designed only to protect a group against the decisions of outsiders, not to suppress internal dissent: "Liberals can and should endorse certain external protections, where they promote fairness between groups, but should reject internal restrictions which limit the right of group members to question and revise traditional authorities and practices." (Kymlicka 1995a: 37.) Choosing to alter the landscape of one's cultural world is quite different from having it transformed from outside. A national culture's character is not fixed but may change according to the choices of its members. However, it should be defended against enforced change from outside.

This, then, is Kymlicka's strategy to establish that one sort of cultural membership carries with it eligibility for political self-determination. The 'context of choice' argument makes the case that individuals possess an interest in a secure and familiar cultural framework, and that fairness to a minority involves preserving that framework in order to protect its members' agency and identity against the erosion that comes with the framework's destruction. He goes on to identify this framework with the particularly encompassing form of cultural membership, in societal culture, and to argue that the principal site for such cultures are nations. Accordingly, national groups may legitimately press for instruments of self-rule on the grounds that these protect the cultural framework for their members.

#### 4 Liberal nationalism

Does this strategy succeed, however? The argument I want to put forward here is that Kymlicka overlays a nationalist case for self-rule on a liberal case for a

right to culture, but that the latter does not support the former. The context of choice argument does not provide grounds for the nationalist argument, as he assumes; indeed, it may point toward a rather different (if also contestable) sort of politics of cultural identity.<sup>5</sup> The contingency of this relationship emerges in three principal ways, and I will look at each in turn. In essence, the case I want to put forward runs as follows. The context of choice argument does not presume that nations constitute the relevant sort of cultural framework. At the same time, it does not claim that any damage that may be wrought on such a framework will be caused exclusively by non-members, from whom members of a cultural minority deserve protection. Nor, finally, does the context of choice argument have anything closer than a pragmatic stance toward the nationalist politics of self-rule.

The first difficulty concerns the claim for the special status accorded to the nation as the repository of the individual's orienting cultural framework. Why is the nation thought to furnish the individual with the cultural raw materials for deliberation? Jeremy Waldron has argued that Kymlicka conflates the claim that a secure cultural framework is necessary for agency and identity with the distinct and more doubtful assertion that membership of one's own particular inherited culture is required. It is surely the case, he asserts, that a "freewheeling cosmopolitan life, lived in a kaleidoscope of cultures is both possible and fulfilling." (Waldron 1992: 762.) North Americans (whose lifestyle he presumes to be both possible and fulfilling) eat Chinese food, read Grimm's fairy tales, celebrate St Patrick's Day, etc. Kymlicka's response is that this diversity is a feature of, and mediated by, American societal culture: the facts of learning and borrowing only suggest that this nation has an open (but of course not infinitely open) societal culture, not that there are no distinct national identities. Waldron's argument does not therefore obliterate the need to attend to the distinctness of national cultures. The question I want to ask here is different: it concerns whether or not Kymlicka conflates the claim about the necessity of a cultural framework for individual deliberation with the different claim that membership in a particular *sort* of culture is necessary for agency and identity. An individual is related to and has allegiances to many sorts of group identity, including family, occupation, region, neighbourhood, religion.<sup>6</sup> As any one of these may be more important to an individual's framework for choice than national identity, it is not clear why the nation should fill this role in the context of choice argument.

One response is that nations take priority over other aspects of identity by virtue of a special relationship with social and political institutions. Societal cultures are viewed as 'encompassing', 'multidimensional' or 'pervasive' (Kymlicka 1995a: 79-80; Svensson 1979; Smith 1986: 2; Margalit and Raz 1990; Tamir 1993). To recall: they provide their members with meaningful ways of life across a wide range of activities, including social, educational, religious, recreational

and economic life, in both private and public spheres, and they tend to be territorially concentrated and based on a shared language. This pervasiveness is sustained by the institutional characteristic of societal culture. Ronald Dworkin's description of a culture as a "shared vocabulary of tradition and convention" is said to offer only an 'abstract ethereal' conception (Dworkin 1985: 231). For a culture to be *embodied*, by contrast, "means that it must be institutionally embodied – in schools, media, the economy, government, etc." (Kymlicka 1995a: 76.) Yet the institutional embodiment ascribed to societal culture muddies the waters. In this account, only an institutionally entrenched culture can secure the framework which underlies my choices (including the decision, should I make it, to opt out). However, if by this is meant that the only cultural groups that should be recognized are those that already possess robust institutional powers, the argument appears otiose: the account was meant to identify those cultures which ought to be granted robust institutional powers. If the reason why societal cultures are meant to be privileged is because they alone possess the institutional strength to reproduce themselves, then the privileges seem redundant. This would constitute merely a conservative argument for supporting only existing institutionally embodied cultures: where existing institutional strength is imperilled, it should be protected; so Catalans count but not, say, the Cornish. When a group does not already hold this sort of institutional power, there are no particular grounds for recognizing their nation, which would seem to be a severe shortcoming in this response.<sup>7</sup>

An alternative is to see Kymlicka's argument to be based not on the purported institutional underpinning of national identity but on its liberal credentials. As we have seen, he holds that nations are the approved liberal form of community on the grounds that they foster only a common cultural identity but not a common conception of the good: nations constitute the approved form of political community for liberal theory by virtue of providing a kind of unity while accommodating disagreement and dissent about controversial questions of the good life. As Tamir puts it, "[s]ince the roots of unity in national communities are outside the normative sphere, they can accommodate normative diversity, and in this sense be more pluralistic than groups held together by shared values." (Tamir 1993: 90; Kymlicka 1995a: 105.) Kim Philby's and Anthony Blunt's Englishness was never doubted, she claims, nor was the Frenchness of either De Gaulle or Sartre. One question which this raises concerns how we understand what is taken to be both shared and indubitable in these cases. I will return to this shortly, when considering the third way in which Kymlicka's liberal nationalism unravels. In any case this appeal is unsuccessful as a tactic for establishing that nations constitute the privileged sort of cultural context. For, first, if we understand nations as cultural entities, they are not necessarily pluralistic, as Kymlicka concedes when he struggles with what to do about illiberal national minorities (Kym-

licka 1995a: 152-172). And, second, other groups and identities may be pluralistic in his sense: for example, I am not sure what shared and unrevisable conception of the good binds together my family, the university department where I work, or the city in which I live.

The second difficulty with the nationalist elaboration of the context of choice argument concerns the claim that external interference in a culture ought to be prevented, where it tends to promote unfairness (external protections), but that there should be no such obstruction to the transformations to a culture which may be effected, intentionally or unintentionally, by the free choices of the members themselves (the ban on internal restrictions). But this distinction between internal choice and external interference cuts across, rather than complements, the context of choice argument. With the latter the value of the cultural framework is conceived in individual terms. The damage which may be done to it counts as damage, irrespective of the source, and may be compatible with the culture's continuing distinctness: the official expressions of a culture may increasingly disorient some of its members (say, by stressing a particular religion, by the ferocity of its nationalism, or by a perturbingly tolerant attitude toward immigrants). While our cultural identities may, in the interests of fairness, be protected from the choices of outsiders, are we owed protection against the choices of some members of the same cultural community? The individualism of the context of choice argument seems to suggest an affirmative answer: the unfairness that flows from a damaged cultural framework is unfairness for the individuals affected; it is the (relative) disabling of their capacities for agency and free choice by sources outside their control which constitutes the unfairness, not the fact that they have been placed in this dire condition by some particular source outside their control. The questions then arise, which internal cultural transformations should be allowed, and who decides which should be allowed?

An apparently relevant distinction in Kymlicka's work does not resolve this problem. He draws a line between the *character* of a community and its *identity* or *distinctness*. The choices made by individuals in a culture may change that culture's character (it may come to define itself in terms of religious rather than linguistic character, for example); the society which made these choices should be left to deal with the consequences thereof. But, if the cultural framework that permits choice is to be protected, it must somehow be possible to identify that framework separate from any of its specific characteristics, as the latter may change in response to members' choices. The identity, or distinctness, of a culture is held separate from its character: "We must distinguish the existence of a culture from its 'character' at any given moment." (Kymlicka 1995a: 104; Kymlicka 1989, ch. 8.) Kymlicka's thought is influenced here by his view of the so-called Quiet Revolution in Quebec, when the society's character changed from religious and rural to secular and urban in the space of a generation. Such

internal transformations of a culture are legitimate and differ from a threat to the "very survival of a culture as a distinct society" resulting from choices made by people outside the culture.

These considerations suggest a possible response: namely, that internal cultural changes, which do not damage the culture's distinctness, but transform its character, are permissible. Yet this founders on two implausibilities. The first is the problem of defining or identifying a 'cultural framework' independently of its characteristics (Tomasi 1995). Second, even if this is possible, it is a different and difficult matter to establish whether the properties identified as constitutive of the culture are the same as those that furnish the context of choice for individual members of the culture. For example, we may define a culture in terms of a particular language and territory, but we seem bound to admit that the sense in which the culture provides a stable context of choice involves a richer, if shifting, array of properties (particular modes of family life, expectations about choices of occupation, educational traditions) which are mutable 'characteristics'. But if these two sets of properties are not identical, then we are owed some account of how the minimal criteria for identifying a 'distinct society' relate to the richer set of characteristics that forms the context of choice.

The third difficulty with the nationalist elaboration of the context of choice argument concerns the privileged role assigned to political self-rule: this links an argument for an individual's right to a secure cultural framework to an argument for a nation's right to political self-determination. The value of societal culture, which grounds the claim for political protection, lies in the provision of a secure framework within which individuals may deliberate and make choices. The context of choice argument does not assume that the individual chooser attaches a particular value to self-rule by the group possessing the societal culture: it is the cultural framework itself that is valuable for the individual. But of course, granting political power to a group that possesses a societal culture is not the same as protecting that framework. If group G values the features X, Y, Z of its societal culture, as these give agents their deliberative maps and narratives, then why not protect X, Y, Z directly rather than devolving power to G? Self-rule is granted only for its instrumental value in protecting the cultural framework for the individuals ruled; so if it does not in fact have this instrumental value then it is not clear why it should be granted. For example, if a tradition of mining forms a key part of a region's cultural framework, shaping the context of choice, self-esteem and understanding among the generations of this group, then the state's duty would be to preserve this tradition, rather than to devolve powers to the region. After all, depending on how the boundaries are drawn and on the vagaries of politics in the region, the region may not use its devolved powers to support mining. But, in the context of choice argument, the state's obligation is not owed to the politically

organized group but to the individuals and their threatened cultural framework.

The individual interest in his or her cultural framework may be better met by political solutions that do not devolve powers along the apparently simple lines of 'societal cultures'. Other ways of organizing political power may have greater instrumental efficacy in protecting the cultural habitat of individuals. Recognition of this point allows back the Leviathan of centralized state sovereignty as well perhaps as the claims of imperial legitimacy (Acton 1922) – or of the European Union, or international courts. It may be better served by devolving power in ways that do not mark out distinct societal cultures; devolving powers on the latter lines arguably entrenches and intensifies these lines of social cleavage, at the expense of recognizing the variety of cultural habitats that individuals may value. Belgium, one of the most centralized states of nineteenth century Europe, has become one of Europe's most uneasy federations: "The fact that the two major standardized languages of Belgium emerged as focal points for feelings of discrimination and conflict meant that northern and southern Belgium came to be seen as increasingly oppositional unities." (Murphy 1995: 83.) Flanders and Wallonia would seem to meet Kymlicka's criteria of distinct language and (with the exception of Brabant) territorial identity. But, these are not the only entities that might have been granted rights of linguistic and cultural self-determination. Even if one agrees with the principle of territorial choice of language, that does not necessarily mean that Flanders and Wallonia, rather than the country's smaller provincial units (Luxembourg, Namur, Liège, Hainaut, Brabant, Limburg, Antwerp, East Flanders, West Flanders) should constitute the relevant territories: if power had been devolved to these administrative units, greater accommodation of linguistic variety within Flanders and Wallonia might have been possible. The fact that this did not happen is a result of the political history of Belgium rather than a reflection of the inherent nature or needs of its societal cultures. To assimilate the context of choice argument about the cultural needs and interests of individuals with the grounds for self-rule by national collectivities expresses a very loose interpretation of the former argument. Support for the presumption that cultural and territorial fault-lines coincide and are obvious is more likely by looking at Quebec as a key example, rather than Northern Ireland or Bosnia.

## 5 Conclusion

I have argued that Kymlicka tries to squeeze his context of choice argument in order to fit his nationalist intuitions, with uncomfortable results. The tension between the two perspectives is undoubtedly less in situations where the legacy

of colonialism and state violence has left islands of historically distinct and territorially based national groups and where there is a liberal state populated largely by immigrants whose presence may be interpreted as voluntary. But when the relationship between territory, culture and political power does not break relatively cleanly along these lines (as in some of the European instances which have been discussed here) the two perspectives fall apart. The moral psychology of the context of choice argument does not entail this particular landscape in political sociology. The context of choice argument is consistent with liberal moral individualism (in Kymlicka's own conception, although not just his): it understands cultures in terms of their worth to individual human beings, and is concerned with fairness to individuals, given the importance of culture to their capacities of agency and identity. But it does not presume nations to constitute the cultural framework, the value of which is explicated in these individualistic terms. The context of choice argument concerns the value that cultural frameworks, national or not, have for individuals, and points toward a fine-grained view of cultural differences which lie within or cut across national identities: it must take cultures as it finds them. Nor does it imply that only non-members can be the source of any damage that may be wrought on such a framework. Nor, finally, does it involve anything more than a pragmatic attitude toward self-rule, which in some instances may harmonize with the nationalist case, and in others not. Political recommendations such as those made by Kymlicka on the grounds of the context of choice argument may be appropriate where the sociological landscape allows it, but dangerously misleading where it does not.<sup>8</sup>

This leaves open the question, which sort of politics of cultural identity ought to be recommended? If one adheres to the fine-grained understanding of cultural difference embodied in the context of choice argument, there seem to be two important conceptions that compete with Kymlicka's nationalist elaboration. The first is a politics of indifference, which aims as far as possible to integrate claims based upon cultural identity into the liberal right to freedom of association, and which argues that, beyond this right, nothing can be claimed legitimately. The value ascribed to cultural identity is a matter for the private sphere; it is not the appropriate object of political recognition or protection. The state ought only to aspire to neutrality in the rules which govern different cultural groups (Kukathas 1998). The alternative conception argues that neutrality of this kind is not a compelling or coherent ideal. Instead, if we recognize cultural identity as a significant element in modern politics, the character of cultures – questions of what to recognize, exclude or promote – unavoidably becomes the contested subject of political judgement and decision-making. What we can hope for is that deliberation about these matters occurs democratically, inclusively and tolerantly (Festenstein 1999;

Festenstein forthcoming). What I have tried to establish here, by looking at Kymlicka's important writings on cultural diversity, are the nature and limits of a case for nationalism, based on a liberal belief in the importance of culture for individuals.<sup>9</sup>

### Notes

1. The first concerned the publication of a book deemed offensive to many Muslims by an author from a Muslim background, and the second the exemption of Muslim girls in France from school dress codes in order that they might wear the *chador*. See Parekh 1990; Galeotti 1993; Jennings n.d.
2. See especially Kymlicka 1989; Kymlicka 1992; Kymlicka 1994; Kymlicka and Norman 1994; Kymlicka 1995a; Kymlicka 1995b; Kymlicka 1996; Kymlicka 1997a; Kymlicka 1997b.
3. Kymlicka's is not the only recent attempt to weld together these two doctrines: see Tamir 1993; MacCormick 1982, 1991; Margalit and Raz 1990; Miller 1995; Vincent 1997; Bonin 1997.
4. This is a tendentious characterization of communitarianism, but it is Kymlicka's own outlook, and one he offers a number of powerful arguments to support: see Kymlicka 1989.
5. This is not, of course, a full discussion of ideas of the nation, but only an attempt to work through some of the arguments and themes in Kymlicka's work. For an illuminating view of philosophical perspectives on the nation, and their relationship to liberal and communitarian ideas, see Gilbert 1998.
6. Margalit and Raz (1990) count religion and social class as 'encompassing groups'; see also Walker 1997 and Vincent 1997 for more sceptical discussions of this argument.
7. See Kymlicka 1995a: 100-101, especially his concern that his scheme gives majority cultures a "perverse incentive to destroy the societal cultures of national minorities and then cite that destruction as a justification for compelling assimilation." (100.)
8. For an argument that it is not appropriate even there, see Walker 1997.
9. This article is drawn from a paper prepared for a Society for Applied Philosophy conference, in 1997. I am grateful to the organizer, Jeneth Parker, for permission to use this paper; to Bhikhu Parekh and, particularly, Paul Gilbert for helpful discussion of these matters; and to referees of *Acta Politica* for their comments.

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