

## **“Political” Autonomy: What Does Mouffe Offer Contemporary Cultural Politics?**

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### *Introduction:*

The departure point for this paper is the prominence, both theoretically and politically, of group autonomy discourse in dominant approaches of “multiculturalism”, particularly as they relate to Indigenous-state relations in Canada. Specifically it explores the need to consider democratic responses to the challenges of multicultural societies that go beyond the dominant approach of group or “minority rights.” Rights, while of fundamental importance, do not alone provide a strong enough channel for practices of accountability between Indigenous groups and Canadian governments. In response, this paper argues for a conception of democratic autonomy that goes beyond the allocation of group rights and argues for a conception of democratic accountability founded on multipolar, counterpublics that can better meet the challenges of a context of deep difference and colonial legacy in which Indigenous-state relations take place today.

Indigenous groups, in the context of multiculturalism, must have the capacity to hold Canadian governments accountable for their relations with groups and the central mechanism through which to ensure this accountability is democracy. In its most basic form the notion of democratic legitimacy is founded on the premise that actions should be justified to those who are affected by them. Due to the complex dynamics of power and influence inherent in the relationships between Indigenous peoples and Canadian governments, a group autonomy approach requires that specific attention be paid to the processes that structure this relationship on a continuous basis. It demands an ongoing *politically active* approach that includes the development of avenues and procedures that ensure opportunities for meaningful interaction between Indigenous peoples and the federal and provincial governments. Procedures through which autonomous Indigenous groups can continually address the medium of their autonomy as well as any ongoing or new obligations and responsibilities that arise between the agents are therefore an essential aspect of this model. There must be real political power available to groups in order to work towards reflecting the interdependence that exists between groups and the state in an equitable and just manner. Failing to include such processes as part of the recognition and accommodation of autonomy results in what Alain Noël describes as a “negative autonomy”—that is, the autonomy of the non-participant (2000).

A participatory approach is therefore needed as part of the group autonomy model; one that begins on a case-by case basis from the existing historical, socio-economic and political context of state-group relations. In the case of Indigenous politics, this is a context that is fraught with mistrust, inequality (both in terms of power and material resources), and competing interests in large part due to colonialism. This context makes

the issues of accountability and political participation particularly challenging and necessary for a number of reasons. First, Indigenous peoples are extremely underrepresented in mainstream Canadian political institutions. In fact, since Confederation, only fourteen Aboriginal people have been elected to the federal Parliament. While as of 2005 there were only four Aboriginal Members of Parliament, if Aboriginal people were represented proportionately to their share of the Canadian population – 4.4% - they would hold approximately 16 seats (Aboriginal Peoples Commission, 2007). As Melissa Williams has observed, this stark under-representation can be traced, in part, to the fact that status Indians were legally excluded from the electoral franchise until the 1960s amendments to the federal Indian Act (Williams 2004, 93). Second, Indigenous groups are often strongly distrustful of mainstream Canadian politics and the state in particular (Cardinal 1999, Alfred 1999, 2005, Monture-Angus 1999, Green 2001, Ladner 2005, Turner 2006). And third, participation in mainstream Canadian institutions is often viewed as fundamentally opposed to Indigenous self-determination. As Williams observes:

How can it be possible to insist upon an inherent right of Aboriginal self-government, grounded in a “nation-to-nation” relationship with the Canadian government, while also laying claim to full participation in the government’s legislative institutions? These appear to be mutually exclusive political goals: egalitarian inclusion through shared representative institutions, or political autonomy through separate institutions of self-government. (93-94)

The model suggested in this paper challenges this position and demands that autonomous groups have the appropriate measures necessary to practice both intra-group autonomy and the inter-group autonomy of holding others accountable for the continued realities of living on one land mass, namely Canada —a reality that is reinforced by various demographic realities such as the growing number of “urban Aboriginals” and the high rate of intermarriage between Indigenous and non-Indigenous Canadians<sup>1</sup>. As John Borrows observes:

[A]n autonomous Aboriginal nation would encounter a geography, history, economics and politics that requires participation with Canada and the world to secure its objectives. Aboriginal control through Canadian affairs is an important way to influence and participate in our lands [...] The extension of Aboriginal citizenship into Canadian affairs is a developing reality because of the increasingly complex social, economic, and political relations. Intercultural forces of education, urbanization, politics, and intermarriage each have a significant influence in drawing indigenous people into a closer relationship with Canadian society. (330)

How do we respond to this complex set of circumstances that demands acceptance of autonomy *while* living together?

Will Kymlicka’s *Multicultural Citizenship* (1995) remains a cornerstone work in the discourse of multiculturalism and his discussion of Indigenous peoples in Canada as “national minorities” has been significantly influential both theoretically and practically.

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<sup>1</sup> According to the 1996 RCAP not only is the rate of Aboriginal peoples in Canadian society increasing but so also is the rate of urban residents amongst the Aboriginal community. As of the 1996, one in two Aboriginal people married a non-Aboriginal person (Statistics Canada, 1996).

Yet, as Dale Turner has observed, Kymlicka's justification for Indigenous "group rights rests largely on his categorization of Indigenous groups as "cultural" entities. It is, however, a nation-to-nation as opposed to a "multicultural" relationship that is central to the views of most Indigenous peoples:

Former National Chief George Erasmus asserts that 'all across North America today First Nations share a common perception of what was then [upon contact between Europeans and Aboriginals] agreed: we would allow Europeans to stay among us and use a certain amount of our land, while in our own lands we would continue to exercise our own laws and maintain our own institutions and systems of government. We all believe that vision is still very possible today' (As quoted in Turner 2006 4-5)

As Turner notes, "Herein lies a fundamental disagreement between Aboriginal nationalists and Canadian sovereigntists" (2006, 5). Indigenous groups who advocate a nation to nation relationship with the Canadian government are not articulating a desire for state sanctioned cultural preservation or accommodation but rather are arguing for autonomous space in which they, as *peoples*, will (re)define their culture, including processes of decision-making and governance. As James Tully observes, while much attention is paid to the cultural aspects of Indigenous demands these claims cannot be properly understood outside of the central demand, "to be recognized as 'peoples' with the 'universal' right of self-determination, based on prior occupancy and sovereignty, and thus to be recognized as 'equal' in status to other 'peoples' under international law and federal constitutional law" (Tully 2004, 93).

Thus while *prima facie* it may appear that Indigenous claims are cultural in nature this characterization misconstrues the complete nature of the claims as understood by those who are making them---that their rights are *political* rights that arise out of being distinct 'peoples' or 'nations'. Thus, while I have argued that concerns around democratic inclusion are important for Indigenous politics in Canada, it must be noted that this does not arise out of a strong politics of universalism but rather from the practical realities of interdependence and reciprocity that characterize Indigenous-state relations. Acknowledging this interdependence between Indigenous and non-Indigenous peoples, however, *does not* prescribe that we fail to recognize the simultaneous realities of "we" versus "them" conceptions in the political sphere. In fact, I suggest, it requires just the opposite. As the remainder of this paper explores, a group autonomy approach therefore requires a politics of *political* reciprocity or due respect that allows for legitimate self-defined recognition, legitimate political conflict between collectivities or Peoples, and the possibility of moral incommensurability. As will be discussed, the best theoretical framework for this kind of model of democratic practice is provided through a synthesis of Chantal Mouffe's vision of "agonistic politics", Melissa Williams notion of "citizenship as shared fate" and Nancy Fraser's concept of "counterpublics," as interpreted through the work of Indigenous scholar Dale Turner.

*Democratic Conflict as Agonism:*

In her work *On the Political*, Chantal Mouffe argues for the "ineradicability of antagonism." As such, she rejects any approach heavily focused on finding common moral ground. She explains:

Instead of trying to design the institutions which, through supposedly ‘impartial’ procedures, would reconcile all conflicting interests and values, the task for democratic theorists and politicians should be to envisage the creation of a vibrant ‘agonistic’ public sphere of contestation where different hegemonic political projects can be confronted. This is, in my view the *real sine qua non* for an effective exercise of democracy. There is much talk today of ‘dialogue’ and ‘deliberation’ but what is the meaning of such words in the political field, if no real choice is at hand and if the participants in the discussion are not able to decide between clearly differentiated alternatives? (3)

Overall, Mouffe’s approach rests on two key propositions. First, challenges must be conceived politically as opposed to morally. Playing out conflicts in the “moral register” works against democracy by forcing a struggle between ‘right and wrong’ instead of choices between different political visions. (5) Second, Mouffe insists we must accept the central role collective identities play in politics. These identities, which always entail a we/them distinction, should not be “overcome” through politics (a goal Mouffe would argue is unachievable) but must be accepted and constructed “in a way that energizes democratic confrontation” (5). This includes an acceptance of the “affective dimension mobilized by collective identifications.” In other words, “passions” and “identities” are a fundamental part of politics, not something that will disappear through “rational” response:

This is why democratic theory is so badly prepared to grasp the nature of ‘mass’ political movements as well as phenomena such as nationalism. The part played by ‘passions’ in politics reveals that, in order to come to terms with ‘the political’, it is not enough for liberal theory to acknowledge the existence of a plurality of values and to extol toleration. Democratic politics cannot be limited to establishing compromises among interests or values or to deliberate about the common good; it needs to have real purchase on people’s desires and fantasies. To be able to mobilize passions towards democratic designs, democratic politics must have a partisan character. This is indeed the function of the left-right distinction and we should resist the call by post-political theorists to think ‘beyond left and right.’ (6)

Mouffe’s suggestions fit well with Avigail Eisenberg’s observations regarding the intractable and significant nature of “identity” in Canada; while many contemporary theorists and politicians would like to do away with challenges associated with identity-based movements Eisenberg observes:

[I]t seems something of a trick to imagine some controversies involving minority rights divorced from their important identity-related elements and from the careful consideration of these elements. Does it not matter, in the case of *Multani*, that according to Sikhism, the kirpan should be made out of metal rather than paper?; in the case of *Ford*, whether or not French is, in fact, threatened by English streetscapes in Montreal?; in the case of *Van der Peet*, whether or not trade in salmon has been part of the Sto:lo way of life? (1)

Eisenberg suggests that for multicultural, multinational societies such as Canada group identities and the passions associated with them are a durable political reality and, as I have suggested, nowhere is this more true than for Indigenous peoples. Given the state of pluralism rooted in durable identity politics that arises out of the Indigenous challenge to colonialism, Mouffe's argument is extremely relevant in the Canadian context. In order to have meaningful democracy we need choices that go against the current hegemony that are rooted in deep agonistic divisions, which cannot be transcended.

This kind of deep conflict between collectivities is the basis of Mouffe's "agonistic" approach. An approach based on moral consensus does not embrace the ineradicability of deep conflict nor does it offer meaningful political options that compete with and/or directly call into question the existing political order. It thereby fails to create the conditions for a "reconciled society" and leads to "antagonisms". According to Mouffe, an agonistic perspective avoids this development by "providing those conflicts with a legitimate form of expression." Thus, an agonistic approach begins from the notion that, "acknowledging the ineradicability of the conflictual dimension in social life, far from undermining the democratic project, is the necessary condition for grasping the challenge to which democratic politics is confronted" (4). An agonistic public sphere must provide spheres of contestation where hegemonic political projects can be confronted and challenged. She explains:

While antagonism is a we/they relation in which the two sides are enemies who do not share any common ground, agonism is a we/they relation where the conflicting parties, although acknowledging that there is no rational solution to their conflict, nevertheless recognize the legitimacy of their opponents. They are 'adversaries', not enemies. This means that, while in conflict, they see themselves as belonging to the same political association, as sharing a common symbolic space within which the conflict takes place. We could say that the task of democracy is to transform antagonism into agonism. (20)

What does this mean in terms of political institutions and approaches? Although Mouffe holds a certain amount of respect for a robust parliamentary<sup>2</sup> process she generally avoids discussing specific recommendations for change. Still, as will be discussed, her prescription to avoid the dangers that accompany a "unipolar" order by implementing a "multipolar" world, "allowing for a plurality of hegemonic powers." (6-7) sheds important critical light on how we might think about Indigenous state relations.

The relevance of Mouffe's position to Indigenous-state relations is only strengthened when the track record of Canadian governments is considered. Issues of social and economic justice for Indigenous peoples *should* be central moral dilemmas for Canada. The moral issues raised are complex, yet basic in many respects—such as ensuring access to clean water, standard housing, and safe environments for children

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<sup>2</sup> , Drawing on Canetti she observes, "When parliamentary institutions are destroyed or weakened, the possibility of an agonistic confrontation disappears and it is replaced by an antagonistic we/they. Think for instance of the case of Germany and the way in which, with the collapse of parliamentary politics, the Jews became an antagonistic 'they.' This, I think, is something worth meditating on for left-wing opponents of parliamentary democracy!" (23).

(RCAP 1996). Yet, these issues generally do not get the political responses they warrant<sup>3</sup>. How do we understand this political and *moral* failure on the part of Canadian governments? An essential part of understanding this failure lies in questioning the dominance of moral discourse or the moral “frame” itself.

In reality, despite reports, royal commissions, and apologies for past wrongs, examples of state neglect, abuse, and irresponsibility abound in the Canadian governments’ relations with Indigenous people in Canada. Ultimately, the failure to act on the part of the Canadian or provincial states is not due to a lack of moral debate but a lack of sufficient political power on the part of Indigenous groups to hold governments at all levels accountable. Morally their case is strong; politically, however, it has been relatively weak. Thus, even when there exists a formal moral “consensus” this consensus alone simply has not served the Indigenous communities well as it has not worked to hold Canadian governments sufficiently accountable for their continuing colonial power over Indigenous peoples. The circumstances of Indigenous peoples in Canada must be recognized not simply as a set of moral problems to be deliberated on, or a set of social problems to be managed by experts but first and foremost as a political problem that requires the recognition of Indigenous groups as distinct legitimate political entities and the creation of specific agonistic democratic processes through which the state is to be held to account for its relationship with Indigenous peoples. The political legitimacy of such democratic processes depends upon de-centering rather than reinforcing *Canadian* sovereignty. From this perspective then, Indigenous groups are politically distinct *peoples* as opposed to culturally distinct Canadians. Indigenous peoples are not “immigrants among immigrants” as suggested by Thomas Flanagan (2000) nor “citizens plus” as suggested by Alain Cairns (2000), nor “minority groups” as argued by Will Kymlicka (1995)<sup>4</sup> within a sovereign state called Canada. Moreover, this distinction between Indigenous peoples and non-Indigenous Canadians is not a division to be overcome through deliberative democratic politics but an enduring reality that must be, “constructed in a way that energizes democratic confrontation” (Mouffe, 4-5) between and amongst these groups.

Mouffe’s position, while significantly abstract, holds important lessons for our conceptions of group autonomy in general and Indigenous politics in Canada in particular. What Mouffe’s work brings to the group autonomy discourse is a much needed emphasis on conceptualizing these issues in a robustly political way, that goes far beyond the simple granting of “recognition” or abstract group rights. Mouffe’s work tells us that the conflicts between Indigenous groups and the state are not something to be ignored or suppressed but rather something to be acknowledged and accepted in the public sphere(s). It also requires that non-dominant views, views that challenge the current hegemony in Canada, are legitimately included and respectfully listened to and acted upon within public spheres. In other words, while she rejects the principle of reciprocity outright, the deliberative ideal of reciprocity is, I argue, still central here. In fact, reciprocity is key to transforming antagonisms into agonisms. It is, however, a *political* reciprocity that must go beyond the moral “consultation” that has

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<sup>3</sup> This lack of political will was once again demonstrated recently by the Canadian government’s refusal to sign the UN declaration on Indigenous rights due to “security” concerns.

<sup>4</sup> For an excellent critical overview of these various perspectives see Dale Turner’s *This is Not a Peace Pipe* (2006).

characterized Indigenous-state relations in the past and it must be backed with the possibility of real change. Groups, therefore, must have access to meaningful political power. If not, Mouffe warns us, antagonisms will continue to develop outside “legitimate” channels, and will result in potentially dangerous consequences. These concerns are extremely relevant for Indigenous-state relations in Canada. One needs only to consider the escalation of events that unfolded in cases such as Oka, Burnt Church Ipperwash, and most recently Caledonia to recognize the ineradicability of conflict and collective politics for Indigenous-state relations. These cases and the call for a politics of “contention”—at times accompanied by a call for violence by some Indigenous activists<sup>5</sup> give substantial weight to apprehensions regarding the development of antagonistic relations when political channels are not available by which to legitimately challenge the existing order.

In Indigenous-state relations, de-politicization can happen at a variety of points including, through the granting of certain forms of “group autonomy.” By failing to provide real, legitimate channels through which to continually challenge the existing order and through which to develop meaningful alternatives we are in danger of moving so far down this road that we lose the hope of ever being able to developing a truly reciprocal context of due respect within which agonistic conflict can take place. For even Mouffe acknowledges that some kind of shared vision is a necessary foundation for democratic institutions and processes to facilitate confrontations between political adversaries. Given the profound feelings of mistrust and political illegitimacy many Indigenous peoples hold towards the “Canadian” order the question arises then, what potential exists for some kind of political reciprocity on which to found agonistic politics given the deep feelings of mistrust and political illegitimacy many Indigenous peoples hold towards the “Canadian” order? As discussed in the next section, Melissa Williams’s notion of “citizenship as shared fate” offers the best answer to this complex question.

The simultaneous realities of multinational societies and processes of globalization and the challenges posed by Indigenous scholars such as Taiaiake Alfred amongst others lead Williams to reject the traditional notion of citizenship as an inclusive project based on the notion of shared identity arising out of universal values. She cites the “historic costs” of projects aimed at constructing citizen identity, namely exclusion and assimilation. “Exclusion and marginalization have not been the only costs of constructing national identities; policies of forcible assimilation for indigenous peoples have devastated their communities and are clearly tied to contemporary phenomena of anomie, poverty, ill health, and extremely high suicide rates in many of those communities” (2003, 217) Given this reality and the strong feelings of political illegitimacy amongst Indigenous peoples regarding the Canadian state that have developed as a result, Williams articulates a conception of citizenship as “shared fate”—that is, a notion of citizenship centered not on the principle of shared values or membership as it has traditionally been understood in western thought, but on the reality that historical relationships and entanglements with others tie people who share a land mass together.

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<sup>5</sup> For a comprehensive overview of an Indigenous politics of contention see Taiaiake Alfred’s “Wasase: Indigenous pathways of freedom and action. For an example of a call for political violence in order to achieve justice for Indigenous peoples see Alfred’s interview with Sajek, a Mi’kmaq warrior who has led direct actions in the past (66-75).

Thus while Indigenous groups are distinct nations or ‘peoples’ they remain embedded in relationships of all kinds with the Canadian state. She explains:

For most of us, membership in such a web of relationships has resulted from a multiplicity of causes, and is chosen in some regards and not others [...] When coupled with a rudimentary conception of democratic legitimacy, that we should be able to justify our actions to those who are affected by them, the notion of citizenship as shared fate can yield a pragmatic conception of citizenship that is freed from the pernicious tendencies that [...] are inherent to notions of citizenship as identity” (2003, 208).

Citizenship as shared fate is pragmatic because, as the notion of relational group autonomy demonstrates, connections are unavoidable even without shared identity and shared loyalty. Williams’s conception allows for a functional conception of living together that can provide a theoretical basis for agonistic rather than antagonistic politics between autonomous, yet interrelated agents. The legitimacy of citizenship as shared fate does not require abandoning collective identities or nationhood but rather requires the acknowledgement of the context of social, economic and political dependencies in which autonomy is exercised. This model uncovers how the Canadian state and its projects are implicitly dependent on its relations with Indigenous peoples as much as the social, economic, and political status of Indigenous peoples are contingent on their relationship with the Canadian state. Citizenship as shared fate thus creates a foundation through which Indigenous groups can and should hold the state accountable without giving up, or compromising, their status as nations or peoples. Living together and the web of relations that exist both historically and currently, therefore, are acknowledged not as an expression of loyalty to an existing order but as an expression of fact regarding the relations that exist between people in a given context. Such a conception of *conflicted togetherness* is well-suited to the situation of Indigenous peoples in Canada. Their relationship with the Canadian state is so complex that, “It is difficult if not impossible to imagine a regime in which such individuals’ lives could be wholly covered by Aboriginal jurisdiction” (2004, 110). Specifically, these complexities include the fiduciary relationships that exist between Indigenous peoples and Canadian governments and the reality that, even given a conception of self-government with a full range of powers, many of the policy decision made by federal and provincial governments within their “exclusive” jurisdictions will impinge on Aboriginal communities<sup>6</sup> (2004,110).

Key to Williams’s vision is the two row wampum or *Kaswentha* approach that has been put forward by numerous Indigenous scholars including Robert A. Williams Jr., Patricia Monture-Angus, Taiaiake Alfred and John Borrows. This perspective is based on the two row wampum belt that symbolizes the treaty signed between the Iroquois confederacy and the British crown in the seventeenth century. The meaning of the two row wampum belt is articulated by Williams Jr. as follows:

There is a bed of white wampum which symbolizes the purity of the agreement. There are two rows of purple, and those two rows have the spirit of your ancestors and mine. There are three beads of wampum separating the two rows, and they symbolize peace, friendship and respect. Those two rows will symbolize two

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<sup>6</sup> Williams cites policy areas such as environmental regulation, energy policy, and wildlife management policy as some obvious examples.

paths or two vessels, traveling down the same river together. One, a birch bark canoe, will be for the Indian people, their laws, their customs and their ways. The other, a ship, will be for the white people and their laws, their customs, and their ways. We shall each travel the river together, side by side, but in our own boat. Neither of us will try to steer the other's vessel. (As quoted in Williams 2004 106-107).

According to Williams, while commentators like Alfred often focus on the separateness of the purple rows symbolizing the distinction and non-interference between them in their relationship of peace, friendship and respect, the three rows of white beads symbolizing the shared river are less frequently discussed. Williams argues:

The three rows of white beads between the two vessels' paths separate Aboriginal and non-Aboriginal people from one another, but they also relate them by specifying the norms that they should follow in dealing with one another: peace, friendship, and respect. These, together with the rows white beads that lie on either side of the vessels' paths, between each vessel and the river's banks, offer the strongest metaphor for what I am calling citizenship as shared fate [...]. However distinct the lives and pursuits of Aboriginal peoples and non-Aboriginal Canadians, they are joined together by virtue of the single space within which both exist. (2004, 107)

The shared fate model provides the necessary foundation for political reciprocity between Indigenous groups and Canadian governments and moves the analysis to the question of how to imagine an agonistic, multipolar politics for this case. While Mouffe seems to hold out hope for institutional, even parliamentary, solutions, the current context of Indigenous-Canadian state relations problematizes the notion of parliament as a site for turning antagonisms into agonism. Instead, I suggest the notion of Indigenous counterpublics is central for conceptualizing agonistic Indigenous-state relations. Drawing on Nancy Fraser's notion of "counterpublics", this next section explores the meaning and importance of these alternative publics in specific relation to Indigenous publics as articulated by Indigenous scholar Dale Turner.

In *Justice Interruptus* (1997), Nancy Fraser draws on revisionist historiography to put forward a conception of "counterpublics" which she uses to problematize and deconstruct the Habermasian notion of *the* public that remains central to many deliberative approaches to justice. According to Fraser, competing counterpublics have always existed:

Moreover, not only was there always a plurality of competing publics but the relations between bourgeois publics and other publics were always conflictual. Virtually from the beginning, counterpublics contested the exclusionary norms of the bourgeois public, elaborating alternative styles of political behavior and alternative norms of public speech. Bourgeois publics, in turn, excoriated these alternatives and deliberately sought to block broader participation. As Eley puts it, 'The emergence of a bourgeois public was never defined solely by the struggle against absolutism and traditional authority, but ...addressed the problem of

popular containment as well. *The public sphere was always constituted by conflict.* (Emphasis added. 75)

According to Fraser, this historical understanding generates a “gestalt switch that alters the very meaning of the public sphere.” (76) Specifically, exclusions and conflicts that the Habermasian stream takes as incidental, Fraser’s perspective suggests are constitutive of the public. As she states, “the official public sphere, then, was—indeed is—the prime institutional site for the construction of the consent that defines the new, hegemonic mode of domination” (76). Overall, she suggests, this understanding calls into question four dominant conceptions of the public. First, it calls into question the assumption that it is possible for participants in a public sphere to bracket status differentials and to deliberate ‘as if’ they were social equals. In other words, this reading calls into question the assumption that, “social inequality is not a necessary condition for political democracy” (76) Second, Fraser’s account questions the assumption that the development of a multiplicity of competing publics is always a move away from, rather than toward, greater democracy, and that a single, comprehensive public sphere is necessarily preferable to a nexus of multiple publics. Third, she problematizes the assumption that, “discourse in public spheres should be restricted to deliberation about the common good, and that the appearance of ‘private interests’ and private issues’ is always undesirable.” By extension her approach questions the very construction of interests as either “private” or “public.” Finally, her reading directly challenges the assumption that a functioning democratic public sphere requires a sharp separation between society and the state. Fraser’s critique of “intrapublic” relations leads her to a discussion of “interpublic” relations and finally to advocate multiple publics over a single comprehensive notion of the public in two kinds of modern societies—stratified societies and egalitarian multicultural societies.

Fraser notes that history records that members of subordinated social groups including women, workers, people of color, and gays and lesbians have repeatedly found it advantageous to constitute alternative publics. What she refers to as *subaltern counterpublics*, “in order to signal that they are parallel discursive arenas where members of subordinated social groups invent and circulate counterdiscourses, which in turn permit them to formulate oppositional interpretations of their identities, interests, and needs” (81). The existence of these counterpublics works for justice by expanding discursive space and assumptions that remain exempt within a single comprehensive public now have a site in which to be publicly argued out. Thus, the principle of publicity remains key in order to counterpublics to enhance democratic legitimacy and accountability. Fraser observes, “insofar as these arenas are *publics* they are by definition not enclaves—*which is not to deny that they are often involuntarily enclaved.* She explains:

After all, to interact discursively as a member of a public—subaltern or otherwise—is to aspire to disseminate one’s discourse into ever-widening areas. Habermas captures well this aspect of the meaning of publicity when he notes that however limited a public may be in its empirical manifestation at any given time, its members understand themselves as part of a potentially wider public, that indeterminate, empirical counterfactual body we call the ‘public-at-large.’ The point is that, in stratified societies, subaltern counterpublics have a dual character.

On the one hand, they function as bases and training grounds for agitational activities directed toward wider publics. It is precisely in this dialectic between these two functions that their emancipatory potential resides. (82)

While Fraser argues that in stratified and multicultural societies, “the ideal of participatory parity is not fully realizable”, she suggests, “it is more closely approximated by arrangements that permit contestation among a plurality of competing publics rather than by a single, comprehensive sphere” (77) Most importantly, “contestation among competing publics supposes interpublic discursive interaction” (82) In other words, dialogue amongst publics is central to their role in democratic enhancement.

Thus, the notion of an egalitarian, multicultural society works only if we suppose a plurality of publics in which groups with diverse values and rhetorics participate. Once again, however, the idea of cross-dialogue, or deliberation, is key. Fraser’s prescription for multiple publics does not, by definition, rule out the possibility of an additional, more comprehensive arena in which members of different, more limited publics talk across lines of cultural and political diversity. People will likely participate in more than one public and memberships in competing publics may partially overlap.

All told then, there do not seem to be any conceptual (as opposed to empirical) barriers to the possibility of a socially, egalitarian, multicultural society that is also a participatory democracy. But this will necessarily be a society with many different publics, *including at least one public in which participants can deliberate as peers across lines of difference about policy that concerns them all.* (Emphasis added. 84-85)

Overall, Fraser’s observations are directly relevant to the issues raised by “group autonomy” for Indigenous peoples in Canada who are in both a “stratified” and “multicultural” context. While *prima facie* current models of group autonomy seems to draw on a conception of counterpublics, I suggest that the essential links between publics that Fraser argues for are essential to ensuring accountability for decision making yet remain lacking in current models. This does not, however, suggest that models of group autonomy cannot be reconceived to address this central aspect of democratic justice. The existence and relevance of Indigenous alternative publics is reviewed in the next section. As will be discussed, these publics are crucial to pursuing just relations with the state and just outcomes for Indigenous individuals and communities.

#### *Indigenous Peoples: Counterpublics in Canada:*

Indigenous peoples have always had their own diverse publics; Publics in which alternative ways of knowing are articulated and to which Indigenous members are passionately and politically attached. Canadians have witnessed their existence through *antagonistic* events mentioned earlier including various standoffs between Indigenous peoples and various aspects of the Canadian state including Oka, Ipperwarsh, Burnt Church and Caledonia.

While these events illustrate robust alternative publics perhaps the most obvious contemporary illustration of the existence of these publics and the potential for relations of *agonism* is best captured by court cases such as *Delgamuukw v. The Crown* (1997). It is through court cases such as *Delgamuukw* that these alternate publics and their associated alternate ways of knowing have become clearly visible within dominant

Canadian institutions leading James Tully to conclude that these events are evidence of the emergence of, “a new hybrid field of recognition and deliberation” (2004, 84).

As Angelia Means observes in her article, “Arguing with Natives” (2002) the *Delgamuukw* case in particular demonstrates not just the existence of already existing alternative visions to the existing order but the possibility of (an arguably limited) transformation that can arise out of the judicial process when these alternative visions are given legitimate political voice and expression. In this Supreme Court case Indigenous plaintiffs were granted “argumentative authority” in manner previously unprecedented<sup>7</sup>. As Means observes:

In general terms, *Delgamuukw* concerns the land claims of the Gitksan and the Wet’suwet’en, two related Aboriginal groups. In constitutional terms, it concerns the tie between the recognition of property rights and recognition of a ‘different’ value framework. In reclaiming ancestral property, the Gitksan and the Wet’suwet’en asserted the right to reinterpret a basic cultural concept, the concept of property. They found that their property rights could only be recognized if they exercised their political rights, as citizens, who not only vote, but participate on different levels (including as plaintiffs) in the process of giving meaning to constitutional rights. Further, they found that there is a need to participate in a dialogic process of ‘meaning giving,’ despite the fact that they initially viewed themselves as reclaiming ‘sovereignty’ over a ‘private’ space that is rightfully a private sphere. (222)

The *Delgamuukw* case demonstrates the realities of living together in multinationals states—specifically, it points to the need for a dialogical process that recognizes antagonistic difference between Indigenous and Canadian publics within state institutions such as the Supreme Court. Indigenous counterpublics exist and despite the legitimate claim for status as peoples and/or nations they cannot entirely separate from the other “Canadian” publics and institutions— their fate is fundamentally interlinked.

*Delgamuukw* provides an example of how antagonistic politics can exist within democratic institutions like the courts system in Canada as the Indigenous plaintiffs chose to challenge the existing norms of the dominant judicial system in terms of their own culture. Means observes:

What I find most interesting about this case is the choice that the Gitksan and Wet’suwet’en made in framing their argument [.....] To come before judges who are both ignorant and disrespectful and recount one’s history while wearing the regalia of the Delgam Uukw or Gisday Wa house is to invite public ridicule. Yet Delgam Uukw, the plaintiff, also realized that the interweaving of argument and the expressive discourse of storytelling is so elemental to the Aboriginal conception of history and law that absent the presentation of *this* proof they could not prove their claim. Their argument turned on persuading judges (and ultimately

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<sup>7</sup> This case resulted in the Court recognizing that Aboriginal narratives (oral histories, stories, totems) are not just supplementary ‘texts,’ but of “equal and independent standing in relation to evidence offered by the expert discourses of anthropology and ethno-history—disciplines which have undergone a paradigm shift and, as a consequence, now accept oral history as one form of proof in demonstrating social scientific ‘truth.’” (222).

citizens) to recognize their history and their way of arguing more than a modality of primitive myth-making. From the perspective of colonized peoples, recognition within the structure of democratic constitutions carries extraordinary moral risks; yet, as the plaintiffs in this case recognize, there is a basic choice: either bear this risk or remain victims. (231-232)

It is important to note, however, that while Means regards this type of “intercultural democracy” as an adequate replacement for Indigenous politics based on a notion of sovereignty this view is not shared by many Indigenous observers many of whom also reject the courts full stop as their legitimacy arises out of the legitimacy of the colonial state (Turpel 1991, Turner 2006, Monture-Angus 1998). Further, as these observers have pointed out, the “victory” won in *Delgamuukw*, which involved decisions on the nature and scope of Aboriginal title was quite limited both in terms of the outcome of the specific case and the precedent it sets alongside other “Aboriginal rights” decisions (Turner 2006, 82-82).

Unlike Means, I do not see the practice of intercultural democracy as something that runs in opposition to, Indigenous sovereignty. Instead, this case demonstrates, a dialogical act occurring between autonomous agents that are interconnected due to the realities of circumstance; Circumstances that remain unjustly limited and asymmetrical due to the colonial legacy. Overall, while the merits of the *Delgamuukw* decision remain contested both within Indigenous and Canadian publics what is not up for debate is the fact that the process of the case clearly demonstrated the complex nature of Indigenous publics and points to the necessity of dialoguing with these publics in a much more robust way than can be adequately practiced within the judicial branch of government alone. The courts, after all, are themselves limited in their capacity to “hear” alternative conceptions of justice and are only available to “listen” to issues that can be articulated in the language of jurisprudence and within constitutional documents such as the Charter of Rights and Freedoms. Groups involved in contemporary treaty negotiations represent another example through which non-dominant perspectives may be articulated in an interpublic capacity. Once again, however, the nature of this process also rules out some alternative voices (Alfred 2005, Coulthard 2007). Further, while some groups may choose this route of articulation the treaty process is simply not available to any and all Indigenous groups. The third most obvious example are the numerous Indigenous organizations that have formed on both the national and sub-national level, such as the Assembly of First Nations, the Native Women’s Association of Canada, and the Métis Federation to name just a few, with the intent of speaking for Indigenous peoples in their relations with the Canadian state. These associations are perhaps the best evidence that many Indigenous peoples recognize a need for inter-public dialogue, however, there is much discussion in Indigenous scholarship and activism that suggests many also do not feel their viewpoints are fully reflected and respected in the current relations these groups have with the Canadian state (Alfred 1999, 2005, Monture-Angus 1998 Coulthard 2007, Turpel 1991). This suggests that there is much more to be “heard” from a variety of potentially overlapping publics and that what is required are the avenues and processes through which a substantial multiplicity of counter-public voices can be articulated on a *continuous basis* and at a variety of levels, not simply at the time of treaty negotiation or a court procedure.

Thus Indigenous publics exist, rich publics that have their own debates, conflicts, and diversity but that also work to put forward alternative conceptions of justice to dominant society and government. What is missing are the appropriate means for members of Indigenous publics to adequately pursue this latter function—to legitimately conflict with powers that be and their guiding principles/assumptions. This relationship has been and will remain conflictual, not simply because of “cultural differences or cultural incommensurability, nor simply because of political distinctions. While these aspects are central to understanding the conflictual nature of Indigenous-Canadian state relations, the aspect that is perhaps most central in understanding the inherent conflict here is also the aspect least talked about by dominant multicultural theorists—that is, the fact that the issues of Indigenous justice are very much economic issues; there are resources of all kinds at stake. Justice therefore requires that Indigenous communities, whether urban or reserve-based, have a participatory role in conceiving of their own economic life as well as their own cultural and political life. This requires not only their own counterpublics but also some kind of interaction with Canadian governments through which they can challenge and hold to account the existing social, political and economic order. Alternative publics therefore play a key role in the development of an agonistic multipolar, practice of politics that can work democratically to transform antagonisms into agonisms.

It is, of course, for Indigenous peoples to decide who should participate and how. Given the diversity of Indigenous groups in Canada there is likely to be a parallel diversity in their notions of how best to dialogue. It is the responsibility of the Canadian state, however, to open up to these voices and to be willingly held to account for their continued relations with Indigenous peoples through these interpublic opportunities. As Fraser tells us, it is in these interpublic moments where the real emancipatory power of counterpublics is fully revealed. A perspective that appears shared by Indigenous scholar Dale Turner.

In his work, *This is not a Peace Pipe: Towards a Critical Indigenous Philosophy* (2006) Dale Turner works to address how Indigenous peoples can best assert their legal and political distinctiveness. While he does not invoke Fraser’s conception of “counterpublics” specifically there is significant overlap between his specific prescriptions for Indigenous peoples and her theoretical justification for multiple publics. Overall, Turner calls for a much more robust process of Indigenous participation than previous policy development initiatives in Canada have allowed. As such, he advocates a kind of dual-track approach to Indigenous justice. On the one hand this involves a kind of internal process within Indigenous groups that fosters the maintenance and development of Indigenous ways of knowing; particularly Indigenous ways of understanding their own meanings of and justifications for nationhood and self-determination. These understandings may directly challenge and contest the understandings that dominate the existing order. As discussed earlier, “many Aboriginal peoples do not understand their rights in terms that are amenable to the state’s legal and political discourses. This is because many Aboriginal peoples do not perceive the political relationship as one of subservience; that is they do not view their rights as somehow legitimated by the Canadian state. Rather, many Aboriginal peoples understand the relationship as one of ‘nation to nation’:

Herein lies a fundamental disagreement between Aboriginal nationalists and Canadian sovereigntists: many Aboriginal peoples believe to this day that they own their lands, yet the Canadian state continues to assert and enforce its unilateral claims to sovereignty over Aboriginal lands. Interpretations of section 35(1) have produced a ‘theory’ of Aboriginal rights in Canada but have failed to reconcile these two seemingly incommensurable positions. The main reason for this failure is that the ‘form’ of reconciliation, if it is to occur at all, must evolve out of a very special kind of dialogue—one grounded in a renewed and more respectful legal and political relationship. (5)

This brings Turner to the second track of his prescription for change, a track that is focused on external relations—specifically, relations between Indigenous groups and the dominant society, most notably the Canadian state. For Turner also asserts that whatever Indigenous theories of nationhood look like they must evolve out of a dialogue *between* Canadians and Indigenous peoples due to what he refers to as “Kymlicka’s constraint”—that is, “‘for better or worse, it is predominantly non-Aboriginal judges and politicians who have the ultimate power to protect and enforce Aboriginal rights’” (As quoted in Turner 2006, 58). Thus, “*if* Aboriginal people want to assert they possess different worldviews, and that these differences ought to matter in the political relationship between Aboriginal peoples and the Canadian state, they will have to engage the Canadian state’s legal and political discourses in more effective ways” (5).

This dual-track politics articulated by Turner reinforces the notion of counterpublics as central to the practice of democratic accountability. Indigenous counterpublics foster internal dialogue on non-dominant understandings and political positions. These counterpublics must also be linked in dialogue to other publics, including the dominant public in a manner that works to foster legitimate processes of political reciprocity in a manner that respects non-dominant groups and/or nations *on their own terms*. This vision of autonomy through democratic accountability calls into question the prescriptions made by dominant liberal multiculturalists that fail to fully address the participatory and democratic aspects unique to multinational societies who therefore fail to fully appreciate the *political* dimensions of these circumstances<sup>8</sup>. Thus self-government, or self-determination, by definition is not solely a private or even an intrapublic affair; it is, rather, an ongoing public act that requires interpublic relations based on due political respect.

In conclusion, the principle of self-determination and the realities of diversity amongst Indigenous peoples in Canada rule out any one size fits all prescription. Indeed, my objective here is not to prescribe how Indigenous groups should construct their publics, nor even how they would choose to interact /institutionalize their relations with the Canadian state. Rather, I situate myself as a critic of the Canadian state. What I have worked to show here is that current conceptions and practices of “multicultural

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<sup>8</sup> Indeed, Kymlicka fails to accomplish this task. Turner observes, “While Kymlicka defends the Aboriginal right of self-government, he does so by classifying Aboriginal rights as a form of cultural rights rather than as rights that flow out of Aboriginal peoples’ legitimate status as indigenous nations [...] For Aboriginal peoples, it matters how we justify the Aboriginal right of self-government—Aboriginal explanations need to play a more significant role in the theorizing of Aboriginal rights in Canada” (6-7).

citizenship” for national minorities, particularly conceptions based on group autonomy, are, to date, incomplete responses to current challenges of difference, particularly those challenges associated with Indigenous justice. Further, I have suggested that responses that incorporate the insights of agonistic politics, that acknowledges the importance of counterpublics and multipolar sites of political power must be incorporated into any conception of justice for multinational societies like Canada. The benefits of which I suggest are in the interest of the Canadian state in the long term. Mouffe’s suggestions of the alternative should be heeded closely—without legitimate avenues for agonism counterpublics are left only with a politics of antagonism which eventually leads to events of political violence and civil disobedience.

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